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AFRICAN UNION

ELECTION OBSERVATION MANUAL



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Abbreviations and Acronyms

ACDEG	African Charter on Democracy, Elections and Governance
AU	African Union
AUC	African Union Commission
AUEOM	African Union Election Observation Mission
CSO	Civil Society Organisation
CVE	Civic and Voter Education
DEAF	Democracy and Electoral Assistance Fund
DEAU	Democracy and Electoral Assistance Unit
DFID	Department for International Development
DHoM	Deputy Head of Mission
DPA	Department of Political Affairs
EAC	East African Community
EAF	Electoral Assistance Fund
ECCAS	Economic Community of Central African States
ECOSOCC	The Committee of the Economic, Social and Cultural Council
ECOWAS	Economic Community of West African States
EISA	Electoral Institute for Sustainable Democracy in Africa
EMB	Election Management Body
EOM	Election Observer Mission
HoM	Head of Mission
IFES	International Foundation for Electoral Systems
LTO	Long-Term Observer
MFA	Ministry of Foreign Affairs
NGOs	Non-Governmental Organisations
OAU	Organisation of African Unity
PAP	Pan-African Parliament
PRC	Permanent Representative Committee
PSC	Permanent Representative Council
REC	Regional Economic Community
TAM	Technical Assessment Mission
ToR	Terms of Reference
SADC	Southern Africa Development Community
STO	Short-Term Observer
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNSC	United Nations Security Council

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Preface

Since the early 1990s, when most African countries returned to multiparty rule, there has been exponential growth in elections in Africa. With the growth in elections has come the development and institutionalisation of election observation activities. In response to the democratic waves on the continent, the African Union (AU), a 54-member Pan-African organisation created in 2002 as a successor organisation to the Organisation of African Unity (OAU), has developed norms intended to promote political participation, improve electoral standards and facilitate the consolidation of democracy in Member States. Thus the African Union's Constitutive Act (2002), the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa (2002), the Africa Charter on Democracy, Elections and Governance (2007), and the Guidelines for AU Electoral Observation and Monitoring Missions provide the benchmarks for the promotion of democratic elections.

Steps towards ensuring that the African Union played a leading role in enhancing electoral standards through election observation in Africa culminated in the creation of the Democracy and Electoral Assistance Unit (DEAU) in the Department of Political Affairs (DPA) of the African Union Commission (AUC) in 2008 to coordinate the election observation activities of the AU. Since then, election observation activities by the AU have become an important component of the *raison d'être* of the Organisation, and AU election observers have been deployed in almost all the 54 Member States. Currently, the AU deploys on average 15 Election Observation Missions on the continent annually. In 2011 alone, there were over 20 elections (presidential, parliamentary and referendums) in which the AU deployed observers.

The mandate of the AU to observe elections in Member States is based on the principle that "democratic elections are the basis of the authority of any government". Democratic elections should be conducted "freely and fairly" and "by impartial, all-inclusive competent accountable electoral institutions" in a manner that meets international standards. Election observation by the AU,

other international actors and domestic civil society organisations contributes to safeguarding electoral standards and thereby prevents post-election violence that may emanate from electoral disputes.

Over the years, the AU has gradually emerged as the dominant and leading guarantor of democratic elections and election observation in Africa. In this regard, it is important to develop a systematic approach to how election-related activities are conducted. Such an approach would provide AU election observers with a standardised way of conducting observation activities of the organisation in line with its methodology and acceptable standards for international election observers.

This Manual, the first of its kind by the AU, is intended to achieve the above objective. In addition, this Manual would serve as a resource for all who are interested in AU election observation methodology in particular and election observation in Africa in general.

I wish to thank all electoral stakeholders and observers who have contributed to the growth and improvement in AU Election Observation Missions (AUEOMs) through dedication and commitment to duty. The AU will continue to work with our observers and experts in the coming years to consolidate gains already made in the field of democratic elections and election observation. Finally, I hope that this Manual will become an invaluable reference resource for all observers and experts as they go about their electoral activities.

Dr Aisha Abdullahi, Commissioner for Political Affairs

1 Introduction

1.1 Purpose and Structure of the Manual

The promotion of democracy in Africa is one of the important aspects of the African Union's mandate, which it fulfils through election observation. The Union has been involved in the observation of elections across the continent for over a decade. Through this period, it has developed and refined its methodology for observation. This Manual is designed as a reference guide for use by African Union election observers in the field during AUEOMs. It is designed to provide guidance to observers on the benchmarks and the methodology for observation of elections by the AU. It articulates in details the 'what' and the 'how' of observing elections by the AU.

This Manual is set out in eight chapters. The first is an introductory chapter that clarifies the purpose of the Manual and the rationale for election observation. This introductory chapter also clarifies terminology related to election observation.

The second chapter deals with the legal framework for election observation. It provides an overview of the international and continental instruments that provide the benchmarks for the conduct of democratic election in Africa. These instruments form the basis for assessment of elections in Africa by the AU.

The third chapter of this Manual focuses on the AU and its role in election observation. It provides an overview of the mandate, scope and methodology of AU's election observation. The chapter also provides information on the structure and operations of the DEAU, which is the unit responsible for the implementation of AUEOMs.

In the fourth chapter, this Manual examines in detail how an AUEOM operates. The chapter provides information on the structure, leadership, composition and

interactions of an AUEOM. It also provides information to observers on what to expect before, during and after an AUEOM.

The fifth chapter of the Manual deals with AU election observers. It provides information on the recruitment, conduct, roles and responsibilities of observers in an AUEOM.

The focus of the sixth chapter of the Manual is the content of AU election assessment. It provides details of the important issues and questions to be considered by AU election observers as they undertake their duties across the different aspects of the electoral process.

In the seventh chapter, the Manual deals with the key outputs of AUEOMs; these are the different kinds of reports and statements issued by AUEOMs. It provides guidance on the content and structure of these reports and statements.

The final chapter of the Manual deals with the actions taken by the African Union after the close of its EOMs. The chapter provides important information on the submission of reports within the organs of the African Union and follow-up actions taken by the African Union to ensure that the recommendations made by its EOMs are taken into consideration by the host country for the improvement of further electoral processes.

1.2 Rationale of Election Observation

'Electoral observation and monitoring has become an integral part of the democratic and electoral processes in Africa. International, regional and national observers have come to play important roles in enhancing the transparency and credibility of elections and democratic governance in Africa and the acceptance of election results throughout the continent. Electoral observation and monitoring missions can also play key roles in diminishing conflicts before, during and after elections.'

Paragraph 1.1., Guidelines for AU Electoral Observation and Monitoring Missions.

Conducting regular, credible elections is the hallmark of a democracy. Cognisant of the fact that elections in Africa are conducted in an environment impacted upon by various historical and socio-economic factors, including ethnicity, religion, and competition for control of natural resources, the AU developed

a set of instruments providing benchmarks for the conducting of democratic elections. Specifically, the AU recognises democratic elections as elections that comply with these standards: conducted regularly in a free and fair manner, under democratic constitutions, within a system of separation of powers, by impartial, well-funded election management bodies (EMBs).¹ It is important to note, however, that the mere regularity of the elections does not necessarily translate into the existence of democratic governance, because the democratic value of an election is dependent on a number of factors. It is therefore necessary to develop a system by which the level of compliance with the set benchmarks can be assessed and improved. In this regard, election observation has become an international best practice for assessing elections.

Election observation as a process of systematically gathering information on the electoral process as the basis for making an informed decision on the integrity and credibility of the process has become an accepted feature of elections in Africa over the past decade. In the African context, where elections are keenly contested in an environment impacted upon by a range of factors, election observation plays a critical role in the promotion of the integrity and credibility of electoral processes.

Election observation serves the following purposes:

- safeguarding the integrity of the electoral process;
- promoting the openness and transparency of the process;
- enhancing public confidence;
- diffusing potential tensions;
- deterring improper practices and attempts at fraud;
- increasing political credibility;
- contributing to the acceptance of election results; and
- disseminating and strengthening international standards and electoral best practices.

Although elections are generally conducted on specific days, they are not one-off events but are processes that are cyclical in nature. The electoral cycle presents a complex interaction of activities and events across the electoral process. For an objective and comprehensive assessment of the electoral process, it is important to consider the different elements of the cycle.

¹ Section II (4), AU/OAU Declaration on the Principles Governing Democratic Elections in Africa.

Figure 1: The Electoral Cycle

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Definition of terms

The Guidelines for AU Electoral Observation and Monitoring Missions provide the following definition of terminology for processes that cover different aspects of election assessment to clarify the differences between these related but different processes.

- i. **Observation**, which involves gathering information and making an informed judgement;
- ii. **Monitoring**, which involves the authority to observe an election process and to intervene in that process if relevant laws or standard procedures are being violated or ignored;

- iii. **Mediation**, which is third-party intervention in electoral disputes, directed at assisting disputants to find mutually acceptable outcomes and solutions to electoral disputes;
- iv. **Technical Assistance**, which generally takes the form of technical support and advice to the Electoral Commission;
- v. **Supervision and Audit**, which involves the process of certifying the validity of all or some of the steps in election processes either prior to or after the election has taken place.

This Manual is primarily focused on election observation by the AU, although reference may be made to other election assessment methods.

2 International Instruments and AU Benchmarks for Democratic Elections

States voluntarily commit to international obligations that stipulate the principles and guidelines that govern state actions. These State obligations are provided through: international customary law, which is binding on all States; international and regional treaties and conventions, which are binding on signatories; and declarations and political commitments, which are persuasive on supporting States. There are internationally accepted benchmarks for democratic elections that are stipulated in international, continental and regional instruments. This chapter provides an overview of existing instruments that guide the conduct of elections in Africa and form the basis of the AU's assessment of electoral processes.

The Universal Declaration of Human Rights (UDHR) is one of the principal universal legal instruments that have the force of international customary law; it is therefore binding on all States. At the continental level, the African Union has developed instruments that provide benchmarks for democratic elections in its Member States. In line with the benchmarks developed at the continental level, within geographic regions of the continent, Regional Economic Communities (RECs) have developed regional instruments that are agreed to by their Member States, and these provide benchmarks for democratic elections within the regions. These RECs are: the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), the East African Community (EAC) and the Economic Community of Central African States (ECCAS).

AU Election Observation Missions derive their legitimacy from international instruments and benchmarks, including the Universal Declaration of Human Rights (UDHR), Declaration of Principles for International Election Observation, AU Declaration on Principles Governing Democratic Elections in Africa, Guidelines for AU Electoral Observation and Monitoring Missions, African Charter on Democracy, Elections and Governance and other regional instruments.

2.1 Universal Declaration of Human Rights (UDHR)

Adopted in 1948 by the General Assembly of the United Nations, the Universal Declaration of Human Rights (UDHR) is often referred to as the principal universal legal instrument. With the adoption of this Declaration, the right of citizens to participate in electoral and political processes in their countries became entrenched as a fundamental human right.² The UDHR and other international treaties promote shared fundamental values – most importantly, rights related to political participation and voting.

Article 21(1) of the UDHR clearly asserts that “everyone has the right to take part in the government of his country, directly or through freely chosen representatives”.³ Article 21 (3) further states that “the will of the people shall be the basis of the authority of government; this will of the people shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”⁴

These articles of the UDHR set out the universally accepted principles of democratic elections, which will be discussed later in this chapter.

2.2 Declaration of Principles for International Election Observation

The AU is one of the endorsing organisations of the Declaration of Principles for International Election Observation,⁵ which was launched on 27 October 2005 at the UN headquarters. This Declaration includes a code of conduct for International Election Observers. Through its endorsement of the Declaration and its accompanying code of conduct, the AU pledged its commitment to the promotion of integrity and transparency in election observation.

The Declaration provides a definition of international observation and stipulates the rights and obligations of international observers. It reaffirms the fundamental rights of citizens to express their will through periodic democratic elections as stipulated in the UDHR. The Declaration also provides the scope and

² European Commission Compendium of International Standards for Elections (Second Edition, 2007).

³ UDHR, Article 21(1). <http://www.un.org/en/documents/udhr/index.shtml>

⁴ Ibid. 21(3).

⁵ <http://www.eisa.org.za/EISA/unp.htm>

methodology of international observation. It also stipulates the obligations of the host country to international observers and the preconditions required for deployment of an international observer mission. The accompanying code of conduct for international election observers provides guidelines on the expected conduct of international election observers and commits them to a pledge of professionalism and impartiality during election missions.

2.2.1 Universal Principles

The aforementioned international instruments enumerate internationally accepted principles and standards that set the basis for the assessment of the legitimacy and integrity of electoral processes in accordance with international human rights standards.

- **Universal adult suffrage** – Ensures access to an effective, impartial and non-discriminatory registration and voting procedure for all adult citizens.
- **Equal** – Ensures that all votes are treated in an equivalent weight to ensure equal representation. This is often translated into “one person, one vote”.
- **Fairness** – Ensures there is a level playing field for all electoral stakeholders.
- **Secrecy** – Ensures that voters cast their ballot in private, so that a third party cannot see or determine how the voter votes.
- **Freedom** – Voters are able to cast their vote freely without intimidation or threat of violence.
- **Transparency** – Ensures visibility and openness of the entire process.
- **Accountability** – Requires that elected representatives be held accountable to the electorate.

2.3 AU Declaration on the Principles Governing Democratic Elections in Africa

In recognition of the importance of election observation and monitoring, Heads of State and Government met in Durban, South Africa, in 2002 at the 38th Ordinary Session of the Assembly of the OAU. The Session agreed to and endorsed the Declaration on the Principles Governing Democratic Elections in Africa.⁶

⁶ <http://au.int/en/content/durban-8-july-2002-assembly-heads-state-and-government-thirty-eighth-ordinary-session>

This AU instrument reaffirms the universal principles of democratic elections stipulated in the UDHR; it also stipulates the obligations of AU Member States in the promotion of democracy through the establishment of relevant institutions and the creation of a context conducive to democracy. The fourth part of the Declaration reaffirms the rights and obligation of citizens in democratic elections. Its fifth part provides in broad terms the role of the AU in election observation in its Member States, and the concluding part of the Declaration stipulates the mandate and role of the AUC in the implementation of the Declaration.

Democratic elections should be:

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

2.4 Guidelines for African Union Electoral Observation and Monitoring Missions

The African Union Guidelines for Electoral Observation and Monitoring Missions⁷ provide further details on the role of the AU in election observation and monitoring, thus strengthening democratisation and governance processes on the continent. The Guidelines set forth the rights and duties of AU election observers and a code of conduct.

The Guidelines stipulate the procedures and preconditions for the deployment of an AUEOM. They stipulate the criteria for determining the scope and nature of the AU's involvement in an election, the mandate, rights and obligations of AUEOMs, and the code of conduct for observers. Specifically, the Guidelines require countries holding elections to invite the AU, and the AU is also required to dispatch an Electoral Assessment Team to make a preliminary assessment of the pre-existing conditions for the conducting of democratic elections. The Guidelines stipulate that the existence of a level playing field should be the central focus of an assessment while giving cognisance to the sovereignty of AU Member States to choose their electoral system and to the fact that there are different levels of development on the continent. The Assessment Team is also mandated to advise the AU on the scope and mandate of its mission in

⁷ <http://www.eisa.org.za/PDF/oaudec.pdf>

an electoral process. The Guidelines also list different forms of AUEOMs in an election, namely: observation, monitoring, mediation, technical assistance and supervision and audit.

The Guidelines enable an AUEOM to make a complete assessment of an electoral process covering the entire electoral cycle. Specifically, an AUEOM is able to assess whether the constitution and legal framework of the host country guarantees freedoms and human rights, whether the electoral system is premised on the right to freedom of association, through, inter alia, the formation of political parties, whether the EMB is independent and impartial, whether the EMB exercises its functions without fear, favour or prejudice, whether registration of voters is inclusive and whether management of the voters' roll is transparent, whether civic education is non-partisan and widespread, and whether the media is independent and accessible.

2.5 African Charter on Democracy, Elections and Governance (ACDEG)

The African Charter on Democracy, Elections and Governance (ACDEG) was adopted in January 2007 and entered into force in February 2012. The Charter is currently being domesticated and applied in Member States.⁸ The Charter derives its authority and legitimacy from the Constitutive Act of the African Union, which commits AU Member States to participatory democracy, constitutionalism, rule of law, human rights, peace and security, as well as sustainable human development in Africa.⁹ It clearly specifies the right of people to participate in their own government. The right to participate excludes military interventions in the takeover of a government.

Article 3 (7) of the Charter speaks to participation of citizens. The Charter requires Member States to commit themselves to promote democracy, and to the principle of the rule of law and human rights.¹⁰ It further provides for citizens to enjoy fundamental freedoms and human rights taking into account their universality, interdependence and indivisibility.¹¹

⁸ <http://au.int/en/content/african-charter-democracy-elections-and-governance>

⁹ Khabele, M. (2008) The African Charter on Democracy, Elections and Governance: Declaration vs. policy practice, *Policy Brief 53, Centre for Policy Studies*.

¹⁰ Article 4 of the Charter.

¹¹ Article 6 of the Charter.

The key objectives of the Charter include:

- Respect for human rights and democratic principles;
- Holding of regular, transparent, free and fair elections;
- Effective participation of citizens in the governance of public affairs; and
- Strengthening political pluralism and recognising the role of opposition parties.

The Charter draws together the Member States' commitment and noble declarations into a single consolidated treaty with legally binding commitments and serves as a point of reference for all AU efforts aimed at enhancing the overall state of democracy, elections and governance throughout the continent.¹²

The Charter represents an important instrument for election observation and commits state parties to:

- Establish Independent & impartial EMBs;
- Establish national mechanisms for dispute resolution;
- Ensure fair use of state resources, especially media;
- Put in place a code of conduct for electoral stakeholders; and
- Acceptance of election results.

The Charter adds important value to the work of the AU on election observation because it presents a clear link between the electoral process and the wider governance context in Member States. This further enhances the mandate of the AU in election observation across the electoral cycle and also the enforcement of democratic principles stipulated in AU instruments, because it stipulates mechanisms for application of these principles.

Through the adoption and signature of the aforementioned instruments, AU Member States are committed to a wide array of standards to support, protect and promote democratic governance and human rights on the continent.

2.6 Regional Instruments

Regional Economic Communities (RECs) in Africa have also drafted and adopted regional instruments on democratic governance and elections in form of treaties, declarations, protocols, guidelines, principles, norms and standards which are in line with the international (universal) and continental instruments discussed earlier in this chapter.

¹² Khabele (2008).

Election observation missions deployed by regional organisations base their assessment of elections on regional instruments to ensure that their findings are comprehensive and accurate. Election missions deployed by RECs also make reference to other international and continental instruments such as the *African Charter on Democracy, Elections and Governance*; the AU Declaration on the Principles Governing Democratic Elections in Africa; the Guidelines for AU Electoral Observation and Monitoring Missions; and the UN Declaration on Human Rights. Furthermore, observers work within the legal framework of the host country.

Southern African Development Community (SADC) – established in 1992 by a Treaty signed in Windhoek, Namibia. Its establishing Treaty recognises human rights, democracy and the rule of law as the guiding principles for the actions of its members.¹³ Based on the principles stipulated in the Treaty, the SADC Principles and Guidelines Governing Democratic Elections was adopted in 2004. This regional instrument recognises political participation as a fundamental right. It stipulates the principles for the conducting of democratic elections in the SADC region; the mandate of SADC Election Observation Missions; guidelines for election observation; code of conduct for SADC observers; rights and responsibilities of observers; and the responsibilities of SADC Member States holding elections.

While the SADC Principles and Guidelines Governing Democratic Elections is the main instrument for election assessment in the region, it is important to mention that there are other regional instruments for election assessment that draw on the benchmarks provided in the SADC Guidelines and Principles. These other relevant instruments are:

- SADC-Parliamentary Forum Norms and Standards for Elections in the SADC Region (2001);
- SADC Protocol on Gender and Development (2008);¹⁴ and
- SADC Electoral Commission Forum, Principles and Guidelines on the Independence of Election Management Bodies in the SADC Region (2008).

Economic Community of West African States (ECOWAS) – Signed in 2001, the Protocol on Democracy and Good Governance aims to strengthen peace, democracy and stability in the region. This Protocol is a supplementary to the Protocol Relating to the Mechanism for Conflict Prevention, Management,

¹³ Article 4, SADC establishing Treaty, 1992.

¹⁴ http://www.sadc.int/files/8713/5292/8364/Protocol_on_Gender_and_Development_2008.pdf.

Resolution, Peacekeeping and Security that was adopted in 1999. The ECOWAS Mechanism recognises the promotion and consolidation of democratic government and democratic institutions in ECOWAS Member States as one of its fundamental principles.

The supplementary Protocol on Democracy and Good Governance further elaborates on the principles recognised in the 1999 Protocol. The first three sections of the Supplementary Protocol stipulate principles that have a bearing on electoral processes. The first section, titled Constitutional Convergence Principles, addresses the legal framework for elections. The second section addresses directly the conduct of democratic elections and the third section enumerates the mandate and responsibility of ECOWAS to observe and monitor elections in its Member States. It also gives ECOWAS a mandate to provide technical assistance at the request of its Member States.

This instrument stipulates the mandate of ECOWAS to observe elections in its Member States as an integral part of its conflict prevention, management and resolution mandate.

East African Community (EAC) – EAC Principles for Election Observation and Evaluation of 2012 provides a systematised framework for organising and deploying different observer missions and outlines the principles, scope and methodology for the EAC Election Observer Missions. The principles also provide timeframes on reporting back by the EAC Election Observer Missions and the code of conduct for election observers.

The principles complement two other EAC instruments:

- The Treaty for the Establishment of the East African Community, which was signed in 1999 and entered into force in 2000; and
- The Protocol on Good Governance, whose first pillar is democracy and democratisation processes.

Economic Community of Central African States (ECCAS; in French: CEEAC) – Established in 1983 by eleven Central African States, ECCAS began functioning in 1985, after its founding treaty had been ratified by all members. In order to promote and strengthen democracy and democratic principles in the region, the Brazzaville Declaration was adopted and came into force in June 2005.

The Declaration aims to promote the holding of free and fair elections and to increase the quality of democracy in the ECCAS region as essential elements in the strengthening of peace and security.

A number of international instruments and regional benchmarks provide the basis for a democratic electoral process and guarantee an environment that gives citizens the opportunity to participate directly in decisions that affect their lives and choose their representatives at all levels.

Elements of Free and Fair Elections

To ensure a systematic and comprehensive observation of elections, AUEOMs employ a consistent and comprehensive methodology in the use of the aforementioned AU instruments to determine whether an election is free, fair, and credible, and whether it is a reflection of the will of the people. The AU instrument highlights the following as benchmarks for a democratic election.

A free election is one in which basic human rights and constitutional freedoms are upheld. These include:

- *Freedom of movement;*
- *Freedom of speech (for candidates, media, voters and others);*
- *Freedom of assembly;*
- *Freedom of association; and*
- *Opportunity to participate in elections and to lodge legal complaints.*

A fair election invokes the protection provided by constitutions and other legal frameworks that provide a level playing field.

These include:

- *A transparent electoral process;*
- *An election act and an electoral system that grants no special privileges to any political party or social group;*
- *A comprehensive electoral register that does not deliberately exclude any eligible section of the society;*
- *Establishment of an independent and impartial election management body;*
- *Access to all polling stations for representatives of political parties, accredited local and international observers, and the media;*
- *Secrecy of the ballot;*
- *Absence of intimidation of voters;*
- *Effective design of the ballot;*
- *Proper ballot boxes;*
- *Impartial assistance of voters (where necessary);*
- *Transparent counting procedures;*
- *Proper handling and transportation of the ballot and other sensitive election materials;*
- *Expeditious announcement of election results;*
- *An impartial and expeditious election complaints resolution system;*
- *Impartial media coverage of elections and equitable media access for all parties; and*
- *Acceptance of election results by all stakeholders.*

3 The African Union and Election Observation

3.1 Background/History of International Election Observation in Africa

In the early 1990s there was an upsurge of multiparty elections in Africa. The period marked mass democratisation on the continent. Most of the countries that organised elections at the time were doing so for the first time in several decades, most of them having been ruled by military dictators or single-party regimes. Consequently, the levels of trust in the electoral system and processes were very low. In addition, domestic election observation by civil society groups was virtually non-existent. As a result, a number of international observer missions, particularly from outside the continent, were invited to deploy observers to most of the elections that were held during the period.

Given the level of mistrust in the electoral process at the time, election observation by international organisations was considered one of the necessary elements for boosting confidence in electoral processes and hence their outcome. For the then OAU, the predecessor of the AU, it became necessary to become involved in election observation to promote political stability on the continent based on the conducting of free, fair and transparent elections. Again, this was important because elections at the time were a source of tension and their outcome often disputed.

With specific reference to the beginning of international elections observation in Africa, the OAU's first involvement in election observation/monitoring was in November 1989, when the organisation joined the United Nations (UN) in monitoring elections in Namibia to ensure the fulfilment of United Nations Security Council (UNSC) Resolution 435. This was followed by another mission in February 1990, when the OAU observed the elections in Comoros at the invitation of the then president of Comoros. From that point onwards, the process of election observation/monitoring gradually acquired legitimacy and

centrality in the OAU. Member States of the organisation were provided the opportunity to avail themselves of the good offices of the OAU with respect to the participation of observer teams in elections, in order to assess the integrity of their elections. In July 1990, African leaders, meeting at the 26th Ordinary Session of the OAU in Addis Ababa, Ethiopia, formally endorsed the OAU's involvement in the democratisation process, through the adoption of the Declaration of the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World.

Again, during the 26th Ordinary Session of the OAU, African leaders adopted the African Charter for Popular Participation in Development and Transformation, which further underscored the need to consolidate democracy on the continent through popular participation. Another landmark endorsement of OAU's involvement in elections observation was during the 64th Session of the Council of Ministers in July 1996, in Yaoundé, Cameroon. In its deliberations on the Report of the Secretary General on the Process of Election Monitoring by the OAU, the Session called for the OAU to assume greater responsibility for the democratisation process in Africa. Election observation by the OAU experienced exponential growth to the extent that by June 2003 it had participated in over 100 elections in 43 Member States.

