

SOLEMN DECLARATION ON A COMMON AFRICAN DEFENCE AND SECURITY POLICY

Preamble

We, the Heads of State and Government of Member States of the African Union, meeting in our Second Extraordinary Session, in Sirte, Great Libyan Arab Jamahiriya, on 28 February, 2004,

1. **Guided** by the principles enshrined in the Constitutive Act of the African Union and in the United Nations Charter, and our common vision of a united and strong Africa based on the scrupulous respect for human rights, peaceful coexistence, non-aggression, non-interference in the internal matters of Member States, mutual respect for national sovereignty and territorial integrity of each State;
2. **Motivated** by a common political will to strengthen our collective efforts to contribute to peace, security, stability, justice and development in Africa, as well as to intensify cooperation and integration in our continent in the best interest of our peoples;
3. **Convinced** that in order to safeguard and preserve the hard-won liberties of our peoples, the sovereignty and territorial integrity of our countries, our cultures, history and common values, as well as to guarantee peace, security, stability, and socio-economic development of our continent, it is imperative for us to undertake mutually reinforcing actions in the areas of defence and security;
4. **Reaffirming** our commitments under Article 4(d) of the Constitutive Act, and Article 3(e) of the Protocol Relating to the establishment of the Peace and Security Council of the African Union, which call for the establishment of a common defence policy for the African continent;
5. **Recalling** decision ASS/AU/Dec. 5(I), which we took during the inaugural session of the Assembly of our Union held in Durban, South Africa, in July 2002, in which we stressed the need for a Common African Defence and Security Policy in the context of the Constitutive Act of the African Union;
6. **Reaffirming** our determination to endow the Union with the requisite capacity for decision-making in order to ensure effective political-military crisis

management aimed at preserving peace and strengthening the security of the African continent in all aspects, including the elimination of conflicts;

7. **Convinced** that these commitments will provide our union with a more enhanced and cost-effective means of maintaining peace and security on the continent;

8. **Recalling** the Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), and particularly its interactive approach, as an invaluable tool for the Union to pursue and strengthen its agenda in the new millennium, in the areas of security, stability, development and cooperation in Africa;

9. **Stressing** the importance of the various decisions and instruments we have already adopted, with respect to the issues of peace, security and defence at the continental level, which can form the building blocks of the Common African Defence and Security Policy;

10. **Emphasizing** the need for a common understanding of defence and security as terms embracing both civilian and military aspects;

11. **Conscious** of the indivisibility of security in Africa, and particularly the fact that the defence and security of one African country is directly linked to that of other African countries, and Desirous to harmonize Member States activities in these areas;

12. **Undertake** to consult among ourselves and to adopt a common position on matters relating to defence that affect or constitute a potential threat to the collective security of our continent;

13. **Hereby solemnly** adopt the Common African Defence and Security Policy and **declare** our commitment to uphold and give practical expression to the provisions of the Declaration;

14. **Request** the Chairperson of the Commission to submit proposals relating to the different aspects of this Declaration in order to give effect to its implementation.

INTRODUCTION

1. During the inaugural Summit of the African Union held in Durban, South Africa, in July 2002, the Assembly stressed the need for a Common African Defence and Security Policy in the context of the Constitutive Act of the African Union. The Assembly further requested its Chairman to establish a group of experts to examine all aspects related to the establishment of such a Common African Defence and Security Policy and submit their recommendations thereon, for the consideration of its next ordinary session.

2. The need for a Common African Defence and Security Policy is inherent in the objectives of the Constitutive Act, particularly in Article 3(a) to (h) as well as in Article 4(d) of the Act, which provides for the "establishment of a Common Defence Policy for the African Continent".

3. Article 3 of the Protocol relating to the establishment of the Peace and Security Council of the African Union also provides that the objectives for which the Peace and Security Council was established shall include "the development of a Common Defence Policy for the Union, in accordance with Article 4(d) of the Constitutive Act". It also provides in Article 7, that one of the powers of the PSC shall be to "implement the Common Defence Policy of the Union".

I. DEFINITIONS AND SCOPE

4. The adoption of a Common Defence and Security Policy for Africa is premised on a common African perception of what is required to be done collectively by African States to ensure that Africa's common defence and security interests and goals, especially as set out in Articles 3 and 4 of the Constitutive Act of the African Union, are safeguarded in the face of common threats to the continent as a whole.

DEFENCE

5. Ensuring the common defence of Africa involves working on the basis of a definition of defence which encompasses both the traditional, military and state-centric notion of the use of the armed forces of the state to protect its national sovereignty and territorial integrity, as well as the less traditional, non-military aspects which relate to the protection of the people's political, cultural, social and economic values and ways of life. In terms of the linkage between defence at the national level and that at the regional and continental levels, it is understood, also, that each African country's defence is

inextricably linked to that of other African countries, as well as that of other regions and, by the same token, that of the African continent as a whole.

SECURITY

6. Similarly, ensuring the common security of Africa involves working on the basis of a definition which encompasses both the traditional, state-centric, notion of the survival of the state and its protection by military means from external aggression, as well as the non-military notion which is informed by the new international environment and the high incidence of intra-state conflict. The causes of intra-state conflict necessitate a new emphasis on human security, based not only on political values but on social and economic imperatives as well. This newer, multi-dimensional notion of security thus embraces such issues as human rights; the right to participate fully in the process of governance; the right to equal development as well as the right to have access to resources and the basic necessities of life; the right to protection against poverty; the right to conducive education and health conditions; the right to protection against marginalization on the basis of gender; protection against natural disasters, as well as ecological and environmental degradation. At the national level, the aim would be to safeguard the security of individuals, families, communities, and the state/national life, in the economic, political and social dimensions. This applies at the various regional levels also; and at the continental level, the principle would be underscored that the "security of each African country is inseparably linked to that of other African countries and the African continent as a whole."

COMMON SECURITY THREATS

7. Common Security Threats may be deemed to pose a danger to the common defence and security interests of the continent, as defined above, when such threats confront all, some, or one of the countries or regions of the continent. Such common security threats which thus undermine the maintenance and promotion of peace, security and stability on the continent, may be internal or external.

