

AFRICAN UNION

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REPORT OF THE PEACE AND SECURITY COUNCIL OF
THE AFRICAN UNION ON ITS ACTIVITIES
AND THE STATE OF PEACE AND
SECURITY IN AFRICA

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I. INTRODUCTION

1. According to Article 7(q) of the Protocol Relating to the Establishment of the Peace and Security Council (PSC) of the African Union (AU), the PSC shall “submit, through its Chairperson, regular reports to the Assembly on its activities and the state of peace and security in Africa.” The present report, prepared in conformity with the said Article, covers the activities undertaken by the Council during the period running from January 2009 to June 2009, and provides an overview of the state of peace and security on the continent during this period.

2. The specific aspects covered include the signature and ratification of the PSC Protocol, membership of the PSC, rotation of the chairmanship of the PSC, activities undertaken by the PSC and the state of peace and security in Africa.

II. SIGNATURE AND RATIFICATION OF THE PSC PROTOCOL

3. At the time of finalizing this report, 51 member States had signed the PSC Protocol, while 44 had both signed and ratified it. Two member States are yet to sign and ratify the Protocol, namely, Cape Verde and Eritrea. The following member States have signed the Protocol but have not yet ratified it: Central African Republic (CAR), Democratic Republic of Congo (DRC), Guinea Bissau, Republic of Guinea, Liberia, Seychelles and Somalia.

III. MEMBERSHIP OF THE PSC

4. As stipulated in Article 5 (1) of the Protocol, the PSC is composed of fifteen (15) members with equal rights and who are elected as follows: 10 members elected for a two (2) year term and five (5) members elected for a three (3) year term. The Assembly would recall that the current five (5) members of the PSC for a three (3) year-term (2007- 2010), namely, Algeria, Angola, Ethiopia, Gabon and Nigeria were elected by the Executive Council during its Ordinary Session held in Addis Ababa, in January 2007. Also, the current ten (10) members of the PSC for a two (2) year-term (2008- 2010), namely, Benin, Burkina Faso, Burundi, Chad, Mali, Rwanda, Swaziland, Tunisia, Uganda and Zambia were elected by the Executive Council during its Ordinary Session held in Addis Ababa, in January 2008.

The mandate of the PSC members elected in January 2008 began on 1 April that year, in accordance with paragraph A-2(i) of the Conclusions of the PSC Retreat on the Working Methods of the PSC, held in Dakar, Senegal, in July 2007. The current list of the Council members in the English alphabetical order is as follows: Algeria, Angola, Benin, Burkina Faso, Burundi, Chad, Ethiopia, Gabon, Mali, Nigeria, Rwanda, Swaziland, Tunisia, Uganda and Zambia.

5. The mandate of both the ten (10) members elected for a two (2) year term and the five (5) members elected for a three (3) year term will expire on 31 March 2010. Thus, in January 2010, the Ordinary Session of the Executive Council will elect the 15 members of the PSC, whose mandate will begin on 1st April 2010. In this

respect, member States will be expected to submit their candidacies, through the Commission, at least 60 days prior to the election.

IV. ROTATION OF THE CHAIRMANSHIP OF THE PSC

6. In conformity with Rule 23 of the Rules of Procedure of the PSC, the chairmanship of the PSC rotates among its members on a monthly basis following the English alphabetical order of the list of the PSC members. Furthermore, as provided for in the Conclusions of the Dakar PSC Retreat on the working methods, a new list of PSC members was elaborated following the election of ten members of Council for a two year term by the Executive Council in January 2008, on the basis of which a line up of the rotating chairpersons of the PSC was drawn (see Annex I attached to this Report) covering the period from February 2008 up to March 2010.

7. During the period under review, the chairmanship of the PSC rotated as follows:

-	Algeria	January
-	Angola	February
-	Benin	March
-	Burkina Faso	April
-	Burundi	May
-	Chad	June

V. ACTIVITIES OF THE PEACE AND SECURITY COUNCIL

8. During the period under review, the PSC held twenty-nine (29) meetings. All of these meetings took place at the ambassadorial level at the Headquarters of the Union. Among the meetings were briefing sessions to receive updates on various situations and issues. As is the established practice of the PSC, in conformity with the provisions of the PSC Protocol, the countries and other stakeholders concerned with a given issue were invited to some of these meetings and briefing sessions. The PSC also held informal consultations to deliberate on issues within its mandate.

a) Meetings on conflict situations and related issues

9. Between January 2009 and June 2009, the PSC considered the following situations: the Central African Republic, Chad/Sudan, the Comoros, the Republic of Guinea, Guinea Bissau, Madagascar, Mauritania, Somalia and Sudan (Darfur). The list of meetings held by the PSC during the period and the issues discussed, as well as the outcomes of those meetings, are reflected in Annex II attached to this Report.

b) Briefing sessions

10. Between January 2009 and June 2009, the PSC held various briefing sessions with a view to receiving updates on issues falling under its mandate. Press statements were issued, in conformity with Rule 32 of the Rules of Procedures of the PSC, as a record of the discussions and outcomes of the sessions, as shown in Annex II. These sessions included briefings by the Commission on the status of progress in the establishment of the African Standby Force within the framework of Article 13 of the Protocol of the PSC and briefings by the Panel of the Wise on its activities. The other briefings covered the evolution of the situations in Burundi, the

Comoros, Côte d'Ivoire, Madagascar, Mauritania, Eastern DRC, Guinea Bissau, the Republic of Guinea, Somalia and Sudan (Darfur). The various briefing sessions and their respective outcomes are also reflected in Annex II.

c) Other activities falling within the purview of the PSC

i. Briefings by Chairpersons of the PSC to the Permanent Representatives Committee (PRC)

11. In line with the Conclusions of the Dakar PSC Retreat on the Working Methods of the PSC, the Chairperson of the PSC for each month briefs the PRC at the end of his/her chairmanship on the activities undertaken by the PSC during the month. Notably, the successive Chairpersons of the PSC for the period under review, namely, Algeria, Angola, Benin, Burkina Faso and Burundi briefed the PRC on the activities undertaken by the PSC during the respective months.

ii. Mission of the PSC to West Africa (Guinea Bissau and Cote d'Ivoire)

12. Pursuant to the decision of the PSC adopted at its 185th meeting held on 6 April 2009, a mission of the PSC visited Guinea Bissau and Côte d'Ivoire from 24 April 2009, to 2 May 2009. The mission was led by Burkina Faso, Chairperson of the PSC for April 2009. The objective of the mission was to gather information on the political and security situation in the two countries within the context of the ongoing peace processes and to make an evaluation of trends with a view to strengthening the role of the AU in support of the peace processes. Specifically, in Guinea Bissau, the mission evaluated the political and security situation following the assassination of the President and the Chief of Staff of the Armed Forces of Guinea-Bissau and gathered information about the status of preparations for the presidential election as then scheduled for 28 June 2009. In Côte d'Ivoire, the mission focused on the progress made in the implementation of the 4th Supplementary Agreement to the Ouagadougou Political Agreement and on the preparation for the next presidential election.

iii. Participation of Chairpersons of the PSC in international meetings on peace and security issues

13. Within the framework of the decision of the 177th meeting of the PSC held on 11 March 2009, regarding the participation of the PSC in international meetings on peace and security issues in Africa, the successive Chairpersons of the PSC for the months of February, March and May 2009, represented the PSC at international meetings on peace and security issues in Africa. The Chairperson of the PSC for the month of February 2009, the Ambassador of Angola, represented the PSC at the meeting of the International Contact Group on Guinea, which took place in Conakry on 16 and 17 February 2009. In March 2009, the Chairperson of the PSC for March 2009, the Ambassador of Benin, participated at the UN Security Council session in New York on the Report of the AU/UN Panel of Experts on the modalities for supporting AU peacekeeping operations on 18 March 2009. On her part, the Ambassador of Burundi, Chairperson of the PSC for the month of May 2009, represented the PSC at the Meeting of the International Contact Group on Guinea, held in Conakry on 2 May 2009.

iv. Consultations with the Panel of the Wise

14. In line with the provisions of Article 11 (5) of the PSC Protocol and the Modalities for its Functioning, the Panel shall, without prejudice to its independence, maintain regular contacts with Council and the Chairperson of the Commission, as well as with the Chair of the Union, and keep them fully informed of its activities for the purpose of ensuring close coordination and harmonization. During its 5th meeting held in Addis Ababa on 5 and 6 March 2009, the Panel had an exchange of views with Council. This consultation afforded the Panel an opportunity to update Council on its activities and to exchange views on the best ways to address the peace and security challenges facing the continent and to enhance coordination between all components of the African Peace and Security Architecture. On its part, Council expressed appreciation to the Chairperson of the Panel, former President Ahmed Ben Bella, and to its members, for their commitment and contribution to the promotion of peace, security and stability on the continent.

15. On 5 June 2009, Dr. Salim Ahmed Salim, on behalf of the Panel, presented the conclusions of the report on the strengthening of the role of the AU in the prevention, management and resolution of election-related disputes and violent conflicts in Africa. This issue is addressed below in greater details.

d) Meeting of the Peace and Security Council and the United Nations Security Council, Addis Ababa, 16 May 2009

16. Within the framework of article 17 of the PSC Protocol, the PSC held a consultative meeting with the United Nations Security Council (UNSC) in Addis Ababa, on 16 May 2009. The meeting reviewed matters of common interest, in particular the enhancement of cooperation between the two institutions and conflict situations on the continent, as well as the issue of unconstitutional changes of government. The two organs agreed to continue to work closely together on these issues, with a view to achieving concrete results. A Joint Communiqué issued by the meeting is enjoined to this Report. The next PSC/UNSC meeting will be held in New York in 2010.

VI. STATE OF PEACE AND SECURITY

17. Since the Report of the Chairperson of the Commission provided a comprehensive coverage on the conflict and crisis situations in Africa during the period under review and the efforts thus far deployed, this section will focus on providing highlights on the issues covered and the challenges.

18. The period under review continued to be dominated by the problem of unconstitutional changes of Government. After the coup d'état in Mauritania on 6 August 2008, and in Guinea on 23 December 2008, Madagascar took its turn in experiencing unconstitutional change on 17 March 2009; with the Head of State of Guinea Bissau, Joao Bernardo Vieira, assassinated earlier that same month. These developments reinforced the concern expressed by the 12th Ordinary Session of the Assembly of the Union over the resurgence of coups d'état and the grave political downturn that these incidents represent for the democratisation process set in motion in the Continent since the early 90s.

19. Since the last session of the Council, there have been encouraging developments in the sphere of promotion of peace, security and stability in the Continent. At the same time, many other situations continued to generate concern. Clearly, greater efforts will have to be deployed to overcome these difficulties and consolidate the progress towards peace.

a) Comoros

20. The period under consideration was characterised by continued efforts to consolidate the progress achieved in the promotion of stability and reconciliation in the Comoros. In this connection, the Chairperson for the Commission's Special Envoy to The Comoros, Francisco Madeira, visited the Archipelago on four occasions between January and April 2009, with a view to arriving at the widest possible consensus on the institutional reform project submitted by President Ahmed Abdallah Mohamed Sambi through inter-Comorian talks which brought together all the concerned parties. In broad terms, the constitutional review project proposed by the presidency of the Union reinforces the authority of the State and, at the same time, preserves the two fundamental principles of the 2001 Constitution on autonomy of the Islands and rotational presidency.

21. It was against this background that the inter-Comorian talks took place in Moroni from 3 to 7 March 2009, attended by all Comorian entities. Deliberations continued during the several meetings between President Sambi and the Executive Heads of the Autonomous Islands, during which the Comorian parties reached agreement in principle on issues relating to the functioning of the institutions and good administrative and economic governance. The talks however faltered on the question of rationalisation of the institutions emanating from the 2001 Constitution and the harmonisation of the mandates of the President of the Union and the executive heads of the Autonomous Islands.

22. Faced with the above difficulties, the President of the Union decided to go for a referendum despite threats of boycott and acts of intimidation by some political players. The referendum on amendment to the 23 December Constitution was held on 17 May 2009, without major incidents. The final results which were endorsed on 19 May 2009 by the Constitutional Court gave a wide margin of victory to the "Yes" advocates. The Comorian Authorities should now focus on the key challenge of the upcoming elections for the National Assembly and for the three legislative organs of the Islands. It is important to encourage all the Comorian parties to engage in consensual action with a view to implementing the institutional reforms that have just been adopted.

b) Madagascar

23. The present crisis in Madagascar, which began by a series of incidents which pitted the capital city's mayor, Andry Rajoelina, against the President of the Republic, Marc Ravalomanana, came to a head on 17 March 2009, when the President of the Malagasy Republic, under pressure from the civilian opposition and the army, resigned from office and handed power over to a Military Directorate which, in turn, passed it on to Andry Rajoelina. The PSC held several meetings on the situation in Madagascar. In the communiqué of its 181st meeting held on 20 March 2009, the PSC noted that the transfer of power was in flagrant violation of the relevant provisions of the Malagasy Constitution, and that the subsequent decision to

confer the duties of President of the Republic to Mr Andry Rajoelina was tantamount to an unconstitutional change of Government. The Council strongly condemned this unconstitutional change and decided, in accordance with the Lomé Declaration and the AU Constitutive Act, to suspend Madagascar from participating in AU activities until constitutional order has been re-established in the country.

24. As a follow-up of this decision, and for more effective coordination of international community initiatives, the Chairperson of the Commission set up, under the aegis of the AU, an International Contact Group on Madagascar. The inaugural meeting of the said Group took place in Addis Ababa on 30 April 2009. The participants, after having strongly condemned the unconstitutional change of Government that took place in Madagascar reaffirmed their respective organisations' and countries' readiness to accompany, under the auspices of the AU, the process of re-establishing constitutional order consistent with the following objectives and principles: a precise timetable with a view to holding free, fair and transparent elections involving all stakeholders, under the supervision of a neutral electoral body; contribution of all political and social players in the country, including President Marc Ravalomanana, as well as other national figures, to the search for a solution; promotion of consensus among the concerned Malagasy parties; respect for the Malagasy Constitution, as well as relevant AU instruments and Madagascar's international commitments.

25. In line with this decision, the Chairperson of the Commission's Special Envoy for Madagascar, in close collaboration with the Special Envoys of SADC, the UN and OIF, initiated mediation efforts since mid-May 2009. However, negotiations among the four political movements supporting former Presidents Albert Zafy and Didier Ratsiraka, President Marc Ravalomanana and Mr Andry Rajoelina, centred on the principles of an inclusive political agreement aimed at a neutral, peaceful and consensual transition have reached a deadlock.

c) Somalia

26. During the period under review, and despite President Sheikh Sharif Sheikh Ahmed and his Government's efforts to bring on board some influential clan leaders, elders and Islamic clerics in order to broaden domestic support for the stabilization of the country, there have been unrelenting attempts by anti-peace elements to derail the political process in Somalia. Beginning early May 2009, increased attacks by insurgents on the capital have threatened to reverse the important achievements made by the President and his Government since relocating to Mogadishu in January 2009. This situation has led to heavy civilian casualties and massive displacement of persons.

27. Nonetheless, thanks to the continued goodwill and support demonstrated by the international community towards the Government and people of Somalia, the Djibouti peace process has generally remained on course. In this respect, the most significant development was the pledging conference on Somalia held in Brussels, Belgium, from 22 to 23 April 2009, which generated US\$ 213 million in pledges, in addition to in-kind and other services pledged in support of AMISOM and the Somali Security Sector Institutions. It is also worth mentioning the adoption by the UN Security Council, on 18 May 2009, of a presidential statement in which it reaffirmed its support to the TFG as the legitimate authority in Somalia and condemned the recent renewal in fighting led by al-Shabaab and other extremists, as well as the

communiqué of the IGAD Council of Ministers of 20 May 2009, calling upon the Security Council to impose a no-fly zone over Somalia's airspace, as well as a sea blockage of the ports of Merka and Kismayo, except for humanitarian purposes. The meeting also condemned all individuals and countries, in particular the Government of Eritrea and its financiers, who continue to instigate, train, fund and supply the criminal elements in Somalia, and called on the Security Council to impose sanctions on the Government of Eritrea. At its 190th meeting held on 22 May 2009, the PSC endorsed the IGAD communiqué.

28. The current AMISOM military strength in Mogadishu stands at 4,274 soldiers, comprising 3 battalions from Uganda and 2 from Burundi. AMISOM is still 4 battalions short of its mandated strength of 9 infantry battalions, plus maritime and air components. The current strength of the AMISOM police component includes a leadership team of six officers. The process is underway for the recruitment of 89 police trainers, advisers and mentors who will subsequently be deployed to Mogadishu to commence the crucial task of training the 10,000 all inclusive Somalia Police Force in line with the Djibouti Agreement. The Commission is currently engaged with AU Member States and partners to ensure the speedy deployment of pledged addition troops. In that context, steps are underway for the deployment of the third Burundian battalion, as well as for the commencement of the relocation of the AMISOM civilian mission leadership from Nairobi to Mogadishu.

29. Pursuant to resolution 1863 (2009), the UN Secretary-General, in a letter dated 30 January 2009 to the Security Council, outlined the details of support to be provided to AMISOM and to be funded from UN assessed contributions, as well as financial support from UN Member States through a Trust Fund. On 7 April 2009, the General Assembly approved the first phase of the UN logistical support package for AMISOM, to the amount of US\$ 71.6 million. The Commission and the UN Secretariat are in the process to finalizing the Memorandum of Understanding that will define the modalities for the implementation of this support package.

30. Significant progress has been made in the political process over the past months. The inclusive Government of President Sheikh Sharif Ahmed is making sustained efforts to broaden the political process and consolidate the gains made towards reconciliation. At the same time, the TFG continues to be faced with huge challenges, ranging from the relentless attacks carried by armed groups opposed to the peace and reconciliation process to weak institutional capacity and serious financial constraints. Against this background, the importance of continued support by the AU Member States and the larger international community hardly needs to be over emphasized.

d) Relations between Djibouti and Eritrea

31. The Assembly will recall that, on 14 January 2009, the Security Council adopted resolution 1862(2009), in which it urged Eritrea and Djibouti to resolve their border dispute peacefully. At the same time, the Security Council, noting that Djibouti had withdrawn its forces to the *status quo ante*, demanded, *inter alia*, that Eritrea, no later than five weeks after the adoption of the resolution, withdraw its forces and all their equipment to the positions of the *status quo ante*, acknowledge its border dispute with Djibouti, and engage actively in dialogue and diplomatic efforts to reach a solution.

32. In a letter to the Security Council dated 30 March 2009, the Secretary-General indicated that he had no information that Eritrea had complied with the demands contained in resolution 1862(2009). He also indicated that Eritrea continues to insist that it had not occupied any land that belongs to Djibouti and cannot accept a resolution that demands the withdrawal of its forces from its own territory.

e) Sudan

i) Implementation of the CPA

33. During the period under review, the AU has continued to closely follow and support the implementation of the Comprehensive Peace Agreement (CPA). Despite a few skirmishes that took place in the Upper Nile and Jongeli States, the Ceasefire Protocol continues to hold between the North and the South. It is also important to highlight the enactment of the Electoral Act and the subsequent establishment of the National Electoral Commission (NEC), which are important milestones in the implementation of the Agreement. In this regard, the electoral process, as indicated in the “Timeframe for Elections”, commenced in April 2009 and will conclude with the organisation of elections and announcement of their final results in February 2010. The completion of the 5th Population Census of the Sudan in 2008 also marked an encouraging step in the implementation of the CPA.

34. Efforts continue to be made to overcome the difficulties encountered in the implementation process of the CPA. The Assembly will recall that, within the context of the “Abyei Roadmap” signed in June 2008, the parties agreed to resolve their dispute by referring it to the Permanent Court of Arbitration (PCA) in The Hague. The PCA is scheduled to make its ruling on 22 July 2009. The demarcation of the North-South border has also experienced some difficulties. However, in May 2009, the Sudanese Presidency instructed the *ad hoc* Border Committee to complete the border delineation by September 2009 and the demarcation by December 2009. Other challenges to the CPA relate to the Referendum Law that was to be passed by the Interim National Assembly (INA) at the beginning of the third year of the implementation process. To date, this law has not been passed. However, the Sudanese parties have informed the Assessment and Evaluation Commission (AEC) that the Referendum Bill is now before the National Constitutional Review Commission (NCRC).

35. The CPA implementation process has reached one of its decisive moments. The Sudanese general elections are scheduled for February 2010. In the interim, a number of issues need to be concluded to facilitate free and fair elections. Furthermore, the 2011 Referendum that will decide the future of the country is only 19 months away. While the parties have the primary responsibility for the achievement of the objectives of the CPA, it is crucial that the international community give the same support to the current implementation process as was the case during the negotiation phase in Kenya. In this respect, it is worth mentioning the just concluded International Conference on the CPA that took place in Washington and at which the NCP and SPLM, as well as the AU, the UN and the Arab League participated.

ii) Darfur

36. One of the major highlights of the period under review was the decision by Pre-Trial Chamber I of the International Criminal Court (ICC), on 4 March 2009, to issue an arrest warrant against President Omar Hassan Al Bashir for war crimes and crimes against humanity. In a communiqué issued the same day, the Chairperson of the Commission expressed deep concern at the far reaching consequences of that decision, which came at a critical juncture in the process to promote lasting peace, reconciliation and democratic governance in the Sudan. Meeting on 5 March 2009, the PSC also expressed deep concern at the decision of the Pre-Trial Chamber, and deeply regretted that, despite the risks posed by the ongoing ICC process to the search for lasting peace and stability in the Sudan, the Security Council had failed to consider with the required attention the request made by the AU for it to invoke article 16 of the ICC Statute. The PSC appealed, once again, to the Security Council to exercise its powers of deferral. The PSC also reiterated the AU's call to the Government of Sudan to take immediate and concrete steps to investigate the human rights violations in Darfur and bring their perpetrators to justice.

