

ASSEMBLY OF THE AFRICAN UNION

First Ordinary Session

9 - 10 July 2002

Durban, SOUTH AFRICA

**RULES OF PROCEDURE OF THE ASSEMBLY OF THE UNION
GENERAL PROVISION**

The Assembly of the Union,

Having regard to the Constitutive Act of the African Union, and in particular Article 8,
HAS ADOPTED THESE RULES OF PROCEDURE:

RULE 1
Definitions

In these Rules:

"Assembly" means the Assembly of Heads of State and Government of the Union;

"Chairperson" unless specified otherwise means the Chairperson of the Assembly;

"Commission" means the Secretariat of the Union;

"Committee" means a Specialized Technical Committee of the Union;

"Constitutive Act" means the Constitutive Act of the African Union;

"Council" means the Economic, Social and Cultural Council of the Union;

"Court" means the Court of Justice of the Union;

"Executive Council" means the Executive Council of Ministers of the Union;

"Member State" means a Member State of the Union;

"OAU" means the Organization of African Unity;

"Parliament" means the Pan-African Parliament of the Union;

"PRC" means the Permanent Representatives' Committee;

"PSC" means the Peace and Security Council of the African Union;

"RECs" means the Regional Economic Communities;

"Union" means the African Union established by the Constitutive Act.

CHAPTER I

THE ASSEMBLY

SECTION I

COMPOSITION, POWERS AND FUNCTIONS

RULE 2
Status

The Assembly shall be the supreme organ of the Union.

RULE 3
Composition

The Assembly shall be composed of Heads of State and Government or their duly accredited representatives.

RULE 4
Powers and Functions

1. The Assembly shall:

a) determine the common policies of the Union, establish its priorities and adopt its annual programme;

b) monitor the implementation of policies and decisions of the Union as well as ensure compliance by all Member States through appropriate mechanisms;

c) accelerate the political and socio-economic integration of the continent;

d) give directives to the Executive Council, the PSC or the Commission on the management of conflicts, wars, acts of terrorism, emergency situations and the restoration of peace;

e) decide on intervention in a Member State in respect of grave circumstances namely, war crimes, genocide and crimes against humanity;

f) decide on intervention in a Member State at the request of that Member State in order to restore peace and security;

g) determine the sanctions to be imposed on any Member State for non payment of assessed contributions, violation of the principles enshrined in the Constitutive Act and these rules, non-compliance with the decisions of the Union and unconstitutional changes of government;

h) consider and decide on requests for membership of the Union;

i) adopt the budget of the Union, oversee and direct the financial matters of the Union in accordance with the Financial Rules and Regulations of the Union;

j) establish any other organ of the Union;

k) establish new Specialized Technical Committees as it may deem necessary;

l) establish such Specialized Agencies, Ad hoc Committees and Commissions, and temporary working groups, as it may deem necessary;

m) appoint and terminate the appointment of the Chairperson of the Commission and his/her deputy and the Commissioners;*

n) appoint and terminate the appointment of the judges of the Court;

o) receive, consider and take decisions on reports and recommendations from the other organs of the Union;

p) elect the Chairperson of the Assembly and other Office bearers;

q) decide on the venue of its meetings;

r) amend the Constitutive Act in conformity with the laid down procedures;

s) interpret the Constitutive Act pending the establishment of the Court;

t) determine the structure, functions and regulations of the Commission;

u) determine the structure, functions, powers, composition and organization of the Council.

2. The Assembly may delegate any of its powers and functions to any other organ of the Union.

SECTION II SESSIONS

RULE 5 *Venue*

1. The Sessions of the Assembly shall be held at the Headquarters of the Union unless a Member State invites the Assembly to hold a session in its country, provided that the Assembly holds a session at the Headquarters at least every other year subject to the calendar already established by the OAU.

2. In the event a Member State invites the Assembly to hold a session in its country, that Member State shall be responsible for all extra expenses incurred by the Commission as a result of the session being held outside the Headquarters.

3. Member States offering to host sessions of the Assembly shall not be under sanctions and shall be required to meet pre-determined criteria to be adopted by the Assembly, including adequate logistical facilities and a conducive political atmosphere.

4. Where two or more Member States offer to host a session, the Assembly shall decide on the venue by simple majority.

5. Where a Member State that had offered to host a session of the Assembly is unable to do so, the session shall be held at the Headquarters of the Union.

RULE 6 *Quorum*

The quorum for a session of the Assembly shall be two-thirds of the total membership of the Union.

RULE 7 *Ordinary Sessions*

The Assembly shall meet in ordinary session at least once a year.

