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**GUIDELINES FOR THE IMPLEMENTATION OF THE ASSEMBLY DIRECTIVE ON
THE FINANCING OF THE UNION**

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GUIDELINES ON THE IMPLEMENTATION OF THE DECISION ON FINANCING THE UNION

INTRODUCTION

1. Self-reliance was the core of Pan-African values of the Organization of African Unity (OAU). Following the transition to the AU, at the turn of the millennium, several milestones have been achieved towards attaining a reliable effective and predictable financing mechanism for the Union. Over the period, several decisions have been taken by the Assembly leading to the appointment of a High Level Panel on Alternative Sources of Financing headed by former President Obasanjo of Nigeria. The work of this Panel informed the development of concrete recommendations by a working group of the Conference of African Ministers of Economy and Finance (CAMEF) held in Washington in 2014. These recommendations were endorsed in subsequent decisions of the assembly, which are all attached as Annex 1.
2. In July, 2016 at a historic Retreat on Financing of the Union held in Kigali, the Heads of State and Government (HOSG) adopted the decision Assembly/AU/Dec.605 (XXVII) to implement a 0.2% levy on eligible imports for all members' states to finance the Union.
3. The purpose of the decision is:
 - I. To provide reliable and predictable funding for continental peace and security through the Peace Fund;
 - II. To provide an equitable and predictable source of financing for the Union;
 - III. To reduce dependency on partner funds for implementation of continental development and integration programs; and
 - IV. To relieve the pressure on national treasuries with respect to meeting national obligations for payment of assessed contributions of the Union

Context

1. Article 9(1) (a) of the Constitutive Act and Rule 4 (1) (a) of the Rules of Procedure of the Assembly establishes the power of the Assembly to determine the common policies of the union, establish its priority and adopt annual programs;
2. Rule 33 (1) (b) of the Rules of Procedure of the Assembly also establishes the binding effect of the directives of the Assembly on all members states and exercise of discretion by national authorities to determine the means to be used for the implementation of the directives;
3. In exercise of the above the Assembly adopted a decision (Assembly/AU/Dec.578 (XXV)) on the Financing of the African Union in Johannesburg, South Africa in June 2015. The Assembly reaffirmed this decision in in January 2016 in Addis Ababa, Ethiopia, and subsequently agreed to convene a special retreat of HOSGs together with Ministers of Finance

specifically on Financing the Union to be held before the July 2016 Summit in Kigali, Rwanda.

4. On 26 September 2015 the 547th Meeting of the Peace and Security Council at the Level of Heads of State and Government requested the Chairperson of the Commission to appoint a High Representative on the Peace Fund
5. At the retreat on financing the Union held in Kigali on 16 July 2016 and attended by Heads of State and Government and Finance Ministers, other representatives of Member States, the High Representative on the Peace Fund, Dr. Donald Kaberuka presented a comprehensive proposal on Financing of the Union including the Peace Fund.
6. Following the retreat on Financing of the Union, the Assembly adopted a Decision Assembly/AU/Dec.605 (XXVII) on Financing the Union and the Peace Fund
7. In line with the above decision the following guidelines for implementation are provided for consideration and adoption.

DRAFT GUIDELINES FOR THE IMPLEMENTATION OF THE DECISION ON FINANCING THE UNION.

PART 1. GENERAL PROVISIONS

A) OBJECTIVE.

1. In implementing the Assembly Directive on Financing the Union, the present Guidelines have been developed to assist AU Member States in providing a framework for the implementation of AU Decision Assembly/AU/Dec.605 (XXVII) on the application of the 0.2% AU import levy to be instituted in 2017 to finance the Operational (100%), Program (75%) and Peace Support Operations budgets (25%), as well as any other expenditure of the Union that may be determined by the Assembly.
2. These guidelines are set out with the intention and expectation that Member States will take appropriate measures to implement these Guidelines in accordance with their respective domestic regulations.

B) SCOPE

1. In accordance with the Decision, the AU import levy is to be derived from 0.2 percent of the value of the eligible goods imported into a Member State from a non-Member State.
2. The Revenue collected under the import levy shall be remitted in accordance with each Member State's approved assessed contribution including the Peace Fund.
3. Any surplus collected by Member States after the fulfillment of obligations under the assessed contribution shall be retained by the State.

