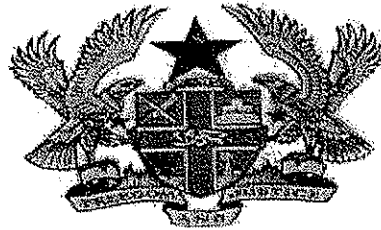


**MINISTRY OF FOREIGN AFFAIRS AND
REGIONAL INTEGRATION
ACCRA, GHANA**



Republic of Ghana

PARLIAMENT MEMORANDUM

FROM THE

**MINISTER FOR FOREIGN AFFAIRS AND
REGIONAL INTEGRATION**

ON THE

**RATIFICATION OF THE PROTOCOL TO THE CONSTITUTIVE
ACT OF THE AFRICAN UNION RELATING TO THE
PAN-AFRICAN PARLIAMENT OF 27TH JUNE 2014**

11TH JANUARY, 2018

ACTION REQUIRED

This Memorandum is submitted for Cabinet's consideration and approval for Parliamentary ratification of the **PROTOCOL TO THE CONSTITUTIVE ACT OF THE AFRICAN UNION RELATING TO THE PAN-AFRICAN PARLIAMENT** adopted by the Twenty-Third Ordinary Session of the Assembly of Heads of States of the African Union, held in Malabo, Equatorial Guinea on 27th June, 2014.

BACKGROUND

The Pan African Parliament (PAP) was established pursuant to Article 17 of the Constitutive Act of the African Union (AU) as one of the organs provided for in the Treaty establishing the African Economic Community. The Composition, Powers, Functions and Organization of the PAP are defined in the Protocol to the Treaty Establishing the African Economic Community relating to the Pan African Parliament. The establishment of the PAP was informed by a vision to provide a common platform for African people and their grass-roots organizations to be more involved in discussions and decision-making on problems and challenges facing the Continent. The Protocol entered into force on 14th December, 2003 and the PAP was inaugurated on 18th March, 2004 in Addis Ababa, Ethiopia.

Under the current Protocol, the functions of the PAP is limited to consultative and advisory powers only, with the “ultimate aim to evolve into an institution with full legislative powers, whose members are elected by universal adult suffrage.”

The PAP forms part of the African Governance Architecture which is the continental institutional framework aimed at enhancing interactions and synergies between African Union organs and institutions with a formal mandate in governance and consolidating democracy in Africa.

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As part of its core objective, the PAP together with the African Commission on Human and People's Rights, the African Court on Human and Peoples' Rights and the Department of Political Affairs of the African Union Commission, have been involved in promoting the ratification of the African Charter on Democracy, Elections and Governance and several other AU instruments.

Article 25 of the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament provides for a review, after five years of establishment and at further intervals of ten years, of the operation and effectiveness of the Protocol to ensure that its objectives and purposes as well as the vision underlying the Protocol were being realized and remained relevant to the evolving needs of the African continent.

Consequently, in 2009, the Assembly of Heads of State requested the AU Commission to initiate the review process of the Protocol in consultation with the Permanent Representative Council. The Reviewed Protocol was formally adopted by the Assembly of Heads of State on June 27, in Malabo, Equatorial Guinea.

KEY PROVISIONS

The revised Protocol is largely the same as the establishing Protocol however, it introduces significant amendments to the objectives, functions and powers of the Parliament.

ARTICLE 2 - ORGANS

provides that the organs of the Parliament shall be the Plenary, the Bureau, the Secretariat, Committees and regional groups.

The Bureau, shall be responsible for the development of policies for the management and administration of the affairs and property of the Parliament which shall be submitted to the Plenary for approval.

Article 3 - OBJECTIVES

Embedded within the revised objectives of the Pan African Parliament are the fundamental ideals and shared values of the AU and the people of Africa. The revised objectives thus provide:

- a) give a voice to the African peoples and the Diaspora;
- b) facilitate the effective implementation of the policies and objectives of the AU;
- c) promote the principles of human and peoples' rights and democracy in Africa;
- d) encourage good governance, respect for the rule of law, transparency and accountability in Member States;
- e) familiarize the peoples of Africa and the African Diaspora with the objectives and policies aimed at integrating the African Continent within the framework of the African Union;
- f) promote peace, security and stability;
- g) contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
- h) facilitate cooperation and development in Africa;
- I) strengthen continental solidarity, co-operation and development and build a sense of common destiny;
- j) facilitate cooperation among Regional Economic Communities in Africa and their Parliamentary for a;
- k) encourage National and Regional Parliaments to ratify and integrate treaties adopted by the AU into their legal systems;

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- l) co-operate with National and Regional Parliaments and similar bodies within and outside Africa as well as civil societies, community based organizations and grass root organizations;
- m) invite and encourage the full participation of the African Diaspora as an important part of the African peoples in the building of the African Union in accordance with modalities approved by the Assembly.

ARTICLE 4- MEMBERSHIP

Currently the Pan-African Parliament is composed of five (5) Parliamentarians from each member State. Of the five, at least one must be a woman. Representatives to the Parliament are chosen from among the National Parliaments or other deliberative organs of the States.

