

IN THE SECOND SESSION OF THE EIGHTH PARLIAMENT OF THE FOURTH
REPUBLIC OF GHANA

REPORT OF THE COMMITTEE ON FOREIGN AFFAIRS
ON THE AFRICAN UNION CONVENTION ON CROSS-
BORDER COOPERATION (NIAMEY CONVENTION)

DECEMBER 2022

**REPORT OF THE COMMITTEE ON FOREIGN AFFAIRS ON AFRICAN UNION
CONVENTION ON CROSS-BORDER COOPERATION (NIAMEY
CONVENTION)**

1.0 INTRODUCTION

The African Union Convention on Cross-Border Cooperation was laid in Parliament on 25th October, 2022, and referred to the Committee on Foreign Affairs for consideration and report, pursuant to Standing Order 182 of Parliament.

2.0 REFERENCE DOCUMENTS

The Committee was guided by the following documents during its deliberations:

- i. The 1992 Constitution of the Republic of Ghana
- ii. The Ghana Boundary Commission Act, 2010 (Act 795)
- iii. The Immigration Service Act, 2016 (Act 908)
- iv. The United Nations Convention on the Laws of the Seas
- v. The African Union Convention on Cross-Border Cooperation (Niamey Convention)
- vi. Security and Intelligence Agencies Act, 2020 (Act 1030).

3.0 BACKGROUND INFORMATION

The African Union Convention on Cross-Border Cooperation (Niamey Convention) was one of the seven (7) legal instruments adopted at the Assembly of the Union's Twenty-third Ordinary Session held on 27th June, 2014 at Malabo, Equatorial Guinea. The

Niamey Convention aims to facilitate the peaceful resolution of border disputes at both local and international levels. It also seeks to promote effective and efficient integrated border management to serve as a catalyst for development and economic growth among Member Countries.

The Niamey Convention promotes cross-border cooperation in the following areas:

- i. Mapping and geographical information sharing
- ii. Socioeconomic development
- iii. Cultural activities and sports
- iv. Security, especially combating cross-border crime, terrorism, piracy and other forms of crime
- v. Demining of borders;
- vi. Institutional development

The Niamey Convention is indicative of the African Union's recognition of the important role that good border governance plays in ensuring peace, security and sustainable development. The recognition was also demonstrated at the 1964 Cairo Summit that underscored the need to prudently address the fundamental issues associated with the historical legacy of colonial borders and the attendant disputes within the continent.

It has been observed that boundary disputes and conflicts remain one of the major challenges confronting the African continent. It is estimated that only a third of the borders in Africa are properly delimited and demarcated. Unfortunately, the remaining poorly demarcated borders have been a source of various conflicts and

disputes between countries. Some of the disputes have been recorded between Kenya and Uganda, Eritrea and Ethiopia, Cameroon and Nigeria, Gabon and Equatorial Guinea, Burkina Faso and Niger, Benin and Niger, among others. More so, boundary disputes in Africa have been exacerbated by the continuous discovery of natural resources such as oil.

As a result of border disputes and conflicts, a number of lives and properties have been lost, and the resources most needed for economic development and wealth creation have also been adversely affected. Border disputes have been one of the major hindrances to oil and gas investments on the Continent. For instance, in Ghana, the development of the TEN Deepwater oil and gas project was delayed for several years until the disputes between Ghana and Cote d'Ivoire were resolved.

Therefore, the Niamey Convention is a demonstration of AU's commitment to a progressive border agenda to confront the associated challenges. For this purpose, the Convention was developed under the conviction that a legal framework for cross-border cooperation would accelerate integration in Africa and enhance the prospects for the peaceful resolution of cross-border disputes among Member States. This conviction, in essence, confirms the AU's recognition of the positive contribution of border governance in peace and security, integration, resource sharing

and trade facilitation, as well as inclusive growth and sustainable development of borderlands.

It is equally worth noting that criminal organisations take advantage of the porous borders to launch their activities in highly organised and complex ways to create insecurity along the borders. It was therefore, important that the Convention had made provision for cooperation towards combating cross-border crimes, terrorism, piracy and other criminal activities.

