

**THE REVISED DRAFT CONSTITUTION
OF
THE AFRICAN MINISTERIAL CONFERENCE
ON THE
ENVIRONMENT (AMCEN), 2004**

Note by the Secretariat

The revised AMCEN Constitution is being issued as produced by the Consultant without any formal editing.

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THE REVISED DRAFT CONSTITUTION OF THE AFRICAN MINISTERIAL CONFERENCE ON THE ENVIRONMENT (AMCEN)

PREAMBLE

WE, the Ministers responsible for environment in Africa:

Recalling resolution 1/1 on environmental cooperation in Africa adopted by the African Ministerial Conference on Environment (AMCEN) in December 1985 which decided to strengthen cooperation between African Governments, with the objective of halting and reversing the degradation of the African environment in order to satisfy the food and energy needs of the people of the Continent.

Recognising that the African Ministerial Conference on the Environment (AMCEN) is the main regional intergovernmental body on matters relating to environment and development in Africa.

Considering that since its inception, in 1985, AMCEN has played an invaluable role in directing environmental policy matters in Africa and **Having** examined the various activities of AMCEN from 1994-2004 with satisfaction made in achieving the objectives of AMCEN within available resources.

Concerned about the increasing environmental threat that the African continent is facing as a result of, among other things, global environmental changes, with adverse effects.

Reaffirming our determination to fulfil our responsibility of making concerted efforts to prevent environmental degradation, and to achieve sustainable development for the benefit of our present and future generations.

Recalling that the African Heads of State and Government adopted in 2003 the New Partnership for Africa's Development (NEPAD) as the vision and strategic framework for Africa's renewal and also recalling the United Nations General Assembly's Declaration on the New Partnership for African Development of 16th September 2002.

Recalling further, that the Heads of State and Government at their Summit on the Action Plan of the Environment Initiative of New Partnership for African Development, held in Maputo, invited AMCEN, among others, to play the leading role and to regularly review the implementation of the Action Plan of the Environment Initiative of NEPAD so as to contribute to sustainable development of Africa.

Recalling also that the Heads of State and Government at their second Extraordinary Summit on the Challenges of implementing integrated and sustainable development on agriculture and water in Africa held in Sirte, Libya in February 2004 committed themselves to **support the African Ministerial Council on Water (AMCOW) in its role of preparing plans and policies related to water resource management on the continent and request the Chairperson of the AU Commission to adapt the mandates, structures and activities of AMCOW, the African Ministerial Conference on the Environment and**

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the African Ministers Conference of Agriculture in order to integrate them into the activities of the Commission of the African Union and its Specialised Technical Committees"

Conscious of the opportunity offered by the United Nations Conference on Environment and Development which calls for a new spirit of international and regional cooperation for a common approach in tackling the challenges of achieving sustainable development at the regional and global levels through sound environmental management.

Recalling the United Nations Millennium Declaration adopted by the United Nations General Assembly in September 2000.

Recalling the Plan of Implementation adopted by the World Summit on Sustainable Development, held in Johannesburg in 2002, and its Chapter 8 on sustainable development of Africa.

Recognizing also that African initiatives to achieve regional cooperation for sustainable development have led to the establishment of sub-regional economic communities which are a sound foundation for Africa's socio-economic development.

Recalling AMCEN decision 5 of the eight session of AMCEN held in Abuja, Nigeria in April 2000 that expressed appreciation for the continued support given to AMCEN by the United Nations Environment Programme, including decisions supporting AMCEN and its implementation programmes;

Further determined to mobilize African regional and sub-regional intergovernmental, nongovernmental, civil society organizations and the private sector enhancing Africa's participation in regional and global environment and sustainable development issues.

ADOPT this revised Constitution of the African Ministerial Conference on Environment as the ministerial authority for environment for the Africa region.

CHAPTER I

GENERAL PROVISION

ARTICLE 1

USE OF TERMS

For the purposes of this Constitution -

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"AMCEN" means the African Ministerial Conference on the Environment.

"Bureau" means the bureau of the Conference as provided for under article 7.

"Conference" means the conference of ministers responsible for environment.

"member state" means a member of AMCEN.

"President" means the President of AMCEN.

"Secretariat" means the secretariat of AMCEN established under article 7.

"sub-regional economic community" means an economic or development organisation that has been constituted by two or more member states [and which has been recognised by the African Union].