37. A few days after the ICC decision, the Government of the Sudan expelled 13 humanitarian international NGOs and three local NGOs from Darfur on the grounds that they had communicated information to the ICC. A joint assessment mission composed of representatives of the Sudanese Government and various UN agencies was put in place to assess the situation. Emergency measures were suggested and implemented thereafter and sustainable measures were agreed upon between the various humanitarian agencies and the Government.

38. It will be recalled that, at its 12th Ordinary Session, the Assembly of the Union gave its full support to the decision taken by the PSC, at its 142nd meeting held on 21 July 2008, to request the Commission to establish an independent High-Level Panel made up of distinguished African personalities, with the mandate to examine the situation in Darfur in depth and submit recommendations on how best to address the issues of accountability and combating impunity, on the one hand, peace, reconciliation and healing, on the other, in an effective and comprehensive manner. The Panel was inaugurated on 19 March under the leadership of its Chairperson, former President Thabo Mbeki, and has since travelled on a number of occasions to the Sudan, as well as to the neighbouring countries, for consultations on issues relevant to its mandate.

39. The period under review was also marked by continued efforts to reinvigorate the peace process. On 17 February 2009, the Government of National Unity (GoNU) of the Sudan and the Justice and Equality Movement (JEM) signed in Doha, Qatar, an Agreement of Good Will and Confidence Building for the Settlement of the Problem of Darfur. However, following the issuance of the arrest warrant against the President of the Sudan and the ensuing expulsion of a number of NGOs, the JEM decided to suspend its participation in the talks. Thanks to the efforts of regional and international partners, the JEM has resumed its participation in the talks since early May. The parties are now discussing practical modalities for the release of prisoners of war and the cessation of hostilities. Furthermore, from the 3 to 15 March 2009, meeting in Tripoli, Libya, five movements from Darfur signed the Tripoli Pact to participate in the Doha peace talks as one delegation with one position.

40. The security situation was relatively calm during the period under review, but experienced peaks of high tension, especially in January and February 2009. The reporting period has also been characterized by a significant increase in criminal acts. Regarding the UNAMID, as of 8 June 2009, 13,455 troops (69%) were deployed in Darfur out of the authorized 19,555 military personnel. Critical gaps remain however in the areas of aviation and force enablers. With respect to the police, 2479 (39%) of the authorized strength have been deployed, including 5 Formed Police Units (FPU).

41. Sustained efforts are still required to bring to a definite end the conflict in Darfur. The Assembly should urge the parties to show the required political will and courage. The Assembly may also wish to express its sincere thanks to the members of the AU High Level Panel on Darfur for the work they are undertaking.

f) Burundi

42. There was significant progress in the process of implementing the 2006 Agreements, especially since the Summit of the Regional Initiative held in Bujumbura on 4 December 2008. It is worth recalling that, at that Summit, the two parties to the peace process, namely, the Government and PALIPEHUTU-FNL had made firm commitment to pursue the peace process. To this end, on 17 January 2009, the President of *Forces nationales de libération (FNL)* made a declaration pledging that his movement was renouncing the armed struggle. On 13 March, the Facilitator set up an *Ad Hoc* Committee comprising representatives of the Facilitation, the Government and *FNL* to fast-track the peace process. On 16 March, 3,500 ex-combatants of PALIPEHUTU-FNL were assembled in Rubira zone.

43. On 8 April 2009, the Facilitator convened the Political Directorate (AU, the United Nations, EU, Tanzania and Uganda) and the *Ad Hoc* Committee in Pretoria to assess the progress made and decide on the way forward. Back from Bujumbura, the *Ad Hoc* Committee incorporated these decisions in an Action Plan focusing, among other things, on the demobilization of the leader of the Movement on 18 April 2009, thus paving the way for the disarmament of all the combatants and the acceptance of the *FNL* as a political party on 21 April 2009.

44. It was against this background that the Special Envoys for Burundi met in Bujumbura on 27 May 2009. They took stock of the progress made and important decisions including the creation of a new structure called "Partnership for Peace in Burundi". This Partnership comprising the Political Directorate, the Executive Secretariat of the International Conference on the Great Lakes Region and the Executive Secretariat of the United Nations Integrated Office in Burundi (BINUB) was charged to support and accompany the ongoing peace process during the preparatory phase of the 2010 general elections. The Government, for its part, succeeded in getting the political players in Burundi to agree on the composition of an Independent National Electoral Commission (INEC) tasked to organize the elections in 2010.

45. The Assembly may wish to thank the Burundian parties for their continued political will, and urge them to persevere in this direction so as to create conditions propitious for the preparation and smooth conduct of the 2010 elections.

g) Democratic Republic of Congo (DRC)

46. During the period under review, significant progress was made in the consolidation of peace in the DRC and more generally in the Great Lakes Region. The direct dialogue which opened in Nairobi on 8 December 2008 with the facilitation of the Special Envoy of the Secretary-General of the United Nations and the Special Envoy for the International Conference on the Great Lakes Region, between the Congolese Government and the National Congress for the Defence of the People (*CNDP*) led by the dissident General Laurent Nkunda took place in a propitious regional context. The context was marked in particular by intense consultations between the Governments of the DRC and Rwanda as part of implementation of the provisions of the 9 November 2007 Nairobi Communiqué, objective of which was to neutralize the Democratic Forces for the Liberation of Rwanda (*FDLR*) based in Eastern DRC. The direct dialogue context was also characterized by internal division within the *CNDP*, the proclamation of the end of the war by the *CNDP* High Command, followed soon afterwards by the proclamation of the Congolese armed groups operating in North Kivu, and the arrest of General Nkunda in Rwanda.

47. In pursuance of the Operation Plan agreed in Goma on 5 December 2008, the elements of the Rwandan Defense Forces (*FDR*) entered North Kivu on 20 January 2009 to support *FARDC* in an operation to neutralize *FDLR*. The operation which lasted 35 days before the *FDR* elements returned to Rwanda as initially agreed between the two Governments was a real success and, above all, made it possible to restore a large measure of confidence between RDC and Rwanda. Furthermore, in the bid to boost cooperation between the Congolese and Rwandan Governments, the Rwandan Foreign Minister undertook a working visit to Kinshasa from 27 to 28 March 2009. The two parties drew the necessary conclusions from the operation, and agreed *inter alia* to continue to prosecute the war against the *FDLR*.

48. It is against this background that the direct dialogue that was launched, on 8 December 2008 in Nairobi, led to the signing of an Agreement between the parties in Goma, on 23 March 2009. Two other Agreements were signed between the Government and Congolese armed groups in North Kivu, on the one hand, and between the Government and the Congolese armed groups of South Kivu, on the other hand. On 30 April 2009, the Prime Minister issued a decree relating to the establishment, organization and functioning of the National Commission for the Monitoring of the Implementation of the three Agreements. In addition, it should be mentioned that a ceremony organized on 15 March 2009 in Dungou in the Eastern Province marked the withdrawal from the DRC of the Ugandan troops that had taken part in the operation jointly conducted by Uganda, the DRC and Southern Sudan against the Lord Resistance Army (*LRA*) led by Joseph Kony, entrenched in the North-East of Congo.

h) Relations between the Sudan and Chad and other developments

49. The signing of the Dakar Agreement, on 13 March 2008, and regular meetings of the Contact Group that it established had raised hopes of a sustainable normalization of relations between Chad and the Sudan. The resumption of diplomatic relations between the two countries and the exchange of ambassadors, on 9 November 2008, strengthened these hopes within the international community. Despite the difficulties encountered and the sporadic tension in the relations between the two countries, progress has continued to be recorded. Thus, on 3 May 2009 in

Doha, under the aegis of Qatar and the Great Libyan Arab Jamahiriya, the two countries signed an Agreement by which they committed themselves to reconciliation and the monitoring of their common border.

50. It is against this backdrop that the situation seriously deteriorated once again. Indeed, on 4 May 2009, the “Union of the Resistance Forces” (UFR), a coalition of rebel forces formed in January 2009, launched an attack in Eastern Chad, in the region of Gos-Beida. In a press release dated May 4, the Government of Chad accused the Sudan of carrying out a “planned aggression against Chad.” The Sudan denied the charge and also accused Chad of supporting some rebel movements in Darfur.

51. In a communiqué dated 5 May 2009, the Chairperson of the Commission immediately condemned the use of force as a means of resolving situations of tension and crisis, and called on the parties concerned to exercise restraint and demonstrate a sense of responsibility. For its part, the Peace and Security Council (PSC), at its meeting of 8 May 2009, strongly condemned these attacks and reaffirmed the rejection and condemnation by the AU of any attempt at destabilization and unconstitutional change of government. The PSC urged the States in the region, without delay, to take the necessary steps to prevent their territories from being used in criminal and destabilization activities. The Security Council of the United Nations, in a Presidential Statement dated the same day, condemned the renewed military incursions in Eastern Chad by Chadian armed groups from outside. It further stressed that any attempt at destabilization of Chad by force was unacceptable and called on the Sudan and Chad to respect and abide by their mutual commitments.

52. While encouraging Qatar’s efforts in the Doha negotiations, the Assembly should also urge the co-chairs of the Contact Group to set themselves to work and complete the excellent task undertaken by the Group under the Dakar Accord, which happens to be the ideal framework for the pooling of efforts to resolve the crisis between Chad and the Sudan.

53. The humanitarian situation in Eastern Chad remains extremely worrying. Many humanitarian agencies continue to provide valuable assistance to some 250,000 Sudanese refugees and 166,000 displaced persons, as well as 700,000 people affected by the crisis. However, insecurity continues to be the main obstacle to humanitarian operations and the return of displaced persons and refugees to their homes.

i) Central African Republic (CAR)

54. In the Central African Republic (CAR), the end of the Inclusive Political Dialogue (IPD), held in Bangui from 8 to 20 December 2008, raised hopes for a return to political calm. In line with the IPD recommendations, President François Bozizé appointed a new Government on 19 January 2009, including a few members of the democratic and armed opposition. Thereafter, an IPD Recommendations Monitoring Committee and an Ad Hoc Electoral Code Review Committee were established. In addition, Representatives/Special Envoys of the AU, the UN, the OIF and President El Hadj Omar Bongo held their second meeting on 26 and 27 January 2009, in Libreville. During the same period, the Comprehensive Peace Agreement

Monitoring Committee held its 4th meeting in Libreville on 29 January 2009, while the Steering Committee held its first meeting in Bangui, from 3 to 5 February 2009.

55. Even though practical arrangements had been adopted to allow the leaders of armed groups present to conduct a census of their combatants with a view to the effective execution of the DDR programme, armed elements attacked the city of Batangafo on 21 February 2009. Subsequently, a number of armed groups threatened to resume the armed struggle on grounds that the Central African Government does not respect the signed agreements and the IPD recommendations. As a result of these developments, the implementation of the DDR programme was considerably delayed. On the other hand, the mission of the Peacebuilding Commission (MICOPAX), deployed in the CAR since July 2008, has continued to support the Central African Defence and Security Forces, particularly in remote provinces of the country.

56. The effective holding of the IPD was a milestone in the effort to consolidate peace, security and stability in the CAR. Despite sporadic armed clashes, a general shift towards peace is discernible in the country. Even so, the implementation of the DDR programme remains one of the major challenges facing the Central African Republic, as it considering that the DDR determines the rest of the process leading up to elections that are open to all in a peaceful environment. Moreover, the economic and financial situation deserves special attention. Development partners should be responsive to the huge efforts made by Central African authorities and tailor support procedures to the reality of the situation in CAR.

j) Liberia

57. During the period under review, Liberia has continued with its post-conflict reconstruction efforts. The country's Poverty Reduction Strategy Programme continues to make steady progress based on its four major pillars of national security, economic revitalization, governance and the rule of law, and infrastructure and basic services. On 3 June 2009, President Johnson-Sirleaf signed into law an Act amending certain provisions of the 2005 Independent National Commission on Human Rights Act, paving way for the Commission to conform to international standards and best practice. Also, the Liberian Truth and Reconciliation process came to an end in June 2009.

58. Following the PSC request to the Commission to dispatch a multidisciplinary team of experts to Liberia and Sierra Leone to assess the situation and come up with concrete recommendations on the nature of assistance that could be rendered by the AU and its Member States to the two countries, within the AU Policy framework on Post-Conflict Reconstruction and Development (PCRD), a mission visited the country. The mission also covered Sierra Leone. A report on the visit will be submitted to the PSC in the coming weeks.

59. In connection with the United Nations Mission in Liberia's (UNMIL) draw down programme, a technical assessment mission from the UN Department of Peacekeeping Operations visited Liberia from 27 April to 6 May 2009, to assess the progress made in the peace process, review all aspects of the UNMIL's mandate concerning its support to the Liberian Government. The team's recommendations, including the continuation of the drawdown of UNMIL troops (which currently stands at around 10,000) to about 8,500 until after the 2011 elections, will inform the

Secretary-General's proposals to the UN Security Council. A Security Council delegation also visited Liberia on 19 May 2009. The delegation expressed its determination to give support to the Government in the areas of security sector reform, justice and rule of law.

k) Côte d'Ivoire

60. At its 12th Ordinary Session held in February 2009, the Assembly of the Union noted that the presidential election originally scheduled for 30 November 2008 had failed to take place. It encouraged the Government to take appropriate measures to set new dates agreed upon by consensus, on the proposal of the Independent Electoral Commission (IEC). In this respect, it should be noted that, on the proposal of the IEC, and upon consideration by the Council of Ministers on 14 May 2009, the date of the 1st round of the presidential election was scheduled for Sunday 29 November 2009. The 5th meeting of the Permanent Consultative Framework (CPC) held on 18 May 2009 in Ouagadougou, under the chairmanship of President Blaise Compaoré, Facilitator of the inter-Ivorian dialogue, inter alia, endorsed the Government's decision to schedule the 1st round of the presidential election for 29 November 2009 and adopted other important dates.

61. Moreover, the handover of duties between FAFN zone commanders and prefects finally took place on May 26 in Bouaké. It was noted that the handover of other duties will proceed gradually with the deployment of the 8000 police and gendarme officers from the Integrated Command Centre (ICC). Despite this progress, the redeployment of the tax administration is still limited to date.. The population identification and election enrolment operations which ended on 31 March 2009 throughout the national territory were extended with the catch-up operations until 30 June 2009. As of 21 June 2009, 6,280,000 people were enrolled out of an expected total of 8.7 million. The recompilation of civil status registers which were lost or destroyed ended in May 2009.

62. As part of efforts to end the crisis, the PSC, in late April, sent to Côte d'Ivoire an information and evaluation mission. The mission came at a crucial moment in the process of finding a solution to the crisis, and was commended by the Ivorian parties. It met the highest authorities of the country, officials in charge of the electoral process, representatives of the international community, political parties and civil society.

63. For its part, the United Nations Security Council, on 27 January 2009, adopted resolution 1865 which, inter alia, took note of the delays in the implementation of the 4th Supplementary Agreement and extended the mandate of the United Nations Operation in Côte d'Ivoire (UNOCI) and of the Licorne force until 31 July. Their respective strengths will reduce from 8115 to 7450 elements by the end of July for the first, and from 1800 to 1100 elements by the end of 2009 for the second. On the humanitarian front, an estimated 120,000 internally displaced persons (IDP) have already returned to several areas in the West, including almost 80,000 who gradually went back to their plantations. But the rates of return and reintegration of IDPs have been experiencing a slowdown for some time because of insecurity.

64. Significant progress has been made in the implementation of the 4th Supplementary Agreement. The Assembly should encourage the Ivorian parties to

support this process by respecting the commitments made. The international community must, in turn, mobilize the financial resources required to support and assist the efforts of the Ivorian parties to hold the presidential elections on schedule and to find a positive solution to the crisis.

l) Republic of Guinea

65. Efforts to restore constitutional order in Guinea are continuing. It should be recalled that on the Commission's initiative, a consultative meeting on the situation in Guinea was held in Addis Ababa on 30 January 2009. On that occasion, participants agreed to set up an International Contact Group on Guinea (ICG-G), co-chaired by the AU and ECOWAS, to monitor the situation with due attention and continue to coordinate and harmonize their efforts toward the speedy restoration of constitutional order, on the basis of the relevant elements of the communiqué adopted by the extraordinary session of the ECOWAS Authority of Heads of State and Government held in Abuja on 10 January 2009, namely:

- establish a National Transitional Council (CNT), a deliberative body of civilians and the military;
- establish an inclusive advisory forum bringing together all components of Guinean civil society, to serve as a framework for dialogue enabling the people of Guinea to strengthen national cohesion ;
- conclude the transition process with the conduct of free, fair and transparent elections in 2009 ;
- CNDD members, the transitional Prime Minister and members of his government not eligible to contest the elections slated for 2009.

66. At its inaugural meeting held in Conakry from 16 to 17 February 2009, the ICG-G took note of the CNDD President's statement with regard to the conduct of a transition period based on a four-stage programme (establishment of a transition framework and organs, setting up of a truth, justice and reconciliation commission, instituting constitutional reforms and enactment of electoral laws), as well as his pledge that neither he, the Prime Minister nor CNDD members would be eligible to contest the upcoming elections. At its second meeting held in Conakry on 16 March 2009, the ICG-G welcomed the pursuit of political dialogue between all stakeholders and the CNDD. It also noted CNDD's readiness to cooperate with the platform proposed by the "*Forces vives*". On 28 March 2009, the CNDD President issued a press release indicating CNDD's approval of the proposals put forward by the "*Forces vives*" on the management of the transition and the related calendar. The 3rd meeting of the ICG-G held in Conakry from 4 to 5 May 2009, noted with satisfaction CNDD's press release of 28 March 2009 indicating its approval of the timetable proposed by the "*Forces vives*" for the organization of legislative and presidential elections, that is: 11 October 2009 for the legislative election, 13 December 2009 for the first round of the presidential election and 27 December 2009 for the run-off.

67. At its 192nd meeting on 10 June 2009, after recalling its previous communiqués on the situation in Guinea and the commitment by the authorities emanating from the coup d'état to conclude the transition process before the end of

2009, the PSC requested the Guinean parties to take all appropriate steps to respect this roadmap and urged the international community, including AU Member States, to provide the financial and technical assistance required to prepare and conduct the legislative and presidential elections expected to conclude the transition.

68. In conclusion, it should be noted with satisfaction the pursuit of the political dialogue between all stakeholders and the CNDD, as well as the readiness of the latter to speedily set up the transition institutions. In the same vein, the Assembly should urge the Guinean Authorities to ensure the respect of the calendar proposed by the “Active Forces” and to which they declared their total accession.

m) Guinea Bissau

69. One of the significant events of the period under review was the assassination, in early March, of President João Bernardo “Nino” Vieira and his Chief of Staff, General Bastista Tagme Na Wai. The Chairperson of the Commission condemned in the strongest terms these cowardly and heinous acts, which occurred at a time when the international community was making new efforts to consolidate peace in Guinea Bissau. Meeting the same day, the PSC adopted a communiqué in which it also condemned this heinous act in the strongest possible terms. The PSC took note of the declaration issued by the armed forces of Guinea Bissau indicating their intention to respect the Constitution of the country. The PSC called for an investigation to shed light on these murders and bring the perpetrators to justice. Thereafter, in accordance with the Constitution, the Speaker of the People’s National Assembly, Raimundo Pereira, was sworn in as Interim President of the Republic, and the country’s political stakeholders agreed to schedule elections for 28 June 2009.

70. In early March, the Chairperson of the Commission appointed a Special Envoy for Guinea Bissau in the person of Mr. João Bernardo de Miranda, former Foreign Minister of Angola. The latter proceeded to Bissau from 21 to 27 April 2009, for consultations with the parties concerned. Similarly, a PSC mission went to Bissau on 26 and 27 April, where it met with the country’s key political players. The Special Envoy was again in Bissau from 1 to 5 June 2009, for further consultations with the country’s authorities and the stakeholders in the electoral process.

71. However, the situation in the country remains fragile as evidenced by the assassination on 5 June 2009, of Mr. Baciro Dabo, former Minister of Territorial Administration and presidential candidate, and Mr. Helder Proença, former Defence Minister, as well as the acts of violence and other threats made against other presidential candidates. At its 192nd meeting held on 10 June 2009, the PSC strongly condemned these acts, and underscored the need for an independent and credible investigation to shed light on the string of political assassinations perpetrated in that country since March 2009, as well as the need to create the security conditions required for holding free, fair and transparent elections.

n) Mauritania

72. The period under review was marked by the continuation of efforts to restore constitutional order in Mauritania, on the basis of elements laid down to resolve the crisis by the International Contact Group on Mauritania and the PSC during their various meetings. These include the involvement of all stakeholders, the participation

of President Sidi Ould Cheikh Abdallah in his capacity as Head of State, the promotion of consensus, and the respect of the Mauritanian constitution, with the understanding that such a solution could lead to the subsequent organisation of presidential elections. In pursuance of the communiqué following the meeting of the Contact Group which held in Paris in February 2008, inviting the Mauritanian parties to an inclusive political dialogue under the auspices of the Chair of the African Union, Colonel Muammar Kaddafi received in audience the representatives of these parties in Libya and subsequently paid a visit to Nouakchott.

73. Faced with the lack of progress towards a solution, the PSC at its 163rd meeting decided to take measures against all persons seeking to maintain the unconstitutional status quo, if constitutional order was not restored by 5 February 2009. On 5 February 2009 the PSC decided to bring into force the sanctions contained in its communiqué of 22 December 2008, while underscoring the need to continue efforts with Mauritanian parties to restore constitutional order at the earliest opportunity. At its meeting of 6 May 2009 to consider modalities for implementing the above decisions, the PSC commended efforts deployed by the AU in collaboration with its partners to find an all-party solution to the Mauritanian crisis.

74. It is against this background that a political dialogue between the Mauritanian parties, presided over by the AU, was hosted by President Abdoulaye Wade of Senegal and the Contact Group on Mauritania, from 27 May to 2 June 2009. The dialogue led to an Agreement signed in Nouakchott on 4 June towards the resolution of the crisis. On 4 June 2009, the PSC met and commended the conclusion of the Framework Agreement, noting with satisfaction the fact that the Agreement was in line with the elements laid down in its relevant communiqués to find an all-party solution to the crisis. The PSC has urged the Mauritanian parties to abide by the letter and the spirit of the Framework Agreement, and has requested the Chairperson of the Commission to take all necessary measures to support the implementation of the Agreement. The PSC also appealed to the international community to lend all necessary assistance to the process.

