

**The Pan-African Parliament:
Proposal on
The Union Government of Africa**

DRAFT REPORT

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ACRONYMS

ACT	The Constitutive Act of the African Union
ACJ/HR	(African) Court of justice and Human Rights
AEC	African Economic Community
APRM	African Peer Review Mechanism
AU	The African Union
AUG	African Union Government
CSSDCA	Conference on Security, Stability and Development Cooperation in Africa
Commission	The Secretariat of the African union
ECOSOC	The Economic, social and Cultural Council
FIs	Financial Institutions
MDGs	Millennium development Goals
Member State	A Member State of the African Union
NEPAD	New Partnership for Africa's Development
OAU	Organization of the African Unity
PAP	The Pan-African Parliament
Parliament	The Pan-African Parliament
Protocol	The Protocol to the Treaty establishing the African Economic Community
RECs	Regional Economic Communities
RPB	Regional Parliamentary Bodies
STC	Specialized Technical Committees
UGA	Union Government of Africa
UNCTAD	United Nations Conference on Trade and Development

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EXECUTIVE SUMMARY

In response to a request made by the Chairperson of the African Union, during the Eighth Ordinary Session of the Assembly of the African Union, held in Addis Ababa from 29th to 30th January 2007, for the Pan-African Parliament to make an input to the Grand Debate on the Union Government of Africa, the Bureau of the Pan-African Parliament, in developing a PAP position, constituted a Task Force comprising distinguished African experts to assist in the process.

The Task Force submitted its Report to the Bureau on April 18, 2007. The Bureau forwarded the Report to the Committee on Cooperation, International Relations and Conflict Resolution for review. The Committee laid the Report before Parliament for consideration and adoption at the Seventh Ordinary Session.

The Report presents the perspective of the PAP on the Grand Debate and makes specific recommendations on the transitional mechanisms and processes required to achieve the goal of realizing the Union Government of Africa.

The Report deals with conceptual issues regarding the type of union and emphasizes the need to be more explicit in defining the nature of the envisaged Union Government. It highlights the challenges of integration such as the structural, institutional and legal convergences and divergences of the Organs of the proposed Union, and the context in which Africa finds itself globally. It then underscores the importance of Africa's integration as the only safeguard against the danger of a new detrimental scramble for Africa's resources and neo-colonialism.

Using a historical perspective, the Report provides a resume of Africa's contribution to humanity, which hinged on its great civilizations, human ingenuity and excellence that made great contributions to knowledge production and wealth creation. Further, the Report demonstrates the contribution of Pan-Africanist solidarity to combating slavery, colonialism and human indignity. This provided the basis for later developments that culminated in the political liberation of the African continent.

Based on reflections on the various components of the *Study on an African Union Government: Towards the United States of Africa* (the Banjul Report), the Report highlights critical implications of the proposals as they relate to issues of the values, strategic focus areas, and institutional and programmatic implications for the Union Government. It also raises some important issues not dealt with in the report that the PAP considers critical for the proposed Union Government. Among these are the consideration for the name of the Union and clarification of the character of the Union Government. Further, the Report considers the imperatives for an effective Union Government and elaborates on some of the critical global issues and concerns that it should respond to.

The Report concludes by recommending that the process of creating a Union Government be built upon past successes, that it fast tracks the building blocks for such a Union, and accelerates the implementation of all measures that would facilitate the creation of the Government.

The movement towards the Union Government of Africa reflects the resilience and determination of the African peoples to achieve real unity, to speed up development, strengthen progressive democratic governance throughout the continent and to improve Africa's position in the world. This is a true expression of the emerging African Renaissance. As an organ that represents all African peoples, including the interests of all peoples of African descent, the PAP is poised to play a leading role in the process leading up to the Union Government. In doing this, the PAP is committed to working in close cooperation with other organs of the AU, the RECs, RBPs and National Parliaments.

To realize its role in this process, the PAP needs to function optimally. Specifically, this will require fast tracking and the enhancement of its capacity to ensure that it evolves into a legislative body. In this regard, the participation of the peoples of Africa is of critical importance.

Finally, the move towards an African Union Government can only be realized through the demonstration of strong political will and leadership within the African continent.

1. INTRODUCTION

1. During the Eighth Ordinary Session of the Assembly of the African Union, held in Addis Ababa, Ethiopia, from January 29 to 30 2007, the Pan-African Parliament was requested by the Chairperson of the Union to make an input to the Grand Debate on the Union Government of Africa (UGA). Significantly, the debate constitutes a major agenda item of the forthcoming 9th Ordinary Session of the Assembly of the AU scheduled for Accra, Ghana, in July 2007. This report constitutes the contribution of the Pan-African Parliament (PAP) to the debate.

2. Africa has undertaken a number of initiatives and established various institutions to foster and accelerate integration. The first such initiative took the form of the Organization of African Unity, formed in 1963. In the context of new challenges and the need to respond to the changing global and continental environments, the OAU was transformed into the Africa Union in 2000. While there has been remarkable progress towards integration in some aspects, there is need for renewed impetus to transform the continent into a unified political region and a fully integrated economic bloc.

