

African Union, African Regional Bodies

## Statute of the African Minerals Development Centre

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Statute of the African Minerals Development Centre  
 Contents

Article 1 – Definitions ..... 2

Article 2 – Establishment of the Centre ..... 3

    Paragraph 1. .... 3

    Paragraph 2. .... 3

Article 3 – Objectives ..... 3

    Paragraph 1. .... 3

    Paragraph 2. .... 3

        Subparagraph a) ..... 3

        Subparagraph b) ..... 3

        Subparagraph c) ..... 3

        Subparagraph d) ..... 3

        Subparagraph e) ..... 3

        Subparagraph f) ..... 3

Article 4 – Functions of the Centre ..... 4

    Paragraph 1. .... 4

    Paragraph 2. .... 4

    Paragraph 3. .... 4

        Subparagraph a) ..... 4

        Subparagraph b) ..... 4

        Subparagraph c) ..... 4

        Subparagraph d) ..... 4

        Subparagraph e) ..... 4

        Subparagraph f) ..... 4

        Subparagraph g) ..... 4

        Subparagraph h) ..... 4

        Subparagraph i) ..... 4

        Subparagraph j) ..... 4

Article 5 – Membership ..... 4

    Paragraph 1. .... 4

    Paragraph 2. .... 4

Article 6 – Legal capacity ..... 4

    Paragraph a) ..... 4

    Paragraph b) ..... 4

    Paragraph c) ..... 4

Article 7 – Privileges and immunities .....	5
Article 8 – Headquarters .....	5
Article 9 – Organs of the Centre .....	5
Paragraph a) .....	5
Paragraph b) .....	5
Paragraph c) .....	5
Article 10 – The Conference of State Parties .....	5
Paragraph 1. ....	5
Paragraph 2. ....	5
Paragraph 3. ....	5
Subparagraph a) .....	5
Subparagraph b) .....	5
Subparagraph c) .....	5
Paragraph 4. ....	5
Subparagraph a) .....	5
Subparagraph b) .....	5
Paragraph 5. ....	5
Paragraph 6. ....	5
Paragraph 7. ....	5
Paragraph 8. ....	5
Paragraph 9. ....	5
Article 11 – Functions of the Conference of States Parties .....	6
Paragraph a) .....	6
Paragraph b) .....	6
Paragraph c) .....	6
Paragraph d) .....	6
Paragraph e) .....	6
Paragraph f) .....	6
Paragraph g) .....	6
Paragraph h) .....	6
Paragraph i) .....	6
Paragraph j) .....	6
Article 12 – The Minerals Advisory Board .....	6
Paragraph 1. ....	6
Subparagraph a) .....	6

Subparagraph b) .....	6
Subparagraph c) .....	6
Subparagraph d) .....	6
Subparagraph e) .....	6
Subparagraph f) .....	6
Paragraph 2. ....	6
Paragraph 3. ....	6
Paragraph 4. ....	6
Paragraph 5. ....	6
Subparagraph a) .....	6
Subparagraph b) .....	6
Subparagraph c) .....	6
Paragraph 6. ....	7
Paragraph 7. ....	7
Paragraph 8. ....	7
Paragraph 9. ....	7
Paragraph 10. ....	7
Paragraph 11. ....	7
Article 13 – The functions of the Minerals Advisory Board .....	7
Paragraph a) .....	7
Paragraph b) .....	7
Paragraph c) .....	7
Paragraph d) .....	7
Paragraph e) .....	7
Paragraph f) .....	7
Paragraph g) .....	7
Paragraph h) .....	7
Paragraph i) .....	7
Article 14 – The Secretariat .....	7
Paragraph 1. ....	7
Paragraph 2. ....	7
Paragraph 3. ....	7
Paragraph 4. ....	7
Paragraph 5. ....	8
Subparagraph a) .....	8

