

*Official Gazette no. Special of 21/07/2018*

**ITEKA RYA PEREZIDA N° 124/01 RYO KU WA 20/07/2018 RYEMEZA BURUNDU AMATEGEKO SHINGIRO N'AMASEZERANO BY'UMURYANGO NYAFURIKA W'ITUMANAHU (ATU) BYEMEREJWE I CAPE TOWN, MURI REPUBULIKA Y'AFURIKA Y'EPFO, KU WA 07 UKUBOZA 1999**

**PRESIDENTIAL ORDER N°124/01 OF 20/07/2018 ON RATIFICATION OF THE CONSTITUTION AND CONVENTION OF THE AFRICAN TELECOMMUNICATIONS UNION (ATU) ADOPTED AT CAPE TOWN, REPUBLIC OF SOUTH AFRICA, ON 07 DECEMBER 1999**

**ARRETE PRESIDENTIEL N°124/01 DU 20/07/2018 PORTANT RATIFICATION DE LA CONSTITUTION ET LA CONVENTION DE L'UNION AFRICAINE DES TELECOMMUNICATIONS (ATU) ADOPTES A CAPE TOWN, REPUBLIQUE D'AFRIQUE DU SUD, LE 07 DECEMBRE 1999**

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**ITEKA RYA PEREZIDA N° 124/01 RYO KU WA 20/07/2018 RYEMEZA BURUNDU AMATEGEKO SHINGIRO N'AMASEZERANO BY'UMURYANGO NYAFURIKA W'ITUMANAHU (ATU) BYEMEREJWE I CAPE TOWN, MURI REPUBULIKA Y'AFURIKA Y'EPFO, KU WA 07 UKUBOZA 1999**

**Twebwe, KAGAME Paul,**  
Perezida wa Repbulika;

Dushingiye ku Itegeko Nshinga rya Repbulika y'u Rwanda ryo mu 2003 ryavuguruwe mu 2015, cyane cyane mu ngingo zaryo, iya 112, iya 120, iya 122, iya 167 n'iya 176;

Dushingiye ku Itegeko n°18/2018 ryo ku wa 13/04/2018 ryemerera kwemeza burundu Amategeko Shingiro n'Amasezerano by'Umuryango Nyafurika w'Itumanaho (ATU) byemerejwe i Cape Town muri Repbulika y' Afurika y' Epfo, ku wa 07 Ukuboza 1999;

Tumaze kubona Amategeko Shingiro n'Amasezerano by'Umuryango Nyafurika w'Itumanaho (ATU) byemerejwe i Cape Town muri Repbulika y' Afurika y' Epfo, ku wa 07/12/1999;

Bisabwe na Minisitiri w'Ikoranabuhanga n'Itumanaho;

Inama y'Abaminisitiri yateranye ku wa 10/08/2016, imaze kubisuzuma no kubyemeza;

**TWATEGETSE KANDI DUTEGETSE:**

**Ingingo ya mbere: Kwemeza burundu**

**PRESIDENTIAL ORDER N°124/01 OF 20/07/2018 ON RATIFICATION OF THE CONSTITUTION AND CONVENTION OF THE AFRICAN TELECOMMUNICATIONS UNION (ATU) ADOPTED AT CAPE TOWN, REPUBLIC OF SOUTH AFRICA, ON 07 DECEMBER 1999**

**We, KAGAME Paul,**  
President of the Republic;

Pursuant to the Constitution of the Republic of Rwanda of 2003 revised in 2015, especially in Articles 112, 120, 122, 167 and 176;

Pursuant to Law n°18/2018 of 13/04/2018 approving the ratification of the Constitution and Convention of the African Telecommunications Union (ATU) adopted at Cape Town, Republic of South Africa, on 07 December 1999;

Considering the Constitution and Convention of the African Telecommunications Union (ATU) adopted at Cape Town, Republic of South Africa, on 07/12/1999;

On proposal by the Minister of Information, Technology and Communications;

After consideration and approval by the Cabinet, in its session of 10/08/2016;

**HAVE ORDERED AND ORDER:**

**Article One: Ratification**

**ARRETE PRESIDENTIEL N°124/01 DU 20/07/2018 PORTANT RATIFICATION DE LA CONSTITUTION ET LA CONVENTION DE L'UNION AFRICAINE DES TELECOMMUNICATIONS (ATU) ADOPTES A CAPE TOWN, REPUBLIQUE D'AFRIQUE DU SUD, LE 07 DECEMBRE 1999**

**Nous, KAGAME Paul,**  
Président de la République ;

Vu la Constitution de la République du Rwanda de 2003 révisée en 2015, spécialement en ses articles 112, 120, 122, 167 et 176;

Vu la Loi n° 18/2018 du 13/04/2018 approuvant la ratification de la Constitution et de la Convention de l'Union Africaine des Télécommunications (ATU) adoptées à Cape Town, République d'Afrique du Sud, le 07 décembre 1999;

Considérant la Constitution et la Convention de l'Union Africaine des Télécommunications (ATU) adoptées à Cape Town, République d'Afrique du Sud, le 07/12/1999;

Sur proposition du Ministre des Technologies, de l'Information et de la Communication;

Après examen et adoption par le Conseil des Ministres, en sa séance du 10/08/2016;

**AVONS ARRETE ET ARRETONS:**

**Article premier: Ratification**

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Amategeko Shingiro n'Amasezerano by'Umuryango Nyafurika w'Itumanaho (ATU) byemerejwe i Cape Town muri Repubulika y'Afurika y'Epfo, ku wa 07 Ukuboza 1999, ari ku mugereka, yemejwe burundu kandi atangiye gukurikizwa uko yakabaye.

**Ingingo ya 2: Abashinzwe gushyira mu bikorwa iri teka**

Minisitiri w'Intebe, Minisitiri w'Ikoranabuhanga n'Itumanaho, Minisitiri w'Ububanyi n'Amahanga, Ubutwererane n'Umuryango w'Ibihugu bya Afurika y'Iburasirazuba na Minisitiri w'Imari n'Igenamigambi bashinzwe gushyira mu bikorwa iri teka.

**Ingingo ya 3: Igihe iri teka ritangira gukurikizwa**

Iri teka ritangira gukurikizwa ku munsu ritangarijweho mu Igazeti ya Leta ya Repubulika y'u Rwanda.

Kigali, ku wa 20/07/2018

(sé)  
**KAGAME Paul**  
Perezida wa Repubulika

(sé)  
**Dr. NGIRENTE Edouard**  
Minisitiri w'Intebe  
**Bibonywe kandi bishyizweho Ikirango cya Repubulika:**

(sé)  
**BUSINGYE Johnston**  
Minisitiri w'Ubutabera/Intumwa Nkuru ya Leta

The Constitution and Convention of the African Telecommunications Union (ATU) adopted at Cape Town, Republic of South Africa, on 07 December 1999, in annex, are ratified and becomes fully effective.

**Article 2: Authorities responsible for the implementation of this Order**

The Prime Minister, the Minister of Information Technology and Communication, the Minister of Foreign Affairs, Cooperation and East African Community and the Minister of Finance and Economic Planning are entrusted with the implementation of this Order.

**Article 3: Commencement**

This Order comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 20/07/2018

(sé)  
**KAGAME Paul**  
President of the Republic

(sé)  
**Dr. NGIRENTE Edouard**  
Prime Minister  
**Seen and sealed with the Seal of the Republic:**

(sé)  
**BUSINGYE Johnston**  
Minister of Justice/Attorney General

La Constitution et la Convention de l'Union Africaine des Télécommunications (ATU) adoptées à Cape Town, République d'Afrique du Sud, le 07 décembre 1999, en annexe, sont ratifiées et sortent leur plein et entier effet.

**Article 2: Autorités chargées de l'exécution du présent arrêté**

Le Premier Ministre, le Ministre des Technologies de l'Information et de la Communication, le Ministre des Affaires Etrangères, de la Coopération et de la Communauté de l'Afrique de l'Est et le Ministre des Finances et de la Planification Economique sont chargés de l'exécution du présent arrêté.

**Article 3: Entrée en vigueur**

Le présent arrêté entre en vigueur le jour de sa publication au Journal Officiel de la République du Rwanda.

