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**PROGRESS REPORT OF THE COMMISSION ON THE
INTEGRATION OF NEPAD INTO THE STRUCTURES AND
PROCESSES OF THE AFRICAN UNION**

PROGRESS REPORT OF THE COMMISSION ON THE INTEGRATION OF NEPAD INTO THE STRUCTURES AND PROCESSES OF THE AFRICAN UNION

I. BACKGROUND

It will be recalled that Decision Assembly/AU/Dec. 241(XII) of the 12th AU Summit in January 2009 on the Report of Heads of State and Government Implementation Committee (HSGIC) on NEPAD welcomed the commencement of the study on the structure and profile of the in-coming NEPAD Planning and Coordinating Authority following the appointment of Continental Development Alliance (CDA) consulting firm of Kenya. The Decision re-emphasized the need for the study to be guided, in particular, by the Algiers (March 2007) and Dakar (April 2008) Outcomes and agreed that the Study Report and Recommendations “should be circulated to all AU/NEPAD governance structures, for consideration to ensure broad and adequate consultation before submission to the Assembly for final pronouncement”.

The Assembly, in its Decision, noted the urgency of early conclusion of the integration process and agreed that the whole process be completed prior to the 13th AU Assembly in June/July 2009. The Assembly urged countries that had not yet submitted their suggestions on the structure and profile of the NEPAD Planning and Coordinating Authority to the African Union Commission, to do so as soon as possible. Furthermore, the Assembly decided that the NEPAD Secretariat should start using “the African Union Emblem concurrently with the NEPAD Emblem in all documentation, so as to retain the brand identity of NEPAD and the existing reporting structures of the Secretariat, pending the final determination on the NEPAD Authority”. It also re-iterated that the NEPAD vision and its program, from inception, had been an intrinsic part of the African Union System and needed to remain so and called upon the African Union Commission and the NEPAD Secretariat to harmonize their work programs and smoothen working relations in the interim period leading to integration.

This report assesses progress made in the integration of NEPAD into the African Union structures and processes. In particular, it presents the key findings and recommendations of the Study on integration, raises issues requiring guidance, and discusses progress made in harmonizing programs and activities of the African Union Commission and those of the NEPAD Secretariat.

II PROGRESS TO DATE

II.1 Study on Integration of NEPAD

Having signed their contract in December 2008, the Consultants submitted the inception report to the NEPAD Coordinating Unit, through the Department of Economic Affairs, on January 7, 2009. The Coordinating Unit provided comments to the Consultants, which were integrated in the inception report. The Consultants then undertook consultations with a wide diversity of stakeholders, including Member States, Regional Economic

Communities (RECs), the African Union Commission (AUC), the NEPAD Secretariat, United Nations Agencies, the African Development Bank (AfDB), civil society and private sector actors as well as non-African stakeholders.

In line with the AU Assembly Decision requesting Member States to submit their suggestions on the structure and profile of the NEPAD Planning and Coordinating Authority, the African Union Commission wrote to all the Member States that had not yet done so, to submit their suggestions. The Commission did not receive any submissions. The only submissions were, therefore, only the four received prior to the January/February 2009 AU Assembly.

The draft Study Report was subsequently submitted to the African Union Commission on April 15, 2009. Taking into account the AU Assembly Decision for the Study Report to be circulated to all AU/NEPAD governance structures, the Consultants, supported by the NEPAD Coordinating, held consultations on the Report with the NEPAD Coordinating Unit, the Permanent Representatives Committee (PRC), the NEPAD Steering Committee, the NEPAD Ad-Hoc Committee, and the AUC Chairperson and Commissioners. The purpose of which was to provide inputs into the draft Study Report to enrich its content and recommendations before submission to the NEPAD Heads of State and Government Implementation Committee and the AU Assembly.

II.1.1 Key comments on the draft study

Key comments made on the draft Study Report by those consulted included the following:

a) Study Failed to Understand that Integration of NEPAD is into the AUC not AU

Although the 2003 Maputo AU Assembly Decision, the 13-point conclusion of the Algiers NEPAD Brainstorming Summit of March 2007, and the outcomes of the Dakar NEPAD Review Summit of April 2008 refer to the integration of NEPAD into the structures and processes of the African Union (AU), this legally and logically constitutes integration into the AUC which is the central and core administrative, financial and policy setting structure of the Union. Integrating NEPAD into the AU would constitute integration into an abstract structure. Therefore, integration requires the NEPAD entity to be integrated into the AUC. Hence, the mandate accorded to the AUC Chairperson over the NEPAD Secretariat, including his authority to appoint, in consultation with the NEPAD HSGIC Chairperson, the Chief Executive Officer of the NEPAD Secretariat and its successor entity. Further, integration of NEPAD into the structures and processes of the AU would invariably imply that the NEPAD entity is an Organ of the AU. However, NEPAD is defined as a program of the AU. Its integration can, therefore, only legally be understood as integration into the AUC, rather than the AU. This approach is legally consistent with the various decisions adopted by the Assembly.

b) Legal Framework - Create the NEPAD Planning and Coordinating Authority by a Protocol Adopted by the African Union Assembly

The above confusion accounted for the proposal in the draft Study Report to establish the legal framework for the new NEPAD entity by way of a Protocol which would establish it as an Organ of the AU. This would provide the new entity with legal capacity to discharge its mandate in its host country, and conclude agreements with domestic and other international organizations. However, use of a Protocol would be contrary to the Decisions that define NEPAD (program and entity) not as a separate instrument or Organ, but a tool of the AU, hence, the Maputo Declaration which called for its integration. Furthermore, even if it was necessary to establish NEPAD as a separate legal entity, the mechanism of a Protocol would still be unnecessary since a separate legal entity can be established by way of a decision in terms of Article 5 (2) of the Constitutive Act.

c) Role and Value Addition of the NEPAD Entity vis-a-vis the AUC

The Report did not make a clear delineation on the roles and responsibilities of the NEPAD entity and the links – in terms of roles and functions - between it and the AUC. The report did not state how the current duplication of functions between the NEPAD Secretariat and the AUC could be overcome or how close collaboration would occur between them. The Study Report also lacked a clear articulation of the value added of the new entity as distinct from the AUC. While the Study Report makes the case for establishing the new entity, it failed to elaborate the ‘niche’ the new entity would occupy and what difference it would bring to the development table and landscape of the Continent, as distinct yet supportive and harmoniously aligned with the sectoral areas of the AUC.