Subparagraph b) .....	8
Subparagraph c) .....	8
Subparagraph d) .....	8
Subparagraph e) .....	8
Subparagraph f) .....	8
Subparagraph g) .....	8
Subparagraph h) .....	8
Subparagraph i) .....	8
Subparagraph j) .....	8
Subparagraph k) .....	8
Subparagraph (l) .....	8
Subparagraph (m) .....	8
Article 15 – Subsidiary or affiliated institutions of the Centre .....	8
Article 16 – Cooperation with other organizations .....	8
Article 17 – Financial resources of the Centre .....	8
Paragraph 1. ....	8
Paragraph 2. ....	8
Paragraph 3. ....	9
Article 18 – Expenses .....	9
Paragraph 1. ....	9
Paragraph 2. ....	9
Paragraph 3. ....	9
Article 19 – Sanctions .....	9
Paragraph 1. ....	9
Paragraph 2. ....	9
Article 20 – Settlement of disputes .....	9
Paragraph 1. ....	9
Paragraph 2. ....	9
Subparagraph a) .....	9
Subparagraph b) .....	9
Subparagraph i. ....	9
Subparagraph ii. ....	9
Paragraph 3. ....	9
Article 21 – Popularization of the Statute .....	9
Article 22 – Safeguard clause .....	9

Paragraph 1. ....	9
Paragraph 2. ....	10
Article 23 – Signature, ratification and accession .....	10
Paragraph 1. ....	10
Paragraph 2. ....	10
Article 24 – Entry into force .....	10
Paragraph 1. ....	10
Paragraph 2. ....	10
Paragraph 3. ....	10
Article 25 – Reservations .....	10
Paragraph 1. ....	10
Paragraph 2. ....	10
Paragraph 3. ....	10
Article 26 – Depository .....	10
Article 27 – Registration .....	10
Article 28 – Withdrawal .....	10
Paragraph 1. ....	10
Paragraph 2. ....	10
Paragraph 3. ....	10
Article 29 – Amendment and revision .....	11
Paragraph 1. ....	11
Paragraph 2. ....	11
Paragraph 3. ....	11
Paragraph 4. ....	11
Paragraph 5. ....	11
Article 30 – Authentic texts .....	11
Article 31 – Working languages .....	11

African Union

# Statute of the African Minerals Development Centre

Published

**Commenced**

*[This is the version of this document at 31 January 2016.]*

## **We, Member states of the African Union**

**BEARING IN MIND** the importance of Minerals and other Natural Resources, notably their contribution towards inclusive growth and sustainable development through: job creation especially for the youth and women, wealth creation and poverty eradication thus leading to socio-economic structural transformation of African Economies;

**DEEPLY CONCERNED** about the fact that Africa's abundant mineral resources are not yet contributing equitably and effectively towards improving the living conditions of its populations;

**ALSO CONCERNED** about the increasing competition and demand for Africa's raw mineral resources and the imposition of trade conditionalities, both of which are likely to reduce the continent's policy space to pursue local beneficiation, value addition and resource-based industrialisation;

**AWARE** of the enormous potential that the appropriate development of mineral resources offers to propel Africa towards broad-based socio-economic development and to the achievement of the African Union Agenda 2063;

**RECALLING** the commitment made by African Union Heads of State and Government in their Solemn Declaration on the occasion of the 50th Anniversary of the OAU/AU to take ownership of, use and develop the natural resources endowments and mineral resources, through value addition as the basis for industrialisation of the continent;

**ALSO RECALLING** Decision AU/MIN/CAMRMRD/4(1) taken during the 1st Ordinary Session of the AU Conference of Ministers responsible for Mineral Resources Development that held from 13-17 October 2008, calling upon AU Member States to work together to ensure that international agreements that they enter into enhance rather than undermine Africa's policy space for integrating mineral resources development into their economies;

**FURTHER RECALLING** Decision Assembly/AU/Dec. 175 (X) adopted by the Assembly of the Union in Addis Ababa, ETHIOPIA on 31st January 2008 that adopted the Action Plan for Accelerated Industrial Development of Africa – Doc. EX. CL/378 (XII);

**MINDFUL** of Decision EX. CL/Dec. 471 (XIV) of the 14<sup>th</sup> Ordinary Session of the Executive Council held in Addis Ababa, Ethiopia in February 2009 that adopted the Africa Mining Vision, as well as Decision EX. CL/Dec. 714 (XXI) of the 21<sup>st</sup> Ordinary Session of the Executive Council held in Addis Ababa, Ethiopia in July 2012 that endorsed the Addis Ababa Declaration on Building a Sustainable Future for Africa's Extractive Industry – From Vision To Action and called for the establishment of a Minerals Development Centre;