Kigali, le 20/07/2018

(sé)  
**KAGAME Paul**  
Président de la République

(sé)  
**Dr. NGIRENTE Edouard**  
Premier Ministre  
**Vu et scellé du Sceau de la République:**

(sé)  
**BUSINGYE Johnston**  
Ministre de la Justice/Garde des Sceaux

**UMUGEREKA W'ITEKA RYA  
PEREZIDA N°124/01 RYO KU WA  
20/07/2018 RYEMEZA BURUNDU  
AMATEGEKO SHINGIRO  
N'AMASEZERANO BY'UMURYANGO  
NYAFURIKA W'ITUMANAHU (ATU)  
BYEMEREJWE I CAPE TOWN, MURI  
REPUBLIKA Y'AFURIKA Y'EPFO,  
KU WA 07 UKUBOZA 1999**

**ANNEX TO PRESIDENTIAL ORDER N°  
124/01 OF 20/07/2018 RATIFYING THE  
CONSTITUTION AND CONVENTION  
OF THE AFRICAN  
TELECOMMUNICATIONS UNION  
(ATU) ADOPTED AT CAPE TOWN,  
REPUBLIC OF SOUTH AFRICA, ON 07  
DECEMBER 1999**

**ANNEXE A L'ARRETE PRESIDENTIEL  
N°124/01 DU 20/07/2018 PORTANT  
RATIFICATION DE LA  
CONSTITUTION ET LA CONVENTION  
DE L'UNION AFRICAINE DES  
TELECOMMUNICATIONS (ATU)  
ADOPTES AT CAPE TOWN,  
REPUBLIQUE D'AFRIQUE DU SUD, LE  
07 DECEMBRE 1999**

# **AFRICAN TELECOMMUNICATIONS UNION**



## **CONSTITUTION AND CONVENTION OF THE AFRICAN TELECOMMUNICATIONS UNION**

**CAPE TOWN 1999(Rev)**

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**DEFINITIONS**

For the purpose of the Legal Instruments of the African Telecommunications Union, the following terms shall have the meaning defined below:

- |                      |  |
|----------------------|--|
| a) PATU              | Pan African Telecommunications Union.  |
| b) ATU               | African Telecommunications Union.  |
| c) OAU               | Organization of African Unity  |
| d) AU                | African Union  |
|                      |  |
| c) Constitution      | the Basic Legal Instrument of the Union to which all other Legal Instruments of the Union shall conform.   |
| d) Convention        | the Legal Instrument of the Union which complements the Constitution.  |
| e) Acts of the Union | the Resolutions, Recommendations as well as Legal and administrative Instruments adopted by the Conference.  |
| f) Member State      | <ul style="list-style-type: none"><li>i) any Member State of the African Union (AU) which signs and ratifies this Constitution and the Convention or accedes to them;</li><li>ii) any African State which becomes a member of the AU and accedes to this Constitution and the Convention;</li><li>iii) any other State not a member of the AU which applies for membership of the Union and which after having secured approval of such application by two-thirds of the Members of the Union, accedes to this Constitution and the Convention ;</li><li>iv) any Member State which loses its membership of the AU but has not denounced this Constitution and the Convention;</li></ul> |
| g) Associate Member  | <ul style="list-style-type: none"><li>i) any entity involved or interested in the info-communications sector that is registered in a Member State of the Union and which has been accepted as an Associate Member of the Union;</li><li>ii) any entity that is registered in an African country which is not a Member State of the Union but whose associate</li></ul>   |



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membership of the Union has been approved by two-thirds of the membership of the Union;

- h) Seat land, premises, offices or buildings occupied or used by ATU, together with the residences of the Elected Officials and the Statutory Staff of the Union.
- i) Telecommunication any electronic transmission, emission or reception of signs, signals, sounds, texts, data, images, information or intelligence of any nature by wire, radio, optical or other electromagnetic systems.
- j) Legal Representative the person recognized and authorized by the Conference of Plenipotentiaries to represent the Union.
- k) Region the Continent of Africa.
- l) Sub-Region the five (5) sub-regions of Africa as specified in Annex 1 of the Convention.
- m) Administration a Telecommunications Entity designated by the Government of a country to discharge any of the obligations undertaken in the Constitution or Convention of the Union.
- n) Delegation the totality of the representatives sent by the competent authority of a Member State to participate in a Conference or Meeting organized by the Union. Each delegation shall have one vote.
- o) Observer a person authorized or invited to participate in a Conference or Meeting organized by the Union, in an advisory capacity with no right to vote.
- p) Amendment any modification consisting of a deletion from, an addition to or a change in a part of an Article.
- q) Rules and Regulations The Rules and Regulations referred to in the Constitution and Convention of the Union.

**PREAMBLE**

Plenipotentiaries from the Governments of the Member States of ATU gathered at the Extraordinary Session meeting in Cape Town, 6-7<sup>th</sup> December, 1999;

**Aware** of the vital importance of telecommunications for the safeguard of peace and the economic, social and cultural development of the region;

**Aware** of the necessity to secure Africa's interests regarding Telecommunications matters within a new global environment characterized by the liberalisation of the sector and the globalisation of the economy;

**Aware** of the need to restructure the African Telecommunications Union in order to adapt it to the new global context and to increase its efficiency in order to face the challenges of the third millennium;

**Aware** of the will of the Member States to strengthen co-operation in the Telecommunications Sector in order to achieve the continent's integration into the Global Information Society;

**Convinced of the need to:**

- develop telecommunications networks and services in a concerted, planned and integrated way;
- promote the speedy development of Telecommunications in Africa in order to access the global services, as well as a full connection between countries, in the most effective and efficient way;
- include operators from the private sector in the development process of telecommunications in Africa;

Hereby agree as follows:

**CHAPTER I : BASIC PROVISIONS**

**ARTICLE 1: ESTABLISHMENT OF THE UNION**

The African Telecommunications Union (ATU) hereinafter referred to as the Union, was established by the 4<sup>th</sup> Extraordinary Session of the Conference of Plenipotentiaries of the Pan African Telecommunications Union (PATU) on 7<sup>th</sup> December 1999, as the successor to the Pan-African Telecommunications Union (PATU), which was established by the 12<sup>th</sup> Session of the Organization of African Unity (OAU) now African Union (AU) Assembly of Heads of State and Government in Addis Ababa on 7 December, 1977 as the specialized agency of the OAU in the field of telecommunications.

**ARTICLE 2 : VISION AND MISSION**

**1. VISION**

The vision of the Union is to make Africa an equal and active participant in the Global Information Society.

**2. MISSION**

The mission of the Union is to promote the rapid development of info-communications in Africa in order to achieve universal service and access, in addition to, full inter-country connectivity, in the most effective manner.

**ARTICLE 3 : OBJECTIVES OF THE UNION**

The objectives of the Union are:

- a) To promote the development and adoption of appropriate African telecommunications policy and regulatory frameworks;
- b) To promote the financing and funding of telecommunications development;
- c) To promote programmes for the development of the African Information Society;
- d) To prepare special programmes for Africa's Least Developed Countries (LDC's) and rural telecommunications development;
- e) To promote human resources development in the field of info-communications;
- f) To promote the establishment of info-communications industries;
- g) To co-ordinate the strategies and positions of Member States in preparation for and at international meetings;

- h) To promote regional co-ordination in areas of projects, value-added services, equipment certification, technical standards and harmonization of tariffs;
- i) To harmonize the actions of Member States and Associate Members in the telecommunications sector;
- j) To foster co-operation and partnership between and among Member States and Associate Members.
- k) To promote and encourage the exchange of information, expertise and technology relating to info-communications for the benefit of all Member States and Associate Members;
- l) To undertake studies in the field of info-communications for the benefit of Member States and Associate Members;
- m) To undertake all such activities not defined above which may assist in achieving the vision and mission of the Union.

**ARTICLE 4 : COMPOSITION OF THE UNION**

The Union shall be composed of Member States and Associate Members :

- 1. A Member State shall be :
  - a) any Member State of the AU which sign and ratify this Constitution and Convention or accedes to them;
  - b) any African State which becomes a member of AU and accedes to this Constitution and Convention;
  - c) any African State not a Member of the AU which applies for membership of the Union and which after having secured approval of such application by two-thirds of the Members of the Union, accedes to this Constitution and the Convention;
  - d) any Member State which loses its membership of the AU but has not denounced this Constitution and the Convention.

2. An Associate Member shall be :
  - a) any entity involved or interested in the info-communications sector that is registered in a country which is a Member State of the Union and which has been accepted as an associate member of the Union.
  - b) any entity that is registered in an African country that is not a Member State of the Union but whose associate membership of the Union has been approved by two-thirds of the membership of the Union.