The draft Report made reference to actual and potential overlap and conflict of responsibilities between the AUC and the NEPAD Secretariat, but failed to examine the implications of this for the two in their areas of work. In particular, it did not point out how duplication between various AUC Departments and the NEPAD entity would be resolved. To have done so would have also demonstrated that ultimate accountability for the development agenda of Africa lies with the AUC (through its elected officials – AUC Chairperson and Commissioners). However, due to lack of integration and harmonization between the NEPAD Secretariat and the Commission, this ultimate accountability has not been articulated sufficiently to internal and external stakeholders and partners.

d) Reconstitute Heads of State and Government Implementation Committee (HSGIC) as the Heads of State and Government Committee on Socio-Economic Development (HSGCD).

The Study also proposed changes to the nomenclature of the HSGIC to the HSGCD. Sufficient basis for the name change could not be found. It was therefore,

recommended that the name should either remain as it is or where justification is found the abbreviation should reflect the full title of the new nomenclature.

The Study also lacked sufficient proposals on how to strengthen the HSGIC to ensure that it is more inclusive with equitable rotation of membership. Further, the new composition of the HSGIC did not recognise the observer-status given in the pre-integration to the eight (8) AU-recognized RECs, UNECA, AfDB, UNDP, APRM, UN Office of the Special Advisor on Africa (UN-OSAA). The 13-point Algiers conclusions state that RECs and multilateral development institutions constitute two (2) of the four (4) major implementers of NEPAD. It is, therefore, necessary to retain the HSGIC observer-status of the RECs and partner institutions. This retention will promote continuity and wider buy-in of NEPAD programme implementation by these strategic partners.

e) Formal Linkages between the NEPAD Entity and the AUC

It was observed that the draft study failed to clearly set out the formal operational linkages between the NEPAD entity and the Commission (including formal linkages with Directorates and their respective Commissioners), as well as other reporting and oversight linkages such as:

- i. How to foster and maintain joint working, cooperation, coordination and harmonisation of programmes between the AUC and the NEPAD entity so as to ensure collective development of NEPAD activities and end the current arms-length approach between the NEPAD entity and a number of AUC Departments. This would also end the current practice whereby the AUC is simply informed of NEPAD activities without its direct involvement in the shaping of those activities to ensure conformity and alignment with Continental frameworks derived from the Commission;
- ii. How the NEPAD entity sectoral areas will report to the AUC, including specific Commissioners and Directors;
- iii. How to ensure the AU Assembly gets more involved in the activities of NEPAD;
- iv. How to ensure that countries that are not participating in NEPAD become more involved; and
- v. How the AUC Commissioners should get involved in the Study's proposed sectoral committees.

f) Establish a Board to oversee NEPAD Entity's Operations, Ensure Accountability and Support the Work of HSGIC

The draft study proposed the creation of a NEPAD Board, to ensure the delivery of the NEPAD programme and that the NEPAD entity complies with AU Assembly Decisions, and Declarations, including the AU gender policy. However, the composition of this Board was not well justified. These proposals include the following:

- i. Three Commissioners from the AUC should serve on the Board - however, the report failed to justify this proposal and which Commissioners these should be;
- ii. The NEPAD CEO should serve as an ex-official member of the Board - however, this would create a conflict of interest during periods of voting;
- iii. From Member States, the Board should primarily be comprised of Ministers of Planning – this proposal should be reconsidered as the structure and functioning of governments differ across countries;
- iv. The Chair of the Governing Board should be a member of the HSGIC – however, this would not make political sense as the Chair would be a member of the HSGIC to which his/her Head of State is already a member.

RECs were also not reflected on the Board. Given that RECs constitute fundamental pillars and building blocks of Africa's integration agenda, there was need to reflect them on the membership of the Board. The draft Study also put forward proposals on the role of the Board that were difficult to support. For example, it was recommended that an Executive Committee for the Board should be created which will prepare for the meetings of the Governing Board. However, in the spirit of integration and fostering formal linkages, this function should not be left to the Governing Board, but should be performed by the NEPAD entity, together with the NEPAD Coordination Unit in the Office of the Chairperson of the AUC.

g) NEPAD Secretariat to Support the HSGIC and NEPAD Board

The study also proposed the creation of a NEPAD Secretariat to support the NEPAD Board and HSGIC. However, since the study proposes that it should be located within the office of the Chairperson of the AUC, it is the NEPAD Coordination Unit in the Office of the Chairperson and the NEPAD CEO that should constitute the Secretariat that should serve the NEPAD Board and HSGIC.

h) Nomenclature of New Entity

The draft Study did not take into consideration the 12th AU Assembly Decision to transform the AUC into an AU Authority and the possible conflict and confusion that could arise of having an Authority owning an Authority. It was recommended that the draft study should make proposals on alternative names for the NEPAD entity in order to avoid confusion with the coming AU Authority.

i) Structures and Organigrams

A number of concerns were raised with the NEPAD organisational and governance structures proposed in the draft study.

