



**AFRICAN CIVIL AVIATION COMMISSION**  
**30<sup>th</sup> AFCAC PLENARY SESSION**  
(LIVINGSTONE, ZAMBIA, 4 – 5 DECEMBER 2018)

**Agenda Item 12: Status of Signature and Ratification of AFCAC Constitution and the Amending Instrument**

**REQUEST FOR SIGNATURE AND RATIFICATION OF AFCAC CONSTITUTION**

(Presented by the Secretariat)

**SUMMARY**

This Paper presents information on the status of signature and ratification of the Revised 2009 AFCAC Constitution and the Amending Instrument. It urges AFCAC Member States to sign and ratify them at the earliest possible time.

The Constitution which was adopted almost ten (10) years ago, has sadly witnessed very few ratifications. The process also seems to be proceeding at a very slow pace.

**The Plenary is invited to:**

- a) Note the contents of this Working Paper.
- b) Urge Member States to sensitize their relevant Authorities on this state of affairs.
- c) Urge Member States to urgently sign and ratify the two instruments as a demonstration of their commitment to the Commission.
- d) Adopt the attached Draft Resolution.

**1. INTRODUCTION**

- 1.1.** The African Civil Aviation Commission (AFCAC) was created by the Constitutional Conference convened by the International Civil Aviation Organization (ICAO) and the then Organization of African Unity (OAU) in Addis Ababa, Ethiopia, in 1964. AFCAC was fully established and began functioning in 1969 and on 11 May, 1978 became an OAU Specialized Agency in the field of Civil Aviation.
- 1.2.** From its inception, AFCAC was technically, administratively and financially managed by ICAO through African member State's contributions. AFCAC became autonomous from ICAO management on 1st January 2007.
- 1.3.** The Third meeting of the African Ministers in charge of civil aviation matters which was held on 11 March 2007, in Addis Ababa, Ethiopia entrusted AFCAC with the attributions and responsibilities of the Executing Agency for the implementation of the Yamoussoukro Decision.
- 1.4.** The Resolution was endorsed by the Assembly of the Heads of State and Government in Accra, Ghana on 29 June 2007. To accommodate these added responsibilities, AFCAC adopted a new

Constitution at a meeting of Plenipotentiaries, which was held in Dakar, Senegal on 16 December 2009.

## 2. REVISED AFCAC CONSTITUTION OF 2009: - STATUS

- 2.1. This Constitution came into force provisionally on the 11<sup>th</sup> May 2010, upon signature by fifteen (15) African States. It shall definitively enter into force upon ratification by fifteen (15) African States. Membership of AFCAC is open to all African States. Currently, there are 55 African States.
- 2.2. According to the status list obtained from the AUC, which is the Depository of AFCAC Constitution, the number of States signatory to the Constitution of AFCAC is 38, with 8 ratifications and 8 deposits.

### Member States yet to sign the Constitution:

1. ALGERIA
2. BOTSWANA
3. DJIBOUTI
4. DEMOCRATIC REP. OF CONGO
5. EQUATORIAL GUINEA
6. ERETRIA
7. KENYA
8. LIBYA
9. LESOTHO
10. MALAWI
11. MOROCCO
12. MAURITIUS
13. SEYCHELLES
14. ESWATINI
15. TUNISIA

Note: Burundi and Cabo Verde have ratified straightway without first signing.

- 2.3. To allay the fears of those who are worried that when the Constitution enters into force definitely, the number of Member States of AFCAC will be limited only to those fifteen (15) States that would have ratified to usher it into force definitively, it is AFCAC Secretariat's humble submission that this will however not be the case. The Unnumbered paragraph 13 of Article 1 of the Revised Constitution defines a Member State **as an African State, which has signed or ratified/acceded to the AFCAC Constitution**. Even though the AFCAC Secretariat continues to encourage Member States to ratify the Constitution, Member States that have signed the Constitution should be assured that they will continue to maintain their membership as pointed out above. The implication is that only Member States under the 1969 Constitution that fail to sign or ratify the current Constitution are those that will lose their membership of AFCAC.

## 3. AMENDMENT

- 3.1. In view of the fact that many Resolutions and Recommendations of AFCAC Plenary Sessions remain to be formally adopted due to the persistent lack of Quorum, the 25<sup>th</sup> Plenary Session held in Cairo, Egypt from 8-10 December 2015 resolved that Article 10 of the Constitution dealing with quorum be amended. The quorum required for Plenary shall be two-thirds of all

Member States, which has hardly been attained. The amendment will therefore provide for a simple majority of member States required to form the quorum for Plenary meetings.

