

African Union, African Regional Bodies

## African Union Convention on Cross-Border Cooperation (Niamey Convention)

Legislation as at 27 June 2014

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PDF created on 5 February 2025 at 08:55.

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FRBR URI: /akn/aa-au/act/convention/2014/cross-border-cooperation/eng@2014-06-27

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African Union

# African Union Convention on Cross-Border Cooperation (Niamey Convention)

Published

**Commenced**

*[This is the version of this document at 27 June 2014.]*

## PREAMBLE

**We, Member States of the African Union,**

**Reaffirming our commitment** to Resolution AHG/Res. 16(1) on the principle of the respect of borders existing at the time of accession to national independence, adopted by the 1<sup>st</sup> Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity, held in Cairo, Egypt, from 17 to 21 July 1964;

**Mindful of** Resolution CM/Res.1069 CXLIV) on Peace and Security in Africa through Negotiated Settlement of Border Conflicts, adopted by the 44<sup>th</sup> Ordinary Session of the Council of Ministers of the Organization of African Unity held in Addis Ababa, Ethiopia, from 21 to 26 July 1986;

**Recalling** the relevant provisions of the Memorandum of Understanding on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), adopted by the 38<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government of the Organisation of African Unity, held in Durban, South Africa, on 8 July 2002;

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

**Recalling further** the Declarations on the African Union Border Programme, adopted by the Conferences of African Ministers in charge of Border Issues, held respectively in Addis Ababa, on 7 June 2007 and 25 March 2010, and in Niamey, Niger, on 17 May 2012;

**Determined** to give effect to the African Union decisions related to border issues, including Decisions EX.CL/370 (XI) and EX.CL/Dec.461 (XIV), adopted by the 11<sup>th</sup> and 14<sup>th</sup> Ordinary Sessions of the Executive Council of the African Union, held respectively in Accra, Ghana, from 25 to 29 June 2007, and in Addis Ababa, from 29 to 30 January 2009;

**Recalling** the international initiatives on the delimitation and delineation of maritime borders and the provisions of the United Nations Convention on the Law of the Sea;

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

**Desirous** to implement effective cross-border cooperation, necessary for the transformation of border areas into zones of trade and cooperation;

**Have agreed as follows:**

## Article 1 – Definitions

For the purposes of this Convention:

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

**"Border Programme"** means the African Union Border Programme, as defined in the Declarations adopted by the Conferences of African Ministers in charge of Border Issues, held in Addis Ababa, on 7 June 2007 and 25 March 2010, and in Niamey, on 17 May 2012, and subsequently endorsed by the Executive Council of the African Union;

**"Commission"** means the African Union Commission;

**"Continental Border Consultative Committee"** means the Committee set up by the African Union Commission and comprising representatives of the Regional Economic Communities, as the implementation mechanism for cross-border cooperation at continental level;

**"Convention"** means the African Union Convention on Cross-Border Cooperation;

**"Cross-Border Cooperation"** means any act or policy aimed at promoting and strengthening good-neighbourly relations between border populations, territorial communities and administrations or other stakeholders within the jurisdiction of two or more States, including the conclusion of agreements and arrangements useful for this purpose;

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

**"Reaffirmation of Borders"** means the reconstruction of degraded beacons into their original locations, in conformity with international norms;

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

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

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

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

**"Union"** means the African Union.

## Article 2 – Objectives

The objectives of the present Convention are to:

1. promote cross-border cooperation, at local, sub-regional and regional levels;
2. seize the opportunities arising from shared borders and address the related challenges;
3. facilitate the delimitation, demarcation and reaffirmation of interstate borders, in conformity with mechanisms agreed upon by the parties concerned;
4. facilitate the peaceful resolution of border disputes;
5. ensure efficient and effective integrated border management;
6. transform border areas into catalysts for growth, socio-economic and political integration of the continent; and
7. promote peace and stability through the prevention of conflicts, the integration of the continent and the deepening of its unity.