The development of AU election observation can be said to have taken place in two stages. The first stage was between 1990 and 2006, when observation activities were at the nascent stage. During this period, observer teams were composed mainly of career diplomats who observed electoral processes through a political and diplomatic lens. The second stage is the period from 2006 to date; this can be considered the period of the institutionalisation of AUEOMs. This period saw the establishment of the DEAU, with a mandate to coordinate all AUEOMs and provide technical and capacity-building support to AU Member States as may be required. During the same period, the Democracy and Electoral Assistance Fund (DEAF) was established to provide the necessary financial support for the activities of the DEAU. The establishment of the DEAU gave added impetus to the implementation of AU benchmarks for democratic elections.

In 2006, the AUC commissioned a study¹⁵ to evaluate its election observation activities since 1990. One of the main findings of the study was the minimal level

¹⁵ Bakary Tassy, 2007. Assessment of Organisation of African Unity and African Union Election Observation Activity (1990-2006).

of compliance with the benchmarks set out in the two instruments adopted in 2002 – the AU Declaration on the Principles Governing Democratic Elections and Guidelines for AU Electoral Observation and Monitoring Missions. The findings of the report contributed to the redirection of efforts by the AU to focus on the technical aspects of election observation.

As part of the changes during the second stage of the development of AU election observation, AU Observer Missions are presently generally composed of experts from election management bodies, human rights groups and CSOs, and most of them have been trained by the AU. This change underpins the institutionalisation of the AUEOM, which is founded on democratic and elections principles outlined by the AU. The transition from the OAU to the AU also ushered in a new era in the continental body's approach to democratic principles.

Election observation activities had developed with the OAU at the continental level, but soon they also began at the regional levels. RECs, galvanised by their desire to promote democratic governance in their own regions, also began election observation, often alongside the AU. Today, it is an established norm for RECs such as the ECOWAS, the SADC and ECCAS to deploy their own observer missions in elections within their region, sometimes on larger scale than the AU.

The Constitutive Act of the African Union clearly articulates its commitment to “promote democratic principles and institutions, popular participation and good governance” through “respect for democratic principles, human rights, the rule of law and good governance”. These principles were further reinforced by the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa adopted in Durban, South Africa, in 2002, and Guidelines for AU Electoral Observation and Monitoring Missions and the African Charter on Democracy, Elections and Governance 2007, which entered into force on February 2012. The AU Declaration on the Principles Governing Democratic Elections and Guidelines for AU Electoral Observation and Monitoring Missions established the benchmark for election observation and have been used as the fundamental reference material for election observation since their adoption.

From a humble beginning in 1989, the AU currently observes elections in all of its Member States.

3.2 Scope and Mandate of the AU in Election Observation

The Guidelines for AU Electoral Observation and Monitoring Missions stipulate that the context and the legal framework of a country determine the mandate and terms of reference of an AUEOM. In as much as the mandate of AUEOMs could differ from country to country, the continental body has a broad mandate to assess the quality and credibility of elections on the Continent through observation, monitoring, mediation, the provision of technical assistance, supervision and the conducting of post-election audits.

Its mandate to observe electoral processes is premised on the universal and continental legal instruments discussed in the previous chapter. Through election observation, the AU seeks to promote the conducting of credible electoral processes, democratic values and the establishment of stronger governance institutions in line with the aforementioned instruments.

In accordance with Article 19 of the African Charter on Democracy, Elections and Governance, and paragraphs V (1) and V (3) of the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa, AU Member States are entrusted with the responsibility of enabling the AU to carry out its mandate by informing the body of scheduled elections and extending a formal invitation to the body through the relevant national authorities (the government and/or the EMB) within the parameters of Member States' legal and regulatory framework.¹⁶ In support of the AU mandate, Member States recommit themselves to enhancing the role of election observation in promoting genuine elections.

'We request the OAU to be fully engaged in the strengthening of the democratization process, particularly by observing and monitoring elections in our Member States ...'

((Paragraph V – OAU/AU Declaration on the Principles Governing Democratic Elections in Africa)

The scope and mandate of an AUEOM as stated in the Durban Declaration could include: observation; monitoring; mediation; Technical Assistance; and Supervision and Audit.¹⁷

¹⁶ The Political Affairs Department, in 2008, administratively decided to observe all national elections in the AU as a general rule.

¹⁷ Article 4.3 of the Guidelines for African Union Electoral Observation and Monitoring Missions.

The AU/OAU has deployed EOMs to every part of the continent since the early 1990s. In the past, the AU would await a formal invitation from its Member States before deploying an EOM, but recently this has changed, following the Kenyan experience in 2008. The methodology and content of AUEOMs will be examined in the following section. They assess, among other things, the level of peacefulness within the country; the extent to which the constitutional and legal framework guarantees fundamental freedoms and human rights; the degree of impartiality and independence of the electoral management body as well as its freedom of action; the level of fairness of the electoral system and whether electoral competition is premised on the right to freedom of association through the creation of political parties; the extent to which access and use of public resources for campaigning purposes is equitable; the existence of clearly defined rules for political party funding and impartial application of the rules in case of violations; the extent to which the provision of voter education is non-partisan; and whether an independent media authority is responsible for monitoring and regulating contesting parties' and candidates' equitable access to public media.¹⁸

3.3 Methodology for AUEOMs

Cognisant of the fact that elections are processes, not events, the AU adopts the electoral cycle approach in its methodology. This enables its Missions to undertake an objective impartial systematic assessment of the various stages of an electoral process. The AU employs a standard methodology for election observation through the compilation of specific information and verifiable facts on an electoral process and the political environment of an election. On the basis of international and continental benchmarks, the body conducts an impartial election assessment through direct observation of the various stages and the analysis of information drawn from national legislation and regulations as well as from a series of consultations with a broad range of national electoral stakeholders. To enable the AU to cover the electoral cycle, it adopts a comprehensive long-term election observation methodology that entails a series of activities, such as fact-finding missions, pre-election assessment missions, long-term election observation missions, short-term election observation missions, technical assessment missions and pre- and post-election audits, which form part of its observation methodology. These activities are discussed in detail in subsequent sections.

¹⁸ Op. cit.

3.3.1 Pre-Election Assessment

Three months prior to elections in Member States, the AU deploys a Pre-Election Assessment Team as the first step towards establishing an AUEOM in the country concerned. The purpose of a Pre-Election Assessment Team is to make a preliminary and impartial assessment of the countries' political, electoral and security context through the collection of factual information and documentation in line with the Guidelines for AU Electoral Observation and Monitoring Missions and the African Charter on Democracy, Elections and Governance and the Assessment Team's Terms of Reference (ToR). In so doing, the Assessment Team aims to ascertain whether the environment is conducive to the holding of genuine and credible elections in accordance with Article 19 of the African Charter on Democracy, Elections and Governance. Furthermore, the Team is expected to provide clear recommendations on the feasibility of the AUEOM or any other form of AU interventions. The final output of Pre-Election Assessments is an advisory report that provides an analysis of the political context of an election.

The AU should dispatch an Election Assessment Team to the country planning for an election, soon after receiving the letter of invitation (three to two months) to dispatch an observation or monitoring team, and well in advance of the actual election date. The purpose of the assessment team should be to make an on-the-spot evaluation of the conditions within which elections will take place.

(Article 3.4-3.5: Guidelines for AU Electoral Observation and Monitoring Missions)

Prior to the deployment of a Pre-Election Assessment, the AU would inform the Member State concerned. Relevant authorities in the host country are also notified of the arrival of the Pre-Election Assessment Team and requested to provide assistance to set up meetings with representatives of the government and public institutions; assemble available election-related resources (constitution, election legislation, reports on previous elections, information on the election administration, country data, election budgets and recent exchange of correspondence etc.) as well as resources related to the implementation of the Team's assessment such as maps, figures, and security reports.¹⁹

In addition to the staff of the DEAU, who coordinates the Pre-Election Assessment Mission, the Team may consist of a political analyst, regional or country expert,

¹⁹ AUEOM Staff Handbook (unpublished).

a legal expert, an election expert, a logistics expert and a security expert. The Assessment Team is usually deployed three months before an election and would usually spend between seven (7) and ten (10) days conducting its activities. However, field visits may be possible, should the circumstances so require. The output of the Pre-Election Assessment Mission is a report jointly drafted by all relevant experts under the supervision of the Team Leader. The Team would offer advice on the size, character, length and scope of the AU's intervention, while taking account of the AU's available financial and human resources.

²⁰Consultative meetings with national stakeholders are central to the Team's assessment. The Assessment Team would establish contact with a wide range of actors, including relevant government authorities, such as the Ministry of Foreign Affairs, the Ministry of Interior or the Ministry of Territorial Administration, among others, the national electoral commission, political parties, civil society organisations, local interest groups, the media, citizen observer groups, the Office of the Special Representative of the AU and/or the AU liaison office (where applicable), international NGOs and donors.

Stakeholders share their views on the political, logistical and security situation in the country and the viability of an Election Observation Mission in that context. Citizen observer groups, international NGOs and intergovernmental bodies will provide vital information about their plans to observe or assist national stakeholders. In its interactions with electoral and political authorities, the Mission could propose corrective measures intended to improve aspects of the electoral process.

Pre-Election Assessment also contributes to the planning process for the AUEOM. The Team may be expected to make necessary preliminary logistics-related inquiries and planning and provide advice on how to organise the logistic component of the EOM, particularly relating to hotels, Mission offices and conference facilities, car rentals and airlines for in-country travel, means of communication, interpretation services and accreditation requirements; draft a tentative ToR and budget indicating the expected Mission costs; and assess the security situation in connection with the deployment of an AUEOM. The outcome of the consultative process will inform the Team's recommendation on the viability of an intervention such as an AUEOM or any alternative election support or monitoring intervention such as a Mediation or Technical Assessment

²⁰ Op.cit.

Mission as provided for in the 2002 Guidelines for AU Electoral Observation and Monitoring Missions.

The Pre-Election Assessment Team makes recommendations to the AU on whether or not to dispatch an AUEOM. Should the Assessment Team advise in favour of the deployment of an AUEOM, the Team will also advise the AU on the nature of the Mission. In accordance with Guidelines for AU Electoral Observation and Monitoring Missions, the AU may decide to combine the different options of intervention (i.e. observation, monitoring, mediation and technical assistance), provided that there is no conflict of interest. Should the Assessment Team recommend the deployment of an AUEOM, it will also advise on the size of the EOM, giving consideration to its assessment of the logistics and security factors in the host country.²¹

In advising on the scope and size of the AUEOM to be deployed, the Assessment Team may consider the following options with due consideration of the election calendar in the host country as provided in paragraph 4.4 of the Guidelines for AU Electoral Observation and Monitoring Missions:²²

Full Observation Mission: consisting of a core team, long-term and short-term observers, deployed for up to three months covering eight to 10 weeks before Election Day and two to three weeks after Election Day.

- **Limited Observation Mission:** consisting of a core team, long-term observers, with no short-term observers, deployed for up to two months covering six weeks before Election Day and two weeks after.
- **Short-Term Observer Mission:** consisting of short-term observers only, deployed for up to two weeks during the election period, covering up to 10 days before Election Day and three days after.
- **Expert Mission/ Technical Assessment Mission:** consisting of a team of experts deployed for up to two weeks during the election period, covering up to 10 days before Election Day and three days after. This type of Mission usually does not issue public statements while in-country; it issues a report of its assessment of the elections to the AUC, however.

²¹ Paragraph 3.9 of the African Union Guidelines for Electoral Observation and Monitoring Missions.

²² Paragraph 4.4. 'The next issue to be considered by the team will be the duration of the mission and/or the frequency of visits envisaged. In general, this will be determined by the timing and duration of: i. voter registration/updating of voter registers and periods set aside for the public to check their entry on the register; ii. party and candidate registration, iii. candidate and party nominations, iv. the electoral campaign, and v. the installation in office of the successful candidates.'

Should the team advise against the deployment of an Observation Mission in any of the forms described above, due to the prevailing situation in the country, the team may recommend an alternative option, which is for the AU to provide technical assistance to national institutions, such as the EMB, should the host country so permit. The AU could decide not to deploy an EOM, should the host country be opposed to external assistance and in the event that the situation in the host country deteriorates. Nevertheless, the AU and the host country should have an understanding about the AU's right not to send an EOM or to withdraw its EOM should the conditions not meet the AU guiding principles for credible elections.²³

3.3.2 Long-Term Observation Missions

The deployment of a Long-Term Observation (LTO) Mission is a complement to the AU's Short-Term Observer Missions that have been deployed over the years. Long-term observation is a component of the AU election observation methodology which spans a significant part of the pre-election period up to the immediate post-election period. This type of Observation Mission requires that a number of observers be in the country up to three months before the Election Day.²⁴ LTO Missions are tasked with providing first-hand information about crucial aspects of the pre- and immediate post-election phases of the electoral process and to provide necessary background and country-specific information for short-term observers (STOs). LTO Missions serve the purpose of laying the foundation for a comprehensive election assessment in accordance with the benchmarks set out in relevant AU instruments. The key output of LTO Missions is a final comprehensive report of the AUEOM's assessment of the elections. The report should combine the findings of the Pre-Election Assessment Mission on the pre-election context, its own findings on the immediate pre-election context, the findings of the STOs on Election Day and its findings on the immediate post-election phase.

LTO Missions comprise a core team of experts and a team of LTOs, who are later joined by a team of STOs. LTOs are deployed to different areas in the country and mandated to observe various election-related activities on-site, and gather and analyse factual information from in-country stakeholder meetings and documentation. LTOs are therefore responsible for making contact with relevant stakeholders at the national and regional levels and establishing a database of

²³ Articles 3.10 and 3.12, *op. cit.*

²⁴ AUEOM Staff Handbook on EOMs (unpublished).

these contacts to facilitate the work of STOs when they join the Mission later on. They are also expected to develop an understanding of the national and regional political dynamics of the country and to prepare a brief for STOs on their areas of deployment. LTOs are also required to follow all political events during their period of deployment and compile a database of incidents, complaints and appeals. In consultation with the core team, LTOs are involved in the Mission's logistical arrangements and planning in preparation for the arrival of STOs. The core team provides LTOs with a task sheet, which clearly defines tasks to be undertaken by LTOs in their respective areas of deployment. Other functions of the core team will be examined in detail in the following chapter.

Within the broader framework of democracy and governance, the assessment of the LTOs will cover a range of aspects of the electoral process such as the political environment ahead of the election; the impartiality of the EMB; the legal and regulatory framework for elections; voter registration and voters' access to the registration process; registration of political parties; party finance regulations and access of parties to public resources; the nomination of candidates; voter awareness and sensitisation campaigns; the participation of women and under-represented social groups; the freedom of contesting political parties, alliances and candidates to campaign, assemble and air their views in public; access of political parties, alliances and candidates to public and private media; the voting and counting process; the compilation, tabulation and transmission of results; the complaints and appeal process; and the announcement of the final results.

LTO assessment should also focus on more specific technical aspects of the conduct of the elections. These include: planning and procurement procedures; training of election personnel; accreditation of observers and party agents; design and procurement of the ballot; and distribution, location and layout of polling stations.

Should LTOs be unable to observe certain steps of the electoral process as a result of late accreditation or security risks the AUEOM will take note of these irregularities in its public statements and reports.

The AU identifies and recruits LTOs and members of the core team from a database of resource persons that has been developed over time. In some cases, the AU may recruit LTOs and core team members through open advertisement and an internal screening process. Upon arrival in the country the AU core team conducts briefing and orientation sessions for the LTOs. The briefing will address issues pertaining to the mandate and scope of activities of the Mission;

AU observation methodology and code of conduct; background information on the country; updates on preparations for the upcoming election; political and logistical context of the respective areas of deployment; security issues; administrative, operational and logistical aspects of the deployment; as well as reporting requirements and use of checklists.

The deployment of LTOs to the regions is under the coordination and supervision of the core team. Prior to the arrival and deployment of LTOs the core team makes arrangements for their accreditation. With due consideration to factors like geographical coverage, language, gender, and expertise of the team members, LTOs are deployed to the various regions in teams of two members (in some cases, LTOs may be individually deployed). The core team will, as far as possible, ensure gender balance in the teams. Depending on the length of deployment and the size of the Mission, LTO teams may be deployed to a single region throughout the period of deployment. This gives the teams an opportunity to develop a deep understanding of the region. In the event of a smaller Mission, the LTO teams may be redeployed from one region to another for wider coverage of the country.

LTOs will receive deployment funds to cover operations-related expenses authorised by the core team. To facilitate the work of LTOs and for effective reporting the AUC may put necessary equipment such as laptops, internet modems and mobile phones at the disposal of LTOs.

Upon arrival in their areas of deployment, LTOs are expected to establish and maintain regular contact with regional and local election stakeholders such as government officials, the police, regional and local offices of the EMB, representatives of candidates and parties, the media, CSOs, citizen observer groups and members of other international observer groups. They are also expected to create a database of these contacts and report back to the core team on meetings held with these contacts.

In consultation with the Mission Coordinator the core team develops reporting templates and checklists for LTO reporting.²⁵ LTOs will be required to submit reports on their activities, findings and significant political developments in their areas of deployment to the core team at the Mission headquarters. The reports offer a summary of findings from direct observations and stakeholder meetings. In terms of reporting timelines, LTOs are required to submit weekly

²⁵ See annex 5 for sample checklists and reporting templates.

and quarterly reports, and they are also expected to file incident reports should the need arise. Besides written reports, LTOs will be expected to return to the Mission headquarters for regular debriefing sessions at which they will present a summary of their findings, compare notes and review the Mission's assessment of the elections. Information gathered by LTOs will form an integral part of the background documentation and briefing of STOs; it will also form the basis of the overall AUEOM analysis of the electoral process.

LTOs' familiarity with and knowledge of their respective areas of deployment will contribute to the successful deployment of STOs and the successful operationalisation of the EOM as a whole. LTOs would remain in-country to monitor developments closely in the immediate post-election phase (up to two weeks).

LTOs are joined by STOs during the election period. The next section explains the methodology of Short-Term Missions and the link between the Long-Term and Short-Term Missions.

3.3.3 Short-Term Observation Missions

For over a decade, the AU has deployed over 300 Short-Term Election Observation Missions (STO Missions) across the continent. Short-Term Missions are deployed as part of the AU's long-term observation methodology; they form an integral part of Long-Term Observation Missions. It is important to mention that STO Missions may be deployed as stand-alone Missions based on the recommendation of a Pre-Election Assessment Mission.

STO Missions remain in-country for 10 to 14 days. The assessment of these Missions focuses mainly on the days before Election Day, Election Day and up to 72 hours after Election Day.

Given that STOs are on the ground for a short period, the observer briefing and orientation sessions are very crucial for providing background information to bring observers up to speed on the pre-election context. In the case of Short-Term Missions that are preceded by long-term observers, observers receive an overview of LTOs' assessment of the pre-election context, and briefings on the different regions where LTOs were deployed. Observers also receive briefings from relevant stakeholders on the different perspectives, concerns and progress of the electoral process.

The key outputs of STO Missions are a preliminary statement and final report of the Mission. These documents present the Mission's findings and its assessment of the elections. The operations of stand-alone STO Missions are managed by a coordination team comprising AUC and *Pan-African Parliament* (PAP) staff and technical partners. For STO Missions that are deployed as part of LTO Missions, the activities of STOs are also managed by the core team, who will be joined by a team of AUC and PAP staff during the deployment of the STO Mission. Unlike LTO Missions, STOs Missions have the HoM present, providing overall leadership for the Mission. The structure of AUEOMs will be discussed in further detail in the next chapter.

STOs are deployed to the regions in teams comprising two observers. The deployment plan and composition of the teams give consideration to gender balance, language requirements, geographical coverage of the Mission, complementarity of other international observer mission deployment and other general issues mentioned in the section on deployment of LTOs. STOs are also deployed jointly with LTOs during this period.

The fact that STOs are on the ground for a short time limits their activities to the days preceding the election and the day after the elections. STO assessment covers the following: opening of polling stations; the ballot and other election materials; presence of the security forces; location and layout of polling stations; the voting process and secrecy of the ballot; presence of party agents and independent observers; accuracy of the voters' roll; closing the poll; vote counting; and announcement of results at the polling stations; centres or districts levels.

To guide their assessment, STOs are provided with checklists that are designed by the technical team. These checklists are completed by observer teams and returned to the technical team when they return to the Mission headquarters. STOs are also required to submit a one-page summary report to the technical team when they return to headquarters.

STOs return to headquarters for a debriefing session that is held within 48 hours after Election Day. Prior to the debriefing session, the technical team and the drafting committee go through STO reports and checklists to identify emerging trends that will inform the discussions of the reports during the debriefing session. The debriefing session provides an opportunity for verbal feedback

and discussions on the key findings of the Mission. A draft of the Mission's preliminary statement is also presented by the drafting committee for validation by all observers.

After the debriefing sessions, the Mission presents its preliminary statement at a press conference. Thereafter, observers converge for a report validation session at which a draft of the Mission's final report is presented for discussion and validation by all observers. The validation of the preliminary report is the result of extensive consultation with all observers, the leadership of the Mission and the coordination team. After the report is agreed upon, all observers append their signature to the final report. In the case of an STO Mission that is part of an LTO Mission, the final report will be finalised only at the end of the LTO Mission, when the Mission's post-election assessment can be added into the report.

3.3.4 Expert/Technical Assessment Missions (TAM)

A Technical Assessment Mission (TAM) serves as an alternative to an AUEOM should the Pre-Election Assessment Mission recommend that the circumstances in the host country do not favour the deployment of a full observer Mission. This Mission is relatively small in size, as it typically consists of between three and six members who have the requisite technical expertise and knowledge of the host country. Beyond the technical expertise of the Mission members, the AU also considers the gender balance of the Mission, the language requirements of the host country, and representation of AU staff.

The Mission is expected to hold meetings with electoral stakeholders such as the EMB, political parties and candidates, CSOs, the media and other election observer groups, among others. It is very limited in scope, because the team would observe only the last days of the election campaign, and the voting and counting processes, as it normally departs from the country before the announcement of the provisional election results. Unlike a full AUEOM, the activities of a TAM are restricted to the capital city and/or the outskirts of the capital mainly due to the size of the Mission. Generally, the TAM maintains a low profile, because the Mission is not expected to issue public statements nor hold any press conferences to share its observations and findings. However, the Mission may issue a post-election statement should the head of the team deem it necessary or the AUC requires such. The key output of TAMs is a report that presents an expert assessment of key aspects of the electoral process. Although the structure of the report may be similar to an AUEOM final report, the major difference will be the sources of information available to the TAM. The expert

analysis provided in a TAM report is mostly based on its consultations with stakeholders at the national level and its limited observations on Election Day.

3.3.5 Pre-and Post-Election Audits

An election audit enables stakeholders to review the performance of systems, processes, institutions and procedures in order to verify and certify the integrity and validity of an electoral process, and ultimately improve the conducting of future elections. The Guidelines for AU Electoral Observation and Monitoring Missions mandates the AU to undertake audits to certify the validity of some or all of the steps in an electoral process either prior to or after an election.²⁶ In order to further promote the development of standards for genuine democratic elections the AU would carry out this specific mandate in different ways.

The AU, through the DEAU, would review the work of Electoral Commissions by convening a post-election review workshop after the conducting of an election in a specific country at which a wide range of policymakers, decision-makers and implementers are present.²⁷ Elections are a continuous process, and the post-election phase therefore offers the opportunity to review and assess the performance of EMBs in administering an election, its successes and limitations and challenges as well as lessons learnt that could be applied to other country contexts. The outcome of the review would highlight issues which could inform the work of a Fact-Finding Mission and/or a Pre-Election Assessment Mission deployed prior to the next election. The workshop will also serve as a platform for the evaluation of electoral commissions' efforts to implement the recommendations of election observer groups.

The post-election audit workshop, which is often preceded by a consultation visit to each of the EMBs of the Member States in the sub-region, thus offers the opportunity to, among other things, carry out a practical assessment of the challenges the EMBs faced during the conducting of the election; identify at which stages electoral dispute triggers occurred in the past election; share experiences on best practices within the sub-region; and measure the extent of compliance with the African Charter on Democracy, Elections and Governance, which is the major instrument upon which elections are assessed in the AU.

²⁶ Article 4.3 of the Guidelines for AU Electoral Observation and Monitoring Missions.

²⁷ In a Concept Note on a Post-Election Audit Workshop in the ECOWAS region the AU proposes to hold a post-election workshop periodically at the regional level intended to audit the performance of the EMBs of countries that have conducted elections.

Within the framework of the electoral cycle and upon agreement of the EMB, the AU would deploy Audit Missions, consisting of consultants who would independently carry out an audit months before an election a pre-election audit, or a post-election audit after the conducting of an election. A pre-election audit would review post-election audit reports on various election-related processes. This audit would revisit aspects such as the use of technologies used in the previous election and make recommendations on their suitability or the necessity of upgrading for the next election in view of the latest technologies available in the market. Both pre- and post-election audits will be conducted in line with Article 4.3 of the Guidelines for AU Electoral Observation and Monitoring Missions.

Article 4.6 of the Guidelines for AU Electoral Observation and Monitoring Missions stipulates that the Audit Missions would be under the leadership of renowned African personalities in line with the recommendations of a pre-election assessment team. The team would also indicate the number of members required to fulfil the mandate of the Mission. Members of Audit Missions would have the requisite technical expertise.

3.4 The AU and the Democracy and Elections Assistance Unit (DEAU)

3.4.1 The History of the DEAU

The foundation of the DEAU within the DPA of the AUC emanates from the Durban Declaration on the Principles Governing Democratic Elections in Africa in 2002.²⁸ The Declaration promptly set out the guiding principles of democracy in Africa and recognises free, fair, credible and regular elections as the only basis for transition and change of government in Africa.²⁹ The Declaration also recognises regular elections as an important route to democracy and as a democratisation process and conflict-resolution mechanism in Africa.