- 3.2. Pursuant to this Resolution, a proposal was submitted to the AU Commission, which in turn forwarded same to the Specialized Technical Committee (STC) on Justice and Legal Affairs of the AU for consideration. The Report of the STC was further considered by the Executive Council of the AU in accordance with its Rules and Procedures.
- 3.3. The AU Assembly at its Twenty-Eighth Ordinary Session also took note of both the favourable Report of the STC on Justice and Legal Affairs, as well as the recommendations of the Executive Council, and accordingly by a Decision, adopted the Instrument for the amendment of the Constitution in its Article 10 (4) providing for the quorum of the Plenary to be simple majority (fifty percent plus one) of member States.
- 3.4. The Decision of the Assembly has since been communicated to member States' Ministries of Foreign Affairs/External Relations by the AUC vide its Note Verbal BC/OLC/23.21.735.27 dated 25 April 2017.
- 3.5. The Secretariat also wrote letters inviting Member States administrations to strongly urge their national Governments to sign and ratify the Amendment, which is now open for signature at the AU Commission in Addis Ababa, in accordance with their respective Constitutional provisions. The Secretariat of AFCAC in the same correspondences reminded Member States which were yet to sign and or ratify the 2009 Constitution to do so to bring it into definitive force to enhance the effectiveness of the work of AFCAC.
- 3.6. There are currently four (4) State signatories to this Instrument namely, Burkina Faso, Chad, Mauritania and Sierra Leone.

#### 4. **CONCLUSION**

The signing and ratification of the Revised Constitution will not only enhance the work of AFCAC but also afford the opportunity to Member States to regularize their membership. Full list of status of Member States' signature and ratification is attached to this Working Paper for information.

#### 5. **ACTION REQUIRED**

The Plenary is invited to:

- a) Take note of the information provided;
- b) Urge Member States mentioned in paragraph 6 to take steps to sign and ratify the Revised Constitution as well as the Amended Instrument;
- c) Urge Member States that have already signed the Revised Constitution and are yet to ratify the same as well as the Amended Instrument to take immediate steps and do so.
- d) Review and adopt the attached Draft Resolution.



## **ATTACHMENTS WP/07/A**

### **DRAFT RESOLUTION ON THE STATUS OF SIGNATURE AND RATIFICATION OF THE 2009 REVISED AFCAC CONSTITUTION AND THE AMENDED INSTRUMENTS.**

#### **The Plenary,**

**TAKES NOTE** of the Report on the status of signature and ratification of the 2009 Revised AFCAC Constitution and the Amending Instrument:

**WELCOMES** the efforts made by the AUC, AFCAC Secretariat and Member States towards signature and ratification of the Revised Constitution since its adoption:

**REITERATES** the appeal of the Executive Council of the African Union in its Decisions EX.CL/Dec.627\_\_\_\_(XVIII), EX.CL/Dec.526(XVI), EX.CL/Dec.459(XIV) and EX.CL/Dec.315(X) to Member States to prioritize and accelerate the signing and ratification/accession to OAU/AU Treaties including the 2009 Revised AFCAC Constitution;

**ALSO REITERATES** its appeal to Member States to commence signature and ratification of the 2009 Revised AFCAC Constitution and the Amended Instrument within one (1) year in conformity with Decision EX/CL/Dec.459 (XIV) adopted by the Fourteenth Ordinary Session of the Executive Council held in Addis Ababa , Ethiopia in January 2009.

**URGES** Member States which are yet to sign the 2009 Revised AFCAC Constitution and the Amending Instrument to take advantage of the institutionalization of the AU Treaty Signing Week in December of each year and instruct their Permanent Representatives at the AUC in Addis Ababa to do so.

**INSTRUCTS** the Bureau of AFCAC to consider missions to Member States in their respective Regions which have not yet signed and ratified the 2009 Revised AFCAC Constitution and the Amending Instrument when such missions appear necessary;

**INSTRUCTS** the Secretariat of AFCAC to continue with its efforts of sensitization of Member States on the need to sign and ratify the two (2) Instruments and offer technical assistance to Member States where necessary.



LIST OF COUNTRIES WHICH HAVE SIGNED, RATIFIED/ACCEDED TO THE  
CONSTITUTION FOR THE AFRICAN CIVIL AVIATION COMMISSION – AFCAC (REVISED VERSION)

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LISTE DES PAYS QUI ONT SIGNE, RATIFIE/ADHERE  
CONSTITUTION DE LA COMMISSION AFRICAINE DE L'AVIATION CIVILE – CAFAC (VERSION RÉVISÉE)