8. Common internal threats to Africa may include inter-state conflicts/tensions, intra-state conflicts/tensions; unstable post-conflict situations; grave humanitarian situations, as well as other circumstances:

(i) Inter-State Conflicts/Tensions:

- (a) Situations which undermine the sovereignty, territorial integrity and independence of Member States of the AU;
- (b) Incidents involving the actual use of force or the threat of use of force between and among Member States of the AU;
- (c) Lack of respect for the principle of non-interference by one Member State in the internal affairs of another;
- (d) Aggression or threat of aggression from a country or a coalition of countries, in violation of AU Principles and the provisions of the UN Charter.

(ii) Intra-State Conflicts/Tensions:

- (e) The existence of grave circumstances, namely war crimes, genocide and crimes against humanity;
- (f) Lack of respect for the sanctity of human life, impunity, political assassination, acts of terrorism and subversive activities;
- (g) Coup d'états and unconstitutional changes of government; and situations which prevent and undermine the promotion of democratic institutions and structures, including the absence of the rule of law, equitable social order, popular participation and good governance;
- (h) Improper conduct of electoral processes;
- (i) Lack of commitment by the parties to abide by the elections conducted in line with the laws of the country.
- (j) Absence of the promotion and protection of human and peoples' rights, individual and collective freedoms, equality of opportunity for all, including women, children and ethnic minorities;
- (k) Poverty and inequitable distribution of natural resources; and corruption;
- (l) Political, religious and ethnic extremism, as well as racism.

(iii) Unstable Post-Conflict Situations:

- (m) Failure to consolidate peace in the post-conflict period as a result of the absence of effective and complete post-conflict demobilization, disarmament, and re-integration

and lack of sustained post-conflict rehabilitation and reconstruction processes.

(iv) Other Factors that Engender Insecurity:

- (n) Plight of refugees and internally displaced persons and the insecurity caused by their presence;
- (o) Use of landmines and unexploded ordinance;
- (p) Illicit proliferation, circulations and trafficking in small arms and light weapons;
- (q) Pandemic diseases such as HIV/AIDS, tuberculosis, malaria;
- (r) Environmental degradation;
- (s) Violent and other crimes, including organized and cross border crimes;
- (t) Human trafficking
- (u) Drug trafficking.
- (v) Money laundering

9. Common external threats refer to external challenges to Africa's continental security, which may endanger or have the potential, either directly or indirectly, to constrain individual and collective efforts to achieve continental security goals. Common external threats to continental security in Africa may include:

- a) External aggression, including the invasion of an African country;
- b) International conflicts and crises with adverse effects on African regional security;
- c) Mercenarism;
- d) International terrorism and terrorist activities;
- e) The adverse effect of globalization and unfair international political and economic policies, practices and regimes;
- f) The accumulation, stockpiling, proliferation and manufacturing of weapons of mass destruction, particularly nuclear weapons, chemical and biological weapons, unconventional long-range and ballistic missiles;
- g) Cross-border crimes such as drug and human trafficking (which may constitute a threat at the regional and national levels);
- h) Unilateral policies aimed at isolating African countries;
- i) Dumping of chemical and nuclear wastes in Africa.

AREAS OF A COMMON AFRICAN DEFENCE AND SECURITY POLICY

10. The types of common security threats facing Africa, dictate that the Common Defence and Security Policy addresses, among others, the following areas of activity: promotion of the spirit of collective defence and a culture of peace; small arms and light weapons; peace-building and peacekeeping as well as post-conflict rehabilitation and reconstruction, including demobilization, disarmament and reintegration; landmines; child soldiers; nuclear and other weapons of mass destruction; chemical weapons; HIV/AIDS, tuberculosis, malaria and other infectious diseases; terrorism; humanitarian issues; and environmental matters.

II. PRINCIPLES AND VALUES UNDERLYING THE COMMON AFRICAN DEFENCE AND SECURITY POLICY

11. The principles and values informing the Common African Defence and Security Policy include, *inter-alia*, the principles contained in Article 4 of the Constitutive Act of the African Union. These are:

- (a) sovereign equality and inter-dependence among Member States of the Union;
- (b) respect of borders existing on achievement of independence;
- (c) peaceful resolution of conflicts among Member States of the Union, through such appropriate means as may be decided upon by the Assembly;
- (d) prohibition of the use of force, or threat of use of force, among Member States of the Union;
- (e) non-interference by any Member State in the internal affairs of another;
- (f) the right of the Union to intervene in a Member State pursuant to a decision of the Assembly, in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity, as well as a serious threat to legitimate order, in order to restore peace and stability to the Member States of the Union, upon the recommendation of the Peace and Security Council;
- (g) peaceful co-existence of Member States and their right to live in peace and security;
- (h) the right of Member States to request intervention from the Union in order to restore peace and security;
- (i) promotion of self-reliance within the framework of the Union;

- (j) respect for democratic principles, human rights, the rule of law and good governance;
- (k) promotion of social justice to ensure balanced economic development;
- (l) respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;
- (m) condemnation and rejection of Unconstitutional Changes of Governments;
- (n) restraint by any Member State from entering into any treaty or alliance that is incompatible with the principles and objectives of the Union;
- (o) prohibition of any Member State from allowing the use of its territory as a base for aggression and subversion against another Member State;
- (p) promotion of gender equality.

