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## Towards a People-Driven African Union

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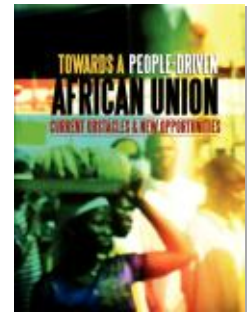
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### 3. PREPARATION OF AU SUMMITS AT CONTINENTAL LEVEL

The AU holds two summits a year: in January and June/July. Ordinarily, the January summit is held in Addis Ababa, Ethiopia (the headquarters of the AU Commission), and the June/July summit rotates.<sup>28</sup> Member states have made offers to host the July summits of the AU up to 2012. The decision to hold two summits, taken at the June 2004 summit,<sup>29</sup> was intended to allow the first to attend to policy and strategic planning and the second to focus on the budget and operational matters.<sup>30</sup> In practice, having two summits allows for those issues that were not discussed at the first to be covered at the next summit.<sup>31</sup> In addition, the heads of state and government have quite often called an extraordinary summit on a specific theme during the inter-summit period. In 2006, for example, there was a ‘special summit’ on malaria, tuberculosis, and HIV/AIDS in Abuja, Nigeria, 1–4 May 2006, and an extraordinary meeting of the Executive Council on African Union government also held in Abuja, Nigeria, 17–18 November 2006.

The decision to hold two summits a year appears to have created significant difficulties for the AU Commission, since the schedule does not allow sufficient time to implement decisions before the preparation begins for the next summit. Representatives of the PRC and AU Commission interviewed for this report were unanimous that the decision to hold two summits a year had negative consequences for the efficiency of implementation of the AU’s work programme.<sup>32</sup>

In addition to preparing for the summits themselves, the AU Commission has to provide support for numerous other ministerial, PRC or experts’ meetings held during the inter-summit period to inform summit decisions or other work of the AU. There can be more than 100 such meetings in any six-month period, putting a significant strain on the human and financial resources available.

The Rules of Procedure of the Executive Council of Ministers and of the Assembly of Heads of State and Government provide a framework for the preparation of and procedures at summits.<sup>33</sup> In addition, the Statutes of the Commission of the AU (2002) outline the role of the AU Commission in the preparation of summits.<sup>34</sup>

The key institutions in the preparation of summits include the PRC, the Office of the Chairperson of the AU Commission and the conferencing department in the AU Commission. The Offices of the Chairperson and Deputy Chairperson and the Conferencing and Events Department of the AU Commission are responsible for the managing the process of preparing for summits.<sup>35</sup>

There are two aspects to the preparation of meetings: the logistics at the proposed location and the substantive issues to be discussed. At the end of one summit, a bureau is established to begin preparations on both logistical and substantive issues for the next summit. The 15-member bureau, which comprises the president of the AU and representatives of member states elected by the PRC, will direct logistical preparations and compile a provisional agenda.

On logistics, the AU Commission, through the Office of the Chairperson, will make the initial contact with the host country. A month after the previous summit, an appraisal team, normally led by the deputy chairperson, will conduct a visit at the proposed location for the summit. The team consists of representatives from the departments of protocol, security, communications, administration and finance, and conferencing. After the visit, the team will report back to the chairperson of the AU. An agreement will be signed between the AU Commission and the hosting government which includes requirements in relation to accommodation, logistical support, size of meeting rooms, and other matters. However, given that the Assembly will approve the location of a summit long before the host agreement is signed, it is in practice difficult for the Commission to enforce these requirements in the case of small countries that have limited resources.

On substantive issues there are two sources of input to the agenda, described below: the activities of the various commissioners and their departments or other AU organs, and member states. Commissioners are invited to submit their agenda items and a list of people they wish to invite to the summit; member states may submit their own agenda items.