4. Any deficits between the assessed contribution and revenues collected under AU import levy by a Member State shall be covered by the Member State

C) APPLICATION

1. The taxable base of the AU import levy will be the value of eligible goods originating from a non-Member State imported into the territory of a Member State to be consumed in the Member State.
2. The AU import levy will apply to the Cost Insurance and Freight (CIF) value at the port of disembarkation for imports arriving by sea and road; Customs value at the airport of disembarkation for goods arriving by air;

D) EXEMPTIONS

The following will be exempted from the AU import levy:

- a) Goods originating from outside the territory of a Member State for home consumption in a Member State and re-exported to another Member State;
- b) Goods received as Aid, gifts and non-repayable grants by a State or by legal entities constituted under public law and destined for charitable works recognized as being for the common good;
- c) Goods originating from non-Member States, imported as part of financing agreements with foreign partners, subject to a clause expressly exempting the said goods from any fiscal or para-fiscal levy;
- d) Goods imported by enterprises before the entry into operations of this Guidelines;
- e) Goods on which the AU import levy has been previously paid.

PART 2. COLLECTION, DEPOSIT AND ALLOCATION

A) COLLECTION

Customs authorities or other appropriate financial institutions designated by member states will be responsible for assessment and collection of the AU import levy.

B) DEPOSIT AND REMITTANCE

1. Revenue collected as AU import levy will be deposited into an account to be opened in name of the 'African Union' with the Central, National or Reserve Bank of each Member State.
2. The funds in the 'African Union' account with the Central, National or Reserve Bank of each Member State will be remitted to a designated bank account of the Union in accordance with each Member State's assessed contribution.

3. All funds remitted to the designated bank account of the Union will be in compliance with the Constitutive Act and AU Financial Rules and Regulations and other applicable control instruments of the Union.

D) THE PEACE FUND

1. The Peace Fund is established under Art 21 of the protocol establishing the Peace and Security Council of the AU to finance the AU's peace and security operations.
2. The Peace fund covers operational activities in three (3) windows as follows:
 - a. Mediation and Preventive Diplomacy;
 - b. Institutional Capacity; and
 - c. Peace Support Operations.
3. Under the Kigali Decision the Peace fund has been allocated three hundred and twenty five million US dollars (\$325,000,000) in 2017 expected to incrementally rise to Four Hundred Million US dollars (\$400,000,000) in 2020,
4. The peace fund will also be funded from the AU import levy. However, in accordance with the Assembly decision the Peace Fund will be distributed equally among the five AU Regions as defined in the relevant instruments.

PART 3. ADMINISTRATION OF THE AU IMPORT LEVY

A) APPLICABILITY OF DOMESTIC LAW

Regulations governing the management Customs duties and other taxes in the Member States will apply to the AU import levy without prejudice to the applicable immunities and privileges

B) OVERSIGHT MECHANISMS

1. In accordance with the AU Financial Rules and Regulations, the Commission shall ensure strong accountability mechanism for ensuring the effective, transparent and prudent use of resources through stringent implementation of Executive Council and Assembly decisions in all its aspects on the establishment of external and internal controls
2. An enhanced governance structure and independent fund management body will be set up for the Peace Fund in compliance of the AU financial rules and regulations.
3. In accordance with the Kigali Decision a Committee of Ministers of Finance will be established comprising ten (10) Member States, two (2) per region to participate in the preparation, monitoring and evaluation of the annual budget of the Union.

4. The Commission will report annually to the STC on Finance, Monetary Affairs, Economic Planning and Integration on the implementation of the decision and these guidelines.

PART 4. FINAL PROVISIONS

A) PRIVILEGES AND IMMUNITIES

1. In line with the General Convention on Privileges and Immunities of the OAU, which provides that the property, funds, assets and transactions of the organization are immune from every form of legal process - all revenues collected as AU import levy are immune from requisition, confiscation, expropriation or any other form of interference, whether by executive, administrative, juridical or legislative action.

B) ENTRY INTO OPERATIONS

1. In accordance with the Kigali decision the implementation of the decision will enter into operations for each Member States from January 2017.