ARTICLE 2

NAME

The African Ministerial Conference on the Environment is hereby constituted as the African ministerial Intergovernmental authority on the environment.

ARTICLE 3

VISION AND MISSION OF AMCEN

Taking into consideration the interests of member states -

- (a) The vision of AMCEN is to create a framework, at national and regional levels, which is conducive to environment protection, sustainable development and elimination of poverty.

The mission of AMCEN is to provide political environmental stewardship and a voice of conscience in the growing deterioration of the environment in Africa and globally, the increasing social and economic inequality and its associated impact on the environment.

- (b)

ARTICLE 4

GENERAL PRINCIPLES

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AMCEN shall function in accordance with the following principles:

- (a) the maintenance of a proper balance between socio-economic development and environment management so as to ensure sustainable development;
- (b) the achievement of sustainable development dependent upon concerted actions by national, sub-regional, regional and international communities based upon common initiatives;
- (c) sub-regional, regional and global environmental interdependence is vital for solving Africa's environmental problems;
- (d) long-term food security depends on sustainable environment management;
- (e) eradication of poverty in Africa is dependent on sound natural resource and environment management, and;
- (f) the right of the people and nations to permanent sovereignty over their natural wealth and resources and to exploit such resources in the interest of national development and the well-being of the people of Africa.

ARTICLE 5

OBJECTIVES

1. The overall objective of this Constitution is to foster closer cooperation for the judicious, sustainable and co-ordinated management, protection and utilisation of the environment, and to advance the African agenda of regional integration and poverty alleviation.
2. The specific objectives of this Constitution are to:
 - (a) promote shared responsibility and cooperation in environmental management among member states so as to protect the environment from degradation and to contribute to the environmentally sound socio-economic development of Africa;
 - (b) keep under regular review the state, conditions and trends of environment management in Africa, as well as new and emerging environmental issues, and promote pragmatic responses and actions to achieve environmental security;
 - (c) provide a framework for establishment and consolidation of a sound partnership between member states and other bilateral and multilateral partners in ensuring the sustainable development of Africa.

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- (d) strengthen public and political support and cooperation for regional, sub-regional and national environmental management initiatives by, among other things, mobilising and directing African capacities and resources to solve her environmental problems;
- (e) promote the harmonisation and coordination of Africa's environment and sustainable development programmes in collaboration with the government, non-governmental and civil society organisations and the private sector, including business and industrial sectors, and;
- (f) promote political co-operation among member states and the evolution of common political values in environmental management.

ARTICLE 6

COMMITMENT OF MEMBER STATES

The member states shall co-operate among themselves and, where appropriate and possible, cooperate with other states and organisations to -

- (a) give full effect to the provisions of this Constitution;
- (b) enhance individual and collective collaboration in adopting the policies and measures under this Constitution and, as appropriate, to harmonise policies at regional, sub-regional and national levels; and,
- (c) provide resources, political will and support for AMCEN programmes and activities.

CHAPTER II

INSTITUTIONAL ARRANGEMENT

ARTICLE 7

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FUNCTIONS OF AMCEN

1. AMCEN shall, in collaboration, where appropriate, with the organs of the African Union, sub-regional economic communities and other organisations, be the authority on environment matters in Africa.
2. The functions of AMCEN are to-
 - (a) provide policy guidance on environment and sustainable development matters;
 - (b) promote the co-ordinated and integrated environmentally sound socio-economic development of Africa;
 - (c) initiate policy and legislative proposals on environment matters;
 - (d) foster intergovernmental and sub-regional dialogue for sound environment management and integration of environmental considerations into poverty reduction strategies;
 - (e) coordinate and advise regional and sub-regional organisations and the member states on matters relating to sustainable environment management in Africa;
 - (f) promote the conservation of land, air, water, energy and biological resources and their diversity, and the prevention of desertification and pollution;
 - (g) collaborate with the African Union and its organs on matters of environment;
 - (h) promote common strategies to address transboundary environmental management issues;
 - (i) develop and promote common policy approaches on issues of mutual concern and advance such policies collectively in international fora;
 - (j) promote policy guidance on research and technology development, information collection and exchange, capacity building, and the application of appropriate technologies in environment management;
 - (k) mobilize the necessary resources for achieving the objectives of AMCEN and environment management for Africa, and;
 - (l) carry out any other function that is in the interest of ensuring sustainable environment management in Africa.
3. Notwithstanding section 2, AMCEN shall have an advisory and leading role and shall be competent, *inter alia*, to -

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- (a) approve the implementation of environment initiatives in Africa;
 - (b) make general or specific recommendations to member states and other bodies, including the African Union, regarding environment management in Africa, and;
 - (c) mobilize necessary resources for achieving the objectives of AMCEN.
- 4 The activities of AMCEN shall be undertaken at national, sub-regional and regional levels, as appropriate.