12. Other principles and values forming the basis of the Common African Defence and Security Policy include the following:

- (i) The indivisibility of the security of African States: the security of one African country is inseparably linked to the security of other African countries, and the African continent as a whole. Accordingly, any threat or aggression on one African country is deemed to be a threat or aggression on the others, and the continent as a whole; that needs to be brought to the immediate attention of the Assembly of the Union or the Peace and Security Council for decision and action as appropriate, in conformity with the AU principles and objectives;
- (ii) The traditional African principle and value of equal burden-sharing and mutual assistance;
- (iii) The fundamental link and symbiotic relationship that exists between security, stability, human security, development and cooperation, in a manner that allows each to reinforce the other;
- (iv) African countries shall, subject to the generally accepted norms of free speech, not engage in, or allow non-state entities to engage in any actions, that incite or intend to incite individuals or groups in the territory of other African countries to violence, which actions amount to propaganda for war or advocate hatred based on race, ethnicity, gender or religion;
- (v) The plight of African refugees and internally displaced persons shall be given due consideration;

- (vi) A close working relationship between AU and RECs must be maintained to enable correct interpretation and follow-up activities and programmes envisaged in the Common Defence and Security Policy;
- (vii) Collaborative efforts between Sub-Regional or Regional Organizations and the AU;
- (viii) The strengthening of links with the United Nations, whose Charter (Chapter 8), stipulates a role for regional organizations in the maintenance of international peace and security.

III. OBJECTIVES AND GOALS OF THE COMMON AFRICAN DEFENCE AND SECURITY POLICY

13. Based on the fact that a Common Defence and Security Policy tends to be a common feature of advanced co-operative frameworks, or of regions where integration is highly advanced, and taking into account the common historical, political, economic and international experiences which bind AU Member States together, a Common African Defence Policy is established in pursuit of a number of objectives and goals including among others, the following:

- a) ensure collective responses to both internal and external threats to Africa (as adumbrated above), in conformity with the principles enshrined in the Constitutive Act;
- b) enable the achievement of the objectives of the Constitutive Act, especially those relating to defence and security matters which are contained in Articles 3 and 4 therein;
- c) serve as a tool for the simultaneous enhancement of defence co-operation between and among African States, and the consolidation of national defence;
- d) eliminate suspicions and rivalry among African States, a factor that has traditionally engendered conflicts on the continent and hindered inter-state cooperation and integration in Africa;
- e) promote mutual trust and confidence among African States;
- f) provide a framework for AU Member States to cooperate in defence matters, through training of military personnel; exchange of military intelligence and information (subject to restrictions imposed by national

security); the development of military doctrine; and the building of collective capacity.

- g) provide for transparency and clarity on national defence and security policies; as well as cost effectiveness;
- h) allow for efficient re-allocation of resources to address the most threatening of the defence and security challenges, such as poverty and the adverse effects of globalization;
- i) advance the cause of integration in Africa and safeguard, not only common values, but also fundamental interests and the independence and integrity of individual states, regions and the continent, as well;
- j) enhance AU's capacity for and coordination of, early action for conflict prevention containment, management, resolution and elimination of conflicts, including the deployment and sustenance of peacekeeping missions and thus promote initiatives that will preserve and strengthen peace and development in Africa.
- k) promote a culture of peace and peaceful co-existence among AU Member States and within the regions. This will foster an emphasis on the use of peaceful means of conflict resolution and the non-use of force, such as preventive diplomacy, negotiation, the use of good offices, persuasion, as well as mediation, conciliation and adjudication;
- l) provide best practices and develop strategic capabilities through training and policy recommendations, to strengthen the defence and security sectors in Africa;
- m) develop and enhance the collective defence and strategic capability as well as military preparedness of Member States of the AU and the Continent;
- n) enable the formulation of policies to strengthen the defence and security sectors at the national and continental levels;
- o) facilitate the harmonization of national legislation and executive actions on defence and security matters with the Common Defence and Security Policy;

- p) enhance the capacity of the AU to develop and promote common policies in other areas such as foreign relations and trade, to ensure the security of the continent and the strengthening of its negotiating positions;
- q) provide a framework to establish and operationalize the African Standby Force provided for in the Protocol Establishing the Peace and Security Council;
- r) facilitate the establishment of a threat deterrence and containment capacity within the AU;
- s) integrate and harmonize regional initiatives on defence and security issues;
- t) encourage the conclusion and ratification of non-aggression pacts between and among African States and harmonize such agreements;
- u) create a conducive environment for the implementation of the precepts of the African Charter on Human and People's Rights and promote the acceptance of standards of human rights;
- v) provide a framework for humanitarian action to ensure that international humanitarian law is applied during conflicts between and among African States. It will, further, provide a framework for addressing the problems of refugees and internally displaced persons at the continental, regional and national levels;
- w) provide a framework for the effective participation of women in conflict prevention, management and resolution activities; and provide a framework for delineating the legal parameters for African Civil Society to function with regard to conflict prevention, management and resolution;
- x) provide a framework for post-conflict peace-building and reconstruction;
- y) provide a framework for ensuring that international environmental standards are maintained including during periods of conflict.

IV. IMPLEMENTING ORGANS AND MECHANISMS OF THE COMMON AFRICAN DEFENCE AND SECURITY POLICY

14. A number of defence and security frameworks existing in Africa at the continental, regional/sub-regional levels, will constitute the Actors or the Organs for implementing the Common Defence and Security Policy for the whole African continent. At the continental level, these include the Assembly of the African Union, the Peace and Security Council provided for under the Protocol relating to it, and the peace and security mechanisms of the regional economic groupings.

(a) The Assembly

15. The Assembly of the Union is the supreme Organ which deals with threats to Africa's collective defence and Security. Article 9 of the Constitutive Act, which relates to the "Powers and Functions of the Assembly", endows it with the power to monitor the implementation of policies and decisions of the Union, as well as the power to ensure compliance by all Member States. In addition, that Article provides for the delegation by the Assembly, of any of its powers and functions to any Organ of the Union. The Peace and Security Council is the appropriate Organ to which the Assembly will delegate its powers relating to defence and security.

(b) The Peace and Security Council

16. The Peace and Security Council is created by the Protocol relating to its establishment, adopted in Durban, South Africa, in July 2002. It is intended, (after the ratification of this Protocol) that it be a "standing decision-making organ for the prevention, management and resolution of conflict." It is also described by the Protocol as "a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa."