**ARTICLE 5 : SEAT OF THE UNION**

1. The seat of the Union shall be in Kinshasa, Democratic Republic of Congo. The Union may be hosted in a member country other than that of the Seat for a duration not exceeding two consecutive ordinary sessions of the Conference of Plenipotentiaries, in accordance with the conditions laid down in the Convention.
2. Any Member State may temporarily host the Headquarters of the Union should the need arise and in the manner provided for under the terms specified in the Convention.
3. For the purpose of this Constitution and the Convention reference to the Headquarters of the Union shall in appropriate cases be deemed to refer to the temporary Headquarters hosted by a Member State pursuant to Clause 2 of this Article.

**ARTICLE 6 : OFFICIAL LANGUAGES OF THE UNION**

The official languages of the Union shall be those of the African Union (AU).

**CHAPTER II : STRUCTURE OF THE UNION**

**ARTICLE 7 :                    ORGANS OF THE UNION**

The organs of the Union shall be :

- a) The Conference of Plenipotentiaries;
- b) The Administrative Council;
- c) The Technical and Development Conference;
- d) The General Secretariat.

**ARTICLE 8 :                    CONFERENCE OF PLENIPOTENTIARIES**

- 1. The Conference of Plenipotentiaries hereinafter referred to as “the Conference” shall be the supreme organ of the Union. It shall consist of duly accredited delegations of Member States headed by the Ministers in charge of telecommunications or any other Plenipotentiaries designated by Member States.
- 2. The Conference shall convene in an Ordinary Session every four (4) years. At the request of the Administrative Council or a Member State, and, subject to the agreement of 2/3 (two-thirds) majority of the members, it shall meet in an Extraordinary Session.
- 3. The Conference shall meet at the Headquarters of the Union. It may be held in another Member State in conformity with the provisions of the Convention.
- 4. The Conference shall :
  - a) revise the Constitution and the Convention as it deems necessary;
  - b) determine the general policy which the Union must follow in order to achieve its objectives as specified in Article 3 of this Constitution;
  - c) examine and approve the strategic plan, programme of activities and the accounts of the Union and determine the ceiling of the four-year budget;
  - d) adopt the principle of contribution to the budget of the Union and determine the scale of contribution by Member States;
  - e) elect the Members of the Administrative Council;

- f) elect the Secretary General of the Union and approve his salary, allowances and other conditions of service;
- g) establish the structure of the General Secretariat, determine the staff establishment of the Union and if necessary, provide any general policy directives dealing with the staffing of the Union;
- h) approve the basic salaries, salary scales and the system of allowances and pensions of all staff of the Union as well as other conditions of service;
- i) approve the Financial Rules and Regulations, the Staff Rules and Regulations and all other rules governing the activities of the Union;
- j) revise as it shall deem necessary agreements concluded between the Union and other parties, review any agreement entered into by the Secretary General following provisional approval by the Administrative Council, as well as any agreement adopted provisionally by the Administrative Council and decide to conclude any new agreement entered into with other parties;
- k) consider the report of the Administrative Council on its activities since the last Conference as well as the reports and draft resolutions of any Committee that the Conference may set-up for this purpose;
- l) fix the venue for the Ordinary Session of the Conference, the date of which shall be left to the discretion of the Administrative Council;
- m) adopt, at the conclusion of each of its sessions a report and the Final Acts which report and Final Acts shall be addressed to all Member States as well as to the African Union (AU) .

**ARTICLE 9 : ADMINISTRATIVE COUNCIL**

1. The Administrative Council hereinafter to as the “Council” shall consist of Member States, elected for a four-year term by the Conference, having due regard to the equitable distribution of seats among the sub-regions of Africa as defined by AU. The Members shall be eligible for re-election.
2. Each Member State of the Council shall designate one person to serve on the Council who may, if necessary, be assisted by one or several Advisers.
3. Except in cases of vacancies covered under the Convention, the persons appointed to serve on the Council shall continue to do so, until the reconstitution of the Council by the next Conference.

4. The Council shall convene in an Ordinary Session, once every year, at the Seat of the Union. However, the Council may, at the invitation of a Member State, meet in the territory of that Member State. It may convene in extraordinary sessions upon the agreement of a 2/3 (two-thirds) majority of its members.
5. The Council shall, between the sessions of the Conference be the decision-making body of the Union within the limits of the powers delegated to it by the Conference.
6. The Council shall :
  - a) be entrusted with the overall duty of guiding the administration of the Union;
  - b) direct, control and coordinate the financial, technical, administrative and other activities of the Union;
  - c) take all necessary measures to facilitate the implementation by the Member States of the provisions of this Constitution and the Convention as well as the various regulations and decisions of the Union;
  - d) promote international cooperation with a view to ensuring through all means at its disposal, technical cooperation among Member States of the Union.

**ARTICLE 10 : THE TECHNICAL AND DEVELOPMENT CONFERENCE**

The Technical and Development Conference shall be convened to :

- a) consider specific radiocommunication, telecommunication standardization and telecommunications development matters;
- b) consider any other issue within the competence of the Conference;
- c) deal with all items which are included in the Agenda adopted by the Council in accordance with the provisions of Article 2 of the Convention;
- d) establish work programmes and guidelines for defining telecommunications development issues and priorities;
- e) provide guidance for the work programme of the two sectors;
- f) identify objectives and strategies for the balanced continent-wide development of telecommunications with priority being given to countries classified as Least Developed Countries (LDC's);
- g) serve as a forum for the examination of policy, organizational, operational, regulatory, technical and financial related issues necessary for the rapid development and expansion of telecommunications development on the continent;



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- h) consider reports of the Working Groups, approve, modify or reject draft recommendations contained in those reports;
- i) bearing in mind the demands on the resources of the Union, approve the programme of work proposed by the Advisory Group;
- j) determine the priority, urgency, estimated financial implications and time-scale for the completion of specific tasks assigned to the Working Groups;
- k) decide, taking into account all the relevant factors, on the need to maintain, terminate or establish Working Groups allocating them with issues to be considered;
- l) group as far as possible, issues of interest to countries classified as LDC's to facilitate their participation in the work of these groups;
- m) consider and approve the report of the Directors of the Sectors on activities of the two sectors as of the previous conference;
- n) recommend to the Council issues for inclusion in the agenda of future conferences;
- o) include, in its decisions, instructions or requests, as appropriate, to the Secretary General and Sectors of the Union, the Council and the Plenipotentiary Conference of the Union.

**ARTICLE 11 : GENERAL SECRETARIAT**

1. The General Secretariat shall be headed by the Secretary General, who shall be elected by the Conference for a four-year term and shall be eligible for re-election once only.
2. The Secretary General shall :
  - a) undertake such action as is necessary to ensure economic use of the Union's resources : be accountable to the Council for the administrative, financial and technical management of the Union;
  - b) be the Legal Representative of the Union;
  - c) be the legal depository of special arrangements established in accordance with the Constitution.
3. The Secretary General shall take office at the first meeting of the Council following his election by the Conference.
4. The Secretary General shall be assisted by the Directors of Sectors, Heads of Departments and an Internal Auditor.

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5. In the performance of their duties, the Secretary General, the Directors of sectors and all other staff of the Union shall neither solicit nor accept any orders from any Government or Authority foreign to the Union. They shall abstain from any action incompatible with their duties.
6. Member States of the Union shall refrain from exercising any influence over elected officials and other personnel of the Union in the performance of their duties.
7. Any Member State, whose national has been elected Secretary General shall refrain, as far as possible, from appointing that official to other function during his term of office.
8. The Secretary General and the other Statutory Staff of the General Secretariat shall enjoy the status of International Civil Servants.
9. In all Member States of the Union, the Secretary General and other staff as well as experts and special envoys of the Union shall enjoy for the duration of their mission, the privileges and immunities accorded to the Union.
10. The paramount consideration in the recruitment of staff and in the determination of the conditions of service shall be the necessity of securing for the Union the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible.
11. The Staff Rules and Regulations of the Union shall be issued in a separate document.

**ARTICLE 12 : NON PERMANENT ORGANS**

The Conference shall have the power to establish non-permanent organs it may deem necessary to achieve the objectives of the Union and the rules and regulations with which such organs shall organize their activities.