**CONVINCED** that the time is now for Africa's Renaissance, for the continent to regain ownership of its natural resources and to implement the Africa Mining Vision, with sound, prudent management and good governance, with a view to maximizing the benefits derivable from mineral resources exploitation for the present and future generations while limiting negative environmental and macroeconomic impacts;

**RECOGNISING** that the implementation of the Africa Mining Vision is a joint responsibility of state and non-state actors, including the private sector, community based organisations, specialized institutions, and organised labour among other stakeholders;

**DETERMINED** to seize the opportunities offered by historically high commodity prices and increased competition for Africa's mineral resources, in order to change the continent's development paradigm and move from a mere reliance on extracting and exporting raw minerals to a more transformational growth trajectory;

**RE-AFFIRMING** the commitment for efficient implementation of the Action Plan of the Africa Mining Vision in order to achieve the goals of the Accelerated Industrial Development of Africa (AIDA), Boosting of Intra-African Trade (BIAT) as well as of the African Union Agenda 2063 for the transformation of the lives of Africa's populations and the integration of Africa into the global economy;

**INSPIRED BY** the outcomes of the 1<sup>st</sup> Ministerial Retreat of the Executive Council held in Bahir Dar from 24 to 26 January 2014, calling for an effective management, governance and beneficiation of African resources to effect transformation, inclusive growth and industrialisation;

**URGING** that Minerals should play their transformative role in order to contribute to solving the pressing problems of development in the African Continent;

**BEING AWARE** of the need for co-operation in this field, particularly in research, development and training;

**EMPHASIZING** the urgency of strengthening the mineral beneficiation capabilities of African countries;

**RECOGNISING** the important role that the African Minerals Development Centre will play in supporting African Union Member States towards harnessing effectively their mineral resources in order to improve the living conditions of Africans;

**APPRECIATING** the efforts taken by our key partners, African Development Bank, United Nations Development Programme and the United Nations Economic Commission for Africa for the promotion and preparation of the establishment of such a centre;

**HAVE AGREED AS FOLLOWS:**

## Article 1 – Definitions

For the purpose of this Statute:

"**Act**" means the Constitutive Act of the African Union;

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

"**Affiliated Institutions**" means established institutions with the capacity to execute specialized functions in fulfilment of the objectives of the Centre;

"**Advisory Board**" means the Minerals Advisory Board of the Centre;

"**AMV**" means the Africa Mining Vision;

"**AU**" or "Union" means the African Union;

"**Centre**" means the African Minerals Development Centre;

"**Collaborating Institutions**" means any entities or organizations that will cooperate with the Centre on issues of mutual interest;

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

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

"**Conference of State Parties**" means the highest executive decision-making body of the Centre;

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

"**Director General**" means the Chief Executive of the Centre and the Head of the Secretariat;

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

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

"**Members**" means the States Parties;



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

"**Obligation**" means the commitments of States Parties to the Centre;

"**RECs**" means the Regional Economic Communities recognised by the African Union;

"**Region**" means any of the regions of the African Union as provided for by Resolution CM/Res. 464 (XXVI) of the Council of Ministers of the Organization of African Unity on the division of Africa into five (5) regions, namely: Northern, Western, Central, Eastern and Southern Africa;

"**Senior Officials**" means the category of staff other than executives as defined by the Centre;

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

"**State Party**" means the Member State which has ratified or acceded to the Statute of the Centre;

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

"**Subsidiary institutions**" means such institutions that are partly or wholly owned and controlled by the Centre to implement specific activities within the objectives of the Centre;

"**Supervisory Bodies**" means the Conference of State Parties and the Advisory Board, which oversees the activities of the Centre;

"**UNECA**" means the United Nations Economic Commission for Africa.

## Article 2 – Establishment of the Centre

1. The Centre is hereby established as a Specialised Agency of the Union.
2. The Centre shall be responsible for Mineral resources Development in Africa.