Recognising the need to move from principles to action and operationalise the declarative terms and principle, during the 78th Ordinary Session in Durban, South Africa, from 28 June to 6 July, the Council of Ministers decided on the establishment of an Administrative Unit within the DPA to operationalise

²⁸ Dundas, Carl W (2011), The Lag of 21st Century Democratic Elections: In the African Union Member State.

²⁹ OAU/AU Declaration On The Principles Governing Democratic Elections In Africa - AHG/Decl. 1 (Xxxviii), 2002.

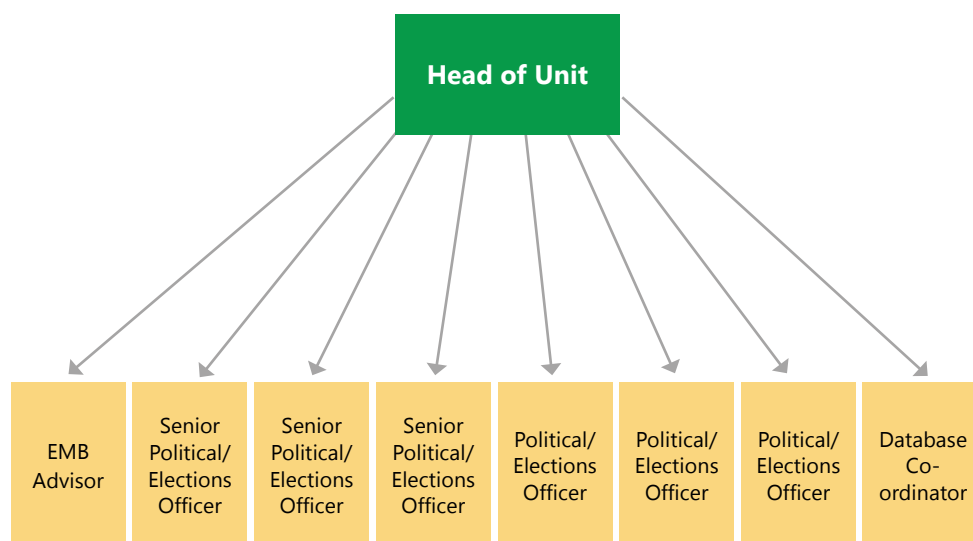
the Declarative Principles into a tangible programme and activities that would support AU Member States in conforming to the spirit and terms of the Declaration and to observe and monitor the conducting of elections in Member States. Subsequent sustained action by the Commission led to the establishment of an Electoral Assistance Fund (EAF) to facilitate the operational programmes and activities of the Administrative Unit for effective functioning in the implementation of support programmes to Member States. A feasibility study was later carried out as recommended by the Durban Summit on the requirement for the establishment of an Electoral Assistance Unit. Subsequent consultation regarding the setting-up and functioning of the DEAU included the submission and consideration of the report of the feasibility study at different levels of stakeholders, including the first-tier meeting of independent experts and the second-tier meeting of government experts. The recommendations of both meetings converged and informed the decision to establish the DEAU and the Fund in June 2006 at the Executive Council meeting in Banjul, Gambia.³⁰

Based on the Council's Decision of June 2006, the DEAU was formed in principle without operational staff in place. However, as the Council's decision did not propose any operational structure, the feasibility study made recommendations on the level and status of officers of the Unit. This recommendation was further referred to the Sub-Committee of the Permanent Representative Committee (PRC), which met on June 2007 and reversed the previous recommendation by the feasibility study report by putting forward an alternative structure to the PRC meeting in Accra, Ghana, during the week of the summit in 2007. The PRC then recommended three positions: the Head of Unit and two Election Officers. The interviews for the three positions were conducted in November 2007 for assumption of duty in April 2008. The DEAU thus became operational in May 2008.

3.4.2 DEAU Operational Structure

The DEAU has expanded since it started as a Unit in May 2008. The operational structure of the Unit includes the Head of Unit, the Political/Elections Officers and Coordinators. The diagram below illustrates the operational structure of the Unit and the arrow shows flow of authority from the Head of the Unit. The Officers report directly to the Unit Head, as does the Database Coordinator, who supports the officers in programme planning and delivery.

³⁰ EX.CL/Dec.300 (IX).

Figure 2: Organogramme of the DEAU

3.4.3 DEAU: The Mandate

The DEAU mandate draws from the recommendation of the two-tier reports adopted by the Executive Council in Banjul, Gambia, on June 2006 and on various other African Union instruments in support of democratisation in Africa, especially the Decision EX.CL/Dec.31 (III) adopted in Maputo, Mozambique, in July 2003 and Decision EX.CL/124(V) adopted in Addis Ababa, Ethiopia, in May 2004 that paved way for the adoption of an African Charter on Democracy, Elections and Governance later in 2007. The mandate of the unit is structured to coordinate and implement the African Union Commission initiative aimed at promoting democracy and democratic elections in Africa, election observation and monitoring and electoral assistance.³¹ The objectives are to:

- build internal institutional capacity of the African Union Commission on implementing programmes that will promote democracy in Africa;
- develop methodology and mechanisms for effective monitoring and observing of elections in Africa;
- coordinate Election Observation and Monitoring Missions; and
- develop the African Union Electoral Assistance process aimed at building the capacity of National Electoral Institutions of Member States.

³¹ Dundas, Carl W (2011), The Lag of 21st Century Democratic Elections: In the African Union Member State [incomplete?]

4 AUEOM: Structure, Leadership Interactions and Programme

4.1 Structure of an AUEOM

While the structure of AUEOMs varies depending on the context and the funds available, ideally, they are composed of a technical/experts team, an administrative team, a leadership team and a team of observers (long-term and short-term). This section will focus on the composition of the technical and secretariat teams, while the next chapter will discuss in more detail the recruitment of AU observers.

4.1.1 The Technical/Experts Team

The Technical Team is responsible for the analytical content and outputs of the Mission. It consists of a group of people with expertise in key areas who support the work of the Mission Leader and observers. In some cases, the Technical Team arrives in the country ahead of LTOs and remains in-country throughout the Mission. In other cases, some members of the Technical Team participate in Pre-Election Assessment Missions and return to the country during the deployment of STOs just before Election Day. In the case of an STO Mission, the Technical and Administrative teams arrive at the same time, and some of the roles described below may be merged to reduce the size of the team.

- **The Election Expert** serves as the Mission's liaison with the host country's EMB. He/she assesses the compliance of the host country's election management structures and processes with national legislation, AU benchmarks and international best practice. The assessment covers, among other issues, the independence and effectiveness of the elections body and the transparency and impartiality of the electoral process. He/she is responsible for developing a country-specific observation methodology for the EOM. Specifically, he/she works with the Mission Coordinator to develop the overall plan of implementation of the EOM to ensure an

effective assessment of the elections. He/she sets out the reporting requirements and adapting observer checklists and reporting templates for the host country, and also develops a deployment plan for the Mission in consultation with the coordinator and security expert. In the case of a LTO Missions, the election expert also serves as the LTO Coordinator.

- **The Legal Expert** develops expertise on the host country's election legislation and regulations. He/she assesses the extent to which the legal and constitutional framework of the host country complies with AU principles and benchmarks and whether the law is applied fully and impartially throughout the electoral process. He/she also follows the election-dispute resolution process to ascertain its fairness. He/she prepares a briefing for the Mission on the legal and constitutional framework of the elections and its implications for the outcome of the process.
- **The Political Analyst** serves as the principal liaison with stakeholders, especially candidates, political parties and civil society, to follow and assess the compliance of political activities with the national legal framework and international best practices. He/she prepares a briefing for the AUEOM on the political context of the elections and its implications for the elections.
- **The Gender and Minority Expert** focuses on specific issues of concern, such as the participation of women, youth and persons with disability and other civil- and political-rights issues. He/she provides an analysis of the legal framework from a gender and minority perspective. In some cases, the political expert could also fill the role of the gender and minority expert.
- **The Media Expert** is responsible for the AUEOM's interaction with the media. He/she assesses the compliance of the media regulatory framework with AU benchmarks. He/she also assesses the extent to which parties and candidates have equal access to the media and the application of media regulations. He/she monitors the media and evaluates whether the media provide sufficient, balanced and diverse information to enable voters to make a well-informed choice. He/she assists the media officer to draft press briefings and releases to keep the public informed about the Mission's activities and findings.
- **The Security Expert** acts as the Mission's liaison to security agencies in the host country. He/she assesses the security situation of the country and advises the Mission accordingly. He/she also plays a critical role in the development of the Mission's deployment plan to ensure that observers are not deployed in high-risk areas.

- **The IT Expert** is responsible for analysing the use of technology in the electoral process. He/she follows the voter registration and voting procedures to analyse the impact of technology on the conduct and outcome of the electoral process. He/she also assists the communication officer in the development and operationalisation of the Mission's communication plan, providing technical advice and supporting the technical support team.

4.1.2 The Administrative or Secretariat Team

The Administrative Team is responsible for the day-to-day operations of the Mission. Its responsibility covers the entirety of the Mission from drawing up the work plan and budget for the Mission to pre-arrival and in-country logistics to the finalisation of the Mission report. The Administrative Team therefore arrives in-country ahead of observers to establish the Mission Secretariat. Depending on the country and the budget of the Mission, the Secretariat Team may be smaller, with some individuals filling multiple roles.

In an ideal situation, the Secretariat Team should include the following: Mission Coordinator, Logistics Officer, Communications Officer, Media Officer and Finance Officer.

- **The Mission Coordinator** is on the staff of the AUC and serves as the overall manager/ director of the EOM. She/he is the head of the Mission Secretariat; the role therefore covers technical, administrative, financial and logistical issues. Specifically, she/he is responsible for:
 - managing the staff of the EOM;
 - overseeing budget preparation and financial reporting;
 - supervising logistical and administrative activities;
 - ensuring that the Mission is accredited;
 - determining the content of the briefing materials and planning of the observer orientation in consultation with the election expert;
 - overseeing the drafting of the Mission's preliminary statement in consultation with the team of experts;
 - coordinating the overall Mission schedule, including the observer deployment plan and leadership meeting schedule;
 - developing a communication plan in line with the AU's communication and media policy that ensures regular communication with each of the observer teams in consultation with the team of experts; and

- o being the primary point of contact with the national authorities in the host country.
- **The Mission Secretary** works closely with the coordinator to make logistical arrangements for the Mission. He/she is responsible for pre-arrival and in-country logistics arrangements, which cover the following: transportation coordination (this includes travel from observers' home countries and transportation during the Mission); accommodation coordination at headquarters and in the areas of deployment; conferencing arrangements for meetings (this includes leadership meeting and observer briefing and debriefing sessions and press conferences); deployment coordination; and procurement of services and supplies.
- **The Media Officer** should ideally be on the staff of the AUC, and will be responsible for the Mission's public relations and media interaction. He/she is responsible for compiling a contact list and contact details of media houses in the host country, drafting regular and timely press releases based on statements and reports issued by the technical team to keep the public up to date on the Mission's activities and findings, organising press conferences, disseminating Mission press releases and collecting all records of coverage of the Mission including print and electronic media. He/she provides a daily media brief to the technical team and observers to keep them up to date with media coverage of the elections.
- **The Finance Officer** is on the staff of the AUC. He/she develops and manages the Mission budget in consultation with the Mission coordinator. He/she administers the Mission's finances and ensures that procurement and expenditure are in accordance with the AU accounting procedures, disburses per diems to members of the Mission and receives observers' financial reports for deployment finances, makes payment for the Mission's services and supplies and accounts for Mission expenditure to the AUC.

4.2 Leadership of an AUEOM

Every AUEOM is headed by a Head of Mission (HoM) who is appointed by the Chairperson of the AUC and reports back to the Commission on the findings of the Mission. Persons appointed as Heads of Mission are familiar with the structure and operations of the AU and its Member State commitments in the areas of democracy and elections. In most cases, AUEOMs are headed by former Presidents, former Heads of Governments and other eminent African personalities. In some cases where the HoM is unable to make it to the Mission

on time or is unable to stay on the ground throughout the duration of the Mission, an interim HoM is appointed to stand in for the HoM.

The HoM provides overall political leadership to the Mission. He/she is the designated spokesperson of the AU and its Mission; he/she therefore represents the Mission at political and diplomatic meetings and is responsible for all public statements issued by the Mission. He/she remains at the headquarters throughout the duration of the Mission, and holds meetings with national authorities, the leadership of the election management body, and other heads of international observer missions. As the designated spokesperson of the AU and its Mission, he/she is the only person authorised to make public statements on the Mission's findings and activities. On Election Day, the Head of Mission also visits polling stations for a first-hand assessment of Election Day activities. He/she presides over the observer briefing and debriefing sessions.

Paragraph 4.6 of the Guidelines for AU Electoral Observation and Monitoring Missions recommends the appointment of a 'qualified technical Deputy Head' of Mission (DHoM) when this is appropriate. The role of the DHoM is to supervise the work of the Mission staff and to represent the AUC. This has been adopted on a number of occasions, for instance in the 2013 elections in Kenya and Zimbabwe.

4.3 Terms of Reference for AUEOMs

AUEOMs are guided by terms of reference (ToR) developed by the DEAU ahead of each Mission on the basis of the principles set out in the AU Declaration on the Principles Governing Democratic Elections in Africa and the African Charter on Democracy, Elections and Governance. Each AUEOM has a specific ToR that is drawn up on the basis of the outcome and recommendations of the pre-election assessment team, which makes recommendations on the scope and nature of the Mission to be deployed to each country.

The ToR defines the mandate of the Mission and specifies the fact that the Mission is in the host country at the invitation of the government of the host country represented by the EMB. This is an important aspect of the ToR, as observers need to be aware that they are in the country by invitation. While each Mission may have a different mandate depending on the context of the elections and the scope of the Mission, the rights and obligations of AU observers are clearly

stated in the Guidelines for AU Electoral Observation and Monitoring Missions.³² The ToR grants observers the right to move freely and communicate with relevant stakeholders, the right of access to relevant legislations and documentation on the electoral process and the right to be accredited by the EMB.

Depending on the nature and scope of the Mission, the ToR also sets out questions to be asked by observers and issues to look out for during the elections in a particular country. For LTO Missions, the issues to be interrogated by observers would range from the pre-election to post-election period, while STO Missions would interrogate issues that are more focused on Election Day activities, although such a Mission could also interrogate the immediate pre-election period up to the days after the elections.

While each Mission may have additional tasks set out in its specific ToR, AUEOMs are generally mandated to:

- determine whether the elections are conducted in accordance with the country's constitution, electoral laws, other appropriate laws and the guidelines governing the conducting of elections;
- determine whether the election environment is conducive for voters to participate and exercise their fundamental rights;
- establish whether the participating political parties, agencies and groups are satisfied with the preparations for and conduct of the elections;
- evaluate the level of voters' awareness and whether the voters' right to choose freely and in secrecy is guaranteed, upheld and protected;
- identify and record electoral malpractices, if any;
- assess whether the media coverage and conduct are in conformity with the laid-down rules and guidelines;
- evaluate transparency and adequacy of the voting, counting and collation processes, as well as the announcement of the results; and
- establish whether the results of the elections are a true reflection of the democratically expressed will of the people of the host country.

Accompanying the ToR for each Mission is the code of conduct for AU observers, which will be discussed in the next chapter.

³² See appendix 3.

4.4 Interactions with the Media and Public Relations

During the stay of the AUEOM in the host country, it is expected to interact with the media to make the public aware of its presence and to publicise its findings and recommendations. Its interactions with the media are guided by the AU's media policy and code of conduct for observers,³³ which designates the Head of Mission as the official spokesperson for the Mission and mandates members of the Mission to "refrain from making personal or premature comments or judgments about their observations to the media or any other interested persons".³⁴ It is important that observers do not comment on the electoral process, because

If you (an observer) encounter reporters at the registration or polling centre and are unable to avoid issuing a statement, you can explain that:

- *You represent the African Union, which has dispatched a (#)-person delegation of observers for Election Day.*
- *The AU has extensive expertise in electoral monitoring.*
- *Delegates will travel to polling places on the designated observation day to evaluate whether the process is being conducted according to law and to hear the views of the citizens, election officials, party observers and party representatives.*
- *AU delegates are completely neutral with regard to the outcome of the election.*

Although you can convey such general information to reporters if you meet them at a polling site, do not allow reporters to accompany you from site to site as part of your team during the day. By allowing reporters to follow you, they may make a judgment on what you do or don't do without fully understanding the process of observation.

they do not have an overall assessment of the process, considering the fact that they are located in one area. The Mission Leadership through the Secretariat receives information from all observer teams and is therefore in a position to make informed comments and assessments of the process. In exceptional cases, observers are permitted by the HoM to address the media on behalf of the Mission in their areas of deployment, especially in areas that are flash points and require immediate response from a representative of the Mission.

The AUEOM interacts with the media through its statements and press releases, which are disseminated widely at press conferences, on the AU website, partner websites and mailing lists. It also interacts with the media through interviews granted by the HoM or a designated representative of the Mission. The media officer or expert is the liaison between the Mission and local and international

³³ See appendix 3 for code of conduct as contained in the African Union Guidelines for Electoral Observation and Monitoring Missions.

³⁴ Guidelines for AU Electoral Observation and Monitoring Missions.

media: he/she provides a media contact list to the Secretariat and ensures that all statements issued by the Mission are widely publicised.

Observers are however allowed to give general information to the media about the Mission and its activities. Where observers are directly approached by journalists in the field, the election observers are permitted to speak on behalf of the Mission on the following topics only:

- Express pleasure at being in the host country and note that the presence of international observers is indicative of the level of international interest in the country's election process;
- Introduce the role and mandate of the AUEOM, specifically the commitment of AU observers to impartiality and non-interference. It should be emphasised that the Mission operates in accordance with the Declaration of Principles for International Election Observation and its assessment is based on international standards for elections;
- Describe the policy of election observation by the AU as part of its support for democratic development and good governance;
- Indicate the duration and coverage of the election Mission, the number of observers and the backgrounds and experience of the individual observers being interviewed; and
- Explain that election observation methodology is based on long-term comprehensive observation of all aspects of the election process and involves meeting with a broad range of interlocutors across the country.

If asked about the assessment of the electoral process, the observer should stress that:

- Any findings and conclusions will be outlined in the Mission's preliminary statement to be issued at a press conference.
- AUEOM will submit a comprehensive final report to the AUC after the completion of the electoral process; and
- The Mission Leadership should be contacted for further details on the findings of the Mission.

When speaking with the media, or indeed any interlocutor, election observers *should not*:

- Offer any kind of assessment of the electoral process;
- Express their personal opinion on any aspects of the electoral process;
- Make any statement that is, or could be perceived to be, partisan in nature;

- Speculate on any aspect of the electoral process, such as the conducting of Election Day or the results;
- Compare the electoral process of the country being observed with any other country; and
- Make any comments that are critical of the host country.

It is important to note that interaction with the media is not limited to print and electronic media in the host country, but also includes the transmission of information about the Mission through social media. Given the fact that the use of social media is quite personalised, compliance with the AU code of conduct largely depends on the personal integrity of observers.

4.5 Interactions with Stakeholders

To enable the AUEOM to fulfil its mandate, it is required to interact and consult with relevant stakeholders in the electoral process, including the EMB(s), civil society groups, political parties, candidates and other EOMs.³⁵

4.5.1 Interactions with the Government and EMBs

On the basis of the commitments made by AU Member States as contained in the AU instruments discussed in Chapter 1, States are required to extend a timely invitation to the AU to observe their elections and guarantee the rights and security of observers during the elections.³⁶ As earlier mentioned, the AUEOM is deployed at the invitation of the government of the host country represented by the EMB. The EMB extends an invitation to the AU informing it of the election calendar and invites the AU to deploy a Mission to the elections. The EMB is therefore the primary point of contact for the election.

It is important to note that the interaction of the AU Mission with the authorities of the host country is both diplomatic and technical. Other agencies of government such as the Ministry of Foreign Affairs (MFA) therefore play a crucial role in inviting and admitting AUEOMs to the host country. Prior to the arrival of the Mission, contact is made with the MFA informing the government of the host country of the deployment of an AUEOM; the list of EOM leadership and

³⁵ It is important to note that the interactions of the EOM are not limited to these particular stakeholders, but, depending on the context of the elections, the Mission may be expected to interact with other stakeholders that are relevant to the electoral process in the particular country (e.g. the human rights commission, the anti-corruption agency, the ministry of interior).

³⁶ The Political Affairs Department, in 2008, administratively decided to observe all national elections on the continent as a general rule.

members is also sent to the MFA to facilitate visas and other entry procedures for members of the EOM.

Upon arrival, the leadership of the AUEOM also makes contacts with the authorities of the host country and in most cases the Head of Mission meets with the president of the host country to assure him/her of the continued support of the AU in the development of democratic governance on the continent. The Head of Mission also consults with the leadership of the EMB to receive a first-hand briefing on the preparations for the elections and the challenges experienced by the EMB, if any. This consultation also provides an opportunity for the Head of Mission to formally introduce the AU Mission, convey the Mission's best wishes and discuss any concerns identified by the AUEOM so far.

Beyond the pre-election interactions with the authorities, in many cases the AU Mission is also invited by the EMB to the central results tally centre and to the official declaration of election results if the Mission is still on the ground by the time the results are officially declared.

The Mission also interacts with other government agencies that play a role in the electoral process such as security agencies. The Mission invites the police to provide a security briefing on the electoral process to AU observers. This briefing is considered important for observers to familiarise them with the security context of the elections and country safety and security tips.

4.5.2 Interactions with Political Parties and Candidates

The AU recognises the importance of political parties in the electoral process and how crucial it is for parties and candidates to perceive and accept the conducting of elections as credible. In this regard, the Mission consults political parties during its pre-assessment and during the deployment of observers. The purpose of such briefing is to provide first-hand information from the perspective of the political parties that could enable the Mission to assess their perception of the elections and the EMB. The parties would also be asked to brief the Mission on the manifesto and programmes their parties have put in place to guarantee internal democracy and the participation of women and minorities. Considering the fact that STOs are not on the ground during the candidate nomination and registration process, the Mission is also able to receive information on these processes.

Beyond the briefing of observers, the HoM also schedules meetings with candidates who are considered to be top contenders or who have been very

vocal on their opinion about elections. These meetings serve the purpose of reassuring contestants of the credibility that international observers could lend to the process. Through information received at these meetings the Mission could ascertain contestants' perception of the process and whether they will be willing to accept the outcome of the process, and, in the event that they are not willing to accept such outcome, whether they are willing to resort to the prescribed legal means of dispute resolution.

Observers are also expected to visit and interact with party representatives and candidates in their areas of deployment. As part of the deployment information pack received by observers, a contact list of party and candidate campaign offices is provided through which observers contact parties and candidates to receive a brief about the political peculiarities of the region and issues of concern for parties in the region. During deployment, AU observers are also required to attend the final phases of party and candidate campaigns to witness the campaigns, assess the peacefulness of the campaigns, the level of compliance with the guidelines for campaigning provided in the legal framework and the level of press coverage received by the different candidates.

Impartiality and objectivity are core principles of election observation. It is therefore important to note that in their interactions with parties and candidates observers are required to maintain strict neutrality and refrain from sharing their personal opinion on the outcome of the elections or the performance of any candidate or political party.

4.5.3 Interactions with Other EOMs (International and REC EOMs)

The AU considers interaction with other international observer groups crucial, as this contributes to the success of the Mission. Interaction with other international EOMs, especially African regional groups, allows the EOM to coordinate its deployment for effective coverage of the host country and for information-sharing.

The AU HoM meets with the Heads of international EOMs to register the presence of the AUEOM and receive a brief on the activities and findings of other Missions. AU observers are also required to interact with members of other international EOMs in their areas of deployment to share information about the Election Day itinerary in order to ensure that the area receives full coverage by observers.

4.5.4 Interactions with Civil Society and National Observer Groups

The existence of civil society groups is one of the key elements of a democracy, and the AUEOM therefore considers interaction with CSOs crucial to its assessment of an election. Given that civil society is a diversified group, the EOM focuses its interaction on domestic observer groups and groups who work in the areas of women and minority rights and dispute resolution.

Key CSOs are invited to brief the EOM on their activities and their perception of how democratic the electoral process is. Beyond the briefing of observers at the headquarters, observers are also required to interact with CSOs in their areas of deployment to receive information on the political peculiarities of their areas of deployment and the role CSOs play in the area. It is also important that observers contact domestic observer groups in their areas of deployment for further information on the area and verify election-related allegations and reported incidents.

4.6 AUEOM Programme

The Mission Coordination Team prepares a programme for the Mission prior to the arrival of observers, who receive preliminary information about the Mission programme in the logistics memo included in their pre-arrival information pack. When observers arrive in-country, as part of their registration procedures they receive a welcome pack that includes a welcome letter, a finalised Mission programme, in-country logistics information and a briefing book. The participation of observers in all Mission programmes is mandatory.

In summary, the programme for STO Missions involves arrival in the host country at least seven days before Election Day, a two-day briefing and orientation session, deployment to areas of responsibility at least three days before Election Day, Election Day activities, a debriefing session at headquarter, a press conference, report adoption session and close of Mission.

The programme for LTO Missions involves arrival in the host country at least eight weeks before Election Day, a two-day pre-deployment briefing and orientation session, deployment to areas of responsibility at least seven weeks before Election Day, a mid-term debriefing session, Election Day activities, post-election debriefing session at Mission headquarters/ capital city and close of Mission.

4.6.1 Observer Briefing and Orientation Session



Observer orientation and briefing is the process through which members of the mission are introduced to basic concepts of election observation as well to the prevailing political and electoral context in the country in which the election is being held. It gives observers an understanding of the importance of election observation and their role within the mission. An understanding of the political and electoral environment enables observers to make an informed and non-partisan assessment of the election. Attendance is mandatory for all observers.

The briefing and orientation sessions are held for at least two full days at the Mission headquarters. Depending on the availability of stakeholders, the first day is focused on country-specific briefing. During the briefing sessions, key stakeholders are invited to brief the Mission on different aspects of the electoral process. These stakeholders include the EMB, political parties, CSOs, domestic observer groups, technical partners of the EMB, the media and other relevant agencies of government.

