

African Union, African Regional Bodies

Protocol on the Establishment of the African Monetary Fund

## Statute of the African Monetary Fund

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African Union

## Protocol on the Establishment of the African Monetary Fund

# Statute of the African Monetary Fund

Published

Commenced

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## Chapter I General provisions

### Article 1 – Definitions

In this Statute:

"**Act**" means the Constitutive Act of the African Union dated 11<sup>th</sup> July 2000;

"**African Unit Account**" means the unit of account adopted by the Board of Governors and that the Fund uses in its dealings with the States Parties

"**Annex**" means an annex to this Statute

"**Assembly**" means the Assembly of Heads of State and Government of the African Union;

"**Board of Directors**" means the Board of Directors of the Fund;

"**Board of Governors**" means the Board of Governors of the Fund;

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

"**Continent**" means the Continent of Africa;

"**Court**" means the African Court of Justice and Human and Peoples' Rights;

"**Executive Council**" means the Council of Ministers of the African Union;

"**First Round Share Purchasing**" means the opportunity for State Parties to purchase allocated shares in accordance with Article 5 and Annex 2;

"**Fund**" means the African Monetary Fund;

"**General Convention**" means the General Convention on Privileges and Immunities of the Organization of African Unity;

"**Member**" means a State Party that has subscribed to the Fund;

"**Member State**" means a Member State of the African Union;

"**Managing Director**" means the Chief Executive of the African Monetary Fund;

"**Ordinary operations**" means the operations relating to the core mandate of the Fund;

"**Obligation**" means States Parties' commitments to the Fund;

"**Partners**" means any external entities or organizations that will cooperate with the Fund on issues of mutual interest;

"**Protocol**" means the Protocol on the Establishment of the African Monetary Fund, the Statute and annexes to it;

"**Second Round Share Purchasing**" means the opportunity to State Parties to purchase unsubscribed shares during the First round Shares Purchasing;

"**Senior Officials**" the category of staff other than executives as defined by the African Monetary Fund;

"**Shareholders**" means States Parties who subscribed to the capital of the Fund;

"**Special Operations**" means any other operation that is different from ordinary operations;

"**Special or Voluntary Contribution**" means contribution from State Parties over and above subscriptions that do not accrue any voting rights;

"**State Party**" means a Member State which has ratified or acceded to the Protocol of the Fund;

"**Statute**" means the present Statute of the Fund;

"**Subscription**" means the amount of shares held by a member;

"**Supervisory Bodies**" means the Board of Governors and Board of Directors which oversees the activities of the Fund;

"**Union**" means the African Union established by the Constitutive Act;

"**Voting Rights**" means the rights accruing to State Parties from paid-up share capital subscription as per Annex-2.

## Article 2 – Objectives of the Fund

The objectives of the Fund shall be to:

- a. correct disequilibria in the balances of payments of States Parties;
- b. ensure stability of exchange rates among currencies and their mutual convertibility;
- c. promote African monetary cooperation so as to achieve African economic integration and speed up the process of economic development in State Parties;
- d. reinforce capacity building in the design and the implementation of debt management policies in States Parties as a means to achieving sustainable debt levels;
- e. promote the development of African financial markets;
- f. work towards the facilitation of settlement of commercial debts and the establishment of a clearing system for trade transactions amongst States Parties in order to promote intra African trade.

## Article 3 – Functions and activities of the Fund

1. For the realization of its objectives, the Fund shall function in accordance with the provisions of this Statute and its annexes.
2. The functions and activities of the Fund shall be to:
  - a. promote and facilitate trade, the settlement of commercial payment and encourage capital flow between State Parties;
  - b. provide short-term and medium-term credit facilities to sustain balance of payment in conformity with the credit policy as defined by the Board of Directors and provide technical assistance and policy advice, to States Parties with a view to assisting in financing their overall balance of payments deficits;
  - c. assist State Parties under programme with the Fund in accessing other financial sources for the purpose of financing the overall deficits in their balance of payments;



- d. cooperate with African and international financial institutions to achieve its objectives.
- e. conduct periodic consultations in State Parties on their economic policies in support of the realization of the goals of the Fund and the State Parties.
- f. conduct research and capacity building training required to achieve the objectives of the Fund;
- g. ensure the collection, analysis and dissemination of qualitative and quantitative statistical data and methods and dissemination of results for a better understanding of the economies of States Parties;
- h. carry - out any other functions or activities as may be required by the Board of Governors.

## **Chapter II Membership**

### **Article 4 – Membership**

Membership of the Fund shall be open to all Member States of the African Union that have become States Parties to the Protocol.