The Niamey Convention was inspired by the objectives and principles enshrined in the Constitutive Act of the African Union, adopted in Lome, Togo, on 11th July, 2000, as well as the Treaty establishing the African Economic Community adopted in Abuja, Nigeria, on 3rd June, 1991. The Niamey Convention also reaffirms the AU's principle of respect for borders existing at the time of accession to national independence.

Moreso, the Convention was developed with reference to several other instruments and international initiatives such as the United Nations Convention on the Law of the Seas, the African Union Border Programme (AUBP) and the Memorandum of Understanding on the Conference on Security, Stability Development and Cooperation in Africa. It is open to all Member States of AU for signature, ratification or accession in accordance with the constitutional requirements of each country.

After ratification or accession, a country can withdraw from the Convention upon giving one year notice in advance to the Chairperson of the Commission of African Union.

4.0 OBJECTIVE OF THE CONVENTION

The Convention seeks to:

- i. promote cross-border cooperation, ensure peaceful resolutions of border disputes and would promote and ease free movement of persons and goods;
- ii. seize the opportunities arising from shared borders and address the related challenges;
- iii. ensure efficient and integrated border management;
- iv. promote peace and stability through the prevention of conflicts, the integration of the continent and the deepening of its unity;
- v. facilitate the delimitation, demarcation and reaffirmation of the interstate borders, in conformity with mechanisms agreed upon by the parties concerned;
- vi. ensure peace and security at the borders which would help facilitate trade and movement of people to drive sustainable growth and development on the Continent. The African Union since its adoption of the Convention, seeks to support Member States in their efforts to improve border management and governance.

5.0 STRUCTURE OF THE CONVENTION

The Convention contains seventeen (17) Articles with the following key provisions:

- i. Article 1 – Defines the section that sets forth certain terms and expressions and their meaning pertaining to the Convention.
- ii. Article 2 – Covers the objectives of promoting cross-border cooperation and utilise the opportunities from shared borders to address related challenges.
- iii. Article 3 – Covers some of the commitments from State Parties to promote cross-border cooperation in mapping, geographical information, survey, socio-economic development, cultural activities, sports, security, demining of border areas, institutional development, and any other areas agreed upon.
- iv. Article 4 – Covers provisions for resolving legal, administrative security, cultural and technical impediments that may hamper cross-border cooperation efforts.
- v. Article 5 – Covers mechanisms and commitments for information and intelligence sharing.
- vi. Article 6 – Tasks State Parties to establish competent authorities and communicate of the structures to the Commission.
- vii. Article 7 – Requires State Parties to harmonise their domestic laws relating to cross-border issues with the provisions in the Convention.

- viii. Article 8 – Covers mechanisms for implementing cross-border cooperation at the level of State Parties.
- ix. Article 9 – Covers mechanisms for the implementation of cross-border cooperation at the level of the Regional Economic Communities.
- x. Article 10 – Covers mechanisms for the implementation of cross-border cooperation at the continental level.
- xi. Article 11 – Highlights the operations of the Border Programme Fund and the sources of finance.
- xii. Article 12 – Contains safeguard provisions.
- xiii. Article 13 – Provides for settlement of disputes.
- xiv. Article 14 – Highlights the mechanisms for signature ratification or accession to the Convention.
- xv. Article 15 – Sets out the coming into force of the Convention.
- xvi. Article 16 – Contains amendment provisions.
- xvii. Article 17 – Provides guidance on how to deposit the Instrument of Ratification of the Convention with the Chairperson of the Commission. It also covers processes that should be used should any State Party choose to withdraw from the Convention.

6.0 JUSTIFICATION FOR GOVERNMENT'S ACTION

Ghana has cross-border disputes with all its three neighbouring countries who have already signed the Convention; Cote d'Ivoire and Togo have already ratified theirs. Ratifying the Convention in

Ghana will therefore, enable the country to take advantage of the information sharing mechanisms provided to promote trade, and facilitate free movement of goods and people. This will drive economic growth and sustainable development in the private sector under the African Continental Free Trade Area (AfCFTA).