3. The political liberation of Africa, typified by the end of the apartheid in South Africa, placed the continent in a position to realize the vision of a united Africa, affirm its economic independence and assert its rightful place in the global affairs. Cognizant of these imperatives, and in line with the Treaty Establishing the African Economic Community (AEC-Abuja Treaty of 1991), which among other things, provided for the establishment of institutions to foster African economic integration, African leaders renewed efforts to consolidate unity and solidarity among their countries as a means to mitigate the negative effects wrought about by colonial and Cold War influences, which accentuate division and undermine development.

4. Against this background, the Extra-Ordinary Summit of the OAU convened in Sirte, The Great Socialist People's Libyan Arab Jamahiriya, on 9th September 1999, took a decision to establish the African Union (AU). Subsequent to this decision, the then Secretary General of the OAU convened a meeting of legal experts and parliamentarians to consider the *Draft Treaty on the Establishment of the AU* and *Draft Protocol of the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament (PAP)*. In July 2000, the Draft Constitutive Act of the AU and the PAP Protocol were adopted. In establishing the PAP, African leaders reaffirmed their commitment to involve African peoples in processes aimed at strengthening political, economic and social integration in Africa. More importantly, this reflects progress made since the adoption of the *African Charter on Population Participation in Development*, in Dar-es Salaam, Tanzania, in 1990.

1.1 Mandate for the Debate

5. The mandate for the Grand Debate is derived from a number of decisions and instruments. The Sirte Decision of 1999 and the ratification of the *Constitutive Act of the African Union* in 2000 provided the framework for leaders to exchange views on how to fast-track the process of integration as well as how best to achieve the ultimate political objective: a Union Government. To this end, the AU Assembly constituted a Committee of Seven Heads of State and Government, in 2005, to outline the elements of a proposal on a Union Government. The report of the Committee titled: *An African Union Government: Towards the United States of Africa* was tabled at the 6th Ordinary Summit of the AU in Banjul, The Gambia, in July 2006, for discussion. This report, among others, concluded that given the entrenched struggle for Pan-Africanism and the intrinsic desire for unity across the continent, a Union Government was feasible. After outlining the constitutive elements of such a government, the Banjul report suggested a roadmap towards the attainment of this objective, and recommended 2015 as the target for its attainment.

6. In addition to the decision of the 8th Ordinary Session of the Assembly of the AU, to discuss the Union Government at its next Summit, the Assembly called for inclusive consultations at the national and regional levels, in preparations for this debate (Assembly/AU/Dec.156 (VIII)).

7. More importantly, the PAP also draws its mandate to engage with this debate from Article (4) of the *Protocol of the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament*, which entrusts PAP with the responsibility of making recommendations aimed at contributing to the

attainment of the objectives of the OAU/AEC, and drawing attention to the challenges facing the integration process in Africa as well as the strategies for dealing with them.

8. In pursuance of this mandate, the Bureau of the PAP, during its 17th Meeting held in Kasane, Botswana, from 9th to 11th March 2007, determined a process on how to generate a PAP position on the proposal for a Union Government of Africa. Mindful of the complexity of this debate and keen to contribute to the process as well as to make substantive and specific input on the role of PAP in a Union Government, the Bureau constituted a Task Force comprising eleven distinguished African experts that to help formulate a PAP position. A draft report was then put through the PAP processes of validation, which culminated in its consideration and adoption by the 7th Session of PAP.

1.2 Objectives

9. The objectives of this report are the following:

- a) to present the view of the PAP on the Grand Debate, i.e., the Union Government of Africa; and
- b) to make specific recommendations on the role and responsibilities of the PAP in the process of establishing the Union Government and beyond.

1.3 The Challenge

10. While encouraged and inspired by the enthusiasm and positive spirit that accompanied the ratification of the Constitutive Act, the imperative today is to consolidate the gains made towards the aspirations of African renaissance and regeneration. Critical to the debate of fast tracking the integration of the continent are challenges that confronted African leaders during the transition from the OAU to the AU. These include the following:

- a. Whether the existing Constitutive Act (then treaty of the OAU) should be revised or a new one signed;
- b. Whether the proposed government is a successor arrangement to the AU, and what should happen to the AU and its current institutions;
- c. Whether the AU institutions are suited for the proposed Union, and if so, how to reposition them towards the attainment of the objectives of the Union; and
- d. How to clarify the mandates of the various institutions of the Union and structural relationships among them.

1.4 Context

11. The timeliness of this debate affords all the organs of the AU an opportunity to critically evaluate and assess the effectiveness and efficacy of actions taken so far in realizing the vision, mission and objectives contained in the OAU Charter, Abuja Treaty, the Constitutive Act as well as the PAP Protocol. While Africa's commitment to the ideals that led to the establishment of the AU remain the same, a substantive debate on a Union Government of Africa must remain cognizant of the nature, complexity and ever changing pace of the environment in which Africa is pursuing its transformation agenda.