VI. OBSERVATIONS

75. During the reporting period, the PSC has continued to discharge its responsibilities as provided for in the Protocol establishing it. It is important to highlight, once again, the need for the full cooperation and support of all concerned. In this respect, the crucial role of member States hardly needs to be overemphasized. As provided for in Article 7(2), (3) and (4) of the PSC Protocol, the member States agree that, in carrying out its duties under the Protocol, the PSC acts on their behalf; to accept and implement the decision of the PSC, in accordance with the Constitutive Act; and to extend full cooperation to, and facilitate action by, the PSC for the prevention, management and resolution of crises and conflicts.

ANNEX I - ROTATING CHAIRMANSHIP OF THE PEACE AND SECURITY COUNCIL
FROM APRIL 2008 TO MARCH 2010

COUNTRY	MONTH	YEAR
Ethiopia	April	2008
Gabon	May	"
Mali	June	"
Nigeria	July	"
Rwanda	August	"
Swaziland	September	"
Tunisia	October	"
Uganda	November	"
Zambia	December	"
Algeria	January	2009
Angola	February	"
Benin	March	"
Burkina Faso	April	"
Burundi	May	"
Chad	June	"
Ethiopia	July	"
Gabon	August	"
Mali	September	"
Nigeria	October	"
Rwanda	November	"
Swaziland	December	"
Tunisia	January	2010
Uganda	February	"
Zambia	March	"

ANNEX II

MEETINGS AND BRIEFING SESSIONS OF THE PEACE AND SECURITY COUNCIL OF THE AFRICAN UNION, JANUARY 2009 – JUNE 2009

Meeting/ Briefing	Date	Agenda	Communiqué/ Other Output	Working Documents
166 th	16 January 2009	Briefing on the status of progress in the establishment of the African Standby Force	Press Statement [PSC/PR/BR/(CLXVI)]	
167 th	21 January 2009	Briefing on developments in the situation in Somalia	Press Statement [PSC/PR/BR/(CLXVII)]	
168 th	5 February 2009	Consideration of the situation in Mauritania	Communiqué [PSC/PR/Comm.(CLXVIII)]	
169 th	10 February 2009	1. Briefings on the Situations in the: a. Republic of Guinea; b. Guinea Bissau; c. Madagascar 2. Any other business: d. Analysis on the proposed Joint Visit to New York	Press Statement [PSC/PR/BR/(CLXIX)]	

Meeting/ Briefing	Date	Agenda	Communiqué/ Other Output	Working Documents
170 th	18 February 2009	<ul style="list-style-type: none"> - Briefing on recent developments in the situation in Somalia - Analysis of the Decisions of the Assembly and Executive Council on matters related to PSC. Road map for implementation in the next six months. 	Press Statement [PSC/PR/BR/(CLXX)]	
171 st	23 February 2009	Briefing on the deadly attacks against AMISOM	Press Statement [PSC/PR/BR/(CLXXI)]	
172 nd	24 February 2009	Exchange of views on the Prodi Panel Report (Report of the African Union - United Nations Panel on modalities for support to African Union Peacekeeping Operations).		Prodi Panel Report
173 rd	25 February 2009	Interaction between the PSC and the Commission in follow up to the Livingstone PSC Retreat	Work in progress	
174 th	3 March 2009	Consideration of the situation in Guinea Bissau following the assassination of its President.	Communiqué [PSC/PR/Comm.(CLXXIV)]	
175 th	5 March 2009	International Criminal Court process on the Sudan	Communiqué [PSC/PR/Comm.(CLXXV)]	
176 th	6 March 2009	Briefing by the Panel of the Wise	Press Statement [PSC/PR/BR/(CLXXVI)]	

Meeting/ Briefing	Date	Agenda	Communiqué/ Other Output	Working Documents
177 th	11 March 2009	- Briefing of the Minister of Foreign Affairs of the Republic of Burundi; - Consideration of the Report of the Chairperson of the Commission on the situation in Somalia.	Communiqué [PSC/PR/COMM.(CLXXVIII)] [PSC/PR/COMM. 3(CLXXVII)]	Report of the Chairperson of the Commission on the situation in Somalia [PSC/PR/2(CLXXVII)]
178 th	13 March 2009	Consideration of the note on the Report of the African Union – United Nations Panel on modalities for support to African Union Peacekeeping Operations.	Communiqués : [PSC/PR/Comm(CLXXVIII)] [PSC/PR/Comm.3(CLXXVI)]	Note on the report of the African Union - United Nations panel on Modalities for Support to African Union Peacekeeping Operations
179 th	16 March 2009	Briefing on recent developments in Madagascar	Communiqué [PSC/PR/comm.(CLXXIX)]	
180 th	17 March 2009	Consideration of the situation in Madagascar	Communiqué [PSC/PR/COMM.(CLXXX)]	
181 st	20 March 2009	Consideration of the situation in Madagascar	Communiqué [PSC/PR/COMM.(CLXXXI)]	
182 nd	24 March 2009	Follow up of the Communiqué of the 168 th meeting of the Peace and Security Council on the Situation in Islamic Republic of Mauritania	Communiqué [PSC/PR/COMM.(CLXXXII)]]	
183 rd	26 March 2009	Briefing on the situation in the Republic of Guinea	Press Statement: PSC/PR/BR(CLXXXIII)	
184 th	27 March 2009	Exchange of views on peace and security issues in Africa in the context of the impending visit of the Chairperson of the African Union to Addis Ababa		

Meeting/ Briefing	Date	Agenda	Communiqué/ Other Output	Working Documents
185 th	6 April 2009	Briefing on the situation in Darfur	Press Statement PSC/PR/BR(CLXXXV)	
186 th	6 May 2009	The situation in Mauritania	Communiqué of the PSC: PSC/PR/Comm.(CLXXXVI)	Report on the Implementation of the Communiqué of the 182 nd meeting of the Peace and Security Council on targeted sanctions against the perpetrators of the Coup d'Etat of 6 August 2008 in Mauritania [PSC/PR/3 (CLXXXVI)]
187 th	8 May 2009	Incursion of armed element in Eastern Chad	Press statement of the PSC: PSC/PR/BR(CLXXXVII)	
188 th	11 May 2009	<ul style="list-style-type: none"> - Briefing by the Chairperson of the PSC on the Mission undertaken to the Republic of Guinea - Briefing by the Commission on the situation in Comoros - Preparation for the Joint Meeting of the Peace and Security Council and the UN Security Council 		
189 th	21 May 2009	<ul style="list-style-type: none"> - Briefing on the Mission of observation in Juba (Southern Sudan) - Briefing on the PSC field mission to West Africa (Guinea Bissau and Cote d'Ivoire) 		
190 th	22 nd May 2009	The outcome of the 33 rd extraordinary session of the IGAD Council of Ministers on Somalia	Communiqué of the PSC : PSC/PR/Comm.(CXC)	

Meeting/ Briefing	Date	Agenda	Communiqué/ Other Output	Working Documents
191 th	5 June 2009	Briefing by the Panel of the Wise on Election-related Disputes and Violent Conflicts in Africa.	Statement of the PSC: PSC/PR/BR/3(CXCI)	Report of the Panel of the Wise on Election-related Disputes and Violent Conflicts in Africa [PSC/PR/2(CXCI)]
192 nd	10 June 2009	<ul style="list-style-type: none"> - Briefing on recent developments in the situation in the Islamic Republic of Mauritania - Briefing on recent developments in the situation in the Republic of Guinea - Consideration of the Report of the PSC Mission to West Africa (Guinea Bissau and Côte d'Ivoire). 	<p>Communiqué of the PSC : PSC/PR/Comm.3(CXCII)</p> <p>Statement of the PSC: PSC/PR/BR.4(CXCII)</p> <p>Communiqués of the PSC: PSC/PR/Comm.5(CXCII) & PSC/PR/Comm.6(CXCII)</p>	Report of the PSC mission to Guinea Bissau and Côte d'Ivoire in West Africa, from 24 April 2009, to 2 May 2009 [PSC/PR/2(CXCII)]
193 th	12 June 2009	<ul style="list-style-type: none"> - Consideration of the Report of the PSC Ad-Hoc Committee on the terms of reference of PSC meetings with International Partners - Status of work of the PSC Experts on interaction between the PSC and the Commission. 	<p>Work in progress</p> <p>Work in progress</p>	
194 th	15 June 2009	Consideration of the Report of the Chairperson of the Commission on the situation in Somalia.	Communiqué of the PSC: PSC/PR/COMM.3(CXCIV)	Report of the Chairperson of the Commission on the situation in Somalia [PSC/PR/2(CXCIV)]

Meeting/ Briefing	Date	Agenda	Communiqué/ Other Output	Working Documents
195 th	17 June 2009	Consideration of the Report of the Chairperson of the Commission on the situation in Central African Republic	Communiqué of the PSC: PSC/PR/COMM.3(CXCV)	Report of the Chairperson of the Commission on the situation in the Central African Republic. [PSC/PR/2(CXCV)]

Assembly/AU/6(XIII)
ANNEX I

REPORT ON THE ACTIVITIES OF THE
PANEL OF THE WISE

**REPORT ON THE ACTIVITIES OF THE
PANEL OF THE WISE**

I. INTRODUCTION

1. According to Article 11 of the Protocol Relating to the Establishment of the Peace and Security Council (PSC) of the African Union (AU), the Panel of the Wise is mandated to support the efforts of Council and those of the Chairperson of the Commission, particularly in the area of conflict prevention, at their request or on its own initiative. In this respect, and based on the Modalities for its Functioning as adopted by Council at its 100th meeting held on 12 November 2007, the Panel may, *inter alia*, advise Council and/or the Chairperson of the Commission on all matters within their respective competences; carry out fact-finding missions as an instrument of conflict prevention; encourage parties, where appropriate, to engage in political dialogue and promote confidence-building measures. The Panel may also pronounce itself on any issue relating to the promotion and maintenance of peace, security and stability in Africa.

2. As Council is aware, the current Panel members were appointed, for a period of three years, by the 10th ordinary session of the Assembly of the Union held in Addis Ababa from 29 to 30 January 2007. These are: Ahmed Ben Bella, former President of Algeria, representing the North African region; Miguel Trovoada, former President of Sao Tomé and Príncipe, representing the Central African region; Salim Ahmed Salim, former Secretary-General of the Organization of African Unity, representing the East African region; Brigalia Bam, Chairperson of the Independent Electoral Commission (IEC) of South Africa, representing the Southern African region; and Elisabeth Pognon, former President of the Constitutional Court of Benin, representing the West African region.

3. The Panel was inaugurated on 18 December 2007, in Addis Ababa. On that occasion, the Panel elected Mr. Ahmed Ben Bella as its Chairperson. The Panel convened its 1st meeting in Addis Ababa on 18 February 2008; its 2nd meeting in Addis Ababa on 17 and 18 July 2008; its 3rd meeting in Algiers from 13 to 15 October 2008; and its 4th meeting in Nairobi, on 28 and 29 November 2008. The Council and the Assembly have been kept informed of these activities.

4. In order to effectively discharge its mandate, the Panel agreed that its activities would revolve around the following:

- (i) deliberations among its members, including formal meetings and informal consultations;
- (ii) collaboration and consultations with the relevant organs of the AU, including Council and the Chairperson of the Commission;
- (iii) engagement in countries and regions affected by conflicts; and
- (iv) consideration of key thematic issues related to conflict prevention and peace-building in Africa.

5. The present report is submitted in pursuance of Article 11 (5) of the PSC Protocol, which stipulates that the Panel of the Wise shall report to Council and, through it, to the Assembly. It covers the activities undertaken by the Panel since the last ordinary session of the Assembly.

II. FORMAL MEETINGS OF THE PANEL OF THE WISE

6. According to the Modalities for its Functioning, the Panel shall meet as often as the circumstances may require and, in any event, at least three times a year or at any time at the request of Council or the Chairperson of the Commission. In between meetings, the Panel shall maintain regular consultations among its members through appropriate technical means, to facilitate the effective discharge of its mandate. During the period under review, the Panel held its 5th and 6th meetings in Addis Ababa, on 5 and 6 March 2009, and in Tripoli, Libya, on 7 June 2009, respectively.

7. At its 5th meeting, the Panel reviewed the status of implementation of its work programme for 2009, including the missions to be undertaken in various parts of the continent by its members, in furtherance of peace, security and stability. While welcoming the progress made in some parts of the continent, the Panel expressed its deep concern at the ongoing conflicts and violence facing many regions and countries in Africa. In particular, the Panel expressed deep concern at the crisis in Madagascar, appealing to all concerned to demonstrate a spirit of compromise and to place the interests of the country and its people above any other consideration. The Panel also expressed sadness and concern at the assassination of President Joao Bernardo Nino Vieira of Guinea Bissau and the Chief of Staff of the Army, General Batista Tagme Na Wai. Furthermore, the Panel expressed appreciation to Council and the Chairperson of the Commission for their efforts, and extended its support to the decisions taken by Council on the various situations it is seized with, in particular the decision on the arrest warrant issued by Pre-Trial Chamber I of the International Criminal Court (ICC) against President Omar Hassan Al Bashir of the Republic of the Sudan.

8. At its 6th meeting, held in Tripoli at the invitation of the Chair of the Union, the Panel expressed its concern about the persistence of tension and crisis in many African countries and the scourge of unconstitutional changes of Government and political assassinations. In this context, the Panel exchanged views on the developments of the situations in Guinea Bissau, Guinea and Madagascar, and took note of the actions taken by the AU with the support of the international community. The Panel expressed satisfaction at the conclusion, by the Mauritanian parties, of the Framework Agreement for the consensual restoration of constitutional order, and called for its scrupulous and speedy implementation. The Panel identified potential conflict situations on the continent and agreed to undertake field missions to support the efforts of the Chairperson of the Commission. The Panel recommended the convening of an extraordinary session of the Assembly of the Union dedicated to the conflict and crisis situations in Africa. The Panel was also received by the Chair of the Union, with whom it had an exchange of views on the peace and security situation on the continent. The Panel expressed its high appreciation and deep gratitude to the Chair of the Union.

III. CONSULTATIONS WITH THE PEACE AND SECURITY COUNCIL AND THE CHAIRPERSON OF THE COMMISSION

9. In line with the provisions of Article 11 (5) of the PSC Protocol and the Modalities for its Functioning, the Panel shall, without prejudice to its independence, maintain regular contacts with Council and the Chairperson of the Commission, as well as with the Chair of the Union, and keep them fully informed of its activities for the purpose of ensuring close coordination and harmonization. During the period under review, the Panel held consultations with both Council and the Chairperson of the Commission.

a) Consultations with the PSC

10. During its 5th meeting, the Panel had an exchange of views with Council. This consultation afforded the Panel an opportunity to update Council on its activities and to exchange views on the best ways to address the peace and security challenges facing the continent and to enhance coordination between all components of the African Peace and Security Architecture. On its part, Council expressed appreciation to the Chairperson of the Panel, former President Ahmed Ben Bella, and to its members, for their commitment and contribution to the promotion of peace, security and stability on the continent.

11. On 5 June 2009, Dr. Salim Ahmed Salim, on behalf of the Panel, presented the conclusions of the report on the strengthening of the role of the AU in the prevention, management and resolution of election-related disputes and violent conflicts in Africa. This issue is addressed below in greater detail.

b) Consultations with the Chairperson of the Commission

12. On 5 March 2009, the Panel met with the Chairperson of the Commission, in Addis Ababa. During the meeting, the Panel and the Chairperson had an in-depth exchange of views on the peace and security challenges facing the continent and the best ways to address them. The Panel also reiterated its commitment to continue working closely with the Chairperson of the Commission to support his efforts, particularly in the area of conflict prevention.

IV. MISSIONS OF THE PANEL

13. As stipulated in the Modalities for its Functioning, the Panel may carry out fact-finding missions as an instrument of conflict prevention and peace building. It is on the basis of this provision that, during its 4th meeting held in Nairobi on 28 and 29 November 2008, the Panel agreed on various missions to be undertaken by its members within the framework of the AU conflict prevention and peace building efforts, as well as within the framework of its thematic reflection on election-related disputes and conflicts.

14. As South Africa was scheduled to hold general elections in April 2009, amidst reports of some tension and even incidents of violence in few areas, it was agreed that Dr. Salim Ahmed Salim would visit that country with a view to consulting the major political stakeholders. The purpose of the visit, which took place from 23 to 26

February 2009 in the context of the prevention of election-related violence, was to support the consolidation of South African democracy, learn from the South African experience and to see how best this experience could be shared among African countries. During his visit, Dr. Salim met with the main political leaders and personalities, including Kgalema Motlanthe, the then President of South Africa; former President Thabo Mbeki; Jacob Zuma, President of the ANC; Bantu Holomisa, President of the United Democratic Movement; Musiuoa Lekota, President of the Congress of the People (COPE); and Chief Mangosuthu Buthelezi, President of the Inkata Freedom Party (IFP). In addition, Dr. Salim also interacted with Brigalia Bam, Chairperson of the IEC, and other members of the IEC, as well as with civil society representatives.

15. In all his meetings, Dr. Salim, on behalf of the Panel of the Wise, stressed that Africa and the world were closely observing developments in South Africa. He stressed that it was important that the electoral process be conducted in a peaceful, fair and transparent manner. In this respect, he indicated that South Africa, following the end of apartheid, had been a beacon of hope and a powerful pillar of strength for the continent and that any resort to violence would harm not only South Africa but the continent as a whole. Significantly, all political leaders that Dr. Salim met warmly welcomed the mission and considered it most timely. Without exception, they all asserted that they were looking forward to a peaceful election and that they were aware of Africa's and world attention on their country. Dr. Salim later on led the AU team that observed the successful conduct of the South African elections.

V. THEMATIC REFLECTION ON AN ISSUE RELEVANT TO CONFLICT PREVENTION

16. The Panel's mandate states that it will "pronounce itself on issues relating to the promotion and maintenance of peace, security and stability in Africa". In this respect, and as part of its work programme, the Panel agreed that it will, every year, identify a particular theme relevant to conflict prevention and/or peace building that it may wish to highlight, in order to stimulate a policy debate and/or raise awareness on themes related to conflict prevention and peace building. It is against this background that the Panel initiated thematic reflections on election-related disputes and conflicts and on impunity, justice and national reconciliation.

a) Election-related disputes and conflicts

17. The Assembly would recall that, at its 10th Ordinary Session held in Addis Ababa, from 31 January to 2 February 2008, it adopted decision Assembly/AU/Dec. 187(X) on the situation in Kenya, following the presidential election of 27 December 2007. In that decision, the Assembly, *inter alia*, stressed the need to initiate a collective reflection on the challenges linked to the tension and disputes that often characterize electoral processes in Africa, including the strengthening of African capacity at national, regional and continental levels to observe and monitor elections. At its 109th and 115th meetings held on 21 January and 14 March 2008, respectively, and devoted to the situation in Kenya, Council also stressed the need to initiate such a reflection.

18. In response to these decisions, and as part of its work programme for 2008 as endorsed at its 3rd meeting held on 18 February 2008, the Panel of the Wise decided to devote that year's reflection on a thematic issue relevant to conflict prevention specifically problem of election-related conflicts.

19. At its 3rd meeting, held in Algiers, Algeria, from 12 to 14 October 2008, the Panel of the Wise requested the Commission to convene a workshop in Nairobi to review the report prepared by the team of consultants. This workshop took place from 26 to 27 December 2008, and was attended by members of the Panel of the Wise, representatives of the Regional Economic Communities (RECs), African think tanks and civil society organizations, as well as the United Nations, the European Union and other stakeholders. The representatives of the Chair of the Union and the Chair of the PSC for the month of November 2008 also attended the meeting.

20. At its 191st meeting held on 5 June 2009, Council received a briefing from the Panel of the Wise on the report on the Strengthening of the Role of the AU in the Prevention, Management and Resolution of Election-Related Disputes and Violent Conflicts in Africa. On that occasion, Council commended the Panel of the Wise for having chosen to devote its thematic reflection for the year 2008 to conflicts-related disputes and violent and stressed that the report is a significant contribution to the implementation of Decision Assembly/AU/Dec 187 (X). It further re-affirmed its support to the Panel of the Wise in its pursuit of preventive diplomacy and good offices for the promotion of peace, security and stability in Africa.

21. At its 6th meeting, the Panel discussed and finalized its report on election-related disputes and conflicts. This report, which is herewith attached, outlines the record of Africa's democratization since the 1990s, pointing to the major milestones in building pluralism, participation and accountability; and emphasizes the progress Africa has made with regard to the evolution of mechanisms for orderly participation and political inclusiveness. The conclusions and recommendations reiterate the significance of African ownership of electoral challenges by constructing more robust electoral governance and administration systems. The report also underlines the importance of the role that the Panel of the Wise could play in working collaboratively with other AU institutions and the Regional Economic Communities (RECs), with a view to finding new approaches to mitigate election-related conflicts and political violence.

b) Impunity, Justice and National Reconciliation

22. At its 4th meeting held in November 2008 in Nairobi, the Panel decided to focus its attention in 2009 on the problem of fighting impunity and its relationship to truth, justice and reconciliation in Africa. This choice was informed by the renewed debate on this topic as illustrated, among others, by the situations in Northern Uganda, with the controversy over discussions with Joseph Kony, the leader of the Lord's Resistance Army, in view of his indictment by the ICC, and Darfur, with the application by the ICC Prosecutor for an arrest warrant against the President of the Republic of the Sudan. The Panel also had in mind the problems posed by the application of the principle of universal jurisdiction and relevant AU decisions on the matter. In this exercise, the Panel endeavors to complement and broaden other

related AU efforts, including those of the High-Level Panel on Darfur established by the PSC at its 142nd meeting held in Addis Ababa on 21 July 2008.