## Article 3 – Areas of cooperation

State Parties shall commit themselves to promote cross-border cooperation in the following areas:

1. mapping and geographical information, including survey;

2. socio-economic development, including transportation, communication, trade, agro pastoral activities, handicrafts, energy resources, industry, health, sanitation, drinking water, education and environmental protection;
3. cultural activities and sports;
4. security, especially combating cross-border crime, terrorism, piracy and other forms of crime;
5. de-mining of border areas;
6. institutional development in all areas covered by the present Convention, including identification, formulation and execution of projects and programmes;
7. any other areas agreed upon by the State Parties.

#### **Article 4 – Facilitation of cross-border cooperation**

1. The State Parties shall endeavour to solve any legal, administrative, security, cultural or technical impediment likely to hamper the strengthening and smooth functioning of cross-border cooperation. In this respect, State Parties shall regularly consult with each other or with other interested parties.
2. State Parties shall, in accordance with the provisions of the present Convention, cooperate fully in the implementation of the Border Programme.

#### **Article 5 – Sharing of information and intelligence**

1. Each State Party shall, as much as possible, provide information requested by another State Party, with a view to facilitating the performance by the requesting State of its obligations under this Convention.
2. Each State Party shall take the necessary steps to encourage, promote and facilitate information and intelligence sharing, as may be requested by another State Party on matters relating to the protection and security of border areas.

#### **Article 6 – Competent authorities or bodies responsible for border matters**

Each State Party shall, either at the time of ratification of, or accession to, this Convention, or as soon as possible, thereafter, communicate to the Commission the list of competent authorities or bodies responsible for border issues under its domestic law, which shall then serve as focal points.

#### **Article 7 – Harmonisation of domestic law pertaining to border issues**

States Parties are encouraged to harmonize their domestic law with this Convention and ensure that the local territorial administrations or authorities in border areas are duly informed of the opportunities available to them and their obligations under this Convention.

#### **Article 8 – Mechanisms for implementation of cross-border cooperation at the level of State Parties**

1. State Parties shall commit themselves to apply the provisions of the present Convention and to endeavour to attain its objectives, particularly by:
  - (a) establishing cooperation mechanisms, including legal frameworks;
  - (b) taking into account domestication of the provisions of the Convention in the development of their national policies and strategies;

- (c) submitting, every two years, a report on the measures taken for the implementation of the present Convention.
2. Activities pertaining to cross-border cooperation shall be undertaken by local territorial communities or authorities as defined by the domestic law of State Parties.
3. The decentralized border territorial administrations or authorities established under the domestic law of State Parties shall exercise their powers, including the conclusion of cooperation agreements with decentralized border territorial administrations or authorities of neighbouring State Parties, in conformity with the domestic law of their respective States.
4. State Parties may establish Border Consultative Committees comprising representatives of competent bodies to assist, in an advisory capacity, the border communities and authorities in the consideration of cross-border cooperation matters.

### **Article 9 – Mechanisms for implementation of cross-border cooperation at the level of the Regional Economic Communities**

1. The Commission shall establish a framework for cooperation with the Regional Economic Communities on the implementation of the Border Programme, in conformity with the objectives of this Convention. In this regard, the Commission shall request the Regional Economic Communities to:
  - (a) encourage Member States to sign, ratify, or accede to, this Convention;
  - (b) designate focal points for coordination, evaluation and monitoring of the implementation of the commitments enshrined in this Convention.
2. The Commission shall encourage each Regional Economic Community to establish a Regional Border Consultative Committee.
3. The Regional Border Consultative Committees, composed of nominees of Member States of the Regional Economic Communities, shall assist the latter, in an advisory capacity, in the consideration of cross-border cooperation matters.
4. The Regional Border Consultative Committee shall:
  - (a) assist in the formulation of policies and activities for the promotion of cross-border cooperation in administrative, cultural, socio-economic and security areas in their respective regions;
  - (b) prepare road-maps outlining the actions necessary for enhancing cross-border cooperation;
  - (c) coordinate all the activities, as well as the mobilization of the required means for the attainment of the objectives stipulated in this Convention;
  - (d) facilitate dialogue and consultation between regional and local authorities located on either side of border areas, when requested by the State Parties concerned;
  - (e) recommend the adoption of best practices for the effective management and administration of border areas;
  - (f) examine the problems faced by border populations and suggest solutions thereto, when requested by the State Parties concerned;
  - (g) make recommendations on ways and means of promoting cross-border activities undertaken by the different entities located within border areas, when requested by the State Parties concerned.