The establishment of the Ghana Boundary Commission and its enabling legislation (Act 975), as well as the 2021-2025 Strategic Plan of the Commission, are all in accordance with Article 6 of the Convention. Ghana, therefore, has satisfied the expectation under the Convention to justify the need for the ratification.

Ghana will also benefit from the capacity building programmes that the AU Commission has been mandated to implement to promote cross-border cooperation. Access to this knowledge will advance domestic knowledge on boundary management.

7.0 INTER-MINISTRY CONSULTATION

The Stakeholder consultations were organised under the auspices of the Ghana Boundaries Commission to seek inputs to help recommend the best course of action to Cabinet for approval. The Ministries consulted include:

1. Ministry of Foreign Affairs and Regional Integration,
2. Ministry of National Security,
3. Ministry of Defence,
4. Ministry of the Interior,

5. Ministry of Justice and Attorney-General,
6. Ministry of Chieftaincy and Religious Affairs and
7. Ministry of Local Government, Decentralisation and Rural Development.

8.0 OPTIONS AND IMPACTS CONSIDERED

As part of efforts to determine the appropriate course of action to promote border governance in Ghana, three options were analysed and discussed with stakeholders.

i. Ratifying the Niamey Convention in accordance with Article 17 of the Convention.

This implies that Ghana will ratify the Niamey Convention and incorporate its provisions into domestic legislation for implementation. In terms of impact, the ratification of the Convention by Ghana will result in the following socio-economic impacts:

1. Participate in various programmes and projects implemented by the AU Commission and partners to promote cross-border cooperation and effective border management;
2. Avoid the economic and social costs associated with cross-border disputes with neighbouring countries by utilising institutional structures and mechanisms under the Convention;

3. Improve security at borders through cooperation with neighbouring countries and thereby promote development of border communities;
4. Promote free movement of goods and people and facilitate trade;
5. Improve Government's credibility as a key player in the affairs of the continent by ratifying the Convention to demonstrate that the people of Ghana, represented by the Government, believe in the provisions and principles behind the Convention and
6. The country will be enjoined to submit periodic progress reports to the AU Commission regarding the implementation of the provisions of the Convention.

ii. **Incorporating the relevant provisions in the Niamey Convention into Ghana's domestic laws relevant to border management without ratifying the Convention.**

Under this principle, Ghana will not ratify the Convention but will adopt its principles and provisions by reviewing its domestic legislation and mechanisms for land and maritime boundary management.

This option does not commit the Government to the AU Commission on matters relating to the Convention. However, Ghana would have to take steps to revoke the signing of the Convention.

Such an action will undermine the credibility of Government unless it is able to advance a very strong case to justify the revocation. Article 17 of the Convention provides mechanisms for Member States to withdraw from the Convention.

Ghana will bear the full cost of all the programmes it will implement to promote effective border management.

iii. **Staying the ratification of the Niamey Convention.**

This option is similar to option two (2) except that Government would neither ratify the Convention nor withdraw its signature. Such an action will deny Ghana from any benefits from the programmes being implemented by the AU Commission to promote the achievement of the objectives of the Convention.

9.0 RECOMMENDED OPTION OF THE CONVENTION

Option One (1) is recommended because the Convention, when ratified, will facilitate the delimitation, demarcation and reaffirmation of the interstate boundaries in conformity with mechanisms agreed upon by parties concerned.

Secondly, activities to be implemented to promote the attainment of the objectives of the Convention will help transform border areas into catalysts for growth and contribute to AU's efforts towards socio-economic and political integration of the continent.

Implementation of programmes under the Convention will also facilitate the peaceful resolution of boundary disputes and ensure efficient and effective integrated border management.

Finally, ratifying the Convention will promote and reinforce peace, security and stability, ensure socio-economic development as well as support the effective application of community laws and regulations.

10.0 IMPLEMENTATION PLAN

Per Article 8 of the Convention, State parties are to establish appropriate mechanisms to ensure attainment of the objectives of the Convention by:

- establishing cooperation mechanisms;
- domesticating the provisions of the Convention in the development of national policies and strategies and
- submitting reports every two (2) years on measures taken towards the implementation of the Convention.