23. In order to facilitate this reflection and review the draft report prepared by a team of consultants, the Commission convened an experts' workshop in Monrovia, Liberia, on 28 and 29 May 2009. The report focuses on African experiences in addressing the issue of impunity, the existing AU and international instruments, as well as the consequences and challenges of international interventions. The report includes a number of recommendations directed to the Panel, as well as to the Commission, in order to strengthen African instruments for justice and reconciliation and address the challenges of mediating peace in Africa. The revised version of the report will be discussed by Council in October 2009, before submission to the next ordinary session of the Assembly of the Union in early 2010.

VI. OBSERVATIONS

24. Since its inauguration, the Panel has made sustained efforts to effectively carry out its mandate. This organ has met regularly to discuss the state of peace and security on the continent. The Panel also completed its thematic reflection on the issue of election-related conflicts and disputes. In this regard, it is important that this session of the Assembly examine in detail the recommendations contained in the report and reiterate its support for the efforts being made to prevent election-related disputes and conflicts and, hence, to consolidate the democratic processes under way on the continent.

25. At the same time, much remains to be done to enable the Panel to fully play its role as stipulated in Article 11 of the Protocol establishing the Peace and Security Council. In this respect, it is important to accelerate the ongoing efforts for the establishment of the Secretariat to the Panel.

**Assembly/AU/6(XIII)
ANNEX II**

**REPORT OF THE PANEL OF THE WISE ON
STRENGTHENING THE ROLE OF THE AFRICAN UNION IN
THE PREVENTION, MANAGEMENT AND RESOLUTION OF
ELECTION-RELATED DISPUTES AND VIOLENT
CONFLICTS IN AFRICA**

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LIST OF ABBREVIATIONS

AAEA: African Association of Electoral Authorities

APRM: African Peer Review Mechanism

AU: African Union

AUC: African Union Commission

CBOs: Community-Based Organisations

CEWS: Continental Early Warning System

CSOs: Civil Society Organisations

CSSDCA: Conference on Security, Stability, Development and Cooperation in Africa

DEAF: Democracy and Electoral Assistance Fund

DEAU: Democracy and Electoral Assistance Unit

ECF: Electoral Commissions Forum of the SADC Countries

ECOWAS: Economic Community of West African States

EISA: Electoral Institute of Southern Africa

EMBs: Election Management Bodies

PAP: Pan-African Parliament

PCRD: Post-Conflict Reconstruction and Development

PSC: Peace and Security Council

OAU: Organisation for African Unity

NEPAD: New Partnership for Africa's Development

MOU: Memorandum of Understanding

RECs: Regional Economic Communities

SADC: Southern African Development Community

TORs: Terms of Reference

EXECUTIVE SUMMARY

Elections are the hallmark of representative democracy, allowing people's regular input and voice in choices about leaders and policy programs. Yet they are also competitive processes, unleashing conflict and tensions that, if not constructively managed, could potentially destabilize the fabric of states and societies. Since the new wave of democratization in Africa in the early 1990s, elections have become a core ingredient of popular participation in the governance process. At the same time, elections have spawned conflicts and violence and scrambled ethnic and regional alliances that sometimes threaten the social order, economic development, and efforts to strengthen regional integration. With the steady decline of some of the causes of African conflicts, elections have emerged as one of the major sources of conflicts across Africa. The challenges occasioned by election-related conflicts and political violence underscore the importance of building institutions that balance competition with order, participation with stability, and contestation with consensus.

In recognition of the escalation of election-related conflicts and political violence, the Panel of the Wise decided to reflect judiciously on mechanisms and modalities of ensuring that elections contribute to sustainable democratic governance and peace through pro-active strategies aimed at preventing, managing, and resolving election-related conflicts and redressing political violence. This task was considered even more significant because since the late 1980s, the AU and its predecessor, the Organization of African Unity (OAU), have expended considerable resources and energies in the articulation, elaboration, and implementation of various principles and protocols on the fundamentals and foundations of democratic governance and peace. At this decisive phase of Africa's democratization, election-related conflicts and political violence retard the gains made by the OAU/AU thus far in their various efforts towards building a democratic and peaceful Africa. This report seeks to address measures to pre-empt election-related conflicts and political violence against the backdrop of the progress in institution-building on democratic governance, peace, and security by the OAU/AU.

This report outlines the record of Africa's democratization since the 1990s, pointing to the major milestones in building pluralism, participation, and accountability. The background is instructive in highlighting the significance of democratization processes in enhancing stability in Africa. It also reviews the causes and consequences of electoral violence and political conflicts over the years. In examining the various attempts by the AU to construct a wide range of protocols and principles that have solidified and domesticated democratic practices and patterns, the report seeks to emphasize the progress Africa has made with regard to the evolution of mechanisms for orderly participation and political inclusiveness. The conclusions and recommendations reiterate the significance of African ownership of African electoral challenges by constructing more robust electoral governance and administration systems. The report also suggests the importance of the Panel of the Wise to work collaboratively with other AU institutions and Regional Economic Communities (RECs) to find new approaches to mitigate election-related conflicts and political violence.

The main recommendations in this report proceed from three assumptions. First, marked progress has been realized in enshrining democratic standards, rules, and best practices pertaining to the conduct and organization of free and fair elections in Africa. Second, continental reform initiatives such as the African Peer Review Mechanisms (APRM) have recently acknowledged that gaps and loopholes do exist in Africa's electoral architecture and mechanisms that need to be addressed in order to boost their efficacy and legitimacy. Third, since not all elections in Africa lead to political violence and conflicts, it is important for intervention mechanisms to be tailored toward countries where elections may exacerbate violence. In managing future instances of political and electoral violence, external actors, particularly the AU, RECS, and international partners need to craft measures that prioritize countries that are prone to problematic elections. The recommendations are, therefore, grouped under six clusters: (a) Preventive diplomacy and Early Warning Mechanisms; (b) Electoral Governance and Administration; (c) AU Coordination and Electoral Assistance; (d) Post-Election Conflict Transformation Mechanisms; (e) AU's coordination of Electoral Assistance; and International Cooperation and Partnerships; and (f) the Strategic Interventions by the Panel of the Wise.

Cluster I: Preventive and Early Warning Mechanisms

It is critical for all institutions of the AU to invest in preventive and early warning mechanisms geared toward countries that have a history of electoral violence or reveal signs of erupting into conflicts because of competition occasioned by political contestation and elections. The wealth of socioeconomic and political information on African countries generated by the APRM, the AU Situation Room, academic and policy research, and media reports should form part of the collective knowledge that informs decisions about potential electoral hotspots. In the face of severe constraints on resources, it is important for the AU to evolve strategic interventions measures that focus on countries in need. Since the Panel of the Wise is a critical pillar in the AU's conflict preventive repertoire, it is well-positioned to provide a leadership role in developing early warning mechanisms to forestall electoral violence.

Cluster II: Electoral Governance and Administration

Electoral governance and administration are embedded in wider constitutional rules that define and delineate political competition over state power in each AU member state. These rules are, in turn, influenced by the social, cultural, demographic matrixes that characterize various African countries. Recent experiences in electoral violence and political conflict reflect unresolved questions of constitutional design arrangements among Africa's diverse societies. While Africa's electoral systems should reflect regional, ethnic, and demographic needs and variations, the pattern of high stake winner-takes-all electoral systems seem to be one of the major causes of violence and political instability. Africa should make deliberate efforts to progressively and creatively move towards electoral systems that broaden representation, recognize diversity, respect equity, and respecting majority rule, while at the same time protecting minority rights. In the recent past, a trend of post-electoral crisis power-sharing arrangements has been on the ascendancy. There is a sense in which issues of justice and peace-building could justify this trend in some instances. However, there is a serious concern that if this trend is not well managed, it may spiral out of control and become a political tool abused for manipulation of the

democratic process and the annulment of the people's democratic vote during elections. If this be the case, then an undesirable development is likely to be the decline of public trust in democratic institutions and elections which may lead to withdrawal of people's participation in the democratic process and especially in elections manifested by low voter turnout, among others. There is need for sturdy constitutional, institutional and legal frameworks to build a firm foundation for electoral governance and administration.

Cluster III: AU's Coordination of Electoral Assistance

The involvement of the OAU/AU in elections, mainly through observation is traceable to the early 1990s. Between 1990 and 2008, the OAU/AU has observed about 200 elections throughout the continent. This is a commendable record by all indications. Although the AU continues to observe elections, the process itself has to be deliberately professionalised. It has to be more technical and less political and diplomatic. To this end, a lot of assistance has to be given to the AU Department of Political Affairs, through its Electoral Assistance Unit, to coordinate elections more efficiently and effectively. The Electoral Assistance Unit, working in concert with the Electoral Assistance Trust Fund, could change the electoral landscape in Africa in such a way that it promotes political stability, peace, democracy and good governance.

Cluster IV: Post-Election Conflict Transformation Mechanisms

The AU and RECs have a wide array of institutions with the competence to manage post-electoral crises in a timely fashion. The most significant question is when and how the AU can mobilize the various institutional energies to make a difference in countries convulsed by electoral violence. The roles of these institutions hinge on their preparedness and their ability to coordinate with each other in transforming violent and uncertain post-electoral contexts into peaceful, fair and just outcomes that respect democratic norms. There are also lessons from the Kenya and Zimbabwe cases on how the AU should coordinate diverse intervention mechanisms in post-election conflict transformation.

Cluster V: International Cooperation and Partnerships

International actors constitute a vital part of electoral management in Africa by mobilising funds, administrative and technical expertise, as well as the sharing of lessons of experience in democracy building efforts. As wide-scale electoral violence becomes a core issue on the African landscape, bilateral and multilateral state and non-state actors will become even more critical at each phase of the electoral cycle in terms of funding and technical assistance.

Cluster VI: Strategic Interventions by the Panel of the Wise

As a new institution endowed with the moral authority and persuasion, the Panel of the Wise is in a strategic vantage point to use its eminent position, mediation, and negotiation skills to prevent, manage, and resolve electoral conflicts on its own and through other AU structures and instruments. The small composition of its membership allows sufficient flexibility to rapidly intervene at all phases of the

electoral process, particularly where crises are anticipated. The Panel's personal and professional attributes afford it wide latitude to carve a niche in electoral peacemaking and conflict prevention.

The Panel should also be capacitated in the medium-to-long-run with the technical and financial resources to sustain good offices, advisory, assessment, and technical missions. The technical back-up for the Panel's conflict management work should be provided jointly by the Department of Peace and Security and the Department of Political Affairs. The Secretariat of the Panel should be further strengthened and be in a position to link the Panel's interventions strategically to those of the two Departments relating to prevention, management and resolution of election-related conflicts. Through the burgeoning numbers of Africa's elder statesmen and other prominent individuals, the Panel will have a wide pool of experienced individuals it can continually draw from in fulfilling its prerogatives. Working closely with the AU and sub-regional Early Warning Mechanisms, the Panel should be periodically appraised of electoral events that may lead to violence and conflict so that it can play a role in preventing them.

The Panel can be deployed in two critical stages of elections namely the pre-voting stage, with focus on preventive diplomacy, and early warning and the post-voting stage, with focus primarily on mediation. In its interventions in the prevention, management and resolution of election-related conflicts, the Panel of the Wise should work in close collaboration with other key AU organs and other existing forums of former heads of states in Africa.

REPORT OF THE PANEL OF THE WISE ON STRENGTHENING THE ROLE OF THE AFRICAN UNION IN THE PREVENTION, MANAGEMENT AND RESOLUTION OF ELECTION-RELATED DISPUTES AND VIOLENT CONFLICTS IN AFRICA

At its 10th Ordinary Session held in Addis Ababa, from 31 January to 2 February 2008, the Assembly of the Union adopted decision Assembly/AU/Dec. 187(X) on the situation in Kenya following the presidential election of 27 December 2007. In that decision, the Assembly, *inter alia*, stressed the need to initiate a collective reflection on the challenges linked to the tension and disputes that often characterize electoral processes in Africa, including the strengthening of African capacity at national, regional and continental levels to observe and monitor elections. At its 109th and 115th meetings held on 21 January and 14 March 2008, respectively, and devoted to the situation in Kenya, the AU Peace and Security Council (PSC) also stressed the need to initiate such a reflection.

In response to these decisions, and as part of its work programme for 2008 as endorsed at its 3rd meeting held on 18 February 2008, the Panel of the Wise decided to devote that year's reflection on a thematic issue relevant to conflict prevention specifically problem of election-related conflicts. Subsequently, the Commission put together a team of consultants to prepare a report on the subject that would form the basis for the recommendations that the Panel intends to submit to the Assembly of the Union. The main terms of reference for the work that culminated in this report included the following:

- review issues of elections and electoral practices in the context of the democratization processes initiated in the 1990s, with particular attention to political violence and electoral disputes;
- assess the causes, manifestations, and impact of electoral disputes on the democratization processes in Africa;
- review issues such as the technical capacity of electoral organs, the composition, independence and funding of electoral commissions, and other similar organs, the demarcation of electoral areas, the registration of voters, campaigns, political party financing, access to media, and their impact on the conduct of elections;
- examine the role and contribution of international observers on electoral processes in Africa, including observers from outside the continent;
- review relevant AU instruments on elections, democratization, and good governance, and evaluate their impact on the efforts aimed at improving the conduct of elections and democratisation in Africa;
- make concrete proposals on how the AU can more effectively address electoral related-disputes and conflicts, including through long-term and operational prevention strategies, as well as on the enhancement of the African capacity to observe elections at national, regional, and continental levels.

In achieving the above ToRs, the consultants met with officials and staff of the AU Commission, as well as with representatives of the UN and the European Union involved in election related matters.

At its third meeting, held in Algiers, Algeria, from 12 to 14 October 2008, the Panel of the Wise requested the Commission to convene a workshop in Nairobi to review the report prepared by the team of consultants. This workshop took place from 26 to 27 December 2008, and was attended by members of the AU Panel of the Wise, representatives of the Regional Economic Communities (RECs), African think tanks and civil society organizations, as well as the United Nations, the European Union and other stakeholders. The representatives of the Chair of the Union and the Chair of the PSC for the month of November 2008 also attended the meeting. The workshop was addressed by the Kenyan Minister for Foreign Affairs who seized the opportunity to expound on the Kenyan experience following the December 2007 General Elections. The Minister stated that the issue of election-related conflicts was so crucial to the future of the democratization processes in the continent that it required the active involvement of all concerned.

At its 191st meeting held on 5 June 2009, The PSC received a briefing from the Panel of the Wise on the report on the strengthening of the role of the AU in the prevention, management and resolution of election-related disputes and violent conflicts in Africa. On that occasion, the PSC commended the Panel of the Wise for having chosen to devote its thematic reflection for the year 2008 to conflicts-related disputes and violent. The PSC stressed that the report is a significant contribution of the Panel in the context of the implementation of Decision Assembly/AU/Dec 187 (X). It further reaffirmed its support to the Panel of the Wise in its pursuit of preventive diplomacy and good offices for the promotion of peace, security and stability in Africa.

At its 6th meeting held in Tripoli, Libya, the Panel discussed and finalized its report on election-related disputes and conflicts.

I. INTRODUCTION

1. The 2000 Constitutive Act of the African Union (AU) commits AU member states to democratic governance. The Act declares that the Union “shall promote democratic principles and institutions” (Article 3g). Various other AU documents emphasize that democracy guarantees the protection of human rights, the right to development, as well as peace and security. The commitment of the AU to democracy, peace and security is articulated in the 2002 Memorandum of Understanding on Security, Stability, Development, and Cooperation and the 2007 African Charter on Democracy, Elections and Governance. As part of its commitment to promote democratic governance, peace and security, the AU Member States have institutionalized the practice of holding regular elections. Although holding elections is important, there is also need for electoral processes to be underpinned by the culture of transparent and credible elections. The 2002 OAU/AU Declaration on the Principles Governing Democratic Elections in Africa emphasizes that “transparent and credible elections play a crucial role in ensuring the fundamental and universal right to democratic and participatory government” (AU, 2002).

2. The AU further recognizes that there is no direct link between elections and democratization, peace and security. In other words, some elections build democratic governance and prosperity of the citizens. In other instances, ill-timed and ill-prepared elections may undermine democracy, generate political instability that reverse development gains. In some countries, elections have helped build solid foundations for democratic governance, but in others, they have led to contested results and violent conflict among political actors. Several AU documents acknowledge the risk associated with elections and have noted the violence and instability resulting from disputed elections. The efforts to consolidate democracy are compromised when results are disputed and when such disputes escalate into political violence.

3. It is important to note that while elections are pivotal to the democratic process, they do not invariably make democracy; neither do they ensure peace and security. For elections to enhance democracy, there is need for building relevant institutions, including impartial and independent election management bodies (EMBs) and guaranteeing the roles of political parties and civil society organizations in all stages of the electoral cycle¹. In addition, elections promote peace and security where there is a culture of tolerance, regular political dialogue among key democracy stakeholders, and public trust of democratic institutions. In particular, it is crucial that adequate political preparations are made before elections are held, especially in the process of building democracy and peace in post-conflict countries.

4. Given all these factors, the AU's approach to election-related disputes and conflicts needs to be aligned to the electoral cycle and in that way take a long-term approach. The full electoral cycle is depicted in figure 1 below.

¹ The eight key elements of the electoral cycle include the following: Legal framework; Electoral planning and implementation; Training and education; Voter registration; Election campaign; Voting operations and election day; Verification of election results and; Post-election processes.

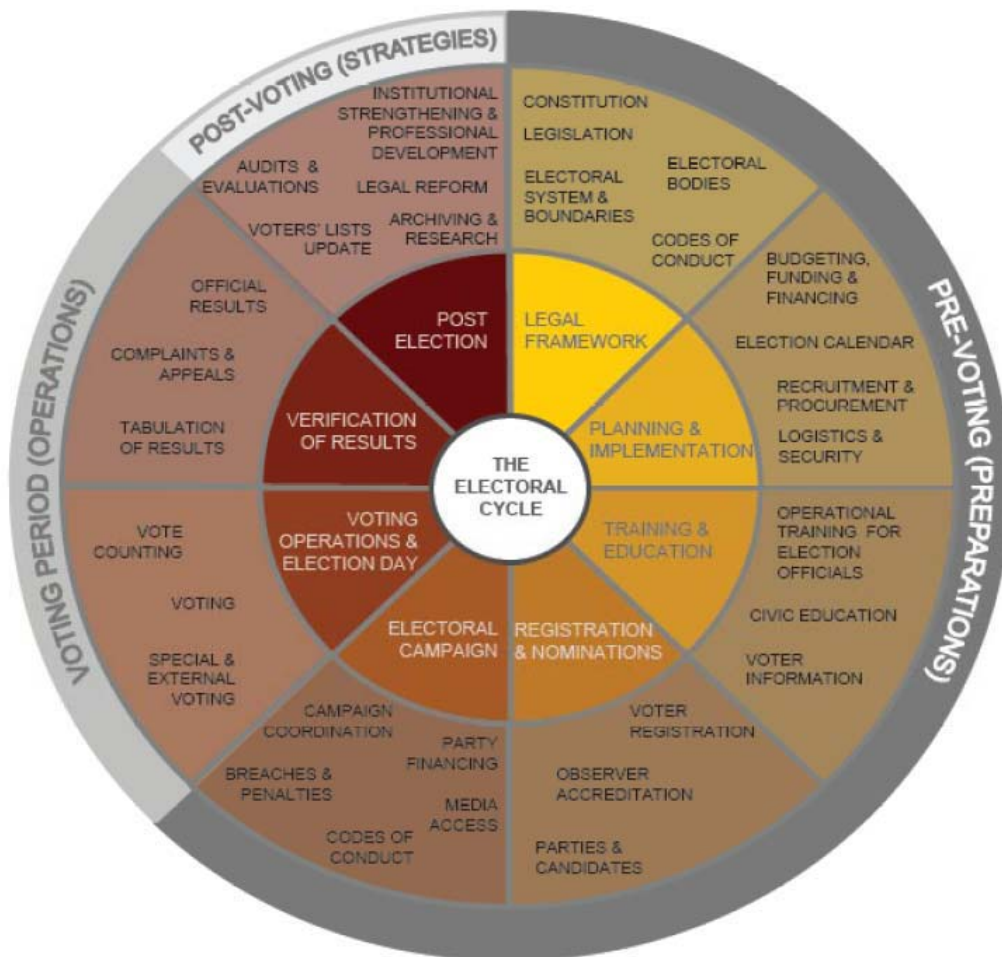


Figure 1: Electoral Cycle

5. From the electoral cycle perspective, the AU should emphasise conflict prevention and preventive diplomacy prior to elections. In addition to the current work being done by Political Affairs Department, the AU needs to do more in the pre-election phase to pre-empt election-related conflicts through conflict management, resolution and transformation. Currently, the AU tends to focus mainly on election monitoring and observation during elections to ascertain how free and fair the electoral processes are. During the post-election phase, the AU often focuses on mediation especially if an election leads to a contested result and political violence. Even in most of these cases, the AU does not take the leadership role; instead, it defers overwhelmingly to the RECs.

6. Following the post-election crisis in Kenya in December 2007, the Assembly of the Union and the Peace and Security Council saw the need to conduct a study on election-related disputes. Toward this end, the Panel of the Wise was mandated to initiate reflections on strategies and measures to mitigate electoral violence. In its advisory role, the Panel of the Wise was asked to inform the Peace and Security Commission and the Chairperson of the AU Commission (AUC) on findings to prevent, manage, and resolve election-related conflicts. Thus, as part of its 2008

programme, the Panel of the Wise commissioned this study on election-related crises and tensions to contribute to conflict prevention on the continent. The main purpose of this study is to improve Africa's capacity to deal with these challenges, including the strengthening of the AU capacity to observe elections.

