



**CM/817 (XXIX)  
Annex II Rev.1**

**OAU CONVENTION FOR THE ELIMINATION OF MERCENARISM IN AFRICA**

**PREAMBLE**

We, the Heads of State and Government of the Member States of the Organization of African Unity;

**CONSIDERING** the grave threat which the activities of mercenaries present to the independence, sovereignty, territorial integrity and harmonious development of Member States of the Organization of African Unity;

**CONCERNED** with the threat which the activities of mercenaries pose to the legitimate exercise of the right of African People under colonial and racist domination to their independence and freedom;

**CONVINCED** that total solidarity and co-operation between Member States are indispensable for putting an end to the subversive activities of mercenaries in Africa;

**CONSIDERING** that the resolutions of the UN and the OAU, the statements of attitude and the practice of a great number of States are indicative of the development of new rules of international law making mercenarism an international crime;

**DETERMINED** to take all necessary measures to eliminate from the African continent the scourge that mercenarism represents;

Have agreed as follows:

**ARTICLE 1 – DEFINITION**

1. A mercenary is any person who:-
  - a) is specially recruited locally or abroad in order to fight in an armed conflict;
  - b) does in fact take a direct part in the hostilities;
  - c) is motivated to take part in the hostilities essentially by the desire for private gain and in fact is promised by or on behalf of a party to the conflict material compensation;
  - d) is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;
  - e) is not a member of the armed forces of a party to the conflict; and
  - f) is not sent by a state other than a party to the conflict on official mission as a member of the armed forces of the said state.
  
2. The crime of mercenarism is committed by the individual, group or association, representative of a State and the State itself who with the aim of opposing by armed violence a process of self-determination stability or the territorial integrity of another State, that practises any of the following acts:
  - a) Shelters, organises, finances, assists, equips, trains, promotes, supports or in any manner employs bands of mercenaries;
  - b) Enlists, enrolls or tries to enrol in the said bands;
  - c) Allows the activities mentioned in paragraph (a) to be carried out in any territory under its jurisdiction or in any place under its control or affords facilities for transit, transport or other operations of the above mentioned forces.

3. Any person, natural or juridical who commits the crime of mercenarism as defined in paragraph 1 of this Article commits an offence considered as a crime against peace and security in Africa and shall be punished as such.

#### **ARTICLE 2 – AGGRAVATING CIRCUMSTANCE**

The fact of assuming command over or giving orders to mercenaries shall be considered as an aggravating circumstance.

#### **ARTICLE 3 – STATUS OF MERCENARIES**

Mercenaries shall not enjoy the status of combatants and shall not be entitled to the prisoners of war status.

#### **ARTICLE 4 – SCOPE OF CRIMINAL RESPONSIBILITY**

A mercenary is responsible both for the crime of mercenarism and all related offences, without prejudice to any other offences for which he may be prosecuted.

#### **ARTICLE 5 – GENERAL RESPONSIBILITY OF STATES AND THEIR REPRESENTATIVES**

1. When the representative of a State is responsible by virtue of the provisions of Article 1 of this Convention for acts or omissions declared by the aforesaid article to be criminal, he shall be punished for such an act or omission.
2. When a State is accused by virtue of the provisions of Article 1 of this Convention for acts or omissions declared by the aforesaid article to be criminal, any other party to the present Convention may invoke the provisions of this Convention in its relations with the offending State and before any competent OAU or International Organization tribunal or body.

**ARTICLE 6 – OBLIGATIONS OF STATES**

The contracting parties shall take all necessary measures to eradicate all mercenary activities in Africa.

To this end, each contracting State shall undertake to:

- (a) Prevent its nationals or foreigners on its territory from engaging in any of the acts mentioned in Article 1 of this Convention;
- (b) Prevent entry into or passage through its territory of any mercenary or any equipment destined for mercenary use;
- (c) Prohibit on its territory any activities by persons or organisations who use mercenaries against any African State member of the Organization of African Unity or the people of Africa in their struggle for liberation;
- (d) Communicate to the other Member States of the Organization of African Unity either directly or through the Secretariat of the OAU any information related to the activities of mercenaries as soon as it comes to its knowledge;
- (e) Forbid on its territory the recruitment, training, financing and equipment of mercenaries and any other form of activities likely to promote mercenarism;
- (f) Take all the necessary legislative and other measures to ensure the immediate entry into force of this Convention.