- i) NEPAD entity organisational structures - the organisational structure of the new entity did not reflect the need for close collaboration between it and the

AUC Directorates; there was no recognition that the CEO would require personal staff (in accordance with his/her status as a Commissioner), or the need for a Protocol Unit responsible for Protocol issues within the new entity. The function, location, and number of staff proposed for the various Offices, Departments/Divisions within the new entity also needed to be re-looked at carefully; and

- ii) The proposed NEPAD governance structure - did not show the formal linkages and relationships with those stipulated in the Constitutive Act of African Union - the Permanent Representatives Committee (PRC) and the Executive Council. The existence of weak linkages was also not fully resolved. Rather, the organigram simply promoted the status quo whereby the NEPAD entity continued to be positioned as autonomous and NEPAD governance structure excluding any role for the PRC and the Executive Council, and also excluding other Heads of State and Government who are not members of the HSGIC, reducing the Assembly to a rubber stamp and depicting the HSGIC as an exclusive club. The draft Study failed to take into consideration that integration Decisions have called for a NEPAD entity that should be part and parcel of AU structures, and an instrument of the latter.

j) Financing the NEPAD Entity

The issue of guaranteed, innovative and sustainable financing for the successor entity had not been well addressed in the draft study, despite being a fundamental aspect of the Terms of Reference (ToRs). The study also failed to separate the operational budget and the programme budget of the NEPAD entity and how these should be financed. Rather, it advocated the status quo of voluntary contributions which have not been reliable.

II.1.2 Recommendations

The Consultants were requested to reflect on the comments given and to integrate them in the Study Report. In integrating the comments into the Study Report, the consultants were guided by the following recommendations:

a) Integration into the AUC

NEPAD integration should proceed on the legal basis that it is being integrated into the structures and processes of the African Union Commission. This would be in accordance with Decisions mandating its integration, and the role of the AUC as the central and core structure holding the Union together.

b) Legal Framework

- i) As a programme rather than an organ of the AU, the new NEPAD entity should be established by way of a Decision clearly defining its new mandate,

role, responsibilities, governance structure, reporting relationships and formal linkages with the AUC (including the AUC Directorates, PRC, Executive Council and Assembly). It should be provided with the legal capacity to discharge its mandate in its host country, as well as rights and privileges and ability to conclude agreements with domestic and international organizations; and

- ii) In view of the above, it is recommended that the new Host Agreement is amended to reflect the changes accorded by way of the Decision;

c) Role and Value Addition of the NEPAD Entity vis-a-vis the AUC

- i) The role of the NEPAD entity must be distinct from that of the AUC to avoid duplication of functions. In this regard, the NEPAD entity should be a 'Think Tank' at policy and programme level, supporting and complementing AUC policies, programmes and strategic objectives, as well as coordinating the implementation of AUC policies and programmes at the country and regional level. This would also be in accordance with the recommendations of the AU Audit of 2008, whereby the NEPAD entity, as part of its integration into the AUC, would be an instrument of the Commission. This role should also include helping the AUC translate the value added research and work derived from the NEPAD entity into policies, programs and projects. This would be in accordance with NEPAD's role as a programme of the AU, whereby the ultimate accountability for the development agenda in the Continent lies with the AUC not the NEPAD entity;

- ii) The value addition of the new entity and the niche that it should occupy to complement its 'Think Tank' role includes the following:

- Facilitation and coordination
 - Support the implementation of AUC policy and programmes at national and regional levels;
 - Ensure governments and local stakeholders are equipped and organised to take hold of the AU policies, programmes and projects;
 - Identify and address gaps in implementation at national, regional, continental and international levels.
- Partnerships development and resource mobilization;
 - Support, through follow-up and monitoring, the AUC as it leads and coordinates its political engagement with development partners, such as the G20, G8, Africa-India, Africa-Turkey and Africa-China;
 - Support the AUC, through joint initiatives, to promote partnership formations at different levels - international, national governments, civil society and private sector;
 - Mobilize resources for implementation of regional and continental projects and programs; and

- In collaboration with the AUC, support and organize bilateral and multilateral partnership fora such as the Africa Partnerships Forum (APF)
- Advocacy
 - Advocate and help to embed the vision, mission, policy and programmes and relevance of the African Union among a wide range of African stakeholders (civil society, private sector, local authorities, parliamentarians, Ministries, schools, academic institutions).

d) HSGIC

- i) HSGIC should provide high-level political intervention to raise Africa's profile and its agenda to the rest of the world, remove blockages affecting the implementation of AUC policies and projects, and delivery of international commitments on African development;
- ii) Report NEPAD entity activities to the AU Assembly and the RECs through the regional representatives on the Committee;
- ii) Representation on the HSGIC should be strengthened, in the following ways:
 - HSGIC should retain, as presently constituted, the position of one Chairperson and two Vice Chairs in view of increased membership and the drive to strengthen participation of African Leaders in the NEPAD process;
 - Membership composition of the HSGIC should include the five (5) initiating countries, the current AU Chair (during his/her tenure), AUC Chair and HSGIC member countries in accordance with the July 2008 11th AU Assembly Decision;
 - The rotation of membership for HSGIC member countries (excluding Algeria, Egypt, Senegal, Nigeria, and South Africa) should be every year;
 - The rotational system should be adopted with no second terms until all AU Member States have served, this would promote inclusiveness, and a level playing field;
 - The five initiating countries should be allocated sectoral responsibilities to ensure 'hands-on' engagement, effective coordination, direct strategic guidance and continued accountability and coherence by African Leaders of AU/NEPAD activities;
 - Observer status should be retained by the eight (8) AU-recognized RECs, UNECA, AfDB, UNDP, APRM, UN-OSAA. Observer status

should also be accorded to the three AU financial institutions, particularly, the African Investment Bank, once established, as well as the Pan-African Parliament.