The second day is focused on the technical aspects of the work of the AUEOM, which is addressed during the orientation sessions. These sessions are facilitated by the expert team and address the following aspects: observation methodology,

code of conduct for observers, pre-deployment briefing, use of checklists and communication.

These sessions also enable observers to engage with the coordination team and local stakeholders in order to clarify country-specific issues and issues about the Mission and its work.

4.6.2 Use of Checklists

Given the fact that information-gathering on the electoral process is the central focus of election observation, the mode of collection and transmission of relevant information is an important aspect of the process, and is given much attention during the briefing sessions. Observers are provided with samples of the checklists and are taken through the process of completing the checklists.

To enable observers to capture their observations and report back to the coordination team, observers are provided with checklists that prompt them to capture relevant information in a systematic and comprehensive manner. Observer checklists are designed to capture Election Day observations on the relevant aspects of the process such as time of opening, election materials, secrecy of the voting process, orderliness of the process and the conduct of party agents, independent observers and electoral staff. Checklists are also designed with due cognisance of country-specific election procedures. For easy analysis, checklists are designed with closed-ended questions that identify common trends when analysed. Each team is expected to complete one checklist per polling station visited and all completed checklists must be returned to the Secretariat after deployment.

Given the fact that observers during their interactions and observations may consider it necessary to provide further details about their work in the field, each team is also required to submit a one-page report of their field activities.

The Mission's assessment of the election is based on an analysis of the information provided by observers through the checklists, narrative reports, and findings from stakeholder interactions. The checklists must therefore be completed objectively and accurately.

4.6.3 Deployment

Following the briefing sessions at the headquarters, observers are deployed in teams of at least two observers to areas outside the capital city to further interact with stakeholders, observe the final phase of the campaigns and observe Election

Day activities, which include opening of the poll, voting, closing and counting procedures. Teams are deployed at least four days before Election Day and return to the capital city the day after the elections. The period of deployment may differ from one Mission to the other, however, as observers may sometimes be required to remain in their areas of deployment for longer periods.

The AUEOM coordination team designs a deployment plan based on the following considerations:

- the size of the country and its geography;
- the resources available to the Mission;
- the number of observers available for deployment;
- the composition of each team – consideration should be given to gender, language and nationality;
- length of the deployment period;
- knowledge of host country; and
- election observation experience.

Observer teams should reflect the diversity of the delegation, including gender and levels of experience in election observation.

Since it may not be possible for the Mission to cover all districts or all polling stations, the challenge is to collectively observe and gain an accurate and balanced national perspective. The coordination team selects locations for deployment in a manner that ensures that the Mission obtains a modestly representative picture of the entire electoral process at the national, provincial and local levels of administration. The choice of areas of deployment is made with consideration of the following factors:

- geographic and/or administrative divisions;
- ethnic and/or cultural divisions;
- ease of mobility and logistics;
- anticipated trouble spots;
- security; and
- areas considered strongholds of candidates and parties.

The HoM and his/her team usually remain in the capital city to observe activities and to follow up on any issues raised by the deployed teams with the national stakeholders. The HoM team usually comprises the Mission Coordinator or other members of the expert team. An Election Day itinerary is planned in advance for the leadership team to ensure that the Mission Leader visits a diverse selection

of polling locations (different neighbourhoods, mix of urban and semi-urban, areas with different political party support, etc.).

Prior to the departure of teams for their areas of responsibility, they receive a briefing on the logistics arrangements during the period of deployment. Each team is deployed with a vehicle and a driver, and, when necessary, a translator is deployed to assist the team. The team receives deployment funds to cover the cost of fuelling the vehicles and other incidentals. Reservations for accommodation are made by the Secretariat ahead of deployment, and for security reasons teams are advised not to change their accommodation without clearance from the security expert. Each team receives a deployment kit containing the following: an information pack that should include a map, a list of polling stations in the area of deployment, contact lists for relevant stakeholders, emergency numbers in the area of deployment, contact list for all members of the Mission, and copies of the Mission's arrival statement. The kit also includes supplies such as: a medical kit with basic first aid supplies, a set of checklists, observer uniforms, clipboards and stationery, car stickers and flash lights. All observers are provided with SIM cards and it is mandatory for them to keep their cell phones on throughout the Mission.

On arrival in their areas of deployment, teams should register their presence at the district police office as part of security procedures. During the deployment

period, observers are required to meet with stakeholders in their areas of deployment: EMB offices, party and campaign offices, security agencies, CSOs, domestic observers and other international observers.

On the eve of Election Day, the teams are expected to create an Election Day itinerary in consultation with their drivers, and they should also endeavour to identify the polling stations within the municipality where they are based. Teams should endeavour to ensure a good coverage of urban and rural areas in their choice of polling stations to visit.

On Election Day, teams are expected to visit at least 12 polling stations spread across

Observer Responsibilities when Deployed

- *Meet with all relevant stakeholders*
- *Ensure the security and safety of all team members and equipment*
- *Attend political party and candidate rallies*
- *Attend election personnel training, voter education and other training programmes*
- *Handle all financial issues related to the operation of your team*
- *Complete checklists for each phase of the elections being observed*
- *Comply with all mission secretariat instructions for safety and security, communications and reporting, travel logistics and accommodation arrangements*

urban and rural areas. Election Day responsibilities for observers will be discussed in more detail in the next chapter.

During deployment, it is important that observers adhere to the communication plan discussed during the briefing session. Observers will be called by the Secretariat at least twice a day for a narrative reporting and security check-in. Given that the purpose of deployment is to present a national overview of the process to the Mission, it is important that observers keep the coordination team and leadership updated on their activities. To ensure continuous updates, observers must keep their phone lines open and check their emails constantly.

4.6.4 AUEOM Debriefing Session

Following the return of observers to the capital city, a debriefing session is organised to enable observers to give verbal reports on their observations. It also provides a platform for observers to compare notes on the regional specificities observed and to contribute to the formulation of the Mission's Preliminary Statement. The debriefing also enables the HoM and the entire Mission to immediately identify regional trends before the analysis of the checklists.

The debriefing programme is designed to allow each observer team to report back on its findings in a systematic manner. Based on the Election Day phone updates received from the teams, the coordination team identifies specific issues to be highlighted during the debriefing session. The information received during the observer debriefing session forms the content of the Mission's preliminary statement (discussed in Chapter 8).

4.6.5 Report Adoption Sessions

During the briefing and orientation session, the coordination team puts in place a drafting committee that consists of up to three STOs, the LTO coordinator, the Mission Coordinator(s) and a technical support team comprising EISA staff.³⁷ This committee is based at the Mission headquarters and is tasked with the drafting of the preliminary statement and reports of the Mission. Members of the committee agree on the mode of operation, which is often to have the technical support team provide an initial draft of the report that is then subject to review by the committee.

³⁷ The technical support is provided by a team of experts drawn from AU technical partner organisations such as the Electoral Institute for Sustainable Democracy in Africa (EISA).

To facilitate the production of the first draft, members of the technical support team draw up a set of questionnaires on the basis of which they receive verbal feedback from observers while in the field. Based on the feedback received from the field and background research undertaken by the technical support team, an initial draft is prepared and submitted to the drafting committee. Following the input and review of the committee a draft of the statement and report is submitted to the Mission Leadership for their comments.

After the debriefing sessions, an adoption session is convened, and attendance of this session is mandatory for all observers. During this session, the draft documents are presented to observers for comments, inputs and adoption. When an agreement is reached at this level, the preliminary report becomes official and a final version is presented to the public.

5 AU Election Observers

5.1 Selecting Members of an AUEOM

Section IV of the AU Declaration on the Principles Governing Democratic Elections in Africa mandates the General Secretariat (now AUC) through the DEAU to:

"Compile and maintain a roster of African Experts in the field of election observation and monitoring and democratisation in general in order to deploy competent and professional observers and to avail themselves of their services whenever necessary. Member States on their part are requested to assist by making the names of their experts available to the General Secretariat".³⁸

The success of any Election Observation Mission is partly linked to the way the observers are selected. In the selection of its observers, the AU gives consideration to some general factors.

As a continental body, the AU is aware that a relatively equal representation of the different regions of the continent in its Missions is important. A Mission that is dominated by members from one region could be perceived as biased. The strength of AUEOMs is also linked to the diversity of their members, which could help bring different insights and considerations to the assessment process based on countries' specific historical and political backgrounds. While this diversity may be a source of other challenges in some cases, if it is well managed it may be more beneficial to the Missions.

Similarly, the inclusion of other AU organs appears to be critical to the success of the Mission. So far, the AU systematically includes in its Missions the following organs and AUC departments: the Intelligence Security Committee in the Office of the Chairperson of the Commission, the Pan-African Parliament, the Peace

³⁸ Section IV (e) of the AU Declaration on the Principles Governing Democratic Elections in Africa.

and Security Department, etc. Increasingly, the AU has involved national and international civil society organisations in its Missions, along with representatives of election management bodies and diplomats. Again, this offers a variety of analyses and perspectives.

Gender equality is another important factor in the selection of observers. AUEOMs have at least 30% representation of women. Another important element is the language. The AU official languages are English, French, Portuguese, Swahili and Arabic. AUEOMs adopt one of these languages – the most widely spoken in the host country – as the official language of the Mission. In the selection of observers, the AU gives priority to observers who speak the language of the host country and observers who are multilingual. However, there is a reasonable representation of observers who do not speak the language of the host country or the official language of the Mission. To overcome the challenge of language barriers, such observers are paired with multilingual observers, and in other circumstances translators are hired to support the teams.

Besides these general factors, there are other specific factors that are considered when observers are recruited for specific types of Missions.

- **Long-Term Observers (LTOs)**

Besides the factors mentioned above, the recruitment of LTOs requires that consideration is given to the skills and expertise of the members of the Mission (including members of the core team). The areas of expertise required for an LTO Mission are based on the areas of emphasis identified by the AU Pre-Election Assessment Mission. The size of the Mission and the duration of its stay in the host country are determined by a number of factors, however, including funding.

As part of its efforts to implement its mandate to deploy LTO Missions, the DEAU has developed a roster of experts who may be invited to join the core teams of its LTO Missions. Furthermore, the recruitment of LTOs is done through open advertisements and internal screening procedures. The persons recruited through this open process are also added to the roster of experts thereafter.

5.2 Code of Conduct, Roles and Responsibilities of AU Observers

The Guidelines for AU Electoral Observation and Monitoring Missions include the code of conduct for AU observers. This Code has 17 sections or articles that are meant to guide the observers in their work. The AU code of conduct

for observers is closely linked to the code of conduct for the other international observer groups contained in the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers.³⁹

The AU code of conduct for its observers as stipulated in the Guidelines⁴⁰ mandates its observers to comply with the following codes:

- full compliance with the national laws and regulations;
- strict impartiality;
- rejection of any kind of bribery;
- disclosure of a potential conflict of interests;
- factual and documented report and conclusion;
- interaction with concerned people or institutions in the case of allegations;
- pursuit of exact information;
- honest and accurate reporting;
- information of the authorities about the aim of the Mission;
- courteous treatment of election officials;
- clear identification carried throughout the Mission;
- non-interference in the electoral process;
- limitation in the interaction with the media on general issues;
- full participation in the briefing, debriefing, training;
- timely submission of the report; and
- good collaboration with AU observers and observers from other groups.

The Guidelines for AU Electoral Observation and Monitoring Missions empower the AU through the DEAU to take disciplinary measures that could include repatriation of observers who breach the code of conduct, which is binding on all members of AUEOMs.

Section 4 of the Guidelines for AU Electoral Observation and Monitoring Missions also stipulates in further detail the rights and responsibilities of AU observers. Each observer is provided with a copy of the Guidelines as part of the deployment information pack.

³⁹ See annex 4.

⁴⁰ See annex 3.

“Although the mandate of the electoral mission recommended may vary, the rights accorded observers and monitors should remain the same. The rights enjoyed by observers and monitors alike are listed below.

AU Observers and Monitors have the right to:

- i. Freedom of movement within the host country;*
- ii. Accreditation as election observers or monitors on a non-discriminatory basis;*
- iii. Communicate freely with all competing political parties, candidates, other political associations and organisations, and civil society organisations;*
- iv. Communicate freely with voters except when the electoral law reasonably prescribes such communication in order to protect the secrecy of the vote;*
- v. Unhindered access to and communicate freely with the media;*
- vi. Communicate with and have unimpeded access to the National Election Commission or appropriate electoral authority and all other election administrators;*
- vii. Communicate and seek the collaboration of the Judiciary, the National Assembly or Parliament, security personnel, and all other appropriate Government departments and agencies involved in the election process;*
- viii. Free access to all legislation and regulations governing the electoral process and environment;*
- ix. Free access to all electoral registers or voters’ list;*
- x. Unimpeded access to all polling stations and counting centres including those used by the military or other specific groups.”*

(Article 4.2. Guidelines for AU Electoral Observation and Monitoring Missions)

5.3 Before the Arrival of Observers

Prior to the deployment of an AUEOM there are important preparatory steps that are taken by the Mission coordination team to ensure the smooth running of the Mission by the time observers arrive in-country. These preparations include the following:

- The appointment of the Mission Leadership and the logistical arrangements for the leadership team to travel to the host country;
- The selection of observers based on the criteria specified earlier in this chapter;

- Following the selection of observers, formal invitations are sent to selected observers who will be required to confirm their availability and willingness to participate in the Mission. Observers receive a confirmation form with the invitations and are required to complete and return the forms with a copy of the data page of their passports. It is important to mention that observers are required to inform the AU of pre-existing health conditions that may affect their participation in the Mission. The AU will not be responsible for the treatment of pre-existing health conditions;
- All confirmed observers thereafter receive a logistics memo that gives preliminary information about the logistics arrangements for the Mission. The memo provides information such as an overview of the Mission's programme, accreditation procedures and requirements, travel and visa arrangements, weather information, finance information about per diems and reimbursements, hotel reservations and health and security precautions;
- Observers who have confirmed their availability will also receive a preliminary flight booking in line with the programme of the Mission. Observers are required to confirm the suitability of the preliminary booking and also confirm that their names and titles are appropriately stated on the tickets. Following their confirmation of the preliminary itinerary, a confirmed ticket will be issued to each observer by the travel unit of the AUC. Observers are advised that tickets will not be adjusted after being issued in line with the confirmed itinerary from observers. Should observers require any changes to their ticket, this will be at their cost;
- Country profile: the technical team at the AUC is responsible for undertaking background research to prepare a background document on the host country to be circulated to observers prior to their arrival; this will familiarise them with the context of the elections. In the case of Long-Term Missions, the findings of the LTOs also form an integral part of the background document;
- The facilitation of visas for Mission members: most African countries require visas to travel in other African countries. The visa procedure can be lengthy and exhausting, as some countries don't have embassies in all African countries. In certain cases, the AU makes arrangements for such observers to secure visas on arrival in the host country; and
- The Mission Coordination team also makes reservations for hotel accommodation in the hotel where the Mission Secretariat is located.

5.3.1 In-Country Logistics

Airport Pickup/Drop-Off

The Mission Secretariat makes arrangements to pick up all members of the Mission at the airport. The logistics memo will usually provide instructions on airport pickup procedures. Usually, one member of the coordination team is present at the airport with an AU sign, but in the event that delegates do not locate AU Mission staff at the airport, they have clear instructions on the hotel location and Mission staff contact information. The Secretariat prepares a departure schedule stating the flight details of all members of the Mission and the airport shuttle times. This schedule is circulated to all observers when they return from their areas of deployment.

Accommodation

For the first two to four days the observers will stay in the capital to take part in the briefing and orientation sessions. The Secretariat also makes reservations for observers to be accommodated in the same hotel where the sessions will take place. In the event that the Mission is unable to secure a hotel with all the required facilities, observers will be lodged in other hotels and the Secretariat will make adequate arrangements to transport them to and from the venue of the briefings. After the briefing, the observers will be deployed to different regions of the country. The Secretariat provides observers with the contacts of at least two hotels or guest houses in their areas of deployment. Observers are provided with funds to pay for the accommodation of their choice directly.

Translation and Interpretation Services

Depending on the availability of funds, the Secretariat makes arrangements for simultaneous translation during the briefing and debriefing sessions. For Missions in which members do not speak the language of the host country, the Secretariat also hires the services of professional interpreters, who will join the observer teams in the field for the duration of the Mission.

Communication

Each observer is provided with a SIM card with a registered phone number. Observers are advised to keep their phones on at all times for effective communication with the Mission headquarters and for security reasons. Observers also receive a contact list for the Mission that provides the phone numbers of all members of the Mission.

Observers also receive a briefing on the Mission's communication plan, including regularly scheduled call-in sessions, political updates, and emergency contacts. A list of all relevant contact numbers, both in the capital and regions, is included in the deployment information kit. A deadline and method of submitting reports is also agreed upon and shared with the observers before deployment.

Transportation

For regional deployment, each observer team will receive a vehicle and a local driver. The recruitment of the drivers will be done before the arrival of the observers by the Mission Secretariat. All cars must be clearly marked with AU visibility materials such as stickers or flags. Drivers receive a briefing on their responsibilities and relationship with observers. Observers also receive a similar briefing. Depending on the terms of contract for hiring the vehicles, observers are responsible for fuelling the vehicles. They receive funds from the finance officer for this purpose before their deployment.

Finance

Each observer team receives an operational advance for expenses linked with their activities during the period of deployment. One team member is tasked with being responsible for the team's finances. The team has to obtain a supporting document (invoice, receipt) for every expense. Petty cash will usually be used for fuel, parking, communications, internet, and doctors' visits (in the event of sudden illness). Observers have to report the usage of the petty cash with supporting documents when they return to headquarters after deployment.

Observers are paid a per diem allowance in accordance with AU rates for the host country. Observers receive a percentage of their per diem before deployment and the balance after they return from deployment. Observers are required to submit their boarding passes to the Secretariat upon arrival to facilitate the preparation and payment of per diems. The AU is also responsible for costs related to observers' travel for the Mission. Such costs include visa fees and transit accommodation. Upon arrival, observers receive a claims form from the finance officer which they should complete and return with supporting documentation before they receive the relevant reimbursements.

6 Election Observation within the Electoral Cycle

6.1 Before Election Day

6.1.1 Assessing the Political Context of Elections

The context within which an election is being conducted is an important element of the pre-election context that could impact on the final outcome of an election. An assessment of the state of civil rights and freedoms in the host country is therefore an important aspect of the AU Mission's assessment.

The African Charter on Democracy, Elections and Governance (ACDEG)⁴¹ and the AU Declaration on the Principles Governing Democratic Elections⁴² in Africa commits Member States to the promotion of democracy, rule of law and human rights. States are also committed to the elimination of all forms of discrimination.



⁴¹ See articles 4.1., 6. and 8.1 of the African Charter on Democracy, Elections and Governance.

⁴² See section II (c) of the AU Declaration on the Principles Governing Democratic Elections in Africa.

On the basis of these international commitments the AUEOM assesses the pre-election context to ascertain that the rights and freedoms of citizens were guaranteed and that the context was peaceful and devoid of intimidation and discrimination. In accordance with the Guidelines for AU Electoral Observation and Monitoring Missions, the Mission will respond to the question “Is the situation in the country generally peaceful or is there political violence? If so, will the government’s security measures provide an environment in which a free election campaign can take place? Or are there substantial restrictions on the freedom of expression, association and assembly?”⁴³

A context marked by repeated violence, intimidation, arrests of civil rights activists and party sympathisers, illegal prohibition of gatherings, and disruption of rallies will not create the appropriate preconditions for the conducting of peaceful and credible elections. In the case of a fully-fledged Mission where there are LTOs, an assessment of the pre-election context is done by direct observation and consultation with relevant stakeholders by LTOs. In the cases of a Short-Term Missions, STOs gather information on the pre-election context through their consultations with relevant stakeholders and through media analysis, taking into account media reports on the pre-election context. In its statements and report the AUEOM will therefore analyse all events or political activities that could have favoured or negatively impacted on the pre-election context.

6.1.2 Legal and Constitutional Framework

The analysis of the legal and institutional framework aims to show that the constitution, electoral laws and institutions exist in the host country and that they comply with the regional, continental or international instruments governing credible elections.

In this regard, AUEOMs assess whether the constitution is a democratic constitution that recognises and guarantees fundamental rights.⁴⁴ If the constitution or the electoral law was amended prior to the election, the AUEOM also assesses whether the amendment was done in a democratic manner and that it was not manipulated in favour of any of the parties involved in the elections. AUEOMs also make an assessment of the electoral laws and guidelines issued by the EMB and the electoral system to ascertain that they provide an appropriate framework for the conducting of democratic elections. The questions that the Mission seeks to answer in this regard are:

⁴³ Section 3.7 (vi) of the Guidelines for AU Electoral Observation and Monitoring Missions.

⁴⁴ See articles 4&5 of the Charter. Section IV of the AU Declaration.

- i. “Does the constitution and legal framework guarantee fundamental freedoms and human rights?
- ii. Is the electoral system premised on the right to freedom of association, and enables people to advance this right through the formation of political parties for the purposes of electoral competition?
- iii. Is the Electoral Commission independent and impartial, and exercise its powers and perform its functions without fear, favour or prejudice?”⁴⁵

The AUEOM ascertains that the framework guarantees the fairness of the electoral process in that it guarantees equitable access to all citizens in the process. Some laws and regulations could be biased and therefore give rise to political violence or the rejection of the outcome of an election by the electorate, the parties and candidates. The AUEOM also assesses the institutional framework for the conducting of elections. In this regard it assesses the independence of the election management body and other institutions that play a role in the management of elections in the host country. Specifically, the AUEOM questions the mode of appointment of the EMB and its funding. Another important aspect of the assessment of legal framework is election dispute resolution (EDR). In line with article 17(2) of the ACDEG and section IV(6) of the AU Declaration, the AUEOM assesses whether the legal framework provides mechanisms for peaceful resolution of disputes arising from the electoral process and whether the mechanisms are accessible and provide for fair hearing of disputes.

An analysis of the legal framework is prepared by the legal analysis in the core team, but in the case of a Short-Term Mission, the analysis is done by the technical team.

6.1.3 Assessing Preparedness of the EMB for the Elections

The professionalism and impartiality of the election management body is an important aspect of an election. In line with section III (g) of the AU Declaration, the Mission assesses the readiness of the EMB in order to ascertain that it has the human, material and financial resources required to perform its duties efficiently and professionally. The AUEOM also assesses other aspects of the EMB's preparations for the elections such as recruitment and training of personnel, adoption and procurement of relevant technology, design and procurement of the ballot and other election materials and other operational issues related to the deployment of its staff and materials before the election.

⁴⁵ Section 3.7 (i-iii) of Guidelines for AU Electoral Observation and Monitoring Missions.

The AUEOM pays attention to the real and perceived non-partisan behaviour of the leadership and members of the EMB as well as its other staff and poll personnel. It is important to mention that the AUEOM also pays attention to the inclusiveness of some of the procedures listed above, especially the adoption of technology, design of the ballot and election materials and the procurement procedures. It is important that political parties and relevant stakeholders are consulted in these processes.

To enable the AUEOM to assess these procedures, it consults the EMB, its technical partners, political parties, civil society and other stakeholders that may be involved in the process. The technical team also gathers information from the media and other pre-election assessment reports on the host country. Members of the AUEOM are also able to observe the final stages of the deployment of staff and distribution of election materials in their areas of deployment.

6.1.4 The delimitation⁴⁶ of constituencies or electoral boundaries:

The delimitation of boundaries is closely linked to the fairness of the electoral process because it is a process that could be manipulated to exclude certain sections of the population or to give less value to their votes. In this regard, the Mission assesses the legal framework for delimitation in order to determine whether it provides a clear set of criteria. The AUEOM assesses the impartiality of the body⁴⁷ responsible for undertaking the process. It assesses whether the process was conducted in compliance with the legal framework, and whether it was conducted in a consensual manner through consultations. The Mission also considers the outcome of the process: whether the sizes of the constituencies are distributed in an equitable manner when the number of registered voters per constituency is compared with the number of seats to be elected from that constituency.

This aspect of the Mission's assessment is done by the technical team through research and consultation with political parties and the body responsible for delimitation.

⁴⁶ Sometimes called demarcation.

⁴⁷ It is important to mention that in some countries the EMB is mandated to undertake delimitation, while in others a separate institution is tasked with this responsibility.

6.1.5 Voter Registration



An accurate and inclusive voter register is fundamental to the credibility of an electoral process. The AUEOM assesses the legal framework for the registration of voters, how the process was conducted and the outcome of the process. Specifically, with regard to the legal framework for registration, the AUEOM seeks to respond to the following questions:

- Does the legal framework guarantee the rights of all eligible citizens to be registered?
- Does it provide for the establishment of a professional and impartial body⁴⁸ to conduct the registration of voters?
- Does the law provide a mechanism for complaints and appeals from the registration process?

With regard to the assessment of how the process was conducted, the Mission seeks answers to the following key questions:

- Was the registration process conducted in an inclusive manner?
- Was the duration of the process adequate to cover the entire voting population?
- Was the process conducted impartially and professionally?

⁴⁸ In most countries, the EMB is responsible for the registration of voters, although there are some countries where another body such as the national civic registry is responsible for voter registration.

- What type of technology was adopted in the process and how did this impact on the inclusiveness of the process and the accuracy of the voter register?
- Was there a period of display for verification, complaints and appeals?
- Were the complaints and appeals fairly addressed?
- Were offenders prosecuted?
- Was the process free from intimidation and violence?
- Were independent observers accredited to observe the process?

With regard to the final outcome of the registration process, which is the voter register, the Mission will respond to the following questions:

- Is the final voter register a true reflection of the outcome of the registration process?
- Do political parties have access to copies of the voter register?
- Is the final register produced in a manner that makes for easy reference?

6.1.6 Political Party Registration and Regulation

The registration and regulation of political parties is an important aspect of the electoral process, because their activities impact on the final outcome of the elections. In most African countries, parties are required to register before they are formally recognised by the EMB. The AU Mission needs to ascertain that the legal framework for party registration does not violate the principles of freedom of association and expression. It also needs to determine that the framework provides clear criteria for the registration of political parties and that political parties are formed on the principle of inclusion and are not skewed along gender, religious or ethnic lines to the exclusion of a segment of society. Beyond the legal framework, the Mission also makes an assessment of the process of registration of parties before an election to verify that unnecessary restrictions are not imposed on parties to make the process of registration difficult.