**ARTICLE 7 – PENALTIES**

Each contracting State shall undertake to make the offence defined in Article 1 of this Convention punishable by the severest penalties under its laws including capital punishment.

**ARTICLE 8 – JURISDICTION**

Each contracting State shall undertake to take such measures as may be necessary to punish, in accordance with the provisions of Article 7, any person who commits an offence under Article 1 of this Convention and who is found on its territory if it does not extradite him to the State against which the offence has been committed.

#### **ARTICLE 9 – EXTRADITION**

1. The crimes defined in Article 1 of this Convention, are not covered by national legislation excluding extradition for political offences.
2. A request for extradition shall not be refused unless the requested State undertakes to exercise jurisdiction over the offender in accordance with the provisions of Article 8.
3. Where a national is involved in the request for extradition, the requested State shall take proceedings against him for the offence committed if extradition is refused.
4. Where proceedings have been initiated in accordance with paragraphs 2 and 3 of this Article, the requested State shall inform the requesting State or any other State member of the OAU interested in the proceedings, of the result thereof.
5. A State shall be deemed interested in the proceedings within the meaning of paragraph 4 of this Article if the offence is linked in any way with its territory or is directed against its interests.

#### **ARTICLE 10 – MUTUAL ASSISTANCE**

The contracting States shall afford one another the greatest measures of assistance in connection with the investigation and criminal proceedings brought in respect of the offence and other acts connected with the activities of the offender.

#### **ARTICLE 11 – JUDICIAL GUARANTEE**

Any person or group of persons on trial for the crime defined in Article 1 of this Convention shall be entitled to all the guarantees normally granted to any ordinary person by the State on whose territory he is being tried.

**ARTICLE 12 - SETTLEMENT OF DISPUTES**

Any dispute regarding the interpretation and application of the provisions of this Convention shall be settled by the interested parties in accordance with the principle of the Charter of the Organization of African Unity and the Charter of the United Nations.

**ARTICLE 13 – SIGNATURE, RATIFICATION AND ENTRY INTO FORCE**

1. This Convention shall be open for signature by the Members of the Organization of African Unity. It shall be ratified. The instruments of ratification shall be deposited with the Administrative Secretary General of the Organization.
2. This Convention shall come into force 30 days after the date of the deposit of the Seventeenth instrument of ratification.
3. As regards any signatory subsequently ratifying the Convention, it shall come into force 30 days after the date of the deposit of its instrument of ratification.

**ARTICLE 14 – ACCESSION**

1. Any Member State of the Organization of African Unity may accede to this Convention.
2. Accession shall be by deposit with the Administrative Secretary General of the Organization of an instrument of accession, which shall take effect 30 days after the date of its deposit.

**ARTICLE 15 – NOTIFICATION AND REGISTRATION**

1. The Administrative Secretary General of the Organization of African Unity shall notify the Member States of the Organization of:
  - (a) The deposit of any instrument of ratification or accession;

- (b) The date of entry into force of this Convention.
2. The Administrative Secretary General of the Organization of African Unity shall transmit certified copies of the Convention to all Member States of the Organization.
  3. The Administrative Secretary General of the Organization of African Unity shall, as soon as this Convention comes into force, register it pursuant to Article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, We, the Heads of State and Government of the Member States of the Organization of African Unity have appended our signatures to this Convention.

DONE at Libreville, Gabon this 3<sup>rd</sup> day of July, 1977 in the Arabic, English and French languages, all texts being equally authoritative, in a single original copy which shall be deposited in the archives of the Organization of African Unity.





