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**EXECUTIVE COUNCIL
Eleventh Ordinary Session
25 – 29 June 2007
Accra, GHANA**

EX.CL/333 (XI)

**DRAFT REPORT OF THE ORDINARY SESSION OF THE
ADVISORY SUB-COMMITTEE ON ADMINISTRATIVE,
BUDGETARY AND FINANCIAL MATTERS**

Draft Report of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters held from 13-15 June 2007 at the AU Headquarters

1. The Advisory Sub-Committee on Administrative, Budgetary and Financial Matters met from 13 to 15 June 2007, in the Conference Hall to consider pending Administrative and financial matters that needed to be concluded before the Executive Council meeting slated for Accra.

In attendance

2. The representatives of the following Member States attended:

- | | |
|-----------------------------|------------------|
| 1. Algeria | 21. Mali |
| 2. Angola | 22. Mauritius |
| 3. Benin | 23. Mauritania |
| 4. Botswana | 24. Mozambique |
| 5. Burkina Faso | 25. Namibia |
| 6. Burundi | 26. Niger |
| 7. Cameroon | 27. Nigeria |
| 8. Chad | 28. Rwanda |
| 9. Democratic Rep. of Congo | 29. SADR |
| 10. Republic of Congo | 30. Senegal |
| 11. Cote d'Ivoire | 31. Sierra Leone |
| 12. Egypt | 32. Sudan |
| 13. Gabon | 33. South Africa |
| 14. Gambia | 34. Swaziland |
| 15. Kenya | 35. Tanzania |
| 16. Ghana | 36. Tunisia |
| 17. Equatorial Guinea | 37. Uganda |
| 18. Lesotho | 38. Zambia |
| 19. Libya | 39. Zimbabwe |
| 20. Malawi | 40. Cape Verde |

I. a) Opening session of the Sub-Committee

3. The Chairperson of the Sub-Committee welcomed all members and reiterated the significance and importance of the session. He indicated that a number of Staff related items and the Audited report of PAP were pending and needed to be concluded as mandated by the Executive Council. He appealed to the delegations to work expeditiously to ensure the assignment was completed.

b) Organization of Work

4. The following working hours was adopted:

Morning: 10:00 am – 13:00
Afternoon: 15:00 pm—18:00.

c) Adoption of the Agenda

5. The proposed scheme of remuneration and benefits for members of the African Court on Human and People's Rights was deleted from the draft agenda because the competent sub-committee had not finalized its consideration and submission to the PRC. The Sub-Committee then adopted the following Agenda.

- I.
 - a) Opening Ceremony
 - b) Organization of Work
 - c) Adoption of the Agenda
- II Report on the Special Audit on Conference of Intellectuals, Dakar , 2004
- III. Reports of the Board of External Auditors for the Pan-African Parliament
- IV. Report on the Harmonization of the Remuneration Policy
- V. Report on the review of the social security system
- VI. Any other business

II. Consideration of the Report on the Special Audit on Conference of Intellectuals, Dakar, 2004

6. In presenting the report, the chief of staff on behalf of the Commission informed the Sub-Committee that Ernst & Young (E&Y) had been invited to be present during consideration of the audit report in line with the Council Decision, but it declined citing the reason that its principal partner who must present, was in the USA on duty and instead requested that the meeting be postponed. The Commission indicated to E&Y that the meeting could not be postponed and insisted that the Commission engaged the Firm not an individual and therefore saw no reason why E&Y could not send representatives especially the persons who had worked with the Commission all along. Unfortunately E&Y had not sent any representative.

7. Following that explanation, the Commission then made a presentation of its response on the Special Purpose Audit of the Dakar Conference of Intellectuals, 2004. While regretting mistakes made by the Commission, it pointed out that the purpose of the response was simply to put straight some factual errors and misstatements but not to put up a defence. E&Y was supposed to

submit its report in November 2006 according to the contract but did not do so until 24 January 2007. It had not identified individual weaknesses instead it had sought for forensic audit which it did not mention earlier during the negotiation of the terms of the audit. On its part, Commission reiterated the Chairperson's commitment to ensure rules and regulations are followed and that all those staff found negligent during the execution of the conference will be duly held accountable according to the staff rules and regulations. The Commission then pointed out a correction on paragraph 27 of the Management Response, where the total actual expenditure of the Conference should have read US\$3,158,233.82 and not US\$ 2,635,409.21 assuming relevant refund is obtained from Senegal and South Africa.