RULE 8
Agenda of Ordinary Sessions

1. The Assembly shall adopt its Agenda at the opening of each session.

2. The provisional Agenda of an Ordinary Session shall be drawn up by the Executive Council and shall comprise the following:

a) Items which the Assembly decides to place on its agenda;

b) Items proposed by the Executive Council;

c) Items proposed by the other Organs of the Union that do not report directly to the Executive Council;

d) Items proposed by a Member State provided that the proposal is submitted sixty (60) days before the opening of the session and the supporting document(s) and draft decision(s) has been communicated to the Chairperson of the Commission at least thirty (30) days before the opening of the meeting.

3. The provisional Agenda shall be divided into two parts as follows:

Part A: Items for adoption without discussion are those on which the Executive Council has reached agreement and for which approval by the Assembly is possible without discussion,

Part B: Items for discussion are those on which agreement has not been reached by the Executive Council, requiring debate before approval by the Assembly.

RULE 9
Other Agenda Items

Any additional agenda items, which a Member State wishes to raise at a session of the Assembly, shall only be considered under the agenda item "Any other Business". Such agenda items shall be for information only and not subject to debate or decision.

RULE 10
Opening and Closing Ceremonies

1. During the opening ceremony of sessions, the following personalities shall be entitled to address the Assembly:

a) Head of State or Government of the Host Country;

b) Outgoing Chairperson;

c) Incoming Chairperson;

d) The Secretary General of the UN, in person;

e) Chairperson of the Commission.

2. During the closing ceremony of sessions, the following personalities shall be entitled to address the Assembly:

a) Chairperson;

b) Host Head of State or Government if not the Chairperson of the Assembly;

c) The personality pronouncing the Vote of thanks.

3. The Assembly may invite any other personality to address the Assembly at the Opening and Closing ceremonies.

RULE 11
Extraordinary Sessions

1. The Assembly shall meet in extraordinary session at the request of the Chairperson or any Member State. The extra-ordinary session shall be held upon approval by a two-thirds majority of the Member States.

2. The Chairperson of the Commission shall notify all Member States of the request within seven (7) days of the receipt of such request and advise them to communicate, in writing, their response within a specified period.

3. If the specified period has elapsed and the two-thirds majority required has not been attained, the Chairperson of the Commission shall notify all Member States that the extraordinary session shall not take place.

4. The extraordinary sessions shall be held at the Headquarters of the Union unless a Member State invites the Assembly to hold the session in its country.

RULE 12
Agenda of Extraordinary Sessions

1. The Chairperson of the Commission shall communicate the provisional agenda of an

extraordinary session to Member States at least fifteen (15) days before the opening of the session.

2. The agenda of an extraordinary session shall comprise only the item(s) submitted for consideration in the request for convening the session.

RULE 13
Open and Closed Sessions

All the sessions of the Assembly shall be closed. The Assembly may, however, decide by simple majority whether any of its sessions shall be open.

RULE 14
Working Languages

1. The working languages of the Assembly shall be English.

2. Any Head of State or Government may make a statement in any African language provided that he/she makes available simultaneous interpretation into at least the working language.

RULE 15
Election of Chairperson

1. The Assembly shall, on the basis of rotation and agreed criteria, elect a Chairperson for a period of one (1) year. He/she shall be assisted by other members of the Bureau, namely, fourteen (14) Vice-Chairpersons elected on the basis of agreed geographical distribution and after due consultations.

2. Where the Assembly accepts an invitation from a Member State in conformity with the criteria laid down in Rule 5 of these Rules, the Head of State or Government of the host country shall have the right to preside over the Assembly.

RULE 16
Duties of the Chairperson

1. The Chairperson shall:

- a) convene the sessions of the Assembly;
- b) open and close the sessions;
- c) submit for approval the records of the sessions;
- d) guide the proceedings;
- e) submit to a vote matters under discussion and announce the results of the vote taken;

f) rule on points of order.

2. The Chairperson shall ensure order and decorum of the proceedings of the Assembly.

3. In between sessions, the Chairperson of the Assembly, in consultation with the Chairperson of the Commission, shall represent the Union in conformity with the fundamental objectives and principles enshrined in the Constitutive Act.

4. In the absence of the Chairperson or in case of

a vacancy, the first vice-Chairperson shall act as the Chairperson.

RULE 17
Attendance and Participation

1. The Heads of State or Government shall endeavour to participate personally in the sessions of the Assembly. In the event that they are not in a position to attend personally, they shall be represented by duly accredited representatives.