LIST OF COUNTRIES WHICH HAVE SIGNED, RATIFIED/ACCEDED TO THE  
OAU CONVENTION FOR THE ELIMINATION OF MERCENARISM IN AFRICA

\*\*\*\*\*

LISTE DES PAYS QUI ONT SIGNE, RATIFIE/ADHERE  
CONVENTION DE L'OAU POUR L'ELIMINATION DU MERCENARIAT EN AFRIQUE

15/06/2017

No	COUNTRY/PAYS	DATE OF/DE SIGNATURE	DATE OF/DE RATIFICATION/ ACCESSION	DATE DEPOSITED/ DATE DE DEPOT
1	Algeria	21/07/1978	06/06/2007	11/01/2008
2	Angola	19/07/1979	-	-
3	Benin	16/07/1978	17/01/1979	03/05/1982
4	Botswana	-	-	-
5	Burkina Faso	05/03/1984	06/07/1984	21/09/1984
6	Burundi	-	-	-
7	Cameroon	19/07/1978	11/04/1987	08/06/1987
8	Central African Rep.	-	-	-
9	Cape Verde	10/07/2012	-	-
10	Chad	06/12/2004	02/08/2012	27/10/2012
11	Côte d'Ivoire	27/02/2004	-	-
12	Comoros	26/02/2004	18/03/2004	16/04/2004
13	Congo	-	01/04/1988	09/09/1988
14	Djibouti	15/11/2005	-	-
15	Democratic Rep. of Congo	20/03/1979	13/07/1979	13/07/1979
16	Egypt	31/03/1978	10/05/1978	21/06/1978
17	Equatorial Guinea	-	20/12/2002	19/02/2003
18	Eritrea	25/04/2012	-	-
19	Ethiopia	-	07/02/1982	16/06/1982
20	Gabon	-	18/05/2007	12/06/2007
21	Gambia	24/12/2003	30/04/2009	09/07/2009
22	Ghana	08/06/1978	20/07/1978	21/08/1978
23	Guinea-Bissau	08/03/2005	22/01/2015	27/07/2015
24	Guinea	10/02/1978	14/03/2003	22/05/2003
25	Kenya	17/12/2003	-	-
26	Libya	-	25/01/2005	11/05/2005
27	Lesotho	-	29/10/1982	21/01/1983
28	Liberia	19/07/1985	31/03/1982	09/06/1982
29	Madagascar	17/03/2004	31/08/2005	15/11/2005
30	Mali	-	25/09/1978	25/09/1978
31	Malawi	-	-	-
32	Morocco	-	-	-
33	Mozambique	-	-	-
34	Mauritania	31/01/2011	-	-
35	Mauritius	-	-	-
36	Namibia	-	-	-
37	Nigeria	10/02/1978	14/05/1986	24/06/1986
38	Niger	08/11/1979	11/07/1980	16/09/1980
39	Rwanda	13/03/1978	08/05/1979	01/06/1979
40	South Africa	-	-	-
41	Sahrawi Arab Democratic Republic	-	-	-
42	Senegal	08/02/1978	02/10/1981	08/01/1982
43	Seychelles	-	15/10/1979	15/10/1979
44	Sierra Leone	09/12/2003	-	-
45	Somalia	23/02/2006	-	-
46	South Sudan	24/01/2013	-	-
47	Sao Tome & Principe	01/02/2010	-	-
48	Sudan	13/11/1978	26/08/1978	26/08/1978

No	COUNTRY/PAYS	DATE OF/DE SIGNATURE	DATE OF/DE RATIFICATION/ ACCESSION	DATE DEPOSITED/ DATE DE DEPOT
49	Swaziland	07/12/2004	-	-
50	Tanzania	30/05/1979	04/03/1985	22/03/1985
51	Togo	16/07/1978	30/03/1987	05/05/1987
52	Tunisia	19/07/1985	24/04/1984	04/06/1984
53	Uganda	02/07/2004	-	-
54	Zambia	14/04/1982	21/01/1983	15/02/1983
55	Zimbabwe	-	27/01/1992	14/02/1992
	<b>Total countries : 55</b>	<b>of signature : 36</b>	<b>of ratification : 32</b>	<b>of deposit : 32</b>

### Note

- Adopted in Libreville, Gabon on 3 July, 1977.
- Entered into force on 22 April, 1985.
- Registered with the United Nations on 2nd March, 1990, Certificate No. 25573