12. Today, the world is witness to drastic changes. Fundamental shifts in the configuration and realignment of power that have occurred since the end of the Cold War are impacting on Africa. The emergence of a uni-polar superpower and unilateral tendencies of powerful states in the international arena have weakened a rule-based international system. The increasing influence of countries such as China and India, once classified as members of the second or third worlds, and their interests in Africa have sparked off a fierce 'scramble' for Africa's strategic resources, especially oil. And the recent resurgence of Russia as a super power rising on its trade in oil and gas, among other resources, and its self-reassertion in global politics has triggered a new arms race and nuclear proliferation, raising stakes for the polarization of global politics.

13. In addition to the changing configuration of power, Africa has also witnessed the impact of globalisation. While creating new economic opportunities, particularly in Information and communication technology,

globalization is accompanied by declining capital flows, shrinking market access and economic marginalization of Africa. In spite of the fact that Africa has a population of more than 700 million people, its total contribution to international trade remains less than 3%. While Africa holds more than 50% of all world strategic resources, and is the largest custodian of biodiversity in the world, its people are yet to benefit from its wealth. Low capacity including under developed technologies hinder the ability of African countries to translate their resources into wealth for their people. Instead of flourishing, African countries continue to be producers and exporters of non processed raw materials.

14. The transformation of the OAU to the AU, presents major opportunities for accelerating the move towards a Union of Africa. This is signified by the emerging peace, security and governance architecture that seeks to stabilise the continent and create an enabling environment for sustainable development. To maximise socio-economic development and avoid increasing marginalisation, Africa is also strengthening regional cooperation and promoting regional economic blocs.

15. Institutionally, the proposed Union Government must respond to the challenges confronting the continent today and in the future. Importantly, it has to consolidate the democratic gains achieved on the continent and fast track the security and socio-economic development of the African peoples. At the international level, a Union Government should be the vehicle that ensures that Africa takes its rightful place in the community of nations. Furthermore, it should promote better global governance. In a nutshell, the Union Government of Africa is envisaged as a framework within which the continent will shape its destiny, and as a vehicle by which Africa influences global politics in favour of its regeneration agenda.

2. HISTORICAL BACKGROUND

2.1 The Quest for African Unity

16. The history of Africa is a rich history of great civilizations, rich in cultures, values, scientific achievements, including centres of excellence. It is a history that has contributed significantly to the evolution of humanity, global wealth and civilizations. During the pre-slavery and pre-colonial periods, Africa interfaced with the rest of the world on an equal, if not a leading basis. This role changed fundamentally with the advent of slavery and later colonialism, two epochs that were characterised by contradictions in the relationships of Africa and the rest of the world. The institutionalisation of slavery culminated in an attempt to obliterate the dignity, self worth, human personality and way of life and cultures of the people of African origin. This went hand in hand with racism, which became the logical offshoot of the Global Slave trade. The phenomenon of forceful and dehumanizing removal of Africans from their motherland depleted the resource base of the continent and began to undermine its potential for development. From this point on, the history of Africa became a struggle against racism, oppression, human indignity, colonialism and exploitation.

17. Africans who were uprooted from the continent to 'new world' during the slave trade period retained their historical consciousness and the need to reconnect with their roots. This gave rise to African nationalism, which took the form of Pan-Africanism, expressing itself in the struggle against slavery and later the yearning for liberation and independence of the African continent, from foreign rule and domination. Among the leading Pan-Africanists of the 18th century, who inspired African solidarity, were Ottobah Cuguano and Oluadah Equiano. The Haitian revolution and independence, occurring at the beginning of the 19th century, exemplified the spirit of the struggle of the African people for self determination and their opposition to slavery and all forms of domination.

18. At the turn of the 20th century, the spirit of Pan-Africanism focused on African unity and independence. In 1900 Silvester Williams convened the first Pan-African Conference to promote fraternal solidarity among Africans and peoples of African descent. While the value of solidarity continued to consolidate, African people of diverse backgrounds continued to suffer from the aggressive racist and de-humanising policies of the colonial powers both at home and abroad. This led to the first Pan-African Congress in 1919, organized by Dubois and Blaise Diangne, amongst others. The resolutions of the Congress provided the rudiments of state formation for post colonial Africa. It proposed, among other things, a juridical framework embodying the right of the African people to own land and other natural resources, and to utilise these for their development

and wellbeing. It also called for the total abolition of slavery and other forms of inhuman and degrading treatment.

19. Other milestones in the development and consolidation of African nationalism include the quest of African Unity and the call for the independence of African countries. This was expressed at the 1920 National Congress of British West Africa as well as Marcus Garvey's United Negro Improvement Association, followed by the 1945 Pan-African Congress that articulated the African demands for self determination and independence.