In this regard, domestic legislation on border management would be reviewed for the provisions of the Niamey Convention to be incorporated for implementation. However, implementation of the activities relating to the Convention would not be considered as a standalone project. Instead, the provisions would be aligned with

the 2021-2025 Strategy of the Ghana Boundary Commission to ensure financial prudence and cost efficiency.

Some of the key activities to be implemented include:

- Deposit the instrument of Ratification with the AU Commission by the end of May, 2022;
- Align the elements of the Convention with the 2021-2025 Strategic Plan of the Ghana Boundary Commission by June, 2022 and
- Review the Ghana Boundary Commission Act, 2016 (Act 795) to incorporate the provisions of the Convention by the end of June, 2022.

11.0 COMMUNICATION PLAN

The objective of this plan is to educate, inform, and capacitate stakeholders and the target audience. This would promote economic growth and sustainable development along the borders and Ghana as a whole. The target audience for communication have been grouped into two. The key collaborators include the security agencies; the Minister for National Security, Minister of Defense, Minister for the Interior, the Ghana Armed Forces, the Ghana Police Service, the Ghana Immigration Service, Customs, Electoral Commission and Ghana Civil Aviation Authority, who are directly protecting and securing our boundaries along the borders.

The chiefs who have vested interest in land and custodial disputes, and academic and research institutions who use literature to broaden their knowledge on border management, also play a key role.

The Ministries, Departments and Agencies (MDAs) will also be directly involved. The media will be engaged and provided with facts about the Convention, to enable accurate dissemination of information to the public. To prevent the spread of false news, the Ghana Boundary Commission will monitor the traditional news outlets regularly and correct any miscommunication.

12.0 COMMUNICATION CHANNELS

Communication activities have been designed to inform, educate and capacitate stakeholders to support border management activities, to promote economic growth and sustainable development, especially along border communities.

Disinformation and fake news are some of the issues that would have to be managed and for that matter, traditional and social media platforms would be tracked regularly so that false news or miscommunication regarding the implementation of the Convention, would be flagged for immediate response and corrective action taken to mitigate their negative impact.

The channels of communication will be grouped into the following three main categories:

- i. The digital channels: it will include emails, website, IEC materials and social media;
- ii. The face-to-face will be in the form of conferences, workshops, meetings and
- iii. Others will be letters, newspaper publications, and press releases.

The Ghana Broadcasting Corporation would be the key media for handling boundary management matters and issues related to the Niamey Convention.

In order for the communication to be effective, the Ministry of Communication and Digitalisation in its five-year strategic plan, will periodically monitor, assess and take corrective action to address gaps and weaknesses identified.

13.0 OBSERVATIONS AND RECOMMENDATIONS

i. RATIFICATION OF THE AU CONVENTION

The Committee was informed that out of the 55 AU Member States, only 17 have signed the Convention and out of the 17, only five including Togo and Burkina Faso have ratified it and deposited the instruments of ratification with the AU Commission in accordance with Article 17 of the Convention.

Ghana, however, is yet to ratify the Convention although the Country signed it on 4th July, 2017.

Since Ghana is bordered by Togo and Burkina Faso, the Committee considers it prudent for Parliament to ratify the Convention to ensure better cooperation among the neighbouring states and curb terrorist actions along the boundaries of the states.

ii. ACCOMMODATION CHALLENGES

The Committee was informed that the Ghana Boundary Commission rents its own office accommodation.

The Committee expressed concern about the inability of the Ministry of Lands and Natural Resources to find a parcel of land for the Ghana Boundary Commission to site its office building to ensure some savings are made. The Ministry of Lands and Natural Resources informed the Committee that arrangements were being made to allocate land to the Commission for the construction of its own office building in the ensuing year.

In the interim, the Committee urges the Ministry of Lands and Natural Resources to collaborate with the Ministry of Works and Housing to identify a suitable Government building to house the Commission to avoid payment of rent.

iii. DEFINING OUR BOUNDARIES

The Committee realised that although efforts had been made in the past to establish a Boundary Commission to assist in the proper demarcation of our borders, the process was not completed until three years ago when the Ghana Boundary Commission became operational.