17. In addition, the Protocol constitutes an effort to incorporate into a single text, the provisions of certain defence and security instruments already in existence and forming part of the general body of "legislation" and principles on which the African Union, and the Peace and Security Council in particular will be able to base its actions in the field of defence and security. Similarly, the Council is required to ensure the implementation of the new genre of security instruments such as the OAU Convention on the Prevention and Combating of Terrorism and other relevant international, continental and regional instruments, adopted to combat international terrorism. Further, the

Peace and Security Council has the function of promoting and encouraging the implementation of OAU/AU, UN and other relevant international conventions and treaties on arms control and disarmament. These specific provisions of the Protocol could also be usefully incorporated into the proposed Common African Defence and Security Policy.

18. In the Peace and Security Council Protocol, it is provided that there shall also be established, a Military Staff Committee to advise and assist the Peace and Security Council on all questions relating to military and security requirements, for the promotion and maintenance of peace and security in Africa. (The Military Staff Committee, composed of the members of the Peace and Security Council, may meet at the level of Chiefs of Defence Staff or at the level of senior military officers.) The African Standby Force should also be an implementing mechanism for the decisions of the Peace and Security Council.

19. The Protocol also addresses the fundamental problem of funding and logistics, a factor which has continued to constrain peace support operations deployed by both the OAU/AU and African regional organizations.

20. The Protocol reaffirms the need to establish a Continental Early Warning System to facilitate the anticipation and prevention of conflicts. It will consist of an observation and monitoring centre to be linked to the observation and monitoring units of the sub-regional mechanisms.

21. There is also provision in the Protocol for the establishment of a Panel of the Wise to advise the Peace and Security Council and the Chairperson of the Commission and to pronounce themselves on issues relating to the promotion and maintenance of peace and security on the continent, particularly in the area of conflict prevention.

22. The Protocol stipulates that the Peace and Security Council shall assist in the restoration of the rule of law, the establishment and development of democratic institutions, and the preparation, organization and supervision of elections in Member States. Further, in areas of relative peace, the Peace and Security Council shall accord priority to the implementation of policy aimed at reducing degradation of social and economic conditions arising from conflict. In the area of post-conflict peace-building, the Peace and Security Council shall work towards the consolidation of peace agreements that have been negotiated; the establishment of conditions for political, social and economic reconstruction of the society and government institutions; the implementation of disarmament, demobilization and reintegration programmes, including

those relating to child soldiers; the settlement and reintegration of refugees and internally displaced persons; and the provision of assistance to vulnerable persons including children, the elderly, women, and other traumatized groups in the society.

23. In an effort to enhance the AU's institutional capacity in the humanitarian field, the Peace and Security Council is required to develop its own capacity to coordinate and efficiently undertake humanitarian action.

24. The Protocol stipulates that the Peace and Security Council shall encourage non-governmental organizations, and community-based and other civil society organizations, particularly women's organizations, to participate actively in the efforts aimed at promoting peace, security and stability in Africa; and that when required, such organizations may be invited to address the Peace and Security Council.

(c) Commission of the African Union

25. The Commission will, among other tasks, deploy efforts and take all initiatives deemed appropriate to prevent, manage and resolve conflicts and support post-conflict and rehabilitation activities.

(d) Regional Economic Groups

26. At the regional level, the implementing organs include the conflict prevention, management and resolution mechanisms existing in the various regional economic organizations. These include those of ECOWAS, ECCAS, IGAD, SADC, the East African Community, CEN-SAD, the Arab Maghreb Union and COMESA.

(e) Coordination and Harmonization procedures for implementing the Common African Defence and Security Policy

(f) Coordination Between the Peace and Security Council and relevant Continental Mechanisms

27. It would be appropriate for the Peace and Security Council to be accorded the role of an umbrella organ coordinating the activities of the various other continental mechanisms, which as mentioned above, have mandates and/or strategies of their own, in the context of the Common African Defence and Security Policy. The nature of the procedures aimed at

facilitating the Peace and Security Council's coordinating role is specified already in certain texts. Thus, for example, the Protocol establishing the Peace and Security Council stipulates that the Council shall seek close cooperation with the African Commission on Human and Peoples Rights in all matters relevant to its objectives and mandate; and, further, that the Commission on Human and Peoples Rights shall, for its part, bring to the attention of the Peace and Security Council, any information relevant to the objectives and mandate of the latter. This may be included in the Common Defence and Security Policy. Where the procedures for facilitating such co-ordination are not specified, they can be developed in the context of the said Common African Defence and Security Policy. Regarding the continental mechanisms, in general, the CSSDCA provisions for Review Conferences every two years may be utilized to monitor the implementation of decisions.

(g) Coordination Between the Peace and Security Council and Regional Mechanisms

28. Various instruments, at the regional and continental levels, have called for the coordination and harmonization of the existing regional mechanisms with the AU Mechanism. In this regard, reference can be made, for example, to Section II (e) of the CSSDCA Memorandum of Understanding on Security, Stability, Development and Cooperation, which provides for a commitment to "establish a strong cooperation framework for security between the Regional Economic Communities (RECs), the AU and the United Nations".

- a) Further expansion on the relationship between the RECs, regions, and regional defence arrangements and the AU Peace and Security Council, as defined by the relevant AU decisions at the meeting held in Maputo, Mozambique, and that the RECs and AU Regions be synchronized and harmonized.
- b) There should be a formalization and legitimization of the role of the Defence and Security Ministers in the implementation of the Common African Defence and Security Policy, in accordance with Article 14 (2) of the Constitutive Act of the African Union.

29. Article 16 of the AU Peace and Security Protocol has detailed provisions on the way and manner in which the relationship between the regional mechanisms and the Peace and Security Council can be structured. It articulates a basic vision in which the Regional Mechanisms are regarded as part of the "overall security structure" of the African Union, which has the primary responsibility for promoting peace, security and stability in Africa.

30. Accordingly, the Peace and Security Council, together with the Chairperson of the Commission, shall harmonize and coordinate the activities of the Regional Mechanisms and ensure that these activities are consistent with the objectives and principles of the Union; as well as work closely with the Regional Mechanisms to ensure effective partnership between them and the Peace and Security Council. It is stipulated that the modalities of such partnership shall be determined by the comparative advantage of each and the prevailing circumstances.