20. All these developments produced a critical mass of Africans who became vanguards of the national liberation forces and movements, and later the founding founders of the newly independent African countries. The first generation of African leaders, such as Kwame Nkrumah of Ghana, had the conviction that the independence of each African country was inextricably linked to that of the entire continent. This gave rise to conferences of independent African states and liberation movements, and further provided a platform for the expression of unity and solidarity. Steadily, consensus emerged on the imperative for continental unity. Despite intense debates and differences of opinion and visions on the character of the unity, there was agreement on the need for integration and to promote the total liberation of the continent. To this end, the Organisation of African Unity was conceived as a political and legal entity within which African States could pursue their collective objectives.

2.1 Institutional Evolution

21. The OAU took the form of an inter governmental organisation, comprising of a number of organs and institutions mandated to address a range of political, economic, technical, social and cultural concerns and challenges on the continent. These institutions developed policies and strategies to facilitate the implementation of programmes and projects that aimed at the consolidation and promotion of African unity and integration. In addition, several Regional Economic Communities were established and complemented the efforts of the OAU in facilitated integration. Together, these institutions provided a platform for the development of regional blue prints and policies amongst them the Lagos Plan of Action of 1980 and the Abuja Treaty of 1991. However, the implementation of the policies and recommended measures were constrained by the prevailing political situations on the continent and globally, as well as limited mandates of the institutions to deal with the attendant challenges, effectively. Furthermore, limited capacity, including financial and human resources, exerted major constraints on the OAU. These constraints notwithstanding, African leaders, intellectuals and peoples continued to search for more viable strategies to promote the agenda for unity and integration.

22. Informed by past experiences and acknowledging the politico-economic realities on the African continent and internationally, Africa made a strategic shift. This shift took the form of the transformation from the OAU to the AU, signifying continued commitment by Africa to consolidate the agenda of African unity and solidarity. To this end, the Sirte Declaration of 1999 and the subsequent adoption in 2000, of the *Constitutive Act of the African Union* and its speedy ratification, provided a new impetus. Since the creation of the African Union, the desire to address the challenges confronting the continent has manifested in itself through the intensification of the debate on how to consolidate Africa's integration. Key to this debate is the consideration for a Union Government.

23. Against this background, African Heads of State and Government, during the AU Banjul Summit considered a draft report of a *Study on an African Union Government: Towards the United States of Africa*. The study makes proposals that have important implications for the (re)configuration of the continent's institutional architecture.

3. REFLECTIONS ON THE BANJUL STUDY

24. The PAP has studied the Banjul report closely, and in line with ongoing debates reflected on the implications of its various components and recommendations. Hereunder, the PAP provides its own reflection on specific proposals that it deems of outmost importance.

3.1 On the Values

25. The study captures a number of cardinal values that should underpin the proposed Union Government, which the PAP concurs with. These are:

26. adherence to the rule of law;
27. popular participation in governance;
28. respect for human rights and fundamental freedoms; and
29. transparency in public policy making

30. While the study is correct in identifying these and other values enshrined in Africa's normative frameworks, including the CSSDCA, the Constitutive Act and the African Charter on Popular Participation, among others, the translation of these values to concrete benefits for the African peoples remains a challenge. More than half of the African population lives below the poverty line, do not participate fully governance processes, and confront various levels of insecurity.

31. Against this background, the PAP wishes to encourage a robust debate on how to inculcate and sustain common African values and aspirations. It also encourages countries to adopt measures aimed at the translation of these noble values for the benefit of their peoples. Accordingly, the PAP appeals to the Heads of State and Government to be more vigilant in promoting a culture of good governance and human rights. In this regard, the African Peer Review Mechanism (APRM) is a valuable tool in facilitating the sharing of the best governance practices among African countries. Significantly, PAP encourages accession to the APRM. It would also be advisable for the Union Government to incorporate the APRM among its key governance instruments.

3.2 On Strategic areas of focus

32. Generally, the PAP is in agreement with the scope of the substantive business of the Union Government as elaborated in the Banjul study. Without doubt, there is need to realign the structure of the Commission and other AU organs with the proposed areas of focus. Importantly, it should be noted that these areas are not the exclusive preserve of the Commission, but also of other AU organs. In particular, the PAP has a direct interest in all the strategic issues addressed, and should remain seized with each of them.

33. Specifically, the PAP has ten (10) permanent committees whose mandate is to deal with issues identified in the strategic areas. As part of the envisaged review of the PAP Protocol, it should be expected that the scope of the PAP committees would be aligned with the substantive business of the Union Government. A similar realignment would also be advisable for Regional Parliamentary Bodies.

3.3 On Institutional and programmatic implications

34. Most of the proposals made in the Banjul study in respect of existing and/or new institutions of the Union Government resonate with the view of the Pan-African Parliament. For this reason, the PAP's reflection focuses on specific proposals to which it would like to draw the attention of Heads of State and Government.

The Assembly

35. The proposal to maintain the status quo in respect of the powers of the Assembly should be reconsidered in the light of the expected graduation of the PAP from an advisory to a legislative organ. This should be done with the view to avoid an overlap of mandates, roles and responsibilities of organs of the Union Government.

