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Matters related to the African Ministerial Conference on the Environment (AMCEN): AMCEN in the context of the specialized technical committees of the African Union**African Ministerial Conference on the Environment in the context of the African Union institutional structure****I. Background and introduction**

1. Both the 1991 African Economic Community Treaty (known as the Abuja Treaty) of the Organization of African Unity and the 2000 Constitutive Act of the African Union provide for the establishment of specialized technical committees as one of the organs of the Africa Union. Article 15 of the Constitutive Act spells out the responsibilities of these committees, which include developing programmes and projects in their respective fields for submission to the Executive Council of the African Union; following up, monitoring and evaluating the implementation of Council decisions that are relevant to their respective mandates; and make recommendations to the Council for action. Each committee is to be composed of African ministers with portfolios in that particular field.

2. Initially, seven committees were established by the Constitutive Act some 10 years ago. The environment was covered by the Committee on Industry, Science and Technology, Energy, Natural Resources and the Environment. In 2007, a proposed revision of the composition of the committees as an organ of the African Union increased their number to 19. In 2009, however, by a decision of the Assembly of the African Union, their number was set at 14. Environmental and sustainable development issues will be covered by the Committee of Agriculture, Rural Development, Water and Environment (ARDWE). This Committee will comprise ministers of agriculture (including livestock, fisheries and aquaculture), rural development (including land, pastoralism and rural infrastructure), water and the environment (including climate change, biodiversity, desertification, forests and disaster risk management). This decision has not yet been implemented, however, because the mechanics and modalities of implementation are still a work in progress.

3. The ARDWE Committee's terms of reference were spelled out in an African Union Commission (AUC) report that was submitted to and adopted by the Assembly in 2011. They are to:

(a) Review, examine and consider adoption of policies and strategic frameworks designed for the development of African agriculture, the rural economy, water and the environment;

(b) Follow up and review progress on, and provide strategic guidance for, the implementation of relevant African Union decisions, policies, strategies and action plans on agriculture, rural development, water and the environment;

* AMCEN/14/1.

1 African Union, "Report of the Commission on the implementation of decision Assembly/AU/Dec.227(XII) on the specialized technical committees" presented to the seventeenth Ordinary Session of the African Union Assembly, Malabo, July 2011.

(c) Initiate, develop and promote African common positions on strategic areas and themes in matters that concern agriculture, rural development, water and the environment, and advocate for Africa's representation with a united voice in global negotiations;

(d) Follow up and advocate for the alignment and harmonization of national policies and strategies with continental policies, frameworks and strategies adopted by the African Union in the areas of agriculture, rural development, water and the environment;

(e) Ensure harmonization and coordination of initiatives, policies, programmes and strategies espoused by various actors at the continental and regional levels in the areas of agriculture, rural development, water and the environment, and ensure that overall political guidance and coordination is provided by the African Union;

(f) Review and examine strategic partnerships in the areas of agriculture, rural development, water and the environment with a view to ensuring the effectiveness of the partnerships and mutual accountability;

(g) Establish subcommittees on agriculture, rural development, water and the environment with a view to judiciously addressing the diverse and broad competencies incorporated within this Committee. In this regard, the Conference of African Ministers of Agriculture; the Conference for African Ministers, Fisheries and Aquaculture; the African Ministers' Council on Water; and the African Ministerial Conference on the Environment (AMCEN) could be considered as initial subcommittees.

4. The ARDWE Committee is required to meet in ordinary session biennially, and its subcommittees are required to meet between Committee meetings. Furthermore, the Assembly directed that these specialized technical committees be made operational by January 2013, after which all sectoral ministerial conferences are to be abolished.

5. At its thirteenth regular session, held in Bamako in June 2010, AMCEN requested its secretariat and Bureau to continue the task of reviewing the AMCEN constitution, which it has been developing since 2000, in the light of these new developments and with a view to aligning AMCEN with these new institutional arrangements. During the twenty-fourth meeting of the AMCEN Bureau, held in Nairobi on 20 February 2011, the Bureau agreed to constitute a working group to review the AMCEN constitution and related issues, including the institutional evolution of the African Union, and present clear recommendations. The working group recommended that the AMCEN secretariat should, in the transition period leading up to the deadline of January 2013, prepare a position paper to be presented to the fourteenth session of AMCEN in 2012.

6. In response to this recommendation, the United Nations Environment Programme (UNEP), in its role as AMCEN secretariat, went on to engage the services of a consultant to prepare a working paper on proposals for positioning AMCEN in the reformed institutional structure of the African Union. This paper is to review and make clear institutional options and recommendations on how AMCEN can integrate itself into the institutional structures of the African Union, especially in the context of the new specialized technical committee structure on agriculture, rural development, water and the environment.