**CHAPTER III : LEGAL STATUS AND INSTRUMENTS OF THE UNION**

**ARTICLE 13 : LEGAL STATUS OF THE UNION**

1. The Union shall be an Inter-governmental Organization, which shall enjoy international legal status and capacity. It shall enjoy all the powers necessary for the attainment of its objectives. Member States shall grant the Union privileges and immunities on their territories to enable it to fully achieve its objectives.
2. The Secretary General shall conclude with the Government upon whose territory the Seat of the Union is established, an agreement defining the legal status of the Union, privileges and immunities recognized and accorded to the Union subject to the approval of the Council.
3. The privileges and immunities accorded to the Union shall also apply to conferences and meetings of the Union and delegates to such conferences and meetings.

**ARTICLE 14 : INSTRUMENTS OF THE UNION**

1. The instruments of the Union shall be :
  - a) this Constitution;
  - b) the Convention;
  - c) The Administrative Regulations.
2. This Constitution shall be the fundamental instrument of the Union. The provisions of this Constitution shall be complemented by those of the Convention.
3. The provisions of both the Constitution and the Convention shall be complemented by those of the Administrative Regulations
4. The main Administrative Regulations shall be :
  - a) the Rules of Procedure of the Organs of the Union;
  - b) the Financial Rules and Regulations of the Union;
  - c) the Staff rules and Regulations;
  - d) any other instrument to which the Conference attaches similar importance.
5. In the event of any inconsistency between a provision of this Constitution and a provision of the Convention or of the Administrative Regulations, the Constitution shall prevail. In the event of any inconsistency between a provision of the Convention and a provision of the Administrative Regulations, the Convention shall prevail.

**ARTICLE 15 : SOVEREIGN RIGHTS OF MEMBER STATES OF THE UNION**

The provisions of this Constitution and the Convention shall be without prejudice to the national sovereignty of Member States. Nothing in this Constitution and the Convention shall affect the rights of Member States of the Union to develop and regulate their telecommunications networks and services.

**ARTICLE 16 :        RIGHTS AND OBLIGATIONS OF MEMBER STATES AND  
ASSOCIATE MEMBERS OF THE UNION**

1. All Member States shall have the right to :
  - a) participate in all activities, meetings and conferences of the Union;
  - b) to elect and be elected to the Council of the Union subject to provisions of Article 8 of this Constitution;
  - c) to nominate candidates for election as officials of the Union.
2. Subject to provisions of Article 20 of this Constitution, each Member State shall be entitled to one vote at :
  - a) the Conference of Plenipotentiaries;
  - b) the Council where the Member State is a Member of the Council;
  - c) the Telecommunications and Development Conference;
  - d) any other meeting of the Union
  - e) any other occasion such as where a vote is conducted by correspondence.
3. All Associate Members shall have the right to :
  - a) participate in the activities of the Union;
  - b) participate fully and vote in meetings of the Union except the Conferences of Plenipotentiaries and the Council of the Union;
  - c) attend as observers the Conference of Plenipotentiaries subject to the provisions of Article 4 of this Constitution.
  - d) Nominate and be nominated as chairperson or vice chairpersons of the Technical and Development Conference subject to provisions of article 10 of this Constitution.

**ARTICLE 17 :        RATIFICATION OF THE CONSTITUTION AND THE  
CONVENTION**

1. This Constitution and the Convention shall be ratified by each of the signatory Governments. There shall only be one single instrument of ratification.

2. The instruments of ratification of this Constitution and the Convention and any other instrument of approval of other Acts of the Union shall be deposited, in as short a time as possible, with the Secretary General of the Union, through diplomatic channels, who shall remit notification thereof to all Member States.
3. For a two-year period, beginning from the entry into force of this Constitution and the Convention, each signatory Government shall enjoy the rights conferred by the Constitution and the Convention on Member States, even if it has not deposited the instruments of ratification as provided for in this Constitution and the Convention.
4. Upon the expiry of this two-year period, any Member State that has not deposited the required instruments of ratification shall lose the right to vote in meetings of the Organs of the Union.

**ARTICLE 18 :       ACCESSION TO THE CONSTITUTION AND THE CONVENTION**

1. Any Member State of the AU which has not signed this Constitution and the Convention may accede to them at any time.
2. Any State which has been a Member of the Union by virtue of any previous Convention, and which has not signed this Constitution and the Convention shall accede to them. After the final entry into force of this Constitution and the Convention, that Member State shall retain membership but shall lose its right to vote if its instruments of accession are not deposited.
3. The instrument of accession shall be sent to the Secretary General of the Union through diplomatic channels. It shall enter into force on the date it is deposited unless otherwise stipulated. The Secretary General shall notify Member States of such accession and forward to each of them a certified true copy of the instruments.

**ARTICLE 19 :   RULES OF PROCEDURE OF THE UNION**

1. Subject to Clause 2 of this Article, each conference or meeting of the Union shall adopt its own Rules of Procedure.
2. The Rules of Procedure adopted by a preceding Conference or Meeting shall be deemed to be in force until otherwise changed or modified by a successor Conference or Meeting.

**ARTICLE 20 :   SUSPENSION OF A MEMBER**

1. A Member State shall be suspended from the Membership of the Union if it fails to honour its obligations to the Union in the cases and under the conditions specified under the Convention.

2. A Member State may lose its voting rights under the conditions specified in the Convention.

**ARTICLE 21 : REINSTATEMENT OF A MEMBER**

A Member State which has been suspended from the Union may be reinstated subject to the conditions specified in the Convention.

**ARTICLE 22 : APPLICATION OF THE INSTRUMENTS AND ACTS TO THE UNION**

Member States shall be bound by the provisions of this Constitution, the Convention, the Administrative Regulations and other decisions of the Union.

**CHAPTER IV : FINANCES OF THE UNION**

**ARTICLE 23 : FINANCIAL RESOURCES OF THE UNION**

The Financial Resources of the Union shall be :

- a) contributions from the Member States;
- b) contributions from Associate Members;
- c) extra-budgetary contributions and donations approved by the Council;
- d) voluntary donations;
- e) sundry income from services rendered;
- f) income generated by the Business Unit.

**ARTICLE 24 : EXPENDITURE OF THE UNION**

The Expenditure of the Union shall comprise the costs of :

- a) sessions of the Conference;
- b) sessions of the Council;
- c) the General Secretariat;
- d) running the Technical and Development Conference;
- e) conferences, meetings and seminars organized by the Union;

- f) meetings of any Committee set up by the Conference;
- g) miscellaneous expenses.

**ARTICLE 25 : PAYMENT OF CONTRIBUTIONS**

Member States and Associate Members shall pay in advance their annual contributions calculated on the basis of the budget adopted by the Council, and according to a scale adopted by the Conference of Plenipotentiaries.

**ARTICLE 26 : FINANCIAL DIFFICULTIES**

In case of financial difficulties the Government of the Member State in whose territory the General Secretariat of the Union is located shall advance funds to implement the budget until these are reimbursed by the Union.

**ARTICLE 27 : RESEARCH FUNDING**

If a Member State or a group of Member State undertakes research with the assistance of the Union, the expenditure relating to such research shall be borne by the Member State or the group of Member States.

**ARTICLE 28 : FINANCIAL REGULATIONS OF THE UNION**

The Financial Regulations of the Union shall be issued in accordance with the provisions of the Convention.

**ARTICLE 29 : ACCOUNTS AND MONETARY UNIT OF THE UNION**

The accounts of the Union shall be kept in the currency specified by the Council.

**ARTICLE 30 : FRANKING PRIVILEGES**

1. Throughout the duration of the conferences or meetings of the Union, delegates and personnel of the General Secretariat assigned to the conferences or meetings shall enjoy telephone, telegram, telefax and telex franking privileges, subject to specific limitations, between the venue of the conference and their respective administrations.

2. Telephone communications of limited duration between delegates and their families shall also be provided under franking arrangements.

#### **CHAPTER V : OTHER PROVISIONS**

#### **ARTICLE 31: RELATIONS BETWEEN THE UNION AND THE AFRICAN UNION (AU)**

As the Specialized Agency of the African Union in the field of telecommunications, the Union shall enjoy privileged relations with the AU, in accordance with the existing agreement between the two organizations.

#### **ARTICLE 32 : RELATIONS BETWEEN THE UNION AND OTHER INTERNATIONAL BODIES**

1. In order to encourage overall intra-African and international cooperation in the field of telecommunications, the Union shall collaborate with ITU and other international, regional and sub-regional bodies whose activities and interests are related to telecommunications. The Union may invite such bodies to send observers to attend its conferences in a consultative capacity on the basis of the principle of reciprocity.
2. Agreements may be concluded between the Union and such other international, regional and sub-regional bodies.