### **Article 10 – Mechanism for implementation of cross-border cooperation at the continental level**

1. The Commission shall coordinate and facilitate the implementation of this Convention through the Border Programme. Accordingly, the Commission shall:
  - (a) act as the central coordinating structure for the implementation of this Convention;
  - (b) support State Parties in implementing this Convention;
  - (c) coordinate the evaluation of the implementation of the Convention with other appropriate organs of the Union, the Regional Economic Communities and competent national bodies;
  - (d) establish the Continental Border Consultative Committee;
  - (e) support the efforts of the State Parties for an effective sharing of information and intelligence.
2. The Continental Border Consultative Committee shall be composed of the representatives of the Regional Economic Communities and shall operate under the auspices of the Commission.
3. The Continental Border Consultative Committee shall be charged with the following tasks:
  - (a) advise the Commission on cross-border cooperation matters;
  - (b) consider and propose general guidelines to promote cross-border cooperation in administrative, security, socio-economic, cultural and other areas identified in this Convention;
  - (c) identify priority actions and resources needed for the implementation of these guidelines;
  - (d) promote best practices relating to the development of border regions;
  - (e) examine problems faced by border populations and propose recommendations, in coordination with, and approval of, the State Parties concerned.

### **Article 11 – Border Programme Fund**

1. A Border Programme Fund shall be established and managed in accordance with the AU Financial Rules and Regulations.
2. The resources of the Border Programme Fund shall be provided through:
  - (a) voluntary contributions of Member States; and
  - (b) miscellaneous income, including donations and grants, in conformity with the principles and objectives of the Union.

### **Article 12 – Safeguard provisions**

1. The provisions of this Convention shall not be interpreted in a manner that is inconsistent with the relevant principles of international law, including international customary law.
2. None of the provisions of this Convention shall affect more favourable provisions relating to cross-border cooperation contained in the domestic law of State Parties or in any other regional, continental or international agreement applicable in these State Parties.
3. In the implementation of this Convention, the specificities and special needs of island states shall be taken into account.

### **Article 13 – Settlement of disputes**

1. Any dispute relating to this Convention shall be amicably resolved through direct negotiations between the State Parties concerned.
2. Where the dispute is not resolved through direct negotiation, the State Parties shall endeavour to resolve the dispute through other peaceful means, including good offices, mediation and conciliation, or any other peaceful means agreed upon by the State Parties. In this regard, the State Parties shall be encouraged to make use of the procedures and mechanisms for resolution of disputes established within the framework of the Union.

### **Article 14 – Signature, ratification or accession**

This Convention shall be open to all Member States of the Union, for signature, ratification or accession, in conformity with their respective constitutional procedures.

### **Article 15 – Entry into force**

This Convention shall enter into force thirty (30) days after the date of the receipt by the Chairperson of the Commission of the African Union of the fifteenth (15<sup>th</sup>) instrument of ratification.

### **Article 16 – Amendment**

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

### **Article 17 – Depository**

1. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the African Union.
2. Any State Party may withdraw from this Convention by giving a written notice of one (1) year in advance to the Chairperson of the Commission of the African Union.
3. The Chairperson of the Commission of the African Union shall notify the Member States of any signature of this Convention, any deposit of an instrument of ratification or accession, as well as its entry into force.
4. The Chairperson of the Commission shall also notify the State Parties of the requests for amendments or withdrawal from the Convention, as well as reservations thereon.
5. Upon entry into force of this Convention, the Chairperson of the Commission shall register it with the Secretary-General of the United Nations, in accordance with Article 102 of the Charter of the United Nations.
6. This Convention, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the

Commission who shall transmit a certified true copy of the Convention to each Member State of the African Union in its official language.

**Adopted by the twenty-third Ordinary Session of the Assembly, held in Malabo, Equatorial Guinea**

**27<sup>th</sup> June 2014**