With regard to the regulation of parties, the AUEOM makes an assessment of the legal framework to determine if it provides a clear code of conduct to which parties and candidates are required to adhere. The legal framework should also provide mechanisms for consultation between the EMB and political parties. The Mission also makes an assessment of the fairness of the provisions of the law on the funding of political parties and campaigns.

6.1.7 Candidate Nomination and Election Campaigns

Internal democracy of political parties is an important aspect of the electoral process that could impact positively or negatively on the final outcome of the process, and the internal democracy of political parties is also important to the entrenching of democratic values. The Mission's assessment of the nomination process is focused on the transparency and inclusiveness of the process. The Mission assesses whether the procedures for nomination did not exclude any group, especially women and other minority groups such as persons with disability. For instance, in countries where candidates are expected to pay a nomination fee, the Mission checks to ensure that the fees are not exorbitant. In countries where parties need to register with the EMBs before contesting elections, observers need to check that the procedures and the timeframe for parties to get registered were clearly communicated. The Mission also assesses if the nomination process was open to monitoring by the EMB.

The freedom to campaign is an important aspect of an election. The Mission seeks to answer the following questions in its assessment of the campaign process: were all parties allowed to campaign freely? Did parties comply with the guidelines and code of conduct? Were the campaigns devoid of violence, use of abusive language and intimidation? Did parties have equitable access to the media for their campaigns? Were the security agencies professional and impartial in their coverage of the campaigns?

A campaign process marked by violence, divisive discourses, intimidation, and abusive use of state resources could be indicative of possible violence on Election Day and after the announcement of results. Observer teams are required to attend public rallies and campaign events and to interact with party leaders and their sympathisers in their areas of deployment.

6.1.8 Women's Participation, Gender and Minority Rights

Gender parity is important in an electoral process. A system in which men and women do not enjoy the same rights and opportunity to access public positions may lead to future social and political conflicts. The involvement of women as candidates, voters, and polling workers is a strategic entry point for women to start their participation in public life and the decision-making process. The African Charter for Elections, Democracy and Governance stresses the promotion of women in governance processes such as elections. The AU also recognises the importance of the protection of minority rights through guarantees of their



participation in politics and decision-making. These minority groups could include persons with disability and internally displaced persons.

The AUEOM's assessment in this regard entails an analysis of the electoral system and the legal framework to ascertain that there is no systemic exclusion of women from the electoral processes. The AUEOM checks if there are special provisions made for women and minority group participation and representation such as quotas and special seats. The Mission makes an assessment of the candidate nomination process to establish that there was no form of discrimination or intimidation targeted at women and minority groups in the process. The AUEOM also makes an assessment of different aspects of the electoral process to ensure that gender and minority right issues were considered. Such aspects of the process to be analysed include recruitment of personnel and registration and voting procedures.

6.1.9 Civil Society Participation

The electoral process is meant to initiate, consolidate or sustain a democracy for the benefit of citizens. Civil society organisations serve as the link between government and the people, and it is therefore important that the electoral process is open to their inputs during the planning phase. The mechanisms of dialogue with the CSOs and their inclusion in the electoral operations determine the openness and transparency of the electoral processes. The AUEOM makes an assessment of the level of participation of CSOs in the process as a measure of

the transparency of the process. The AUEOM pays attention to the procedures set out for the accreditation of citizen observers to establish that unnecessary obstacles were not imposed on CSOs in the process. The AUEOM also assesses the freedom of CSOs to engage the process and make pronouncements on the process. The Mission gathers information for its assessment through consultations and CSO reports on the electoral process.

6.1.10 Civic and Voter Education (CVE)

The entrenchment of democratic values is central to the consolidation of democracy in Africa, and civic and voter education is one of the important methods of achieving this objective. In the electoral process, an uninformed or poorly informed electorate could pose a risk to the successful conducting of the process. When the electorate is not properly informed and prepared for the registration and voting procedures there may be a high number of invalid votes at the end of the process, thus compromising the will of the people. The efforts in sensitising the electorate on the registration and voting procedures are crucial for making sure that the outcome of the elections reflects the will of the people, thus making the results acceptable. In most countries, the EMB takes the lead in CVE in collaboration with CSOs and development partners. Political parties also have an important role to play in the implementation of CVE initiatives.

In its assessment the AUEOM will focus on the coverage and impact of the civic and voter education initiatives established to sensitise the electorate ahead of the elections. The Mission will assess the involvement of different stakeholders in the implementation of these initiatives.

6.1.11 The Media

Freedom of the press and freedom of information are integral aspects of democratic governance. The ACDEG commits AU Member States to promote these freedoms and the development of professional media.⁴⁹ The role of the media in the electoral process cannot be overemphasised, because information management is central to the success of the process. A biased and unprofessional media environment could become a source of conflict and could also lead to an uneven playing field in favour of specific parties and interests.

In its assessment of the role of the media, the AUEOM focuses on the fairness of the level of access to the media by all parties. Equitable access to public media

⁴⁹ Article 27 (10) ACDEG.

by all parties and candidates contesting an election is one of the determining factors of the fairness of an electoral process. The Charter and the 2002 AU Declaration both mandate Member States to provide equal access to the media for parties. The monitoring of the media can be made by measuring the amount of time allocated to each candidate and political parties, and analysing the messages in the printed, online, TV and audio media. In certain countries, parties can pay official fees for adverts. In such cases the amount of the fees and the treatment of the candidates regardless of their parties will be scrutinised.

The AUEOM considers the framework guiding the establishment and operation of media outfits in the host country to establish the level of freedom. It also examines whether there is a clear code of conduct for the media in the electoral process and the level of compliance with the code.

6.2 On Election Day

Election Day observation is central to the achievement of an EOM's objectives. On Election Day, the Mission Leadership and members visit polling stations in their areas of deployment and observe the key Election Day activities, specifically: opening of the poll, the voting process, closing of the poll, counting and early stages of the aggregation process.

This section presents an overview of issues to look out for and questions to ask on Election Day. It is important to note that Election Day activities vary from one country to the other. Election Day activities should therefore be assessed on the basis of the legal framework and electoral system of the specific country. To enable observers to undertake their responsibilities systematically, checklists are designed to enable them ask the necessary questions and capture their observations. These checklists are also designed for each country. While the issues discussed in this section are covered by specific questions in the observer checklists, it is important that observers pay close attention to enable them complete the checklists objectively.

6.2.1 Opening of the Poll

On Election Day, observers are expected to arrive at the first polling station where they will observe the opening of the poll at least 30 minutes before the official opening time (i.e. if the poll opens at 07:00, observers should be at the station not later than 06:30). Given that the poll opens quite early in most countries, for security reasons it is advisable that observers choose to observe the opening at a station close to their place of residence.

During the opening of the poll, observers should take note of the arrival time of election personnel, who are expected to be at the polling station early enough to enable them to complete the preparatory and opening procedures before the official opening time. Other issues to be noted are: the time of arrival of election materials, the compliance of the election personnel with the laid-down opening procedures (although these procedures vary from country to country, they generally include: setting up of the station, completing the polling station journal, briefing of observers and party agents on the procedures, displaying the empty ballot boxes and sealing the ballot boxes), and the level of familiarity of election personnel with opening procedures and their roles and responsibilities. Observers should also note whether polling agents and independent observers are permitted to be present at the opening procedures. Furthermore, it is important to note whether the empty ballot boxes were shown to polling agents and observers before they were sealed for the day. The time of opening should also be recorded, and in cases where the opening is delayed for a long period of time, observers should also take note of what actions were taken to address the delays. The orderliness of the process should also be highlighted in observer reports.

It is important to note that the time of the opening of the poll is considered to be the time when all preparatory procedures are completed and the first voter is allowed into the station.

6.2.2 Polling Stations⁵⁰

Observers are expected to visit at least 10 polling stations on Election Day, and should take note of the following issues: whether the polling stations are located in public and neutral places (e.g. public schools, city halls etc.) and whether they are located in a suitable environment (e.g. whether stations are located outside where officials and materials are exposed to harsh weather conditions). It is also important to note whether the polling stations are accessible to persons with disability. Observers should take note of the atmosphere within and outside the polling station; they should assess whether it is orderly and whether there are campaign materials or direct campaigning going on within the perimeters of the station. Observers should also take note of any acts of intimidation or obstruction preventing voters from accessing the polling station.

⁵⁰ In some countries this is called 'polling place' / 'polling precinct' / 'voting station'. It is also important to note that polling stations are located in polling centres that comprise more than one polling station.

Specific attention should be paid to the layout of the polling station, as it is an important element of the voting process. Observers should check whether the stations are laid out in a manner that allows for easy flow of voters. In line with international best practice, a polling station should be located in a space that is wide enough to allow voters to move from one point to the other without bumping into each other. The layout of the polling stations should also guarantee the secrecy of the ballot. In this regard, observers should pay attention to the location of the polling booth (or its alternative), which should be placed in manner that guarantees that a voter has the privacy to mark the ballot without a third party's knowledge of the voter's choice.

6.2.3 Voting Procedures

The electoral legislation and guidelines for every election set out the voting procedures that must be complied with. It is therefore important that observers familiarise themselves with these procedures before Election Day. During the voting, observers should assess the user-friendliness of the voting procedures, and they should also assess the familiarity of voters with the procedures, as this could be an indicator of the level of civic and voter education received before of the elections. The familiarity of election personnel with the procedures and their level of compliance with the relevant guidelines should also be noted, as it could be indicative of the level of training personnel received before the election. Observers should watch for irregularities in the implementation of the procedures, such as in the application of indelible ink or in the procedures for voter identification.

6.2.4 The Ballot and Election Materials

There are two categories of election materials, namely sensitive and non-sensitive materials. Sensitive election materials are materials that must be handled with care, because damage or mishandling of these materials could affect the outcome of the process – e.g. ballot papers, ballot boxes and voters' rolls. Non-sensitive election materials are materials that are not crucial to the outcome of the elections such as stationery and supplies. Observers should therefore pay attention to the manner in which sensitive election materials are handled, who has access to these materials and whether they are used for the appropriate purpose in accordance with the guidelines. More specifically, they should check that these materials are available in the correct quantities; they should also check the user-friendliness of the materials especially the ballot and the voters' roll. Observers should also note whether the ballot box is transparent,



and whether it is sealed appropriately and placed within the view of polling agents and independent witnesses.

An accurate voters' roll is central to the credibility of an election: on Election Day it serves as a tool for verifying the identity of voters and the basis upon which a voter is granted access to the voting process. There have been cases where controversies around the accuracy and credibility of the voters' register have led to a rejection of electoral outcomes. Observers must therefore pay close attention to the voters' roll. Observers should watch the voter verification process to ensure that it is done in compliance with stipulated procedures. They should also take note of the frequency of the occurrence of cases of omission of names from the roll and the actions taken to address those cases. When possible, observers should also take note of the existence of a list of transferred voters and the accuracy of such lists.

6.2.5 Polling Personnel

In most African countries, polling personnel are civil servants. However, in certain countries, polling stations are presided over by judges. The average number of polling personnel per polling station differs across countries. AU observers should assess whether there is compliance with the number of polling personnel as defined in the regulations, whether there is a disproportionate number of polling personnel across stations and whether this is a trend countrywide.

AU observers should observe whether the polling personnel were on site before the opening of the poll and throughout the voting and counting processes; whether the personnel were all present at the polling stations, and if not, whether the presiding officer took any special measure for another polling staff to stand in; whether the presiding officer is willing to respond to questions of observers; whether the presiding officer asked to verify the identity of observers and candidate and party agents; whether the presiding officer granted restricted access to the observers and candidate and party agents; whether the presiding officer allows unauthorised persons, such as security personnel, to remain in the polling station; whether they are wearing any paraphernalia, badges or t-shirts for easy identification. AU observers should also pay attention to gender and the representation of women among the polling personnel as well as observe whether there are a number of women presiding over some polling stations.

Observers should assess the level of professionalism and efficiency of the polling personnel by assessing the average time it takes them to process voters, as well as by observing the queues outside, and possible building of queues inside the polling station; their level of understanding and knowledge of voting, closing and counting procedures; in observing the voting and counting processes, and rating the performance of the polling personnel, observers would assess whether there is strict application of and compliance with the electoral law as well as the voting and counting procedures; whether the polling personnel are well-trained; whether the polling personnel discharge their duties in an impartial manner; whether they display willingness to provide assistance to those needing it; whether polling personnel's errors are more the result of poor training and inexperience rather than the result of conscious attempts of fraud; and whether overall the polling personnel confidently manage voting and counting processes in accordance with the rules.

6.2.6 Party/Candidate Agents

The presence of party/candidate agents in the polling stations contributes to the openness and transparency of elections. Their presence in polling stations is also a confidence-building measure. AU observers should observe whether the candidate and party agents were present at the polling stations at the opening and closing of the poll; whether all the contesting candidates and parties are represented by an agent in the polling stations; whether they have a copy of the voters' list at their disposal; assess how well trained party/candidate agents are; their level of understanding of the voting and counting procedures; their level of understanding of their role and functions at the polling station; whether they

are denied or readily granted access to polling stations on presentation of their letter of assignment; whether they are easily identifiable or not; whether women are represented amongst the agents; whether they are mobile or assigned to specific polling station or polling centres; whether they observe the entire voting and counting processes; and whether they passively or actively observe voting and counting processes without obstructing the work of the polling personnel.

6.2.7 Independent Observers

The Guidelines for AU Electoral Observation and Monitoring Missions stipulate the important role played by international, regional and citizen observers in enhancing the transparency and credibility of elections and democratic governance on the continent. The majority of African countries have granted accredited citizen, regional and international election observer groups the right to observe electoral processes over the past decades. The right to observe is enshrined in national legal and regulatory frameworks as well as in international and continental benchmarks such as the Declaration of Principles for International Election Observation, the African Charter on Democracy, Elections and Governance and the Guidelines for AU Electoral Observation and Monitoring Missions. Election Day proceedings are generally observed by groups of electoral commissions, intergovernmental bodies, non-governmental bodies, regional groupings and civil society organisations and networks deployed either across the national territory or limited to certain parts of the country when there are potential security risks.

AU observers should observe whether observers are denied or readily granted access to the polling centres and stations; whether there are any citizen, regional and international observer groups present besides themselves; whether citizen observers are easily identifiable; whether women are represented amongst the different citizen observer groups; whether they display an understanding of their role and functions; whether they intervene in the process or not; and whether they report regularities observed to the presiding officer without interfering with the process.

6.2.8 Closing of the Poll

AU observers are advised to arrive at the last polling station where they would observe closing of the poll and the vote count at least 30 minutes before the end of voting. In observing the closing of the poll, observers should consider the number of voting days, as voting could take place either on one day or several days depending on the context.

- **One-day voting:** Observers should observe whether the polling personnel closed the station at the official closing time; whether there was a queue and whether there were any voters in the queue after the official closing time; whether voters who arrived at the polling station after the official closing time were allowed to cast their vote; whether the polling station did not close at the official time either due to a last-minute extension of voting hours, or because of late opening of the poll, polling stations did not close on time to comply with the legislated number of polling hours; whether candidate and party agents as well as citizen and international observers were present at the close of the poll; whether the main entrance of polling centres and doors of polling stations were closed at the official closing time; whether the presiding officer ensured that only authorised persons remained at the polling station after the close of the poll; and whether there was any disruption to the closing of the poll.
- **Multiple-day voting:** In the case of multiple-day voting, AU observers should, in addition to elements highlighted above, observe whether the presiding officer reconciled the number of ballots used at the end of the day with the number of ballot received; whether the presiding officer completed the minutes of the closing of the polling station; whether unused ballots and the voters' list(s) were placed in sealed envelopes; whether the ballot box was sealed or locked prior to storing it; whether the serial numbers of the ballot box seals were recorded in the minutes; whether the ballot boxes were stored at the polling centre or whether the ballot boxes were transferred to a different location.

6.3 After Election Day

With LTOs deployed on the ground, direct observations by AU observers, press releases by the EMB, meetings with EMB and consultations with other electoral stakeholders during the post-election phase, the AUEOM will gather comprehensive, accurate and verifiable information concerning the laws, processes and institutions related to the conducting of elections and other factors concerning the overall electoral environment. The LTOs are expected to provide periodic (weekly) reports which will assist the Mission in drafting and issuing a preliminary post-election statement of findings and a final report upon the conclusion of the election process.

Some of the important aspects observers are required to follow up and report on during this phase include vote counting, results aggregation, the complaints process and the post-election review.

6.3.1 Following Vote Count and Aggregation



During this activity votes are counted by officials who are mandated and trained by the EMB of the host country. Vote counting is not only an “arithmetical” process but includes other administrative and technical procedures such as opening the ballot boxes, sorting the ballot, determining the validity of ballot papers and counting valid ballots.

This process normally takes place inside the voting station right after the formal close of voting, or in some cases, it may take place at accounting centre, depending on the country. The counting centre is often a central place where the votes for more than one polling station are counted. To increase the openness and transparency of this process, political parties and candidates’ representatives should be allowed to observe the entire process.

- **Special ballots:** In cases where the law of the country makes provision for special ballots (voting outside the country, mail votes and/or advance voting etc.), these votes form part of the count and may be counted days before Election Day or after close of voting of the ordinary election. If these ballots are counted before ordinary Election Day, security is necessary to ensure the results are released only at the close of voting of the ordinary election. This process also requires the presence of representatives of political parties and candidates and observers.

- **Counting at a polling station:** Observers should observe the time vote counting started; whether there are any discrepancies between the number of ballots in the ballot boxes and those that were used in the elections; whether there are any interruptions during in the process; whether the security officials are available and visible throughout the whole process; whether there is adequate lighting to ensure a smooth counting process; whether there is enough space to allow transparency of the process; whether authorised persons including political party and candidates representatives, observers and media are allowed to observe the process; whether rules and procedures for vote counting are followed; whether party and candidate representatives sign the result sheets or forms; whether the results are published and posted and whether there are measures in place to transmit the results to the local office or the headquarters of the electoral management body.
- **Centralised counting centres or counting centres:** In cases where the counting is done in counting centres, observers should, in addition to the elements highlighted above, observe whether ballots boxes are locked and sealed properly before transportation. Observers are also expected to follow the transportation of voting materials from polling stations to the counting centre and to observe whether observers, party and candidate representatives and the media are allowed to accompany the ballot boxes to the counting centre.

Counting rules and procedures should be clear and understood well in advance by all electoral stakeholders. Some of the aspects observers are expected to assess and report on during this stage include:

After the vote count, AU observers are expected to follow the aggregation process. The aggregation of the results is a crucial step in an election, and requires transparency and accuracy to ensure acceptance of election results by the contesting parties and candidates, as well as the general public.

Results from counting centres and/or electoral districts are transmitted to the national level immediately after counting. Depending on the electoral laws of a particular country, results from counting centres may go through the electoral district, which then sends them to the national level.

At local/national level, there is a team that receives these results directly from counting centres or electoral districts. These results will also include results of any special ballots. The team responsible for aggregating results directly

transmits the progress reports for each electoral district. Representatives of political parties and candidates, and observers, including the media, should have access to the mechanism put in place, which includes the results centre itself and spreadsheet(s) or a board listing all districts so that they can observe the results as they come in.

The electoral management body should release results as soon as possible. All type of ballots must be included before the official results. Observers observe whether the official results are announced by the authorised body, whether the results are released within the timeframe set by the country's legal framework, whether a summary of the final results is published and whether party and candidate representatives as well as the general public welcomed the results.

6.4 Assessing the Post-Election Environment

Following the aggregation, the results are announced. Depending on the country, a court of law or the EMB is the authority responsible for officially declaring the election results. *Suspensions and reduction in the degree of acceptance of election results are often as a result of the delay in the announcement of results.* AU observers are expected to establish whether the laws of the country provide for a specific timeframe in which results must be announced, in order to reduce uncertainty and minimise potential conflict or fraud and follow up on other post-election matters.

Following the announcement of results, candidates may not accept the outcome of the election, which may result in complaints or challenges on voting irregularities, counting procedures and aggregation and appeals.

• *The complaints process*

Post-election disputes emerge when candidates do not accept the results. These disputes have the potential to undermine the integrity of the electoral process. It is therefore very important that mechanisms be put in place to deal with them.

Election dispute resolution is an important aspect of the election cycle that impacts significantly on the outcome of an election. Often the legal framework of the country provides for appeals against the election results and any other matters related to the conducting of the elections.

Procedures for complaints and appeals vary from country to country. Complaints and/or challenges to voting irregularities, counting procedures and aggregation are heard and decided on by the body empowered by the law of the country.

Such body may be an EMB, election tribunal or court of law. Complaints and/or challenges are often filed within a certain timeframe, and appeals on the decisions are heard by the high court.

Observers during this time attempt to assess whether the judiciary is perceived as being independent. During this time, observers may be approached with complaints. It is important that they remember that their role is limited to observation and that they do not have the power to resolve complaints or intervene. Observers should encourage complainants to follow the proper channels in the country for appeals and to keep them informed of any developments.

After assessing and gathering evidence, the observers are expected to report to the Mission head offices. The AUEOM will assess the overall complaints and appeals process and make findings public after consulting with candidates and political parties regarding the process.

7 AUEOM Statements and Final Report

7.1 Arrival Statement

The arrival statement is a short statement that informs the public and the authorities about the presence of the AUEOM in the country. This statement provides a synopsis of the objectives of the Mission, its mandate, methodology, leadership, size, nationality of its members, its duration of stay, areas of coverage, dates of press conferences and contact details of the coordination team. Depending on the budget for the Mission, the arrival statement may be presented at a press conference and posted on the AU website.

To be avoided: no premature comments on the political context and the electoral process in the drafting of the arrival statement or during the arrival press conference.

The arrival statement should be concise and well-structured, and should provide all information needed about the Mission.

On the next page is an outline of an arrival statement

AFRICAN UNION ELECTION OBSERVER MISSION TO THE REPUBLIC OF * (NAME OF
HOST COUNTRY, DATE AND TYPE OF ELECTION)**

ARRIVAL STATEMENT

Following the invitation by the Government of the Republic of ***(*name of host country*), the Chairperson of the African Union Commission, *** (*name of AUC Chairperson*), has deployed the African Union Election Observation Mission to observe the *** (*date and type of election*)

The African Union Election Observation Mission has a mandate to observe the *** (*date and type of election*) elections in conformity with the relevant provisions of the following legal instruments: African Charter on Democracy, Elections and Governance, which entered into force on 15 February 2012, and which is intended to enhance electoral processes in Africa, strengthen electoral institutions and the conducting of fair, free, and transparent elections; the AU/OAU Durban Declaration on the Principles Governing Democratic Elections in Africa (AHG/Decl.1 (XXXVIII), adopted by the Assembly of the African Union in July 2002; the Guidelines for AU Electoral Observation and Monitoring Missions; relevant international instruments governing election observation and the constitution and laws of the Republic of ***.

The Mission is led by *** (*name and designation of HoM*). The Mission comprises *** (*number of observers*) high-profile personalities and experts drawn from the Pan-African Parliament, African Ambassadors to the African Union in Addis Ababa, Election Management Bodies and Civil Society Organisations from *** (*number of countries represented*) African countries.

To enable the Mission to achieve an objective assessment of the process, it will undertake the following activities: a briefing and orientation of its observers at which various electoral stakeholders, including the ***(*name of the EMB*), political parties and civil society groups including women's groups will brief observers; deployment of observers to ***(*number of districts/regions where AU observers will be deployed*); stakeholder consultations at the district level; and observation of Election Day procedures.

The Mission's assessment of and recommendations on the credibility, transparency, fairness and the effective organisation of the elections will be based on the benchmarks provided in the aforementioned AU instruments.

After the elections, the African Union Mission will release its preliminary statement at a press conference in *** (*date and venue of press conference if already known*). Thereafter, the Mission will issue a more detailed report of its assessment, including recommendations for future elections, which will be shared with the appropriate authorities and institutions.

The Secretariat of the Mission is located at***(*location of Mission Secretariat*). For further information contact the Mission Coordinator(s): *****(*names, phone numbers and email addresses of coordinators*)

*****(*Date and location of release*)

7.2 Press Releases

Press releases are used by AUEOMs to convey short but important messages to the public or to the authorities. The Arrival Statement and the Preliminary conclusions of the Mission can be made public through press releases. The media officer ensures that the press releases comply with the traditional format of AU press releases.

Press releases can also be a way of communicating on critical issues if the Mission or its leadership does not wish to comment more on those issues, apart from the messages in those press releases. They can be the best channel of information if there is an urgent need to comment on a particular event pertaining to the Mission. Besides, it is not always easy in certain places to hold press conferences and gather journalists. In that situation, the press release is appropriate.

Press releases are usually a more concise presentation of a longer statement or report issued by the Mission to the press. The AUEOM's Arrival and Preliminary Statements should be accompanied by a press release that presents the key issues and findings contained in the report. A press release should be prepared in cognisance of the fact that journalists are time-bound in their reportage and they require a clear message to convey on behalf of the Mission. These releases must be concise and convey a clear specific message; they should also include quotations from the longer report.

7.3 Preliminary Statement

The preliminary statement is the statement by which the Mission presents its preliminary assessment of the election process. The Preliminary Statement is released after the polling day and is expected by all stakeholders and the international community.

The statement presents background information on the Mission, its mandate and methodology. It also elaborates on the preliminary findings of the observers on different aspects of the process across the electoral cycle. This will include the aspects discussed in the previous chapter. In its assessment of the different issues, reference is made to the relevant provisions of the international instruments that provide best practice on the specific issues.