7. Specifically, it is to:

(a) Review all past AMCEN decisions pertaining to the revision of the AMCEN constitution, including proposals made by the working group on the review of the AMCEN constitution during the ninth regular session of AMCEN in 2002 and the draft revised AMCEN constitution prepared in 2004;

(b) Review the African Union Summit decisions on the creation and reconfiguration of the specialized technical committees;

(c) Review the decision of the African Union Summit, Assembly/AU/Dec.227(XII), taken in Malabo during the seventeenth ordinary session on the implementation of the decision on specialized technical committees;

(d) Review the report of the Commission on the implementation of the decision on specialized technical committees;

(e) Propose institutional options and other policy related recommendations on how AMCEN can integrate itself into the new African Union institutional structure, especially within the ARDWE Committee, taking into account the role the environment plays in sustainable development in Africa and the role AMCEN has played in Africa in the past. The establishment of a new stand-alone

specialized technical committee on the environment should be considered and justified. If established, other environment related sectors that could be included in such a committee should also be examined;

(f) Make necessary recommendations on emerging issues and new initiatives in the region to be considered at the fourteenth session of AMCEN in September 2012.

8. Several relevant African Union, AMCEN and other documents were consulted to prepare the working paper, and the views of senior AUC, UNEP and AMCEN officials were sought. The information gathered from these consultations led to the conclusions and recommendations contained in the present paper.

II. African Ministerial Conference on the Environment and the environmental and sustainable development challenges in Africa

9. At the request of the Governing Council of UNEP and with the support of the Organization of African Unity (OAU) and the Economic Commission for Africa (ECA), the African Ministerial Conference on the Environment (AMCEN) was established in 1985 to:

“...strengthen cooperation between African Governments in economic, technical and scientific activities with the prime objective of halting and reversing the degradation of the African environment in order to satisfy the food and energy needs of the people of the continent”.²

10. At its fifth session, held in 1993, AMCEN decided to modify its orientation away from operational projects and programmes to focus on “...enhancing capacities for sound environmental policy formulation and implementation at the national, subregional, regional and global levels...”.³ In 1997, AMCEN, by adopting its first constitution, formalized its existence as the permanent African ministerial authority on the environment and sustainable development. The agreed AMCEN structure comprized the following:

- (a) The Conference Bureau;
- (b) The ecosystem committees;
- (c) The subregional environment groups;
- (d) The expert groups;
- (e) The permanent secretariat.

11. The Conference itself is the policymaking body of AMCEN. Its Bureau consists of a president, five vice-presidents (one representing each subregion), a rapporteur and the chairs of the ecosystem committees. The Bureau is responsible for the implementation of the decisions of the Conference and serves as liaison between the Conference, member States and observers. The Organization of African Unity, ECA, the African Development Bank and UNEP, along with other stakeholders, were appointed as AMCEN observers.

12. Five ecosystem committees⁴ were established on:

- (a) Deserts and arid lands;
- (b) River and lake basins;
- (c) Forests and woodlands;
- (d) Seas;
- (e) African island ecosystems.

13. Each committee was responsible for coordinating, monitoring and reporting to the Conference on developments in its particular field, including the promotion and ratification of the relevant conventions, agreements and protocols. They were also to facilitate and coordinate the exchange of information with other relevant institutions and develop and maintain strong networks with regional and global stakeholders in their field of competence. Each committee was to meet once a year.

14. The ecosystem committees were to be advised by African subregional environment groups, consisting of scientific and technical experts from countries in each subregion.

2 AMCEN, “Constitution of the African Ministerial Conference on the Environment”, November 1997.

3 Ibid., p. 2.

4 These were later transformed into standing committees of the Conference.

15. The functions of the permanent secretariat are:
- (a) To assist the President of the Conference, the Bureau, the committees and the expert groups in the implementation of the decisions of the Conference;
 - (b) To provide secretarial services to the Conference and the committees during their sessions;
 - (c) To organize the work of the sessions;
 - (d) To undertake other coordination activities as necessary for the smooth functioning of the Conference;
 - (e) To prepare regular activity and financial reports and other documentation as may be necessary for deliberation by the Conference and its committees;
 - (f) To ensure necessary coordination with other relevant subregional, regional and international bodies;
 - (g) To prepare staff rules and regulations and financial regulations and amendments for the consideration and approval of the Conference;
 - (h) To perform any other functions as may be determined by the Conference.

16. It was decided that the permanent secretariat would be headed by an Executive Secretary and staffed with professional, technical and service personnel. UNEP has, since then, fulfilled this role and provided all the requisite staff and other resources, on an interim basis.

17. Provision was also made for the financing of AMCEN activities through assessed contributions by member States as well as the establishment of a trust fund into which member States are required to make contributions at a pledging conference organized during the regular sessions of the Conference. The fund finances the activities of AMCEN, including the meetings of the Conference and its committees, staff salaries and related secretariat expenses, publications and consultancies.

18. Restructuring exercises have been undertaken on a number of occasions to better position AMCEN to respond more effectively to the changing priorities and demands emanating from the emerging issues in the environment, poverty and sustainable development. One outcome of such an exercise was the creation of an Inter-Agency Technical Committee,⁵ comprising the Organization of African Unity, ECA, the African Development Bank, UNEP, the regional economic communities, agencies, organs and programmes of the United Nations, civil society organizations and private sector organizations.

19. For many years now, AMCEN has also been attempting to anticipate the new demands that are likely to be made from it as a result of the African Union coming into force. Since 2000, it has initiated action to review its constitution in order to better align it with the newly constituted African Union. The process has had to be delayed, however, until the status of AMCEN is made clear within the structure of the African Union.