II. DEMOCRATISATION PROCESS AND ELECTIONS IN AFRICA: PROGRESS, PROBLEMS AND PROSPECTS

7. The wave of democratization in Africa since the late 1980s and early 1990s stemmed from the confluence of circumstances and events. After years of military dictatorships and one-party governments, there was growing mass pressure for increased participation and accountability as part of a new momentum for political renewal. Equally significant, the end of the cold war unleashed external pressures for democratization that were decisive in supporting the process of change. The coincidence of these factors produced the much-heralded "second liberation" that marked a significant chapter in Africa's political rejuvenation. Almost 20 years after the inauguration of political pluralism, Africa has made remarkable progress in instituting the core principles and practices of democratic governance, with regular elections becoming routine and widespread, and leadership successions and rotations occurring more frequently than before. Although elections and leadership changes signify the steady growth of democracy, obstacles to consolidation remain. As the incidences of electoral violence that have accompanied recent elections in some African countries have demonstrated, the consolidation and sustainability of democracy depend on the construction of sturdy rules and structures of political competition.

8. The groundswell of internal and external pressures since the past couple of decades compelled African leaders to organize national conferences and other forums that facilitated the succession from authoritarian to elected governments. In most Francophone African countries, national sovereign conferences helped produce the transitional mechanisms that jumpstarted political pluralism and shaped the socio-political environment for political competition. In most Anglophone African countries, there were limited changes to the existing constitutional structures that permitted the inauguration of political pluralism. Since the onset of pluralism, elections became the critical elements in the process of change by expressing popular will, engendering leadership changes, and providing legitimacy to elected governments. Not only did elections enable people to choose their representatives, but they also constituted the most important facet in redefining the reciprocal relations between governments and the people.

9. Between 1989 and 1994, 38 African countries held competitive elections, while another 11 states followed suit and held founding elections between 1995 and 1997. In the same period, 16 countries held second elections. The founding elections of the early 1990s produced vital breakthroughs that started the gradual liberalization of politics and expansion of civil liberties. The first phase of Africa's democratic transitions led to three distinctive patterns. First, in some countries opposition parties in alliance with a vibrant civil society campaigned for fundamental reforms that made a difference in the emergence of new leaders through competitive elections. In the second pattern, although opposition groups led the initiative for reforms in the political

system, ruling parties either scuttled these reforms or watered them down. Most of the ruling parties ended up winning the subsequent elections. In the third pattern, democratic pressures ignited deep-seated ethnic divisions that led to civil wars.

10. The early phase of the democratic transitions was characterized by the slow growth of political parties with organizational programs and unity of purpose. Parties are essential to democratization because they are the core institutions of participation, lending meaning to competition, and offering alternative visions and perspectives to the electorate. Throughout Africa, there has been a strengthening of democratic norms and practices where political parties have emerged with coherent policies grounded in popular support. After many years in which parties had been proscribed, it took a long time for political parties in most countries to regain strength and stature. Organizing political parties was also compounded by heightened ethnic and regional stakes produced by the democratic processes, raising profound questions about political stability in some countries.

11. By the late 1990s, although elections and multiparty competition had become internalized, there were renewed debates across countries about the need to revamp the rules that governed political competition, particularly in creating constitutional structures that reflected the reality of democratic transitions. The agitation for constitutional and electoral reforms grew from the recognition that since most of the democratic breakthroughs of the 1990s had been hastily organized, most African countries had had precious little time to institutionalize sound procedures for popular government. Furthermore, even though elections had become central instruments for political transformations, there had been little attention paid to building sturdy rules and institutions that would enhance organized and predictable competition. The impetus for reforms in electoral rules led to the search for competent, autonomous, and non-partisan electoral bodies to administer the conduct of elections. Part of these campaigns entailed the search for more autonomous, impartial and transparent EMBs. In addition to electoral reforms, constitutional reform movements focused on changes in the broader institutional environment supportive of meaningful and competitive elections. These campaigns recognized that democracy involves much more than just elections hence the necessity of robust civil society, effective and independent legislatures, and impartial judiciaries.

12. The experiences of electoral reforms and other constitutional changes varied across the continent, reflecting the strength of reform movements, the willingness of authorities to concede to such reforms, and the political stakes coalescing around constitutional change. But in general, electoral and constitutional reforms since the late 1990s yielded three outcomes. First, because of ethnic fragmentation and elite conflicts, some countries did not make significant progress in altering the rules that determine competitive politics; instead, despite widespread clamour for constitutional change, these countries have witnessed stalemates in the dialogue on rules that would underwrite multiparty politics. These countries continue to be characterized by considerable strife and political uncertainty. Second, some countries have instituted far-reaching electoral and constitutional reforms that have stabilized multiparty politics and liberalized the wider social and political environment. In most of these countries, national leaders have been selected consistently through public, competitive, free and fair elections that have also been peaceful.

13. In between these two extremes are countries that are struggling to build participatory democracies on the basis of unreformed and undefined institutions. In the latter cases, constructing new rules has faced formidable challenges, largely because of the prevalence of enormous constraints on the effective participation of parties. In addition, some of these countries have had reversals in the democratic reforms, which made it difficult to expand political space.

14. Despite these diverse experiences, most African countries have had an average of three elections since the onset of pluralism, underscoring the considerable movement on the democratization front. Repeating cycles of elections has been one of the greatest achievements of democratization, producing a spiral of self-reinforcement. In the hostile socio-economic conditions prevalent in many African countries, the growth of democracy has defied the pessimistic scenarios which doubted the possibilities of positive political change in Africa. Democracy has flourished in countries where there has been alternation among major parties and where opposition parties have had the opportunity to govern. These countries have also evidenced high levels of confidence in the credibility of electoral rules and the deepening of institutions that complement and underwrite stable competition. More important, these countries have become models of durable democracy whose experiences have been transmitted in Africa's various sub-regions. In other countries, the dominant party system, whereby only one single party continued to govern unimpeded, where opposition parties remain on the margins of power, and where, in some instances, intolerance and animosities pervade most social aspects of life, has persisted.

15. The other critical trend in the democratization process since the late 1980s and early 1990s has been the remarkable recovery of countries that were formerly engulfed in civil wars. International efforts in war-torn nations through negotiated constitutional compromises steadily created conditions for the emergence of vigorous democratic experiments that reversed years of state collapse and defied the popular myths of chaotic Africa. In addition to learning from the previous experiences that produced civil wars, these countries have benefitted from the resources the international community devoted to the construction of stable constitutional rules prior to elections, the management of electoral processes, and a host of economic and social support programs to consolidate the gains from democracy. Although they are still relatively tentative in their democratic experiments and face obstacles to institutional regeneration, the dramatic recovery of former war-torn countries is a milestone in the annals of democratization on the continent. These successful stories of democratic recovery are also instructive to countries that continue to face endemic political conflicts and structural violence.

16. Almost two decades into the democratic transitions, the progress in Africa is far from uniform, but there is widespread recognition that almost everywhere, democracy is a process and not an event and the key element in building democratic culture in Africa is anchoring the ongoing practices in clear procedures and strong institutions supported by assertive countervailing groups in civil society. The widespread reforms in electoral processes in Africa have yielded a remarkable convergence about fair and transparent rules to conduct and organize elections. This continental convergence is witnessed in the proliferation of EMBs that are functional and financed through national treasuries. There has also been recognition that well-

endowed EMBs are the firewalls against manipulation and other egregious practices that reduce the credibility of elections and cause violence. Likewise, the growing culture of election monitoring and observation by local and international actors has been important in contributing to the credibility and transparency of electoral processes. As many African countries have held successful elections that have led to changes in power and enhanced democratic accountability, there has been a healthy trend toward consolidation.

17. It is within this context that presidential term limits, most often two terms, became a common feature of democratic constitutions adopted in the 1990s. As a result, a number of Presidents stood down after having completed their two terms in office. In other cases, ruling parties made decisions to abolish or extend presidential tenure on the ground that such constitutional provisions artificially limit the democratic choice of citizens. While some of the countries that embarked on this process have successfully carried out the required constitutional reforms, others have failed because of a strong domestic backlash.

18. As democratic norms and patterns have become domesticated across Africa, there is an emerging consensus that electoral competition has generated multiplier effects that have spilled over into other facets of society. Elections and electoral competition have contributed to the liberalization of society by endowing the citizens with more voice and capacity to contest their civil and political liberties. Countries that have held elections have also witnessed the expansion of press freedoms, more citizen demands for accountability, and the flourishing of a wide array of organizations supportive of democracy. These positive spill-over effects have, in turn, enhanced the legitimacy of leaders and the reciprocity between the governors and governed. The emerging democratic culture is boosted by large scale surveys throughout Africa that reveal that people overwhelmingly support democracy and reject authoritarian rule.

19. The strides made in deepening democracy are threatened by the emergence of elections that are contested violently and by the return of militaries to power in some parts of Africa. Despite AU provisions against forcible seizure of power and the denunciation of military coups, over the last three years, there has been a resurgence of militarism and military rule in countries. In some instances, militaries have intervened to take advantage of disarray within civilian institutions, particularly divisions among civilian leaders on key national issues. In others, militaries have taken power ostensibly to prevent their countries from descending into chaos and civil violence following major leadership transitions. Generally, the rise of military regimes is a symptom of failures to solidify civil-military relations that are underpinned by democratic ethos of civilian control of national governance. It is also an illustration of either the fragility or decay of the democratic institutions which are therefore dysfunctional. Building and solidifying democratic institutions and inculcating a culture of democracy and peace will go a long way in reversing this ominous phenomenon of militarism.

III. ELECTION-RELATED CONFLICTS AND POLITICAL VIOLENCE: CAUSES AND CONSEQUENCES

20. Electoral conflicts and political violence have featured in Africa's democratization, signalling weaknesses in the governance of elections, the rules of orderly political competition, and lack of impartial judiciaries to interpret and adjudicate electoral disputes. The challenges of electoral conflicts and political violence reflect the transitional teething problems associated with managing elections and building institutions of competition that are widely accepted by winners and losers. In other instances, electoral conflicts and political violence arise, in part, from reactions of groups that have been deliberately disadvantaged and disempowered by their opponents. Claims about the deliberate subversion of the ends of electoral and democratic processes are always invoked by losers who then seek redress in violence. Although certain levels of violence frequently occur at different stages of the electoral process in Africa, the upsurge of electoral contestations that lead to large-scale violence is an emerging issue of policy concern. Elections that end in widespread conflict and violence that result in loss of lives and destruction of property raise questions about election management and administration, but also about the long-term impact on the consolidation of political competition.

21. In general, all forms of violent electoral conflicts that, at any stage of the electoral cycle, arise from differences in views, opinions, and practices could be considered as electoral violence. As one form of political conflict, electoral violence typically occurs when groups and parties use force to intimidate opponents to affect the electoral process and outcomes unduly in their own favour. At heart, electoral violence fractures political competition and impedes or criminalises political dissent. The use of threats and intimidation during voter registration may disenfranchise part of the population, while assaults and assassinations during the election campaign may force political contenders to boycott the elections. In some circumstances, parties may use forms of electoral violence to seize power and extinguish the democratic process altogether. Electoral conflicts and political violence also occur in the aftermath of contested elections where groups or parties use violence to contest the legitimacy of outcomes or alter it completely. Both localized and national forms of electoral violence adversely affect social stability and, if not properly managed, could, in combination with other conflict fissures, lead to anarchy and civil wars.

22. In the incipient phase of democratization in Africa in the late 1980s, political and electoral violence was caused by the determination of ruling parties under siege from emerging opposition parties to hang onto power. In this fragile era of democratization, dominant parties accustomed to occupying the political space hardly countenanced the power and legitimacy of opposition forces. Violence often occurred during the elections, particularly as competing parties sought to mobilize constituencies using all available means. Facing intense pressures from new and untested political parties, some of the ruling parties resorted to political violence aimed at subverting the electoral process and outcomes. They also deployed partisan state institutions, particularly the military, paramilitary and police forces against opposition groups. Political and electoral violence organized by ruling parties included forceful dispersions of political rallies, beating, assault, arbitrary detention of leaders and followers, torture, murder, and wanton destruction of property. Furthermore, blatant manipulation of the electoral process, including vote buying,

intimidation of voters, rigging and destruction of ballot boxes became part of the repertoire of violence for parties determined to deny their opponents of the opportunity to take power. Similarly, opposition parties and groups, invoking the language of fairness and seeking to undo years of authoritarianism, also engaged in forms of violence such as violent street demonstrations, arson, and destruction of property, to counter state-instigated violence.

23. The patterns of electoral violence that characterized the electioneering process often persisted into the post-electoral phase, particularly where losing parties challenged the legitimacy of winners. In some of the elections in the mid-1990s, losing parties challenged the results through mass demonstrations, destruction of property, threats and intimidation of opponents, and work stoppages. These events, in turn, elicited violent responses by regimes that sought to restore order, peace, and security. In some cases, the spiral of violence throughout the electoral cycle forced opposition groups to boycott the elections, especially in circumstances where organized violence by ruling parties succeeded in curtailing the organizational abilities of weak and fledgling parties.

24. Although the reluctance by ruling parties to accept legitimate political competition and pluralism dominated the initial democratic transition, deep ethnic and regional cleavages in most African countries also contributed to political and electoral violence by amplifying the stakes of competition. In ethnically divided societies, the costs involved in losing or winning elections are sometimes fundamental to the well-being of entire communities. With the politicization of communal or ethnic identities, winning an election can be a matter of survival in the eyes of the parties competing for power. Electoral violence in Africa has occurred where the uncertainties of electoral outcomes have aggravated communal, ethnic, and religious conflicts. The most common element of this dynamic is where politicians mobilize support from ethnic and regional constituencies to win elections without attempts to reach out to other groups. The most publicized cases of electoral violence in Africa entailed elites from different ethnic groups appealing to sectarian and partisan interests, transforming elections into zero-sum contests. These patterns of mobilization, in turn, invited violent reactions from competing ethnic and regional groups, igniting violence during and after the elections.

25. In extreme instances, electoral violence took the forms of ethnic cleansing, balkanization, sabotage, evictions, and mass displacements. The results were ethnic and regional disenfranchisement that deprived and denied opposition challengers the minimum conditions for effective participation. In some countries, the patterns of political marginalization and disenfranchisement continued in the post-electoral phase where whole groups and communities were economically disenfranchised because of their support for losing parties, intensifying political exclusion and alienation.

26. One of the outcomes of the political and electoral conflicts of the 1990s was the incremental militarization of society as aggrieved and marginalized groups in some countries resorted to arms to protect themselves against violence perpetrated by opposition groups. Although in some African countries, militarization of large segments of society was a consequence of years of civil wars, there are countries where election-related violence invariably generated defensive militarization that

continued to have an impact on subsequent elections. Where militarization coincided with economic and political marginalization, there emerged in some countries an infrastructure of violent dissent. Initially used in the first phase of electoral and political competition, armed militias and violent youths have gradually mutated into strong organizational structures that have perpetrated violence during elections and beyond. In some countries, the militarization of the youth coincides with the dramatic increase in poverty leading to a class of economically disenfranchised people who can be used to perpetrate political and electoral violence.

27. In societies democratizing soon after civil wars, elections have frequently descended into military confrontation between armed factions. Electoral competition in conditions of political instability leads some parties to use political violence as an alternative to accepting electoral defeat. This is more so where there have been insufficient or weakly-implemented programs of demobilization, demilitarization and reintegration. In some post-conflict contexts, elections exacerbate existing conflicts and harden conflict-related alliances, leading to incidences of violence. It is for this reason that discussions of elections in post-conflict environments focus on questions of timing and supervision: sometimes, elections that are held too early without strong international supervision can produce results that may extend the conflict rather than resolve it. However, as most of the countries recovering from civil wars in Africa have shown, post-conflict elections that are managed by the deployment of international resources may help to diffuse existing conflicts, creating lasting institutions for conflict management.

28. The momentum for electoral and constitutional reforms since the late 1990s arose from widespread desire for structures that would stabilize political competition, manage the fissures of ethnicity and regionalism, and enhance transparency, predictability, and impartiality of electoral governance and administration. Some of the constitutional reforms dealt with changes in the electoral systems to mitigate the winner-take-all systems that deprived losing parties of electoral representation. Other reforms touched on boosting the independence and effectiveness of EMBs, endowing them with the capacity and autonomy to be impartial players. The priority accorded to impartial and effective electoral management systems stemmed primarily from the fact that people disappointed with election results are always likely to contest electoral outcomes in violent ways. Furthermore, to lessen electoral violence and increase mutual confidence, some of the key reforms across Africa involved the initiation of codes of conduct that govern competition among parties. Where political parties used violence and intimidation to promote sectarian ends, codes of conduct seek to enjoin them to observe a core set of civic principles and norms.

29. Beyond changes to improve the quality of electoral management to reduce violence and conflicts, some African countries launched fundamental constitutional changes to facilitate level playing fields. In a number of AU member states, such reform measures have included: abolishing restrictions to the formation of political parties; financing of political parties; reforms to reduce the control by incumbents of information and enable equal access to vital media organs; expansion of the voice of civil society and other stakeholders around political questions; and boosting the capacity of the judiciary to help adjudicate and resolve election disputes. All these reform measures notwithstanding, electoral playing fields are often uneven as ruling parties enjoy political advantage over opposition parties leading to contested

electoral outcomes. But, in some countries, constitution-making also occasioned high levels of political violence during the process and the subsequent constitutional referenda. Like elections, constitutional referenda to establish rules of competition have faced violent reactions from parties and groups in and out of government to put limits on pluralism and marginalize opponents. For the most part, constitution-making became highly contested and conflict-ridden where contesting groups and constituencies failed to agree on new power-sharing rules.

30. Similarly, violence and political conflicts have arisen from bids by incumbent governments and leaders to change existing constitutional rules to extend their terms in office or reformulate rules to favour certain succession candidates. Changes in term limits in some African countries since the early 2000 have led to conflicts, dividing societies and worsening political tensions, with aggrieved parties using or threatening to use violence to defend the status quo. In these countries, the consequences of conflicts over term limits have invariably affected electoral processes with incumbents attempting to use elections to legitimate such changes while the challengers scramble to prevent such outcomes. In a number of instances, contests over constitutional arrangements and term limits have been violent or foreshadowed the onset of widespread electoral violence.

31. Where electoral and constitutional rules have been established, violence occurs because of either the wilful change of established rules or organizational deficiencies in the administration of these rules. Countries that have witnessed electoral violence have frequently been characterized by high levels of contestation of the legitimacy of previous election outcomes, particularly by losing parties. Frustration with flawed elections boils into violence particularly where there has been a pattern of selective use of the law to exclude political rivals and suppress the common will. The new outbursts of electoral violence are reminiscent of the incipient phase of Africa's democratization, where the electoral rules for multiparty competition have not been widely accepted and where strong parties with long-standing dominance of the political process cannot countenance defeat. In these instances, opposition groups that have never had a chance to govern perceive elections as the vehicles to ascend to power, while the incumbents see elections as means to legitimate their continued rule.

32. Electoral violence everywhere imperils democracy by distorting normal mechanisms of political competition but, more fundamentally, increasing mass apathy and alienation toward politics. In the circumstance where African countries have made significant progress in building pluralism, the growing incidents of electoral violence have dampened the impetus for democratic consolidation. In some countries that had witnessed a history of inter-ethnic coexistence and amity, violent skirmishes resulting from poorly administered elections have resurrected societal fault-lines, casting doubt on the patterns of state-building and national harmony.

33. There is also growing concern that in recent outcomes of contested elections, the international community has expeditiously prescribed negotiated arrangements to stabilize volatile situations. Although it is understandable why national and international actors would move precipitously to forestall the destabilization of national institutions that comes with the upsurge of electoral violence, wholesale prescriptions of power-sharing arrangements and institutions may weaken the trend

toward building competitive rules that clearly define losers and winners. Power sharing arrangements that create broad-based governing coalitions after violent electoral processes may reward parties that intimidate opponents through violent means. They may also potentially undermine democratic values by making a mockery of the essence of electoral competition. Moreover, post-electoral power-sharing institutions may end up being brittle solutions that, although checking violence, create divided and dysfunctional governments that may worsen governance. For partners in the emerging power-sharing arrangements, the challenge is to seize the momentary opportunities opened up by periods of relative stability to craft enduring rules that pre-empt the resurgence of electoral violence.

IV. RELEVANT AU INSTRUMENTS ON PEACE, DEMOCRACY AND CREDIBLE ELECTIONS

34. The African Union (AU) is firmly committed to peace and democratic governance in Africa. To this end, the 53 member states of the AU have adopted relevant instruments relating to peace, democracy and credible elections. This chapter of the report examines these instruments as enunciated in various official AU documents. The first part discusses the AU commitments relating broadly to democratic governance, peace and security. The second part focuses specifically on AU declarations relating to the holding of credible democratic elections. The conclusion highlights the remaining challenges that require strategic policy responses from the AU.

i) KEY AU INSTRUMENTS ON DEMOCRACY, PEACE AND SECURITY

a) The Constitutive Act

35. The 2000 Constitutive Act of the African Union is the principal instrument, and the founding treaty, that commits member states to democratic, representative, and responsive governance under conditions of peace and stability. Articles 3 and 4 of the Constitutive Act enunciate the key objectives and principles of the AU respectively. The principal plank of these two Articles is the unequivocal embrace of popularly elected governments and outright rejection and condemnation of unconstitutional changes of government in line with the 2000 Lome Declaration. In these two Articles, the AU upholds the basic democratic principle that elections are a legitimate method of transfer of power and the only democratic manner of expressing popular sovereignty in a representative democracy. The Constitutive Act also recognizes that sustainable democratic governance in Africa requires political stability, peace and security in conformity with the 2002 Protocol Relating to the Establishment of the Peace and Security Council of the African Union. Without political stability, peace and security, democracy is likely to be compromised and socio-economic development will not be achieved. Cognizant of this challenge, the main objectives of the AU, as enshrined in the Constitutive Act, include the:

- promotion of peace, security and stability on the continent;
- promotion of democratic principles and institutions, popular participation and good governance; and

- promotion and protection of human and peoples' rights in accordance with the African Charter on Peoples' and Human Rights and other relevant human rights instruments (Constitutive Act of the AU, 2000:5-6).