With the coming into force of the Protocol, Members of the Pan-African Parliament are expected to be elected from outside national parliaments and, at least, two (2) of the elected Members should be women.

This arrangement for election of Members and women's participation is emphasized by the provision which adds that a delegation which does not satisfy the requirement should not have the right to be accredited for representation.

ARTICLE 8 – LEGISLATIVE POWERS

The essence and perhaps the most important revision was the transition of the PAP from a consultative institution to a legislative institution as was earlier envisioned by the Establishing Protocol. The legislative powers of the Pan-African Parliament are set out in Article 8 as follows:

1. The Pan African Parliament shall be the legislative organ of the African Union. In this regard,
 - a) The Assembly shall determine the subjects/areas on which the Pan African

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Parliament may propose draft model laws;

b) The Pan African Parliament may on its own make proposals on the subjects/areas on which it may submit or recommend draft Model Laws to the Assembly for its consideration and approval.

2. The Pan African Parliament shall also:

- a) Receive and consider reports of other organs of the African Union as may be referred to it by the Council or the Assembly including audit and other reports and make recommendations thereon;
- b) Debate and discuss its own budget and the budget of the Union and make recommendations thereon to the relevant policy organs;
- c) Establish any Parliamentary Committee and determine its functions, mandate, composition and term of office;
- d) Discuss any matter relevant to the African Union and make recommendations to the Council or the Assembly as it may deem appropriate;
- e) Make proposals to the Council on the structure of the Secretariat of the Parliament taking into account its needs;
- f) Request the attendance of officials of the other organs of the African Union at its sessions to offer assistance to the Parliament in the discharge of its duties;
- g) Promote the programmes and objectives of the African Union in Member States;
- h) Receive, consider and submit opinions on draft legal instruments, treatise and other international agreements as may be referred to it by the Council or Assembly;
- I) Liaise with National Parliaments or other deliberative bodies and the Parliaments of the Regional Economic Communities on all matters relating to the African Union and regional integration in Africa;

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- j) Carry out such other activities as it deems appropriate to achieve the objectives set out in Article 3 of this Protocol.
- 3. Without prejudice to the preceding paragraphs and in conflict with the mandate of any other organ of the AU, the powers and functions of the Parliament may also be exercised through:
 - a) Fact-finding or inquiry missions;
 - b) Observer missions;
- 4. The Pan African Parliament shall have the power in accordance with the Financial Rules and Regulations of the African Union, to engage in fund raising activities.
- 5. For the avoidance of doubt, paragraph 2 shall not apply to the Assembly, Council or Court.

ARTICLE 13 DESIGNATION OF SECRETARY-GENERAL AND DEPUTY SECRETARY- GENERALS

The designations of Clerk and Deputy Clerks have been substituted with “Secretary General” and Deputy Secretary-Generals. Their appointment is in accordance with the AU Staff Rules and Regulations. The Secretary-General, with the assistance of the two Deputies, shall be responsible for the daily management of the affairs of the Parliament and shall be accountable to the Parliament through the Bureau.

LEGAL IMPLICATIONS

Article 9 of the Protocol provides that Pan African Parliamentarians, while exercising their functions, shall enjoy in the territory of each Member State the immunities and privileges extended to the representatives of Member States under the General Convention on the Privileges and Immunities of the OAU (AU) and the Vienna

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Convention on Diplomatic Relations 1961.

Further, Pan African Parliamentarians shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for what is said or done, within or outside the Pan African Parliament in the capacity as a Pan African Parliamentarian and in the discharge of duty.

The PAP however, reserves the power to waive the immunity of a member in accordance with its Rules of Procedure. Ghana would therefore be expected to accord the requisite privileges and immunities to any of the Parliamentarians who visit Ghana on official assignments.

FINANCIAL IMPLICATIONS

The annual budget of the PAP constitutes an integral part of the regular budget of the AU and Member States are not required to make any further contributions beyond the existing financial arrangements of the AU.

State Parties however, would be required to pay all allowances of their elected members. Allowances for the President, Vice President and other officials of Committees shall be paid by their respective States. The rates and modalities for this arrangement are yet to be determined.

RECOMMENDATION


Ghana has been represented at the Pan African Parliament by a delegation of five national Parliamentarians since its inauguration in 2004. Presently, the delegation is led by the First Deputy Speaker, Honourable Joseph Osei Owusu. The ratification of the Protocol is a necessary formality to regularize Ghana's continued within the enhanced framework of the Pan African Parliament.

Further, Ghana's ratification would signal a clear commitment to consolidating the

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gains of democracy and good governance in Africa.

I hereby invite my colleagues to give due consideration to the Protocol and endorse same for Parliamentary ratification.

A handwritten signature in black ink, consisting of several overlapping loops and curves, positioned above the printed name.

HON. SHIRLEY AYORKOR BOTCHWEY (MP)
MINISTER FOR FOREIGN AFFAIRS
AND REGIONAL INTEGRATION