

AFRICAN UNION CONVENTION ON CROSS- BORDER COOPERATION

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PREAMBLE

We, the Member States of the African Union,

Inspired by the objectives and principles enshrined in the Constitutive Act of the African Union, adopted in Lome (Togo) on 11 July 2000 and the Treaty establishing the African Economic Community adopted at Abuja (Nigeria) on 3 June 1991;

Recalling the Resolution AHG/Res. 16(1) on Border Disputes among African States, adopted by the First Assembly of Heads of State and Government of the Organisation of African Unity meeting in Cairo from 17 to 21 July 1964;

Mindful of Resolution CM/Res.1069 CXLIV) on Peace and Security in Africa through Negotiated Settlement of Border Conflicts adopted in Addis Ababa, Ethiopia in July 1986;

Considering the Memorandum of Understanding on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) adopted in Durban, South Africa in July 2002;

Mindful of the Declaration on the African Union Border Programme and its Implementation Modalities made in Addis Ababa, Ethiopia on 7th June, 2007;

Determined to give effect to Decision EX.CL/352 (XI) on the Declaration of the Conference of African Ministers in charge of Borders Issues taken in Accra, Ghana, 26-29 June, 2007;

Committed to implementing Decision EX.CL/Dec.461 (XIV) on the Implementation of the African Union Borders Programme adopted in Addis Ababa, Ethiopia, 29-30 January, 2009;

Convinced that a legal framework for cross-border cooperation would accelerate integration in Africa and enhance prospects for peaceful resolution of border disputes between African States;

Desiring to adopt a Convention to implement effective cross-border cooperation necessary for the transformation of border areas into zones of exchange and cooperation dynamics;

Have agreed as follows;

Article 1: Definitions

For the purposes of this Convention:

"Commission" means the African Union Commission;

"Convention" means the African Union Convention on Cross-border Cooperation;

"State Party" or "State Parties" means any Member State of the African Union which has ratified or acceded to this Convention and deposited the instruments for ratification or accession with the Chairperson of the Commission;

"Border Area" means a geographical area straddling the border of two or more neighbouring States.;

"Cross-border Cooperation" means any act or policy aimed at strengthening and developing good neighbourly relations between border communities, territorial administrations, bodies or authorities in two or more States Parties as well as the conclusion of agreements and arrangement pursuant thereto;

"Territorial Communities or Authorities" means communities, authorities or bodies exercising local territorial functions and regarded as such under the domestic law of States Parties;

"Regional Border Consultative Committee" means the body that facilitates dialogue and consultation between regional, bilateral and local border territorial administrations or authorities across borders;

"Regional Economic Communities" means the regional integration blocs of the African Union;

"Local Border Consultative Committee" means a local border territorial administration or authority recognized as such under the domestic laws of State Parties;

"AU Border Programme" means the African Union Border Programme and its Implementation Modalities adopted by the African Ministers in charge of Borders issues in June 2007 and endorsed by the Executive Council of the African Union in Accra, Ghana, 26-29 June, 2007;

"Court" means the African Court of Justice and Human Rights;

"Union" means the African Union.

Article 2: Objectives

The objectives of the cross-border cooperation shall be to:

1. boost the on-going efforts to promote peace and stability through prevention of conflicts, define an action programme for achieving solidarity, reconciliation, national and regional security as well as strengthen the unity of the continent and facilitate its integration;
2. facilitate the promotion of cross-border cooperation, delineation, demarcation and reaffirmation of interstate borders, peaceful resolution of border disputes and promotion of economic growth;
3. transform the border areas into building blocks for political and social-economic integration of the continent;
4. establish a programme of action to achieve better cross-border relations at regional level;
5. address the challenges and opportunities arising out of cross-border cooperation;
6. ensure efficient and secure border management.

Article 3: Areas of cooperation

State parties shall commit to promote cross border cooperation in the following areas:

1. Activities of strengthening infrastructures: transportation, communication, trade, arrangements agro-pastoral, handicrafts, hydraulic, Energy, Industry, health, drinking water, education and environmental protection;
2. Activities for capacity building and local security: Formulation, development and implementation of projects and programs in all areas of development, culture, festivals and sports;
3. Any other areas agreed by the State Parties.

Article 4: Cross-Border Legal, Administrative, Security and Technical Cooperation

Each State Party shall endeavour to resolve peacefully any legal, administrative, security or technical difficulties that may hamper the development and proper functioning of cross-border cooperation and shall

hold regular consultation with other States Parties or interested parties pursuant thereto.

Article 5: Exchange of Information

Each State Party shall as much as possible provide information requested of them by another State Party with a view to facilitating the performance by the latter of its obligations under this Convention.

Article 6: Competent Authorities or Agencies responsible for Border Areas

Each State Party shall at the time of ratification or accession of this Convention or as soon as possible thereafter notify the Commission of the competent Authority or Agency responsible for Border Areas under their domestic law.

Article 7: Harmonization of Laws pertaining to Border Areas

States Parties shall amend, review and enact their domestic laws in conformity with this Convention and ensure that the local territorial administrations or authorities in border areas are duly informed of the opportunities and means of action available to them under this Convention.

Article 8: Mechanisms for implementation of cross border cooperation at the State party level

1. State Parties shall commit themselves to implement the objectives, apply the principles and respect the commitments enshrined in this Convention as follows:
 - (a) To put in place mechanisms to facilitate the implementation of the goals and objectives set forth in this Convention;
 - (b) To incorporate the commitments of the Convention in their national policies and strategies.
2. Activities pertaining to cross-border cooperation shall be undertaken by local territorial communities or authorities as defined by the domestic law of States Parties.
3. The border Territorial Administrations or decentralized Authorities established under the domestic laws of State Parties shall exercise their

powers including concluding cooperation agreements with border Territorial Administrations or decentralized Authorities of the neighboring State parties according to the Rules and Regulations stipulated in their respective National Laws.