ARTICLE 8

ORGANS OF AMCEN

AMCEN shall have the following subsidiary bodies:

- (a) The Conference;
- (b) The Presidency;
- (c) The Bureau of the Conference;
- (d) The AMCEN Secretariat.

ARTICLE 9

FUNCTIONS OF THE CONFERENCE

1. The Conference shall be the principal policy making organ of AMCEN.
2. In accordance with this Constitution, the functions of the Conference shall be to -
 - (a) make decisions of AMCEN and on any environment matter in Africa;
 - (b) review overall progress of AMCEN;
 - (c) consider and approve the strategic plan(s) of AMCEN;
 - (d) provide the policy direction of AMCEN;
 - (e) elect members of the Bureau of the Conference;

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- (f) appoint the Executive Secretary and approve Staff and Financial Regulations and Rules of Procedure of the AMCEN, and;
- (g) carry out any other function entrusted to it by this Constitution.

ARTICLE 10

THE TECHNICAL COMMITTEE OF THE CONFERENCE

1. There shall be a Technical Committee of the Conference composed of experts from member states.
2. The Technical Committee, as a sub-committee of the Conference, may [shall] hold meetings prior to the holding of an Ordinary or Special Session of the Conference.
3. The functions of the Technical Committee are to advise the Conference on technical matters relating to the environment and the Conference.

ARTICLE 11

THE PRESIDENT OF THE CONFERENCE

1. The function of the President of AMCEN shall be to -
 - (a) oversee and preside over the work of the Conference and the Bureau; and
 - (b) regularly liaise with the Executive Secretary on the work of AMCEN.
2. The President shall be elected at each Ordinary Session of the Conference and shall hold office until the next Ordinary Session.
3. The President shall preside over the sessions of the Conference and in his or her absence one of the Vice Presidents shall preside.
4. The President shall also preside over the meetings of the Bureau of the Conference and in his or her absence one of the Vice Presidents shall preside.

ARTICLE 12

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ORDINARY SESSIONS OF THE CONFERENCE

1. The Conference shall hold its Ordinary Sessions once every [two] years.
2. Ordinary Sessions of the Conference shall be preceded by the meeting of the Bureau of the Conference and may be preceded by a meeting of the Technical Committee of the Conference.
3. Ordinary sessions of the Conference shall be held in a member state upon invitation. Failing such invitation, the session shall be convened at the location of the Secretariat.
4. AMCEN shall bear the cost of travel and stay of staff of the Secretariat as well as for the Conference facilities and services.
5. Member states shall be responsible for the participation of their delegations in meetings of the Conference and the Bureau.

ARTICLE 13

EXTRA-ORDINARY SESSIONS

1. The Conference may convene Extra-Ordinary Sessions in between Ordinary Sessions as may be determined by the Bureau or the Conference.
2. The conditions for holding an Extra-Ordinary session shall be provided for in the Rules of Procedure.

ARTICLE 14

MEMBERSHIP OF THE CONFERENCE

1. AMCEN shall be open to all states on the African continent.
2. The Conference shall consist of Ministers responsible for environment of the member states.
3. The Ministers may designate heads of the highest national institutions responsible for environmental matters to advise them during the Conference sessions or at any other meeting of AMCEN.

ARTICLE 15

OBSERVERS

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1. The Conference may invite observers to its' meetings. Observers may include the following:
 - (a) national or sub-regional institutions and organisations involved in business, trade, industry and investment promotion, private sector, inter-governmental, non-governmental or civil society organisation whose activities relate to environment management or sustainable development.
 - (b) development partners, and international or multilateral organisations involved in providing assistance to environment and sustainable development of Africa.
2. The specialised United Nations organs may participate as observers at the Conference.
3. The conditions for admission and participation of observers shall be as prescribed in the Rules¹ of Procedure of the Conference.