36. The above objectives demonstrate the evolving AU peace, democracy and human rights architecture in Africa. They are complemented by a set of clear principles that guide the Union as articulated in Article 4. These include the following:

- respect for democratic principles, human rights and the rule of law and good governance;
- respect for the sanctity of human life, condemnation and rejection of impunity and political assassinations, acts of terrorism and subversive activities; and
- condemnation and rejection of unconstitutional changes of government (Constitutive Act of the AU 2000:7).

37. Various other AU documents² have reinforced its commitment to building a democratic, stable, peaceful and prosperous Africa.

b) Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA)

38. The 2000 Conference on Security, Stability, Development and Cooperation (CSSDCA) commits AU member states to pursue peace and security, political stability, socio-economic development and regional/continental cooperation and integration. The Declaration states that "democracy, good governance, respect for human and peoples' rights and the rule of law are pre-requisites for the security, stability and development of the continent" (CSSDCA Solemn Declaration, 2000, article 9h). The Declaration espouses three complimentary principles, namely that:

² These documents include the 1981 African Charter on Human and Peoples' Rights; the 1990 African Charter for Popular Participation in Development; the 1990 Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World; the 1991 Treaty Establishing the African Economic Community; the 1995 Cairo Agenda for Action; the 1999 Grand Bay (Mauritius) Declaration and Plan of Action on Human Rights in Africa; the 2000 Lome Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government; the 2000 Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament; the 2000 Conference on Security, Stability, Development and Cooperation (CSSDCA) Solemn Declaration; the 2002 Memorandum of Understanding of Security, Stability, Development and Cooperation in Africa (CSSDCA); the 2002 Declaration on Democracy, Political, Economic and Corporate Governance of the New Partnership for Africa's Development (NEPAD) which, among other things, provides for the establishment of the African Peer Review Mechanism (APRM) which is an innovative instrument for promoting democratic governance in Africa; the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; the 2003 African Union Convention on Preventing and Combating Corruption; the 2004 Protocol Relating to the Establishment of the Peace and Security Council of the African Union; the 2007 African Charter on Democracy, Elections and Governance.

- the peaceful resolution of disputes needs to place emphasis on seeking African solutions to African problems;
- the prevention, management and resolution of conflicts provide the enabling environment for peace, security, stability and development to flourish; and
- the responsibility for security, stability and socio-economic development of the continent lies primarily with African States (CSSDCA Solemn Declaration, 2000, Articles 9d, 9e and 9f).

39. During the OAU Summit of Heads of State and Government held in 2002 in Durban South Africa, the Memorandum of Understanding on Security, Stability, Development and Cooperation in Africa was adopted with a view to giving effect to the 2000 CSSDCA Solemn Declaration. The MoU defines clearly how AU member states should pursue the key objectives of security, stability, development, and cooperation. It also outlines a plan for achieving the set objectives and identifies performance indicators with time-frames. The MoU exhorts the AU member states to:

- adhere to the fundamental tenets of a plural democratic society.... These include promulgated constitution with a Bill of Rights' provision; free and fair elections at constitutionally stipulated intervals; multiparty political systems; separation of powers; an independent judiciary, a free press and freedom of expression and assembly; effective military subordination to civilian authority; and accountability and popular participation in governance;
- uphold the principle of constitutionalism so that the political class and civil society at all levels commit to abiding by and respecting the provisions of the constitutions of their states;
- accept the necessity for the significant improvement in the African electoral process including the establishment of truly independent national electoral commissions and other appropriate mechanisms to ensure transparency, fairness and credibility of elections;
- observance, protection and promotion of the human rights of all Africans;
- speedy establishment of the African Court on Human and Peoples' Rights;
- strengthen, improve and practice good governance in public and private domains in Africa to ensure adherence to the rule of law, strict accountability by all and transparency in public affairs (Memorandum of Understanding on Security, Stability, Development and Cooperation in Africa, 2002, Articles II(o), II(p), II(r), II(s), II(t)).

40. The MoU goes beyond declaration and spells out clear performance indicators and time-frames for achievement of set objectives. Firstly, on security, the MoU exhorted member states, among other things, to establish national institutions or mechanisms for prevention, management and resolution of conflicts with active participation of civil society organizations and community based organizations (CBOs) by 2004. Secondly, with respect to stability, the MoU emphasized the achievement of the following objectives:

- adoption, by 2004, of constitutions and bill of rights provision, free and fair elections, an independent judiciary, freedom of expression and subordination of the military to legitimate civilian authority, rejection of unconstitutional changes of government and implementation of these principles by 2005;
- adoption by 2005 of a commonly provided Code of Conduct for Political Office Holders that stipulates, among others, a limitation on the tenure of elected political office holders based on periodic renewal of mandates and governments should scrupulously abide by it;
- establishment by 2003, where they do not exist, independent national electoral commissions and/or other appropriate mechanisms and institutions to ensure free, fair, and transparent election in all African countries;
- adoption and standardization, by 2003, of guidelines for independent and effective observation of elections in AU member states, with the provision of an effective electoral assistance unit within the AUC which should include provision for strengthening civil society and local monitoring groups in individual African countries aimed at ensuring free and fair elections and the reports of the AU observer missions should be made public;
- adoption by 2004, where it does not exist, of enabling legislation on the formation and operation of political parties to ensure that such parties are not formed and operated on the basis of ethnic, religious, sectarian, regional or racial extremism and establish a threshold of voter support as criteria for public funding, without compromising freedom of association and the principle of multi-party democracy;
- taking measures, by 2005, to promote gender equality and ensure equal representation of men and women in all national, regional, and continental institutions as well as the elimination of all laws that discriminate against women in African countries; AU member states should also adopt, sign and ratify the Protocol to the African Charter Relating to the Rights of Women in Africa as well as other instruments to promote and protect the rights of women;

c) *The African Charter on Democracy, Elections and Governance*

41. The 2002 AU summit in Durban did not only set a momentum for advancing democratization through the adoption of the NEPAD Declaration on Democracy and the adoption of the African Peer Review Mechanism (APRM), but it further triggered enthusiasm for the development of the African Charter on Democracy. This enthusiasm informed the organization of a continental conference co-hosted by the Independent Electoral Commission of South Africa, the African Association of Electoral Authorities and the African Union Commission in Pretoria, South Africa on 7-10 April 2003 under the theme “Elections, Democracy and Governance: Strengthening African Initiatives”. The final statement³ adopted by the Conference exhorted African states to expand the frontiers of democratization. A year after this Conference, the 2004 Summit of the AU Heads of State and Government held in Maputo, Mozambique, considered the draft Declaration on Elections, Democracy and Governance and mandated the AUC to transform this declaration into a Charter. The AU decision to develop an African Democracy Charter was further reiterated during the Council of Ministers meeting held in Addis Ababa in May 2004. It took the AUC about three years (2004-2007) to develop the African Charter on Democracy, Elections and Governance which is the most comprehensive commitment by the Union to date towards deepening and consolidating democratic governance in Africa.

42. The African Charter on Democracy, Elections and Governance was adopted during the 8th Ordinary Session of the Assembly of the Union convened in Addis Ababa on 30th January 2007. The adoption was a culmination of various meetings of government, independent, and legal experts which debated and refined its various drafts between 2004 and 2006. The evolution of the Charter was, therefore, an inclusive process ensuring that as many key stakeholders as possible had an input during the development of this historic document meant to set Africa on a sustainable path of democracy, constitutionalism, rule of law, and human rights. The Charter is most comprehensive human rights and democracy instrument in Africa.

43. By the beginning of 2009, the Charter on Democracy, Elections and Governance had been signed by 24 Member States of the African Union, as follows:

³ Participants to the conference expressed their collective support to the ideals of the AU and NEPAD aimed at ensuring the promotion of good governance and strengthening of democratization, including delivery of free, fair and credible elections in Africa. The conference statement that was adopted at the end of the conference emphasized the following constitutional and legal frameworks for strengthening democracy in Africa: (a) constitutions and legal frameworks should entrench democratic values and institutions to promote and strengthen constitutionalism and good governance; (b) constitutions and legal frameworks should provide for all basic human rights, freedoms and obligations as enshrined in relevant United Nations instruments and the African Charter on Human and Peoples’ Rights; (c) constitutions and legal frameworks should determine the tenure and number of terms that a head of state and government can stand for elections; (d) constitutions and legal frameworks should provide political pluralism and freedoms of association, assembly and expression to promote free political activity; (e) constitutions and legal frameworks should provide for establishment of independent election management bodies and independent institutions that support and entrench democracy such as national human rights commissions, anti-corruption bodies and independent judiciaries; (f) constitutions and legal frameworks should regulate the calling of elections allowing for sufficient time for proper preparations. A period of not less than 45 days and not more than 90 days within which to prepare for elections should be the norm; (g) constitutions and legal frameworks should promote accountability of elected representatives.

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|----------------------------|-----------------|----------------|
| • Benin | • The Gambia | • Namibia |
| • Burkina Faso | • Ghana | • Nigeria |
| • Burundi | • Guinea-Bissau | • Niger |
| • Central African Republic | • Kenya | • Rwanda |
| • Congo-Brazzaville | • Liberia | • Sierra Leone |
| • Djibouti | • Mali | • Sudan |
| • DRC | • Mauritania | • Swaziland |
| • Ethiopia | • Mauritius | • Togo |

44. The signatories of the Charter have been slow to ratify it. So far, it has only been ratified by Mauritania and Ethiopia. This means that another 13 states still have to ratify the Charter before it will become a legally binding document. More efforts need to be made on the signatories, and all the other Member States, to ratify the Charter as soon as possible, so that the threshold of 15 states will be reached and the Charter will then become properly binding.

45. Between 2007 and 2008, the Department of Political Affairs embarked upon a popularization programme aimed at imploring states to sign and ratify the Charter. The principal objectives of these popularization workshops, which involved all the five African sub-regions, were to:

- sensitise decision makers and other stakeholders on the value and contents of the Charter;
- develop common perspectives on how Charter ratification can contribute towards improving governance in each region;
- build an understanding of the role of different actors in the ratification process;
- share insights on the various ratification procedures applied by AU member states;
- establish a common perspective on the actions that would be taken at sub-regional and state levels to ensure that the Charter is ratified; and
- contribute towards the overall continental framework for action on the popularization, ratification and application of the Charter.

46. The Charter derives its authority and legitimacy from the Constitutive Act of the African Union in particular articles 3 and 4 which commit member states to participatory democracy, constitutionalism, rule of law, human rights, peace and security as well as sustainable human development in Africa. It builds on previous commitments to democratic governance enunciated through numerous declarations, decisions, and instruments (see footnote 2 above).

47. The Charter, therefore, consolidates the above commitments of the AU member states towards democratic governance and brings together these noble

declarations into a single solidified treaty with legally binding commitments. It serves as a consolidated point of reference for all the AU efforts aimed at enhancing the overall state of democracy, elections and governance throughout the continent. Through the adoption of the Charter in January 2007, African countries have committed themselves to an established set of common standards, principles and guidelines for participatory democracy, credible elections and good governance and in the process holding each other accountable for their actions and inactions.

48. More specifically, the Charter emanated from the long-standing concern of AU member states with unconstitutional changes of government and the consequent political instability, insecurity, and violent conflict. The unconstitutional changes of government had become one of the major destabilising factors in Africa reversing democratic gains and threatening socio-economic development. Article 23 of the Charter provides that the following means of accessing or maintaining power constitute an unconstitutional change of government and shall draw appropriate sanctions by the Union:

- any putsch or coup d'état against a democratically elected government;
- any intervention by mercenaries to replace a democratically elected government;
- any replacement of a democratically elected government by armed dissidents or rebels;
- any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair and regular elections; or
- any amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democratic change of government.

49. Drawing from the 2000 Lome Declaration, the AU Constitutive Act and the above article of the Charter, there is a commitment on the part of the member states to jettison the culture of unconstitutional changes of government. Military coups have been met with punitive measures by the AU through the Peace and Security Council, such as the military coup in Mauritania that led the AU to suspend the country from the AU and the launching of diplomatic efforts to restore democracy, peace and security. AU member states are now more committed than ever before to promoting and strengthening democratic governance through citizen participation, transparency, accountability, rule of law, gender equality, decentralization, human development, eradication of poverty and credible elections.

50. The African Charter on Democracy, Elections and Governance, reinforces the commitment of AU member states to hold credible, transparent and legitimate elections that enhance democratic governance and in the process promoting peace, security and political stability all of which are critical pre-requisites for socio-economic development. The Charter implores AU member states to strive towards holding

genuine and credible elections with legitimate and acceptable outcomes. To this end, the Charter exhorts member states to:

- establish and strengthen independent and impartial national electoral bodies responsible for the management of elections;
- establish and strengthen national mechanisms that redress election-related disputes in a timely manner;
- ensure fair and equitable access by contesting parties and candidates to state controlled media during elections;
- ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels.

51. One of the factors that propel political tension around election is misunderstanding among political players around the electoral contest and its rules and their application. This situation leads to mistrust and mutual suspicion among the key players. Erroneously, political players tend to perceive elections as a zero-sum game in which a winner takes all and the loser loses everything. Elections are supposed to be perceived as a positive-sum game in which both the winners and losers accept the outcome and feel bound to cooperate in the governance process following the poll. It is for this reason, among others, that the Charter encourages systematic and regular dialogue among key political players. Article 13 of the Charter provides that “state parties shall take measures to ensure and maintain political and social dialogue, as well as public trust and transparency between political leaders and the people, in order to consolidate democracy and peace”. The adoption of the Charter by the AU is a significant step in the right direction. Experience has shown that while the adoption of progressive peace, security and democracy declarations is easy, it is more difficult to translate these instruments into legal frameworks and policy practice. It is, therefore, incumbent upon the AU Member States to sign, ratify, and domesticate the Charter. Concrete steps towards achieving the goals and objectives of the CSSDCA and the Democracy Charter will go a long way in building peace and promoting democratic governance in Africa.

ii) KEY AU INSTRUMENTS ON CREDIBLE ELECTIONS

52. This above section has elaborated the various key AU instruments on democracy, peace and security in Africa. The following section focuses on key AU instruments dealing with credible elections. Almost all the above-mentioned AU instruments on democratic governance cover aspects of elections emphasizing the value of elections to democracy, peace, and political stability. In addition, there are specific instruments that outline the AU commitment to holding credible, transparent, and legitimate elections. These instruments are important because experience has shown that the mere act of holding regular election, while good in and of itself may

not be enough as an indicator of 'democraticness' of a country. In a word, elections alone do not always promote democracy, peace and political stability. There is dire need to emphasise the quality of these elections to democracy, political stability and peace. While in a majority of countries, elections lead to democratization, stability, peace and security, in others they have triggered political instability, violence and war.. The AU member states need to create a climate in which elections are a political asset rather than a liability to democratic governance, peace, and security.

53. It is, therefore, becoming clear that while the holding of regular elections is a critical indicator of progress on democracy in Africa, the regularity and frequency of elections on its own is inadequate as a measure of democratic advancement. Besides regularity and frequency, there is need to ensure that the election process itself is transparent, all-inclusive, consultative, impartially managed and credible. The outcome must also be acceptable, legitimate, and collectively owned by all key stakeholders. The rules of the game must be known and widely accepted by all the stakeholders. The results of elections must not be known in advance. Knowing the procedures well and not knowing the results in advance is what some have referred to as procedural certainty and substantive uncertainty. According to some scholars, in order to ensure the quality of elections, electoral governance must be predicated upon procedural legitimacy and certainty, while at the same time guaranteeing substantive uncertainty. As they aptly opine.

“The close association between procedural legitimacy and substantive uncertainty poses the paradoxical challenge “institutionalizing uncertainty” (...). The paradox is that substantive uncertainty requires procedural certainty. It is this paradox that defines the central task of electoral governance: organizing electoral uncertainty by providing institutional certainty. Distinguishing between substantive and procedural uncertainty enables a more nuanced understanding of variations in political actors’ risk-aversion. Authoritarian and democratic actors, for instance, exhibit different attitudes towards uncertainty. While the former attempt to reduce the uncertainty of outcomes, the latter attempt to reduce the uncertainty of institutional rules”.

54. Democracy scholars and activists alike agree that if electoral governance is to be adequately democratized, there is dire need for institutionalisation of procedural certainty and substantive uncertainty. It is under conditions of transparency of the rules and procedures and uncertainty of election results that elections are most likely to produce legitimate and acceptable outcomes. To this end, the AU has invested considerable efforts in developing norms, standards, principles, and guidelines governing elections in Africa in the recent past. The two key ones are: (a) OAU/AU Declaration Governing Democratic Elections in Africa, July 2002; and (b) Guidelines for African Union Electoral Observation and Monitoring Missions, July 2002;

d) *The OAU/AU Declaration Governing Democratic Elections in Africa*

55. The OAU/AU Declaration was adopted during the Heads of State and Government Summit held in Durban in 2002. Through the Declaration, AU member states accepted the reality that (a) democratic elections are the basis of the authority

of any representative government; (b) regular elections constitute a key element of the democratization process and therefore are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development; and (c) the holding of democratic elections is an important dimension in conflict prevention, management and resolution. The Declaration further commits AU member states to elections that are conducted:

- freely and fairly;
- under democratic constitutions and in compliance with supportive legal instruments;
- under a system of separation of powers that ensures in particular the independence of the judiciary;
- at regular intervals, as provided for in National Constitutions; and
- by impartial, all-inclusive competent accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics.

e) The Guidelines for African Union Electoral Observation and Monitoring Missions

56. The Guidelines for African Union Electoral Observation and Monitoring Missions were also adopted in Durban during the Summit of Heads of State and Government of 2002. The guidelines are meant to facilitate the implementation of some of the key aspects of the Declaration Governing Democratic Elections in Africa. Through the guidelines, AU Member States recognize that electoral observation and monitoring have “become an integral part of the democratic and electoral processes in Africa. International, regional and national observers have come to play important roles enhancing the transparency and credibility of elections and democratic governance and the acceptance of election results throughout the continent. Electoral observation and monitoring missions can also play key roles in diminishing conflicts before, during, and after elections” (AU, 2002b:1). Prior to sending a full-fledged mission, the AU dispatches an assessment team to a country holding elections. It is upon the assessment by this pre-election mission that will advise on the nature and mandate of the AU electoral mission. Such a mission could then take one or more of the following forms: (a) observation; (b) monitoring; (c) mediation; (d) technical assistance; and/or (e) supervision and Audit.

57. The AU dispatches Election Observation and Monitoring Missions to observe elections organized by member states provided an invitation to observe elections is received two months ahead of the poll. With a view to ascertaining conditions for electoral contest and the degree to which there exists a level playing field, AU observers investigate the extent to which an election conforms to the AU Declaration on Principles Governing Democratic Elections⁴. The invitation by AU member states

⁴ In accordance with the Guidelines for AU Electoral Observation and Monitoring Missions, some of the key issues that AU missions investigate include (i) does the constitution and legal framework guarantee fundamental freedoms and human rights?; (ii) is the electoral system premised on the right

to the AUC to observe elections still remains a contentious issue. The dilemma here is as follows (a) should the AU simply prepare a calendar of forthcoming elections in a particular year and make plans to observe such polls? Or (b) should the AU still leave the decision whether or not to observe an election to individual states?

58. The Constitutive Act of the AU is an unequivocal statement of its commitment to peace and democratic governance. All the 53 members of the AU have signed and ratified the Constitutive Act as a clear sign of their commitment to implementing its core objectives and principles as enshrined in articles 3 & 4. The spirit of the Constitutive Act is reinforced by other documents and initiatives that demonstrate the AU's firm conviction that democratic governance is a critical condition for democracy, peace and development. It is within this framework that the significance of such initiatives as the CSSDCA and the African Charter on Democracy, Elections and Governance should be understood. These initiatives have been adopted by the AU and it is, therefore, imperative that AU member states translate the democratic principles enshrined in the CSSDCA and the African Charter on Democracy, Elections and Governance into practice.

59. In relation to elections specifically, the AU also recognizes that depending on how they are organised as well as the nature of the political landscape in which they are organized, elections could either enhance democratic governance, peace, security and political stability or undermine democracy and development by fuelling violent conflicts and destabilizing political systems. This is why the progress towards institutionalized democracy and sustainable peace can no longer be measured merely by the regularity of elections without due consideration of the quality of these elections. It was this concern with balancing the regularity and quality of elections that prompted the AU to adopt the Declaration on the Principles Governing Democratic Elections in Africa and the Guidelines for AU Electoral Observation and Monitoring Mission in 2002.

60. Despite the adoption of the various principles, protocols, and declarations on democracy, the AU still faces enormous challenges in its efforts to promote democratic governance and credible elections. These include the following:

- The AU's agenda in building and promoting democratic governance, peace and credible elections is well-defined and anchored on the Constitutive Act, but there has not been appreciable movement towards implementation at national, sub-regional and continental level;

to freedom of association and enables people to advance this right through the formation of political parties for the purpose of electoral competition?; (iii) is the electoral commission independent and impartial, and exercise its powers and perform its functions without fear, favor or prejudice?; (iv) are rights of observers guaranteed?; (v) is it likely that the security forces will maintain a neutral role in the provision of election security?; (vi) is the situation in the country generally peaceful or is there political violence?; (vii) are there clearly articulated rules for political party funding to be respected by all parties and candidates?; (viii) is voter education provided in a non-partisan, independent and coordinated manner throughout the whole country? (ix) Will there be equitable use or access to public resources for election campaign?; (x) is the registration of voters undertaken without discrimination on the basis of gender, race, religion, region or ethnicity?; (xi) does an independent media authority responsible for monitoring and regulating the media to allow equitable access to the public media by all parties and candidates?