- iii) The CEO of the NEPAD entity should serve as secretary to the HSGIC, working in close collaboration with the NEPAD Coordination Unit situated in the office of the Chairperson of the AUC.

e) Formal Linkages between the NEPAD Entity and the AUC

The mechanism proposed to ensure formal working relations between the AUC and the NEPAD entity, especially for programme co-ordination, harmonisation, joint working, cooperation, oversight of the NEPAD entity by the AUC as well input of the latter into the programme of work of the former are the following:

- Participation of sectoral NEPAD counterparts in AUC Departmental meetings - through the VSAT facility or monthly meetings between AUC Directorates and NEPAD counterparts - through VSAT or visits of NEPAD counterparts to AU Headquarters. Format of meetings should include an update of sectoral activities by AUC Directorates and NEPAD counterparts, respectively;
- Heads of NEPAD Divisions should report regularly to Commissioners, through Directorate Directors;
- There should be nomenclature alignment of NEPAD sectoral areas with those of the Commission;
- Sectoral Committees should be created for each sector, with Terms of Reference (ToR), and membership should comprise: AU Commissioners/Directors, sectoral Heads from the NEPAD entity, and sectoral Heads/Directors from Regional Economic Communities. The work of the sectoral committees should be submitted to the NEPAD Board for required approvals and information.

f) Establish a Board to Oversee NEPAD Entity's its Operations, Ensure Accountability and Support the work of the HSGIC

- i) A NEPAD Board should be created to ensure that the NEPAD programme is delivered and the NEPAD entity complies with AU Assembly Decisions, and Declarations;
- ii) The composition of this Board should be the following:
- All AUC Commissioners;
 - The NEPAD CEO should serve as the Secretary to the Board;

- From Member States, currently serving Ministers that have access to their Heads of State or Government, who are also in a position to speak authoritatively for their countries; and
- CEOs of the RECs;

Preparation of Board meetings should be undertaken in close collaboration with the NEPAD entity and the NEPAD Coordination Unit in the Office of the Chairperson of the AUC. The Board should work with the NEPAD entity and the AUC in preparing its strategic plan and the operational budget of the new entity. The Board should approve the strategic plan, annual work plans (which would include programme and project activities) and operational and programme budgets, of the NEPAD entity, after the HSGIC and the AU Assembly have approved its strategic plan.

g) Nomenclature of the new Entity

The new entity should be renamed to 'NEPAD Agency: a Programme and Think Tank of the AU'. This would clearly demonstrate the mandate of the new entity and its ownership by the AU.

h) Organizational Structures of the NEPAD entity

The organizational structure of the new entity should take the following into consideration:

- Structures should be aligned to the mandate and functions of the new entity, using the structure proposed in the Study as a starting point;
- The AUC Strategic Planning Department and AUC Directorates should have input into the final structure to avoid duplication;
- the CEO should have personal staff in accordance with his/her status equivalent to that of an AUC Commissioner (1 Special Assistant and two Advisers at P5 and one Personal Assistant at P3);
- The Legal Affairs Department - should 1) vet all agreements with third parties, and 2) assist in the interpretation of rules and provisions of agreements which the NEPAD entity is involved in;
- Communications and External Relations Division - should be 1) located in the Office of the CEO of the NEPAD entity;
- Grants Management Division - should manage grants, but a Committee, under the CEO's Chairmanship, should authorise grants with the Division;
- Procurement - the new entity should adopt the AU procurement manual for all forms of procurement; and
- Grading of officers should be aligned with the AUC grading system.

i) Financing the NEPAD Entity

- i) Operational budget - core funding should derive from statutory sources of funding through Member States, with a budget prepared jointly by the NEPAD entity and its Board and submitted to the Board for approval and finally recommended to the HSGIC and Assembly for final approval and adoption. The budget should be part of the overall AU budget which should go through PRC for information before Assembly, but would not be considered by the PRC (as it has already been considered by the NEPAD Board);
- ii) Programme budget – core funding should be complemented from other sources. NEPAD should plan ahead, secure pledges from partners a year in advance and therefore prepare its programme budget a year in advance;
- iii) Office accommodation should be provided for by the host country and should therefore not be part of the overhead costs.

j) Resource Mobilisation

- i) The NEPAD entity should not only focus on mobilising resources externally but should play an active role in mobilizing domestic resources for the implementation of national, regional and continental socio-economic programmes through the following sources:
 - African Private Sectors
 - Development partners & foreign direct investment;
 - Special grants; and
 - Endowments.

k) AU Rules and Regulations

The following AU rules and regulations should be adopted by the NEPAD entity in their entirety:

- AU Staff Rules and Regulations;
- AU Financial Rules and Regulations;
- The AU Procurement Manual; and
- The AU assessed contributions formula for Member State contributions to the NEPAD entity operational budget.

l) NEPAD Entity Strategic Plan

- i) The strategic Plan of the NEPAD entity should be prepared in close collaboration with the AUC and its Department of Strategic Planning, Policy Planning, Monitoring and Evaluation and Resources Mobilization;
- ii) The NEPAD entity Strategic Plan should not be a separate and autonomous document, but should have direct links to the AU Strategic Plan and AU Decisions;

- iii) The NEPAD entity Strategic Plan should be prepared after the AU Strategic Plan has been approved and adopted;
- iv) Sectoral Committees should have input in the development of the NEPAD entity Strategic Plan;
- v) The NEPAD entity Strategic Plan should be submitted to the NEPAD Board for approval, and recommended to the HSGIC and Assembly for final approval via the PRC for information.

m) NEPAD Coordination Unit in the Office of the Chairperson

- i) In view of the existence of this Unit, and as a means of promoting formal linkages between the Commission and the NEPAD entity, this report recommends that the Coordination Unit in the Office of the Chairperson of the AUC be charged with preparing, in collaboration with the NEPAD CEO, meetings of the NEPAD Board and the HSGIC (should the latter remain). It should also serve as the vehicle through which reports and Decisions are transmitted to the HSGIC or Assembly process (which would include the PRC and Executive Council).

n) Road Map for Integration

- i) The report recommends that the process of integrating NEPAD fully into the structures and processes of the AU should be completed within one year of the adoption of this report. This would enable a smooth streamlining of NEPAD activities and processes with those of the AUC. The roadmap set out in the study should be used as a basis and amended accordingly.