36. The proposal to extend the tenure of the President of the Assembly to three (3) years and for the Presidency to be held on full-time basis may create institutional and planning disharmony. This is because this tenure is not aligned to the planning cycle of most AU organs (usually five years), and has the potential to create monitoring and oversight difficulties. Furthermore, the principle of rotation on an annual basis engenders a sense of collective ownership of the Union, and thus enhancing its political legitimacy. It is on this basis that the PAP is in favour of the status quo.

The Commission

37. While the proposal for the greater involvement of the Chairperson of the Commission in the appointment of AU Commissioners is welcome, the PAP does not support the extension of the tenure of the Chairperson of the Commission to seven (7) years. As in the case of the Assembly, the proposed extension does not correspond to the planning cycle of other AU organs.

Pan-African Parliament

38. Given the centrality of the Pan-African Parliament in the legislative affairs of the proposed Union Government, this reports details the place, role and functions in the PAP in section 5.

The Economic, Social and Cultural Council

39. While welcoming the proposed greater involvement of ECOSOCC in decision-making, the PAP's working relationship with ECOSOCC requires focused attention during the review of the PAP Protocol. The interface between the PAP and ECOSOCC is even more important considering that Article 3 (4) of the PAP Protocol enjoins the Parliament to "familiarize the people of Africa with the objectives and policies..." relating to a range of developmental issues on the continent. As a civil society vehicle, ECOSOCC can serve as an important bridge between the PAP and the peoples of Africa.

The Constitutive Act

40. The proposals made in the Banjul report have critical implications for the Constitutive Act of the AU. The PAP is of the view that a revision of the Act would better facilitate the move towards a Union Government. This would also forestall any delays and complexities that may arise if the Union Government were to be launched on the basis of a new constitution – that may take a long time to draft and adopt.

The New Partnership for Africa's Development

41. The PAP recalls that NEPAD was created as a "socio-economic programme of the AU". Therefore, NEPAD provides a critical rallying point for addressing Africa's development challenges. In line with the Decision of the 2nd AU Summit, held in Maputo, Mozambique, in 2003, as well as subsequent decisions to integrate NEPAD in the programmes and processes of the AU, the PAP is of the view that this process be expedited without undermining the role of this important initiative of the African Union.

3.4 On The Road Map

42. The PAP considers the timelines towards the Union Government, as proposed in the Banjul report infeasible. The complexities involved in the milestones aimed to be achieved by the year 2015 would require thorough study and further consideration. For example, owing to the challenges of resources, the determination of the financing of the Union Government and the alignment of Union Member States, and regional institutions to the vision of the Union Government, to name a few, are complex processes that require technical and political considerations.

3.5 Critical areas of Consideration

43. In addition to its reflection on the components of the Banjul report, the PAP took note of issues that require particular attention of the Assembly.

The Naming of Union Government

44. The Banjul report proposes the creation of an "African Union Government", as a "political transitory arrangement towards the United states of Africa". It is PAP's considered opinion that, the adoption of the name "United States of Africa" would naturally translate into the "U.S.A" in acronym and thus cause unnecessary confusion with that of the United States of America. PAP, therefore, is of the view that, the name Union Government of Africa (UGA) be adopted.

45. Further, the character of the Union Government requires further clarification. In PAP's view, there is a need to clarify the various levels of competencies of the Union Government vis-à-vis Member States. It is also of the view that the process towards a Union Government should be an incremental, beginning with the consolidation and capacitation of all AU organs, ultimately leading to the Union.

Structure of the Union Government

46. The PAP views the principle of separation of powers between the Executive, Legislative and Judicial branches of the Union Government as the basis for a well functioning Union. The relationship between these three arms of the Government and such other organs as the PSC, RECs, NEPAD, the Specialised Technical Committees and agencies also needs clarification. Importantly, attention should be paid to establishing clear mandates and division of roles and responsibilities of these actors. In this regard, the anticipated legislative role of the PAP needs to be clarified vis-à-vis the proposed maintenance of the status of the Assembly as the highest decision-making body in the Government.

4. FAST-TRACKING THE BUILDING BLOCKS

47. From the perspective of PAP, the renewed urgency to accelerate the process of creating the Union Government begins from, and is anchored on, the recognition that its foundation and building blocks are existing organs and institutions of the AU as well as the RECs. It is equally important to also acknowledge the intrinsic as well as the dynamic interaction between such structures and various national institutions. Together, these institutions represent and reflect the basic minimum institutional architecture and attributes of statehood in a modern democratic government. These include the executive, the judiciary, lawmaking and oversight structures as well as, of course, people and resources. Significantly, given the relatively short time that the AU has been in existence, not all these institutions have been established or are functioning optimally.