- The lack of implementation of the AU agenda on democratic governance and peace creates a gap between its declarations and the political practices of member states. This leads to lack of congruence between agreed principles and government policies and actions;
- Until all AU member states embrace the various democracy initiatives including the CSSDCA, NEPAD, APRM and the African Charter on Democracy, Elections and Governance, these instruments will not nurture and consolidate democracy, peace, stability and constructive management of conflicts;
- The extent to which the Declaration on Principles Governing Democratic Elections in Africa are stringently adhered to by all AU member states still remains contentious. For instance some AU member states invite the AU to observe their elections, while other do not, pointing to inconsistency in the application of the Declaration;
- The AU election observation and monitoring missions exhibit gaps in their capacity and rigour in playing their expected roles with efficiency and effectiveness. This problem needs urgent attention in view of the various elections that the AU intends to observe in 2009;
- One of the major contentious issues that has also contributed to the emergence of protracted violent conflicts following elections in Africa relates to the nature and role of EMBs due, in large measure, to the perception that they lack impartiality and independence and that they do not execute their mandates with professionalism and integrity.

V. THE ROLE OF THE AU IN THE PREVENTION, MANAGEMENT AND RESOLUTION OF ELECTION-RELATED CONFLICTS AND POLITICAL VIOLENCE

61. The AU has put in place various organs and structures whose mandate includes the prevention, management, and resolution of conflicts including election-related disputes. Conflict prevention and preventive diplomacy apply to situations where the conflict is still in its embryonic stage and measures are taken to contain its escalation. Conflict management applies when a conflict has already occurred and is beginning to escalate, but measures are put in place to reduce the intensity of violence associated with such conflict. Conflict resolution applies in a situation where a conflict situation is transformed into peace-building through, for instance, post-conflict reconstruction and development programmes. It is important to appreciate these three dimensions of dealing with conflict because election-related conflicts are not only confined to polling day or voting stage of the electoral process. Election-related conflicts may occur in all the phases of the election cycle namely (a) pre-voting stage, (b) voting stage and (c) post-voting stage. This suggests that any strategy that aims at effectively dealing with electoral conflicts should be more long-

term, than short-term, and should be more systematically planned than being reactive and ad-hoc. It is imperative that the AU invests adequate resources in dealing with pre-election root-causes of conflict so that disputes are dealt with well in advance of elections, while also positioning itself strategically to pre-empt conflicts during and after the elections.

(i) THE AU FRAMEWORK AND APPROACH REGARDING ELECTION-RELATED CONFLICTS

62. The AU framework and approach to election-related conflicts is five-pronged namely (a) Early Warning and Preventive Diplomacy; (b) Election Observation and Monitoring; (c) Post-Election Mediation; (d) Technical and Governance Assistance; and (e) the Post-Conflict Reconstruction and Development (PCRD).

a) Early Warning System and Preventive Diplomacy

63. The early warning system is crucial in efforts to pre-empt election-related conflicts. Early signs of political tension in a country ought to be detected allowing the AU to intervene rapidly to forestall political crisis through preventive diplomacy. This is crucial because the root causes of election-related conflicts are often traceable to already existing socio-economic and political tensions within countries which tend to get accentuated during elections. For instance, in some African countries, elections may lead to conflict and political violence due to acute socio-economic inequality, politicized ethnic, religious or racial diversity. In others, elections may trigger violent conflict because there are deep-seated political tensions among the political contestants, especially political parties themselves, with adverse repercussions for peace, security and political stability. It is in this context that pre-election fact-finding missions and pre-election assessment missions by the AU to countries holding an election are important.

64. As part of preventive diplomacy, the Peace and Security Council (PSC) and the Department of Peace and Security of the AU need to play a much more proactive role than is presently the case. For its part, the PSC has to more effectively operationalise the Continental Early Warning System (CEWS) and facilitate timely and strategic intervention by the Panel of the Wise.

b) Continental Early Warning System (CEWS)

65. Article 12 of the Protocol Relating to the Establishment of the Peace and Security Council of the AU provides for the establishment of the Continental Early Warning System whose primary purpose is the “provision of timely advice on potential conflicts and threats to peace and security to enable the development of appropriate response strategies to prevent or resolve conflicts in Africa” (Framework for the Operationalisation of the CEWS, 2006:2). The CEWS consists of:

- An observation and monitoring centre known as “The Situation Room”, located at the Conflict Management Directorate of the Union, and responsible for data collection and analysis on the basis of an appropriate early warning indicators module (Protocol Relating to the

Establishment of the Peace and Security Council of the AU, Article 12a); and

- Observation and monitoring units of the Regional Mechanisms to be linked directly through appropriate means of communications to the Situation Room, and which shall collect and process data at their level and transmit the same to the Situation Room (Protocol Relating to the Establishment of the Peace and Security Council of the AU, Article 12b)

66. Since 2006, sustained efforts have been made to operationalize the CEWS. However, much more needs to be done to ensure that the CEWS effectively deals with election-related conflicts. During the brainstorming retreat between the AU and the Regional Mechanisms for Conflict Prevention, Management and Resolution held in Algiers, Algeria, on 5-6 January 2008, participants raised a concern about the resurgence of election-related conflict and political violence in the recent past. The Declaration emanating from this retreat aptly states that “this situation has not only the potential of endangering stability, but also that of undermining the democratic processes initiated in the continent in accordance with relevant OAU/AU instruments” (Declaration of the Brainstorming Retreat Between the African Union and the Regional Mechanisms for Conflict Prevention, Management and Resolution, 2008:3). In order to deal with pre-election tension and avoid escalation of conflict into outright violence, the Declaration recommends that the PSC should:

- Improve monitoring of potential developments in the countries concerned during the pre-election phase, including through the early warning systems;
- Strengthen election observation by deploying missions with adequate strength ahead of the election, with a view to having a more comprehensive view of the situation and making, if need be, recommendations to the stakeholders to guarantee the transparency of the electoral process;
- Effectively combine the resources of the AU and the competent regional organizations, including the deployment of joint evaluation and electoral observation missions;
- Undertake, whenever required, preventive deployments of peace support operations; and
- Ensure that Africa, through the missions deployed on the ground, is in a position to speak with one voice, with the necessary authority and objectivity, on the transparency of the electoral processes and ensure that these processes are fully owned by Africa (Declaration of the Brainstorming Retreat Between the African Union and the Regional Mechanisms for Conflict Prevention, Management and Resolution, 2008:3-4).

67. The challenge for containing electoral conflicts in Africa is not merely confined to early warning in terms of information gathering and analysis. It extends further to

timely and effective interventions. This is where the Panel of the Wise becomes extremely strategic and relevant.

c) *The Panel of the Wise*

68. Article 12 of the Protocol Relating to the Establishment of the Peace and Security Council of the AU provides for the establishment the Panel of the Wise as a structure meant to provide strategic support to the PSC and the Chairperson of the AUC in areas of conflict prevention, management, and resolution. Comprising five respected African personalities of high integrity and independence with an outstanding contribution to peace, security and development in Africa, selected by the Chairperson after consultations with member states concerned, the Panel primarily advises the PSC and AUC Chairperson on issues relating to the promotion and protection of peace and security in Africa. It undertakes activities aimed at supporting the efforts of the PSC and the AUC Chairperson in the implementation of the AU peace and security architecture and pronounces itself on any issue pertaining to the promotion of peace and security. According to the Modalities for the Functioning of the Panel of the Wise adopted by the PSC on 12 November 2007, the overall mandate of the Panel is as follows:

- Advise the PSC and/or the Chairperson of the Commission on all matters within their respective competencies pertaining to the promotion and maintenance of peace, security and stability in Africa;
- Facilitate the establishment of channels of communication between the Council and the Chairperson of the Commission, on one hand, and parties engaged in a dispute, on the other hand, in order to prevent such disputes from escalating into conflict;
- Carry out fact-finding missions as an instrument of conflict prevention in countries and/or regions where the Panel considers there is a danger of conflict either breaking out or seriously escalating;
- Conduct shuttle diplomacy between parties to a conflict in cases where parties are not ready to engage in formal talks;
- Encourage parties, where appropriate, to engage in political dialogue, adopt confidence-building measures, and carry out reconciliation processes, and facilitate such efforts, where appropriate;
- Assist and advise mediation teams engaged in formal negotiations;
- Assist and advise parties on how to resolve disputes related to implementation of peace agreements; and
- Develop and recommend ideas and proposals that can contribute to promoting peace, security and stability on the continent (Modalities for the Functioning of the Panel of the Wise adopted by the PSC on 12 November 2007).

69. To deal with key challenges facing peace and security, the Panel has adopted a strategy of focusing on a key thematic area of reflection relevant to conflict prevention per year that will inform most of its strategic interventions. During its second meeting held in Addis Ababa on 17 July 2008, the Panel exchanged views on peace and security landscape in the continent highlighting the main challenges. On the basis of these deliberations, the Panel decided that the key thematic area of reflection for 2008 is the prevention, management and resolution of election-related conflicts and tension.

70. The Panel of the Wise is strategically positioned to play a meaningful role in assisting the PSC and the Chairperson of the AUC to use preventive diplomacy in forestalling election-related disputes with a view to containing political tensions from escalating into outright violence.

71. The AU needs to strengthen further its intervention strategies to ensure that election-related conflicts are resolved amicably and in this regard recognizing the central role of the Department of Political Affairs through its Democracy and Electoral Assistance Unit and the Peace and Security Department through the Panel of the Wise. The early warning mechanism must be used more effectively to assess pre-election environment with a view to make a determination that an election will not lead to violence and political instability. AU pre-election assessment missions and the Panel of the Wise should be used strategically to pre-empt pre-election conflicts.

72. As part of its preventive diplomacy role, the Panel of the Wise should play a distinctive role in dealing with election disputes. Depending on the conflict situations of AU Member States holding elections, the Panel of the Wise could play an important role in the prevention, management and resolution of election-related conflicts through the following interventions:

- fact-finding missions;
- good offices missions;
- undertaking and/or supporting AU mediation initiatives;
- providing assistance and advice to national reconciliation efforts aimed at resolving disputes and restoring political stability;
- supporting the Chairperson and the PSC in their effort to prevent, manage and resolve election-related conflicts by issuing communiqués on current conflict situations, offering advice on specific conflict situations and submitting recommendations to the Chairperson and the PSC on appropriate course of action for a resolution of a specific election-related political impasse

(ii) ELECTION OBSERVATION AND MONITORING

73. Election observation and monitoring plays an important role in ensuring the credibility of elections, transparency, and integrity of the electoral process and legitimacy of the outcome by key electoral stakeholders. To this end, election observation and monitoring constitutes part of the tools for conflict prevention, management and resolution in countries holding elections, and especially countries experiencing, and/or emerging from, violent conflicts.

74. Election observation refers to information gathering or on-site fact-finding aimed at assessing the credibility, the legitimacy and transparency of the electoral process. It is often carried out by external agencies, which are not entitled to intervene in the voting and counting operations. Monitoring refers to information gathering, examination, and evaluation of the electoral process often carried out by national civil society agencies which are also able to interfere and correct identified deficiencies in election management, without unduly interfering with the election administration, which is the sole jurisdiction of the election management body.

75. The African Union has developed a framework for election observation and monitoring which has been used since 2002. This framework includes (a) the 2002 Declaration on the Principles Governing Democratic Elections in Africa; (b) the 2002 Guidelines for Election Observation and Monitoring Missions; and the 2007 African Charter on Democracy, Elections and Governance. All election observer missions of the AUC and the Pan-African Parliament are guided by these three instruments. Regional Economic Communities (RECs) have also developed their own norms, standards and guidelines for election observation such as the Principles and Guidelines Governing Democratic Elections adopted by the Southern African Development Community (SADC) in 2004⁵. As early as 2001, the Economic Community of the West African States (ECOWAS) adopted the Protocol on Democracy and Good Governance Supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management and Resolution, Peacekeeping and Security which aims to ensure that member states entrench democratic culture and practices under conditions of political stability⁶.

⁵ The principles commit SADC member states to the following best practices in election management and democracy building: (a) full participation of the citizens in the political process; (b) Freedom of association; (c) Political tolerance; (d) Regular intervals for elections as provided for by the respective National Constitutions; (e) Equal opportunity for all political parties to access the state media; (f) Equal opportunity to exercise the right to vote and be voted for; (g) Independence of the judiciary and impartiality of the electoral institutions; (h) Voter education; (i) Acceptance and respect of the election results by political parties proclaimed to have been free and fair by competent National Authorities in accordance with the law of the land; and (j) Challenge of the election results as provided for in the law of the land.

⁶ The Protocol provides that, among others, (a) the preparation and conduct of elections and announcement of results shall be done in a transparent manner; (b) adequate arrangements shall be made to hear and dispose of all petitions relating to the conduct of elections and announcement of results; (c) the party and/ or candidate who loses the elections shall concede defeat to the political party and/or candidate finally declared winner, following the guidelines and within the deadline stipulated by law; (d) all holders of power at all levels shall refrain from acts of intimidation or harassment against defeated candidates or their supporters; and (e) the use of arms to disperse non-violent meetings or demonstrations shall be forbidden. Whenever a demonstration becomes violent, only the use of minimal and/or proportionate force shall be authorized.

76. Since the 1990s, the AUC has observed close to 200 elections in a majority of the 53 Member states through the coordination of the Department of Political Affairs. It should be noted that all AU observation and monitoring missions are dependent upon a formal invitation by the country holding an election which must reach the AUC at least two months before the election day. This essentially means that whether the AU observes an election is the sole discretion of the Member State concerned. If the Member State does not invite the AU, then the AU has no obligation and responsibility to send observers. It is important to question whether the AU should observe all elections in Africa or whether it should retain this invitational approach to election observation.

77. In accordance with provisions of the African Charter on Democracy, Elections and Governance, upon receiving a formal invitation from an AU member state, the Chairperson of the Commission shall “send an exploratory mission during the period prior to elections. This mission shall obtain any useful information and documentation, and brief the Chairperson, stating whether the necessary conditions have been established and if the environment is conducive to the holding of transparent, free and fair elections in conformity with the principles of the Union governing democratic elections” (Article 20).

78. The pre-election assessment team assesses the political landscape and other technical aspects of the election in advance of polling day and through its report, advises the Chairperson of the Commission on the scope and mandate of the AU mission. The scope may include one or a combination of the following:

- Observation, which involves gathering information and making an informed judgement;
- Monitoring, which involves the authority to observe an election process and to intervene in that process if relevant laws or standard procedure are being violated or ignored;
- Mediation, that is third-party intervention in electoral disputes, directed at assisting disputants to find mutually acceptable outcomes and solutions to the electoral disputes;
- Technical Assistance, which generally takes the form of technical support and advice to the Electoral Commission; and
- Supervision and Audit, which involves the process of certifying the validity of all or some of the steps in election processes either prior to or after the election has taken place (Guidelines for AU Electoral Observation and Monitoring Missions, 2002:6).

79. Of all the five possible mandates of the AU missions, only the first one (i.e. observation) has now become an entrenched norm, although this is still dependent upon an invitation and thus not compulsory on Member States. Only recently has the AU begun a process of mediation in election-related disputes (e.g. Kenya in 2008) with encouraging results. The other three aspects of AU missions as envisaged in the

AU Guidelines (namely, monitoring, technical assistance and supervision and audit) have not yet been implemented in any systematic fashion. Now that the Department of Political Affairs has established the Democracy and Electoral Assistance Unit (DEAU)⁷ and the Democracy and Electoral Assistance Fund (DEAF)⁸, the AU should strive to implement all the five aspects of its electoral missions as envisioned in the 2002 Guidelines for AU Electoral Observation and Monitoring Missions.

80. Prior to sending an election observation mission, the AU must ensure that it has:

- Adequate lead-time for preparations;
- Availability of essential planning information;
- Availability of professional expertise; and
- Financial and other resources (Guidelines for AU Electoral Observation and Monitoring Missions, 2002:3).

81. In observing elections, AU missions aim to promote the integrity of the electoral process and legitimacy of its outcome by investigating the extent of the level playing field for all the contestants (mainly political parties). Some of the key questions that the missions aim to determine include whether the general political situation in a country is peaceful or marked by political tension. If the political situation is characterized by political tension, the mission has to assess the role of security forces in maintaining neutrality and impartiality. It is the duty of the missions to defuse political tension and promote peaceful elections. This is why the Guidelines themselves proclaim that “electoral observation and monitoring missions can also play key roles in diminishing conflict before, during and after elections” (Guidelines for AU Electoral Observation and Monitoring Missions, 2002:1).

⁷ The DEAU is the unit in charge of all election-related initiatives and programmes of the African Union including the main five intervention areas spelled out in the Guidelines especially (a) observation, (b) monitoring, (c) technical assistance, and (d) supervision and audit. It has a staff complement of about 3 people and its 2008 programme has six elements namely (i) election observation, (ii) coordination of Election Management Bodies (EMBs) in Africa, (iii) technical assistance to national EMBs, (iv) improving quality of electoral processes, (v) resource mobilization through the Democracy and Electoral Assistance Trust Fund and (vi) development of a data-base of experts on elections and democracy in Africa. The Unit is still fairly new and is yet to be firmly established and deliver on its programme. The Unit is also weak in terms of its staff complement and other requisite resources to implement the above six-point programme.

⁸ The main objectives of the Democracy and Electoral Assistance Trust Fund include (a) the enhancement of the capacity of the African Union to support national and regional initiatives to build and sustain democratic processes, entrench government accountability and promote the transparency and accountability of state institutions; (b) Supporting national electoral processes that contribute to the holding of regular, free and fair elections in accordance with internationally recognized standards; and (c) Supporting regional and national capacity building of electoral management bodies, regional forums and networks to manage and oversee democratic electoral processes and electoral observation missions.

82. For AU election observation missions to enhance their effectiveness, especially in preventing and mitigating election-related conflicts, the following strategies should be considered:

- Enhance the capacity of the DEAU to plan, organize and coordinate AU electoral missions;
- Mobilisation of financial resources through DEAF to ensure that the AU is capable of providing requisite resources for its missions;
- Ensure smooth coordination of efforts between electoral missions coordinated by the Department of Political Affairs and election-related strategic interventions by the Panel of the Wise;
- AU missions must ensure the right balance between short-term and long-term observation; and
- The AU missions ought to ensure, in a more systematic and coordinated fashion, synergies and complementarities between their efforts and those of the RECs in election observation.

(iii) MEDIATION OF POST-ELECTION DISPUTES

83. Since the recent past, elections in Africa have tended to trigger enormous controversy with contestants disputing outcomes and losers not only by rejecting election results, but also resorting to violent means of expressing their dissatisfaction. Ideally, elections are supposed to ensure democratic governance and facilitate peace and political stability. Democracy cannot prevail and become sustainable if peace and political stability are non-existent. By the same token, under conditions of protracted violent conflict, war and political instability, socio-economic development is impossible. Africa's diverse societies are often conflict-prone and such conflicts threaten nation-building and social harmony. Whereas these conflicts occur all the time, they tend to be exacerbated during elections. This is because elections entail political contestation over the control of the state and the stakes in such contestation tend to be too high. In some instances, ballots are disregarded as contestants quickly resort to bullets to capture state power. In these situations, the victims are often the ordinary citizens who get caught in the cross-fires of feuding politicians.

84. It is imperative that elections are transformed into conflict management tools and instruments rather than triggers for violent conflict, war, and political instability. Effective conflict management structures should be established to ensure that electoral disputes are handled amicably and dealt with early enough before they escalate into violent conflict. Furthermore, given the socio-economic, religious, ethnic and gender cleavages that mark the diversity of African societies, power-sharing arrangements (at both national and sub-national levels) should be institutionalised so as to transform politics from a zero-sum game into positive-sum game.

85. It is the prevalence of violent post-election conflicts that the AU has a mandate to intervene in these conflicts through mediation. The AU-facilitated third-party mediation is important in managing conflicts and de-escalating political violence. As indicated earlier, the AU Guidelines for Elections Observation and Monitoring Missions provide for AU mediation in election disputes. The most exemplary and successful AU experience in mediating post-election conflict was witnessed during the post-election political crisis in Kenya in 2008. The mission was led by the former General Secretary of the United Nations, Kofi Anan.

(IV) TECHNICAL AND GOVERNANCE ASSISTANCE

86. This is an area where the AU has not yet been very effective. It is anticipated that with the establishment of the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Trust Fund, assistance will be provided in a more systematic manner and on a more sustainable basis with a view to enhance the institutional capacity of key governance institutions of the AU member states. The 2002 Guidelines for Election Observation and Monitoring Missions and the 2007 African Charter on Democracy, Elections, and Governance recognize this role for the AU in relation to strengthening capacity of electoral authorities in managing elections. Article 18 sub-sections 1 of the Charter states that “State Parties may request the Commission, through the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Fund, to provide advisory services or assistance for strengthening and developing their electoral institutions and processes. It is complemented by Article 18 sub-section 2 which states that “the Commission may at any time, in consultation with the State Party concerned, send special advisory missions to provide assistance to that State Party for strengthening its electoral institutions and processes”. AU Technical Assistance in the democracy and governance field in Africa ought to focus on enhancing the capacity of the following institutions (a) Election Management Bodies; (b) Political Parties; and (c) Civil Society Organisations.

87. More AU technical and governance assistance ought to focus principally on the EMBs with a view to assist these bodies to:

- Manage all the aspects of the elections more effectively⁹;
- Prevent, manage and resolve election-related conflicts before they spiral into political violence;
- Undertake voter and civic education;

⁹ The broader context of the electoral process includes: (a) the Electoral System; (b) the Party System; (c) The Constitutional and Legal System; and (d) Election Management Bodies. Within this context, there are about nine (9) major steps through which an electoral process unfolds including: (i) Voter and civic education; (ii) Demarcation of boundaries; (iii) Voter registration and management of the voters’ roll; (iv) Candidate nomination; (v) Political campaign; (vi) Polling; (vii) Counting and tabulation; (viii) Dispute management; and (ix) Election results management.

- Effectively enforce the code of conduct;
- Support electoral reforms.