2. The following personalities shall attend the sessions of the Assembly in their official capacity:

a) The Chairperson and the Deputy Chairperson of the Commission and the Commissioners;

b) The President of the Parliament and the Heads of the other organs of the Union;

c) The Chief Executives of the RECs.

3. The Assembly may invite any other personality to attend its sessions.

SECTION III
DECISION-MAKING PROCEDURES

RULE 18
Majority Required

1. The Assembly shall take all its decisions by consensus or, failing which, by a two-thirds majority of the Member States eligible to vote.

2. Questions of procedure shall require a simple majority of Member States eligible to vote.

3. Whether or not a question is one of procedure shall also be determined by a simple majority of the Member States eligible to vote.

4. Abstentions by Member States eligible to vote shall not prevent the adoption by the Assembly of decisions by consensus.

RULE 19
Decisions

1. The text of all proposed decisions shall, upon recommendation by the Executive Council, be submitted in writing to the Assembly for consideration.

2. The original mover of a proposed decision or amendment may, prior to it being submitted to the vote, withdraw the decision or amendment. Any Member State may reintroduce the proposed decision or amendment that has been withdrawn.

3. A draft decision shall only be adopted after the Commission has provided its financial implications.

RULE 20
List of Speakers and Use of Floor

1. The Chairperson shall, subject to Rule 35 of these Rules, during the debate, grant the use of the floor in the order in which the speakers indicate their intention.

2. A delegation shall not have the floor without the consent of the Chairperson.

3. The Chairperson may, during the debate: -

a) read out the list of speakers and declare the list closed;

b) call to order any speaker whose statement deviates from the issue under discussion;

c) accord the right of reply to any delegation where in his/her opinion a statement made after the list is closed justifies the right of reply; and

d) limit the time allowed to each delegation irrespective of the issue under discussion, subject to sub rule 4 herein.

4. The Chairperson shall, on procedural questions, limit each intervention to a maximum of five (5) minutes.

RULE 21
Point of Order

1. During deliberations on any item, a Member State may raise a point of order. The Chairperson, in accordance with these Rules, shall immediately decide on the point of order.

2. The Member State concerned may appeal against the ruling of the Chairperson. The ruling shall immediately be put to vote and decided upon by simple majority.

3. In raising a point of order, the Member State concerned may not speak on the substance of the issue under discussion.

RULE 22
Closure of Debate

When a matter has been sufficiently discussed, a Member State may move for the closure of the debate on the item under discussion. In addition to the proposer of the motion, two (2) Member States may briefly speak in favour of and two (2) others against such motion. The Chairperson shall immediately thereafter put the motion to a vote.

RULE 23
Adjournment of Debate

During the discussion of any item, a Member State may move for the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, one (1) Member State may speak in favour of and one (1) against the motion. The Chairperson shall immediately thereafter put the motion to a vote.

RULE 24
Suspension or Adjournment of the Meeting

During the discussion of any matter, a Member State may move for the suspension or adjournment of the meeting. No discussion on such motions shall be permitted. The Chairperson shall immediately put such motion to a vote.

RULE 25
Order of Procedural Motions

Subject to Rule 20, the following motions shall have precedence in the order listed below, over all other proposals or motions before the meeting:

a) To suspend the meeting;

- b) To adjourn the meeting;
- c) To adjourn the debate on the item under discussion;
- d) To close the debate on the item under discussion.

RULE 26
Voting Rights

1. Each Member State shall have one (1) vote, subject to sub rule 2.
2. Member States subject to sanctions under Article 23 of the Constitutive Act, shall not have the right to vote.

RULE 27
Vote on Decisions

After the debate has been closed, the Chairperson shall immediately put the proposed decision with all the amendments to a vote. The vote shall not be interrupted except on a point of order related to the manner in which the vote is taking place.

RULE 28
Vote on Amendments

1. A proposal shall be considered as an amendment to a text if it adds or removes parts therefrom or modifies it.
2. When an amendment is moved to a proposal, the amendment shall be voted on first.
When two or more amendments are moved to a proposal, the Assembly shall first vote on the amendment furthest removed in substance from the original proposal. The meeting shall then vote on the amendment next furthest removed therefrom, and so on, until all amendments have been put to a vote.
3. If one or several amendments are adopted, the amended proposal is then put to a vote.
If no amendment is adopted, the proposal shall be put to the vote in its original form.

RULE 29
Vote on Separate Parts of an Amendment

Parts of an amendment shall be voted on separately when so requested. If this is done, the text resulting from the series of votes shall be put to a vote as a whole. If all operative parts of an amendment have been rejected, the amendment shall be considered to have been rejected as a whole.