## Preparation of the agenda

The agenda for an ordinary session of the Assembly of the African Union is, in principle, established by the Executive Council.<sup>36</sup> However, in practice, this task is carried out by the PRC.<sup>37</sup>

The draft agenda necessarily includes:<sup>38</sup>

- the report of the AU Commission;
- the report of the PRC;
- the items the Assembly of the Union has submitted to the Executive Council;
- the items that the Executive Council has decided, during a previous session, to include on the agenda;
- the draft programme budget of the Union;
- the items proposed by the other organs of the Union;
- the items proposed by the member states;
- other business proposed by the organs of the Union, the regional economic communities or the member states.<sup>39</sup>

The agenda of the main policy-making organs – the Assembly of Heads of State and Government and the Executive Council of Ministers of the AU – is structured in the following manner:

- Administrative and financial matters;
- Legal, political and institutional matters;
- Economic, social and cultural matters;
- Implementation report by the AU chair on the extent of implementation of decisions taken at the previous summit;
- Agenda items proposed by member states.<sup>40</sup>

The AU Commission is the source of many agenda items at the summit, based on the sectoral expert meetings which take place between summits and prepare draft documents for adoption by the Assembly or Executive Council. These sectoral meetings have no formal basis in the AU legal framework, but are convened by the various commissioners or directorates under the authority of the Executive Council. In general, they are attended by government-appointed experts, but civil society organisations may also be invited to attend where they have special expertise, and they can be important opportunities for civil society input to the AU agenda items; the practice in this regard varies across the various Commission directorates. Once the

Executive Council adopts a draft coming from a sectoral meeting, the Office of the Legal Counsel in the AU Commission will draft a decision for adoption by the Assembly at the summit.

Preparatory documents are supposed to be distributed well in advance of these meetings to member states, through their representatives in Addis Ababa. However, this is often not the case. One member of the PRC described the current system for distribution and discussion of documents at expert meetings as ‘catastrophic’, noting that the text of the draft Charter on Democracy, Elections and Governance – a document of major importance to the AU agenda – had reached the embassy in Addis Ababa only two days before an experts’ meeting at which it was to be discussed, leaving no time for consultation with his capital.<sup>41</sup>

Other agenda items come from other AU organs, such as the consideration of the annual activity report of the African Commission on Human and Peoples’ Rights or, at recent summits, the report of the interim president of ECOSOCC.

Items proposed by the member states must be submitted to the chair of the AU Commission at least two months before the summit, while related documents and draft decisions may be submitted only one month in advance.<sup>42</sup> In practice, member states intending to propose agenda items frequently do not observe the time limits; yet the proposed items are invariably accepted for debate.<sup>43</sup> The states may also raise additional questions at any time, but these questions may not form the basis of a debate or decision.<sup>44</sup>

During 2006, several of the countries considered for this report proposed the introduction of items on the agenda of one of the two summits:

- ‘Migration and Development’<sup>45</sup> by Algeria for the Khartoum summit;
- ‘Rethinking the Commission on Labour and Social Affairs’<sup>46</sup> by Congo for the Banjul summit;
- ‘Report on the 23rd Summit of Heads of State and Government of France and Africa’<sup>47</sup> and ‘The creation of an African Research Centre on Migration’<sup>48</sup> by Mali for the Khartoum and Banjul summits respectively;
- ‘The Hissène Habré case and the African Union’ by Senegal for the Khartoum summit;
- ‘International Day of African Football’ by Ethiopia for the Khartoum summit;<sup>49</sup>
- ‘Consideration of the Memorandum of the United Cities and Local Government of Africa (UCGLA) to the African Union’ by South Africa for the Khartoum summit.<sup>50</sup>

Once the Assembly has been formally opened, the provisional draft agenda is submitted to the delegates for adoption. The version presented to them at that time includes two parts:<sup>51</sup>

- Part A, comprising the items approved by the Executive Council, which will be submitted to the Assembly for adoption without debate;
- Part B, including all items on which a consensus was not reached within the Executive Council, and which need to be debated prior to their approval by the Assembly.

## Distribution of documents to member states

It is the responsibility of the chairperson of the AU Commission to distribute the draft agenda to member states.<sup>52</sup> Under Rule 9(2) of the Rules of Procedure of the Executive Council of Ministers, the chairperson shall send a provisional agenda to member states through their representatives in Addis Ababa at least thirty days before the summit.<sup>53</sup> The note is transmitted to capitals for action; thus the diplomatic missions in Addis Ababa play an important role in obtaining documents as soon as they are ready. The AU Commission should also distribute all supporting documentation, including the reports of ministerial meetings, legal experts meeting and draft decisions. The Indian government is assisting the Commission in developing information technology tools for the distribution of documents.