II.2 INTEGRATION ACHIEVEMENTS TO DATE

Pending the finalisation of the study on NEPAD integration into the structures and processes of the AU, a number of integration activities have been undertaken in areas that could deliver quick wins and could be accomplished over a short time frame. Since the 12th AU Assembly in January 2009, the following achievements have been made which include, amongst others:

- I. Assumption of Duty of the NEPAD CEO in March 2009;
- II. Visit by NEPAD Secretariat, Finance, Administration and Human Resource officers to the Commission and its Departments of Programming, Budgeting, Finance and Accounting (PBFA), and Administration and Human Resource Development (AHRD);
- III. Formal accreditation of the NEPAD Secretariat as an international organization and AU office in the Republic of South Africa;
- IV. Diplomatic and legal status applied to the NEPAD Secretariat in the Republic of South Africa;

- V. Use of AU emblem alongside the NEPAD emblem for all meetings and documentation;
- VI. Use of the AU flag;
- VII. Delivery of portrait of the AUC Chairperson to the NEPAD Secretariat in the Republic of South Africa;
- VIII. Format for short-term contracts for the NEPAD Secretariat jointly developed between it and the AUC;
- IX. Action plan developed for the dissolution of financial and administrative procedures from Development Bank of Southern Africa (DBSA) to the AUC and the NEPAD Secretariat;
- X. Work has commenced on the adoption by the NEPAD Secretariat of AUC travel management procedures;
- XI. AU registry, internal communication and correspondence system adopted by the NEPAD Secretariat; and
- XII. Work has commenced on the adoption of AU audit procedures.

III. CHALLENGES

Despite the progress made to integrate NEPAD into the AU, pending the finalization of the study, and the subsequent completion of the study, a number of challenges remain, which if not addressed, could undermine and set back the integration process. These include the following:

a) **Role of HSGIC and Parallel reporting structures**

Maintaining the HSGIC as a governance structure to which the NEPAD entity should report its activities and which serves as the final approving body for the NEPAD entity goes against the spirit of integration and creates a parallel reporting structure to the PRC, Executive Council and Assembly. The implications of maintaining the HSGIC is that it cannot be accommodated in such a way as to create formal linkages and convergence between it and the governance structures set out in the Constitutive Act, without reducing the Assembly to that of rubber stamping Decisions of the former and or PRC and the Executive Council receiving documents as information and thereby also excluded from processes of oversight and decision-making. This would also *de facto*, exclude the participation of other non-HSGIC AU Member States in the implementation, and oversight of the NEPAD programme and entity. Not to mention the AUC Chairperson and Commissioners who, as elected officials, have ultimate responsibility for the delivery of their mandate and development agenda in the Continent.

Although this report has attempted to put forward recommendations to strengthen the HSGIC, they do not and cannot entirely address the issue of parallel reporting, which if maintained, will continue to promote and possibly amplify existing confusions over the institutional architecture and ultimate authority over the administration of the NEPAD programme and entity. NEPAD cannot be partially integrated into the structures and

processes of the AU without its complete integration and adherence to the governance structures set out in the Constitutive Act. As a programme for the Continent, it should not be subject to separate processes but all Member States should feel that they have buy-in and ownership. The mandate to integrate NEPAD into the structures and processes of the AU is a clear demonstration that it is and should not be seen as autonomous to the AU structures and processes. Any proposals to complete the integration of the NEPAD into AU structures and processes must take the above into account.

In the best interest of the Continent, the institutional integrity of the Union and the spirit of integration, this report urges Member States to consider having one governance structure to which the NEPAD entity would also be ultimately reporting and accountable. The implications of this would be that it would help ensure coherence, clarity, tangible delivery and effective monitoring and oversight by the AUC. This would go a long way in clarifying to internal and external development partners that NEPAD integration is fully owned by the AU and fully completed. It would also help ensure that NEPAD as a programme and entity is appreciated and embedded in all Member States.

b). Harmonization of programmes with the AUC

Pending the finalization of the study on the integration of NEPAD into the AU, attempts have been made to harmonize programmes and activities between the NEPAD Secretariat and the AUC Directorates. However, progress on this matter has been slow. To accelerate the complete integration of NEPAD into the AU, promote joint working, cooperation, coordination and reduce overlap and duplication, this report calls on the AUC and the NEPAD Secretariat or new entity to apply all efforts to work expeditiously on this matter.

c). Financial, Human Resource and Programme Audit

Given the autonomy that the NEPAD Secretariat had in its operations and the non-alignment between its financial and human resources rules and procedures and that of the AU, the AU may not be fully aware of the entire content of the body it is receiving. There is, therefore, need to ensure that the NEPAD Secretariat undergoes a complete audit of its financial, human resource and programme content. Should this be acceptable, the Commission should be given the mandate to appoint the auditors..

IV. WAY FORWARD

For the way forward, this report recommends that the new NEPAD entity be established during the June/July 2009 AU Assembly. It further invites the June/July AU Assembly to consider and adopt the recommendations set out in this report. Further, this report stresses the need to address the issue of parallel reporting to promote coherence and inclusion over the management and implementation of the NEPAD activities and programmes.