20. AMCEN has ensured that a solid legal framework has been laid down for concertation, cooperation and harmonization of policy and action on African environmental and sustainable development issues, and that strong institutional structures have been established and made operational in pursuit of its mandate and objectives. Together, these have served the region well in articulating policy, developing and implementing programmes and speaking internationally with one voice on matters pertaining to the environment, climate change and sustainable development.

III. Activities, achievements and challenges of the African Ministerial Conference on the Environment

21. Over the years, AMCEN has demonstrated unquestioned leadership in advancing African causes and interests in environmental and sustainable development matters. It has also implemented many concrete measures with regard to regional policy development, awareness-raising, advocacy, coordination, networking, knowledge management and dissemination, and training. Through its strong convening power, it has brought together African Governments, institutions and their development partners to deliberate and craft common positions on important issues for regional, international and global consideration. It has done so with great success in several places, including Abuja, Addis

5 This Committee no longer exists.

Ababa, Brazzaville, Cairo, Copenhagen, Dakar, Kampala, Kyoto (Japan), Maputo, Nairobi and Sirte (Libya).

22. AMCEN has managed to rally the support of important multilateral, bilateral and international organizations and agencies behind Africa's environmental and sustainable development causes. This support has come in many forms, including financial and material assistance from partners in the United Nations system, such as UNEP, ECA, the Global Environment Facility, the United Nations Development Programme, the United Nations Industrial Development Organization, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the International Labour Organization, the International Fund for Agricultural Development, the United Nations Children's Fund, the United Nations Institute for Training and Research, the United Nations Office for Project Services, the World Health Organization and the World Bank. Support has also been leveraged from sources such as the African Development Bank, the Mo Ibrahim Foundation, the World Wildlife Fund for Nature and from Governments of the European Union.

23. It is important for Africa to contribute to the crafting, implementation and observance of multilateral environmental agreements, treaties and protocols on environmental questions and ensure that they are complied with. AMCEN has played a leading role in securing the African contribution to these international initiatives. It has done so in respect of the Convention on Biological Diversity and its Cartagena Protocol on Biosafety; the United Nations Convention to Combat Desertification; the United Nations Framework Convention on Climate Change and its Kyoto Protocol; the Convention for Cooperation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan Convention); the Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (Nairobi Convention); the African Convention on the Conservation of Nature and Natural Resources; the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa; the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal; the Vienna Convention for the Protection of the Ozone Layer; and many more.

24. Over the years, AMCEN has developed and implemented projects and programmes in areas crucial to Africa's environmental and development agenda, as prioritized in the environmental action plan of the Planning and Coordination Agency (NPCA) of the New Partnership for Africa's Development (NEPAD), such as combating land degradation, drought and desertification; the conservation of wetlands; the prevention, control and management of invasive alien species; the conservation and sustainable use of coastal, marine and freshwater resources; transboundary conservation and management of natural resources; and the sustainable management of ecosystems. Projects such as the Partnership for the Development of Environmental Law and Institutions in Africa, which AMCEN successfully implemented, have been highly acclaimed.

25. AMCEN has undertaken numerous scientific and technical studies on important issues of concern to the region, in addition to many capacity-building initiatives, by holding training seminars and workshops and by providing technical and financial assistance and other forms of support to expert group meetings. For many years, it has ensured the publication of the Africa Environment Outlook reports and the implementation of the African Environmental Information Network Programme, which discuss and analyse various topical science policy issues related to Africa's environmental challenges.

26. Recently, AMCEN helped craft an environmental action plan for NPCA and was actively involved in its implementation. This gave rise to the preparation of five subregional action plans and a number of national action plans. Considerable effort was put into undertaking comprehensive stocktaking, the preparation of detailed technical reports, providing analyses and recommendations, the convening of stakeholder meetings and the establishment of partnership platforms. AMCEN remains actively engaged with all stakeholders in the implementation of each action plan.

27. The recent global preoccupation with climate change issues in the lead up to the thirteenth session of the United Nations Framework Convention on Climate Change, the meeting of the Parties to the Kyoto Protocol and the World Summit on Sustainable Development required AMCEN to shift focus and concentrate more on preparing its constituency, the African region, to craft credible common positions and key messages on climate change based on a solid analysis of the issues as they relate to the continent; to formulate realistic frameworks for climate change programmes for use at the national, subregional and regional levels; and to develop and agree on a compact with the international community on the climate change challenges that Africa faces. Major outcomes of the work of AMCEN on the climate change agenda include the establishment and operations of the Committee of

African Heads of State and Government on Climate Change (CAHOSCC) and regional and subregional action plans.

28. In pursuit of its objectives, a common negotiation position was crafted and adopted by African Governments at the highest political levels, through the efforts of CAHOSCC. This position was clearly articulated throughout the negotiations at the climate change summits in Copenhagen, Cancun, Durban, South Africa, and, recently, the United Nations Conference on Sustainable Development held in Rio de Janeiro, Brazil. Many regional and subregional meetings were convened, numerous scientific and technical studies, briefs and reports were prepared, and policy, legal advice, informational kits and fact sheets were made available in a bid to guide and direct the process for African Governments and their partners in civil society, international organizations and multilateral and bilateral agencies. AMCEN has also facilitated the formulation of common positions and consensus statements on important issues such as international environmental governance, access and benefit sharing and a green economy.