ARTICLE 16

THE BUREAU OF THE CONFERENCE

1. The Bureau of the Conference is hereby established.
2. The functions of the Bureau of the Conference shall include²:
 - (a) overseeing the Conference affairs and the activities of the Secretariat between sessions of the Conference;
 - (b) carrying out, between one ordinary session of the Conference and the next, such interim activities on behalf of the Conference as may be necessary, giving priority to matters on which the Conference has previously recorded its approval;
 - (c) make preparations on issues, *inter alia*, draft resolutions and recommendations for consideration at the next session of the Conference;
 - (d) overseeing the implementation of policies and decisions of the Conference, the execution of the Conference's budget and conduct of the Conference's programmes;

¹ *The Rules need to be amended to take into account the expanded attendance of observers, how they should be admitted and what they may do during the sessions and in between sessions.*

² *This is intended to strengthen the work of the Bureau and reduce the work of the Conference. In this manner, it is hoped that there will be less time spent at the Conference and most of the work of the Conference entrusted to the Bureau.*

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- (e) provide guidance and advice to the Secretariat on the implementation of the Conference decisions, relations between AMCEN and member states, preparation of meetings and on any other matters relating to the exercise of the functions of the AMCEN and the Secretariat;
 - (f) act as the Conference Committee at meetings of the Conference in accordance with the Rules of Procedure³;
 - (g) submit proposals to the Conference on any matter relating to the implementation of the objectives and functions of AMCEN and report to the Conference on activities it has carried out between the session of the Conference, and;
 - (h) perform any other functions that may be entrusted to it by the Conference.
4. The Bureau of the Conference may appoint such *ad hoc* committees to advise it, as deemed appropriate and necessary, in the implementation of its functions.
 5. The Bureau of the Conference shall meet in an Ordinary Session at least once in every year and at any other time that circumstances may warrant.
 6. The hosting of sessions of the Bureau of the Conference shall be in accordance with the provisions of Article 9 of this Constitution.
 7. The Rules of Procedure of the Conference shall apply to the meetings of the Bureau.

ARTICLE 17

MEMBERSHIP OF THE BUREAU

1. At each Ordinary Session, the Conference shall elect members of the Bureau.
2. The members of the Bureau of the Conference shall be ministers responsible for environment elected on an equitable geographical distribution representing the five sub-regions, namely, one each from West Africa, East Africa, Central Africa, North Africa and Southern Africa.
3. Members of the Bureau of the Conference shall be elected as:
 - (a) The President of the Conference and Bureau;
 - (b) Three Vice Presidents; and
 - (c) Rapporteur.
4. The President of the Conference shall be the Chairperson of the Bureau of the

³ *This also means that the Rules of Procedure will have to be amended.*

Conference.

5. A member state elected to the Bureau of the Conference shall ensure that the following tasks are accomplished:
 - (a) ensure that its representative attends meetings and activities of AMCEN;
 - (b) solicit opinion and find out the interests of the member states of the sub-region for purposes of AMCEN.⁴
6. The Bureau of the Conference may invite observers to participate in its deliberations, as appropriate.
 6. The attendance of observers at the meetings of the Bureau shall be in accordance with the Rules of Procedure of the Conference.

**INSERTION ON AMCEN BEING AN STC IS BEING CONSIDERED TO
BE INCORPORATED HERE OR WHERE APPROPRIATE BY THE
DRAFTER OF THE REVISED CONSTITUTION**

ARTICLE 18

THE SECRETARIAT OF AMCEN

1. A Secretariat of AMCEN is hereby established.
2. The functions of the Secretariat are to -
 - (a) assist the Conference, the President, the Bureau of the Conference, the Technical Committee and any other *ad hoc* committee or forum as established, in their deliberations;
 - (b) arrange for and service meetings of the Conference and its organs, undertake organisation of work during sessions and execute the decisions of the Conference;
 - (c) undertake other co-ordination activities as shall be necessary for the smooth functioning of AMCEN in the achievement of its objectives;

⁴ *This is intended to strengthen sub-regional coordination in the sub-regional economic communities so that decisions and actions taken at that level are in the interest of each state. It also strengthens the role of sub-regional economic communities and sub-regional conferences.*
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- (d) draw to the attention of the Conference, matters pertaining to the objectives of this Constitution, and its implementation;
- (e) prepare draft programmes of work and strategies for consideration and approval by the Bureau or the Conference;
- (f) prepare relevant activities and financial reports and other documentation as may be necessary for the deliberations of the Conference, the Bureau and other organs of AMCEN;
- (g) administer the budget for the Conference and the Trust Fund;
- (h) coordinate its activities with other organisations including sub-regional economic communities and intergovernmental and international organisations, civil society organisations and the private sector.
- (i) enter into such administrative and contractual arrangements as may be required for the effective discharge of the functions of AMCEN;
- (j) act as the repository for the reports, and other information for AMCEN and disseminate relevant information;
- (k) monitor implementation of the decisions of the Conference;
- (l) undertake, under agreed programmes, and as appropriate occasional scientific and technical studies into issues affecting implementation of the Conference decisions; **and**
- (m) perform such other functions as may be determined by the Conference or the Bureau.