23/11/2018

| No | COUNTRY/PAYS                     | DATE OF/DE SIGNATURE | DATE OF/DE RATIFICATION/ ACCESSION | DATE DEPOSITED/ DATE DE DEPOT |
|----|----------------------------------|----------------------|------------------------------------|-------------------------------|
| 1  | Algeria                          | -                    | -                                  | -                             |
| 2  | Angola                           | 27/01/2012           | -                                  | -                             |
| 3  | Benin                            | 11/05/2010           | -                                  | -                             |
| 4  | Botswana                         | -                    | -                                  | -                             |
| 5  | Burkina Faso                     | 11/05/2010           | 27/08/2018                         | 26/09/2018                    |
| 6  | Burundi                          | -                    | 29/06/2012                         | 06/06/2013                    |
| 7  | Cameroon                         | 30/07/2014           | -                                  | -                             |
| 8  | Central African Rep.             | 13/05/2010           | -                                  | -                             |
| 9  | Cape Verde                       | -                    | 30/09/2015                         | 28/03/2016                    |
| 10 | Chad                             | 11/05/2010           | -                                  | -                             |
| 11 | Côte d'Ivoire                    | 11/05/2010           | -                                  | -                             |
| 12 | Comoros                          | 11/05/2010           | -                                  | -                             |
| 13 | Congo                            | 11/05/2010           | 20/11/2012                         | 27/12/2012                    |
| 14 | Djibouti                         | -                    | -                                  | -                             |
| 15 | Democratic Rep. of Congo         | -                    | -                                  | -                             |
| 16 | Egypt                            | 11/05/2010           | -                                  | -                             |
| 17 | Equatorial Guinea                | 18/11/2018           | -                                  | -                             |
| 18 | Eritrea                          | -                    | -                                  | -                             |
| 19 | Ethiopia                         | 11/05/2010           | -                                  | -                             |
| 20 | Gabon                            | 11/05/2010           | 20/01/2014                         | 18/06/2014                    |
| 21 | Gambia                           | 14/12/2010           | -                                  | -                             |
| 22 | Ghana                            | 11/05/2010           | -                                  | -                             |
| 23 | Guinea-Bissau                    | 27/01/2012           | -                                  | -                             |
| 24 | Guinea                           | 27/01/2012           | -                                  | -                             |
| 25 | Kenya                            | -                    | -                                  | -                             |
| 26 | Libya                            | -                    | -                                  | -                             |
| 27 | Lesotho                          | -                    | -                                  | -                             |
| 28 | Liberia                          | 31/05/2011           | -                                  | -                             |
| 29 | Madagascar                       | 31/01/2014           | -                                  | -                             |
| 30 | Mali                             | 11/05/2010           | 22/11/2011                         | 03/01/2012                    |
| 31 | Malawi                           | -                    | -                                  | -                             |
| 32 | Morocco                          | -                    | -                                  | -                             |
| 33 | Mozambique                       | 19/07/2012           | 17/07/2017                         | 24/08/2017                    |
| 34 | Mauritania                       | 31/01/2011           | -                                  | -                             |
| 35 | Mauritius                        | -                    | -                                  | -                             |
| 36 | Namibia                          | 11/05/2010           | -                                  | -                             |
| 37 | Nigeria                          | 01/03/2011           | -                                  | -                             |
| 38 | Niger                            | 13/05/2010           | 05/01/2018                         | 23/01/2018                    |
| 39 | Rwanda                           | 12/05/2010           | -                                  | -                             |
| 40 | South Africa                     | 24/11/2011           | -                                  | -                             |
| 41 | Sahrawi Arab Democratic Republic | 16/08/2016           | -                                  | -                             |
| 42 | Senegal                          | 11/05/2010           | -                                  | -                             |
| 43 | Seychelles                       | -                    | -                                  | -                             |
| 44 | Sierra Leone                     | 13/12/2011           | 25/06/2015                         | 30/10/2015                    |
| 45 | Somalia                          | 15/03/2010           | -                                  | -                             |
| 46 | South Sudan                      | 24/01/2013           | -                                  | -                             |
| 47 | Sao Tome & Principe              | 29/01/2016           | -                                  | -                             |
| 48 | Sudan                            | 04/04/2012           | -                                  | -                             |

| No | COUNTRY/PAYS                | DATE OF/DE SIGNATURE     | DATE OF/DE RATIFICATION/ ACCESSION | DATE DEPOSITED/ DATE DE DEPOT |
|----|-----------------------------|--------------------------|------------------------------------|-------------------------------|
| 49 | Eswatini                    | -                        | -                                  | -                             |
| 50 | Tanzania                    | 11/05/2010               | -                                  | -                             |
| 51 | Togo                        | 11/05/2010               | -                                  | -                             |
| 52 | Tunisia                     | -                        | -                                  | -                             |
| 53 | Uganda                      | 12/05/2010               | -                                  | -                             |
| 54 | Zambia                      | 11/05/2010               | -                                  | -                             |
| 55 | Zimbabwe                    | 21/06/2010               | -                                  | -                             |
|    | <b>Total countries : 55</b> | <b>of signature : 39</b> | <b>of ratification : 9</b>         | <b>of deposit : 9</b>         |

### Note

- Adopted in Dakar, Senegal, on 16th December 2009.

- This Convention came into force provisionally on 11 May 2010, upon signature by fifteen (15) African States. It shall definitively enter into force upon ratification by fifteen (15) African States.