The Commission informed the Committee about the porous nature of our boundaries and the need to properly define and secure them in collaboration with our neighbouring states. According to the Boundary Commission, a state is well defined when its borders are distinct. The issue of border demarcation has therefore, become more imminent due to terrorist activities in our neighbouring states.

The Committee urges the State to properly resource the Boundary Commission to ensure that it carries out its mandate and assist in securing our borders.

iv. INADEQUATE BUDGET ALLOCATION

The Committee observed that, the Boundary Commission is underfunded considering the enormity of its work. According to the Commission, it was allocated an amount of Two Million Ghana Cedis (**GHC2,000,000.00**) for the 2021 Fiscal Year, but only an amount of Six hundred and Seventy Thousand Ghana Cedis

(GH¢670,000.00) was released for its activities. The Committee was informed that the work of the Commission was mostly funded by donors; it also hires equipment to perform its duties. It was noted that GIZ and GNPC supported the Commission to purchase drones and GNS equipment in the 2021 Fiscal Year. The African Union Boundary Commission also sought funding for the Commission internationally.

The Committee considers the work of the Commission very important since it impinges on the security of the Nation. It therefore recommends that the Commission be supported financially in the ensuing year to perform its duties as required.

v. HARMONISATION OF THE CONVENTION WITH DOMESTIC LAWS

The Committee was informed that the Ghana Boundary Commission Act, 2016 (Act 795) would be reviewed after the ratification of the Convention. The review would bring the law into conformity with the provisions in the Convention and any other amendments that the Attorney-General may suggest.

The elements of the Convention will also be aligned to the 2021-2025 Strategic Plan of the Ghana Boundary Commission to ensure that they are effectively operationalised.

The Committee urges the Ghana Boundary Commission to ensure that all deadlines concerning the implementation of the Convention are met after the ratification by Parliament.

vi. FINANCIAL IMPLICATIONS

The Committee was informed that Ghana may not need to contribute financially towards the implementation of the provision of the Convention because activities under the Convention would be aligned to the 2021-2025 Strategic Plan of the Ghana Boundary Commission. The Committee suggests that Ghana should contribute towards the Border Fund as envisaged under Article 11 of the Convention.

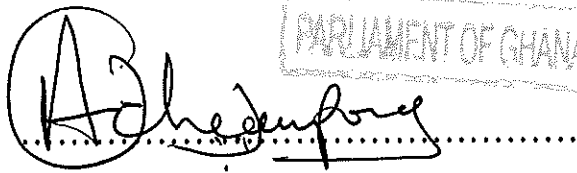
14.0 CONCLUSION

This Convention provides enormous opportunities to strengthen Ghana's integrated border management systems and establish cross-border cooperation with neighbouring countries to improve security and combat terrorism.

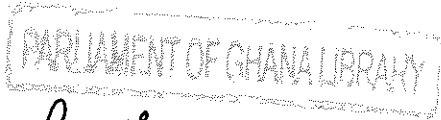
Undoubtedly, the Committee recognises the benefits Ghana stands to gain from the ratification of the Convention. The Convention, once ratified by Parliament, in accordance with Article 75 of the Constitution, will improve Ghana's image as a Country which is committed to the African Union and ECOWAS.

Consequently, the Committee recommends that the House ratifies by Resolution, the African Union Convention on Cross-Border Cooperation.

Respectfully submitted.

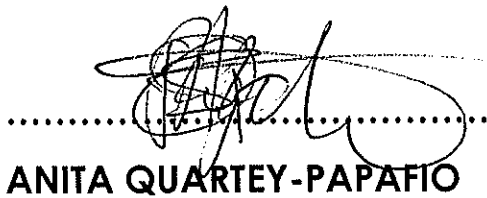


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HON BRYAN ACHEAMPONG

(CHAIRMAN, COMMITTEE ON FOREIGN AFFAIRS)



A handwritten signature in black ink, appearing to read 'Anita Quarthey-Papafio', is written over a horizontal dotted line.

ANITA QUARTEY-PAPAFIO

(CLERK TO THE COMMITTEE)

December 2022