31. It is provided, further, that the Peace and Security Council shall promote initiatives aimed at anticipating and preventing conflicts as well as carrying out peace-making and peace-building functions, in consultation with Regional Mechanisms. In undertaking these efforts, the Regional Mechanisms shall, through the Chairperson of the Commission, keep the Peace and Security Council fully and continuously informed of their activities and ensure that these activities are closely harmonized and coordinated with the activities of the Peace and Security Council. The Peace and Security Council shall also keep the Regional Mechanisms fully and continuously informed of its activities, through the Chairperson of the Commission.

32. Furthermore, the Chairperson shall convene periodic meetings at least, once a year, with the Chief Executives and/or the officials in charge of peace and security in the Regional Mechanisms, to ensure close harmonization and coordination and facilitate regular exchange of information; and the Regional Mechanisms shall be invited to participate in the discussion of any question brought before the Peace and Security Council, whenever a question that is being addressed by a Regional Mechanism is of special interest to that organization. Similarly, the Chairperson of the Commission shall be invited to participate in meetings and deliberations of Regional Mechanisms.

33. The Chairperson of the Commission shall also take the necessary measures to ensure the full involvement of Regional Mechanisms in the establishment and effective functioning of the Early Warning System and the African Standby Force; and the AU Commission shall establish liaison offices with the Regional Mechanism, which shall, in turn, be encouraged to establish their own liaison offices with the Commission.

34. A Memorandum of Understanding based on the above provisions, shall be concluded between the AU Commission and the Regional Mechanisms.

35. While the Common African Defence and Security Policy will reflect the substance of Article 16 of the Peace and Security Protocol, regarding the role that the AU as the continental body, would be required to play in efforts to coordinate and harmonize sub-regional mechanisms, there needs to be a commitment on the part of the sub-regional mechanisms themselves to coordinate and harmonize their defence and security activities with those of the AU.

Review Conferences

36. In the general context of enhancing the coordination function of the Peace and Security Council, it is suggested to convene regular conferences, every six months, between the Peace and Security Council and the conflict resolution mechanisms of the various regional organizations, in order to review the state of peace and security on the whole continent. In addition, a yearly review conference involving all the conflict mechanisms of the regional mechanisms as well as the mechanisms established by the continental instruments, should be convened by the Chairperson of the Peace and Security Council.

V. RELATIONS WITH THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

37. Within the context of Chapter VIII of the UN Charter, there is a need to implement the framework for consultation, coordination and harmonization of policies as provided for in the Protocol establishing the Peace and Security Council.

38. In the fulfillment of its mandate for the promotion and maintenance of peace, security and stability in Africa, the Peace and Security Council shall cooperate and work closely with the United Nations Security Council, which has the primary responsibility for the maintenance of international peace and security. The Peace and Security Council shall also cooperate and work closely with other relevant UN Agencies in the promotion of peace, security and stability in Africa. Where necessary, recourse will be made to the United Nations to provide the necessary financial, logistical and military support for the African Union's activities in the promotion and maintenance of peace, security and stability in Africa, in keeping with the provisions of Chapter VIII of the UN Charter on the role of Regional Organizations in the maintenance of international peace and security.

39. The Peace and Security Council and the Chairperson of the Commission shall maintain close and continued interaction with the United Nations Security Council, its African members, as well as with the Secretary General, including holding periodic meetings and regular consultations on questions of peace, security and stability in Africa.

40. Similarly, the Peace and Security Council will also cooperate and work closely with other relevant African Institutions such as the African Academy for Peace and international organizations. Such organizations may be invited to address the Peace and Security Council on issues of common interest, if the latter considers that the efficient discharge of its responsibilities does so require.

THE BUILDING BLOCKS OF A COMMON AFRICAN DEFENCE AND SECURITY POLICY

(A) CONTINENTAL INSTRUMENTS AND MECHANISMS

1. At the continental level, there are a number of existing inter-governmental defence and security instruments, including treaties, charters, conventions, agreements, and declarations, which could inform on-going efforts to formulate and implement a Common African Defence and Security Policy. These include:

i. The Constitutive Act of the AU

The Constitutive Act provides for the establishment of the AU and the relevant policy organs.

ii. AU Peace and Security Council Protocol

The Protocol provides for the establishment of the Peace and Security Council as the “operational structure for the effective implementation of the decisions taken in the areas of conflict prevention, peacemaking, peace support operations and intervention, as well as peace-building and post-conflict reconstruction.”

iii. African Standby Force.

The Protocol of the Peace and Security Council provides for the establishment of an African Standby Force. The African Standby Force shall perform functions in the context of preventive deployment and peace-building, including post-conflict disarmament and demobilization. It shall also provide humanitarian assistance to alleviate the suffering of the civilian population in conflict areas (as well as support efforts to address major natural disasters).

The concept of the African Standby Force is based on brigades to be provided by the five African regions. These brigades will be established in two phases, to be completed by the year 2010 with the attendant strengthening of capabilities at both the AU and regional levels. The ASF will have military, police and civilian components and will operate on the basis of various scenarios under African Union mandates, ranging from observer missions to peace-keeping

operations and intervention in conformity with the Constitutive Act.

The ASF will be established to enable the Peace and Security Council perform its responsibilities with respect to the deployment of peace support missions and intervention pursuant to the provisions of the Constitutive Act.

iv. The Convention for the Elimination of Mercenaries in Africa.