RULE 30
Methods of Voting

1. Voting on substantive issues shall be by secret ballot of Member States eligible to vote.
2. Voting on procedural matters shall be taken by any other method as may be determined by the Assembly.

RULE 31
Voting at Elections

Elections shall be by secret ballot, except in respect of the Chairperson and the vice-Chairpersons of the Assembly.

SECTION IV
ASSEMBLY DECISIONS

RULE 32
Authentication of Decisions

Decisions adopted by the Assembly shall be authenticated by the signature of the Chairperson of the Assembly and the Chairperson of the Commission. They shall be published in all the working languages of the Union in the 'Official Journal of the African Union' within fifteen (15) days after signature and shall be transmitted to Member States, other organs of the Union and the RECs.

RULE 33
Categorisation of Decisions

1. The Decisions of the Assembly shall be issued in the following forms:
 - a) Regulations: these are applicable in all Member States which shall take all necessary measures to implement them;
 - b) Directives: these are addressed to any or all Member States, to undertakings or to individuals. They bind Member States to the objectives to be achieved while leaving national authorities with power to determine the form and the means to be used for their implementation;
 - c) Recommendations, Declarations, Resolutions, Opinions etc: These are not binding and are intended to guide and harmonise the viewpoints of Member States.
2. The non-implementation of Regulations and Directives shall attract appropriate sanctions in accordance with Article 23 of the Constitutive Act.

RULE 34

Implementation of Regulations and Directives

1. Regulations and Directives shall be automatically enforceable thirty(30) days after the date of the publication in the Official Journal of the African Union or as specified in the decision.
2. Regulations and Directives shall be binding on Member States, Organs of the Union and RECs.

SECTION V SANCTIONS

RULE 35

Sanctions for Arrears

1. The Assembly shall determine, on the basis of recommendations of the Executive Council and the PRC, as well as information provided by the Commission, sanctions to be imposed under Article 23 (1) of the Constitutive Act.

2. Subject to paragraph 1 of this Rule, sanctions against a Member State that defaults in the payment of its contributions to the budget of the Union shall be implemented by the Assembly in the following manner:

a) when in arrears of payments amounting to two (2) years but not exceeding five (5) years of its assessed contributions, suspension of the

Member State's right to:

- i) speak, vote and receive documentation at meetings of the Union;
- ii) offer to host sessions of the Assembly or of the Executive Council or any other meetings of the Union; and
- iii) present a candidate for any position or post within the Union;

b) when in arrears of payment of contributions amounting to five (5) years or more, in addition to the sanctions in paragraph 2 (a) of this Rule, suspension of the Member State's right to:

- i) have the contracts of employment of its nationals renewed; and
- ii) provision, by the Union, of funds for new projects in the Member State.

3. When a Member State is under sanctions for non-payment of its contributions as described in the

preceding paragraphs, the sanctions may be lifted temporarily if the Member State pays at least 50% of its outstanding arrears, provided that such payment is made thirty (30) days before the commencement of the session of the Executive Council preceding that of the Assembly.

RULE 36

Sanctions for Non-compliance with Decisions and Policies

1. The Assembly shall approve, upon the recommendation of the Executive Council, the imposition of sanctions under Article 23 (2) of the Constitutive Act on a Member State that fails, without good and reasonable cause, to comply with the decisions and policies of the Union.

2. Such sanctions may include denial of transport and communication links with other Member States and other measures of a political and economic nature to be determined by the Assembly.

3. When taking any decision in this regard, the Assembly shall stipulate the time frame for compliance and indicate when the failure to comply with that decision will trigger the sanctions regime provided for under Article 23 (2) of the Constitutive Act and this Rule.

4. Member States under sanctions may present their case to the Assembly.

RULE 37

Sanctions for Unconstitutional Changes of Government

1. Pursuant to Article 30 of the Constitutive Act, the Member States in which Governments accede to power by unconstitutional means shall be suspended and shall not participate in the activities of the Union.

2. In conformity with the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government, the situations are to be considered as unconstitutional change shall be, among others:

- a) military and other coup d'état against a democratically elected Government;
- b) intervention by mercenaries to replace a democratically elected government;
- c) replacement of democratically elected governments by armed dissident groups and rebel movements; and

d) refusal by an incumbent government to relinquish power to the winning party after a free and fair election.

3. The overthrow and replacement of a democratically elected government by elements assisted by mercenaries shall also be considered as an unconstitutional change of government.