## **Chapter III Capital and resources of the Fund**

### **Article 5 – Capital, subscriptions of shares, voting rights and payment of subscriptions**

#### **1: Capital**

1. The authorized share capital of the Fund shall be Twenty Two Billion, Six Hundred and Forty Million United States Dollars (US\$22,640 billion). The authorized share capital shall be denominated in shares of One Hundred United States Dollars (US\$100) per share.
2. The callable share capital of the Fund shall be at least of fifty per cent of the authorized share capital - Eleven Billion Three Hundred and Twenty Million United States Dollars (US\$11,320 billion).
3. The paid-up share capital of the Fund shall be at least fifty per cent of the callable share capital - Five Billion Six Hundred and Sixty Million United States Dollars (US\$5,660 billion) denominated in shares of One Hundred United States Dollars (US\$100) per share.
4. Every five years, the Board of Governors shall review, by a qualified majority as defined in the Rules and Procedures of the Fund, the allocation of the various capital shares of the Fund. The Fund's capital structure may be reviewed, if necessary and in the manner and conditions agreed by the Board of Governors.
5. On proposal of the Board of Directors, the Board of Governors determines the deadline upon which State Parties are required to make payment of their paid-up share capital.

#### **2: Subscription of shares**

1. The subscription by States Parties to the Fund shares shall be determined by the provisions under Annex 2 attached to this Statute.
2. A State Party may subscribe to the shares of the authorized capital of the Fund based on its capital subscription allocation specified in Annex-2 attached to this Statute.

3. On the date fixed by the Board of Governors for the end of the first round of subscription of shares, unsubscribed shares may be subscribed by any State Party in a second round of offer for subscription, in accordance with a proportion of allocation approved by the Board of Governors.
4. In case of an increase in the authorized capital of the Fund, the increase shall be shared among the States Parties according to the existing capital subscription formula in Annex-2, unless otherwise stated by the Board of Governors.
5. The shares may not be pledged or encumbered in any manner whatsoever.
6. Each State Party shall subscribe for shares in conformity with the provisions of Article 5 Section 2 (1), (2) and (3), from the date of deposit of its instrument of ratification or accession.

### **3: Voting rights**

1. Voting rights shall be proportionate to the shares subscribed and paid up by each State Party as specified in Annex-2 attached to this Statute.
2. The application of the voting rights to the decisions of the Board of Governors and Board of Directors shall be according to the provisions of Article 10 and Annex-2 attached to this Statute.

### **4: Payment of subscriptions**

1. All payment obligations of a State Party concerning the subscription of shares in the initial capital of the Fund shall be denominated in United States dollars (US\$) or any other convertible currency.
2. The Board of Governors may, upon the recommendation of the Board of Directors, adjust the currency denomination or proportion of subscription in any currency, by States Parties.
3. Payment of paid-up capital initially subscribed by a State Party, as provided for in Section 2 of this Article, shall be paid in whole or in four (4) separate annual instalments of, not less than, twenty-five (25) per cent in each instalment. However, the Board of Governors may, in very limited circumstances, in the first round of share offering, permit an extended purchasing period of four (4) years with the total payment period not exceeding eight (8) years as per annex 2.
4. The first payment shall be made by each State Party within the first sixty (60) days following the date of entry into force of the Protocol and the Statute, or date of deposit of instrument of ratification or accession in accordance with Article 9 of the Protocol, where such date precedes the date of entry into force. The next instalments shall be due annually as outlined in section 4 (3).
5. On each payment made pursuant to paragraph 4 of this section or on each payment made by a newly admitted State Party, fifty (50) per cent may be in the form of bonds issued by the Government of the State Party and issued in United States dollars or any other convertible currency. The bonds shall be non-negotiable, non-interest bearing and payable to the Fund at their par value on redemption.

## **Article 6 – Resources of the Fund**

The Fund's resources shall include two categories of assets: ordinary resources and other resources.

### **Article 7 – Ordinary resources**

For purposes of this Statute, the term "ordinary resources" of the Fund shall mean:

- a) the subscribed and the paid-up shares;
- b) the resources derived from borrowing by the Fund;
- c) reserves;

- d) net income from loans and portfolio investments made with the resources referred to in paragraphs a) and b).

### **Article 8 – Other resources**

Other resources of the Fund shall include notably:

- a) special or voluntary contributions from State Parties;
- b) contributions in the form of grants, donations and similar assistance from other countries or institutions which are not State Parties, in conformity with the Constitutive Act, the Protocol and the Statute;
- c) grants;
- d) net income derived from operations of items a) and b);

## **Chapter IV Operations**

### **Article 9 – Fund operations**

#### **1: General provisions**

1. The Fund shall provide loans, technical assistance and policy advice to State Parties in situations of balance of payments and other macroeconomic problems in accordance with the Rules of Procedures adopted by the Board of Directors;
2. The Fund may grant financial assistance to State Parties upon approval of the Board of Governors;
3. In conformity with the policies and rules approved by the Board of Governors, the Fund shall be authorized to borrow and invest funds not immediately required for its operations in international financial markets and institutions.
4. The Fund shall, at all times, maintain a sound credit rating, be financially independent and operate largely on a self-financing basis.
5. The Fund shall ensure strict compliance with principles of good governance, including principles of integrity and transparency in its financial arrangements and those of its partners. These shall apply to the origins and destinations of capital for all financial transactions of the Fund. The supervisory bodies of the Fund shall ensure effective implementation of this provision.

#### **2: Types of operations**

The Fund's operations shall consist of ordinary operations and special operations.

- a. Ordinary operations shall be financed through ordinary resources of the Fund.
- b. Special operations shall be funded from other resources of the Fund.

