

**Final Act of the  
Conference of Plenipotentiaries on the  
Agreement for the Establishment of the  
African Risk Capacity Agency**

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1. The Conference of Plenipotentiaries on the Agreement for the Establishment of the African Risk Capacity Agency (the "ARC Establishment Agreement") was convened by the Commission of the African Union (the "AUC") in collaboration with the African Risk Capacity (ARC) Secretariat pursuant to decision Assembly/AU/Dec.417 (XIX) adopted by the 19<sup>th</sup> Ordinary Session of the Assembly of the Heads of State and Government of the African Union in July 2012 in Addis Ababa, Ethiopia (the "AU Assembly Decision"), which, *inter alia*:

**"8. REQUESTS** the Commission in collaboration with ARC Secretariat to elaborate a legal agreement for the establishment of the African Risk Capacity (ARC);

**9. DECIDES** that ARC shall be established as a Specialized Agency of the African Union and accorded the privileges and immunities specified in the OAU General Convention on Privileges and Immunities;

**10. REQUESTS** the Commission to convene a meeting of government experts and subsequently a conference of plenipotentiaries before the end of the year to consider and adopt the establishment agreement;

**11. URGES** all African Union Member States to actively participate in the aforementioned process;"

2. The Conference of Plenipotentiaries on the Adoption of the ARC Establishment Agreement met in South Africa, at the kind invitation of the Government of the Republic of South Africa from 19 November to 23 November, 2012.
3. All Member States of the African Union (the "AU") were invited to participate in the Conference. The following 41 States accepted the invitation and participated in the Conference: Benin, Botswana, Burkina Faso, Burundi, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Djibouti, Egypt, Ethiopia, Gabon, The Gambia, Guinea, Kenya, Lesotho, Liberia, Libya, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Rwanda, Sahrawi Arab Democratic Republic, Senegal, Seychelles, Sierra Leone, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe.
4. The Conference was preceded by a Validation Workshop held 21-22 May 2012 and a Meeting of Government Experts held 13-14 September, 2012. The Meeting of Government Experts and the Conference were convened pursuant to the AU Assembly/AU/Dec.417 (XIX) of July 2012.
5. During the opening ceremony of the Conference of Plenipotentiaries, Hon. Nhlanhla Nene, Deputy Minister of Finance of the Republic of South Africa,

welcomed the delegates on behalf of the people and government of South Africa. He expressed the hope that delegations present would be able to adopt and sign the Establishment Agreement at the Department of International Relations and Cooperation (DIRCO) O.R. Tambo Building in Pretoria.

6. The Conference was formally opened by AU Commissioner for Rural Economy and Agriculture H.E. Tumusiime Rhoda Peace.
7. The Conference elected the following Bureau Members in accordance with the rules and the practices of the African Union:

<b>Chairperson</b>	<b>Chad (Central)</b>
<b>1<sup>st</sup> Vice Chairperson</b>	<b>Mauritania (North)</b>
<b>2<sup>nd</sup> Vice Chairperson</b>	<b>South Sudan (East)</b>
<b>3<sup>rd</sup> Vice Chairperson</b>	<b>Senegal (West)</b>
<b>Rapporteur</b>	<b>South Africa (South)</b>

8. After the election of the Bureau, the Meeting adopted the Agenda as follows and agreed on the Organization of work:
  - i. Opening Remarks
  - ii. Election of the Bureau
  - iii. Election of the Credentials Committee
  - iv. Adoption of the Agenda
  - v. Organization of Programme of Work
  - vi. Presentation on ARC and its Activities Thus Far
  - vii. Overview of Decisions Taken by AU Policy Organs
  - viii. Presentation on the Legal Structure and Organization of ARC
  - ix. Consideration of the Draft Agreement for the Establishment of the African Risk Capacity (ARC) Agency (Draft ARC Establishment Agreement)
  - x. Adoption of the Text of the ARC Establishment Agreement
  - xi. Adoption of the Final Act of the Conference, including Interim Arrangements
9. The Conference decided that the rules of procedure and the practices of the African Union would apply *mutatis mutandis* for the work of the Conference.



10. The Conference elected the following Credentials Committee Members in accordance with the rules and the practices of the African Union:

**Chairperson- Malawi (South)**

**Members- Central African Republic (Central), Liberia (West), Libya (North), Sudan (East)**

11. The main document that was before the Conference for adoption was the draft ARC Establishment Agreement.

12. The Plenipotentiaries were informed of the process to date, the decisions adopted by the Ministers of Finance and Economy, the Executive Council and the Assembly of Heads of State and Government as well as a proposal that the Establishment Agreement as adopted by the Conference would have to be submitted to the Heads of State for formal adoption. The Conference was of the view that full powers given by Heads of State or Ministers of Foreign Affairs to negotiate, adopt and sign the ARC Establishment Agreement as representatives of their government, empowered them, under the Vienna Convention on the Law of Treaties, to adopt and sign the agreement without reference to any other body. Furthermore, although the entity to be established would be a Specialized Agency of the AU, it would not be an-AU-funded organ. It would be a financially independent institution whose membership would depend on their becoming parties to the Establishment Agreement in accordance with previous AU decisions and their constitutional provisions.

13. The Conference approved the report of its Credentials Committee, as annexed to this Final Act.

14. The Conference, on 22 November 2012, adopted the agreed text of the ARC Establishment Agreement and this Final Act.

15. The Conference agreed that the ARC Establishment Agreement should be opened for signature in Pretoria on 23 November 2012 and remain open for signature at the African Union Commission Headquarters at Addis Ababa until its entry into force, and thereafter shall be open for accession by any Member State of the African Union.

16. The Conference requests the Chairperson of the AU Commission to include this ARC Establishment Agreement in the treaties available during the Signing Week in December 2012

17. The Conference requests the Managing Director, a.i. of the African Risk Capacity Project, in consultation with the Member States of the ARC Agency, to convene the first meeting of the Conference of Parties of the ARC Agency within two months after the date of the tenth signature of the Agreement for the Establishment of the African Risk Capacity Agency;

18. The Conference adopts the following interim arrangements for the implementation of the Agreement for the Establishment of the African Risk Capacity Agency following its provisional application on its signature by ten Member States of the AU and pending the convening of the first meeting of the Conference of the Parties.

19. The Conference of Plenipotentiaries requests WFP and the African Union Commission to amend the Agreement on the African Risk Capacity Special Arrangement between the African Union Commission and the World Food Programme (the "Special Arrangement") and to extend its duration so that the work of the ARC Agency can continue uninterrupted. Specifically, the Conference of Plenipotentiaries requests that WFP and the AUC amend the Special Agreement to:

a. Extend the duration of the Special Agreement until the matter has been considered by the ARC Agency Conference of the Parties, and action has been taken accordingly.

b. Retain all other provisions of the Special Agreement, including the appointment of the Managing Director, a.i. of the ARC Project, the scope of the technical and administrative services provided by WFP, and the financial arrangements, provided that the technical and administrative services shall be provided to the ARC Agency and to any subsidiary or affiliated entity established by the ARC Agency.

*IN WITNESS WHEREOF the Chairperson and the Rapporteur of the Conference of Plenipotentiaries has on behalf the Conference signed this Final Act*

*DONE in Pretoria, South Africa this 23rd day of November 2012 in Arabic, English, French, and Portuguese. The original text will be deposited with the Chairperson of the African Union Commission.*