ARTICLE 19

STAFF OF THE SECRETARIAT

1. The staff of the Secretariat shall be composed of -
 - (a) the Executive Secretary;
 - (b) professional or technical staff;
 - (c) other professional or technical officers that have been seconded to the Secretariat from member states or from other bodies as may be approved by the Bureau of the Conference, and;

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- (d) support staff.
2. The terms and conditions of service of the staff shall be provided in the Staff Rules and Regulations.

ARTICLE 20

FUNCTIONS OF THE EXECUTIVE SECRETARY

1. There shall be an Executive Secretary of AMCEN who shall be the chief executive officer responsible for the day-to-day proper functioning of AMCEN and its organs.
2. The Executive Secretary shall ensure the implementation of this Constitution. In particular, the Executive Secretary shall carry out the following functions:
 - (a) Follow-up the resolutions and decisions of the Bureau and Conference;
 - (b) manage the affairs of AMCEN, including the preparation of document for meetings and control of all funds;
 - (c) prepare reports, budgets, plans, strategies, circulars, press releases and any other document necessary for carrying out the functions of AMCEN;
 - (d) represent AMCEN in its relations with any third parties, governments and multilateral organisations and, negotiate agreements, contracts and related instruments as may be approved by the Bureau;
 - (e) prepare financial, staff rules and regulations, rules of procedure for the conference and the Bureau or amendments thereto for the consideration and approval by the Conference or the Bureau, and;
 - (f) ensure proper and responsible operations of the Secretariat and its functions, as may be required or approved by the Bureau or the Conference.

ARTICLE 21

LOCATION OF THE SECRETARIAT

1. The Secretariat of AMCEN shall be located at its headquarters in a country and place to be determined by the Conference.
2. Notwithstanding section 1, the Conference, at its Ordinary Session, may designate/request an existing Secretariat of a sub-regional economic community or any Secretariat of a competent multilateral or international organization, which has signified its' willingness, to

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carry out the secretarial functions to **host [hold]** the Secretariat of AMCEN.

3. The host government or organisation shall provide adequate support for the effective functioning of the AMCEN Secretariat.
4. The host government or institution shall enter into a Headquarters Agreement with AMCEN and extend the necessary privileges and immunities to the organisation and the international staff of the Secretariat and their families.

CHAPTER III

FINANCIAL RESOURCES

ARTICLE 22

CONTRIBUTIONS

1. The financial resources towards the budget of AMCEN and its activities shall consist of -
 - (a) assessed contributions from member states [as part of the Trust Fund];
 - (b) voluntary contributions from member states, and;
 - (c) contributions from other organisations or persons.
2. Contributions from member states to the budget of the Conference shall be in accordance with the scale of assessment approved by the Conference.
3. At each ordinary session of the Conference, a budget for the financial period of the session shall be adopted.

ARTICLE 23

TRUST FUND

1. A Trust Fund is hereby established.
 2. Contributions to the Trust Fund shall consist of assessed contributions from member
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states, pledges and other contributions.

3. Pledges to the Trust Fund shall be made at each session of the Conference and matters of the Trust Fund shall be an agenda item for each Ordinary Session.
4. Other partners shall be encouraged to make voluntary contributions to the Trust Fund.
5. The Executive Secretary shall report on the status of the Trust Fund and audited accounts at each Ordinary Session of the Conference.