8. In the debate that ensued, delegations made the following observations:
- Disappointment and concern with the manner in which the Commission handled the Conference, especially on sourcing funds from General Funds without approval from the relevant organs of the Union.
 - The decision to out source organisation of the conference was inappropriate given the wealth of experience the Commission has in this field
 - There was a lot of impropriety in the execution of the conference
 - There was ample evidence that the functionaries carried out instructions without following laid down rules
 - The laid down tendering rules and procedures were flouted
 - E & Y unfortunately only identified institutional shortcomings but failed to identify any individual shortcomings. This was still necessary to be done.
 - All those staff found culpable must be held to account even if some may have separated from the Commission.
 - A number of delegations expressed the view that the incident revealed political and financial weaknesses and problems within the organisation and it was now time to bring the matter to a close and ensure lessons learnt are never repeated in the future.
 - Since the total cost of the conference had now been confirmed by the auditors, it should be regularised and all member States who made pledges for the conference be urged to fulfil them and legitimate dues from Rapidawn followed and recovered.

9. After consideration of both the Report and Management Response, the Sub-Committee then made the following recommendations:

- Individuals who are culpable for lapses relating to the Dakar conference must be pursued and appropriate financial and disciplinary actions taken against them.
- The chairperson must fulfill his undertaking that he will take appropriate measures against staff determined to have been negligent in the performance of their duties with respect to the Dakar Conference.
- Furthermore, the chairperson is requested to follow through his instructions that no Department or Unit must act outside existing rules and regulations and that the relevant PRC Subcommittees are consulted as and when required.
- Amounts due from Rapidawn must be followed up and retrieved
- All Member States who made pledges for the conference should be urged to make good their pledges.
- E & Y should appear before the PRC to provide further clarifications on its report in line with the Executive Council Decision.
- There is need to have this matter closed. However, it should be done properly to ensure such incidences do not reoccur.
- There is need to bring this matter to the Council for the Decision

III. Consideration of the Reports of Board of External Auditors for the Pan African Parliament

10. In compliance with the Decision of the Executive Council that an audit of PAP's operations be undertaken by External Auditors, the AU Board of External Auditors audited the accounts of the PAP for the three financial years 2004, 2005 and 2006. The Chairman of the Board of the External Auditors presented the three reports to the Sub-Committee.

11. In the ensuing discussions, following the presentation, members of the Sub-Committee noted that the three reports were disturbing and of great concern in light of the following shortcomings observed:

- a) Complete and systematic disregard of the AUC Financial Rules and Regulations, such as applying per diem rates in excess of entitlements, payment of responsibility allowances, etc.

- b) Non-compliance with Decision EX/CL/Dec. 98 (V) of the Executive Council which decided that “Member States should bear the expenses of participation of members of the Pan African Parliament, including the members of the Bureau and the Committees (air tickets, per diem, and other related expenses) at the statutory meetings of the Pan African Parliament and its Committees during the first five years of its existence”. The decision also stipulated that Members of the Bureau should not reside at Headquarters during the first five years of the existence of the Parliament, which has not been complied with;
- c) Non-compliance with above decision, which further stipulated that sitting and responsibility allowances, as well as the Solidarity Fund, Medical Insurance and other allowances for members of the Pan African Parliament should continue to be borne by member States during the said Five Years;
- d) Gross mismanagement of funds including the creation of a Trust Fund without approval of the competent policy organs of the Union;
- e) Payment of allowances including overtime to categories of staff who are not eligible according to the Staff Rules and Regulations;
- f) Failure to implement the policies and procedures contained in the Financial Rules and Regulations and the Staff Rules and regulations, which are applicable to all organs of the African Union.

12. The Clerk of Parliament informed the PRC that the Bureau was acting within its powers in deciding on per diem rates since it was responsible for the management and administration of PAP in terms of Article 12 of the Protocol. He also pointed out that the Council decision did not make provision for official missions of PAP such as those made to Darfur and Chad, etc, and the Bureau had to decide on this.

13. The Legal Counsel, in clarifying whether the operations of the Bureau had complied with Provisions of the Protocol and the AU rules and regulations stated that:

- (i) The existing Rules and Regulations and the Decisions of the Executive Council were clear and unambiguous. If PAP or the Bureau had identified any matters requiring interpretation, they should have resorted to the provisions of Article 20 of the Protocol which stipulates that such interpretation be referred to the Assembly. Council decisions, as endorsed by the Assembly, amounted to interpretation of the protocol by the Assembly.

- (ii) Article 12 of the Protocol, must be read in conjunction with Article 11, which gives PAP advisory and consultative powers for the first five years. The decision of Council that Bureau members should not reside at Headquarters had the effect of interpreting the Protocol to the effect that whilst the Bureau had the responsibility for policy decisions including overall management and administrative decisions, the Clerk, who is the accounting officer, is vested with daily management and administrative responsibilities.
- (iii) PAP or the Bureau should have referred back to Council the issue official missions rather than deciding on its own.