Below is an outline of a preliminary statement

AFRICAN UNION ELECTION OBSERVER MISSION TO THE REPUBLIC OF * (*NAME OF
HOST COUNTRY, DATE AND TYPE OF ELECTION*)**

PRELIMINARY STATEMENT

DATE OF PRESENTATION OF STATEMENT

1. Introduction
2. Objective and Methodology of the Mission
3. Findings and Observations
 - 3.1 Pre-Election Observations
 - A. The Political Context
 - B. The Legal and Institutional Framework
 - C. Preparedness of the EMB for the Elections
 - D. Delimitation of Constituencies or Electoral Boundaries
 - E. Voter Registration
 - F. Political Party Registration and Regulation
 - G. Candidate Nomination and Election Campaigns
 - H. Women's Participation, Gender and Minority Rights Considerations
 - I. Civil Society Participation
 - J. Civic and Voter Education
 - K. The Media
 - 3.2 Election Day Observations
 - a. Opening the Poll
 - b. Polling Stations
 - c. Voting Procedures
 - d. The Ballot and Election Materials
 - e. The Ballot and Election Materials
 - f. Polling Personnel
 - g. Party/Candidate Agents
 - h. Independent Observers
 - i. Closing the Poll
 - j. Counting and Tabulation
 - 3.3 General Observations
4. Recommendations
5. Conclusion

7.4 Mission Final Report

The final report is an overall report of AUEOMs, giving full details of all their activities, findings and assessments. It is usually between 15 and 20 pages, and is structured along the same lines as the preliminary statement. This document, however, includes an additional section on post-election issues in which the Mission gives its assessment of post-election issues such as: the result of the tabulation process; the political context after the announcement of results; and the complaints and appeal process. Moreover, this report includes more detail and expands more on the issues raised in the preliminary report. The recommendations are also developed in a systematic way and addressed to stakeholders according to the roles they play in the process.

The final report is drafted and adopted by all observers while in the country, according to the procedures described in the preceding chapter.

In previous years, the final reports of AUEOMs were not published. They were regarded as a confidential document to be submitted to the Chairperson of the AUC, and thereafter shared with the authorities of the host country by the office of the Chairperson of the AU Commission. Recently, the AU has started publishing its EOM reports on the AU website⁵¹ within two months after the close of the Mission.

⁵¹ <http://pa.au.int/en/AUEOM>

8 After an AUEOM

8.1 Report to the PSC and to the AUC Chairperson

During the 311th meeting on 16 February 2012, the AU Peace and Security Council (PSC) took the decision that the Department of Political Affairs should brief it on a regular basis on its activities relating to past and upcoming elections on the continent. Since then regular briefings to the PSC on elections have been institutionalised. This regular briefing provides the opportunity to bring to the attention of the PSC problems relating to elections and electoral processes on the continent and offers the platform for the PSC in turn to take decisions (or make pronouncements) that usually have a profound impact on the electoral terrain. In practice, the DPA briefs the Council on upcoming elections and an assessment of elections that has already taken place. Decisions and recommendations of the PSC during briefings also contribute to improvements in the election observation activities of the AU. One example of how the decisions of the PSC impact on election observation is the tacit endorsement by the Council of the AU's long-term election observation methodology.

In addition, the final report of every observer mission is shared with the AUC Chairperson, who takes the final decision on the dissemination of the report. It has become practice for the Chairperson to share the observer report with the Member State concerned, highlight the recommendations in the report, and encourage their implementation as a means of improving the electoral process. In a situation where a Pre-Election Assessment Mission is carried out, the report will also be shared with the Chairperson of the African Union.

8.2 Follow-Up on AUEOM Recommendations with Member States and EMBs

It is pertinent to note that election observation has two major objectives: the first objective is to ascertain whether elections are conducted in line with guiding principles and standards for elections as defined by international, regional and sub-regional instruments that govern the conducting of elections. The second objective is to take action on those areas of election management that are observed and recorded to have fallen short of the standards for elections.

It is for this reason that the period after election observation becomes critical to the building of democracy in the national electoral processes of Member States. In the African Union Commission, the process of follow-up of EOMs is characterised by a number of stages. First, the Mission Coordinator submits the final report to the DEAU for verification and confirmation. At this stage, the unit may find it necessary to make inputs in the form of additional report. But the Unit *does not* modify the report of the observers. After this, the report goes through the hierarchical chain in the DPA and is endorsed by the Commissioner for Political Affairs and subsequently submitted to the Chairperson of the AUC for approval. In the event that the report does not meet the approval of the Chairperson, or, to put in another way, should the Chairperson find the report unsatisfactory either in presentation or content, the report may be withheld or the Chairperson may deploy a special Post-Election Assessment Mission to the country to verify the grey areas of the report.

When the EOM report is approved by the Chairperson, it is sent to the leadership of the DPA for transmission to the Member State and follow-up actions. The DEAU reviews the report and its recommendations and articulates strategic agenda for the implementation of the recommendations. The report is finally transmitted to the Member State through its permanent Mission to the AUC with a proposal to liaise with the DEAU to establish mechanisms and processes of providing support to the Member State for the implementation of the recommendations. A copy of the report is also transmitted to the PAP, which jointly coordinates the Missions.

From this stage, the follow-up actions are coordinated by the DEAU in liaison with the EMB and government of the Member State. These could be in the form of capacity-building of the EMB through training in order to bridge observed gaps in the professional conducting of elections; in other cases it could be through the provision, by the DEAU, of technical assistance to the EMB in the

form of experts and consultants in the identified areas of need, which may include drafting of documents. It could also be in the form of provision of funds by the DEAU to the member state to meet certain needs. In the case where a reform of the process is recommended, the DEAU may convene high-level consultations with the government and electoral authorities as well as with the RECs in the regions to obtain the political will and to agree on the modalities of going about it.

In general, whatever the nature of the assistance is, the aim of the follow-up action by the DEAU is to improve the national electoral process of the Member State in areas that will guarantee visible improvement in the subsequent election.

9 Annexures

Annex 1: AU/OAU Declaration on the Principles Governing Democratic Elections in Africa

Annex 2: The African Charter on Democracy, Elections and Governance

Annex 3: Guidelines for AU Electoral Observation and Monitoring Missions

Annex 4: Declaration of Principles on International Election Observation and Code of Conduct for International Election Observers

Annex 1: AU/OAU Declaration on the Principles
Governing Democratic Elections in Africa

**ASSEMBLY OF HEADS OF STATE
AND GOVERNMENT
Thirty-Eighth Ordinary Session
of the Organization of African Unity
8 July 2002
Durban, SOUTH AFRICA**

**AHG/Decisions 171-184(XXXVIII)
AHG/Decl. 1-2 (XXXVIII)**

DECISIONS AND DECLARATIONS

OAU/AU DECLARATION ON THE PRINCIPLES GOVERNING DEMOCRATIC ELECTIONS IN AFRICA

I. PREAMBLE

We, the Heads of State and Government of the Organization of African Unity, meeting in Durban, South Africa, at the 38th Ordinary Session of the Assembly of the OAU, have considered the Report of the Secretary General on strengthening the role of the OAU in election observation and monitoring and the advancement of the democratization process.

Considering the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union, particularly in its Articles 3 and 4;

Reaffirming the Algiers Decision of July 1999 and the Lomé Declaration of July 2000 on the Framework for an OAU response to unconstitutional changes of government, which laid down a set of common values and principles for democratic governance;

Considering the CSSDCA Solemn Declaration adopted by the Assembly of Heads of State and Government of the OAU in Lomé, Togo, in July 2000, which underpins the OAU's agenda of promoting democracy and democratic institutions in Africa;

Considering the New African Initiative (NAI) now referred to as the New Partnership for the African's Development (NEPAD) adopted by the Assembly of the Heads of State and Government in Lusaka, Zambia, in July 2001, by which, through the Democracy and Political Governance Initiative, African Leaders undertook to promote and protect democracy and human rights in their respective countries and regions, by developing clear standards of accountability and participatory governance at the national and sub-regional levels;

Reaffirming the importance of the Universal Declaration of Human Rights adopted in December 1948, as well as the International Covenant on Civil and Political Rights adopted in December 1966, which recognized the will of the people expressed through free and fair elections as the basis of the authority of government;

Reaffirming also the significance of the African Charter on Human and Peoples' Rights adopted in Nairobi, Kenya, in June 1981, which recognized the right of every citizen to participate freely in the government of his or her country whether directly or through democratically elected representatives;

Recalling the Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the Political and Socio-economic Situation in Africa and the Fundamental Changes Taking Place in the World, adopted in Addis Ababa, Ethiopia, in July 1990 wherein OAU Member States undertook to continue with the democratization of African societies and the consolidation of the democratic institutions;

Recalling further the African Charter for Popular Participation in Development adopted in Addis Ababa, Ethiopia, in July 1990, which emphasized the need to involve the people of Africa in the spheres of economic and political governance;

Referring to the Cairo Agenda for Action adopted in Cairo, Egypt, in 1995, which stressed the imperative of ensuring good governance through popular participation based on the respect for human rights and dignity, free and fair elections, as well as on the respect of the principles of freedom of the press, speech, association and conscience;

Cognizant of the fact that each Member State has the sovereign right to choose its political system in accordance with the will of its people and in conformity with the Constitutive Act of the African Union and the universally accepted principles of democracy;

Considering the ever-growing role already played by the OAU in the observation/monitoring of elections and the need to strengthen the Organization's efforts in advancing democracy in Africa;

Agree and endorse the following Principles Governing Democratic Elections in Africa:

II. PRINCIPLES OF DEMOCRATIC ELECTIONS

1. Democratic elections are the basis of the authority of any representative government;
2. Regular elections constitute a key element of the democratization process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development;
3. The holding of democratic elections is an important dimension in conflict prevention, management and resolution;

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

III. RESPONSIBILITIES OF THE MEMBER STATES

We commit our Governments to:

- a) take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of our respective countries;
- b) establish where none exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters, compilation of voters' registers, etc would be addressed;
- c) establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- d) safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes;
- e) promote civic and voters' education on the democratic principles and values in close cooperation with the civil society groups and other relevant stakeholders;
- f) take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices

throughout the whole electoral process, in order to maintain peace and security,;

- g) ensure the availability of adequate logistics and resources for carrying out democratic elections, as well as ensure that adequate provision of funding for all registered political parties to enable them organise their work, including participation in electoral process.;
- h) ensure that adequate security is provided to all parties participating in elections;
- i) ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and/other observers/monitors;
- j) encourage the participation of African women in all aspects of the electoral process in accordance with the national laws.

IV. ELECTIONS: RIGHTS AND OBLIGATIONS

We reaffirm the following rights and obligations under which democratic elections are conducted:

1. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law.
2. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according to the laws of the country and as guaranteed by the Constitution, without any kind of discrimination.
3. Every citizen shall have the right to free association and assembly in accordance with the law.
4. Every citizen shall have the freedom to establish or to be a member of a political party or Organization in accordance with the law.
5. Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions

with full access to the media and information within the limits of the laws of the land.

6. Individual or political parties shall have the right to appeal and to obtain timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country.
7. Candidates or political parties shall have the right to be represented at polling and counting stations by duly designated agents or representatives.
8. No individual or political party shall engage in any act that may lead to violence or deprive others of their constitutional rights and freedoms. Hence all stakeholders should refrain from, among others, using abusive language and/or incitement to hate or defamatory allegations and provocative language. These acts should be sanctioned by designated electoral authorities.
9. All stakeholders in electoral contests shall publicly renounce the practice of granting favours, to the voting public for the purpose of influencing the outcome of elections.
10. In covering the electoral process, the media should maintain impartiality and refrain from broadcasting and publishing abusive language, incitement to hate, and other forms of provocative language that may lead to violence.
11. Every candidate and political party shall respect the impartiality of the public media by undertaking to refrain from any act which might constrain or limit their electoral adversaries from using the facilities and resources of the public media to air their campaign messages.
12. Every individual and political party participating in elections shall recognize the authority of the Electoral Commission or any statutory body empowered to oversee the electoral process and accordingly render full cooperation to such a Commission/Body in order to facilitate their duties.
13. Every citizen and political party shall accept the results of elections proclaimed to have been free and fair by the competent national bodies as provided for in the Constitution and the electoral laws and accordingly respect the final decision of the competent Electoral Authorities or, challenge the result appropriately according to the law.

V. ELECTION OBSERVATION AND MONITORING BY THE OAU

We request the OAU to be fully engaged in the strengthening of the democratization process, particularly by observing and monitoring elections in our Member States, according to the following guidelines:

1. The observation and monitoring of elections shall be undertaken subject to a memorandum of understanding between the OAU General Secretariat and the host country in accordance with the principles enshrined in this Declaration and the laws of the host country.
2. In performing their obligations, the election observers or monitors shall be guided by detailed guidelines to be prepared by the General Secretariat drawing inspiration from the essential thrust of this declaration, the specific mandates and terms of reference determined by the particular case in question as well as the wider legal framework of the country staging elections.
3. Member States should ensure that invitations to the OAU to participate in election observation or monitoring are sent at least two months before the date of the election.
4. Member States should refrain from imposing any fees and/or charges on OAU observers i.e. registration/accreditation fees etc and facilitate easy access of observers/monitors to locations of electoral events/activities and unhindered in the performance of their tasks.
5. The General Secretariat shall have the right to decline invitations to monitor elections which in its considered opinion, do not measure up to the normative standards enunciated in this Declaration.

VI. ROLE AND MANDATE OF THE GENERAL SECRETARIAT

Further request the OAU Secretary General to take all necessary measures to ensure the implementation of this Declaration by undertaking, in particular, the following activities:

- a) Strengthen its role in the observation and monitoring of elections within the legal framework of the host country, in

accordance with the memorandum of understanding reached with that country;

- b) Mobilize extra-budgetary funds to augment the General Secretariat resource base so as to facilitate the implementation of this Declaration;
- c) Undertake a feasibility study on the establishment of a Democratization and Electoral Assistance Fund, to facilitate a successful implementation of this Declaration.
- d) Undertake a feasibility study on the establishment within the OAU General Secretariat of a Democratization and Election Monitoring Unit that will also discharge issues on good governance;
- e) Compile and maintain a roster of African Experts in the field of election observation and monitoring and democratization in general in order to deploy competent and professional observers and to avail itself of their services whenever necessary. Member States on their part are requested to assist by making the names of their experts available to the General Secretariat;
- f) Work out better standards of procedures, preparations and treatment for personnel selected to serve on OAU observer missions.
- g) Promote cooperation and work in partnership with African Organizations and International Organizations, as well as national institutions, non-governmental Organizations and civil society groups involved in the elected monitoring and observation work.
- h) Publish and make the General Secretariat Reports on the observation/monitoring of elections and other related activities open to all Member States and the public at large, as a means of consolidating electoral and democratic processes on the continent.

Annex 2: The African Charter on Democracy,
Elections and Governance



**AFRICAN CHARTER ON DEMOCRACY, ELECTIONS
AND GOVERNANCE**

AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE

PREAMBLE

We, the Member States of the African Union (AU);

Inspired by the objectives and principles enshrined in the Constitutive Act of the African Union, particularly Articles 3 and 4, which emphasise the significance of good governance, popular participation, the rule of law and human rights;

Recognising the contributions of the African Union and Regional Economic Communities to the promotion, nurturing, strengthening and consolidation of democracy and governance;

Reaffirming our collective will to work relentlessly to deepen and consolidate the rule of law, peace, security and development in our countries;

Guided by our common mission to strengthen and consolidate institutions for good governance, continental unity and solidarity;

Committed to promote the universal values and principles of democracy, good governance, human rights and the right to development;

Cognizant of the historical and cultural conditions in Africa;

Seeking to entrench in the Continent a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies;

Concerned about the unconstitutional changes of governments that are one of the essential causes of insecurity, instability and violent conflict in Africa;

Determined to promote and strengthen good governance through the institutionalization of transparency, accountability and participatory democracy;

Convinced of the need to enhance the election observation missions in the role they play, particularly as they are an important contributory factor to ensuring the regularity, transparency and credibility of elections;

Desirous to enhance the relevant Declarations and Decisions of the OAU/AU (including the 1990 Declaration on the political and socio-economic situation in Africa and the fundamental changes taking place in the world, the 1995 Cairo Agenda for the Re-launch of Africa's Economic and Social Development, the 1999 Algiers Declaration on Unconstitutional Changes of Government, the 2000



Lomé Declaration for an OAU Response to Unconstitutional Changes of Government, the 2002 OAU/AU Declaration on Principles Governing Democratic Elections in Africa, the 2003 Protocol Relating to the Establishment of the Peace and Security Council of the African Union);

Committed to implementing Decision EX.CL/Dec.31(III) adopted in Maputo, Mozambique, in July 2003 and Decision EX.CL/124(V) adopted in Addis Ababa, Ethiopia, in May 2004 respectively, by the adoption of an African Charter on Democracy, Elections and Governance;

HAVE AGREED AS FOLLOWS:

Chapter 1 Definitions

Article 1

In this Charter, unless otherwise stated, the following expressions shall have the following meaning:

"AU" means the African Union;

"African Human Rights Commission" means the African Commission on Human and Peoples' Rights;

"African Peer Review Mechanism" APRM means the African Peer Review Mechanism;

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

"Commission" means the Commission of the Union;

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

"Charter" means the African Charter on Democracy, Elections and Governance;

"Member States" means the Member States of the African Union;

"National Electoral Body" means a competent authority, established by the relevant legal instruments of a State Party, responsible for organizing and supervising elections;

"NEPAD" means the New Partnership for Africa's Development;

"Peace and Security Council" means the Peace and Security Council of the African Union;

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

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

"Union" means the African Union.



Chapter 2 Objectives

Article 2

The objectives of this Charter are to:

1. Promote adherence, by each State Party, to the universal values and principles of democracy and respect for human rights;
2. Promote and enhance adherence to the principle of the rule of law premised upon the respect for, and the supremacy of, the Constitution and constitutional order in the political arrangements of the State Parties;
3. Promote the holding of regular free and fair elections to institutionalize legitimate authority of representative government as well as democratic change of governments;
4. Prohibit, reject and condemn unconstitutional change of government in any Member State as a serious threat to stability, peace, security and development;
5. Promote and protect the independence of the judiciary;
6. Nurture, support and consolidate good governance by promoting democratic culture and practice, building and strengthening governance institutions and inculcating political pluralism and tolerance;
7. Encourage effective coordination and harmonization of governance policies amongst State Parties with the aim of promoting regional and continental integration;
8. Promote State Parties' sustainable development and human security;
9. Promote the fight against corruption in conformity with the provisions of the AU Convention on Preventing and Combating Corruption adopted in Maputo, Mozambique in July 2003;
10. Promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs;
11. Promote gender balance and equality in the governance and development processes;
12. Enhance cooperation between the Union, Regional Economic Communities and the International Community on democracy, elections and governance; and
13. Promote best practices in the management of elections for purposes of political stability and good governance.



Chapter 3 Principles

Article 3

State Parties shall implement this Charter in accordance with the following principles:

1. Respect for human rights and democratic principles;
2. Access to and exercise of state power in accordance with the constitution of the State Party and the principle of the rule of law;
3. Promotion of a system of government that is representative;
4. Holding of regular, transparent, free and fair elections;
5. Separation of powers;
6. Promotion of gender equality in public and private institutions;
7. Effective participation of citizens in democratic and development processes and in governance of public affairs;
8. Transparency and fairness in the management of public affairs;
9. Condemnation and rejection of acts of corruption, related offenses and impunity;
10. Condemnation and total rejection of unconstitutional changes of government;
11. Strengthening political pluralism and recognising the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law.

Chapter 4 Democracy, Rule of Law and Human Rights

Article 4

1. State Parties shall commit themselves to promote democracy, the principle of the rule of law and human rights.



2. State Parties shall recognize popular participation through universal suffrage as the inalienable right of the people.

Article 5

State Parties shall take all appropriate measures to ensure constitutional rule, particularly constitutional transfer of power.

Article 6

State Parties shall ensure that citizens enjoy fundamental freedoms and human rights taking into account their universality, interdependence and indivisibility.

Article 7

State Parties shall take all necessary measures to strengthen the Organs of the Union that are mandated to promote and protect human rights and to fight impunity and endow them with the necessary resources.

Article 8

1. State Parties shall eliminate all forms of discrimination, especially those based on political opinion, gender, ethnic, religious and racial grounds as well as any other form of intolerance.
2. State Parties shall adopt legislative and administrative measures to guarantee the rights of women, ethnic minorities, migrants, people with disabilities, refugees and displaced persons and other marginalized and vulnerable social groups.
3. State Parties shall respect ethnic, cultural and religious diversity, which contributes to strengthening democracy and citizen participation.

Article 9

State Parties undertake to design and implement social and economic policies and programmes that promote sustainable development and human security.



Article 10

1. State Parties shall entrench the principle of the supremacy of the constitution in the political organization of the State.
2. State Parties shall ensure that the process of amendment or revision of their constitution reposes on national consensus, obtained if need be, through referendum.
3. State Parties shall protect the right to equality before the law and equal protection by the law as a fundamental precondition for a just and democratic society.

Chapter 5 **The Culture of Democracy and Peace**

Article 11

The State Parties undertake to develop the necessary legislative and policy frameworks to establish and strengthen a culture of democracy and peace.

Article 12

State Parties undertake to implement programmes and carry out activities designed to promote democratic principles and practices as well as consolidate a culture of democracy and peace.

To this end, State Parties shall:

1. Promote good governance by ensuring transparent and accountable administration.
2. Strengthen political institutions to entrench a culture of democracy and peace.
3. Create conducive conditions for civil society organizations to exist and operate within the law.
4. Integrate civic education in their educational curricula and develop appropriate programmes and activities.

Article 13

State Parties shall take measures to ensure and maintain political and social dialogue, as well as public trust and transparency between political leaders and the people, in order to consolidate democracy and peace.



Chapter 6 Democratic Institutions

Article 14

1. State Parties shall strengthen and institutionalize constitutional civilian control over the armed and security forces to ensure the consolidation of democracy and constitutional order.
2. State Parties shall take legislative and regulatory measures to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law.
3. State Parties shall cooperate with each other to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law.

Article 15

1. State Parties shall establish public institutions that promote and support democracy and constitutional order.
2. State Parties shall ensure that the independence or autonomy of the said institutions is guaranteed by the constitution.
3. State Parties shall ensure that these institutions are accountable to competent national organs.
4. State Parties shall provide the above-mentioned institutions with resources to perform their assigned missions efficiently and effectively.

Article 16

State Parties shall cooperate at regional and continental levels in building and consolidating democracy through exchange of experiences.

Chapter 7 Democratic Elections

Article 17

State Parties re-affirm their commitment to regularly holding transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa.



To this end, State Parties shall:

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

Article 18

1. State Parties may request the Commission, through the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Fund, to provide advisory services or assistance for strengthening and developing their electoral institutions and processes.
2. The Commission may at any time, in consultation with the State Party concerned, send special advisory missions to provide assistance to that State Party for strengthening its electoral institutions and processes.

Article 19

1. Each State Party shall inform the Commission of scheduled elections and invite it to send an electoral observer mission.
2. Each State Party shall guarantee conditions of security, free access to information, non-interference, freedom of movement and full cooperation with the electoral observer mission.

Article 20

The Chairperson of the Commission shall first send an exploratory mission during the period prior to elections. This mission shall obtain any useful information and documentation, and brief the Chairperson, stating whether the necessary conditions have been established and if the environment is conducive to the holding of transparent, free and fair elections in conformity with the principles of the Union governing democratic elections.



Article 21

1. The Commission shall ensure that these missions are independent and shall provide them with the necessary resources for that purpose.
2. Electoral observer missions shall be conducted by appropriate and competent experts in the area of election monitoring, drawn from continental and national institutions such as, but not limited to, the Pan-African Parliament, national electoral bodies, national legislatures and eminent persons taking due cognizance of the principles of regional representation and gender equality.
3. Electoral observer missions shall be conducted in an objective, impartial and transparent manner.
4. All electoral observer missions shall present the report of their activities to the Chairperson of the Commission within a reasonable time.
5. A copy of the report shall be submitted to the State Party concerned within a reasonable time.

Article 22

State Parties shall create a conducive environment for independent and impartial national monitoring or observation mechanisms.

Chapter 8
Sanctions in Cases of Unconstitutional Changes of Government

Article 23

State Parties agree that the use of, *inter alia*, the following illegal means of accessing or maintaining power constitute an unconstitutional change of government and shall draw appropriate sanctions by the Union:

1. Any putsch or coup d'Etat against a democratically elected government.
2. Any intervention by mercenaries to replace a democratically elected government.
3. Any replacement of a democratically elected government by armed dissidents or rebels.
4. Any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair and regular elections; or



5. Any amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democratic change of government.

Article 24

When a situation arises in a State Party that may affect its democratic political institutional arrangements or the legitimate exercise of power, the Peace and Security Council shall exercise its responsibilities in order to maintain the constitutional order in accordance with relevant provisions of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, hereinafter referred to as the Protocol.

Article 25

1. When the Peace and Security Council observes that there has been an unconstitutional change of government in a State Party, and that diplomatic initiatives have failed, it shall suspend the said State Party from the exercise of its right to participate in the activities of the Union in accordance with the provisions of articles 30 of the Constitutive Act and 7 (g) of the Protocol. The suspension shall take effect immediately.
2. However, the suspended State Party shall continue to fulfill its obligations to the Union, in particular with regard to those relating to respect of human rights.
3. Notwithstanding the suspension of the State Party, the Union shall maintain diplomatic contacts and take any initiatives to restore democracy in that State Party.
4. The perpetrators of unconstitutional change of government shall not be allowed to participate in elections held to restore the democratic order or hold any position of responsibility in political institutions of their State.
5. Perpetrators of unconstitutional change of government may also be tried before the competent court of the Union.
6. The Assembly shall impose sanctions on any Member State that is proved to have instigated or supported unconstitutional change of government in another state in conformity with Article 23 of the Constitutive Act.
7. The Assembly may decide to apply other forms of sanctions on perpetrators of unconstitutional change of government including punitive economic measures.



8. State Parties shall not harbour or give sanctuary to perpetrators of unconstitutional changes of government.
9. State Parties shall bring to justice the perpetrators of unconstitutional changes of government or take necessary steps to effect their extradition.
10. State Parties shall encourage conclusion of bilateral extradition agreements as well as the adoption of legal instruments on extradition and mutual legal assistance.

Article 26

The Peace and Security Council shall lift sanctions once the situation that led to the suspension is resolved.