A concern raised by national and regional officials interviewed is that although the provisional agenda is more often reaching them in time than in the past, other documents reach them too late for adequate preparation. The AU Commission has acknowledged this difficulty, which is in part due to meetings taking place too close to the summit. In preparation for the Banjul 2006 summit, all reports were due to be submitted to the AU Commission by 15 May,<sup>54</sup> yet some preparatory meetings ended after the closing date for the submission of reports – such as the meeting on the integration of the African Court on Human and Peoples' Rights and the Court of Justice of the AU, which took place on 16–19 May.

The agenda items submitted by member states create similar problems for the AU Commission. One of the documents prepared by Mali for the Banjul summit was dated 1 June 2006,<sup>55</sup> whereas the session of the Executive Council during which the paper was reviewed commenced on 25 June 2006.<sup>56</sup> Supporting documentation to the agenda item raised by the government of Senegal on the Hissène Habré matter did not reach all member states before the Khartoum summit; some states had to do their own research in order to have sufficient information to formulate an opinion.<sup>57</sup> Libya proposed more than one agenda item at each of the last four summits and, during a visit to the AU Commission in mid-May 2006, submitted a proposal for the agenda on 'Legislation for Organising and Ensuring Respect for Social Life in Africa' without any supporting documentation. Cameroon, however, had submitted an agenda item with supporting documentation in French and English on 'Transformation of the All-Africa Ministerial Conference on Decentralisation and Local Development to an African Union Structure'.<sup>58</sup> The papers are often submitted in skeleton form<sup>59</sup> and are not very informative,<sup>60</sup> although the supporting documents may be voluminous.<sup>61</sup>

Further delay is produced by the requirement that documents can only be distributed once available in all four official languages of the AU (Arabic, English, French and Portuguese); thus, while the AU would ideally prefer sending all documents in a single batch, this does not always occur.<sup>62</sup>

Documents can reach member states as late as a week before the summit. According to the Botswana Foreign Ministry, documents on the report of the AU Commission on the Strategic Framework for Migration Policy<sup>63</sup> reached the ministry only a week before the Banjul summit, which meant that the ministry was unable to request comments from the government agencies responsible for labour and internal affairs.<sup>64</sup> For Mozambique, the Foreign Affairs Ministry drew on a memo written by its embassy in Addis Ababa to assist with the formulation of positions for the Banjul summit, given the late receipt of the draft agenda.<sup>65</sup>

These delays create numerous problems for summit decision-making: because of the little time for consultation, member states may not have reached advance consensus on a document, so that negotiations on the text may need to continue in depth at the summit itself. As a result, the final text may suffer from poor quality drafting or differences of meaning among the various language versions.

## **The role of the Permanent Representatives Committee**

The PRC is perhaps the most important AU institution in the preparation of decisions that will be adopted at AU summits: it is where the political deals are made that turn technical drafting into formal policy. However, member states' permanent representatives in Addis Ababa do not only prepare for summits; they are critical players in bringing the AU agenda into the day to day reality of government business in capital cities around the continent. The permanent representatives in Addis Ababa are engaged in a variety of deal-making that is not directly linked to summits, as well as formally taking part in the PRC meetings.

The PRC is supposed to meet at least once a month to discuss recommendations for adoption by the Executive Council; in practice, because of the pressure of other meetings, this schedule is not always followed. The PRC rules of procedure allow it to form any sub-committees it wishes and to collect information from any source;

including civil society organisations, if desired. Current sub-committees include the following: administration, finance and budgetary affairs; Africa/EU dialogue; multi-lateral relations; trade and economic affairs; refugees, migration and internally displaced persons; AU structures; and calendar of events.

## Building consensus by region

Decision-making at the AU is premised on consensus. In Addis Ababa, regular consultations take place at ambassadorial level, where member states arrange themselves according to the five regions: east, west, north, central and southern Africa.<sup>66</sup> Each region elects a 'dean' who convenes meetings of the ambassadors in Addis Ababa, and also in the margins of the AU summits, to determine a common position of the region on AU issues. The southern and west African regions are perhaps the most coherent of these groups; the most important countries in each sub-region, South Africa and Nigeria, play an essential role. The southern region (which does not mirror the REC configuration, as it excludes the Democratic Republic of the Congo, Mauritius and Tanzania) meets at least once a month in Addis. Member states will reach a common position on most issues: for example, on the election of judges to the African Court on Human and Peoples' Rights, member states from the southern region voted for candidates from their region.<sup>67</sup> Similarly, west African states meet on a monthly basis in Addis Ababa, as well as during the summits: the regional representatives met three times during the Khartoum summit before deciding to oppose any attempt by Sudan to be chair of the AU. By contrast, the north African region failed to adopt a common position on Sudan's candidacy.