Member States shall reserve the right to hold sub-regional conferences and conclude sub-regional arrangements with a view to addressing telecommunications issues which can be treated at sub-regional level. Sub-regional arrangements shall not be in conflict with this Constitution and the Convention.

#### **ARTICLE 33 : TECHNICAL COOPERATION**

1. Member States shall promote the exchange of technical and specialized personnel among themselves. They shall likewise share experiences and exchange information on technical, financial, regulatory and other matters through study missions, workshops and seminars.
2. The Union shall make efforts with a view to promoting the training of executive and middle level staff for Member States in multinational telecommunications schools and colleges in co-operations with other specialized bodies in this field in Africa.

#### **ARTICLE 34 : SETTLEMENT OF DISPUTES**

1. Any dispute that may arise concerning the interpretation or application of any provision of the Constitution, Convention, the Administrative Rules and Regulations or their annexes shall be submitted to the mediation of a group



of Member States, which is not party to the dispute, and, which shall be nominated by the Secretary General after an attempt by the latter to settle the dispute amicably has failed.

2. Should the first mediation fail, the dispute shall be first submitted to the Administrative Council and should this also fail, to the AU tribunal.
3. The foregoing provisions shall be without prejudice to the choice of any mode of settlement that the parties concerned may jointly decide in keeping with the spirit of this Constitution.
4. Any dispute which may arise between the Union and a Member State concerning the interpretation or application of this Constitution, the Convention and Administration Regulations shall be submitted to the mediation of the Administrative Council after an attempt to settle the matter through negotiation has failed. Should mediation fail, the dispute shall be submitted to a Special Panel comprising three Arbitrators, one nominated by the Secretary General of the Union, the second Arbitrator by the Member State party to the dispute and the third Arbitrator by the two Parties.
5. In the event that a third Arbitrator cannot be nominated or in the event that the dispute is not settled, it may, as a last resort, be submitted to a competent local Panel of one of the Member States drawn by lots by the two Parties. The Panel so selected shall remain the competent Arbitrator until the dispute is finally settled.

#### **CHAPTER VI : FINAL PROVISIONS**

##### **ARTICLE 35 : DENUNCIATION OF THE CONSTITUTION AND THE CONVENTION**

1. Any State which loses its membership of the AU shall be deemed to retain its membership of the Union unless it denounces this Constitution and the Convention. Failing this, it shall conserve its membership of the Union.
2. Any Member State may denounce this Constitution and the Convention through a single notification sent through diplomatic channels to the Secretary General, who shall advise the other Member States accordingly.
3. Such denunciation shall become effective one year after the date of receipt of notification by the Secretary General of the Union in conformity with the provisions of the Convention.

##### **ARTICLE 36 : AMENDMENT OF THE CONSTITUTION**

1. This Constitution shall not be amended except in accordance with this Article.

2. The power to amend this Constitution shall be vested exclusively in the Conference of Plenipotentiaries.
3. Any Member State may propose an amendment to this Constitution in writing by sending the proposal to the Secretary General who, upon receiving it, shall immediately circulate it to all Member States. In order to provide all Member States with adequate time to examine proposals to amend this Constitution, such proposals should be sent to the Secretary General at least 4 (four) months before the Conference of Plenipotentiaries.
4. Notwithstanding clause 3 of this Article, no Member State who is in arrears of its annual contributions to the Union for two or more years, or who is under suspension in accordance with this Constitution, shall be competent either to propose or support an amendment.
5. An amendment shall be considered adopted if it is approved by 2/3 –two thirds) of the Member States accredited to the conference.
6. Any amendment shall be contained in Protocol Agreements to be Annexed to this Constitution.

**ARTICLE 37 : ENTRY INTO FORCE OF THE CONSTITUTION AND THE CONVENTION**

This Constitution and the Convention once signed by the Plenipotentiaries shall enter into force 30 days after the tenth instrument of ratification or accession has been deposited with the Secretary General of the Union.

**ARTICLE 38 : SIGNING AND DEPOSITORY OF THE CONSTITUTION AND THE CONVENTION**

In witness whereof the respective Plenipotentiaries have signed this Constitution and the Convention in three sets of the original texts in the working languages of the Union, all texts being equally authentic. One set of the original text shall be deposited with the Government of the country of the Seat of the Union. The two other sets shall be deposited with the Secretary General of the Union and the AU respectively. A set of the true certified copies of the original texts shall be sent to each Member State by the Secretary General.

**THE 26 MEMBER STATES WHICH SIGNED THE ATU CONSTITUTION  
(CAPE TOWN, DECEMBER 1999)**

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1. ALGERIA
  2. BENIN
  3. BURKINA FASO
  4. BURUNDI
  5. CAMEROON
  6. CENTRAL AFRICAN (REP.)
  7. CONGO
  8. CONGO (DEM. REP.)
  9. EGYPT
  10. ETHIOPIA
  11. GABON
  12. GHANA
  13. COTE D'IVOIRE
  14. KENYA
  15. LESOTHO
  16. LIBERIA
  17. MALAWI
  18. MALI
  19. NIGERIA
  20. SENEGAL
  21. SOUTH AFRICA
  22. SUDAN
  23. TANZANIA
  24. TUNISIA
  25. UGANDA
  26. ZAMBIA
-

# **AFRICAN TELECOMMUNICATIONS UNION**



## **CONVENTION OF THE AFRICAN TELECOMMUNICATIONS UNION**

**CAPE TOWN 1999 (Rev)**

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**CONVENTION OF THE AFRICAN TELECOMMUNICATION UNION**

**ARTICLE 1 : CONFERENCE OF PLENIPOTENTIARIES**

**1. Date and Venue of the Conference**

- 1.1 The ATU Conference of Plenipotentiaries shall be convened in accordance with Article 8 of the Constitution.
- 1.2 The date and venue of ordinary and extraordinary sessions of the Conference of Plenipotentiaries shall be fixed by the preceding Conference of Plenipotentiaries, failing which they shall be fixed by the Administrative Council.

**2. Change of date and venue of the Conference**

- 2.1 The date and/or venue of the Conference may be changed in accordance with Section 2.2 below and:
  - a) at the request of a Member State or a group of Member States addressed to the Secretary General of the Union;
  - b) on a proposal of the Administrative Council adopted by the majority of Members present and voting;
  - c) at the request of the Secretary General.
- 2.2 Except under exceptional circumstances proposals for the change of the date and/or venue of the Conference must reach the Secretary General at least one year before the date scheduled for the next Conference. Upon receipt of the required number of proposals, the Secretary General shall consult Member States without delay and propose to them the new date and/or venue as the case may be. The replies of the countries must reach the Secretary General not later than six months before the new date.
- 2.3 Any change to the date or venue of the Conference must be supported by valid reasons from the authors proposing the change.
- 2.4 The new date and venue shall be fixed with the concurrence of the majority of the Member States of the Council.

**3. Invitations by a Member State to host the Conference**

- 3.1. The Host Country of the Conference shall sign a Protocol Agreement with the Secretary General on the holding of the Conference.
- 3.2. The Secretary General shall, in agreement with the Government of the inviting Member State fix the definitive date and exact venue of the Conference, subject to the approval of the Administrative Council.
- 3.3. One year before this date, the Government of the inviting Member State shall send an invitation to each Member State and each observer. These invitations may be sent directly or through the Secretary General of the Union.

**4. Participation in the Conference of Plenipotentiaries**

**4.1. Delegations of Member States shall be admitted to the Conference of Plenipotentiaries in a deliberative capacity.**

**4.2. The following may be admitted to the Conference of Plenipotentiaries in an observer capacity:**

- a) the AU;
- b) Associate Members;
- c) international organizations involved in the telecommunications sector;
- d) sub-regional organizations involved in telecommunications;
- e) international financial institutions;
- f) international organizations not mentioned above involved in telecommunications;
- g) experts who are nationals of countries that are Member States participating in a consultative capacity.

**5. Accreditation of Delegations to the Conference**

- 5.1. The delegation sent by a Member State to the Conference shall be duly accredited by document signed by the Head of State or Government, or the Minister responsible for Foreign Affairs.
- 5.2. The instruments of accreditation issued under section 5.1 above shall confer on the delegations to the Conference of Plenipotentiaries full powers and the right to sign the Final Acts.
- 5.3. Should a Member State be unable, for exceptional reasons, to send its own delegation, it may give the delegation of another Member State powers to vote and sign on its behalf.
- 5.4. The powers referred in 5.3 above must be conveyed to the Secretary General by a document signed by the Head of State or Government or the Minister responsible for Foreign Affairs of the country being represented by proxy.