2. This instrument was adopted at Libreville, Gabon, in July 1977, by the OAU Heads of State in response to the grave threat posed at that time by mercenarism. The Convention criminalizes “mercenarism” by providing for the culpability of States and by specifying the severest penalties, including capital punishment, in connection with the prosecution of offenders.

v. African Nuclear-Weapon-Free Zone Treaty (the Treaty of Pelindaba)

3. The African Nuclear-Weapon-Free Zone Treaty, (the Treaty of Pelindaba) was adopted in 1998. The treaty bars the testing, manufacturing, researching, stockpiling, acquisition, or possession of nuclear explosives in Africa. The Treaty provides for an African Commission on Nuclear Energy, mandated, inter alia, to collate reports and exchange information on issues relating to nuclear weapons.

vi. The Bamako Convention on the Ban of the Import Into Africa and the Control of Trans-boundary Movement of Hazardous Wastes Within Africa

4. The Bamako Convention on the Ban of the Import in Africa and the Control of Trans-boundary Movement of Hazardous Wastes Within Africa was adopted in January 1991 and came into force in May 1994. Its purpose is to protect African countries from the pollution which emanates from the transboundary movement of nuclear and hazardous wastes in Africa, substances which are hazardous to health. The Convention provides for the creation of its own mechanism, consisting of a Conference of Ministers of Environment.

vii. The Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons

5. The Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, was adopted by the Council of Ministers of the OAU in December 2000. In this Declaration, Member States undertake to identify, seize and destroy illicit weapons. The Declaration provides for the establishment of measures to control the circulation, possession, transfer and use of small arms and light weapons. It also stipulates the establishment at regional level, of national coordination agencies or bodies responsible for policy guidance, research, monitoring, control and circulation of small arms and light weapons.

viii. The Algiers Convention on the Prevention and Combating of Terrorism and the Algiers Plan

6. The Algiers Convention on the Prevention and Combating of Terrorism was adopted in July 1999 and entered into force in December 2002. The Convention provides that terrorism 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. It underlines the growing links between terrorism and organized crime, including the illicit traffic of arms, drugs and money laundering. The Convention thus criminalizes terrorist acts, as defined in the text, and makes such acts punishable by appropriate penalties. It also has sections on areas of cooperation among States Parties, the jurisdiction of States, extradition, extra-territorial investigations and mutual legal assistance. In March 2003, the Executive Council meeting in N'Djamena, Chad, endorsed the Plan of Action and the decision to establish the Algiers Centre for Studies and Research for the prevention and combating of terrorism, adopted by the High Level Intergovernmental meeting on the prevention and combating of terrorism held in Algiers from 11 to 14 September 2002.

ix. The Kempton Park Plan of Action on a Landmine-Free Africa

7. The Kempton Park Plan of Action was adopted by the OAU Council of Ministers in Harare in May 1997. The Plan of Action reiterated Africa's commitment to the total ban on anti-personnel mines and adopted as a goal, the elimination of all anti-personnel mines as well as the establishment of Africa, as a landmine-free zone.

x. The African Charter on Human and Peoples' Rights

8. The Charter adopted in 1981, guarantees the protection of individual rights and freedoms, without regard to race, gender, ethnicity, colour, language, religion, and political or other differences. The instrument gives prominence to the concept of peoples' rights, and stresses that the satisfaction of economic, social and cultural rights is the only guarantee for the enjoyment of the traditional civil and political rights. The African Charter on Human and Peoples' Rights sets up an African Commission on Human and Peoples' Rights, with a mandate to formulate the fundamental freedoms upon which African Governments may base their legislation.

xi. The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights

9. This Protocol contains provisions for the establishment of a Court to complement the protective mandate of the African Commission on Human and Peoples' Rights (The Protocol is, however, not yet in force, not having obtained the requisite number of ratifications).

xii. The African Charter on the Rights and Welfare of the Child

10. The African Charter on the Rights and Welfare of the Child was adopted by the OAU in July 1990. It came into force on 29 November 1999. In the Convention, States Parties are required, *inter-alia*, to take all necessary measures to prevent children from taking direct part in hostilities as child-combatants, and to refrain from recruiting them. The Charter provides for the establishment of an African Committee of Experts on the Rights and Welfare of the Child.

xiii. The Declaration of the Assembly of Heads of State and Government of the OAU on the Political and Socio-economic Situation in Africa and the Fundamental Changes Taking Place in the World (1990)

11. The Declaration of the Assembly of Heads of State and Government of the OAU on the Political and Socio-economic Situation in Africa and the Fundamental Changes Taking Place in the World (1990), was adopted in 1990. In the Declaration, the Heads of State enunciated principles which emanated from a broader vision of defence and security on the continent.

xiv. The Declaration of the Assembly of Heads of State and Government on the Establishment within the OAU of a Mechanism for Conflict Prevention, Management and Resolution

12. The Declaration provides for the establishment of the Mechanism for Conflict Prevention, Management and Resolution.

xv. The Grand Bay (Mauritius) Declaration and Plan of Action

13. The Grand Bay Declaration and Plan of Action were adopted at the end of the First OAU Ministerial Conference on Human Rights in Africa, held in April 1999, in Grand Bay, Mauritius. Significantly, a substantial part of the Declaration points to a link between various aspects of human rights on the one hand, and the promotion of peace and security on the other. It stipulates a strategy for implementing human rights at the national, regional, continental and international levels.

xvi. The Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government

14. Pursuant to the Algiers decision, the OAU Assembly of Heads of State and Government adopted the Declaration on Unconstitutional Changes of Government, during its Thirty-sixth Ordinary Session, in July 2000 in Lome, Togo, which provided a framework for dealing with Unconstitutional Changes of Government in Africa.

xvii. The Declaration and Plan of Action on Drug Abuse and Illicit Trafficking Control in Africa

15. In July 1996, African Heads of State and Government adopted at their Summit in Yaounde, Cameroon, the Common African Position on Drug Abuse and Illicit Trafficking Control in Africa. The Yaounde Declaration clearly identified the problems and criminalized drug abuse and illicit trafficking in drugs. It also urged Member States to harmonise policies and take joint actions at the national, regional and continental levels, in order to combat the phenomenon. In 2002, the Declaration on Control of Illicit Drug Trafficking and Abuse in Africa was also adopted at Yamoussoukro.

xviii. The Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases

16. In April 2001, the Heads of State of the OAU adopted the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases. The Declaration on HIV/AIDS, as well as the Framework for Action and the Plan of Action, make mention of strategies and mechanisms for implementation.

xix. The Abuja Declaration on Roll Back Malaria in Africa

17. In April 2000, OAU Heads of State and Government adopted the Abuja Declaration on Roll Back Malaria in Africa which included a Framework for Monitoring the Implementation of the Plan of Action.