Chapter 9 Political, Economic and Social Governance

Article 27

In order to advance political, economic and social governance, State Parties shall commit themselves to:

1. Strengthening the capacity of parliaments and legally recognised political parties to perform their core functions;
2. Fostering popular participation and partnership with civil society organizations;
3. Undertaking regular reforms of the legal and justice systems;
4. Improving public sector management;
5. Improving efficiency and effectiveness of public services and combating corruption;
6. Promoting the development of the private sector through, inter alia, enabling legislative and regulatory framework;
7. Development and utilisation of information and communication technologies;
8. Promoting freedom of expression, in particular freedom of the press and fostering a professional media;
9. Harnessing the democratic values of the traditional institutions; and
10. Preventing the spread and combating the impact of diseases such as Malaria, Tuberculosis, HIV/AIDS, Ebola fever, and Avian Flu.



Article 28

State Parties shall ensure and promote strong partnerships and dialogue between government, civil society and private sector.

Article 29

1. State Parties shall recognize the crucial role of women in development and strengthening of democracy.
2. State Parties shall create the necessary conditions for full and active participation of women in the decision-making processes and structures at all levels as a fundamental element in the promotion and exercise of a democratic culture.
3. State Parties shall take all possible measures to encourage the full and active participation of women in the electoral process and ensure gender parity in representation at all levels, including legislatures.

Article 30

State Parties shall promote citizen participation in the development process through appropriate structures.

Article 31

1. State Parties shall promote participation of social groups with special needs, including the Youth and people with disabilities, in the governance process.
2. State Parties shall ensure systematic and comprehensive civic education in order to encourage full participation of social groups with special needs in democracy and development processes.

Article 32

State Parties shall strive to institutionalize good political governance through:

1. Accountable, efficient and effective public administration;
2. Strengthening the functioning and effectiveness of parliaments;
3. An independent judiciary;
4. Relevant reforms of public institutions including the security sector;
5. Harmonious relationships in society including civil-military relations;
6. Consolidating sustainable multiparty political systems;



7. Organising regular, free and fair elections; and
8. Entrenching and respecting the principle of the rule of law.

Article 33

State Parties shall institutionalize good economic and corporate governance through, *inter alia*:

1. Effective and efficient public sector management;
2. Promoting transparency in public finance management;
3. Preventing and combating corruption and related offences;
4. Efficient management of public debt;
5. Prudent and sustainable utilization of public resources;
6. Equitable allocation of the nation's wealth and natural resources;
7. Poverty alleviation;
8. Enabling legislative and regulatory framework for private sector development;
9. Providing a conducive environment for foreign capital inflows;
10. Developing tax policies that encourage investment;
11. Preventing and combating crime;
12. Elaborating and implementing economic development strategies including private-public sector partnerships;
13. An efficient and effective tax system premised upon transparency and accountability.

Article 34

State Parties shall decentralize power to democratically elected local authorities as provided in national laws.

Article 35

Given the enduring and vital role of traditional authorities, particularly in rural communities, the State Parties shall strive to find appropriate ways and means to increase their integration and effectiveness within the larger democratic system.

Article 36

State Parties shall promote and deepen democratic governance by implementing the principles and core values of the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance and, where applicable, the African Peer Review Mechanism (APRM).



Article 37

State Parties shall pursue sustainable development and human security through achievement of NEPAD objectives and the United Nations Millennium Development Goals (MDGs).

Article 38

1. State Parties shall promote peace, security and stability in their respective countries, regions and in the continent by fostering participatory political systems with well-functioning and, if need be, inclusive institutions;
2. State Parties shall promote solidarity amongst Member States and support the conflict prevention and resolution initiatives that the Union may undertake in conformity with the Protocol establishing the Peace and Security Council.

Article 39

State Parties shall promote a culture of respect, compromise, consensus and tolerance as a means to mitigate conflicts, promote political stability and security, and to harness the creative energies of the African peoples.

Article 40

State Parties shall adopt and implement policies, strategies and programmes required to generate productive employment, mitigate the impact of diseases and alleviate poverty and eradicate extreme poverty and illiteracy.

Article 41

State Parties shall undertake to provide and enable access to basic social services to the people.

Article 42

State Parties shall implement policies and strategies to protect the environment to achieve sustainable development for the benefit of the present and future generations. In this regard, State Parties are encouraged to accede to the relevant treaties and other international legal instruments.



Article 43

1. State Parties shall endeavour to provide free and compulsory basic education to all, especially girls, rural inhabitants, minorities, people with disabilities and other marginalized social groups.
2. In addition, State Parties shall ensure the literacy of citizens above compulsory school age, particularly women, rural inhabitants, minorities, people with disabilities, and other marginalized social groups.

Chapter 10
Mechanisms for Application

Article 44

To give effect to the commitments contained in this Charter:

1. Individual State Party Level

State Parties commit themselves to implement the objectives, apply the principles and respect the commitments enshrined in this Charter as follows:

- (a) State Parties shall initiate appropriate measures including legislative, executive and administrative actions to bring State Parties' national laws and regulations into conformity with this Charter;
- (b) State Parties shall take all necessary measures in accordance with constitutional provisions and procedures to ensure the wider dissemination of the Charter and all relevant legislation as may be necessary for the implementation of its fundamental principles;
- (c) State Parties shall promote political will as a necessary condition for the attainment of the goals set forth in this Charter;
- (d) State Parties shall incorporate the commitments and principles of the Charter in their national policies and strategies.

2. Commission Level**A. At Continental Level**

- (a) The Commission shall develop benchmarks for implementation of the commitments and principles of this Charter and evaluate compliance by State Parties;
- (b) The Commission shall promote the creation of favourable conditions for democratic governance in the African



Continent, in particular by facilitating the harmonization of policies and laws of State Parties;

- (c) The Commission shall take the necessary measures to ensure that the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Fund provide the needed assistance and resources to State Parties in support of electoral processes;
- (d) The Commission shall ensure that effect is given to the decisions of the Union in regard to unconstitutional change of government on the Continent.

B. At Regional Level

The Commission shall establish a framework for cooperation with Regional Economic Communities on the implementation of the principles of the Charter. In this regard, it shall commit the Regional Economic Communities (RECs) to:

- a) Encourage Member States to ratify or adhere to this Charter.
- b) Designate focal points for coordination, evaluation and monitoring of the implementation of the commitments and principles enshrined in this Charter in order to ensure massive participation of stakeholders, particularly civil society organizations, in the process.

Article 45

The Commission shall:

- (a) Act as the central coordinating structure for the implementation of this Charter;
- (b) Assist State Parties in implementing the Charter;
- (c) Coordinate evaluation on implementation of the Charter with other key organs of the Union including the Pan-African Parliament, the Peace and Security Council, the African Human Rights Commission, the African Court of Justice and Human Rights, the Economic, Social and Cultural Council, the Regional Economic Communities and appropriate national-level structures.



Chapter 11 Final Clauses

Article 46

In conformity with applicable provisions of the Constitutive Act and the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, the Assembly and the Peace and Security Council shall determine the appropriate measures to be imposed on any State Party that violates this Charter.

Article 47

1. This Charter shall be open for signature, ratification and accession by Member States of the Union in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission.

Article 48

This Charter shall enter into force thirty (30) days after the deposit of fifteen (15) Instruments of Ratification.

Article 49

1. State Parties shall submit every two years, from the date the Charter comes into force, a report to the Commission on the legislative or other relevant measures taken with a view to giving effect to the principles and commitments of the Charter;
2. A copy of the report shall be submitted to the relevant organs of the Union for appropriate action within their respective mandates;
3. The Commission shall prepare and submit to the Assembly, through the Executive Council, a synthesized report on the implementation of the Charter;
4. The Assembly shall take appropriate measures aimed at addressing issues raised in the report.



Article 50

1. Any State Party may submit proposals for the amendment or revision of this Charter;
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit same to State Parties within thirty (30) days of receipt thereof;
3. The Assembly, upon the advice of the Executive Council, shall examine these proposals at its session following notification, provided all State Parties have been notified at least three (3) months before the beginning of the session;
4. The Assembly shall adopt amendments or revisions by consensus or failing which, by two-thirds majority;
5. The amendments or revisions shall enter into force when approved by two-thirds majority of State Parties.

Article 51

1. The Chairperson of the Commission shall be the depository of this Charter;
2. The Chairperson of the Commission shall inform all Member States of the signature, ratification, accession, entry into force, reservations, requests for amendments and approvals thereof;
3. Upon entry into force of this Charter, 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.

Article 52

None of the provisions of the present Charter shall affect more favourable provisions relating to democracy, elections and governance contained in the national legislation of State Parties or in any other regional, continental or international conventions or agreements applicable in these State Parties.



Article 53

This Charter, drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit certified copies of same to all Member States and the United Nations General Secretariat.

**ADOPTED BY THE EIGHTH ORDINARY SESSION OF THE
ASSEMBLY, HELD IN ADDIS ABABA, ETHIOPIA,
30 JANUARY 2007**



Annex 3: Guidelines for AU Electoral Observation and Monitoring Missions

GUIDELINES FOR AFRICAN UNION ELECTORAL OBSERVATION AND MONITORING MISSIONS

1. INTRODUCTION

- 1.1 Electoral observation and monitoring has become an integral part of the democratic and electoral processes in Africa. International, regional and national observers have come to play important roles in enhancing the transparency and credibility of elections and democratic governance in Africa and the acceptance of election results throughout the continent. Electoral observation and monitoring missions can also play key roles in diminishing conflicts before, during and after elections.
- 1.2 The African continent has made significant progress in institutionalising electoral democracy over the course of the past decade. This is reflected in a number of successful multiparty elections in most member states. Notwithstanding these achievements, however, major challenges remain. These include the prevalence of conflict in some countries of the continent, and violence and instability resulting from disputed elections. The major challenge is the need to improve the integrity of electoral processes. One way of improving the integrity of electoral processes is by involving local and international observers and monitors.
- 1.3 The following guidelines are drafted in the spirit of strengthening the democratisation and governance processes underway in Africa. It is furthermore drafted with a view to guiding the involvement of the AU in the observation and monitoring of elections in member states.

2. BACKGROUND

- 2.1 In the OAU declaration on the Principles Governing Democratic Elections in Africa (2002), Heads of State and Government requested the AU to be fully engaged in the strengthening of the democratisation process, particularly by observing and monitoring of elections in Member States, according to strict guidelines.
- 2.2 Conscious of the democratic strides taken by the African Union (AU) in endorsing the Declaration on the Principles Governing Democratic Elections in Africa and The New Partnership for Africa's Development (NEPAD 2001), member states recognised that transparent and credible elections play a crucial role in ensuring the fundamental and universal right to democratic and participatory government.
- 2.3 At the 38th Ordinary Session of the Assembly of the OAU in July 2002, African Heads of State and Government considered the Report of the Secretary General

on strengthening the role of the OAU in election observation and monitoring and the advancement of the democratization process.

- 2.4 Leaders considered the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union, particularly in its Articles 3 and 4. They further reaffirmed their commitment to the Algiers Decision of July 1999 and the Lomé Declaration of July 2000 on the Framework for an OAU response to unconstitutional changes of government, which laid down a set of common values and principles for democratic governance.
- 2.5 Consideration was further given to the CSSDCA Solemn Declaration adopted by the Assembly of Heads of State and Government of the OAU in Lomé, Togo, in July 2000, which underpins the OAU's agenda of promoting democracy and democratic institutions in Africa.
- 2.6 Through NEPAD's Democracy and Political Governance Initiative, African Leaders undertook to promote and protect democracy and human rights in their respective countries and regions, by developing clear standards of accountability and participatory governance at the national and sub-regional levels.
- 2.7 Reference should also be made to the importance of the Universal Declaration of Human Rights adopted in December 1948, as well as the International Covenant on Civil and Political Rights adopted in December 1966, which recognized the will of the people expressed through free and fair elections as the basis of the authority of government.
- 2.8 Another landmark African document, the African Charter on Human and Peoples' Rights adopted in Nairobi, Kenya, in June 1981, recognizes the right of every citizen to participate freely in the government of his or her country whether directly or through democratically elected representatives.
- 2.9 In the Declaration of the Assembly of Heads of State and Government of the OAU on the Political and Socio-economic Situation in Africa and the Fundamental Changes Taking Place in the World, adopted in Addis Ababa, in July 1990, OAU Member States undertook to continue with the democratization of African societies and the consolidation of the democratic institutions.
- 2.10 The African Charter for Popular Participation in Development adopted in Addis Ababa, Ethiopia, in July 1990, emphasized the need to involve the people of Africa in the spheres of economic and political governance.
- 2.11 Also, the Cairo Agenda for Action adopted in Cairo, Egypt, in 1995, stress the imperative of ensuring democratic governance through popular participation based on the respect for human rights and dignity, free and fair elections, as well as on the respect of the principles of freedom of the press, speech, association and conscience.

- 2.12 Member State have the sovereign right to choose its political system in accordance with the will of its people and in conformity with the Constitutive Act of the African Union and the universally accepted principles of democracy.
- 2.13 And member states and national electoral commissions should support the ever-growing role already played by the AU in the observation/monitoring of elections and the need to strengthen the Organisation's efforts in advancing democracy in Africa.

3. CRITERIA FOR DETERMINING THE NATURE AND SCOPE OF AU ELECTORAL OBSERVATION AND MONITORING

- 3.1 In performing their obligations, the election observers or monitors shall be guided by detailed guidelines be prepared by the General Secretariat drawing inspiration from the essential thrust of the OAU Declaration of Principles Governing Democratic Elections (*"the Principles"*). The specific mandates and terms of reference shall be determined by the particular case in question as well as the wider legal framework of the country staging elections.
- 3.2 Formal invitation to the AU is to be made by the country organising the elections, either through the National Electoral Commission (NEC), or electoral authority, or the said government, in accordance with the democratic legal framework of the country, as necessary elements for mounting observations.
- 3.3 The AU, after receiving the invitation to observe an election, must ensure that it has:
- Adequate lead-time for preparations;
 - Availability of essential planning information;
 - Availability of professional expertise; and
 - Financial and other resources
- 3.4 The AU should dispatch an Election Assessment Team to the country planning for an election, soon after receiving the letter of invitation (three to two months) to dispatch an observation or monitoring team, and well in advance of the actual election date. The purpose of the assessment team should be to make an on the spot evaluation of the conditions within which elections will take place.
- 3.5 The decision about dispatching an observer and monitoring mission in a member country holding elections must be informed by a preliminary assessment of the country's social, economic, political and constitutional arrangements.
- 3.6 African states different in terms of their organizational capacity, financial and human resources, infrastructural development – notably road, telecommunication and technological infrastructure – which have an impact on the way elections are

organised across the continent. These should be taken into account when forming judgements about the nature of elections. These factors could have impacts on the smooth running of elections and the transparency and freeness of elections. But, it is the responsibility of states organizing elections, within the limit of their capacity, to ensure that all necessary measures are taken for provision of adequate logistics and resources (financial and human) for carrying out credible and democratic elections.

- 3.7 However, the existence of a “level playing field”, which determines the conditions electoral competition, is an important aspect that needs evaluation when determining the likely character of the electoral process. The assessment team will assess whether or not conditions of organizing credible, legitimate, free and fair elections are in place in the country. Some of the issues to consider in the assessment will include:
- i. Does the constitution and legal framework guarantee fundamental freedoms and human rights?
 - ii. Is the electoral system premised on the right to freedom of association, and enables people to advance this right through the formation of political parties for the purposes of electoral competition?
 - iii. Is the Electoral Commission independent and impartial, and exercise its powers and perform its functions without fear, favour or prejudice?
 - iv. Are the rights of observers guaranteed?
 - v. Is it likely that the security forces will maintain a neutral role in the provision of election security?
 - vi. Is the situation in the country generally peaceful or is there political violence? If so will the government's security measures provide an environment in which a free election campaign or are there substantial restrictions on the freedom of expression, association and assembly?
 - vii. Are there clearly articulated rules for political party funding to be respected by all parties and candidates?
 - viii. Is the Voter education that should be provided non-partisan, independent and co-ordinated throughout the country?
 - ix. Will there be equitable use or access to public resources for election campaigning?
 - x. Is the registration of voters should be done without distinction or discrimination on the basis of gender, race, religion, region or ethnicity?
 - xi. Does an Independent Media Authority responsible for monitoring and regulating the media to allow equitable access to the public media of all contesting parties and candidates function?
- 3.8 The AU Electoral Assessment Team should advise the AU Election Unit on whether or not to undertake an AU mission. In both cases there are a number of options, which the AU could consider.

- 3.9 If the decision is to send an observation or monitoring mission, the assessment team must advise the AU on the nature the mission—observation, technical assistance, monitoring or supervision—that should be undertaken. A combination of some of these options could also be envisaged however the recommended mix of mandate should ensure there is no conflict of interest.
- 3.10 If the decision is not to send an observation or monitoring mission because of the prevailing unsatisfactory conditions in the country, two intermediate responses could be envisaged. First, if the host country is prepared to accept assistance from the AU to remedy the situation, a technical team or supervisory team could be considered to work with the Election Commission. Second, if the unsatisfactory conditions deteriorate, and the host country is not prepared to accept outside assistance, the AU could consider not sending a mission at all.
- 3.11 The AU assessment team will not only assess the conditions prevailing in a particular country at a particular time, but also the direction in which events are developing: different responses may be appropriate to different situations.
- 3.12 There should be prior understanding between the AU and the country organising elections that the AU reserves the right not to send or to withdraw observers in certain circumstances when conditions in the country do not meets the AU guiding principles for organising free and fair elections.

4. MANDATES, RIGHTS AND RESPONSIBILITIES OF AU OBSERVATION AND MONITORING MISSIONS

- 4.1 After deciding that the necessary conditions exist for genuine elections to take place and that all stakeholders welcome the AU, the AU Electoral Assessment Team must make recommend the size, duration and mandate of the mission to be deployed.
- 4.2 Although the mandate of the electoral mission recommended may vary. The rights accorded observers and monitors should remain the same. The rights enjoyed by observers and monitors alike are listed below.

AU Observers and Monitors have the right to:

- i. Freedom of movement within the host country;
- ii. Accreditation as election observers or monitors on a non-discriminatory basis;
- iii. Communicate freely with all competing political parties, candidates, other political associations and organisations, and civil society organisations;

- iv. Communicate freely with voters except when the electoral law reasonably prescribes such communication in order to protect the secrecy of the vote;
 - v. Unhindered access to and communicate freely with the media;
 - vi. Communicate with and have unimpeded access to the National Election Commission or appropriate electoral authority and all other election administrators;
 - vii. Communicate and seek the collaboration of the Judiciary, the National Assembly or Parliament, security personnel, and all other appropriate Government departments and agencies involved in the election process;
 - viii. Free access to all legislation and regulations governing the electoral process and environment;
 - ix. Free access to all electoral registers or voters' list;
 - x. Unimpeded access to all polling stations and counting centres including those used by the military or other specific groups;
- 4.3 The assessment team first will need to decide the scope or mandate of the electoral mission. These can include:
- i. Observation, which involves gathering information and making an informed judgement;
 - ii. Monitoring, which involves the authority to observe an election process and to intervene in that process if relevant laws or standard procedures are being violated or ignored;
 - iii. Mediation, that is third-party intervention in electoral disputes, directed at assisting disputants to find a mutually acceptable outcomes and solutions to electoral disputes;
 - iv. Technical Assistance, which generally takes the form of technical support and advice to the Electoral Commission;
 - v. Supervision and Audit, which involves the process of certifying the validity of all or some of the steps in election processes either prior to or after the election has taken place; and
- 4.4 The next issue to be considered by the team will be the duration of the mission and/or the frequency of visits envisaged. In general, this will be determined by the timing and duration of:

- i. voter registration/updating of voter registers and periods set aside for the public to check their entry on the register;
 - ii. party and candidate registration;
 - iii. candidate and party nominations;
 - iv. the electoral campaign; and
 - v. the installation in office of the successful candidates.
- 4.5 The mission could be deployed throughout or it could be deployed at specific times to cover specific events which, based on the assessment of the team, are critical to holding credible elections. Furthermore the AU Electoral Assessment Team will need to take account of available financial and human resources as well as the situation on the ground. However the AU is committed to the deployment of long term intercessions rather than relying on the assessment of a small group of observers or monitors who are only deployed a few days prior to election day.
- 4.6 Finally the AU Electoral Assessment Team should make recommendations on the number of personnel required to fulfill the mandate of the mission. It is likely that election observation, monitoring and high profile supervisory or audit missions will be lead by high profile and respected Africans, backed by skilled and competent managers with technical skills. A Head of the AU Election Mission will be designated to represent the AU and to support the activities of all other personnel. The Head of the AU Mission will be responsible for any statement made on the conduct of the election on behalf of the AU. In some circumstances He/she will conduct on-going assessments and management roles throughout the mission, in others a suitably qualified technical Deputy Head will be appointed to supervise the work of the rest of the mission.
- 4.7 If the assessment team recommends that a long-term observation or monitoring mission should be deployed then they should indicate the number of personnel required. In addition to the Head of the AU Mission consideration should be given to what particular aspects of the election require scrutiny. In addition to observing the electoral administration and campaign the assessment team may recommend, for example that specialist personnel be deployed to assess the legal framework and any disputes that might arise, monitoring the media, or evaluation of the electoral registers. These specialists will need to be appointed from an AU pool or roster of suitably qualified personnel from across the continent.
- 4.8 The number of core staff or experts and long term observers or monitors deployed throughout the host country will influence the number of financial, administrative and logistic staff required.

- 4.9 For medium to long-term missions, the AU observation or monitoring team shall be deployed throughout the country. Such a team would be engaged in the process from the pre-election, actual election, and post-election phases. In determining the number of long term observers, monitors or supervisors the Assessment Team will need to take account of a number of factors. These will include:
- i. The number of electoral or administrative units across the country;
 - ii. The infrastructure and geography of the host country;
 - iii. Problematic or “hot spot” areas which are likely to be highly contested, have in the past experienced tension, disputes or violence;
 - iv. The human and financial resources available;
 - v. The deployment of other national or international observers.
- 4.8 There is need for post-election review be held, either through an evaluation by the observation team or an independent consultant agreed upon by the AU. The post-election review must concentrate on performance of the mission (function) and administration of the entire observation mission. The evaluation is conducted in the interest of improving the deployment of future observation missions.

5. CODES OF CONDUCT FOR AU ELECTION OBSERVERS AND MONITORS

- 5.1 The code of conduct for AU Election Observers and Monitors is binding. Breach of the Code will result in the AU taking appropriate disciplinary proceedings including the repatriation of the person.
- i. Must comply with all national laws and regulations;
 - ii. Shall maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties and candidates in contention in the election process. Furthermore they will not display or wear any partisan symbols, colours or banners;
 - iii. Shall neither accept nor attempt to procure any gifts, favours or inducements from a candidate, their agent, the parties or any other organisation or person involved in the electoral process;
 - iv. Shall immediately disclose to the AU any relationship that could lead to a conflict of interest with their duties or with the process of the observation and assessment of the elections;

- v. Will base all reports and conclusions on well documented, factual, and verifiable evidence from multiple number of credible sources as well as their own eye witness accounts;
 - vi. Shall seek a response from the person or organisation concerned before treating any unsubstantiated allegation as valid;
 - vii. Shall identify in their reports the exact information and the sources of the information they have gathered and used as a basis for their assessment of the electoral process or environment;
 - viii. Shall report all information gathered or witnessed by them honestly and accurately;
 - ix. Shall, when meeting election officials, relevant state authorities and public officials, parties, candidates and their agents shall inform them of the aims and objectives of the AU Electoral Mission;
 - x. May wish to bring irregularities to the attention of the local election officials, but they must never give instructions or countermand decisions of the election officials;
 - xi. Will carry any prescribed identification issued at all times, and will identify themselves to any interested authority upon request;
 - xii. Will undertake their duties in an unobtrusive manner, and will not interfere with the election process, polling day procedures, or the vote count;
 - xiii. Will refrain from making personal or premature comments or judgements about their observations to the media or any other interested persons, and will limit any remarks to general information about the nature of their activity as observers;
 - xiv. Must participate in the briefings/training provided by the AU Electoral Mission;
 - xv. Must provide their reports on time to their supervisors and attend any debriefings as required;
 - xvi. Should work harmoniously with each other and with observers from other organisations in their area of deployment.
- 5.2 The code of conduct for monitors will have one significant alteration in that article (x) shall read:
- x. Shall bring irregularities to the attention of the election authorities and may, in specific circumstances countermand the instructions of election officials if they are in breach of the electoral law or regulations;

6. PRINCIPLES GOVERNING DEMOCRATIC ELECTIONS IN AFRICA

- 6.1 Principles are important in guiding observers and monitors in coming to final assessments of the election processes and environments. The “*principles*” are divided between the responsibilities of member states and the rights and obligations under which democratic elections must be held.
- 6.2 The Declaration of OAU Principles Governing Democratic Elections in Africa was adopted by the Heads of State and Governments at the 38th Ordinary Session of the Organization of African Unity on 8th July 2002 in Durban, South Africa, state the principles that should guide observers and monitors. The principles state that:
- i. Democratic elections are the basis of the authority of any representative government;
 - ii. Regular elections constitute a key element of the democratization process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development;
 - iii. The holding of democratic elections is an important dimension in conflict prevention, management and resolution;
 - iv. Democratic elections should be conducted:
 - a) freely and fairly;
 - b) under democratic constitutions and in compliance with supportive legal instruments;
 - c) under a system of separation of powers that ensures in particular, the independence of the judiciary;
 - d) at regular intervals, as provided for in National Constitutions;
 - e) by impartial, all-inclusive competent accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics;

The principles also spell out Responsibilities of Member States. Under the responsibilities, member states commit their Governments to:

- i. take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of our respective countries;
- ii. establish where none exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters, compilation of voters’ registers, etc would be addressed;

- iii. establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- iv. safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes;
- v. promote civic and voters' education on the democratic principles and values in close cooperation with the civil society groups and other relevant stakeholders;
- vi. take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices throughout the whole electoral process, in order to maintain peace and security;;
- vii. ensure the availability of adequate logistics and resources for carrying out democratic elections, as well as ensure that adequate provision of funding for all registered political parties to enable them organise their work, including participation in electoral process;
- viii. ensure that adequate security is provided to all parties participating in elections;
- ix. ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and other observers/monitors;
- x. encourage the participation of African women in all aspects of the electoral process in accordance with the national laws.