**6. Preparation of the work of the Conference by the Conference Preparatory Committee**

The preparation of the work of the Conference of Plenipotentiaries shall be entrusted to the Conference Preparatory Committee whose duties and functions are set out under Article 4 of this Convention.

**ARTICLE 2 : ADMINISTRATIVE COUNCIL**

**1. Sessions of the Council**

**1.1. The Administrative Council shall convene in accordance with Article 9 of the Constitution.**

**1.2. The Council shall convene in annual Sessions at the Seat of the Union or in another country that may request to host a meeting of the Council as provided for in Rule 4 of the Rules and Regulations of the General Secretariat.**

**2. Council Membership**

2.1. The Members of the Council shall be elected by the Conference of Plenipotentiaries in accordance with Article 8 of the Constitution.

2.2. Member States of each sub-region shall propose to the Conference the candidates for election to the Council as well as two alternates. Such Member States shall be in order with their contributions.

2.3. In the event of a disagreement on the choice of candidates for Council Membership within a sub-region, the issue shall be brought before the Conference, which shall proceed to elect the Council.

2.4. The person designated by a Member State to serve on the Council shall be a senior official, preferably having knowledge in telecommunications and/or related sectors.

**3. Chairperson of the Council**

3.1. The Administrative Council shall at the beginning of each annual session elect its Chairperson and Vice Chairperson from among its members according to the procedure defined in its Rules of Procedure, taking into account the principle of rotation among the sub-regions of the continent.

3.2. The Chairperson and Vice-Chairperson shall remain in office until the opening of the next annual session and shall be eligible for re-election once.

3.3. The Vice-Chairperson shall act as Chairperson in the absence of the latter.

3.4. Should both the Chairperson and Vice-Chairperson be absent, the Council shall elect the Chairperson and Vice-Chairperson to act in the interim.



**4. Participation in Council Session**

- 4.1. Besides the Members of the Council only persons invited may participate in the session of the Council. A Member of the Council may be assisted by one or more advisers.
- 4.2. Only Members of the Council shall have the right to vote provided it is in conformity with Article 16 of the Constitution.

**5. Decisions of the Council**

The Council shall make decisions only in session. However, it may decide to resolve between sessions, urgent issues through correspondence. In that event, the Chairperson shall consult Members of the Council on such issues in writing. Members of the Council shall give urgent written replies. A decision shall then be taken by a 2/3 (two-thirds) majority of the Members of the Council, provided that such a decision shall not entail expenditure beyond the limits of the approved budget for the Union.

**6. Vacancy of a seat on the Council**

- 6.1. If between two sessions of the Conference, a seat on the Council falls vacant, such a seat shall pass by right to a Member State of the Union from the same sub-region, who in the previous election obtained the highest number of votes among those not elected to the Council.
- 6.2. A seat shall be considered vacant when:
- a) a Member State fails to send a representative to two consecutive ordinary sessions of the Council;
  - b) a Member state withdraws its membership on the Council;
  - c) a Member state is suspended.

**7. Functions of the Council**

- 7.1. In the discharge of its duties prescribed in the Constitution, the Council shall in between two Conferences of Plenipotentiaries :
- a) submit to the Conference proposals concerning the rules governing the financial, administrative and other activities of the Union, including the entering into contracts by the Union with Governments or institutions desirous of assisting the Union or its Members in achieving the objectives of the Union;
  - b) consider the draft four-year programme of activities and budget of the Union and submit them to the Conference for approval;
  - c) consider the annual report of the Secretary General on the activities of the Union and arrange for the annual audit of the accounts of the Union;
  - d) consider the annual report on the financial management of the Union;
  - e) assess each year, in accordance with the scale of contributions for Member States and Associate Members within the limit adopted by the Conference, the annual budget of the Union;
  - f) present to the Conference a report on the activities of the Union since the last Conference;
  - g) consider and provisionally approve the agreements to be concluded by the Secretary General with other parties and submit them to the Conference for approval;
  - h) approve the draft agenda of the Conference as well as programmes of the Administrative Council and the Technical and Development Conference;
  - i) propose to the Conference the basic salaries and other allowances for all officers of the Union for approval;
  - j) make the necessary arrangements after the consent of the majority of Member States of the Union, in order to resolve on a provisional basis, cases which have

not been provided for in the legal instruments of the Union, the solution of which cannot await the next conference;

- k) designate, if necessary, the venue of the next Conference;
- l) fix the date of the next conference;
- m) at the request of a Member State and with the concurrence of 2/3 (two thirds) of Members of the Council, change the date and/or venue of the next Conference and the meeting of the Conference Preparatory Committee preceding it;
- n) propose to the Conference, if it deems necessary, the establishment of subsidiary organs;
- o) invite the Administrations of Member States of the Union which are not Members of the Council to participate in its proceedings as observers except in those sittings it shall decide to hold in camera;
- p) recruit and appoint the Directors and Internal Auditor of the Union with the assistance of the Secretary General ensuring, as far as possible, the equitable geographical representation of the African sub-regions and taking into account the need for a more equitable gender balance;
- q) appoint an External Auditor and determine his/her Terms of Reference;
- r) propose, if necessary, the provisional transfer of the Headquarters or technical staff of the Union, as the case may be, to another country, a Member State of the Union, as provided for in Article 5 of the Constitution.

## **8. Secretariat of the Council**

The General Secretariat of the Union shall serve as the Secretariat for the Council.

**ARTICLE 3 : GENERAL SECRETARIAT**

**1. Conditions of eligibility of the Secretary General**

- 1.1. The candidature for the post of Secretary General of the Union must be presented through the diplomatic channels of the nominating Member State.
- 1.2. The application for candidature should reach the General Secretariat not later than 30 days prior to the date set for the start of the Conference of Plenipotentiaries.
- 1.3. Any Member State of the Union wishing to present a candidate should have no outstanding contributions at the date of the election, failing which the candidature of its national shall be rejected by the Conference.

**2. Procedure for the election of the Secretary General**

- 2.1. Voting concerning the election of the Secretary General of the Union shall be by secret ballot.
- 2.2. Each delegation shall receive a single ballot paper bearing the names of all the candidates in alphabetical order.
- 2.3. Each delegation shall vote for the candidate of its choice by the method agreed to by the Conference.
- 2.4. All votes, valid or not, as well as abstentions, will be recorded and announced when the result of the election is given.
- 2.5. Any candidate obtaining a majority of 2/3 of the Member States present and voting shall be declared elected.
- 2.6. In accordance with the provisions of paragraph 2.2 above one or more ballots shall be taken, until one of the candidates obtains the 2/3 majority of the Member States present and voting.
- 2.7. If none of the candidates obtains the required majority, another ballot shall be taken at another sitting of the same Conference.
- 2.8. Where there are more than two candidates and none of them receives the required 2/3 majority after a further ballot was taken in accordance with 2.7 above, the candidate with the lowest number of votes is eliminated from the next round of balloting.
- 2.9. If, after this further round of balloting indicated in 2.8 above, no candidate receives the required 2/3 majority of the Member States present and voting a final round of balloting shall be taken. If, in the final round of balloting, none of the candidates obtains the

required majority of 2/3 indicated above, the candidate with the simple majority shall be declared elected.

- 2.10. If, after the final round of balloting no candidate obtains a simple majority, the Conference shall take the decision it may deem appropriate.

### **3. The Secretary General**

The Secretary General shall:

- 3.1. coordinate the work of the various organs of the Union for which he/she will provide secretariat services;
- 3.2. coordinate the activities of the General Secretariat;
- 3.3. supervise, for purposes of rational administrative management, the staff of the Union with a view to ensuring the most effective use of the personnel.

### **4. Vacancy of the post of Secretary General**

In the event of the post of the Secretary General falling vacant, the Council shall notify all Member States of such a vacancy as soon as possible after the first meeting of the Council following the existence of the vacancy. In that case, the Director of the Development sector shall act as Secretary General until the next Conference of Plenipotentiaries.