48. The reference from this discernable and practical reality emphasizes the importance and the need to recommit and redouble efforts to fast track the building and strengthening of the existing institutions and those that are being established. At the very minimum, the fast tracking should entail enhanced coordination and synergy, allocation of adequate resources and alignment of activities. The institutions that require fast tracking are the following: a) PAP; b) the Court of Justice and Human Rights; c) the Peace and Security Council; d) the Financial Institutions; e) the Economic, Social and Cultural Council; f) Special Technical Committees; and g) the RECs. In addition, Member States of the AU should speedily ratify the 2003 amendments to the Constitutive Act so that issues such as the use of the African indigenous languages in the deliberations of the AU and eventually the Union Government as well as the recognition of the Diaspora, can be realised.

4.1 The Pan African Parliament

49. PAP is envisaged by its Protocol to evolve into the legislative arm or branch of the Union Government. Currently, the role of PAP in facilitating regional integration through harmonization of policies and laws is constrained by its limited mandate and the process of selection of its members. The fast tracking of PAP should include its graduation into a legislative organ composed of directly elected members.

4.2 [African]Court of Justice and Human Rights

50. One of the most critical missing-links in the African system of governance is an authoritative judicial branch. As recognized in the African Peer Review Mechanism under NEPAD, judicial fora contribute greatly to peaceful resolution of disputes and good democratic governance. Notwithstanding the commitments made, the ideals in the Constitutive Act and the Protocol establishing the Court of Justice to establish the Court have not been realised because of the slow pace in ratification of the latter. There is therefore an urgent need to fast track this process. It is, of course, to be commended that the African Court of Human and People's Rights is soon to become functional.

4.3 Peace and Security Council

51. The quest for human security, including state security, is an important element in the evolution of the Union Government. It is in this regard that Africans can be truly proud of the evolving robust role of the PSC and the associated progress made towards the development of the Common African Defence and Security policy. Although established and operational only since 2004, the achievements of the PSC give confidence that Africa can rely on its genius and modest resources to begin to change the paradigm of relations with the rest of the world, without necessarily relieving the United Nations of its responsibility for the maintenance of international peace and security. What needs to be done now is to enhance the effectiveness of the PSC as an important executive agency within the executive arm of the AU and eventually the Union Government. Critically important is the operationalisation of all PSC organs, particularly the Continental Early Warning System, the Panel of the Wise and the African Stand-by Force.

4.4 The Financial Institutions

52. None of the envisaged financial institutions of the AU: the African Central Bank, the African Monetary Fund and the African Investment Bank have been established. Viable economic development and financial strategies and resources are essential to the existence of individuals, communities, states and the RECs. More importantly they are critical for the transition to the Union Government. Given the resource constraints and the challenges facing the continent and its institutions, the establishment of the FIs is imperative. There is also need to carefully reflect on the relationships between continental FIs and national FIs.

4.5 Economic, Social and Cultural Council

53. The AU is conceived and designed as the premier continental body through which states and African peoples promote and protect their lives and destiny. ECOSOC is one organ that provides a mechanism for more direct participation in matters of continental governance. To guarantee the full participation of African civil society in the continental affairs, there is need to provide adequate resources to ECOSOC.

4.6 Specialized Technical Committees

54. The STCs constitute important institutional mechanisms for effective Pan-African policy development and implementation. Perhaps consideration should be given to the incorporation of continental programmes and mechanisms such as NEPAD and the APRM into STCs. Harmonisation of activities of the STCs and ensuring their alignment to the strategic focus areas and the Commission of the AU, PAP and ECOSOC should be encouraged.

4.7 Regional Economic Communities

55. It should be noted that, the existing eight RECs recognized by the AU were established by independent treaties; they also have mandates that vary. The decision by the AU to rationalize and reduce the RECs to five will raise important legal reform challenges and require astute political leadership and mediation. Even when the rationalization is achieved, the process of harmonization and integration already initiated by PAP and such initiatives undertaken by other organs of the AU must be taken to higher levels.

5. PAN-AFRICAN PARLIAMENT IN THE UNION GOVERNMENT

56. One of the issues that require reflection in the ongoing debate to create the proposed Union Government is the position of PAP in relation to the Government. As presently constituted, the PAP is an institution with consultative, advisory, advocacy and oversight powers. It should be recalled that Article 11 of the Protocol establishing the PAP provides for the evolution of PAP into an institution with full legislative powers. Specifically, there are two areas that must be taken into account in the debate on the creation of the Union Government. The first is to accord PAP full legislative powers, and the second is to give it enough resources and capacity to exercise the functions provided for in the Protocol.

57. The PAP should be conceived as the ultimate legislative body for the Union Government. In this regard, the position of PAP in the Union Government should be predicated upon, and reflect, both in its structure and institutional authority, that it represents all the peoples of Africa. It should also be constituted to reflect the interests, aspirations and demands of the people.

5.1 Relationships between PAP and AU Institutions

58. Relations between the PAP and other AU Institutions were supposed to be defined by the specific Protocols as establishing the various Organs. The Protocol establishing PAP preceded the establishment of the other Protocols. This meant that the relations between PAP and the AU are to evolve on existing practices and specific provisions and subsequent Protocols. One of the critical challenges of this area is the relationship between the PAP and the RECs. While the PAP protocol empowers the PAP to play a role in the harmonization and rationalization of RECs, the nature of this role is not clearly defined. This situation could be rectified by the development and ratification of Protocols that delineate the relationship between the RECs and the PAP. In this regard it is important to take cognizance of the Protocol establishing the Peace and Security Council which clearly stipulates that the PSC shall make regular reports to PAP on its own initiative and when specifically requested by PAP.