#### **3: Limits on ordinary operations**

1. Loans issued to a State Party over a period of twelve (12) months, shall not exceed twice the amount of its paid-up subscription. Outstanding Short, Medium and Long Term loans to a State Party shall at no time exceed three times the amount of its paid-up subscription. The Board of Governors may decide to raise that limit, to four times the amount of the paid-up subscription.

2. The maximum amount of indebtedness of the Fund shall not exceed 200% (two hundred per cent) of the total of the authorized share capital of the Fund. Borrowing shall be effected in conformity with the terms and conditions prescribed by the Board of Directors.

#### **4: Currencies**

1. The transaction currencies of the Fund shall be the United States Dollars, Euro, and any other convertible currency that may be recommended by the Board of Directors and approved by the Board of Governors.
2. Pending the adoption of an African unit of account, the Fund's unit of account shall be the Special Drawing Rights of the IMF (SDR).

#### **5: Areas of cooperation**

1. In achieving its objectives and exercising its activities, the Fund shall earmark resources to building regional and international partnerships and synergies aimed at improving the efficiency of its operations.
2. Within the African continent, the Fund shall maintain working relationships with shareholders and other organs of the Union in achieving its objectives. It shall coordinate its activities with regional and continental institutions, while safeguarding its autonomy and decision-making procedures.

## **Chapter V Governance and management**

### **Article 10 – Governance structure of the Fund**

The governance structure of the Fund shall be composed of the Board of Governors, the Board of Directors and the Managing Director.

#### **1: The Board of Governors**

1. The Board of Governors shall be made up of Governors or alternate Governors representing each State Party.
2. The members of the Board of Governors shall be Ministers in charge of Finance or Governors of Central Banks of State Parties;
3. The Board of Governors shall oversee the management of the Fund and shall hold the highest executive powers;
4. The Board of Governors shall meet at least once a year in ordinary session in accordance with its rules of procedures and shall also be convened upon request, by one half of its members, or by members holding one half of the total voting power, or upon the request of the Board of Directors;
5. The Board shall elect annually from among its members, one of the Governors as its Chairperson, on a regional rotational basis;
6. The Board of Governors shall, among others:
  - a) approve and confirm the nomination of the members of the Board of Directors;
  - b) appoint the Managing Director of the Fund from among the State Parties, other than the Governors or the members of the Board of Directors;
  - c) determine the remuneration to be paid to the members of the Board of Directors and their alternates, and also the salary and terms of the contract of service of the Managing Director;

- d) adopt its own rules of procedure and the rules of procedure of the Board of Directors;
  - e) recommend amendments to the Protocol and Statute of the Fund;
  - f) admit new members and determine the conditions of their admission in conformity with Article 4 of this Statute;
  - g) increase or reduce the authorized share capital of the Fund;
  - h) appoint external auditors and decide on their mandate and remuneration;
  - i) consider the solvency position of the Fund and propose to the Assembly, if necessary, the liquidation of the Fund.
7. Decisions of the Board of Governors shall be taken based on the provisions in the Rules and Regulations of the Fund. In case of a tie, the Chairperson of the Board shall have the casting vote. The Rules of Procedures of the Board of Governors shall lay down the conditions for applying this provision.
8. The members of the Board of Governors shall not be remunerated. However, the members of the Board of Governors shall be reimbursed for any costs incurred as a result of attending Board meetings.

## 2: The Board of Directors

1. The Board of Directors shall be composed of:
  - i. The Managing Director;
  - ii. Permanent Members;
  - iii. Five (5) Substantive Directors (one per Region), and
  - iv. Five (5) Alternate Directors (one per Region).
2. The members of the Board of Directors shall be non-resident except the Managing Director. However, where Fund's operations so require, the Board of Governors may decide to review this Statute as appropriate.
3. Any State Party with at least 4% voting rights shall be allowed to hold a Permanent seat.
4. The Alternate Directors will be allowed to participate at Board Meetings but will not have voting rights except in the absence of the Substantive Director.
5. All members of the Board of Directors must have proven skills and experiences in economic, financial and monetary matters. They shall not be members of the Board of Governors.
6. The Board of Directors shall meet at least once every quarter and when required upon request by Substantive Directors representing a majority of voting rights.
7. The substantive Directors in a Region shall be elected by the Governors of that Region on a rotational basis for a fixed term period of three (3) years, renewable once. However the governors of each Region may, at their discretion, consider extending the term of office of any substantive Director.
8. The Managing Director of the Fund shall also be the Chairperson of the Board of Directors of the Fund.
9. The Board of Directors shall, among others:
  - a) prepare the meetings of the Board of Governors;
  - b) review and approve the administrative structure of the Fund;