### **5. Functions of the Secretary General**

The Secretary General shall :

- 5.1. be responsible for the overall management of the Union's resources;
- 5.2. coordinate the work of the various units within the Union for whom he provides the Secretariat;
- 5.3. coordinate the activities of the General Secretariat;
- 5.4. draft and present to Council for scrutiny an annual financial report;
- 5.5. present to the Council a consolidated and audited financial report for consideration and approval;
- 5.6. prepare and present to the Council the annual report of the Union's activities and circulate this report to the members once it has been approved by Council;
- 5.7. submit to Council an annual report highlighting developments in the telecommunications sector and put forward proposals regarding the future policy and strategy of the Union;
- 5.8. periodically publish an information newsletter and general documentation relating to the telecommunications sector;
- 5.9. provide legal opinion to the Union;

- 5.10. draft the proposed four-year plan of activities for the Union and the corresponding budget to be submitted to Council before tabling it at the Conference of Plenipotentiaries;
- 5.11. draw up a draft annual programme of activities and associated budget to be submitted to Council for approval;
- 5.12. facilitate the appointment of Directors of Sectors, the Internal Auditor and other staff, while mindful of maintaining an equitable geographic balance amongst the sub-regions of Africa;
- 5.13. supervise the application of any decision or ruling adopted by Council;
- 5.14. manage the Union's personnel resources so that they are efficiently and effectively used;
- 5.15. provide the necessary resources for holding Union conferences and meetings, ensuring the relevant secretarial functions;
- 5.16. represent the Union in all fora as appropriate, in accordance with Article 11 of the Constitution.
- 5.17. coordinate the implementation of the strategic plan adopted by the Conference and report to the Council accordingly.

#### **ARTICLE 4 : CONFERENCE PREPARATORY COMMITTEE (CPC)**

##### **1. Organization and Functions**

The CPC, which is a non-permanent organ of the Union, shall be composed of persons whose responsibility will be to advise the Plenipotentiaries on the issues to be addressed by the Conference. The organization and functioning of the CPC shall be determined by its Rules of Procedure.

**2. Duties of the CPC**

The CPC shall be convened to :

- 2.1. examine all items put on the Conference Agenda by the Administrative Council, any Member State or the AU with the view to formulating recommendations for consideration by the Conference;
- 2.2. formulate draft resolutions, decisions, recommendations and other documentation for consideration by the Conference;
- 2.3. draw up a report on its work to be submitted to the Conference;

**ARTICLE 5 : TECHNICAL AND DEVELOPMENT CONFERENCE**

**1. The role of Technical and Development Conferences (TDC) is to:**

- 1.1. identify questions which will be investigated, and may create working groups to this end;
- 1.2. examine all the matters raised by the Conference of Plenipotentiaries, the Administrative Council and the sectors, and if need be, make recommendations;
- 1.3. draw up the programmes and methods of work in the sectors and determine objectives and orientation with regard to telecommunications development at the regional level;
- 1.4. examine the reports submitted to it and evaluate the activities of the various sectors.

**2. Participation**

The following may attend Technical and Development Conferences.

- 2.1. as full members:
  - a) Member States
  - b) Associate Members

2.2. in an advisory capacity:

- a) ITU;
- b) AU;
- c) regional telecommunications organizations;
- d) sub-regional telecommunications organizations;
- e) Recognized representatives from the private sector who are not associate members, duly authorized by the members they represent;
- f) Scientific and industrial experts from Member States.

**3. Initiative of Technical and Development Conference**

With the agreement of Council, the Secretary General will organize Technical and Development Conferences to discuss questions impacting on the development of telecommunications at the regional level, including radio-communications and standardization.

**4. Agenda of the Technical and Development Conference**

In accordance with article 10 of the Constitution, the Technical and Development Conference convenes to:

- a) examine specific questions regarding radio-communications, standardization in the area of telecommunications and development in telecommunications;
- b) examine any other issue on which the conference is competent to address;
- c) deal with all subjects featured on the agenda adopted by the Council as stipulated in article 2 of the Convention;
- d) draw up work programmes and directives to identify the questions and priorities relating to the development of telecommunications;
- e) give direction to the programme of work for the two sectors;
- f) identify the objectives and strategies which will enable a balanced development in telecommunications to be achieved on a continent-wide scale, with the understanding that priority will be given to countries classified as LDC's;



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- g) serve as a forum for examining questions of policy, organization or regulatory matters, as well as technical and financial questions necessary for the rapid development and expansion of telecommunications on the continent;
- h) examine the reports emanating from the working groups; approve, amend or reject the proposed recommendations contained in these reports;
- i) approve the programme of work proposed by the Advisory group, bearing in mind the limited resources of the Union;
- j) determine the priority, urgency, likely financial implications and the time required to complete the tasks assigned to the Working Groups;
- k) decide on the necessity of retaining, disbanding or creating Working Groups and specify the questions they should examine;
- l) group together those matters of special interest to LDC countries with the view to facilitating their participation in the Working Groups as indicated below;
- m) consider the reports of the sector directors detailing the activities conducted by the sectors since the last conference;
- n) recommend to Council the questions to be included on the agenda for future conferences;
- o) include in its decisions, instructions or requests to the Secretary General and to the sector directors, the Administrative Council and the Conference of Plenipotentiaries, as the case may be.

5. **Advisory Group**

The Advisory Group shall :

- a) Consider the items that emanate from the Technical and Development Sectors and give its opinion on the coordination of their activities;
- b) recommend measures concerning the Working Groups;
- c) recommend measures arrived at improving the coordination between the various sectors;
- d) examine the priorities and the programmes established by the Sectors;
- e) draw up a report for the TDC indicating the state of development of these activities and the recommendations that have been adopted.

6. **Working Groups**

6.1. **The Working Groups shall :**

- a) **study questions of interest to countries in the African Region. Such questions will deal with problems relating to development (policy, regulations, projects, human resources, and standardization, the management of radio-communications and the frequency spectrum, as well as tariffs);**
- b) **prepare a report for the TDC indicating the progress and the recommendations that have been adopted.**

6.2. **For each Working Groups, the the TDC will appoint a Chairperson, a vice-Chairperson and a rapporteur.**

6.3. **Details of the organization and operations of the Working Groups will be governed by their internal rules.**

7. **General arrangements regarding the TDC**

General arrangements regarding the convening, organisation and functioning of the TDC are specified in the internal regulations of the Conference.

8. **Financial responsibilities of the TDC's**

Before taking any decisions which may have financial implications, the TDC must ensure that no additional expenditure is incurred over and above what the Council has authorized.

9. **Venue for Conference**

9.1. The Technical and Development Conference shall be held at the Seat of the Union unless the Government of a Member State invites the Conference to meet in its territory in

which case any additional expenses over and above the expense which would result from holding the meeting outside the Seat will be borne by the inviting Member State.

- 9.2. Should a Government of a Member State invite the Union, the proposed host-government, in collaboration with the Secretary General, will address invitations to the Member States and to the international observers at least one month ahead of the opening of each Technical and Development Conference.

## **CHAPTER II**

### **ARTICLE 6 : TECHNICAL CO-OPERATION AND ASSISTANCE**

#### **1. Cooperation with sub-regional, regional, international organizations and bodies**

- 1.1. The Union may enter into partnership arrangements and co-operation agreements, with other inter-governmental organizations at sub-regional, regional, or international level, as well as with non-governmental organizations on condition that such arrangements serve the purpose and objectives of the Union.
- 1.2. The Union may establish co-operation agreement with continental, regional and sub-regional organizations in order to create synergies in the areas of general policy and regulatory issues and the financing and implementation of co-ordinated projects.
- 1.3. The Union may harmonize and coordinate its activities and those of other continental, regional and sub-regional organizations in order to ensure integrated planning of the network and infrastructure for the optimum utilization of resources.
- 1.4. The Secretary General and Directors of sectors will encourage the following bodies and organizations to participate fully in the activities of the Union:
  - a) other regional telecommunications organizations;
  - b) sub-regional telecommunications organizations;
  - c) entities and organizations who are not Associate Members;
  - d) scientific and industrial experts.
- 1.5. Any request to participate in the work of the Union must be approved by the Member State of the entity concerned, before being submitted to the Secretary General for processing according to the Union guidelines.
- 1.6. The Secretary General will maintain a list of all entities and organizations mentioned in 1.4 above. An updated version of this list will be circulated to Members at appropriate intervals.

- 1.7. Any entity and organization permitted to participate in the activities of the Union may relinquish its participation by advising the Secretary General of its intention to do so. The Member State concerned may also recommend the withdrawal of participation of such entity or organization.
- 1.8. Council specifies the terms and conditions of participation.