xx. Declaration on the Code of Conduct on Inter-African Relations

18. This instrument was adopted by the Thirtieth Ordinary Session of the Assembly of Heads of State and Government in Tunis, Tunisia, in June 1994, in an effort to articulate standards for the conduct of inter-state relations, both at the bilateral and continental levels.

xxi. The 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa

19. This instrument, which takes into account the specific nature of African refugee problems, especially as they relate to the issue of peace and security, was adopted in September 1969, by the OAU Heads of State.

xxii. The Cairo Agenda for Action (1995)

20. This instrument was adopted by the Thirty-first Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Addis Ababa in June 1995. It is aimed at relaunching Africa's economic and social development.

xxiii. The African Charter for Popular Participation in Development:

21. The Charter was adopted by the Summit of the OAU in 1990. The Charter stresses that one of the key conditions for ensuring people's participation throughout the continent is the bringing to an end of all wars and armed conflicts.

xxiv. Instruments on the Rights of Women

22. These include the following: Declaration on the Elimination of All Forms of Discrimination against Women; Convention on the Elimination of All Forms of Discrimination against Women; Declaration on the Elimination of Violence against Women; Convention on the Political Rights of Women; Declaration on the Protection of Women and Children in Emergency and Armed Conflict; Optional Protocol to the Convention on the Elimination of Discrimination against Women. The Declaration on the Protection of Women and Children in Emergency and Armed Conflict is particularly relevant. Of relevance also is the forthcoming AU instrument on the rights of women.

xxv. The Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA)

23. The Assembly of Heads of State and Government in Lomé, in 2000 adopted the Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA). It is a comprehensive response to the multifaceted challenges of defence and security in Africa. The CSSDCA was launched to provide a framework for coordinating, harmonizing and promoting policies aimed at preventing, containing, and eliminating the pernicious internal and inter-state conflicts in Africa, as well as accelerating regional integration and development on the continent.

xxvi. NEPAD

24. NEPAD programme contains important peace and security components. The Heads of State Implementation Committee established a NEPAD sub-committee on peace and security in October 2001, to direct the work of the Peace and Security component of NEPAD. Additionally, the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance provides for the establishment of an African Peer Review Mechanism, (APRM), on the basis of voluntary accession. It seeks to promote adherence to and fulfilment of the commitments contained in the Declaration.

(B) REGIONAL INSTRUMENTS AND MECHANISMS

25. Various efforts have been made at the sub-regional level in Africa by what are essentially economic-oriented organizations, to establish common policies on defence and security issues; and consequently, a number of instruments have been adopted and mechanisms established at the sub-regional level by these organizations to coordinate regional defence and security policies. These exist within ECOWAS, IGAD, SADC, UMA, ECCAS, the EAC, CEN-SAD and COMESA.

Xxvii ECOWAS

26. Over a period of time, cooperation within ECOWAS on defence and security issues has evolved; and that body has adopted a range of policy texts, including:

- (a) The Non-Aggression Protocol, signed in Lagos, Nigeria in 1978;
- (b) The Protocol on Mutual Defence Assistance, signed in Freetown, Sierra Leone in 1981;
- (c) The Declaration of Political Principles of the Economic Community of West African States, (1991) and the Supplementary Protocol on Good Governance;
- (d) The Convention on Mutual Assistance in Criminal Matters (1992);
- (e) The ECOWAS policy instruments on peace and security also include:
 - Declaration of a Moratorium on the Importation, Exportation and Manufacture of Light Weapons in West Africa (1998);
 - Plan of Action for the Implementation of the Programme for Coordination and Assistance for Security and Development (PCASED (1998));
 - Code of Conduct for the Implementation of the Moratorium on the Importation, Exportation and Manufacture of Light Weapons in West Africa (1999);

- Decision Establishing National Commissions for the Control of the Proliferation and Illicit Circulation of Light Weapons (1999).
- (f) The Declaration by ECOWAS Ministers of Foreign Affairs on Child Soldiers (1999);
- (g) Protocol relating to the ECOWAS Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, which provides for the establishment of institutions like the Authority of Heads of State, the Mediation and Security Council, the Executive Secretariat and other organs such as the Defence and Security Commission, the Council of Elders, ECOWAS Ceasefire Monitoring Group, (ECOMOG) and the Peace and Security Observation Early Warning System.

27. A special structure devoted to peace and security issues has been created within the Secretariat of ECOWAS. It has the function of initiating and supervising activities relating to the implementation of the ECOWAS Mechanism.

28. In addition, an Early Warning System secretariat composed of an observation centre in 4 ECOWAS capitals has been established as part of the ECOWAS Secretariat structure.

Xxviii ECCAS

29. A Summit meeting of the Heads of State and Government of ECCAS held in Yaounde on 25th February 1999, decided to create an Organ for the Prevention, and Consolidation of Peace and Security in Central Africa, under the general superintendence of a Council of Peace and Security of Central Africa (COPAX). COPAX is required to operate at the level of Heads of State and Government. In July 1999, the Heads of State of ECCAS decided to integrate COPAX into the structures of ECCAS, as a sub-regional mechanism for the settlement and prevention of conflicts in Central Africa.

30. COPAX makes provision for an early warning capability: the Central African early warning mechanism: (MARAC).

31. The Defence and Security Commission (CDS) is composed of Chiefs of Staff of national armies. It is meant to plan, organize and provide advice to the decision-making bodies of the community, in order to initiate military operations, if and when necessary. However, it is also composed

of commanders-in-chief of police and gendarmerie forces from the different Member States.

32. The Central African Multinational Force (FOMAC), is the military arm of COPAX. It is a non-permanent force consisting of military contingents from member states, with the objective of carrying out missions of peace, security and humanitarian relief.

33. A Secretariat structure is also provided for in ECCAS, to oversee COPAX operations and to liaise with the political organs of ECCAS.

xxix. IGAD

34. IGAD was established in 1986 and revitalized in 1996, to coordinate the efforts of its Member States. Article seven of the Charter of the revitalized IGAD sets as a priority objective of IGAD, the promotion of peace and stability, and the creation of mechanisms within the Region, for the prevention, management and resolution of inter and intra-state conflicts through dialogue. Further, the Charter enjoins Member States, in the context of preserving peace, security and stability, to establish effective mechanisms for consultation and cooperation for peaceful settlement of disputes.