14. After an extensive debate on the three audit reports, the Sub-Committee made the following recommendations:

- i. PAP is an organ of the Union and has to be answerable, through established hierarchical organs, to the body that created it;
- ii. PAP should respect the AU Financial Rules and Regulations, the AU Staff Rules and Regulations, as well as all relevant Decisions of the Executive Council, and refrain from making its own rules;
- iii. PAP should align its internal Rules of Procedure to the Protocol as it promised to do during the session of Council in January 2007;
- iv. The political leadership will have to make a decision on the total disregard by PAP of AU Financial Rules and Regulations, Staff Rules and Regulations, as well as decisions of the Executive Council. Further, council could decide on what should happen to amounts paid out illegally and in contravention of its decisions and the way forward.
- v. It is important that the Clerk, as the Accounting Officer of PAP, be present when the Audit Report is being considered in Accra, Ghana.

IV. Consideration of the Report on the Harmonization of the Remuneration Policy

15. In introducing the report on the Harmonization of the Remuneration Policy, the representative of the Commission recalled the main recommendations made by the Advisory Sub Committee on Administrative, Budgetary and Financial Matters during its meeting held on 27 and 28 March 2007 to adjust the current salary scales of the Commission, as reflected in the report. She further indicated that during the said meeting, the Sub Committee had agreed that the Commission should harmonize its salary scale and had authorized the required

financial resources amounting to US\$1,982,592.00 which was necessary to undertake the adjustment to the scale and which was to be charged to arrears. She indicated that, in accordance with the Sub-Committee's recommendation, the Commission has prepared the detailed financial implications, which were now attached to the report for consideration. The representative finally expressed the high appreciation of the Commission to the Sub Committee for these recommendations on the issue of harmonization of salaries and invited the Sub Committee to consider the other related proposals submitted by the Commission with a view to covering all relevant aspects on the whole issue of remuneration policy. The Sub-Committee then adopted the report.

V. Consideration of the Report of the Review of the Social Security System

16. With respect to the report of the review of the Social Security scheme, the representative of the Commission recalled the meeting of the Advisory Sub Committee held on 5 April 2007 during which, following the presentation made by the Commission and the ensuing extensive exchange of views, the Sub Committee agreed to reconvene in order to further consider the report and make the necessary recommendations to the PRC. She drew the attention to document ADM.HRD/7/2833 which contained the main recommendations of the Commission, which required a decision from the Executive Council and invited the Sub Committee to consider this document together with the main report.

17. During the debate that followed, members of the Advisory Sub Committee sought clarifications on the following specific issues:

- The proposed retirement age at 65 years, some delegations held the view that the status quo for the retirement age should be maintained
- The taxation of pensions in some member states and actions envisaged by the Commission to exempt pensions to be paid to staff members from taxation
- The modalities for establishing a Pension Fund, indicating that there was a need to carry out a study on the proposed Pension Fund, including its legal status, the relationship of its management with the Commission as well as the financial implications of such a project.
- The Commission should provide the cost of the termination of the contract with ALICO should the Commission decide to withdraw at once, as well as the cost implications if the Commission were to complete the withdrawal of the assets over a period of five (5) years.
- The implications of the establishment of a separate Fund for Observer and Peacekeeping Missions. According to the Commission, there were

recurrent problems in these two domains and the Commission was incurring losses with ALICO Commission's deposits in relation with staff resignation due to the low level of remuneration and pension returns. These losses needed to be urgently addressed.

18. Some Members of the Advisory Committee advised that the study should be extended to other regions in the world such as Asia and provide information on how this continent mitigates investment related risks. Other members insisted on the gender equity in case of death and sought information from the Commission with respect with its policy of payment of death benefits.

19. On the two issues under discussion, some delegations referred to the Decision of the recent extraordinary session of the Executive Council held in Durban (South Africa) on the institutional audit of the Union. While recognizing the importance of establishing a sound Remuneration Policy and an effective Social Security Scheme for the Commission, these delegations held the view that such a Decision implied that the consideration of the issues of Remuneration Policy and Social Security Scheme should be deferred until the audit is completed.

20. However, some other delegations were of the view that the consideration of the reports on the Remuneration Policy and the Social Security Scheme was not in contradiction with the institutional audit. At this juncture, some members of the Advisory Sub Committee requested to know whether it was a financial audit or an audit of the structures of the Union.

21. The Commission then provided the necessary clarifications to the questions raised. It alluded to the fact that there was need for the Sub Committee to differentiate between the issue of improvement of conditions of service of staff, i.e. the salary issues and the social Security, which are within the purview of the normal and peculiar management norms of any Organization whether going through an audit or not, with an Organizational Audit which is intended to review the competences and organizational structures, their efficiency and effectiveness and the delivery levels as well as the required transformation measures that are expected to enable those structures to fulfill the goals for which they were established to achieve.

22. At the end of the debate, the Advisory Sub-Committee, while stressing the importance of the projected audit, recommended the two reports:

- Harmonization of the remuneration policy and
- Review of the Social Security

to the Permanent Representatives' Committee (PRC) for consideration.

VI. **Any other business**

23. There was no item under this agenda.

2007

Draft report of the ordinary session of the advisory sub-committee on administrative, budgetary and financial matters

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