4. Local border consultative committees comprising representatives of relevant National Bodies shall be established to assist the border communities and Authorities in an advisory capacity in the consideration of cross-border cooperation matters.

Article 9: Mechanisms for implementation of cross border cooperation at the Regional Economic Communities level

1. The Commission shall establish a framework for cooperation with the Regional Economic Communities on the implementation of the AU Border Programme pursuant to the objectives of this Convention. In this regard, it shall urge the Regional Economic Communities to:
 - (a) Encourage their Member States to ratify or accede to this Convention;
 - (b) Designate focal points for coordination, evaluation and monitoring of the implementation of the commitments enshrined in this Convention.
2. The Commission shall encourage each Regional Economic Community (REC) to establish a Regional Border Consultative Committee.
3. The Regional border consultative committees shall comprise nominees of Member States of Regional Economic Communities (RECs) and shall assist the REC in an advisory capacity in the consideration of cross-border cooperation matters.
3. The Regional Border consultative Committee shall be charged with the following tasks:
 - (a) Assist in the formulation of policies and activities for the promotion of cross-border cooperation regarding administrative, social, economic, cultural and security matters in their respective regions;
 - (b) Define the road map of actions necessary for enhancing cross-border cooperation;
 - (c) Coordinate activities as well as means put in place for the attainment of the objectives of this Convention;

- (d) Facilitate dialogue and consultation among regional and local authorities located in either side of border areas when requested by the relevant state parties;
- (e) Recommend adoption of syntheses of experiences and best practices towards the effective management and administration of border areas;
- (f) Examine the problems faced by the populations of border areas and suggesting solutions thereto when requested by the relevant state parties;
- (g) Make recommendations on ways and means of advancing the cause of cross-border activities undertaken by different entities located within the border areas when requested by the relevant state parties.

Article 10: Mechanism for implementation of cross-border cooperation at the Continental level

1. The Commission has a role of coordination and facilitation of the implementation of this Convention through the African Union Border Programme.
2. In this regard, the Commission shall:
 - (a) Act as the central coordinating structure for the implementation of this Convention;
 - (b) Assist State Parties in implementing the Convention;
 - (c) Coordinate the evaluation on implementation of the Convention with other key Organs of the Union, the Regional Economic Communities and competent national-level bodies;
 - (d) Establish the Continental Border Consultative Committee.
3. The Continental Border Consultative Committee shall be composed of the Representatives from the Regional Economic Communities (RECs) and shall operate under the auspice of the Commission.
4. The Continental Border Consultative Committee shall be charged with the following tasks:
 - (a) Advise the Commission on the consideration of cross-border cooperation matters;

- (b) Reflect on broad guidelines to promote cross-border cooperation in the administrative, economic, social, cultural and security;
- (c) Identify priority actions and resources needed to achieve them;
- (d) Facilitate the establishment of a network of experiences and best practices relating to the development of border regions;
- (e) Examine the problems faced by border populations and to propose solutions in coordination with and with the approval of the relevant state parties.

Article 11: The African Union Border Program Fund

An African Union Border Program Fund shall be established and managed in accordance with the AU Financial Rules.

Article 12: Safeguard provisions

None of the provisions of the present Convention shall affect more favorable provisions relating to cross-border cooperation contained in the national legislation of State Parties or in any other regional, continental or international conventions or agreements applicable in these State Parties.

Article 13: Settlement of Disputes

1. Any dispute relating to this Convention shall be amicably resolved through direct negotiation between the parties.
2. Failing this, the matter shall be referred to the Court.

Article 14: Signature and Ratification of the Convention

1. This Convention shall be open for signature to all Member States of the Union and shall be ratified by and acceded to by signatory States in accordance with their respective constitutional procedures.

Article 15: Entry into Force

This Convention shall enter into force on the date of the receipt by the Chairperson of the Commission of the fifteenth (15th) instrument of ratification.

Article 16: Amendment

1. Any State Party may submit proposals for the amendment or revision of this Convention.
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit same to State Parties within thirty (30) days of receipt thereof.
3. The Assembly of the Union, upon the advice of the Executive Council of the Union, shall examine these proposals at its session following notification, provided all State Parties have been notified at least three (3) months before the beginning of the session.
4. The Assembly shall adopt amendments in accordance with its Rules of procedure.
5. The amendments or revisions shall enter into force in accordance with the provisions of the Article 15.

Article 17: Depository

1. The instruments of ratification shall be deposit with the Chairperson of the Commission.
2. Any Member State acceding to this Convention after its entry into force shall deposit the instrument of accession with the Chairperson of the Commission.
3. Any State Party may withdraw from this Convention by giving a one (1) year prior notice to the Chairperson of the Commission.
4. The Chairperson of the Commission shall inform all Member States of the signature, entry into force, reservations, requests for amendments and withdrawal thereof.
5. Upon entry into force of this Convention, the Chairperson of the Commission shall register it with the Secretary General of the United Nations in accordance with Article 102 of the Charter of the United Nations.
6. This Convention, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, to be deposited with the Chairperson of the Commission who shall transmit a certified true copy of the Convention in the relevant language to each Member State.

IN WITNESS WHEREOF, WE, the Member States of the African Union have adopted this Convention during the....Ordinary session of our Assembly.

Done at....., this day of.....20.....