29. Through its trust fund, whose resources have been supplemented by donations and grants from diverse multilateral and bilateral sources, AMCEN has managed to fund its activities, including convening meetings, securing consultancy services and conducting studies and training and capacity-building activities.

30. There is no doubt that the existence of AMCEN and its varied activities have had a positive impact on efforts to strengthen environmental management in Africa and globally. The work of AMCEN has also contributed significantly to the heightened policy responses of African Governments and the international community to Africa's environmental and sustainable development opportunities and challenges. Through the activities of AMCEN, Africa now has a voice in the international discourse on the environment, climate change, poverty reduction and development. As a result of the persistent advocacy of AMCEN, the world has come to accept that Africa bears the brunt of some of the most serious environmental challenges facing mankind, while being the least equipped to address them.

31. AMCEN has managed to achieve all of the above and more in spite of the challenges it has faced over the years, especially its persistent financial and human resource constraints. Without the support and goodwill of United Nations agencies, especially UNEP, and the donor community, it would have been hard pressed to deliver on its mandate.

IV. Policies and programme priorities of the African Union and the New Partnership for Africa's Development Planning and Coordinating Agency regarding the environment and sustainable development

32. At present, the African Union's environmental and sustainable development policies and programmes are mainly implemented by the African Union Commission, which is the Union's secretariat, the regional economic communities and, recently, NPCA, which has an extensive action plan on the environment and which has now been designated as a specialized technical agency of the African Union. At the Commission, the programme on the environment is part of the portfolio of the Department of Rural Economy and Agriculture (DREA), which aims to promote the continent's agricultural, environmental and natural resource agendas. The core functions of DREA include the promotion, harmonization and coordination of regional policies and strategies related to agriculture, rural development, the environment and natural resources so as to assist in meeting Africa's integration and development goals and objectives.

33. DREA has an extensive portfolio, covering nine broad areas: agriculture, livestock, fisheries, land, water, the environment, climate change, natural resources and disaster risk management. In addition, it oversees the activities of six technical institutions in various parts of the continent.

34. According to the Commission's Strategic Plan 2009–2012,⁶ one of the Commission's strategic objectives is to promote sustainable economic development using strategies that, among other things, promote effective environmental and natural resource management, including adapting to climate change. To this end, the environment and natural resource management programme harmonizes and coordinates environmental policies; develops integrated frameworks for water and natural resource management; improves meteorological data and information systems; implements the regional strategy for disaster risk reduction; and develops climate change adaptation and mitigation strategies. The

6 African Union Commission, Strategic Plan 2009-2012, Addis Ababa, 2009.

mandate of the Department of Human Resources, Science and Technology includes programmes that are relevant to the environmental and sustainable development portfolio, such as earth sciences, climate change, biodiversity and biosafety.

35. The Strategic Direction⁷ document of NPCA is linked to the African Union's Strategic Plan and is guided by themes that respond to the priorities of that Plan. One of its five themes is climate change and natural resource management. Major frameworks are derived from these themes, one of which is the Action Plan for the Environment Initiative. This Plan will significantly strengthen the capacity of member States to integrate climate change responses into national development actions. Technical support is to be provided to enhance capacity for mitigation, the development and use of technology and for financing programmes. Adaptive management, grass-roots participation in decision-making and financing of ecosystem services are to be accorded greater priority. Special attention will also be paid to the management of forests with a focus on the Congo Basin and the Great Green Wall Initiative. As previously mentioned, AMCEN is fully engaged with NPCA regarding the implementation of this Plan.

36. AMCEN is the key intergovernmental forum through which African environmental and sustainable development issues are evaluated, and from which policy directions and recommendations emanate for consideration by Africa's Heads of State and Government. This forum is convened by the President of AMCEN and facilitated by the AMCEN secretariat, albeit within the framework of the African Union Commission. Through the Commissioner for Rural Economy and Agriculture, AMCEN presents regular reports, via the Executive Council of the African Union, to the Assembly of the African Union.

37. In a recent United Nations-commissioned needs assessment⁸ undertaken by the Commission, it came to light that capacity to harmonize and coordinate actions and positions of member States around issues of common concern needed significant strengthening. Negotiations, advocacy and lobbying are of utmost importance in the pursuit of the environmental and sustainable development agenda. Unfortunately, capacity for doing so was found to be extremely weak at the Commission. Equally lacking was capacity in important skill areas such as vulnerability assessment, programme design and management and report-writing.⁹

38. UNEP, ECA and other partners in the United Nations family have been assisting the Commission in addressing some of its capacity challenges. The Regional Coordination Mechanism (RCM) of the United Nations was designed to ensure that United Nations actions in the region were well coordinated and targeted to needs and that regional programmes executed by the African Union were robustly supported. RCM objectives are met through the work of its nine clusters, one of which is the cluster on the environment, population and urbanization. UNEP and the AUC co-chair the cluster. Membership consists of NPCA, the regional economic communities, the Office of the United Nations High Commissioner for Refugees, the International Organization for Migration, the United Nations Human Settlements Programme, the United Nations Population Fund, UNECSO, the World Meteorological Organization, the African Development Bank and ECA.