- c) select and appoint the Deputy Managing Director of the Fund in conformity with the staff rules and regulations of the Fund;
  - d) develop staff rules and regulations for the Fund;
  - e) approve the appointments, suspensions and dismissals of the Senior Officials and other staff of the Fund, in accordance with the staff rules and regulations of the Fund;
  - f) determine the remuneration to be paid to the Deputy Managing Director of the Fund and the terms of his contract of service;
  - g) adopt the Code of Conduct of the Fund;
  - h) take decisions concerning lending conditions and borrowing terms of the Fund;
  - i) consider and approve the annual report and statement of accounts of the Fund;
  - j) approve the conclusion of general cooperation agreements between the Fund and other African or international institutions;
  - k) consider and approve the annual operating budget of the Fund.
10. The Board of Directors shall establish an internal audit committee, and any other committee as appropriate, for the purpose of internal control and compliance in the activities of the Fund.
  11. The Board of Directors shall exercise the powers vested in it by the Board of Governors and may delegate all or part of such powers to the Managing Director of the Fund, where necessary, with the exception of those referred to in paragraph 4 of this section.
  12. Decisions of the Board of Directors shall be made in conformity with the provisions in the Rules and Regulations of the Fund. Voting rights for the Substantive Directors shall be determined by the total paid-up capital subscription of that region, excluding that of State Parties with permanent seats. The voting rights for State Parties with permanent seats shall be determined by their paid-up capital subscription. In the case of a tie, the Managing Director shall have the casting vote. The Rules of Procedure of the Board of Directors shall determine the procedures for implementing this provision.

### 3: The Managing Director of the Fund

1. The Fund shall be managed and administered by a Managing Director who shall be assisted in his/her duties by Deputy Managing Directors. He/she shall be the Chief Executive and legal representative of the Fund.
2. The Managing Director shall attend the meetings of the Board of Governors and participate in the deliberations but shall not have the right to vote.
3. Under the supervision of the Board of Governors and in collaboration with the Board of Directors, the Managing Director shall be responsible for, *inter alia*:
  - a) Recruitment, appointment and discipline of the executives and other staff of the Fund, in accordance with the rules and regulations of the Fund;
  - b) Ensure implementation of the Statute of the Fund, as well as, other conventions and decisions of the Board of Governors and Directors of the Fund;
  - c) Prepare the annual budget of the Fund;
  - d) Set up special committees to assist her/him in carrying out the day-to-day administration of the Fund;
  - e) Sign Agreements and Conventions on behalf of the Fund;
  - f) Any other duties that may be assigned by the Board of Governors.

4. The Managing Director shall be appointed for a fixed term of four (4) years, renewable once upon approval by the Board of Governors. He/she shall be a national of a State Party to the Protocol and this Statute and shall have proven integrity, relevant competences and experience.
5. The Managing Director may delegate, all or part of his/her duties to the Deputy Managing Director, in accordance with the rules and regulations.

#### **4: The provisional administrative structure of the Fund**

Pending the commencement of the Fund's operations a provisional administrative structure approved by the Executive Council shall commence with immediate effect.

### **Article 11 – Code of Conduct**

1. In the performance of their duties, the Managing Director of the Fund and any other Fund staff shall not accept nor receive instructions from any government or any authority other than the Fund.
2. Each State Party shall undertake to respect the exclusive nature of the responsibilities of the Managing Director and any other staff member of the Fund and shall not influence or seek to influence them in the performance of their duties.
3. The Managing Director and the other staff of the Fund shall not, in the discharge of their duties, engage in any activity or conduct incompatible with the proper discharge of their duties. They are required to avoid conflict between professional and personal interests or obligations sufficient to influence the impartial exercise of their official duties or responsibilities.
4. Where the Managing Director of the Fund fails to comply with his/her obligations, an *ad hoc* Committee approved by the Board of Governors shall provide an appropriate report and recommendations for its consideration and decision.
5. Where a Deputy Managing Director of the Fund fails to comply with his/her obligations, the Board of Directors shall take disciplinary action against him/her and provide appropriate justification to the Board of Governors.
6. Where a staff member fails to comply with his/her obligations, the internal procedures referred to in the Statute and Staff Rules and Regulations shall be applied. The staff member concerned shall have the right to appeal in accordance with the Staff Rules and Regulations.

## **Chapter VI**

### **Withdrawal and suspension of members, temporary suspension and termination of Fund operations**

#### **Article 12 – Withdrawal**

1. Any State Party may withdraw from the Fund by giving the Chairperson of the Board of Directors six months written notice for consideration by the Board of Governors.
2. The withdrawal of a State Party shall become effective, and its participation cease, on the date approved by the Fund. However, before the withdrawal becomes effective, the State Party concerned may at any time notify the Fund in writing that its notice of intention to withdraw is annulled.
3. A withdrawing State Party shall settle with the Fund, all its outstanding obligations and financial commitments. If the withdrawal becomes effective, the State Party shall not be liable for the obligations arising from transactions by the Fund subsequent to the receipt of the notification of withdrawal in accordance with paragraphs 1 and 2 above.

### **Article 13 – Suspension of a State Party**

1. Where a State Party fails to fulfil any of its obligations towards the Fund the Board of Governors may suspend its voting and borrowing rights.
2. The Board of Governors shall determine the conditions for suspension of a State Party.