Consultations at REC level – for example at heads of state or ministerial meetings of SADC or ECOWAS – provide further opportunities for consensus building (though the fact that the political regions do not mirror the RECs provides space for confusion). For example, the SADC Assembly of Heads of State and Government met in October 2006 to discuss the issue of rationalisation of RECs and the Union of African States in preparation for the November 2006 extraordinary meeting of the Executive Council and the January 2007 AU summit. ECOWAS holds ministerial meetings immediately before AU summits, giving opportunities to west African states to share their views; the ECOWAS executive secretary may also participate in these meetings. If a summit theme has particular importance for ECOWAS, national ambassadors in Abuja will form part of the state delegation to the AU summit. Representatives of other intergovernmental organisations accredited to the African Union, such as the *Organisation Internationale de la Francophonie*, may also be consulted.

## Conduct of the summit

The management of AU summits varies according to the country in which they are held: summits held in Addis Ababa, the headquarters of the Union, are obviously easier to manage for AU Commission staff. Summits held in wealthier member states (such as South Africa) also inevitably tend to run more smoothly in relation to logistical matters than in less well-resourced countries. In some cases (including both Khartoum and Banjul during 2006), there are often acute shortages of accommodation, or even seating space in the meeting rooms.

In some respects, however, poor management of summit meetings is unconnected to logistical issues. In particular, there is little or no discipline over the speaking time of delegates nor the working hours of the meeting: in both 2006 summits the Executive Council and Assembly meetings went on to the early hours of the morning, only to reconvene at the usual time the next morning. Consequently, decisions may be impossible to take for lack of quorum, or delegates who choose to sleep may be excluded from debates.

Most sessions of the Assembly are closed, meaning that only official delegations can attend; however, some are open and form an important opportunity for information gathering by civil society organisations and

others (see further below). These include the opening of the Executive Council and Assembly and some other deliberative sessions, at which civil society groups may observe but not speak. The PRC meetings are formally closed to civil society groups, though the RECs and United Nations (UN) organs may observe them.

The rules of procedure for the meetings held at the summit are currently under review, providing an opportunity to address some of the problems with efficient running of the AU's business.

## **Follow-up to summit decisions**

Each summit meeting includes an agenda item on implementation of previous decisions, on which a report is presented by the chair of the AU Commission. However, beyond this report, which is not made public for African citizens to be informed of the effectiveness of their continental body, there is no formal process of ensuring implementation of decisions by the AU organs; indeed, several informed insiders suggested that decisions of the AU Assembly were often adopted in the full knowledge that they are not implementable. There is a proposal to establish a committee of the PRC on implementation of summit decisions, which would be a welcome initiative; the AU Commission departments are also supposed to monitor implementation of decisions, but this is not currently happening.<sup>68</sup>

Unlike earlier documents, several important new African treaties have no formal enforcement mechanism to ensure that their commitments are respected, raising the risk that they will remain simply aspirational statements with no real force. For example, the African Commission on Human and Peoples' Rights and the Committee of Experts on the Rights and Welfare of the Child are responsible for ensuring respect for the African Charter on Human and Peoples' Rights (adopted 1981) and the African Charter on the Rights and Welfare of the Child (1990), respectively. However, the Convention on Preventing and Combating Corruption (2003), for example, has no similar body; nor has the proposed Charter on Democracy Elections and Governance (to be debated at the January 2007 summit of the AU).

Although decisions and recommendations of the Executive Council and Assembly are made public on the AU website, related documents are often not included, without which the decision is meaningless and hard to monitor. For example, the 20<sup>th</sup> Annual Activity report of the African Commission on Human and Peoples' Rights, adopted (with qualifications) by the Executive Council at Banjul in July 2006, is not available on either commission's website, even though it is supposed to be publicly available once the summit has approved it and was indeed available at the summit itself. It is quite common for decisions of the Assembly or Executive Council to be in the form that the organ: 'takes note of the report on [a particular topic] and adopts the recommendations therein', with no further details available.

Historically, the AU Commission has prepared a record of proceedings of meetings at AU summits; however, since the decision to hold two summits a year this has not happened consistently, due to lack of capacity. This in itself makes it much more difficult to follow the reasoning behind the decisions made and ensure effective implementation.