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**REPORT OF THE FIRST MEETING OF THE PRC SUB-
COMMITTEE ON NEPAD**

June 5, 2009
Addis Ababa, Ethiopia

REPORT OF THE FIRST MEETING OF THE PRC SUB-COMMITTEE ON NEPAD

June 5, 2009
Addis Ababa, Ethiopia

I. INTRODUCTION

1. The meeting of the First PRC Sub-Committee on NEPAD was convened on 5th June 2009, at the African Union Commission, in Addis Ababa, Ethiopia. The meeting was convened following the conclusion of the PRC meeting held on 2nd June 2009, mandating the PRC Sub-Committee on NEPAD to review the Draft Study on the integration of NEPAD into the Structures and Processes of the AU and report back to the PRC.

II. ATTENDANCE

2. The following members and non-members of the Sub-Committee were present at the meeting:

Members: Algeria, Benin, Chad, The Great Libyan Arab Jamahiriya, Mali, Mauritius, Mozambique, Nigeria, Rwanda, Uganda, Senegal, South Africa.

Non-members: Angola, Lesotho, and Zimbabwe.

3. Before deliberating on the report, some members requested clarification from the Chairperson regarding the presence of non-members in the meeting, particularly regarding their role. In responding to this, the Chairperson informed the meeting that the involvement of non-member was due to the Note Verbale which was sent by the African Union Commission which indicated that the meeting should be open to all AU Member States in view of the importance of the matter. It was concluded that in future such invitations should be done in consultation with all the members of the Sub-Committee.

III. OPENING

4. The meeting was officially opened by H. E. Ambassador Pepani of the Embassy of the Republic of South Africa to the Federal Democratic Republic of Ethiopia. In his introductory remarks, the Ambassador thanked the members of the Sub-Committee on NEPAD who were present at the meeting. The Ambassador recalled that the study on NEPAD integration was commissioned following the July 2003, AU Summit held in Maputo mandating the AUC Chairperson, in consultation with the NEPAD Heads of State and Government Implementation Committee (HSGIC) Chairperson, to operationalise the integration of NEPAD into the AU structures and processes. He also indicated that the Decision was reaffirmed by the 18th HSGIC and 10th AU Summit of January/February 2008 (Decision (Assembly/AU/Dec.191(X))), mandating the African Union Commission to proceed with NEPAD integration, immediately, and in an expeditious manner. Further, the Ambassador indicated that the January 12th AU Summit called for an early

completion of the study in time for the June/July Assembly for 2009. In concluding his remarks, the Ambassador called upon the members of the Sub-Committee on NEPAD to focus their discussions on the recommendations of the study in order to come up with positive comments to enrich the Draft Study report.

IV. COMPOSITION OF THE SUB-COMMITTEE ON NEPAD

5. The composition of the PRC Sub-Committee on NEPAD is as follows:

Bureau:

- i. South Africa (Chairperson);
- ii. Algeria (First Vice-Chairperson);
- iii. Senegal (Second Vice-Chairperson);
- iv. Rwanda (Third Vice-Chairperson); and
- v. Cameroon (Rapporteur).

Membership:

- i. West: Benin, Mali, Nigeria and Senegal;
- ii. North: Algeria and Libya;
- iii. East: Mauritius, Rwanda and Uganda;
- iv. Southern: Mozambique, South Africa, and Zambia; and
- v. Central: Cameroon, Chad and Congo.

V. ADOPTION OF THE AGENDA

6. The meeting adopted the following Agenda:

- i. Opening;
- ii. Adoption of the Agenda;
- iii. Consideration of the Recommendations of the Draft Study on NEPAD Integration into the Structures and Processes of the African Union;
- iv. Any Other Business; and
- v. Closing.

VI. PROCEEDINGS

7. The Members of the PRC Sub-Committee on NEPAD commended the Consultants for the initiatives and efforts in preparing the study within the short period of time. However, the meeting made the following observations:

- i. The report did not consider all AU Decisions on the integration of NEPAD (Maputo as well as the Algiers Decisions), as part of the guidelines in conducting the study;

- ii. The report appeared to be based on wrong assumptions regarding the functions and mandate of NEPAD, hence wrong recommendations were made; and
- iii. The Consultants went beyond their mandate in proposing some recommendations;

8. It was pointed out, as a general comment that a number of the recommendations were based on a wrong understanding of NEPAD and it was proposed that most of these recommendations needed to be revised by the Consultants before finalization of the Study. The meeting agreed to focus on the recommendations from the Draft Study Report. However, members of the Sub-Committee were allowed to go into specifics of the report, particularly when there was need to make reference.

VII. CONSIDERATION OF THE RECOMMENDATIONS FROM THE DRAFT STUDY ON NEPAD INTEGRATION INTO THE STRUCTURES AND PROCESSES OF THE AFRICAN UNION

VII.1 Section 3: Mandate and Legal Framework of the NPCA

A.1- Recommendation 1: Create the NEPAD Planning and Coordinating Authority as a technical body of the African Union translating the Union development vision, policies and strategies into continental and regional projects through coordinating key stakeholders, building partnerships with key institutions and mobilizing resources

Discussion

9. The meeting considered the above recommendation and made the following comments:
- i. Integration of NEPAD into the structures and processes of the AU should involve value addition through harmonization of programmes and activities based on the capacity of both the AUC and the NEPAD Secretariat;
 - ii. It was observed that the above recommendation should not have come as a recommendation since it is already an Assembly Decision;
 - iii. The recommendation does not take into account the Assembly Decision which request integration of NEPAD into the structures and processes of the AU. Rather, it recommends creation of a parallel structure;
 - iv. The Draft Study did not take into consideration the recent AU Decision to transform the AUC into an Authority. Creating or transforming NEPAD into an Authority could cause confusion;
 - v. Whether the nomenclature is changed from that of Authority, the report did not clearly indicate what the new entity will do in addition to what is already being done by the AUC in order to bring value addition to the work of the AUC,

aimed at minimizing the current duplications and overlapping of activities and programmes of the AUC and the NEPAD Secretariat;

