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AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION

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PREAMBLE

The Member States of the African Union:

Considering that the Constitutive Act of the African Union recognizes that freedom, equality, justice, peace and dignity are essential objectives for the achievement of the legitimate aspiration of the African peoples;

Further Considering that Article 3 of the said Constitutive Act enjoin Member States to coordinate and intensify their cooperation, unity, cohesion and efforts to achieve a better life for the peoples of Africa;

Cognizant of the fact that the Constitutive Act of the African Union, inter alia, calls for the need to promote and protect human and peoples’ rights, consolidate democratic institutions and foster a culture of democracy and ensure good governance and the rule of law;

Aware of the need to respect human dignity and to foster the promotion of economic, social, and political rights in conformity with the provisions of the African Charter on Human and People’s Rights and other relevant human rights instruments;

Bearing in mind the 1990 Declaration on the Fundamental Changes Taking Place in the World and their Implications for Africa; the 1994 Cairo Agenda for Action Relaunching Africa’s Socio-economic Transformation; and the Plan of Action Against Impunity adopted by the Nineteenth Ordinary Session of the African Commission on Human and Peoples Rights in 1996 as subsequently endorsed by the Sixty fourth Ordinary Session of the Council of Ministers held in Yaounde, Cameroon in 1996 which, among others, underlined the need to observe principles of good governance, the primacy of law, human rights, democratization and popular participation by the African peoples in the processes of governance.

Concerned about the negative effects of corruption and impunity on the political, economic, social and cultural stability of African States and its devastating effects on the economic and social development of the African peoples;

Acknowledging that corruption undermines accountability and transparency in the management of public affairs as well as socio-economic development on the continent;
Recognizing the need to address the root causes of corruption on the continent;

Convinced of the need to formulate and pursue, as a matter of priority, a common penal policy aimed at protecting the society against corruption, including the adoption of appropriate legislative and adequate preventive measures;

Determined to build partnerships between governments and all segments of civil society, in particular, women, youth, media and the private sector in order to fight the scourge of corruption;

Recalling resolution AHG-Dec 126(XXXIV) adopted by the Thirty–fourth Ordinary Session of the Assembly of Heads of State and Government in June 1998 in Ouagadougou, Burkina Faso, requesting the Secretary General to convene, in cooperation with the African Commission on Human and Peoples’ Rights, a high level meeting of experts to consider ways and means of removing obstacles to the enjoyment of economic, social and cultural rights, including the fight against corruption and impunity and propose appropriate legislative and other measures;

Further Recalling the decision of the 37th ordinary session of the Assembly of Heads of State and Government of the OAU held in Lusaka, Zambia, in July 2001 as well as the Declaration adopted by the first session of the Assembly of the Union held in Durban, South Africa in July 2002, relating to the New Partnership for Africa’s Development (NEPAD) which calls for the setting up of a coordinated mechanism to combat corruption effectively.

Have agreed as follows:

Article 1

Definitions

1. For the purposes of this Convention;

“Chairperson of the Commission” means Chairperson of the Commission of the African Union;

“Confiscation” means any penalty or measure resulting in a final deprivation of property, proceeds or instrumentalities ordered by a court of law following proceedings in relation to a criminal offence or offences connected with or related to corruption;

“Corruption” means the acts and practices including related offences proscribed in this Convention;

“Court of Law” means a court duly established by a domestic law;

“Executive Council” means the Executive Council of the African Union;

"Illicit enrichment" means the significant increase in the assets of a public official or any other person which he or she cannot reasonably explain in
relation to his or her income.

“Private Sector” means the sector of a national economy under private ownership in which the allocation of productive resources is controlled by market forces, rather than public authorities and other sectors of the economy not under the public sector or government;

“Proceeds of Corruption” means assets of any kind corporeal or incorporeal, movable or immovable, tangible or intangible and any document or legal instrument evidencing title to or interests in such assets acquired as a result of an act of corruption;

“Public official” means any official or employee of the State or its agencies including those who have been selected, appointed or elected to perform activities or functions in the name of the State or in the service of the State at any level of its hierarchy;

“Requested State Party” means a State Party requested to extradite or to provide assistance under this Convention;

“Requesting State Party” means a State Party making a request for extradition or assistance in terms of this Convention;

“State Party” means any Member State of the African Union which has ratified or acceded to this Convention and has deposited its instruments of ratification or accession with the Chairperson of the Commission of the African Union.

2. In this Convention, the singular shall include the plural and vice versa.

Article 2

Objectives

The objectives of this Convention are to:

1. Promote and strengthen the development in Africa by each State Party, of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors.

2. Promote, facilitate and regulate cooperation among the State Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa.

3. Coordinate and harmonize the policies and legislation between State Parties for the purposes of prevention, detection, punishment and eradication of corruption on the continent.

4. Promote socio-economic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights.

5. Establish the necessary conditions to foster transparency and accountability in the management of public affairs.

Article 3

Principles

The State Parties to this Convention undertake to abide by the following
principles:
1. Respect for democratic principles and institutions, popular participation, the rule of law and good governance.
2. Respect for human and peoples’ rights in accordance with the African Charter on Human and Peoples Rights and other relevant human rights instruments.
3. Transparency and accountability in the management of public affairs.
4. Promotion of social justice to ensure balanced socio-economic development.
5. Condemnation and rejection of acts of corruption, related offences and impunity.

Article 4
Scope of Application

1. This Convention is applicable to the following acts of corruption and related offences:
   (a) the solicitation or acceptance, directly or indirectly, by a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
   (b)

Referring Principles:

IV.7.2 - Invalidity of contract due to bribery