ARTICLE 24
COMMITMENT ON FINANCIAL MATTERS
AND CONTRIBUTIONS⁵

1. Member states shall make financial contributions to the activities of AMCEN so as to ensure that the objectives of this Constitution are fulfilled.
2. Member states, individually or jointly, shall seek to mobilise further financial resources, and to that effect, seek full use and continued qualitative improvement of all national, bilateral and multilateral funding resources and mechanisms, using consortia, joint programmes and parallel financing, and shall seek to involve private sector funding, including non-governmental and civil society organisations.
3. ⁶All decisions of the Conference and the Bureau shall take into account the need for adequacy, predictability and timely flow of funds and the importance of burden-sharing among the member states.
4. Contributions from other states and organisations on a voluntary basis shall be encouraged.
5. During Ordinary Sessions of the Conference, the Executive Secretary shall inform the Conference on the state of contributions by member states.
6. The Conference shall have the power, upon recommendation of the Bureau, to determine appropriate and the duration of sanctions to be imposed on any member state that fails to meet its financial obligations or contribution to the budgets of the Conference in the following manner ⁷-
 - (a) denial of attendance at meetings;

⁵ *Objective: to strengthen members' contributions and make them obligatory and provide sanctions for failure to contribute*

⁶ *Intended to discourage taking decisions that are not backed by resources for implementation*

⁷ *There is need to amend the Rules of procedure to include this item and the manner in which to handle a member state that has partially fulfilled or complied with its penalties or sanctions.*

- (b) denial of the right to speak or vote at a meeting;
 - (c) denial to present a candidate for any position or post in the Conference or Secretariat or to benefit from any activity or commitment, therefrom, and;
 - (d) any other sanction as the Conference may impose
7. The Bureau shall apply the sanctions imposed by the Conference in respect of arrears or failure to meet a financial contribution or other obligation.

ARTICLE 25

MANAGEMENT OF THE FINANCES

1. The Executive Secretary of the Secretariat shall be responsible for the management of the finances of the Conference.
2. The financial records of the Conference shall be subject to external audit once every year and the audited accounts shall be submitted to the Bureau and the Conference at their ordinary sessions or meetings.
3. The Bureau of the Conference may request, from the Secretariat, a financial audit of the finances of AMCEN at any time as deemed appropriate.

CHAPTER IV

CO-OPERATION AND FINAL PROVISIONS

ARTICLE 26

INSTITUTIONAL COOPERATION

1. AMCEN shall collaborate with all African national, sub-regional and regional institutions active in the field of environment and sustainable development.
2. AMCEN shall maintain working relations and co-operate with, the African Union, regional and sub-regional economic communities and banks, the United Nations and its agencies, the United Nations Environment Programme and other organisations capable of assisting or collaborating in the achievement of AMCEN's objectives.

ARTICLE 27

ENTRY INTO FORCE OF THE CONSTITUTION

1. This Constitution shall provisionally enter into force when adopted by the Conference with the participation of not less than two thirds of the member states.
2. This Constitution shall definitively enter into force after it is duly signed by representatives with full powers of the member states of not less than 51 percent of the member states.

ARTICLE 28

AMENDMENTS AND ANNEXES

1. Any member state may propose an amendment or annex to this Constitution.
2. Amendments or annexes to this Constitution shall be adopted at an Ordinary Session of the Conference.
3. The text of any proposed amendment or annex shall be communicated to the member state by the Secretariat at least six months before the meeting at which it is proposed for adoption.
4. The Executive Secretary shall communicate proposed amendments or annexes to the Depository.
5. The member States shall make every effort to reach agreement on any proposed amendment or annex by consensus.
6. Where all efforts at consensus have been exhausted, the amendment or annex shall be adopted only when two thirds of the member states present at that session so vote with at least two thirds of member states present and voting.
7. An amendment or annex to this Constitution shall form an integral part of the Constitution.

ARTICLE 29

REPEAL AND SAVINGS

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1. This Constitution shall on [adoption] [signature] replace the Constitution of AMCEN entered into in 1997.
2. All assets and liabilities of former AMCEN shall be deemed to have been transferred to the new AMCEN created under this Constitution, subject to all interests, obligations and trusts.
3. Any instrument, resolution, act, agreement or similar arrangement made under the AMCEN Constitution of 1997 repealed by this article, and which is in force immediately before the commencement of this Constitution, shall remain in force until revoked by the Conference.

ARTICLE 30

TRANSITIONAL PERIOD

The Executive Director of UNEP is requested to continue providing the Secretariat of AMCEN until such a time that the Conference finds appropriate offices for the Secretariat in accordance with this Constitution.