5.2 Enhancing the capacity of PAP

59. The current inadequate budgetary allocation to PAP militates against its ability of PAP to discharge its responsibility as provided for in the Protocol. Yet it is recognized that PAP must take a more pro-active and robust role in its consultative, advisory, advocacy and oversight roles. This may have extra-budgetary implications that require consideration and action. The proposed consideration for financing the institutions of the Union Government should take the needs of the PAP into consideration

5.3 PAP Competencies

Legislative

60. Currently, the PAP does not exercise legislative powers. In terms of what is envisaged with the establishment of the Union Government, the PAP will become both a deliberating and a legislative organ. Such a transition will require the revision of the PAP Protocol as well as other AU instruments.

Oversight

61. To enable the PAP to execute its oversight role effectively, the organs of the African Union, including the Peace and Security Council, ECOSOC, the Special Technical Committees, the African Commission for Human and People's Rights, the Financial Institutions, among others, should statutorily be required to their annual reports to the PAP. To ensure transparency and accountability in the operations of the Government, the PAP should be duly empowered to confirm the appointment of senior officers, including Commissioners and Judges, among others. Furthermore, the PAP's oversight role should be enhanced by ensuring that its authority to review the budget of the Union is given effect.

5.4 Direct Elections

62. The Union government is envisaged as a Union of the African peoples. Therefore, their participation in the process of its creation is critical, in order to achieve the ownership of the concept by the African citizens. It is also important that the African people participate in the debate regarding the evolution of the AU into the Union Government.

63. Article 4 of the Protocol provides that five Parliamentarians are nominated from each Member State to the PAP. The Article requires that at least one of the five members must be a woman. The present process of nominating the Parliamentarians has resulted in a sense of alienation and disaffection by the general public. An important consideration therefore is the requirement that provision be made for direct elections of the Parliamentarians to the PAP. Importantly, the ultimate goal is to achieve universal adult suffrage in the election of the Members of the PAP. Direct elections will enhance the capacity and capabilities of the PAP Parliamentarians as it will allow for greater continuity and stability, create direct linkages between the PAP and the electorate, enhance the accountability of the Parliamentarians to the electorate, provide a greater sense of ownership of the PAP and its process by the People and maintain a concerted focus by the Parliamentarians, free from the national politics.

5.5 Relationship between PAP, RPBs and National Parliaments

64. The ability of the PAP to contribute to continental integration will depend on how fast the legislative infrastructure of the AU Members States will be harmonized and synchronized to facilitate rapid economic growth, deepen democratization, enhance political stability, and promote continental integration. Through an engaged advocacy strategy, the PAP should work closely with National Parliaments in speeding up the process of harmonization of policies, laws, and regulations on various development issues. This will include the adoption of AU Treaties, Conventions, Protocols, Charters and development programmes, as well as various international treaties and conventions that seek to promote human rights, good governance and regional economic development.

6. TOWARDS A FUNCTIONING UNION GOVERNMENT

6.1 Decision-making

65. The Banjul report proposes the maintenance of the status quo in respect of the powers and functions of the Assembly, i.e., the Assembly remains "the highest decision making organ" of the Union Government. Interpreted in the context of the expected graduation of the PAP from an advisory to a legislative capacity, this proposal could potentially present enormous decision-making challenges. The critical question is: Would the Assembly have the authority to reverse legislative decision(s) already made by the PAP? This question is particularly pertinent considering the expected review of the PAP Protocol, which is expected to facilitate the adding of legislative powers to the PAP. Equal attention should also be given to the implications of the executive functions of the Executive Council for the legislative functions of the PAP.

6.2 Financing

66. The effective operations of all the institutions of the proposed Union Government require a comprehensive finance and resourcing strategy. The PAP is of the view that a technical study be commissioned to carefully consider and make proposals in regard to a sustainable financing and resourcing strategy. Meanwhile, Member States need to demonstrate more political will to commit resources to the Union Government. Their non-payment of OAU/AU dues should not be allowed to characterise the envisaged Union Government.

6.3 Political will

67. The realisation of the aspiration of a Union Government calls for more than material solutions. Given the range of factors that can militate against this critical and historical process Africa needs strong political resolve, will and leadership to realise the objective of a Union Government. A starting point would be the

alignment of national programmes and institutions to the AU vision and aspirations as well as the ratification and implementation of all instruments and policies adopted by the continental body. More importantly, compliance with the normative frameworks of the Union Government by Member States is critical.