## Article 3 – Objectives

1. The main objective of the Centre shall be to coordinate and oversee the implementation of the AMV and its Action plan to enable the mineral resource sector play its role in the social and economic transformation, inclusive growth and sustainable development of African economies, in conjunction with Member States, RECs, the private sector, civil society organizations including women and youth organisations, collaborating institutions and other key stakeholders.
2. The specific objectives of the Centre shall be to:
  - a) ensure that there are coherent policies and robust regulatory and legal frameworks on exploration, exploitation, licensing, contracting, taxation, exporting, mineral processing and handling at the national level which are harmonized at the regional and continental levels;
  - b) develop a diversified and globally competitive African mineral industry which contributes to broad economic and social growth through the creation of economic linkages;
  - c) contribute to the regional integration agenda and the boosting of intra-African trade;
  - d) promote good governance in mineral resources development for the betterment of local communities in Africa;
  - e) foster sustainable development principles based on environmentally and socially responsible mining, which respects human rights, health and safety of the local communities, workers and other stakeholders; and
  - f) contribute to the Plan of Action for Accelerating Industrial Development of Africa (AIDA) through promotion of beneficiation, value addition, industrial linkages, responsible investments, innovation and diversification.

## Article 4 – Functions of the Centre

The Centre shall:

1. Support Member States in the formulation, harmonization and implementation of coherent policies, legal and fiscal regimes which are geared towards development of the mineral sector;
2. Support the acceleration of regional mapping and exploration activities to improve the quality of geological information and geodata management systems on the continent;
3. Facilitate and nurture human resources and skills development in line with the AMV Action Plan;
  - a) facilitate and undertake research and development, and the building of knowledge networks and niches involving the academia, private sector, government, think tanks, and other players;
  - b) encourage the establishment of industry/professional associations, Chambers of Mines, cluster councils, and incubator/technology parks;
  - c) foster learning processes by the establishment of a critical mass of industry players that share information and best practices, collaborate and compete to enhance competitiveness;
  - d) promote local beneficiation and value addition for the local production of consumer and industrial goods;
  - e) encourage and support Artisanal and Small Scale Mining and medium-scale enterprises to be integrated in the regional and global value chains;
  - f) harness the potential of Public Private Partnerships in supporting infrastructure and capacity development;
  - g) promote advocacy and communication in the mineral resources sector in order to strengthen transparency and access to information and knowledge at all levels, that may enhance informed decision-making;
  - h) promote and apply science, technology and innovation in awareness raising;
  - i) promote the mineral sector development that is environmental friendly, socially responsible and gender responsive and benefits all the communities; and
  - j) carry out any other functions that may enable the Centre achieve its objectives as may be approved by the Conference of State Parties.

## Article 5 – Membership

1. Membership of the Centre shall be open to all Member States of the Union.
2. Member States that have signed and ratified the Statute before its entry into force are Founding Members of the Centre.

## Article 6 – Legal capacity

For the fulfilment of its objectives the Centre shall, in particular, have legal capacity to:

- a) Enter into agreements;
- b) Acquire and dispose of moveable and immovable property; and
- c) Institute legal proceedings.

### **Article 7 – Privileges and immunities**

The Centre, its representatives and Staff shall enjoy in the territory of each Member State, the privilege and immunities stipulated in the General Convention and its Additional Protocol, and such facilities and courtesies as are necessary for the exercise of their functions.

### **Article 8 – Headquarters**

The headquarters of the Centre shall be situated in such a location as the Conference of State Parties shall determine based on the Criteria for Hosting the AU Organs.

### **Article 9 – Organs of the Centre**

The Centre shall have the following organs:

- a) The Conference of States Parties;
- b) The Minerals Advisory Board; and
- c) The Secretariat.