39. According to a recent AUC/ECA report,¹⁰ in the past five years this cluster has provided support to the NEPAD Sustainable City Programme and to the NEPAD Environment Action Plan. Substantial assistance was provided to the AUC for the implementation of the multilateral environment agreements by African countries and the regional economic communities.

40. The cluster plans to continue this cooperation with AUC by supporting the development of training materials and tools and organizing training seminars and workshops. It will help in building capacity for compliance with maritime regulatory frameworks designed to enhance maritime environment protection. Support will also be provided to help speed up the ratification of agreements, treaties and protocols, enact legislation and develop programmes. In the short term, assistance will be provided for marine pollution monitoring and prevention. The cluster will also help build capacity for reducing maritime greenhouse gas emissions, raise awareness of energy efficiency and control, effect the transition to low carbon and resource efficient development and implement the African Green Economy Partnership Programme.

7 AU/NEPAD, NPCA Strategic Direction, 2010-2013, Midrand, May 2010.

8 AUC/ECA, United Nations System Support to the African Union Commission Capacity-Building Programme, Addis Ababa, 2011.

9 For example, expertise for the implementation of the environment work programme was found to be thin on the ground, while being non-existent in respect of the requirements of the climate change, earth sciences and bio-diversity programmes.

10 AUC/United Nations, United Nations Ten-Year Capacity Building Programme for the African Union: First Triennial Review (2006-2009), Addis Ababa, November 2010.

41. Over the years, AMCEN has therefore provided strong and invaluable support for the implementation of regional and subregional environmental and sustainable development policies and programmes of the African Union and made significant contributions towards bolstering the capacity of AUC and the regional economic communities for implementing these policies and programmes. The partnership has worked well and should be strengthened, especially at this juncture where priority is now being given to environmental and sustainable development concerns.

V. New imperatives for the environment and sustainable development agenda

42. It has now become obvious that current models of economic development lead only to diminished environmental sustainability. African Governments, at the third African Ministerial Conference on Financing for Development in 2009,¹¹ acknowledged this fact and underscored the importance of placing the environment at the centre of all development endeavours. At its thirteenth session, AMCEN went further and stressed the need for African Governments to move more deliberately and purposefully towards a green economic development model. This model entails economic development actions that target improvements in human welfare and social equity while reducing environmental degradation and risk and avoiding ecological scarcities. It is characterized by low carbon use, efficiency in the use of natural resources and a high level of social inclusion. It is a model that recognizes the importance of natural capital in poverty reduction and in employment and wealth creation. It pursues industrial, agricultural and other development strategies that rely on clean, energy efficient technologies by tapping the continent's vast renewable energy potentials.

43. At the Conference on Sustainable Development in June 2012, African Governments joined Governments of other regions and made a commitment to

“...further mainstream sustainable development at all levels integrating economic, social and environmental aspects and recognizing their interlinkages, so as to achieve sustainable development in all its dimensions”. They also

“recognize that poverty eradication, changing unsustainable and promoting sustainable patterns of consumption and production, and protecting and managing the natural resource base...are the overarching objectives of and essential requirements for sustainable development.[They] also reaffirm the need to achieve sustainable development by: promoting sustained, inclusive and equitable economic growth, creating greater opportunities for all, reducing inequalities, raising basic standards of living; fostering equitable social development and inclusion; and promoting integrated and sustainable management of natural resources and ecosystems that support, inter alia, economic, social and human development while facilitating ecosystem conservation, regeneration and restoration and resilience in the face of new and emerging challenges ”.¹²

44. This paradigm shift towards greater sustainability requires the implementation of realistic, enabling policies and the creation of strong institutions. These would have to be based on solid scientific and technical research and studies that should guide and direct the formulation of policies on which political actions and positions may be based. At present, AMCEN provides the scientific and technical policy forum from which Africa's political leaders, through the African Union, derive the guidance and direction for political action, decisions and positions on environmental and sustainable development issues.

45. Furthermore, there is general consensus that environmental concerns must now be more strongly mainstreamed in all socio-economic development policies and programmes, especially in the African region, where environmental and development challenges are the most daunting. In fact, the areas in which action is required to advance the environmental and sustainable development agenda are all-encompassing and cross-cutting, further underscoring the need for robust mainstreaming. This calls for more, not less, prominence to be given to these issues at the national, subregional and regional levels.

11 See UNECA, 2009, Third Ministerial Conference on Financing for Development – Climate Change: Financing Opportunities and Challenges to Achieve the Millennium Development Goals in Africa, Kigali, May 2009.

Available from www.uneca.org/f4d/docs/FINAL-Communique-Kigali-2009.pdf

12 World Summit on Sustainable Development, United Nations Conference on Sustainable Development, Outcome Document, “The future we want”, United Nations, New York, June 2012.

46. Action has already been taken to begin responding to this need. Provision has been made to ensure the requisite institutional responses. To advance the region's processes on climate change, an African group of negotiators has been formed at the initiative of AMCEN. Its activities inform the work of CAHOSCC. These institutional responses have made it easier for the African region to formulate common positions on climate change during negotiations.