35. At its 8th Meeting in Khartoum in November 2000, the IGAD Summit adopted a resolution, formalizing an arrangement in the form of a conflict early warning and response mechanism (CEWARN). A Protocol establishing the Mechanism, (CEWARN), was adopted in January 2002, in Khartoum, Sudan. CEWARN is based on a complementary set of national and regional structures. Policy is made at the levels of the Heads of State, the Council of Ministers, as well as the Committee of Ambassadors, while the secretariat performs administrative functions. The technical aspects are handled by the Secretariat's arm of CEWARN, as well as the national conflict early warning and response mechanisms. The optional inter-state structures and regional councils are expected to cooperate with CEWARN, while the coordinating functions are intended to be assumed by a Committee of Permanent Secretaries established under Article 9 of the protocol as well as by the Technical Committee on early warning.

xxx. SADC

36. On 17 August 1992, the States of Southern African Region signed a Declaration and the Treaty establishing the Southern African Development Community (SADC) in Windhoek, the Republic of Namibia. The Declaration

and the Treaty, inter alia, stressed the need for cooperation in the promotion of peace and security in the region.

37. In June 1996, at an Extraordinary Summit in Gaborone, the Republic of Botswana, SADC created the Organ on Politics, Defence and Security. This represented the establishment of a regional mechanism for conflict prevention, management and resolution. The Summit reaffirmed that the Organ constituted an appropriate institutional framework, by which SADC Member States would coordinate their policies, strategies and activities in the areas of politics, defence and security. Summit also agreed on the need for a Protocol on Politics, Defence and Security, which would constitute a legal regime in the political sphere.

38. In 1999, the Summit decided to undertake a review of the operations of the SADC institutions, including the Organ. In March 2001, in Windhoek, Namibia, Summit approved the Report on the review of the operations of SADC institutions and mandated that the Treaty be amended to conform to the provisions of the review report. In August 2001 Summit signed the Agreement amending the Treaty and the Protocol on Politics, Defence and Security Cooperation.

39. In the context of the amended Treaty and the Protocol the chairpersonship of the Organ rotates among Member States and is chaired by a Head of State or Government who reports to Summit. The main institutions of the Organ are the Chairperson of the Organ, the Troika, the Ministerial Committee, the Inter-State Defence and Security Committee (ISDSC) and the Inter-State Politics and Diplomacy Committee (ISPDC). The Troika comprises the sitting Chairperson, the Incoming and the Outgoing Chairpersons. This enables the organization to execute tasks in between regular meetings. The Treaty and the Protocol provide that the Organ may establish other institutions as and when the need arises.

40. The SADC relevant instruments include the following:

- (i) The Treaty (as amended in 2001);
- (ii) The Protocol on Politics, Defence, and Security Cooperation;
- (iii) Mutual Defence Pact
- (iv) The Protocol on Mutual Legal Assistance in Criminal Matters;
- (v) The Protocol Against Corruption
- (vi) The Protocol on Extradition;
- (vii) The Protocol on Tribunal and Rules of Procedure
- (viii) The Protocol on the Control of Firearms, Ammunition and Other Related Materials
- (ix) Protocol on combating Illicit Drugs

- (x) Protocol on Wildlife Conservation and Law Enforcement
- (xi) Protocol on Legal Affairs

xxxi. East African Community (EAC)

41. The EAC has a Memorandum of Understanding on Cooperation in Defence, signed by the three Heads of State of Tanzania, Kenya and Uganda, in November, 2001. It builds on the already established tradition of undertaking joint maneuvers and military exercises among the three countries, by providing for cooperation in military training, joint operations, technical assistance, visits, and information exchange. The EAC Memorandum of Understanding also makes provision for institutional arrangements for its implementation, including a Council on Cooperation in Defence Affairs; a Consultative Committee on Cooperation in Defence Affairs; a Sectoral Committee on Cooperation in Defence Affairs; and Defence Experts Working Groups. Provision is, further, made for financial arrangements relating to expenses arising from all joint training, operational and technical cooperation.

42. In addition, while recognizing the security implications of the major challenge of forced migration, the EAC States are moving towards the harmonization of refugee and migration policies.

43. The EAC also has a memorandum of understanding on foreign policy.

xxxii. CEN-SAD

44. The Community of Sahelo-Saharan States (CEN-SAD), which comprises 18 States, has included peace and security among its priorities. To this end, it has equipped itself with a "security charter" and has put in place a "High Community Mediator". In the same vein, CEN-SAD is in the process of providing itself with a mechanism for conflict prevention, management and resolution within CEN-SAD space. This mechanism, whose principle of establishment was adopted by the leaders and Heads of State, is underpinned by two protocols, namely:

- an additional protocol of cooperation and assistance in the area of defence/security;
- an additional protocol on the Mechanism for Conflict Prevention, Management and Resolution.

xxxiii. The Arab-Maghreb Union

45. The objectives of the UMA treaty, signed in February 1989, are, as in the case of the constitutive instruments establishing its counterpart sub-regional organizations, primarily economic. Yet, in spite of its overriding economic orientation, UMA, like most of the other regional groups has incorporated peace and security concerns into its activities. Indeed, common defence and non-interference in the domestic affairs of partner states are central to the UMA Treaty. UMA has established some peace and security structures. In 1991, it set up an informal body called the Council of Common Defence (CCD). The Maghreb States had envisaged UMA as a viable forum for negotiating peace, enhancing security and cooperation, and resolving existing conflicts and tensions among them.

xxxiv COMESA

46. Since 1999, COMESA has developed a programme on peace and security, with an emphasis on conflict prevention through preventive diplomacy. This programme focuses especially on building the capacity of civil society, NGOs, the private sector and parliament. Included within the general structures of COMESA is a special structure that deals with peace and security matters, starting with the Authority which heads that structure. The Ministers of Foreign Affairs meet once a year to consider matters relating to peace and security. There is also a committee of officials, which meets at the technical level.