### **Article 10 – The Conference of State Parties**

1. States Parties shall be represented by Ministers responsible for Mineral resources development or their duly authorised representatives.
2. States Parties shall, in nominating a representative to the Conference of States Parties, pay due regard to their administrative capability and minerals policy and development background.
3. The following shall participate in the conference of state parties:
  - a) the AU Commissioner of Trade and Industry;
  - b) the Chairperson of the Advisory Board; and
  - c) the Director General of the Centre.
4. The Conference of States Parties shall meet in:
  - a) Ordinary session once every two years; and
  - b) Extraordinary session at the request of the Chairperson of the Conference of States Parties or any State Party and upon approval of two-thirds of all the States Parties.
5. The Conference of States Parties shall elect a Bureau, which shall be comprised of a Chairperson, two Vice-Chairpersons and a rapporteur from among its representatives taking into account the principle of geographical rotation.
6. The members of the Bureau shall hold office for two years renewable once for a further term of two years.
7. The quorum for the Conference of States Parties shall be two-thirds of the total membership of the Centre.
8. Decisions of the Conference of States Parties shall be taken by a two thirds majority of the State Parties present and having a right to vote.
9. The Conference of State Parties shall have the right to invite Member States and stakeholders as observers to attend its meetings. without the right to vote.

## **Article 11 – Functions of the Conference of States Parties**

The Conference of the State Parties shall:

- a) issue policy guidelines through resolutions and recommendations;
- b) adopt its Rules of Procedure;
- c) determine the criteria and the scale of assessment for membership fees;
- d) appoint and dismiss the Director General of the Centre;
- e) appoint external auditors and decide on their mandate and remuneration;
- f) appoint and dismiss for cause the Members of the Advisory Board;
- g) dissolve the Advisory Board, if necessary;
- h) decide on the necessity of establishing or causing to be established, or dissolving or causing to be dissolved any subsidiary institution as provided for in Article 15 of this statute;
- i) decide on the location of any subsidiary institution of the Centre;
- j) decide on a sustainable financial mechanism as well as decide and prioritise the activities of the Centre relating to critical issues affecting minerals development in different parts of the continent.

## **Article 12 – The Minerals Advisory Board**

1. The Advisory Board shall consist of the following:
  - a) The AU Director of Trade and Industry;
  - b) Representatives of the members of the Bureau of, the AU Specialized Technical Committee on Trade, Industry and Mineral Resources;
  - c) One Representative from each REC;
  - d) The representatives of the Collaborating Institutions;
  - e) The Director General of the Centre; and
  - f) An expert in the area of minerals resources development appointed by the Conference of States Parties.
2. Members of the Advisory Board shall possess relevant professional experience in the field of mineral resources development and participate actively in carrying out AMDC's activities.
3. Members of the Advisory Board other than the Director General and the AU Director of Trade and Industry, shall be appointed for a term of two years renewable once.
4. The Advisory Board Members shall serve in their personal capacities on a part-time basis, as representatives of the Centre.
5. The Advisory Board shall meet:
  - a) in regular session twice a year one of which is to immediately precede the Conference of State Parties;
  - b) as often as necessary in extraordinary session at the request of the Chairperson of the Advisory Board or as otherwise requested by the Secretariat subject to the availability of resources; and
  - c) at the seat of the Centre, unless otherwise determined by the Conference of State Parties.

6. The quorum for meetings of the Advisory Board shall be a two-thirds majority of the members of the Advisory Board.
7. The decisions of the Advisory Board shall be taken by consensus, failing which by a two-thirds majority of the members of the Advisory Board.
8. The Board shall elect annually from among its members, a Chairperson, Vice Chairperson and a rapporteur on regional rotational basis.
9. A Member State may participate in a meeting of the Advisory Board to consider any issue that affects that Member State provided that the Member State shall not vote on the matter under consideration.
10. The members of the Advisory Board shall not be remunerated but shall be reimbursed for any costs incurred as a result of attending Board meetings.
11. Pending the definitive entry into force of this Statute the Chairperson of the AU Commission shall appoint members of the Advisory Board to undertake the functions of the Advisory Board. Such members appointed by the Chairperson of the AU Commission shall serve only on an interim basis.

### **Article 13 – The functions of the Minerals Advisory Board**

The functions of the Advisory Board shall be to:

- a) Prepare its own rules of procedure and submit to Conference of States Parties for approval;
- b) Convene the ordinary and extraordinary sessions of the Conference of States Parties, subject to the relevant provisions of Article 10, and determine the provisional agenda;
- c) Ensure the implementation of the work programme and other resolutions of the Conference of State Parties;
- d) Supervise and coordinate the activities of the Secretariat and committees or working groups;
- e) Assist the States Parties in implementing the resolutions, directives and decisions of the Conference of State Parties and discharge the duties and obligations, which are conferred upon it under the Statute;
- f) Submit to the Conference of States Parties nominations for the post of Director General in accordance with guidelines set by the Conference of States Parties;
- g) Supervise the Director General in the administration and financial management of the Secretariat;
- h) Submit periodic reports of its activities to the Conference of States Parties; and
- i) Carry out any other functions that may be assigned to it by the Conference of States Parties.