### **Article 14 – Settlement of accounts**

1. As of the date of suspension, the State Party shall remain liable for its obligations and other commitments to the Fund, as long as loans contracted before that date remain outstanding.
2. When a State Party ceases to be member, its shares and voting rights shall be sold and redistributed to the other States Parties in proportion to the shares subscribed by each of those States Parties. To this end, the redemption price of those shares shall be the value shown by the books of the Fund at the date on which the shareholder ceased to be a member, the original purchase price of each share representing its maximum value. That shareholder shall also be charged with penalty to be determined by the Board of Governors.
3. Where the Fund terminates its operations pursuant to Article 16 of this Statute, within three (3) months from the date on which a State Party has ceased to be a member, all the rights of the State Party concerned shall be determined in conformity with Articles 17 and 18 of this Statute. The State Party concerned shall be considered as still being a member of the Fund under such articles, but its voting rights shall be withdrawn.

### **Article 15 – Temporary suspension of facilities**

Under exceptional circumstances, the Board of Directors may temporarily suspend the extension or release of new or existing credit facility to any State Party until outstanding issues are resolved and approved by the Board of Governors.

### **Article 16 – Termination of operations**

1. The Fund may terminate its operations following a resolution of the Board of Governors duly adopted by the Assembly of the Union.
2. Upon such termination, the Fund shall cease all activities with the exception of those relating to the orderly realization, conservation and safeguarding of its assets and the settlement of its obligations.
3. There shall be an independent liquidator appointed by the Court to administer the termination of the Fund. Pending its establishment, such appointment shall be decided by the Board of Governors.

### **Article 17 – Liability of members and settlement of claims**

1. In the event of termination of operations of the Fund, the liabilities of all State Parties, including outstanding subscriptions and loans, shall be recovered.
2. All creditors holding direct claims shall first be paid out of the assets of the Fund and then out of payments to the Fund of unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgment, to ensure a *pro rata* distribution among holders of direct and contingent claims



## **Article 18 – Distribution of assets**

1. In the event of termination of the operations of the Fund, the distribution of assets among States Parties for their subscriptions to the capital of the Fund shall not be made until all liabilities to creditors have been settled or have been subject to appropriate measures. In addition, such distribution must be approved by a majority vote of the Board of Governors in conformity with its Rules of Procedure.
2. After a decision has been taken to distribute the assets of the Fund, as provided for in paragraph (1) above, the Board of Directors may decide subsequently to proceed with the distribution of such assets. Such distribution shall be subject to the prior settlement of all claims not yet paid by the Fund to States Parties.

## **Chapter VII Status, immunities, exemptions and privileges**

### **Article 19 – Status**

To enable it to fulfil its purpose and the functions with which it is entrusted, the Fund shall possess full international personality. To this end, it may enter into agreements with members, non-members and other international organisations. Thus, the status, immunities, exemptions and privileges set forth in this chapter shall be accorded to the Fund in the territory of each State Party

### **Article 20 – Status in States Parties**

On the territory of each State Party, the Fund shall enjoy international personality and, in particular, have full capacity to:

- a) contract;
- b) acquire and dispose of movable and immovable property;
- c) institute legal proceedings.

### **Article 21 – Privileges and immunities of the Fund**

The headquarters and other offices of the Fund shall enjoy such privileges and immunities as stipulated in the General Convention on Privileges and Immunities of the Organization of African Unity, the Vienna Convention on Diplomatic Relations and the Vienna Convention on the Law of Treaties between States and International Organizations or between International Organizations

#### **1: Property, funds, assets and transactions of the Fund**

1. The Fund, its property and assets, as well as its offices and buildings, shall enjoy immunity from legal process except to the extent that the Fund has expressly waived in special cases, in accordance with the General Convention. It shall however be understood that the waiver cannot extend to any measure of execution.
2. The property and assets of the Fund, shall be immune from search, requisition, confiscation, expropriation or any other form of executive, judicial or legislative action.
3. The archives of the Fund and, in general, all documents belonging to or held by it, shall be inviolable, wherever located.
4. Without being restricted by any financial control, regulation or moratorium:
  - a) The Fund may hold assets, gold or currency of any kind and have bank accounts in any currency;

- b) The Fund may freely transfer its assets, gold or currency from one country to another or within any country and convert any currency held by it into any other currency.

## 2: Tax exemptions

1. The Fund, its assets, income and other assets shall be exempted from:
  - i) all direct taxes, except taxes or charges that reflect payment for public utilities;
  - ii) all customs duties, prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Fund for its official use;
  - iii) restrictions on rights to import and export its publications.
2. Even if the Fund does not, in principle, claim exemption from duties and sales taxes included in the price of movable and immovable property, yet when it makes, for its official use, substantial purchases of property whose price includes taxes of this nature, States Parties shall take appropriate administrative measures for the remission or refund of the amount of such duties or taxes.

## 3: Communications

1. For its official communications and the transfer of all its documents, the Fund shall enjoy in the territory of States Parties, treatment not less favourable than that accorded by States Parties to international organizations and other governments, including diplomatic missions for cables, remote files, telephone, telegraph, telex, fax and other electronic communications, as well as the tariffs charged the media for information through the press or broadcast. The Fund shall also enjoy the same benefits as those granted to international organizations and governments, including diplomatic missions in terms of priority, pricing and taxation of mail. The communications and correspondence of the Fund may not be censored.
2. The Fund shall have the right to use codes and to dispatch and receive correspondence and other documents either by mail or in sealed bags which shall enjoy the same privileges and immunities as diplomatic couriers and bags.