ARTICLE 31

DISPUTE SETTLEMENT

1. Disputes arising between any two or more member states concerning the interpretation or application of this Constitution shall be settled by negotiations or any other peaceful means of their own choice.
2. If the dispute is not satisfactorily settled, it may be submitted for arbitration in accordance with Annex 1.
3. Matters relating to management of finances of AMCEN or other matters affecting the legal person of AMCEN shall be dealt with by the Bureau.
4. Disputes arising from staff matters shall be dealt with in accordance with the staff rules and regulations.

ARTICLE 32

DEPOSITORY

The Chairperson of the African Union shall be the Depository of this Constitution.

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ARTICLE 33

DISSOLUTION

1. AMCEN may be dissolved by a resolution supported by two thirds of all members participating at the session in which at least two thirds of all members are represented and voting.
2. In case of dissolution, the assets of the AMCEN shall be used to liquidate the liabilities and obligations.

ARTICLE 34

AUTHENTIC TEXT

The original text of this Constitution shall be in English and French languages, all of which shall be equally authentic.

IN WITNESS WHEREOF the undersigned Ministers responsible for the environment in Africa, being duly authorized to that effect, have signed this Constitution.

DONE at [.....] on this day of Two Thousand and Four.

ANNEX 1

ARBITRATION

ARTICLE 1

The claimant party or parties shall notify the Secretariat that the parties have agreed to submit the dispute to arbitration in accordance with Article 32 paragraph 2 of this Constitution. The notification shall state the subject matter of arbitration, and include in particular, the article of this Constitution, the interpretation or application of which is at issue. The Secretariat shall forward all the information received to all parties to this Constitution.

ARTICLE 2

The Arbitral Tribunal shall be composed of three members. Both the claimant party or parties and the other party or parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate, by common agreement, the third arbitrator, who shall be the President of the Arbitral Tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his or her usual residence in the territory of one of these parties, nor be employed by one of them, nor have dealt with the case in any other capacity.

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ARTICLE 3

If the President of the Arbitral Tribunal has not been designated within two months of the appointment of the second arbitrator, the Chairperson of the African Union shall, at the request of either party to the dispute, designate the President within a further two-months period.

ARTICLE 4

If one of the parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other party may so inform the Chairperson of the African Union, who shall designate the President of the Arbitral Tribunal within a further two months period. Upon designation, the President of the Arbitral Tribunal shall request the party which has not appointed an arbitrator to do so within two months. If it fails to do so within that period, the President shall inform the Chairperson of the African Union who shall make this appointment within a further two-month period.

ARTICLE 5

The Arbitral Tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Constitution.

ARTICLE 6

The Arbitral Tribunal shall draw up its own rules of procedure.

ARTICLE 7

The decisions of the Arbitral Tribunal, both on procedure and substance, shall be taken by a majority vote of its members.

ARTICLE 8

The Tribunal shall take all appropriate measures to establish the facts.

ARTICLE 9

The parties to the dispute shall facilitate the work of the Arbitral Tribunal and in particular shall, using all the means at their disposal:

- a) provide the Tribunal with all the relevant documents, facilities and information;
- b) Enable the Tribunal, where necessary, to call witnesses or experts and receive their evidence.

ARTICLE 10

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The parties to the dispute and the arbitrators shall protect the confidentiality of any information they receive in confidence during the proceedings of the Arbitral Tribunal.

ARTICLE 11

The Arbitral Tribunal may, at the request of one of the parties, recommend interim measures of protection.

ARTICLE 12

If one of the parties to the dispute does not appear before the Arbitral Tribunal or fails to defend its case, the other party may request the Tribunal to proceed with the proceeding and render its final decision. Absence of a party or failure to defend its case shall not constitute a bar to the proceedings.

ARTICLE 13

The Arbitral Tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

ARTICLE 14

Unless the Arbitral Tribunal decides otherwise because of the particular circumstances of the case, the expenses of the Tribunal, including the remuneration of its members, shall be borne equally by the parties to the dispute.

ARTICLE 15

Any party to this Constitution, which has an interest of a legal nature in the subject matter of the dispute and which may be affected by a decision in the case may intervene in the proceedings with the consent of the Tribunal.

ARTICLE 16

The Arbitral Tribunal shall render its decision within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months.

ARTICLE 17

The award of the Arbitral Tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon all parties to the dispute. The award shall be transmitted by the Arbitral Tribunals to the parties to the dispute and to the Secretariat. The Secretariat will forward the information received to all the State parties.

ARTICLE 18

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Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the Arbitral Tribunal which made the award, if the latter cannot be seized with the matter thereof, to another Tribunal constituted for the purpose in the same manner as the first.