### **Article 14 – The Secretariat**

1. The Secretariat shall be headed by a Director General who shall be assisted by the necessary and competent staff for the smooth functioning of the Centre.
2. The Conference of States Parties shall on the recommendation of the Advisory Board appoint the Director General.
3. In the appointment of the Director General and other staff, consideration shall be made to ensure competence, gender balance, qualification, experience, high integrity and geographical distribution of posts.
4. The Director General shall serve in office for a term of four (4) years renewable only once.

5. The Director General shall:
- a) follow up and ensure the implementation of the resolutions, directives and decisions of the Conference of State Parties and the Advisory Board in accordance with the rules and regulations of the Centre;
  - b) represent the Centre and defend its interest under the guidance and approval of the Advisory Board and the Conference of State Parties;
  - c) promote the development of the programmes, projects and initiatives of the Centre;
  - d) prepare and submit proposals relating to the work programmes, business plans, strategic objectives, projects, activities and budgets of the Centre and ensure their implementation;
  - e) oversee the administrative and financial management of the Centre by appropriately managing the budgetary and financial resources including collecting the approved revenue from various sources;
  - f) prepare financial reports and budgets to be submitted to the Conference of State Parties for approval on the recommendation of the Advisory Board, in accordance with the Centre's rules and regulations;
  - g) submit reports on the activities of the Centre to the Conference of State Parties and Advisory Board;
  - h) appoint the staff of the Centre and terminate their contracts of appointments in accordance with the Centre's Staff Rules and Regulations;
  - i) prepare and service meetings of the Conference of State Parties, the Advisory Board and Committees of the Centre;
  - j) organize meetings and undertake studies as necessary and maintain relevant records in relation thereto;
  - k) submit to the Conference of State Parties and the Advisory Board annual reports on the operations of the Centre;
  - l) keep in custody the seal, documents, files and other data relating or relevant to the work of the Centre; and
  - m) make recommendations to improve the Centre's operational efficiency.

### **Article 15 – Subsidiary or affiliated institutions of the Centre**

There shall be such subsidiary or affiliated institutions of the Centre as the Conference of States Parties may decide for the purposes of carrying out the functions of the Centre.

### **Article 16 – Cooperation with other organizations**

The Centre shall work in close cooperation with the different AU Organs, RECs, national organizations, including government ministries, universities, industrial research and training institutes, mineral development and policymaking bodies as well as the private sector, civil society organisations and international agencies.

### **Article 17 – Financial resources of the Centre**

1. The regular budget of the Centre shall be funded by contributions of States Parties in accordance with the scale of assessment determined by the Conference of State Parties.
2. Supplemental budgets of the Centre shall be made available, where necessary to meet the extra and/or special budgetary expenditure of the Centre. The Conference of States Parties shall determine the contributions of State Parties to the special budgets of the Centre.

3. In addition, the Centre may receive grants, donations and proceeds for its activities as approved by the Advisory Board.

### **Article 18 – Expenses**

1. The Secretariat may incur expenses for administrative, operational and investment purposes in accordance with the approved Programme of Work, Budget and Financial Regulations and Rules of the Centre as adopted by the Conference of States Parties.
2. Expenses incurred by representatives of States Parties in attending meetings of the Conference of State Parties shall be borne by their respective governments.
3. Expenses incurred by Members of the Advisory Board in the course of their official duties for the Centre shall be borne by the Centre.

### **Article 19 – Sanctions**

1. Any State Party that fails to honour its financial obligations to the Centre for a period of two (2) years or more shall, as long as it is in such arrears, forfeit the right to vote in the Conference of State Parties or to present candidates for any elective or other post with the Centre.
2. Any violation of any provisions of this Statute by a State Party shall result in sanctions as may be determined by the Conference of States Parties.