7. THE UNION GOVERNMENT AND THE WORLD

68. It is imperative that the evolution of a Union Government takes into cognisance contemporary global forces and pressures as well as the emerging African frameworks for responding to these. Undoubtedly, the evolution of the Union Government will impact on, and in turn will be impacted upon by, both internal and external factors. Furthermore, the increasing geo-strategic significance of Africa in the world today requires the continent's sustained responses and engagement with the international community. Notwithstanding the centrality of foreign policy for a state, the Banjul report remains silent in this regard. This function is critical to helping build and promote consensus on common values, aspirations and interests, and in promoting adherence to common positions and standards developed in areas of common interest.

69. The successful pursuit of the objectives of the Union Government is dependent on the ability of Africa to adopt common approaches towards common global challenges. The following are some of the main global factors, forces and pressures that Africa has had to confront and contend with:

- (a) the historic imperative for democratization of institutions of global governance and economic interactions, especially the United Nations and its Security Council, as well as the current asymmetrical world trade regime;
- (b) the scourge of international terrorism and the particular policies of some countries to impose certain types of responses that might run counter to Africa's own home-grown common positions, and international legal regimes that reflect the needs and realities of our continent;
- (c) international agendas, such as the Blair Commission for Africa, that in some respects tended to ignore the fact the African Union had adopted its own NEPAD that was endorsed by the United Nations General Assembly, amongst other important multilateral institutions;
- (d) global warming and climate change, including the depletion of the ozone layer and the rather tentative responses by the industrialised nations that contribute disproportionately to the causes;
- (e) the continued militarization in and around Africa by world powers, most of them erstwhile colonizers of Africa and its peoples;
- (f) the unconscionable crippling debt burden, especially given the fact that United Nations Conference on Trade and Development (UNCTAD) confirms that African countries have on the whole paid back more than they borrowed;
- (g) the challenge that Morocco's withdrawal from participating in the AU continues to pose for a more complete unity of Africa; and
- (h) the marginal integration of the Diaspora in the Affairs of the AU and the evolving Union Government.

70. Based on the foundation laid by the OAU and the AU for cooperation of African countries in addressing common concerns and interests, the tradition of evolving common positions and practices in response to the world and international relations is commendable, and needs strengthening within the framework of the Union Government.

8. CONCLUSION

71. The movement towards the Union Government of Africa reflects the resilience and determination of the African peoples to achieve real unity, to speed up development, strengthen progressive democratic governance throughout the continent and improve Africa's position in the world. It is a true expression of the emerging African Renaissance. As an organ that represents all African peoples, including the interests of all peoples of African descent, the PAP intends to play a leading role in the process leading to the Union Government. In doing this, the PAP is committed to working in close cooperation with other organs of the AU, the RECs, RBPs and National Parliaments.

72. To realize its role in this process, the PAP needs to be able to function optimally. Specifically, this will require fast tracking and enhancement of its capacity to ensure that it evolves into a legislative body. In this regard, the participation of the peoples of Africa is of critical importance.

73. Finally, the move towards an African Union Government can only be realized through the demonstration of strong political will and leadership within the African continent.

9. RECOMMENDATIONS

Based on the above considerations, the PAP makes recommendations on the following:

On the Conceptual Framework

The PAP recommends that:

1. the African Union clarifies the type of Union Government envisaged;
2. the Assembly should avoid adopting the name "United States of Africa" because the abbreviation of USA already exists; the name chosen should have strategic significance for the Union;
3. the PAP proposes the name Union Government of Africa (UGA)
4. as a matter of urgency, a depository for all the information generated throughout the AU system be created; and
5. all measures be taken to encourage and promote inclusive participation of the African peoples in the debate and processes towards the creation of a Union Government.

On Judicial instruments

The PAP recommends that:

6. the Assembly should initiate the process to review all AU instruments, especially the Constitutive Act of the African Union and the PAP Protocol, in order to fast track the transition of the PAP to a full legislative body;
7. each institution of the Union reviews its mandate and functions in relation to all the other institutions, and makes recommendations on how their powers can be enhanced within the framework of an evolving Union Government of Africa; and
8. the alignment of structures, mandates and functions of all AU organs and institutions be undertaken as the basis for the Union Government.

On Institution Building

The PAP recommends that:

9. the AU should fast-track the functioning of all organs that will act as the building blocks for the creation of the Union Government; and
10. NEPAD, the APRM, and all other similar specialized institutions be incorporated as Specialized Technical Institutions of the Union Government, with appropriate levels of autonomy, power and resources.

On the Road Map

The PAP recommends that:

11. a realistic timeframe be established to facilitate the evolutionary process of the AU towards the creation of the Union Government, and that it be approved at this Summit;
12. the Assembly sets a limit of two years for internal review by each institution of the Union, to draw up concrete strategies and proposals on how their mandates, structures, capacities, resources can be enhanced to align them with the requirements of the evolving Union;
13. the ongoing process of rationalization and harmonization of the AU institutions and RECs, as well as their policies, programmes and projects be accelerated and finalized within three years; and
14. the Assembly mandates a review within the next three years, to assess progress made, identify obstacles to the process, and develop strategies and measures to address them.