47. Another institutional innovation is the creation of the African Climate Policy Centre (ACPC), which serves as a regional hub for demand-driven knowledge and information on climate change and as an important promoter of the use of this knowledge and information for improving analytical capability, knowledge management, decision-making and the dissemination of information on climate change. ACPC is an integral part of the Climate for Development in Africa Programme, a joint initiative of AUC, ECA and the African Development Bank, designed to respond to the development challenges posed by climate change and variability, focusing on climate-sensitive sectors of the economy, such as agriculture, water resources, energy and health.

48. It is therefore clear that developments in the region's responses indicate the need for greater attention to be paid to Africa's environmental, climate change and sustainable development challenges. Policy and institutional responses have been fairly adequately provided. What is left is for AMCEN to be further empowered to meet these challenges by establishing it as a specialized technical committee of the African Union.

VI. Implementation of the African Union decision on the establishment of the specialized technical committees and the implications for the African Ministerial Conference on the Environment of becoming a subcommittee of the Specialized Technical Committee of Agriculture, Rural Development, Water and Environment

49. In its decision Assembly/AU/Dec.365 (XVII), the African Union Assembly directed that the specialized technical committees be made operational by January 2013. Furthermore, environmental issues would continue to be the responsibility of AMCEN, functioning as a subcommittee of ARDWE. It should also be recalled that since the specialized technical committees were established in the Constitutive Act as an organ of the African Union in 2000, activating them has proved difficult, primarily because of the lack of preparedness on the part of the African Union Commission. If, under these circumstances, implementation is to occur by January 2013, with the abolishment of all sectoral ministerial conferences such as AMCEN, what is to be the fate of the mandates, structures and activities of AMCEN?

50. The membership of AMCEN consists of policymakers and senior government officials whose job it is to provide advice and guidance in their particular areas of responsibility to the highest levels of leadership in their respective countries. It would be quite in order therefore if collectively, as the membership of the only continental body with a mandate and expertise to pronounce on issues of environment, climate change and sustainable development, AMCEN took it upon itself to examine the implications of this decision for the region's capacity to effectively address these critical issues and proffer its considered expert advice thereon to its leadership:- the Assembly of Heads of State and Government.

51. Below is an attempt to discuss the likely implications of the implementation of the Assembly decision on the specialized technical committees for the region's continued effective engagement on environmental and sustainable development issues.

A. Probable loss of focus and prominence

52. A management audit of the African Union,¹³ conducted by an independent high-level panel in 2007, correctly observed that the sectoral clustering of the specialized technical committees "is not optimally aligned with the portfolios of the Commission and sectoral Ministries at [the] country level". It indicated that the clustering of sectors in some specialized technical committees would require the attendance of four or five ministers at cluster meetings.

13 African Union, Report of the Audit of the African Union and Comments on it by the Commission of the African Union, Addis Ababa, December 2007.

53. In the case of the ARDWE specialized technical committee, the following is likely to result:

(a) Ministers responsible for agriculture, livestock, water, rural development, forestry and the environment, depending on who holds what portfolio in a particular country and their technical experts, may be required to be members of this specialized technical committee. Membership is thus rendered too large and unmanageable, and problems of hierarchy and leadership within delegations are likely to arise;

(b) This specialized technical committee has to address too many important areas, which imposes problems of focus, depth and substance. Including the environment with all these other equally important sectors risks diluting its desired prominence and blurring the region's focus on it.

54. In its comments on the audit report, the Commission itself acknowledged that there was a "serious problem of too many portfolios being lumped into one specialized technical committee, which has so far made the operationalization of the specialized technical committees...difficult, if not impossible".¹⁴ It is largely because of this difficulty that several attempts were made (by the Assembly in Durban, South Africa, in 2002, and by the Executive Council in Maputo in 2003, in Banjul in 2006, in Addis Ababa in 2007 and in Malabo in 2011) to re-examine the composition of the specialized technical committees as provided for in the Constitutive Act. Unfortunately, despite of all these attempts at reconstituting the committees, the problem has still not gone away.

B. Possible reduction of capacity to carry out functional mandates

55. As already mentioned, AMCEN, through its secretariat and its network of partners, especially UNEP, has promoted and led the intellectual discourse on the environment and sustainable development in Africa, through its many scholarly research and study activities and in scientific and technical expert group forums. It is partly from these activities that policies have been crafted and advice, guidance and direction has been provided to Africa's highest political authority, the African Union Assembly of Heads of State and Government, to enable it to formulate and articulate the many cogent positions it has taken over the years on Africa's environmental and sustainable development issues. The ability of AMCEN to deliver this important service derives from its capacity for environmental information generation and dissemination, monitoring and evaluation, convening and servicing technical meetings of experts, rallying support from the international scientific and donor community, and so on.

56. At its second extraordinary session, held in Sirte, Libya, in 2004, the Assembly requested the Chairperson of the African Union Commission "...to adapt the mandates, structures and activities of...the African Ministerial Conference on the Environment...in order to integrate them into the activities of the Commission of the African Union and its specialized technical committees".¹⁵ This could be interpreted to mean that all the organs of AMCEN – the Presidency, the Bureau, the secretariat, the committees, the trust fund, et cetera. – should now be integrated into, and become the responsibility of, the African Union Commission. If this happens, article 36 of the AMCEN constitution on the dissolution of the Conference might have to be invoked. The mechanics of doing so have not yet been clearly established, which means that proceeding with the implementation of this decision by January 2013 might only lead to confusion and disarray. Moreover, it is still not clear what arrangements have been put in place with regard to the secretariat, staffing and related administrative matters.