4. Whenever an unconstitutional change of Government takes place, the Chairperson of the Assembly and the Chairperson of the Commission shall:

a) immediately, on behalf of the Union, condemn such a change and urge the speedy return to constitutional order;

b) convey a clear and unequivocal warning that such an illegal change shall not be tolerated or recognized by the Union;

c) ensure consistency of action at the bilateral, interstate, sub-regional and international levels;

d) request the PSC to convene in order to discuss the matter;

e) immediately suspend the Member State from the Union and from participating in the organs of the Union, provided that exclusion from participating in the organs of the Union shall not affect that State's membership of the Union and its obligations towards the Union.

5. The Assembly shall immediately apply sanctions against the regime that refuses to restore constitutional order, including but not limited to:

a) visa denials for the perpetrators of the unconstitutional change;

b) restriction of Government to Government contacts;

c) trade restrictions;

d) the sanctions provided for in Article 23 (2) of the Constitutive Act and in these Rules;

e) any additional sanction as may be recommended by the PSC.

6. The Chairperson of the Commission in consultation with the Chairperson of the Assembly shall:

a) gather the facts relevant to the unconstitutional change of Government;

b) establish appropriate contacts with the perpetrators with a view to ascertaining their intentions regarding the restoration of constitutional order in the country, without recognizing or legitimizing the perpetrators;

c) seek the contribution of African leaders and personalities in order to get the perpetrators of the unconstitutional change to cooperate with the Union;

d) enlist the cooperation of the RECs to which the concerned country belongs.

CHAPTER II THE COMMISSION

SECTION I MEMBERS OF THE COMMISSION

RULE 38

Election of the Chairperson and Deputy Chairperson

1. The Assembly shall elect the Chairperson and the Deputy Chairperson by secret ballot and two-thirds majority of Member States eligible to vote.

2. The Chairperson and Deputy Chairperson shall be competent women or men with proven experience in the relevant field, commensurate leadership qualities and a good track record in government, parliament, international organizations or other relevant sectors of society.

3. Candidatures for the Office of the Chairperson and Deputy Chairperson shall be circulated to Member States at least three (3) months before the election.

4. The Chairperson and the Deputy Chairperson shall not be from the same region.

RULE 39 *Commissioners*

1. The Assembly shall appoint eight (8) Commissioners on the basis of equal geographical distribution. In this regard, the respective regions from which the Chairperson and the Vice-Chairperson shall be appointed, shall be entitled to only one (1) Commissioner each.

2. The Commissioners shall be competent women or men with proven experience in the relevant field, commensurate leadership qualities and a good track record in government, parliament, international organizations or other relevant sectors of society.

3. Candidatures for the Office of Commissioner shall be circulated to Member States at least three (3) months before the election.

RULE 40
Term of Office

The term of office of the members of the Commission shall be for four (4) years. It shall be renewable only once.

RULE 41
Termination of Appointment

The Assembly may, by two-thirds majority and following due process conducted by the Executive Council, terminate the appointment of the Chairperson, Deputy Chairperson and Commissioners on grounds of incompetence, gross misbehaviour or inability to perform the functions of his/her office for reason of permanent incapacity certified by a medical board.

RULE 42
Voting Procedure for the Election of the Members of the Commission

1. The voting shall commence with the election of the Chairperson, followed by the Deputy Chairperson, thereafter the Assembly shall endorse the Commissioners elected by the Executive Council.

2. In any election for the Chairperson or Deputy Chairperson of the Commission, the balloting shall continue until one of the candidates obtains the two-thirds majority required. Provided that, if the third ballot remains inconclusive, the next ballot shall be restricted to the two candidates who obtained the highest number of votes in the third ballot.

3. If after three further ballots neither of the two (2) candidates obtains the majority required, the candidate with fewer votes shall withdraw.

4. The remaining candidate shall proceed to the next round. If he/she fails to obtain the two-thirds majority required in that round, the Chairperson of the Assembly shall suspend the election.

5. The Deputy Chairperson shall take over the Chairmanship of the Commission on an interim basis until new elections are held. If the impasse is in respect of the Vice-Chairperson, the most senior Commissioner by length of tenure, or by age where length of tenure is the same, shall be designated to act as the Vice-Chairperson until new elections are held.

CHAPTER III
FINAL PROVISIONS

RULE 43
Implementation

The Assembly may lay down guidelines and supplementary measures to give effect to these Rules.

RULE 44
Saving Clause

These Rules shall not adversely affect the decisions of the Assembly of Heads of State and Government of the OAU whose implementation has not started or has started but has not been completed provided that such decisions are not inconsistent with the provisions of the Constitutive Act.

RULE 45
Amendments

The Assembly may amend these Rules by a two-thirds majority.

RULE 46
Entry into force

These Rules shall enter into force upon their adoption by the Assembly.