## Article 22 – Immunities and privileges of Fund staff

1. The Officials of the Fund who are not citizens of the host country or nationals to whom diplomatic status have been accorded on the discretion of the host country as per Articles 8 (2) and 38 (2) of the Vienna Convention on Diplomatic Relations, 18 April 1961;
  - a) shall enjoy immunity from criminal prosecution in respect of words spoken or written and all acts accomplished by them in the performance of their duties;
  - b) shall be exempt from taxation on salaries and emoluments paid to them by the Fund;
  - c) shall be free of any obligation under the national service;
  - d) shall, together with their spouses and dependant relatives, be immune from immigration restrictions as well as aliens registration formalities and finger printing;
  - e) shall enjoy, in respect of exchange facilities, the same privileges as officials of comparable rank of diplomatic missions accredited to the State Party concerned;
  - f) shall enjoy, together with their spouses and dependents, the same repatriation facilities as diplomatic agents in times of international crisis;
  - g) shall have the right to import duty-free their furniture and personal effects at the time of first taking up employment in the State Party concerned.

2. Personnel and other employees of the Fund who are nationals or permanent residents of the host country shall enjoy:
  - a) immunities and exemptions with respect to words spoken and actions carried out in their official capacity.
  - b) Exemption from direct taxes on salaries and emoluments received for their employment.
3. The privileges and immunities shall be granted to officials of the Fund in the interest of the Fund. Such privileges and immunities shall not be granted in the personal interest of those concerned. The Managing Director of the Fund shall have the right and duty to waive the immunity of any official in any case where he considers that such immunity would prevent justice from taking its course and can be waived without prejudice to the interests of the Fund. In the case of the Managing Director and senior officials of the Fund, the waiver of immunity shall be incumbent on the Board of Directors upon approval of Board of Governors.
4. The Fund shall cooperate at all times with the competent authorities of the State Party concerned to facilitate the proper administration of justice, secure the observance of police regulations and prevent any abuse of the privileges, immunities and facilities specified in this article.

### **Article 23 – Privileges and immunities of representatives of States Parties, members of the Board of Governors and of the Board of Directors**

Representatives of States Parties, members of the Board of Governors and the Board of Directors attending meetings, assemblies and conferences organized by the Fund shall enjoy such privileges and immunities as specified in Article V of the General Convention, in the performance of their functions and during their journeys to and from the venues of such meetings.

### **Article 24 – Privileges and immunities of experts on mission for the Fund**

Experts, other than the officials mentioned in Article 22, carrying out a mission for the Fund shall, for the duration of the mission, including travel imposed by the mission, enjoy the privileges and immunities as are necessary to exercise their duties independently in accordance with the provisions of Article VII of the General Convention.

## **Chapter VIII Miscellaneous provisions**

### **Article 25 – Mode of communication with member countries and depositories**

1. Each State Party shall indicate an appropriate official entity with which the Fund can communicate on any matter concerning the Fund.
2. The Fund shall have a comprehensive communication strategy for its activities.
3. The Fund may keep its holdings with depositories determined by the Board of Directors.

### **Article 26 – Publication of the Protocol and the Statute, dissemination of information and reports**

1. The Fund shall make the text of the Protocol and the Statute and all important documents available in all working languages of the Union.
2. States Parties shall provide the Fund with any information it may request from them to facilitate the conduct of its operations.

3. The Fund shall publish and communicate to its members an annual report containing an expert's appraisal of the situation of its accounts, and forward, at maximum intervals of three months, a summary statement of its financial position and a profit and loss statement showing the results of its operations.
4. The Fund may publish any report as it deems desirable for the accomplishment of its mission and forward it to its members.
5. The Fund shall prepare and submit an annual report on its activities to the Assembly through the Executive Council.

### **Article 27 – Commencement of operations of the Fund**

1. Upon entry into force of the Protocol, each State Party shall appoint a representative, and the Chairperson of the Commission shall convene the inaugural meeting of the Board of Governors.
2. The Fund shall commence operations upon payment of at least 25 per cent of the paid-up capital.
3. The Fund shall notify States Parties of the date of commencement of its operations.
4. The Provisional Administrative Structure referred to in Article 10, Section 4 shall cease to exist on commencement of the Fund's operations.