C. Likely reduction of financial support

57. Over the years, AMCEN has funded its various activities from resources generated from its own initiatives. In fact, it has used some of those resources to support activities implemented by AUC, NPCA and the regional economic communities. Its trust fund has been in existence for many years, under the management of UNEP. Although it has not been capitalized to the levels desired, it still has potential for leveraging large amounts of funds in support of environmental and development activities in Africa. Article 27 of the AMCEN constitution provides for the establishment of the trust fund as a legal entity based on a specific arrangement between UNEP and the donor community, to support the activities of the Conference and the secretariat, provide for staff salaries and emoluments, travel, consultancies, the convening of meetings, publications, and so on. It cannot be gainsaid that the fund has served AMCEN and the African region extremely well in the years since its establishment.

58. Should the mandate, structure and activities of AMCEN be integrated into the African Union Commission, what would become of this funding mechanism that has been working so well and whose

14 Ibid, para. 27, p.225.

15 UNEP/AMCEN/13/7, paragraph 16, page 3.

legal status might not be easily or readily transferable to another institution? Already, the Assembly has directed that the ARDWE specialized technical committee to which AMCEN is to belong as a subcommittee should be allocated \$660,000 annually for all its meetings.¹⁶ A single meeting of AMCEN costs some \$1.3 million on average.¹⁷ Would the Assembly's funding provision for the ARDWE specialized technical committee be adequate to meet that need?

D. Weakened convening power

59. A loss of financial strength will doubtless lead to a loss of strength in many other areas, such as monitoring and evaluation; scientific, technical and intellectual currency; the ability to build and strongly articulate positions; and the ability to encourage diverse actors to converge on a common stance. The stronger an institution's ability to do such things, the easier it is for that institution to build, maintain and strengthen its constituency and rally stakeholders and partners around its set agendas. All intergovernmental international institutions must have his convening power to realize their objectives and goals.

60. AMCEN has demonstrated the strength of this power over the years. This asset must be maintained and enhanced by the pursuit of actions that are based on objective and realistic considerations.

E. Loss of an African environmental brand

61. With all of the above at stake, it is very likely that the brand name for Africa in environmental and sustainable development circles, which AMCEN has become, could be lost; the networks and partnerships that have been built up over the years may be dismantled; and efforts to accord greater prominence to the mandate of AMCEN would be weakened.

F. Legal implications of integration

62. AMCEN was established and operates under a constitution which governs the interaction, discourse, concertation and cooperation of member States and their partners on national, subregional, regional, international and global issues that affect the environment. It is a legal entity. What therefore are the legal ramifications of its integration into another institution? Clarification should be sought on this question.

G. Institutional preparedness

63. As already observed, implementation of the decision on the specialized technical committees has stalled for almost a decade now, primarily because work is still under way on the elements that would ready the Commission to make the requisite transition. Important issues, such as the preparation of business plans, a financial strategy, and provisions for staffing may need to be addressed. These and other related institutional matters may still be a work in progress by January 2013.

VII. Options for consideration

64. In view of all of the above, it is strongly recommended that AMCEN consider appealing to the African Union Assembly for more time to implement this decision to avoid difficulties that are likely to arise should implementation proceed as directed. In making this appeal, AMCEN should proffer alternatives to the integration modalities that have been decided upon, for consideration by the Assembly. The AMCEN Presidency and other Bureau members would then engage with the current Chairperson of the Assembly and of the Commission, with a view to reaching a mutually acceptable resolution to this conundrum.

65. It must be stressed that, before the Assembly directed that a review of the relationship between AMCEN and the African Union be undertaken, AMCEN itself had initiated action to align itself with the new orientation occasioned by the transformation of the Organization of African Unity to the African Union. A review of its constitution had promptly been called for to better position it to respond to the new imperatives of the African Union. After the Assembly decision on integration, its President, Bureau and secretariat have separately, on different occasions, engaged the African Union Commission in dialogue over modalities of implementation. AMCEN has therefore been proactive in its bid to weave its objectives, mandate and activities into those of the African Union to enhance Africa's strength and effectiveness in pursuing its regional, international and global environmental and sustainable development agendas. This appeal must therefore be seen in this light and be understood to

16 "Report of the Commission on the Implementation of decision Assembly/AU/Dec.227(XII) on the specialized technical committees", op. cit.

17 Communication from AMCEN secretariat, August 2012.

represent only a genuine willingness on the part of AMCEN to work with the African Union to enhance that strength and effectiveness.