### **Article 20 – Settlement of disputes**

1. Any dispute or difference arising between States Parties with regard to the interpretation, application and implementation of this Statute shall be settled by mutual consent between the States concerned, including through negotiations, mediation, conciliation or other peaceful means.
2. In the event of failure by the disputing parties to settle the dispute or difference in accordance with Article 20 (1), the disputing Parties may, by mutual consent, refer the dispute to:
  - a) The African Court of Justice Human and Peoples' Rights, where applicable; or
  - b) An Arbitration Panel of three (3) Arbitrators whose appointment shall be as follows:
    - i. The Parties to the dispute shall appoint two (2) of the Arbitrators;
    - ii. The Chairperson of the Commission shall appoint the third Arbitrator who shall be President of the Panel.
3. The decision of the Panel of Arbitrators shall be binding.

### **Article 21 – Popularization of the Statute**

States Parties shall take all appropriate measures to ensure the widest possible dissemination of this Statute in accordance with the relevant provisions and procedures of their respective constitutions.

### **Article 22 – Safeguard clause**

1. No provision in this Statute shall be interpreted as derogating from the principles and values contained in other relevant instruments for the promotion of Minerals development in Africa.

2. Nothing in this Statute shall be construed as preventing a Party from taking any action, compatible with the provisions of the United Nations Charter or any other international instrument and that is limited to the exigencies of the situation, as it considers necessary to its external or internal security.

### **Article 23 – Signature, ratification and accession**

1. This Statute shall be open to Member States of the Union for signature, ratification or accession.
2. The instrument of ratification or accession to the present Statute shall be deposited with the Chairperson of the Commission who shall notify Member States of the Union of the deposit of the instruments of ratification or accession.

### **Article 24 – Entry into force**

1. This Statute shall enter into force thirty (30) days after the deposit of the fifteenth (15<sup>th</sup>) instrument of ratification.
2. The Chairperson of the Commission shall inform all Members States of the entry into force of the present Statute.
3. For any Member State acceding to the present Statute, the Statute shall come into force in respect of that State on the date of the deposit of its instrument of accession.

### **Article 25 – Reservations**

1. A State Party may, when, ratifying or acceding to this Statute, submit in writing a reservation, with respect to any of the provisions of this Statute. Reservation shall not be incompatible with the object and purpose of this Statute.
2. Unless otherwise provided, a reservation may be withdrawn at any time.
3. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

### **Article 26 – Depository**

This Statute shall be deposited with the Chairperson of the Commission, who shall transmit a certified true copy of the Statute to the Government of each signatory State and notify Member States of the dates of the deposit of the instruments of ratification or accession.

### **Article 27 – Registration**

The Chairperson of the Commission shall upon the entry into force of this Statute register this Statute with the United Nations Secretary General in conformity with Article 102 of the Statute of the United Nations.

### **Article 28 – Withdrawal**

1. At any time after three years from the date of entry into force of this Statute, a State Party may withdraw by giving written notification to the Depository.
2. Withdrawal shall be effective one year after receipt of notification by the Depository, or on such later date as may be specified in the notification.
3. Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.



### **Article 29 – Amendment and revision**

1. Any State Party may submit proposal(s) for the amendment or revision of this Statute. Such proposal(s) shall be adopted by the Conference of States Parties.
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit such proposal(s) to the Conference of States Parties at least six months before the meeting at which it shall be considered for adoption.
3. The Conference of States Parties, upon the advice of the Commission, shall examine these proposals within a period of one year from the date of receipt of such proposals.
4. Amendments or revisions shall be adopted by the Conference of States Parties by consensus or, failing which, by a two-thirds majority.
5. The amendment or revision shall come into force thirty (30) days after adoption by the Conference of States Parties.

### **Article 30 – Authentic texts**

This Statute is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

### **Article 31 – Working languages**

The working languages of the Centre shall be those of the Union.

**IN WITNESS, WE**, Heads of State and Government of the African Union have adopted this Statute.

**Adopted by the twenty-sixth Ordinary Session of the Assembly, held in Addis Ababa, Ethiopia**

**31 January 2016**