### **Article 28 – Settlement of disputes**

Any dispute arising from the interpretation or application of the Statute shall be resolved amicably within a time limit of one (1) year. Failing which, the dispute may be referred to the Court. Pending its establishment, such matters shall be submitted to the Assembly of the Union, which shall decide by a two-thirds majority

## **Chapter IX Transitional provisions and Annexes**

### **Article 29 – Temporary domicile of the resources of the Fund**

The resources of the Fund shall be domiciled at the African Development Bank or any other credible Continental financial institution approved by the Board of Governors pending the commencement of operations of the African Central Bank

### **Article 30 – Annexes to the Statute of the Fund**

The Annexes to this Statute shall include:

1. List of African Union Member States;
2. Capital subscriptions and voting rights.

**Annex 1****List of African Union Member States**

Algeria	Ghana	Seychelles
Angola	Guinea Bissau	Sierra Leone
Benin	Guinea	Somalia
Botswana	Kenya	South Africa
Burkina Faso	Lesotho	South Sudan
Burundi	Liberia	The Sudan
Cameroun	Libya	Swaziland
Cape Verde	Madagascar	Tanzania
Central African Republic	Malawi	Chad
Comoros	Mali	Togo
Congo	Mauritania	Tunisia
Congo DR	Mauritius	Uganda
Cote d'Ivoire	Mozambique	Zambia
Djibouti	Namibia	Zimbabwe
Egypt	Niger	
Eq. Guinea	Nigeria	
Eritrea	Rwanda	
Ethiopia	Sahraouian Arab Democ. Rep.	

Gabon	Sao Tome & Principe	
Gambia	Senegal	

## Annex 2

### Capital Subscription Calculation for the African Monetary Fund

#### A. Definitions of capital

##### 1.1. Authorized share capital

The authorized capital is the maximum amount of *share capital* that the Fund shall be authorized by its statutory documents to issue to *shareholders* (State Parties). It is the highest limit of the amount that could be issued as shares to State Parties throughout the existence of the Fund, except when amended by the approval of the Board of Governors. The Fund would not operate its business with the amount as high as the authorized capital because it is above its current requirement but it represents a future limit to the amount that can be subscribed by State Parties. Therefore the Fund shall not issue the whole of its authorized capital during the life of its operation.

##### 1.2. Subscribed share capital

The subscribed capital of the Fund shall be the amount of capital agreed by the State Party to contribute in *response* to the call of the Fund. This shall not be the amount that is required to be paid by the State Party to the Fund but represents the commitment of the State Party to avail the Fund of any proportion of such amount as at when requested.

##### 1.3. Callable share capital

The callable capital is that portion of subscribed capital subject to call by the Fund only as and when required to meet its obligation. In the event of a call, payment shall be made by the State Party to the Fund to enable it discharge the obligation for which the call is made.

##### 1.4. Paid-up share capital

The paid-up capital of the Fund shall be the amount that is required to be paid by State Parties to be shareholders of the Fund and to enable the Fund carry out its activities.

#### B. Definition of variables

##### 1.5. Total external debt

Total external debt is debt owed to non-residents repayable in foreign currency, goods, or services. Total external debt is the sum of public, publicly guaranteed, and private nonguaranteed long-term debt, use of IMF credit, and short-term debt. Short-term debt includes all debt having an original maturity of one year or less and interest in arrears on long-term debt. Data are in current U.S. dollars.

##### 1.6. Total external reserves (includes gold, current US\$)

Total reserves comprise holdings of monetary gold, special drawing rights, reserves of IMF members held by the IMF, and holdings of foreign exchange under the control of monetary authorities. The gold component of these reserves is valued at year-end (December 31) London prices. Data are in current U.S. dollars.

### 1.7. GDP

GDP at purchaser's prices is the sum of gross value added by all resident producers in the economy plus any product taxes and minus any subsidies not included in the value of the products. It is calculated without making deductions for depreciation of fabricated assets or for depletion and degradation of natural resources. Data are in current U.S. dollars. Dollar figures for GDP are converted from domestic currencies using single year official exchange rates. For a few countries where the official exchange rate does not reflect the rate effectively applied to actual foreign exchange transactions, an alternative conversion factor is used.

### 1.8. Balance of payment

Current account balance is the sum of net exports of goods, services, net income, and net current transfers. Data are in current U.S. dollars.

### 1.9. Population

Total population is based on the *de facto* definition of population, which counts all residents regardless of legal status or citizenship-except for refugees not permanently settled in the country of asylum, who are generally considered part of the population of their country of origin. The values shown are midyear estimates.

All series are averaged (annually) over the considered period.

## C. Capital subscription calculation

The shares of Capital subscriptions for the AMF are determined using the following procedures:

1. For each State Party, the share of capital subscription ( $Scs_i$ ) determined taking into account the GDP and Population of the State Party using the following formula:

$$Scs_i = 100 * \left[ 0.5 * GDP_i / \sum_{j=1}^n GDP_j + 0.5 * Pop_i / \sum_{j=1}^n Pop_j \right]$$

considering that the weight allocated to each variable is summed-up to 100 per cent.

2. The Capital Subscription (CS) of the Fund is determined as a percentage ( $p_1$ ) of the Authorized Capital (AC) as followed:  $CS = p_1 * AC$   
This percentage ( $p_1$ ) is assumed varying from 75% - Low hypothesis - to 100% - High hypothesis.
3. For each State Party, the Capital Subscription is determined as followed:  
 $CS_i = Scsi * p * AC$
4. **The Authorized Capital (AC)** is determined as a percentage of an estimate of the annual average of BOP deficit balances over a period - in current prices US\$ of all member states of the African Union. This percentage is assumed varying from 75% - Low hypothesis - to 100% - High hypothesis.
5. **The Callable Capital(CC)** is determined as a percentage ( $p_2$ ) of the Capital Subscription. This percentage ( $p_2$ ) is assumed varying from 50% - Low hypothesis - to 75% - High hypothesis.  
For each State party, the Callable Capital is determined using the following formula:  $CC_i = p_2 * CS_i$
6. **The Paid-up Capital (PC)** is then determined as a percentage ( $p_3$ ) of an estimate of the Callable Capital. This percentage ( $p_3$ ) is assumed varying from 50% - Low hypothesis - to 75% - High hypothesis.