Member states also committed themselves to certain rights and obligations under which democratic elections are conducted:

- i. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the
- ii. provisions of the law.
- iii. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according to the laws of the country and as
- iv. guaranteed by the Constitution, without any kind of discrimination.
- v. Every citizen shall have the right to free association and assembly in accordance with the law.

- vi. Every citizen shall have the freedom to establish or to be a member of a political party or Organization in accordance with the law.
- vii. Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions with full access to the media and information within the limits of the laws of the land.
- viii. Individual or political parties shall have the right to appeal and to obtain timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country.
- ix. Candidates or political parties shall have the right to be represented at polling and counting stations by duly designated agents or representatives.
- x. No individual or political party shall engage in any act that may lead to violence or deprive others of their constitutional rights and freedoms. Hence all stakeholders should refrain from, among others, using abusive language and/or incitement to hate or defamatory allegations and provocative language. These acts should be sanctioned by designated electoral authorities.
- xi. All stakeholders in electoral contests shall publicly renounce the practice of granting favours, to the voting public for the purpose of influencing the outcome of elections.
- xii. In covering the electoral process, the media should maintain impartiality and refrain from broadcasting and publishing abusive language, incitement to hate, and other forms of provocative language that may lead to violence.
- xiii. Every candidate and political party shall respect the impartiality of the public media by undertaking to refrain from any act which might constrain or limit their electoral
- xiv. adversaries from using the facilities and resources of the public media to air their campaign messages.
- xv. Every individual and political party participating in elections shall recognize the authority of the Electoral Commission or any statutory body empowered to oversee the electoral process and accordingly render full cooperation to such a Commission Body in order to facilitate their duties.
- xvi. Every citizen and political party shall accept the results of elections proclaimed to have been free and fair by the competent national bodies as provided for in the Constitution and the electoral laws and accordingly respect the final decision of the competent Electoral Authorities or, challenge the result appropriately according to the law.

Annex 4: Declaration of Principles on International Election Observation
and Code of Conduct for International Election Observers

DECLARATION OF PRINCIPLES
FOR INTERNATIONAL
ELECTION OBSERVATION

and

CODE OF CONDUCT
FOR INTERNATIONAL
ELECTION OBSERVERS

Commemorated October 27, 2005, at the United Nations, New York

DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION

and

CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS

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Endorsing Organizations as of October 24, 2005:

African Union
Asian Network for Free Elections (ANFREL)
The Carter Center
Center for Electoral Promotion and Assistance (CAPEL)
Commonwealth Secretariat
Council of Europe European Commission for Democracy
through Law (Venice Commission)
Council of Europe – Parliamentary Assembly
Electoral Institute of Southern Africa (EISA)
European Commission
European Network of Election Monitoring Organizations
(ENEMO)
Electoral Reform International Services (ERIS)
IFES
International IDEA
Inter-Parliamentary Union
International Republican Institute (IRI)
National Democratic Institute (NDI)
Organization of American States (OAS)
Organization for Security and Cooperation in Europe,
Office of Democratic Institutions and Human Rights
(OSCE/ODIHR)
Pacific Islands, Australia & New Zealand
Electoral Administrators' Association (PIANZEA)
Pacific Island Forum
Southern African Development Community
Parliamentary Forum (SADC-PF)
United Nations Secretariat
United States Association of Former Members of
Congress (USAFMC)

*This Declaration and the accompanying Code of
Conduct for International Election Observers remain
open for endorsement by other intergovernmental
and international nongovernmental organizations.
Endorsements should be recorded with the United
Nations Electoral Assistance Division.*

DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION

October 27, 2005

Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognized human rights. Genuine democratic elections serve to resolve peacefully the competition for political power within a country and thus are central to the maintenance of peace and stability. Where governments are legitimized through genuine democratic elections, the scope for non-democratic challenges to power is reduced.

Genuine democratic elections are a requisite condition for democratic governance, because they are the vehicle through which the people of a country freely express their will, on a basis established by law, as to who shall have the legitimacy to govern in their name and in their interests. Achieving genuine democratic elections is a part of establishing broader processes and institutions of democratic governance. Therefore, while all election processes should reflect universal principles for genuine democratic elections, no election can be separated from the political, cultural and historical context in which it takes place.

Genuine democratic elections cannot be achieved unless a wide range of other human rights and fundamental freedoms can be exercised on an ongoing basis without discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, including among others disabilities, and without arbitrary and unreasonable restrictions. They, like other human rights and democracy more broadly, cannot be achieved without the protections of the rule of law. These precepts are recognized by human rights and other international instruments and by the documents of numerous intergovernmental organizations. Achieving genuine democratic elections therefore has become a matter of concern for international organizations, just as it is the concern of national institutions, political competitors, citizens and their civic organizations.

International election observation expresses the interest of the international community in the achievement of democratic elections, as part of democratic development, including respect for human rights and the rule of law. International election observation, which focuses on civil and political rights, is part of international human rights monitoring and must be conducted on the basis of the highest standards for impartiality concerning national political competitors and must be free from any bilateral or multilateral considerations that could conflict with impartiality. It assesses election processes in accordance with international principles for genuine democratic elections and domestic law, while recognizing that it is the people of a country who ultimately determine credibility and legitimacy of an election process.

DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION

International election observation has the potential to enhance the integrity of election processes, by deterring and exposing irregularities and fraud and by providing recommendations for improving electoral processes. It can promote public confidence, as warranted, promote electoral participation and mitigate the potential for election-related conflict. It also serves to enhance international understanding through the sharing of experiences and information about democratic development.

International election observation has become widely accepted around the world and plays an important role in providing accurate and impartial assessments about the nature of electoral processes. Accurate and impartial international election observation requires credible methodologies and cooperation with national authorities, the national political competitors (political parties, candidates and supporters of positions on referenda), domestic election monitoring organizations and other credible international election observer organizations, among others.

The intergovernmental and international nongovernmental organizations endorsing this Declaration and the accompanying Code of Conduct for International Election Observers therefore have joined to declare:

1. Genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognized human rights. Genuine democratic elections are central for maintaining peace and stability, and they provide the mandate for democratic governance.
2. In accordance with the Universal Declaration of Human Rights, the International Covenant for Civil and Political Rights and other international instruments, everyone has the right and must be provided with the opportunity to participate in the government and public affairs of his or her country, without any discrimination prohibited by international human rights principles and without any unreasonable restrictions. This right can be exercised directly, by participating in referenda, standing for elected office and by other means, or can be exercised through freely chosen representatives.
3. The will of the people of a country is the basis for the authority of government, and that will must be determined through genuine periodic elections, which guarantee the right and opportunity to vote freely and to be elected fairly through universal and equal suffrage by secret balloting or equivalent free voting procedures, the results of which are accurately counted, announced and respected. A significant number of rights and freedoms, processes, laws and institutions are therefore involved in achieving genuine democratic elections.
4. International election observation is: the systematic, comprehensive and accurate gathering of information concerning the laws, processes and institutions related to the conduct of elections and other factors concerning the overall electoral environment; the impartial and professional analysis of such information; and the drawing of conclusions about the character of electoral processes based on the highest standards for accuracy of information and impartiality of analysis. International election observation should, when possible, offer recommendations for improving the integrity and effectiveness of electoral and related processes, while not interfering in and thus hindering such processes. International election observation missions are: organized efforts of intergovernmental and international nongovernmental organizations and associations to conduct international election observation.

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- 5 International election observation evaluates pre-election, election-day and post-election periods through comprehensive, long-term observation, employing a variety of techniques. As part of these efforts, specialized observation missions may examine limited pre-election or post-election issues and specific processes (such as, delimitation of election districts, voter registration, use of electronic technologies and functioning of electoral complaint mechanisms). Stand-alone, specialized observation missions may also be employed, as long as such missions make clear public statements that their activities and conclusions are limited in scope and that they draw no conclusions about the overall election process based on such limited activities. All observer missions must make concerted efforts to place the election day into its context and not to over-emphasize the importance of election day observations. International election observation examines conditions relating to the right to vote and to be elected, including, among other things, discrimination or other obstacles that hinder participation in electoral processes based on political or other opinion, gender, race, colour, ethnicity, language, religion, national or social origin, property, birth or other status, such as physical disabilities. The findings of international election observation missions provide a factual common point of reference for all persons interested in the elections, including the political competitors. This can be particularly valuable in the context of disputed elections, where impartial and accurate findings can help to mitigate the potential for conflicts.
- 6 International election observation is conducted for the benefit of the people of the country holding the elections and for the benefit of the international community. It is process oriented, not concerned with any particular electoral result, and is concerned with results only to the degree that they are reported honestly and accurately in a transparent and timely manner. No one should be allowed to be a member of an international election observer mission unless that person is free from any political, economic or other conflicts of interest that would interfere with conducting observations accurately and impartially and/or drawing conclusions about the character of the election process accurately and impartially. These criteria must be met effectively over extended periods by long-term observers, as well as during the more limited periods of election day observation, each of which periods present specific challenges for independent and impartial analysis. International election observation missions should not accept funding or infrastructural support from the government whose elections are being observed, as it may raise a significant conflict of interest and undermine confidence in the integrity of the mission's findings. International election observation delegations should be prepared to disclose the sources of their funding upon appropriate and reasonable requests.
- 7 International election observation missions are expected to issue timely, accurate and impartial statements to the public (including providing copies to electoral authorities and other appropriate national entities), presenting their findings, conclusions and any appropriate recommendations they determine could help improve election related processes. Missions should announce publicly their presence in a country, including the mission's mandate, composition and duration, make periodic reports as warranted and issue a preliminary post-election statement of findings and a final report upon the conclusion of the election process. International election observation missions may also conduct private meetings with those concerned with organizing genuine democratic elections in a country to discuss the mission's findings, conclusions and recommendations. International election observation missions may also report to their respective intergovernmental or international nongovernmental organizations.

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- 8 The organizations that endorse this Declaration and the accompanying Code of Conduct for International Election Observers pledge to cooperate with each other in conducting international election observation missions. International election observation can be conducted, for example, by: individual international election observer missions; ad hoc joint international election observation missions; or coordinated international election observation missions. In all circumstances, the endorsing organizations pledge to work together to maximize the contribution of their international election observation missions.
- 9 International election observation must be conducted with respect for the sovereignty of the country holding elections and with respect for the human rights of the people of the country. International election observation missions must respect the laws of the host country, as well as national authorities, including electoral bodies, and act in a manner that is consistent with respecting and promoting human rights and fundamental freedoms.
- 10 International election observation missions must actively seek cooperation with host country electoral authorities and must not obstruct the election process.
- 11 A decision by any organization to organize an international election observation mission or to explore the possibility of organizing an observation mission does not imply that the organization necessarily deems the election process in the country holding the elections to be credible. An organization should not send an international election observation mission to a country under conditions that make it likely that its presence will be interpreted as giving legitimacy to a clearly undemocratic electoral process, and international election observation missions in any such circumstance should make public statements to ensure that their presence does not imply such legitimacy.
- 12 In order for an international election observation mission to effectively and credibly conduct its work basic conditions must be met. An international election observation mission therefore should not be organized unless the country holding the election takes the following actions:
 - a Issues an invitation or otherwise indicates its willingness to accept international election observation missions in accordance with each organization's requirements sufficiently in advance of elections to allow analysis of all of the processes that are important to organizing genuine democratic elections;
 - b Guarantees unimpeded access of the international election observer mission to all stages of the election process and all election technologies, including electronic technologies and the certification processes for electronic voting and other technologies, without requiring election observation missions to enter into confidentiality or other nondisclosure agreements concerning technologies or election processes, and recognizes that international election observation missions may not certify technologies as acceptable;
 - c Guarantees unimpeded access to all persons concerned with election processes, including:
 - i electoral officials at all levels, upon reasonable requests,
 - ii members of legislative bodies and government and security officials whose functions are relevant to organizing genuine democratic elections,
 - iii all of the political parties, organizations and persons that have sought to compete in

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the elections (including those that qualified, those that were disqualified and those that withdrew from participating) and those that abstained from participating.

- iv. news media personnel, and
- v. all organizations and persons that are interested in achieving genuine democratic elections in the country;
- d. Guarantees freedom of movement around the country for all members of the international election observer mission;
- e. Guarantees the international election observer mission's freedom to issue without interference public statements and reports concerning its findings and recommendations about election related processes and developments;
- f. Guarantees that no governmental, security or electoral authority will interfere in the selection of individual observers or other members of the international election observation mission or attempt to limit its numbers;
- g. Guarantees full, country-wide accreditation (that is, the issuing of any identification or document required to conduct election observation) for all persons selected to be observers or other participants by the international election observation mission as long as the mission complies with clearly defined, reasonable and non-discriminatory requirements for accreditation;
- h. Guarantees that no governmental, security or electoral authority will interfere in the activities of the international election observation mission; and
- i. Guarantees that no governmental authority will pressure, threaten action against or take any reprisal against any national or foreign citizen who works for, assists or provides information to the international election observation mission in accordance with international principles for election observation.

As a prerequisite to organizing an international election observation mission, intergovernmental and international nongovernmental organizations may require that such guarantees are set forth in a memorandum of understanding or similar document agreed upon by governmental and/or electoral authorities. Election observation is a civilian activity, and its utility is questionable in circumstances that present severe security risks, limit safe deployments of observers or otherwise would negate employing credible election observation methodologies.

- 13. International election observation missions should seek and may require acceptance of their presence by all major political competitors.
- 14. Political contestants (parties, candidates and supporters of positions on referenda) have vested interests in the electoral process through their rights to be elected and to participate directly in government. They therefore should be allowed to monitor all processes related to elections and observe procedures, including among other things the functioning of electronic and other electoral technologies inside polling stations, counting centers and other electoral facilities, as well as the transport of ballots and other sensitive materials.

DECLARATION OF PRINCIPLES FOR INTERNATIONAL ELECTION OBSERVATION

- 15 International election observation missions should:
- a establish communications with all political competitors in the election process, including representatives of political parties and candidates who may have information concerning the integrity of the election process;
 - b welcome information provided by them concerning the nature of the process;
 - c independently and impartially evaluate such information; and
 - d should evaluate as an important aspect of international election observation whether the political contestants are, on a nondiscriminatory basis, afforded access to verify the integrity of all elements and stages of the election process. International election observation missions should in their recommendations, which may be issued in writing or otherwise be presented at various stages of the election process, advocate for removing any undue restrictions or interference against activities by the political competitors to safeguard the integrity of electoral processes.
- 16 Citizens have an internationally recognized right to associate and a right to participate in governmental and public affairs in their country. These rights may be exercised through nongovernmental organizations monitoring all processes related to elections and observing procedures, including among other things the functioning of electronic and other electoral technologies inside polling stations, counting centers and other electoral facilities, as well as the transport of ballots and other sensitive materials. International election observation missions should evaluate and report on whether domestic nonpartisan election monitoring and observation organizations are able, on a nondiscriminatory basis, to conduct their activities without undue restrictions or interference. International election observation missions should advocate for the right of citizens to conduct domestic nonpartisan election observation without any undue restrictions or interference and should in their recommendations address removing any such undue restrictions or interference.
- 17 International election observation missions should identify, establish regular communications with and cooperate as appropriate with credible domestic nonpartisan election monitoring organizations. International election observation missions should welcome information provided by such organizations concerning the nature of the election process. Upon independent evaluation of information provided by such organizations, their findings can provide an important complement to the findings of international election observation missions, although international election observation missions must remain independent. International election observation missions therefore should make every reasonable effort to consult with such organizations before issuing any statements.
- 18 The intergovernmental and international nongovernmental organizations endorsing this Declaration recognize that substantial progress has been made in establishing standards, principles and commitments concerning genuine democratic elections and commit themselves to use a statement of such principles in making observations, judgments and conclusions about the character of election processes and pledge to be transparent about the principles and observation methodologies they employ.

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- 19 The intergovernmental and nongovernmental organizations endorsing this Declaration recognize that there are a variety of credible methodologies for observing election processes and commit to sharing approaches and harmonizing methodologies as appropriate. They also recognize that international election observation missions must be of sufficient size to determine independently and impartially the character of election processes in a country and must be of sufficient duration to determine the character of all of the critical elements of the election process in the pre-election, election-day and post-election periods – unless an observation activity is focused on and therefore only comments on one or a limited number of elements of the election process. They further recognize that it is necessary not to isolate or over-emphasize election day observations, and that such observations must be placed into the context of the overall electoral process.
- 20 The intergovernmental and international nongovernmental organizations endorsing this Declaration recognize that international election observation missions should include persons of sufficiently diverse political and professional skills, standing and proven integrity to observe and judge processes in light of: expertise in electoral processes and established electoral principles; international human rights; comparative election law and administration practices (including use of computer and other election technology); comparative political processes and country specific considerations. The endorsing organizations also recognize the importance of balanced gender diversity in the composition of participants and leadership of international election observation missions, as well as diversity of citizenship in such missions.
- 21 The intergovernmental and international nongovernmental organizations endorsing this Declaration commit to:
- a. familiarize all participants in their international election observation missions concerning the principles of accuracy of information and political impartiality in making judgments and conclusions;
 - b. provide a terms of reference or similar document, explaining the purposes of the mission;
 - c. provide information concerning relevant national laws and regulations, the general political environment and other matters, including those that relate to the security and well being of observers;
 - d. instruct all participants in the election observation mission concerning the methodologies to be employed; and
 - e. require all participants in the election observation mission to read and pledge to abide by the Code of Conduct for International Election Observers, which accompanies this Declaration and which may be modified without changing its substance slightly to fit requirements of the organization, or pledge to abide by a pre-existing code of conduct of the organization that is substantially the same as the accompanying Code of Conduct.
- 22 The intergovernmental and international nongovernmental organizations endorsing this Declaration commit to use every effort to comply with the terms of the Declaration and the accompanying Code of Conduct for International Election Observers. Any time that an endorsing organization deems it necessary to depart from any of terms of the Declaration or the Accompanying Code of Conduct in order to conduct election observation in keeping with

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the spirit of the Declaration, the organization will explain in its public statements and will be prepared to answer appropriate questions from other endorsing organizations concerning why it was necessary to do so.

- 23 The endorsing organizations recognize that governments send observer delegations to elections in other countries and that others also observe elections. The endorsing organizations welcome any such observers agreeing on an ad hoc basis to this declaration and abiding by the accompanying Code of Conduct for International Election Observers.
- 24 This Declaration and the accompanying Code of Conduct for International Election Observers are intended to be technical documents that do not require action by the political bodies of endorsing organizations (such as assemblies, councils or boards of directors), though such actions are welcome. This Declaration and the accompanying Code of Conduct for International Election Observers remain open for endorsement by other intergovernmental and international nongovernmental organizations. Endorsements should be recorded with the United Nations Electoral Assistance Division.

CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS

International election observation is widely accepted around the world. It is conducted by intergovernmental and international nongovernmental organizations and associations in order to provide an impartial and accurate assessment of the nature of election processes for the benefit of the population of the country where the election is held and for the benefit of the international community. Much therefore depends on ensuring the integrity of international election observation, and all who are part of this international election observation mission, including long-term and short-term observers, members of assessment delegations, specialized observation teams and leaders of the mission, must subscribe to and follow this Code of Conduct.

Respect Sovereignty and International Human Rights

Elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine elections are internationally recognized human rights, and they require the exercise of a number of fundamental rights and freedoms. Election observers must respect the sovereignty of the host country, as well as the human rights and fundamental freedoms of its people.

Respect the Laws of the Country and the Authority of Electoral Bodies

Observers must respect the laws of the host country and the authority of the bodies charged with administering the electoral process. Observers must follow any lawful instruction from the country's governmental, security and electoral authorities. Observers also must maintain a respectful attitude toward electoral officials and other national authorities. Observers must note if laws, regulations or the actions of state and/or electoral officials unduly burden or obstruct the exercise of election-related rights guaranteed by law, constitution or applicable international instruments.

Respect the Integrity of the International Election Observation Mission

Observers must respect and protect the integrity of the international election observation mission. This includes following this Code of Conduct, any written instructions (such as a terms of reference, directives and guidelines) and any verbal instructions from the observation mission's leadership. Observers must: attend all of the observation mission's required briefings, trainings and debriefings; become familiar with the election law, regulations and other relevant laws as directed by the observation mission; and carefully adhere to the methodologies employed by the observation mission. Observers also must report to the leadership of the observation mission any conflicts of interest they may have and any improper behavior they see conducted by other observers that are part of the mission.

CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS**Maintain Strict Political Impartiality at All Times**

Observers must maintain strict political impartiality at all times, including leisure time in the host country. They must not express or exhibit any bias or preference in relation to national authorities, political parties, candidates, referenda issues or in relation to any contentious issues in the election process. Observers also must not conduct any activity that could be reasonably perceived as favoring or providing partisan gain for any political competitor in the host country, such as wearing or displaying any partisan symbols, colors, banners or accepting anything of value from political competitors.

Do Not Obstruct Election Processes

Observers must not obstruct any element of the election process, including pre-election processes, voting, counting and tabulation of results and processes transpiring after election day. Observers may bring irregularities, fraud or significant problems to the attention of election officials on the spot, unless this is prohibited by law, and must do so in a non-obstructive manner. Observers may ask questions of election officials, political party representatives and other observers inside polling stations and may answer questions about their own activities, as long as observers do not obstruct the election process. In answering questions observers should not seek to direct the election process. Observers may ask and answer questions of voters but may not ask them to tell for whom or what party or referendum position they voted.

Provide Appropriate Identification

Observers must display identification provided by the election observation mission, as well as identification required by national authorities, and must present it to electoral officials and other interested national authorities when requested.

Maintain Accuracy of Observations and Professionalism in Drawing Conclusions

Observers must ensure that all of their observations are accurate. Observations must be comprehensive, noting positive as well as negative factors, distinguishing between significant and insignificant factors and identifying patterns that could have an important impact on the integrity of the election process. Observers' judgments must be based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence. Observers must base all conclusions on factual and verifiable evidence and not draw conclusions prematurely. Observers also must keep a well documented record of where they observed, the observations made and other relevant information as required by the election observation mission and must turn in such documentation to the mission.

Refrain from Making Comments to the Public or the Media before the Mission Speaks

Observers must refrain from making any personal comments about their observations or conclusions to the news media or members of the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership. Observers may explain the nature of the observation mission, its activities and other matters deemed appropriate by the observation mission and should refer the media or other interested persons to the those individuals designated by the observation mission.

Cooperate with Other Election Observers

Observers must be aware of other election observation missions, both international and domestic, and cooperate with them as instructed by the leadership of the election observation mission.

CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVERS**Maintain Proper Personal Behavior**

Observers must maintain proper personal behavior and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

Violations of This Code of Conduct

In a case of concern about the violation of this Code of Conduct, the election observation mission shall conduct an inquiry into the matter. If a serious violation is found to have occurred, the observer concerned may have their observer accreditation withdrawn or be dismissed from the election observation mission. The authority for such determinations rests solely with the leadership of the election observation mission.

Pledge to Follow This Code of Conduct

Every person who participates in this election observation mission must read and understand this Code of Conduct and must sign a pledge to follow it.

PLEDGE TO ACCOMPANY THE CODE OF CONDUCT FOR INTERNATIONAL ELECTION OBSERVER

I have read and understand the Code of Conduct for International Election Observers that was provided to me by the international election observation mission. I hereby pledge that I will follow the Code of Conduct and that all of my activities as an election observer will be conducted completely in accordance with it. I have no conflicts of interest, political, economic nor other, that will interfere with my ability to be an impartial election observer and to follow the Code of Conduct.

I will maintain strict political impartiality at all times. I will make my judgments based on the highest standards for accuracy of information and impartiality of analysis, distinguishing subjective factors from objective evidence, and I will base all of my conclusions on factual and verifiable evidence.

I will not obstruct the election process. I will respect national laws and the authority of election officials and will maintain a respectful attitude toward electoral and other national authorities. I will respect and promote the human rights and fundamental freedoms of the people of the country. I will maintain proper personal behavior and respect others, including exhibiting sensitivity for host-country cultures and customs, exercise sound judgment in personal interactions and observe the highest level of professional conduct at all times, including leisure time.

I will protect the integrity of the international election observation mission and will follow the instructions of the observation mission. I will attend all briefings, trainings and debriefings required by the election observation mission and will cooperate in the production of its statements and reports as requested. I will refrain from making personal comments, observations or conclusions to the news media or the public before the election observation mission makes a statement, unless specifically instructed otherwise by the observation mission's leadership.

Signed _____

Print Name _____

Date _____

ACKNOWLEDGEMENTS

The Declaration of Principles for International Election Observation and the Code of Conduct for International Election Observers were developed through a multi-year process involving more than 20 intergovernmental and international nongovernmental organizations concerned with election observation around the world.

The process began informally in 2001 at the initiative of the National Democratic Institute for International Affairs (NDI) and the United Nations Electoral Assistance Division (UNEAD) and included an initial meeting at the UN in New York and a meeting in Washington co-hosted by the OAS and NDI.

Building on that foundation, the UNEAD, The Carter Center, and NDI formed a joint secretariat and launched the formal phase of the process in October 2003 at a meeting held at The Carter Center in Atlanta. This was followed by a September 2004 meeting in Brussels, which was hosted by the European Commission. An ongoing consultative process transpired among the participating organizations, which resulted in a consensus document that was offered for organizational endorsements beginning in July 2005.

The secretariat was comprised of Carina Perelli and Sean Dunne for UNEAD, David Carroll, David Pottie and Avery Davis-Roberts for The Carter Center, and Patrick Merloe and Linda Patterson for NDI. The secretariat members prepared the documents, with Mr. Merloe serving as the lead drafter, drawing on a substantial body of existing documentation from organizations involved in election observation. During the process, the secretariat received critical input and comments from many of the participating organizations.

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