- vi. The new entity should not simply be a technical body but should be complementary to the AUC in terms of policy formulation;
- vii. It was debated as to whether the mandate was to integrate NEPAD into the AU or the AUC. Based on the AU Decisions, which were part of the supporting documents during the meeting, it was observed that a number of Decisions referred to integration of NEPAD into the African Union Commission;
- viii. The study should elaborate on the following features of the new entity so that it is clear what it will do and how it is distinct yet supportive of the AUC:
 - i. Value addition;
 - ii. Policy formulation;
 - iii. Set out clearly the mandate and functions of the new entity without overlap and duplication with the AUC; and
- ix. On page 62 the text should also include amongst the projects to be considered and coordinated by the new entity those of an 'inter-regional dimension.

Conclusion:

10. The meeting rejected this recommendation on the basis that the proposal is already an AU Summit Decision. However, it was recommended that the study should take into consideration recent AU Decisions to transform the AUC into an Authority. To this end, it was further recommended that a new name for the new entity should be found - possibly substituting 'Authority' with 'Agency' or any other name which would be agreed upon by the Summit. Further, the meeting requested a clarification on the distinct difference between Authority and Agency in the event that the term Agency is agreed upon by the Heads of State and Government.

A.2 Recommendation 2

Review and reconfigure the AUC Departments to focus on formulation and monitoring and evaluation of the African Union socio-economic development policy and strategic frameworks and to support the NPCA operations

Discussion

11. The meeting discussed the above recommendation and made the following comments:

- i. The recommendation is not in line with the mandate of the Study which is to integrate the NEPAD into the AU Structures and Processes;
- ii. Reconfiguration of the AUC Departments would bring confusion in this regard; Further, the study does not indicate how the AUC Departments would be re-configured;
- iii. The study went beyond its mandate by recommending the reconfiguration of the AUC;
- iv. The study should rather focus and recommend practical ways to overcome overlap and competition between the AUC and the NEPAD entity;
- v. The study should move along the lines of promoting harmonisation between the NEPAD entity and the AUC as indicated in the supporting paragraphs of the recommendation; and
- vi. The recommendation is not practical, it does not promote integration, AUC Departments cannot be reconfigured each and every time a new entity or Organ is to be created.

Conclusion

12. In view of the above, the meeting concluded that the Consultants went beyond their mandate and therefore the recommendation on the review and reconfiguration of the AUC Departments should be deleted.

Recommendation 3

B.1 Create the NEPAD Planning and Coordinating Authority by Protocol adopted by the African Union Assembly

Discussion

13. Based on the above recommendation, the meeting made the following comments:
- i. The meeting pointed out that NEPAD is a programme of the African Union since its establishment. Creating the new NEPAD entity by way of a Protocol would transform the new entity into an Organ which is not in line with the mandate of the integration process;
 - ii. The meeting proposed that the new entity could be created by the way of a AU Decision; and

- iii. NEPAD was never conceived or considered as an institution or a separate entity to the AUC but rather a programme of the AU.

Conclusion

14. The meeting recommended that the NEPAD entity should be created through an AU Summit Decision.

Section 4: NEPAD Governance Structure

C.1 Recommendation 1: Reconstitute Heads of State and Government Implementation Committee (HSGIC) as the Heads of State and Government Committee on Socio-Economic Development (HSGCD). This should be a Standing Committee of the African Union Assembly

Discussion

15. Regarding reconstituting the HSGIC, the meeting made the following comments:
 - i. The Consultants went outside their mandate by proposing a change to the nomenclature of the HSGIC;
 - ii. The recommendation should have rather looked at how to strengthen the HSGIC membership, inclusiveness, and ownership by Member States in conformity with the Algiers Decision and it should conform to the Decision of the 11th AU Assembly of January 2008, which recommends increasing the size of the HSGIC from 20 to 23;
 - iii. Disagreed with the proposal that the NEPAD Chief Executive Officer (CEO) should be an ex-official of the HSGIC. However, it was recommended that he/she should serve as a secretary to the Committee; and
 - iv. The study had no legal basis to change the nomenclature of the HSGIC;
 - v. On composition of HSGIC, it was agreed that it should remain as it is as per the AU Decisions.

Conclusion

16. In conclusion, the meeting rejected this recommendation.

C.2 Recommendation 2: Establish a Board for the NEPAD Planning and Coordinating Authority to oversee its operation, ensure accountability and support the work of the Heads of State and Governments Committee on Socio-Economic Development

Discussion

17. After deliberating on the above recommendation, the meeting made the following comments:

- i. The meeting disagreed with the composition of the members of the proposed Board. It was, therefore, suggested that the members of the Board should remain the preference of the country in view of the fact that NEPAD focal points differs from one country to another;
- ii. Some members expressed concern with the current composition of the NEPAD Governance Structure which they felt would hamper the integration process, particularly when it comes to reporting. It was recommended that this should be brought to the attention of the HSGIC. However, it was also recalled that the Algiers Decision clearly indicated that integration of NEPAD should not change the current configuration of the HSGIC; and
- iii. No need to have the Board in view of the fact that the roles given to the board are also similar to those being undertaken by the HSGIC which is already working as a Board. As a result, the value addition of the Board is questionable.