For each State party, the Paid-up Capital is determined using the following formula:  $PC_i = p_3 * CC_i$

The above procedure is followed in order to reduce the degree of skewedness of distribution to the minimum amongst the member states of the Fund and also to minimize the direct financial effect on member states. In this regards, each member state contribution is less than 0.625 per cent of its 9 years average annual GDP. The burden of payment is further reduced by the annual installment where each member state pays about 25 per cent of its required paid-up capital annually.

Authorized Share Capital is determined taking into account the annual balance of payment average deficit/surplus during 2000 and 2008 period, evaluated to US\$30.19bn. Required Callable Share Capital and paid-up capital are determined as in the Table below.

Average BOP (a)	30.19
Authorized Capital (75% of (a)) (b)	22.64
Callable Capital (50% of b) '(c)	11.32
Total Required Paid-up Capital (50% of c) '(d)	5.66
Number of voting rights	500,000.00



Country		Capital subscription	Paid-up capital (total)	Voting rights	Voting rights (total)%
		%	US\$ BN	(%)	Number
1	Algeria	4.59	0.260	4.59	22,949.06
2	Angola	2.31	0.131	2.31	11,549.06
3	Benin	1.28	0.072	1.28	6,399.06
4	Botswana	1.26	0.071	1.26	6,299.06
5	Burkina	1.47	0.083	1.47	7,349.06
6	Burundi	1.17	0.066	1.17	5,849.06
7	Cameroon	1.89	0.107	1.89	9,449.06
8	Cape Verde	0.99	0.056	0.99	4,949.06
9	Central Africa Rep.	1.10	0.062	1.10	5,499.06
10	Comores	0.97	0.055	0.97	4,849.06
11	Congo	1.20	0.068	1.20	5,999.06
12	DRC	2.79	0.158	2.79	13,949.06
13	Cote d'Ivoire	1.90	0.108	1.90	9,499.06
14	Djibouti	0.99	0.056	0.99	4,949.06
15	Egypt	6.12	0.346	6.12	30,599.06
16	Equatorial Guinea	1.31	0.074	1.31	6,549.06
17	Eritrea	1.10	0.062	1.10	5,499.06

18	Ethiopia	3.41	0.193	3.41	17,049.06
19	Gabon	1.21	0.068	1.21	6,049.06
20	Gambia	1.00	0.057	1.00	4,999.06
21	Ghana	1.84	0.104	1.84	9,199.06
22	Guinea-Bissau	0.99	0.056	0.99	4,949.06
23	Guinea	1.31	0.074	1.31	6,549.06
24	Kenya	2.50	0.141	2.50	12,499.06
25	Lesotho	1.03	0.058	1.03	5,149.06
26	Liberia	1.05	0.059	1.05	5,249.06
27	Libya	2.35	0.133	2.35	11,749.06
28	Madagascar	1.60	0.091	1.60	7,999.06
29	Malawi	1.40	0.079	1.40	6,999.06
30	Mali	1.41	0.080	1.41	7,049.06
31	Mauritania	1.08	0.061	1.08	5,399.06
32	Maritus	1.15	0.065	1.15	5,749.06
33	Mozambique	1.69	0.096	1.69	8,449.06
34	Namibia	1.18	0.067	1.18	5,899.06
35	Niger	1.40	0.079	1.40	6,999.06
36	Nigeria	7.94	0.449	7.94	39,699.06
37	Rwanda	1.27	0.072	1.27	6,349.06
38	Sao-Tome	0.95	0.054	0.95	4,749.06

39	Senegal	1.49	0.084	1.49	7,449.06
40	Seychelles	0.97	0.055	0.97	4,849.06
41	Sierra Leone	1.12	0.063	1.12	5,599.06
42	Somalia	1.35	0.076	1.35	6,749.06
43	South Africa	8.05	0.456	8.05	40,249.06
44	South Sudan	0.57	0.032	0.57	2,829.81
45	Sudan	2.26	0.128	2.26	11,319.25
46	Swaziland	1.04	0.059	1.04	5,199.06
47	Tanzania	2.41	0.136	2.41	12,049.06
48	Chad	1.35	0.076	1.35	6,749.06
49	Togo	1.17	0.066	1.17	5,849.06
50	Tunisia	2.03	0.115	2.03	10,149.06
51	Uganda	2.00	0.113	2.00	9,999.06
52	Zambia	1.48	0.084	1.48	7,399.06
53	Zimbabwe	1.57	0.089	1.57	7,849.06
54	Sahrawi Arab Rep.	0.95	0.054	0.95	4,749.06
<b>Total</b>		<b>100,00</b>	<b>5,660</b>	<b>100,00</b>	<b>500 000,00</b>