88. Besides, the enhancement of the institutional capacity of EMBs, AU Member States must be implored to develop the institutional capacity and democratic culture of political parties. If political parties lack internal democracy and their inter-party relations are marked by intolerance and disregard for electoral rules and the code of conduct, they may contribute to political tension which may trigger election-related conflicts either before, during, or after the elections. Furthermore, civil society organizations, including faith-based organizations, should be supported in their various efforts to inculcate democratic culture, especially in voter education, civic education and conflict management initiatives.

(v) POLICY ON POST-CONFLICT RECONSTRUCTION AND DEVELOPMENT (PCRD)

89. During its Head of State and Government Summit held in Banjul, The Gambia, in July 2006, the AU adopted the Policy on Post-Conflict Reconstruction and Development (PCRD). The PCRD is intended to serve “as a guide for the development of comprehensive policies and strategies that elaborate measures that seek to consolidate peace, promote sustainable development, and pave the way for growth and regeneration in countries and regions emerging from conflict” (AU, 2006:1). This policy is timely because while Africa has made considerable progress in the reduction of inter-state conflicts, intra-state conflicts still bedevil the continent. Of the intra-state conflicts, election-related conflicts are increasingly becoming a major governance challenge. The overall goal of the Policy is “to improve timeliness, effectiveness and coordination of activities in post-conflict countries and to lay the foundation for social justice and sustainable peace” (AU, 2006:3). This policy is conceived as a tool for: (a) consolidation of peace and prevention of violence; (b) dealing with the root causes of conflicts; (c) encouraging and fast-tracking planning and implementation of reconstruction activities; and (d) enhancing complementarities and coordination between and among diverse actors in PCRD processes (AU, 2006:3). The PCRD has six main components namely:

- Security;
- Humanitarian/Emergency Assistance;
- Political Governance and transition;
- Socio-economic reconstruction and development;
- Human Rights, Justice and Reconciliation; and
- Women and Gender.

90. In all the six components, the PCRD provides best practices and benchmarks of for achieving the overall goal stated above. With specific reference to political

governance, PCRDR encourages principles such as dialogue, consensus-building, participation, visionary leadership, constitutionalism, rule of law and provides benchmarks for their attainment. With regard to human rights, justice and reconciliation, the PCRDR exhorts AU Member States to promote and protect human rights of their peoples; guarantee and protect women's rights; establish national structures that promote human rights such as national commissions; ensure access to justice; embark on justice reforms to ensure the independence of the judiciary as well as professionalization and efficiency of delivery of justice; total rejection of impunity; encouragement of national reconciliation and harmony and guaranteed opportunities for the use of traditional mechanisms of reconciliation and justice in line with national laws and other human rights instruments. With respect to women and gender, the PCRDR commits AU member states to gender equality in line with the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa¹⁰ and the United Nations Security Council Resolution 1325. The PCRDR provides for women's participation in conflict prevention, management and resolution; women's representation in peace negotiations and their implementation; creation of gender focal points to ensure that gender is mainstreamed through all PCRDR activities.

VI. CONCLUSION AND RECOMMENDATIONS

91. Dealing with election-related conflict and political violence is the collective responsibility of national, sub-regional, and continental institutions. Although international assistance is equally essential, it is important to recognize that the singular objective of fostering African capacity and ownership for conflict resolution and problem solving should begin with endogenous African initiatives. It is in this respect that leadership by the AU is germane to developing modalities that strengthen existing institutions and values around electoral processes, democratic governance, and consolidation of peace. Since elections are a costly democratic exercise, African Union member states should also make deliberate efforts to

¹⁰ This Protocol was adopted on 11 July 2003 during the AU Heads of State and Government Summit held Maputo, Mozambique. It exhorts AU Member States to, inter alia, include in their national constitutions and legislative frameworks the principle of gender equality and ensure its effective application; integrate gender perspective in their policy decisions, legislation, development plans, programmes and activities; take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist; and support local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women. In respect of good governance, the Protocol provides for the promotion of participative governance and equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that: (i) women participate without any discrimination in all elections; (ii) women are represented equally at all levels with men in all electoral processes; and (iii) women are equal partners with men at all levels of development and implementation of State policies and development programmes. In relation to the women's right to peace, the Protocol further provides that State Parties should take appropriate measures to ensure the increased participation of women in: (a) programmes of education for peace and a culture of peace; (b) structures and processes for conflict prevention, management and resolution at local, national, regional, continental and international levels; (c) decision-making structures to ensure protection of asylum-seekers, refugees, returnees and displaced persons in particular women; (d) structures established for the management of camps and settlements for asylum seekers, refugees, returnees and displaced persons, in particular women; and (e) all aspects of planning, formulation and implementation of post-conflict reconstruction and rehabilitation. At the time of writing this report, of the 53 AU Member States, only 40 had signed this Protocol of which only 18 had ratified it. The Protocol entered into force on the 25th November 2005.

shoulder the largest burden of the costs of elections with international partners' contribution where need be.

92. As this report has shown, since the 1990s, the AU has advanced and articulated significant principles, structures, and instruments to guide the conduct of elections and democratization in Africa. These standards have also been widely embraced by AU Member States in what has become a collective exercise in self-reinforcement of democratic norms and values of participation, transparency, and accountability. That latest of these instruments is the 2007 African Charter on Democracy, Elections and Governance which has thus far been signed by only 24 member states and ratified by only two member states. Also vital, parliaments at national levels and regional institutions have adopted and ratified several fundamental provisions that relate to deepening democracy in Africa. While there is still more to be done in the ratification of core continental charters on democracy, what has been achieved so far is impressive in light of Africa's cultural and political diversities. Additionally, at the sub-regional level, various Regional Economic Communities (RECs) have adopted a number of instruments aimed at deepening democracy and ensuring the integrity, credibility and transparency of elections.

93. In accordance with the objective of strengthening the role of the AU in the prevention and management of electoral conflicts and political violence, the recommendations in this report proceed from three basic assumptions. First, marked progress has been realized in enshrining democratic principles, rules, and best practices pertaining to the conduct and organization of free and fair elections across Africa. The widespread domestication of democratic standards means that there is need for renewed commitment and determination to implement existing charters, statutes and declarations. In this regard, there is need to reinvigorate political will by member states to meet obligations that dovetail with prevailing African values and expectations. Second, continental reform initiatives such as the APRM have recently acknowledged that gaps and loopholes do exist in Africa's electoral architecture and mechanisms that need to be addressed to boost their efficacy and legitimacy. The upsurge of electoral violence is an opportune moment for the AU to reiterate and clarify existing electoral mechanisms and structures and at the same time chart a clear course to strengthen institutions and arrangements that undergird electoral governance. Third, since not all elections in Africa lead to political violence and conflicts, it is important for intervention mechanisms to be tailored toward countries where elections may exacerbate violence. In managing future instances of political and electoral violence, external actors, particularly the AU, RECS, and international partners need to craft measures that prioritize countries that are prone to problematic elections. All the AU institutions, including the Panel of Wise, have a complementary role to play in the articulation and implementation of measures to manage electoral violence.

94. The recommendations are grouped under six main clusters: (a) Preventive and Early Warning Mechanisms; (b) Electoral Governance and Administration; (c) AU's coordination of Electoral Assistance; (d) Post-Election Conflict Transformation Mechanisms; and (e) International Cooperation and Partnerships; and (f) Strategic Interventions by the Panel of the Wise. Before delving into the specific recommendations in respect of each one of the clusters outlined above, our general recommendations are:

- AU member states have to scrupulously strive to implement the recommendations of the various declarations aimed at entrenching democracy, peace and human rights including the CSSDCA;
- AU member states have to sign, ratify and domesticate the African Charter on Democracy, Elections and Governance adopted in 2007;
- The Panel of the Wise has a major responsibility to intervene in efforts by the AU to prevent, manage and resolve election-related conflicts and political violence in collaboration with other AU organs and other existing panels of the elders.

(i) CLUSTER I: PREVENTIVE AND EARLY WARNING MECHANISMS

95. It is critical for all institutions of the AU (particularly the Department of Peace and Security and the Department of Political Affairs) to invest in preventive and early warning mechanisms geared toward countries that have a history of electoral violence or reveal signs of erupting into conflicts because of competition occasioned by political contestation and elections. Since most of the work in the electoral cycle occurs in the pre-voting stage, in countries facing the danger of lapsing into electoral violence, there needs to be adequate diplomatic and preparatory initiatives that ensure that such countries can hold competitive and peaceful elections. The wealth of socioeconomic and political information on African countries generated by the APRM, the AU Situation Room, academic and policy research, and media reports should form part of the collective knowledge that informs decisions about potential electoral hotspots. Without identifying potential problem countries, it would be impossible for the AU to develop meaningful preventive measures that reflect the uniqueness and peculiarities of each country. In the face of severe constraints on resources, it is important for the AU to evolve strategic interventions measures that focus on countries in need.

96. As part of the preventive and early warning mechanisms, the AU should:

- Strengthen its information capacity with respect to potential electoral hotspots; this would entail tapping into and drawing from the information available from agencies such as the APRM, the PSC, DPA, RECS early warning systems, and other organizations, such as the Former Heads of State Forum based in Pretoria, South Africa;
- Develop an annual roster and typology of forthcoming elections in Africa to determine countries that may require close monitoring and deployment of preventive resources to avoid the occurrence of contentious elections;
- Prioritize the countries that require urgent attention to mitigate potential problems;

- Priority should be given to deployment of pre-election assessment teams with a clear mandate to assess both the technical preparedness of electoral stakeholders and the overall political climate for elections and to promote dialogue among contestants as well as suggesting, where need be, whether or not an election should be held or postponed to an appropriate later date.

(ii) CLUSTER II: ELECTORAL GOVERNANCE AND ADMINISTRATION

97. Electoral governance and administration are embedded in wider constitutional rules that define and delineate political competition over state power in each AU member state. These rules are, in turn, influenced by the social, cultural, demographic matrixes that characterize various African countries. Recent experiences in electoral violence and political conflict reflect unresolved questions of constitutional design arrangements among Africa's diverse societies. While Africa's electoral systems should reflect regional, ethnic, and demographic needs and variations, the pattern of high stake winner-takes-all electoral systems seem to be one of the major causes of violence and political instability. Africa should make deliberate efforts to progressively and creatively move towards electoral systems that broaden representation, recognize diversity, respect equity, and respecting majority rule while at the same time protecting minority rights. In the recent past, a trend of post-electoral crisis power-sharing arrangements has been on the ascendancy. There is a sense in which issues of justice and peace-building could justify this trend in some instance. However, there is a serious concern that if this trend is not well managed, it may spiral out of control and become a political tool abused for manipulation of the democratic process and the annulment of the people's democratic vote during elections. If this be the case, then an undesirable development is likely to be the decline of public trust in democratic institutions and elections which may lead to withdrawal of people's participation in the democratic process and especially in elections manifested by low voter turn out, among others. There is need for sturdy constitutional, institutional and legal frameworks to build a firm foundation for electoral governance and administration. Beyond the movement toward sturdy national constitutional structures that reinforce democratic consolidation, with respect to Electoral Governance and Administration, the AU should work toward ensuring the following:

a) *Effective and efficient election administration and management:*

- Establishment and strengthening of independent and impartial national electoral bodies solely responsible for management of elections with a view to ensure credible and transparent elections;
- The size, composition, mandate and tenure of office for the members of EMBs must be determined through an inclusive and transparent process;
- EMBs must be provided with adequate resources (financial, human, technological) in order to execute their legislated mandate effectively;

- EMBs should be adequately funded to effectively provide voter and civic education, in partnership with other stakeholders such as CSOs and faith-based organisations, with a view to inculcate a culture of democracy and peace.

b) Effective and professional election monitoring and observation

- Assessment of progress in implementation of recommendations emanating from previous election observation missions as well as other continental initiatives such as the APRM;
- Ensure that the AU observes all elections held by the Member States;
- All stages of the elections should effectively observed (namely pre-voting, voting and post-voting stages) and a comprehensive report on how the electoral process was conducted prepared and submitted to the AUC;
- The AU should coordinate its election monitoring and observation closely with those of the PAP, RECs and other regional and national civil society organisations;
- The capacity of national CSOs involved in election monitoring and observation should be enhanced and their efforts towards promoting transparent and credible elections fully supported;
- AU member states should reduce their dependence on international observer missions and strengthen continental and regional efforts in the monitoring and observation of elections;
- During the pre-election phase, election monitoring and observation should pay due attention to timing of elections, voter registration, demarcation of electoral zones, political party registration, candidate nominations, party funding, political campaign, the role of security forces, use of state resources, the media environment as these have generated disputes and conflicts;
- Focus of election monitoring and observation during the voting stage should ensure secrecy of the ballot and the right to vote, including vote counting and tabulation of results;
- During the post-election stage, election monitors and observers should focus on the management of election results, timing of announcement of results and reaction of the political players to the election results as well as management of election disputes by the relevant authorities including EMBs and judiciaries;
- Following an election, AU member states should endeavour to embark on post-election reviews and audits which could point to needed electoral reforms to deepen the roots of democratic governance.

iii) CLUSTER III: AU'S COORDINATION OF ELECTORAL ASSISTANCE

98. The involvement of the OAU/AU in elections, mainly through observation is traceable to the early 1990s. Between 1990 and 2008, the OAU/AU has observed about 200 elections throughout the continent. This is a commendable record by all indications. Although the AU continues to observe elections, the process itself has to be deliberately professionalised. It has to be more technical and less political and diplomatic. To this end, a lot of assistance has to be given to the AU Department of Political Affairs, through its Electoral Assistance Unit to coordinate elections more efficiently and effectively. The Electoral Assistance Unit, working in concert with the Electoral Assistance Trust Fund, could change the electoral landscape in Africa in such a way that it promotes political stability, peace, democracy and good governance. To this end, we recommend as follows:

- The DEAU should be provided with requisite resources to undertake its mandate including, financial, technological and human capacity;
- DEAU should work with national EMBs to plan for elections, particularly in the mobilization of resources for elections and the anticipation of resource shortfalls;
- DEAU should conduct training for EMBs, collect and share information and experiences about best electoral practices, and exchange visits among EMB personnel across Africa;
- DEAU should mobilize expertise in Africa and the Diaspora with respect to election administration such as voter registration, party funding, political campaigns, and demarcation of boundaries;
- DEAU should work with national and regional election monitoring to standardize election observation information and toolkits;
- DEAU should develop a data bank of experts and professionals in the area of election observation and management in order to facilitate the mobilization of resources, as well as building and consolidating partnerships.

**iv) CLUSTER IV: POST-ELECTION CONFLICT TRANSFORMATION
MECHANISMS**

99. The AU and RECs have a wide array of extant institutions with the competence to manage post-electoral crises in a timely fashion. The most significant question is when and how the AU can mobilize the various institutional energies to make a difference in countries convulsed by electoral violence. The roles of these institutions hinge on their preparedness and their ability to coordinate with each other in transforming violent and uncertain post-electoral contexts into peaceful, fair, and just outcomes that respect democratic norms. Since the upsurge of electoral violence often denotes the absence or collapse of orderly mechanisms for managing competition, the role of external actors and institutions is even more critical in the post-election phase. Fortunately, post-electoral violence occurs when there is still a

significant presence of international actors on the ground in the form of electoral observers and in circumstances whereby it is easier to galvanize international attention on the plight of the affected country. This means that when violence breaks out, external actors such as the AU and other observers can quickly step in to defuse the escalation of violence. At this stage, the AU and its institutions could take the lead in:

- ensuring that the parties abide by the electoral code of conduct and use judicial and alternative dispute resolution (ADR) mechanisms in resolving disputes and conflicts;
- encouraging the parties to resolve electoral conflicts through regional and continental judicial mechanisms such as the African Court of Justice and judicial mechanisms established by the RECs; this is important where local mechanisms are feeble or contested;
- establishing political mediation and confidence-building mechanisms among the parties to prevent further escalation of violence;
- providing reassurance to the wide public about international anxiety for the return to normalcy and respect for the rule of law;

100. There are also lessons from the Kenya and Zimbabwe cases on how the AU should coordinate diverse intervention mechanisms in post-election conflict transformation. In Kenya, the AU's intervention led to the timely creation of the Panel of Eminent Persons led by Kofi Annan, while in Zimbabwe, the AU encouraged the Southern African Development Community (SADC) to lead the mediation. As two distinctive cases of managing the problems of post-election conflicts, Kenya and Zimbabwe reveal approaches that are borne out of different but complementary comparative strength of continental and regional institutions. More important, in both AU and SADC mechanisms, the role of eminent African statesmen and leaders was crucial in generating momentum toward the resolution of the crises. It is for this reason that the Panel of the Wise stands out as an important institution at this stage of the electoral cycle. Through the burgeoning numbers of Africa's elder statesmen and other prominent individuals, the Panel will have a wide pool of experienced individuals it can continually draw from in fulfilling its prerogatives.

v) CLUSTER V: INTERNATIONAL COORDINATION AND PARTNERSHIPS

101. International actors constitute a vital part of electoral management in Africa by mobilising funds, administrative and technical expertise, exerting political pressure on groups, and observing and furnishing legitimacy to elections. As wide-scale electoral violence becomes a core issue on the African landscape, bilateral and multilateral state and non-state actors will become even more critical at each phase of the electoral cycle in terms of funding and technical assistance. In the past, most of the international actors have accorded disproportionate attention to election monitoring at the expense of investment in the institutions that undergird free, fair, and competitive elections. Equally significant, although international partnerships have made a difference in underwriting the transitions to electoral processes, coordination of

intervention remains problematic particularly in circumstances where selective engagement of different parties and the pursuit of competing priorities often yields conflicts. In countries that are prone to electoral violence, it is imperative that there be higher levels of coordination among international partners and between them and continental, regional and local actors to pre-empt mixed motives and expectations during competitive electoral processes. Coordination problems pose a major challenge to the integrity of electoral process when multiple actors compete to influence different outcomes. To foster better coordination and partnerships, it is important for donors:

- Increase involvement at all levels of the electoral cycle through funding and technical assistance;
- Minimize competitive engagements in electoral processes through better coordination and cooperation;
- Mitigate coordination problems through joint planning of electoral assistance programs, information sharing, and regular consultation actors across the electoral cycle;
- Deepen involvement in the pre-election institution—and--confidence building phase to strengthen the preventive mechanisms that minimize conflicts;
- Devote more resources, especially on strengthening the capacity of local bodies to manage and oversee elections instead of funding large election observation teams;
- Provide technical support to the institutionalization of the Panel of the Wise mechanisms for prevention, management, and resolution of electoral disputes.

vi) CLUSTER VI: STRATEGIC INTERVENTIONS BY THE PANEL OF THE WISE

102. As a new institution endowed with the moral authority and suasion, the Panel of the Wise is in a strategic vantage point to use its eminent position, mediation, and negotiation skills to prevent, manage, and resolve electoral conflicts in collaboration with other AU structures and other panels of the elders. The small composition of its membership allows sufficient flexibility to rapidly intervene at all phases of the electoral process, particularly where crises are anticipated. The Panel's personal and professional attributes afford it wide latitude to carve a niche in electoral peacemaking and conflict prevention.

103. The Panel should also be capacitated in the medium-to-long-run with the technical and financial resources to sustain good offices, advisory, assessment, and technical missions. The technical back-up for the Panel's conflict management work should be provided jointly by the Department of Peace and Security and the Department of Political Affairs. The Secretariat of the Panel should be further

strengthened and be in a position to link the Panel's interventions strategically to those of the two Departments relating to prevention, management and resolution of election-related conflicts. Through the burgeoning numbers of Africa's elder statesmen and other prominent individuals, the Panel will have a wide pool of experienced individuals it can continually draw from in fulfilling its prerogatives. Working closely with the AU and sub-regional Early Warning Mechanisms, the Panel should be periodically appraised of electoral events that may lead to violence and conflict so that it can play a role in preventing them. In its interventions in the prevention, management and resolution of election-related conflicts, the Panel of the Wise should work in close collaboration with other key AU organs and other existing forums of former heads of states in Africa.

104. The Panel can be deployed in two critical stages of elections namely the pre-voting stage with focus on preventive diplomacy and early warning and the post-voting stage with focus primarily on mediation.

a) Pre-Voting stage

At this decisive prevention stage, the Panel can intervene in anticipation of crisis through:

- Early warning through discreet missions and contacts;
- Fact-Finding missions of its own. The Panel has the moral authority to intervene in an impending crisis without invitation by national authorities;
- Shuttle diplomacy by Panel members to diffuse potential conflicts in the preparations for elections;
- Through such missions, the Panel should have the mandate to recommend to the AU Commission, as well as the Government and national stakeholders, about the conditions for holding of elections;
- Creation of preliminary mediation and consultative offices and forums where parties are feuding and contesting electoral rules;
- In cases of fragile and volatile situations, the Panel can act at the behest of the Peace and Security Council, and/or of the Chairperson of the AU, in a voluntary assessment manner in proposing measures to take to pre-empt the escalation of the conflict;
- In situations where the Panel feels that an election has a great potential to ignite political violence that could lead to destabilisation of the country, it should strive towards a postponement of the poll to an alternative date following deliberate efforts towards de-escalation of the conflict;

- Coordination with other institutions and bodies to guarantee a pre-electoral environment conducive to credible electoral process;
- The Panel should encourage AU member states to embark on systematic and continuous voter and civic education to promote a culture of political tolerance, peace and democratic culture throughout all layers of society

b) Post-Voting Stage

In order to anticipate future post-electoral crises, the Panel should consider:

- The main role of the Panel of the Wise in the post-voting stage should focus on mediation of post-election conflict with a view to building peace;
- The institutionalization and broadening of a Panel Mediation Committee along the lines of the Kofi Annan Mediation Troika utilized effectively in Kenya;
- Enhance the capacity of the Panel Mediation Committee through technical assistance and training of competent mediation support team;
- The institutionalisation of post-elections reviews and audits through relevant election management bodies involving other key stakeholders to ensure that corrective measures are taken through electoral reforms addressing electoral violence;
- Monitoring of implementation of the recommendations of election observer missions (including those of the AU) by AU member states following elections.

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