## **2. Technical assistance**

### **2.1. The Secretary General may approach international institutions for:**

- a) technical assistance in all areas of telecommunications;
- b) financial assistance in all areas of telecommunications;
- c) various other contributions in the field of telecommunications development in Africa.

The Council must endorse such an approach for assistance before any agreement can be entered into.

### **2.2. The Secretary General may assist a Member state or group of Member States, according to procedures laid down by Council.**

**ARTICLE 7 : OTHER PROVISIONS**

**1. Franking Privileges**

Throughout the duration of Conferences or meetings of the Union, and subject to certain limitations, delegates and personnel of the General Secretariat assigned to the Conferences or meetings shall enjoy franking privileges of telecommunications services between the venue of the conferences or meetings and their respective administrations. Telephone communications of limited duration between delegates and their families shall also be granted franking privileges.

**2. Relations between the Union and International Organizations**

- 2.1. In order to encourage overall intra-Africa and international co-operation in the field of telecommunications the Union shall collaborate with the International Telecommunications Union and other international, regional and sub-regional bodies whose activities and interests are related to telecommunications. The Union may invite such bodies to send observers to attend its conferences in a consultative capacity on the basis of the principle of reciprocity.
- 2.2. Agreements may be concluded between the Union and such other international, regional and sub-regional bodies.

**3. Technical Co-operation**

- 3.1. Member States may promote the exchange of technical and specialized personnel among themselves. They shall likewise share experiences and exchange information on technical and administrative matters through study missions, workshops and seminars.
- 3.2. The Union shall make efforts to assist Member States on Technical cooperation matters with the International Telecommunications Union and other specialized bodies in this field.

**4. Settlement of disputes**

- 4.1. Any dispute that may arise concerning the interpretation or application of any provision of the legal instruments of the Union shall be resolved in conformity with Article 34 of the Constitution.
- 4.2. The foregoing provisions shall be without prejudice of the choice of any mode of settlement that the parties concerned may jointly decide in keeping with the spirit of the Convention.

**5. Official and Working Languages of the Union**

- 5.1. The official languages of the Union shall be English, Arabic and French.
- 5.2. All documents of the Conference of Plenipotentiaries, Administrative Council, Technical and Development Conference and the General Secretariat for general distribution as well as interpretation shall be provided in the official languages of the Union.
- 5.3. If an application is made to the Secretary General to provide for the use of one of the languages of the AU other than those cited in section 5.1 above, oral or written, the additional cost so incurred shall be borne by the Member State(s) supporting the application after having obtained from the Member States(s) concerned an undertaking that the cost incurred will be duly paid by them.

**6. Suspension of a Member State or Associate Member**

- 6.1. At the recommendation of the Council or by its own accord, the Conference shall decide by 2/3 majority of Member States present advocating to suspend a Member State or Associate Member which:
  - a) fails to make its annual contributions to the Union for a continuous period of 3 consecutive years;
  - b) practices a policy that is inconsistent with the objectives of the Union.
- 6.2. Suspension of a Member State or Associate Member shall not exempt it from fulfilling its financial or other obligations to the Union during the period of suspension.

**7. Reinstatement of a suspended Member State or Associate Member**

- 7.1. A Member state or Associate Member suspended from the membership of the Union as a result of failing to meet its annual contributions to the Union shall be reinstated if it pays all its arrears of contribution.
- 7.2. Any decision by the Conference to revoke such suspension as set forth in paragraph 6.1 above shall be taken by 2/3 majority of the Member States present and voting.

**8. Voting Rights**

- 8.1. Each Member State shall have one vote at any Conference or meeting of the Union.
- 8.2. A Member State shall lose the right to vote if it fails to honour its financial obligations for a period of two consecutive years.

**ARTICLE 8 : DENUNCIATION, AMENDMENTS AND ENTRY INTO FORCE**

**1. Denunciation of the Convention**

- 1.1. Any Member State or Associate Member may denounce this Convention through a notification addressed to the Secretary General. The Secretary General shall notify the other Member States and Associate Members accordingly.
- 1.2. This denunciation shall become operative one year after the date of receipt of notification by the Secretary General.

**2. Amendment of the Convention**

- 2.1. A member of the Union may propose any amendment to this Convention. Any such proposal, in order to be timely circulated to and considered by all the Member States of the Union must, reach the Secretary General not less than two months prior to the opening date fixed for the Conference of Plenipotentiaries. The Secretary General shall, as soon as possible, but not later than one month prior to the latter date, forward any such proposal to all the Member States of the Union.
- 2.2. Notwithstanding the provision of section 2.1 above, a proposal to amend the convention or modify an amendment may be introduced at the Conference of Plenipotentiaries provided that consideration of such a proposal shall be approved by a majority of the delegations present and voting.
- 2.3. Any amendment to the Convention shall be considered adopted if it is approved by a simple majority of Member States present and voting.
- 2.4. Any amendment to the Convention shall be contained in the Protocol Agreements annexed to this Convention and shall enter into force thirty (30) days after the deposit of the tenth instrument of acceptance with the Secretary General of the Union by Member States.

**3. Entry into force of the Convention**

This Convention shall enter into force in accordance with Article 37 of the Constitution.

**4. Signing and Depository of the Convention**

- 4.1. In witness whereof, the respective Plenipotentiaries have signed this Convention in three sets of the original texts in the working languages of the Union, all texts being equally authentic.

- 4.2. One set of the original texts shall be deposited with the Government of the country of the Seat of the Union. The two other sets shall be deposited with the Secretary General of the Union and the Secretary General of the AU respectively. A set of the certified true copies of the original texts shall be sent to each Member State by the Secretary General.
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**THE 26 MEMBER STATES WHICH SIGNED THE ATU CONVENTION  
(CAPE TOWN, DECEMBER 1999)**

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1. ALGERIA
  2. BENIN
  3. BURKINA FASO
  4. BURUNDI
  5. CAMEROON
  6. CENTRAL AFRICAN (REP.)
  7. CONGO
  8. CONGO (DEM. REP.)
  9. EGYPT
  10. ETHIOPIA
  11. GABON
  12. GHANA
  13. COTE D'IVOIRE
  14. KENYA
  15. LESOTHO
  16. LIBERIA
  17. MALAWI
  18. MALI
  19. NIGERIA
  20. SENEGAL
  21. SOUTH AFRICA
  22. SUDAN
  23. TANZANIA
  24. TUNISIA
  25. UGANDA
  26. ZAMBIA
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*Official Gazette no. Special of 21/07/2018*

**Bibonywe kugira ngo bishyirwe ku mu gereka w’Iteka rya Perezida n°124/01. ryo ku wa 20/07/2018 ryemeza burundu Amategeko Shingiro n’Amasezerano by’Umuryango Nyafurika w’Itumanaho (ATU) byemerejwe i Cape Town, muri Repubulika y’Afurika y’Epfo, ku wa 07 Ukuboza 1999**

Kigali, ku wa **20/07/2018**

(sé)

**KAGAME Paul**  
Perezida wa Repubulika

(sé)

**Dr. NGIRENTE Edouard**  
Minisitiri w’Intebe

**Bibonywe kandi bishyizweho Ikirango cya Repubulika:**

(sé)

**BUSINGYE Johnston**  
Minisitiri w’Ubutabera/Intumwa Nkuru ya Leta

**Seen to be annexed to Presidential Order n°124/01. of 20/07/2018 ratifying the Constitution and Convention of the African Telecommunications Union (ATU) adopted at Cape Town, Republic of South Africa, on 07 December 1999**

Kigali, on **20/07/2018**

(sé)

**KAGAME Paul**  
President of the Republic

(sé)

**Dr. NGIRENTE Edouard**  
Prime Minister

**Seen and sealed with the Seal of the Republic:**

(sé)

**BUSINGYE Johnston**  
Minister of Justice/Attorney General

**Vu pour être annexé à l’Arrêté Présidentiel n° 124/01 du 20/07/2018 portant ratification de la Constitution et la Convention de l’Union Africaine des Télécommunications (ATU) adoptées à Cape Town, République d’Afrique du Sud, le 07 décembre 1999**

Kigali, le **20/07/2018**

(sé)

**KAGAME Paul**  
Président de la République

(sé)

**Dr. NGIRENTE Edouard**  
Premier Ministre

**Vu et scellé du Sceau de la République:**

(sé)

**BUSINGYE Johnston**  
Ministre de la Justice/Garde des Sceaux