66. The following are some of the options that may be considered:

(a) Implementing the decision by January 2013: The first option to be considered is to proceed as directed by the Assembly of Heads of State and Government to implement the decision and make AMCEN a subcommittee of the ARDWE specialized technical committee by January 2013 and thereafter have it dissolved as a ministerial forum. It is likely that, at this stage and given the level of preparedness, such a move would reduce much of the gains registered by the African region in advocacy on, and promotion of, the region's interests and agendas on issues relating to the environment, climate change and sustainable development. It is also likely that the focus and prominence accorded by African Governments to these issues would be lost. Given the circumstances, and in view of all the above arguments, this option should, for the time being, be the least desirable;

(b) Maintaining the status quo. As already mentioned, there is still a lot of uncertainty regarding the mechanics and modalities of integrating AMCEN into the Commission. With the period remaining to the deadline being so short, it may be expedient not to rush the process and so avoid creating problems that might take a long time to resolve. It may therefore be more prudent to maintain the status quo and allow AMCEN to continue functioning as is until all the legal, technical, financial, staffing and other issues have been thoroughly addressed to everyone's satisfaction. Meanwhile, a joint agency committee may be set up, comprising AUC, UNEP, ECA, the African Development Bank, the regional economic communities and AMCEN to advise on these issues and on modalities of effecting the integration decision in a smooth and enabling way;

(c) A provisional hybrid arrangement. AMCEN and AUC, at their joint meeting on the integration issue¹⁸ noted that "...AMCEN and its various organs and facilities have been in existence for a long time...". They warned that it was therefore "...important that the full integration of AMCEN into the African Union should be approached with caution ...". They pointed out that "AMCEN had already formulated its own mandate...", which "...needed to be harmonized with the provisions of the Constitutive Act...". The need was stressed for "...the current financing arrangements to remain in place for a limited period..." before the integration decision is implemented. Taking these and other concerns into consideration, AMCEN, at its thirteenth session, decided that further talks between AUC and AMCEN should be resumed "...once the audit of the African Union had been completed and the evolving structures of the Union had been finalized".¹⁹ In other words, the dialogue should be reopened and concluded before a final decision on implementation is taken. There was therefore agreement from both AMCEN and AUC that implementation of the decision relating to AMCEN should be deferred. For these recommendations not to be misconstrued as amounting to a resistance to the implementation of the decision, a proposal for a temporary stopgap arrangement may be made involving the creation of an AUC/AMCEN joint secretariat to be headquartered at UNEP, with AMCEN meetings and structures remaining intact, but with the Bureau attending meetings of the Agriculture and Water specialized technical committee, bringing the concerns of AMCEN into the work of that Committee, while taking from it issues relevant to its mandate back to AMCEN. AMCEN would maintain its present links with the Executive Council through the ARDWE specialized technical committee. During this period, AMCEN would help build capacity at AUC to ensure the effective completion of the integration process. The AUC component of the joint secretariat would be fully resourced by the Union. This arrangement would be in place for a mutually-agreed period of time. Budgetary considerations might make this recommendation difficult to implement. This should be taken into account in the decision on the way forward;

18 See UNEP, "Report of the Joint Meeting Between the African Union Commission and the Bureau of the African Ministerial Conference on the Environment", Doc. UNEP/AMCEN/11/4/add.1

19 UNEP/AMCEN, "Consideration of the African Ministerial Conference on the Environment as part of the Specialized Technical Committee of Agriculture, Rural Development, Water and Environment of the African Union and Related Matters (UNEP/AMCEN/13/7), June 2010.

(d) A stand-alone specialized technical committee on the environment. As has been argued, the arrangement under the Assembly decision combines the environment (including disaster risk reduction, meteorology, climate change, forestry, biodiversity, desertification) with agriculture (including livestock, fisheries and aquaculture), rural development (including pastoralism, land and rural infrastructure) and water. This committee will most likely not be able to adequately address the region's environmental concerns at a time when these ought to be given priority in Africa's development endeavours. The ideal situation would therefore be for the Assembly of Heads of State and Government to agree to transform AMCEN into the fifteenth specialized technical committee on the environment. This would ensure that, as is the expressed desire of the Heads of State and Government, environment, climate change and sustainable development issues are accorded the prominence they deserve and become mainstreamed and cross-cutting in the African Union's policies, programmes and projects. AMCEN would then be in a stronger position to interact with ministers responsible for all the key sectors of the economy, not just agriculture and water and rural development. Energy, forestry and fisheries, natural resources, mining, industry, transport and communications are all substantive areas whose activities impact the environment in various ways. This would also make it easy for overarching ministerial portfolios, such as planning and finance and social development to be more easily engaged on environmental issues in the formulation and prosecution of policy. Cross-cutting mandates, such as gender and youth, would find their natural place within the mandates of AMCEN. Membership in this committee would be decided by the Assembly. The Conference on Sustainable Development, held in Rio de Janeiro in June 2012, also brought up further concerns and demands regarding the mandate of AMCEN, which call for its strengthening. A stand-alone specialized technical committee on the environment would best meet that need and should therefore be the preferred option.

VIII. Conclusion

67. At present, the African region must stand up to its environmental and sustainable development challenges more resolutely and purposefully. It must maintain and strengthen those structures and mechanisms that allow it to do so. Implementing the Assembly decision by the stipulated deadline might only weaken Africa's ability to rise up to the challenge. It is for this reason that AMCEN should take it upon itself to make a strong case for a delay in implementation of the decision, pending further detailed consideration of it and of all its ramifications.

68. AMCEN may also wish to consider the several other options put forward in the present paper with a view to deciding which one would best respond to the genuine desire of African leaders to have their continental organization take full responsibility for addressing the region's environmental challenges in ways that are not counterproductive and detrimental to the interests of the continent.