Conclusion

18. The meeting rejected the recommendation to replace the Steering Committee with the Board, based on the Algiers Decision, paragraph number 7, which states that “The NEPAD Steering Committee should continue to assist the HSGIC during the transition period”. Based on the Algiers Decision, the meeting was of the view that the NEPAD Steering Committee or any other substitute would not exist, as separate structure, after the transition period (after integration). It was observed that the setting up of the PRC Sub-Committee on NEPAD was undertaken along the understanding that the responsibilities of the Steering Committee would be transferred to this Sub-Committee within the spirit of integration, which includes the creation of a single governance structure.

C.3 Recommendation 3: Establish a NEPAD Secretariat to support the functioning of the Heads of State and Government Committee on Socio-Economic Development and the NPCA Governing Board

C.4 Recommendation 4: Organogram of the proposed NEPAD programme governance structure: summarizing the interrelationships

Discussion

19. The meeting discussed recommendation 3 and 4 together and made the following comments:

- i. It was observed that recommendation 3 was outside the mandate given to the Consultants and creates a structure that is at odds with what is desired in the integration process;
- ii. Recommendation 3 implies that NEPAD is an Organ of the AU, which should require a Secretariat. If NEPAD is integrated into the AUC it cannot have this structure;
- iii. At a conceptual level there should be a common understanding that NEPAD is being integrated into the structures and processes of the AU and creation of a Board would bring confusion in this regard; and
- iv. The organigram should be reviewed and tailored to the intergovernmental process occurring within the AU so as to foster ownership and inclusion.

Conclusion

20. The meeting agreed to reject the recommendation based on the fact that the Consultants went beyond their mandate.

D) Section 5: Linkages between NEPAD Secretariat and its Stakeholders

D.1 Recommendation 1: NPCA should develop and operationalise a framework for coordinating, collaborating, networking and communicating with its stakeholders

Discussion

- i. Disagreed with the proposal that the NEPAD Secretariat rather than the new NEPAD entity should interact with other stakeholders. The meeting then recommended that the new entity should be linked with the AUC and not other stakeholders as proposed by the Study;
- ii. The proposed organogram to be reworked to take into consideration the changes;
- iii. The report should focus on fostering greater ownership of NEPAD by both Member States and the Regional Economic Communities (RECs);
- iv. The study should also focus on how the PRC, Executive Council and Assembly could get more involved in the activities of NEPAD and in this regard how to take hold of new structures such as the newly created PRC Sub-Committee on NEPAD;

- v. The report should give RECs, the private sector and civil society more prominence in how they will interface with the new entity and how the new entity would improve its engagement with these stakeholders; and
- vi. The report should set out clearly what the formal working relationship should be between the AUC and the NEPAD entity and how the two will organise, harmonise and synchronize their programme of work.

Conclusion:

The meeting rejected the linkages as presented in the report as they were based on wrong premise and understanding of NEPAD.

E) Financing

Discussion

- i. Financing of the new entity should come through the AU budgetary processes (PRC Sub-Committee on Budgeting, PRC, Executive Council and Assembly);
- ii. The core/operational costs of the new entity should derive from contributions from all Member States;
- iii. One of the roles of the PRC Sub-Committee on NEPAD could be to help define the role of the new entity, particularly on financial management and administrative issues;
- iv. Resource mobilisation and sustainable resources is a matter that should also be located within the wider context of alternative sources of funding for the Union;
- v. The study needs to be creative and propose creative ways of mobilizing resources from within the Continent, particularly from the African private sector; and
- vi. Integration of NEPAD into the AU should entail the complete and automatic adoption of AU rules, regulation and AU auditing processes and procedures.

Conclusion

21. In conclusion, the importance of linking contributions with ownership was agreed upon. It was recommended that upon integration, NEPAD should adopt and use AU financial and auditing rules and regulations as well as procedures.

F) Road Map

Discussion

22. The meeting exchanged views on the matter and made the following observations:
- i. The road map does not address the issues pertaining to how the integration process would be achieved. For example, the road map does not define the mandate, function, harmonization of programmes and activities with the AUC, formalizing working relations between the AUC and the NEPAD entity, among others;
 - ii. The road map to include all the AU Decisions on integration, starting from the Maputo Summit;
 - iii. NEPAD structures must be coherent with some autonomy to enable it to clearly deliver on its newly defined mandate;
 - iv. The road-map should change to include the comments from various stakeholders; and
 - v. The role of the AUC in the road map should be very clear.

Conclusion

23. It was agreed that the important thing is to ensure that the NEPAD entity works effectively and it is able to clearly deliver on its mandate. It was agreed that the structure should be created and that the profiles be developed.

VII. ANY OTHER BUSINESS

24. Members raised concerns regarding the finalization of the Study by the Consultants taking into account all the comments made, given that the study should be submitted to the next AU Summit in June/July 2009. To this effect, it was proposed that the AUC should prepare a comprehensive report based on the comments received which should be submitted to the Summit together with the Study Report.

VIII. CLOSING

25. His Excellency Ambassador Pepani thanked all the Members of the Sub-Committee for their contributions and comments. Further, he called for collective responsibility from the members to be submitted to the NEPAD Sub-Committee in the submission of the report to the PRC.

26. The meeting requested the Commission to clarify the reporting processes of the study to the AU Summit, particularly in view that the comments of PRC Sub-Committee on NEPAD will be submitted to the PRC at a later date. In giving a response, the Commissioner for Economic Affairs informed the meeting that the Commission will prepare a report based on the study and comments received from all stakeholders which will be submitted to the Summit through HSGIC. This is in line with the Decision of Heads

of State and Government, mandating the Chairperson of the AUC to undertake the study on the integration of NEPAD. However, it was agreed that the comments of the PRC Sub-Committee on NEPAD be submitted to the PRC separately.

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