I. INTRODUCTION

Two thousand and four marked the 10th anniversary of post-apartheid South Africa’s entry into the Organization of African Unity (OAU),1 the predecessor to the African Union (AU).2 Despite being the youngest member of the continental body, over the last few years South Africa has steadily assumed a leadership role on the African continent, alongside other member States, such as Algeria, Egypt, Nigeria and Senegal, in fighting for Africa’s interests and concerns in various world fora, including the United Nations and the World Trade Organization (WTO).3 It also has been at the forefront of setting the collective agenda of the African continent within the OAU and the AU, as well as in sub-regional bodies such as the Southern African Development Community (SADC).4 The

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1 The OAU was established on 25 May, 1963 with the adoption of the OAU Charter by thirty-two African States in Addis Ababa, Ethiopia. By the time it was formally replaced by the AU on 9 July, 2002, its membership comprised all the fifty-three independent African States with the sole exception of Morocco, which had withdrawn from the organization in 194 in protest against the admission of the Sahrawi Arab Democratic Republic. South Africa formally assumed membership of the OAU on 23 May, 1994.

2 The AU was established by the Constitutive Act of the African Union, adopted at the thirty-sixth ordinary session of the Assembly of Heads of State and Government of the OAU on 11 July, 2000, in Lomé, Togo; see Decision on the Establishment of the African Union, OAU Doc. AHG/Dec. 143 (XXXVI). However, following the entry into force of the Constitutive Act on 26 May, 2001, the OAU continued to operate for a transitional period of one year until it was replaced by the AU.

3 For example, starting with the WTO meeting in Cancun, Mexico, in September 2003, South Africa has been playing a visible leadership role, along with Brazil, China and India, among developing countries (the Group of 20) fighting for the interests of African and other developing countries in the current Doha round of WTO trade negotiations.

4 The Treaty establishing the Southern African Development Community (SADC), which replaced the organization previously known as the Southern African Development
agenda has been a vast one. It ranges from the championing of the cultural and political re-awakening of the continent, a project sometimes referred to in some circles as the “African Renaissance”;\(^5\) to such initiatives and programs as the New Partnership for Africa’s Development (NEPAD)\(^6\) and South Africa’s participation in African regional peace-making and peace-keeping operations.\(^7\) Furthermore, South Africa was one of the key voices advocating the need to transform the OAU into the new organization. It has also been a crucial player in the adoption of legal instruments setting out new norms and establishing new institutions under the aegis of the AU.

This Note primarily offers a survey of South Africa’s participation in OAU and AU treaties. In doing so, it attempts to assess South Africa’s contribution to the processes by which African States have contributed to the development of international law through the institutional framework provided by the OAU and,

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\(^5\) The “African Renaissance”, regarded by some of its advocates variously as an ideology, a cultural narrative and a political philosophy, has been particularly championed by, and is largely associated with, South Africa’s President Thabo Mbeki. Although its precise meaning and scope remains a matter for contention, it has more recently been formally incorporated into some official AU statements and pronouncements. For a collection of debates on the African Renaissance in the South African context see, M.W. Makgoba (Ed.), *African Renaissance: The New Struggle*, (Cape Town: Mafube/Tafelberg, 1999).

\(^6\) NEPAD was born out of two initially separate initiatives by five countries: Algeria, Egypt, Nigeria and South Africa, on the one hand, and Senegal, on the other. It was adopted, as the New African Initiative, as a program of the OAU by the thirty-seventh ordinary session of the OAU Assembly in Lusaka, Zambia, on 11 July, 2001; see AHG/Decl. 1 (XXXVII): Declaration on the New African Initiative. Later it was endorsed as a program of the AU by the inaugural summit of the AU in Durban, South Africa, on 12 July, 2002; see Ass/AU/Decl. 1 (I). See NEPAD Framework Document (October 2001), available at <www.nepad.org/documents/41.pdf>. Documents on NEPAD’s background history and objectives available at <www.nepad.org/en.html>.

\(^7\) According to a recent report, South Africa currently contributes 1,460 troops to UN peacekeeping operations, which include missions in the Democratic Republic of Congo, Burundi, Eritrea and Ethiopia. See Report of the UN Office for the Coordination of Humanitarian Affairs, “Review to Focus on African Peacekeeping”, available at <www. IRINnews.org/report.asp?ReportID=41604.html> (last visited 30 September, 2004). More recently, South Africa has assumed a leading role in mediating, on behalf of the AU, the political conflict in Ivory Coast; see *Le Monde*, Paris, 7 April, 2005, p. 2; see also the *Guardian*, London, 7 April, 2005, p. 15.