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## **PERMANENT REPRESENTATIVES' COMMITTEE**

**Twelfth Ordinary Session**

**25 – 26 June 2006**

**Banjul, THE GAMBIA**

PRC/Rpt (XII)

## **REPORT OF THE PERMANENT REPRESENTATIVES' COMMITTEE**

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### **INTRODUCTION**

1. The Twelfth Ordinary Session of the Permanent Representatives' Committee (PRC) met on 10, 16 and 17 June 2006 in Addis Ababa and from 25 to 26 June 2006 in Banjul, The Gambia. It was chaired by Mr. Raymond Bale Serge, Ambassador of the Republic of Congo to Ethiopia and Permanent Representative to the AU, Chair of the PRC.

2. The PRC started its deliberations in Addis Ababa. The resumed sitting in Banjul was graced by the presence of Hon. Lamin Kaba Bajo, Secretary of State for Foreign Affairs of the Republic of The Gambia. In his statement, Hon. Lamin Kaba Bajo, welcomed all delegations to the country and stressed the importance the Gambia attaches to the African Union and its activities. He pledged his country's commitment and determination to fully engage and participate in the collective march towards the noble objective of African Unity. Hon. Lamin Kaba Bajo expressed his appreciation for the important role the PRC plays as a clearing house and technical advisory body to the Executive Council and urged it to live up to expectation. He stressed the need for AU Summits to be results oriented and produce outcomes that will lead to positive changes in the life of ordinary African citizens. He expressed confidence in the fact that the current Summit will represent a watershed and real turning point on the road to regional integration, in the sense that it will afford African leaders the opportunity to assess performance, especially on the implementation of the Abuja Treaty, and facilitate re-strategising and charting the way forward. He called upon the PRC to make concrete and deliverable recommendations that will enable the continent to address the various challenges that impede the smooth and effective implementation of Africa's integration agenda.

3. In his response the Chair of the PRC, on behalf of all the delegations and on his own behalf, thanked the Government and people of The Gambia for the warm welcome extended to the participants and for the quality of the facilities provided for the meeting. He underscored the active role played by The Gambian Ambassador in Addis Ababa, H.E. Omar Alieu Touray, in the material organization of the meeting. He then highlighted the central role of the PRC in the decision-making process in the African Union, and in conclusion, drew the attention of his colleagues to the need, during their interventions, to observe the principle of group discipline to enable the PRC to discharge its obligations within the set timeframe. Finally, he invited the other plenipotentiaries to contribute to the deliberation.

## **PROCEEDINGS**

### **I. a) Adoption of the agenda**

4. The PRC adopted its agenda without amendments.

### **b) Organization of work**

Morning: 09:00 – 13:00

Afternoon: 15:00 – 19:00

## **II. IMPLEMENTATION REPORT**

### **1. Consideration of the Report on the Implementation of Previous Executive Decisions of the Executive Council and the Assembly Doc. EX.CL/244(IX)**

5. In his presentation, the Representative of the Commission informed the PRC that in line with the request of the PRC, the Report which covers the period January to June 2006, gives a brief summary of the status of implementation of decisions made by policy organs of the Union. He observed that the activities cover a wide range of topics, from legal, administrative, financial, political, economic, social and cultural issues to peace and security. He stated that lack of financial and human resources were the major constraints that hindered the implementation of some activities.

6. During the ensuing discussions, the PRC raised a number of issues including the following:

- The report should also cover partially implemented decisions made in 2004 and 2005 and not only confine itself to the 5 months since the last Summit held in Khartoum, Sudan;
- With regard to content, the Report omits some key decisions and the status of implementation of some was outdated and in some cases not factual. Specific examples were cited in this regard;
- Decisions should be reported on in their entirety. For example, where the Executive Council has decided that implementation should not have cost implications to the AU, it should be so stated in the Report;
- The report should align/link decisions that are related;
- The Commission should intensify efforts to mobilize resources for the implementation of key decisions (the Green Wall of the Sahara and the

Unified Telephone Numbering System, among others, were cited as examples in this regard); and

- The Nigerian delegation briefed the meeting on the state of preparations in view of the Africa-South America Summit to be held at Abuja, Federal Republic of Nigeria. Upon consultations between the two parties, the date has been fixed from 30 November to 1 December, 2006.

7. In response, the Commission thanked the PRC for the pertinent observations on the Report and undertook to ensure that the Report is amended and improved upon taking into account the comments. The Commission also observed that ideally, the reporting period should be one year to allow sufficient time for implementation. It was also explained that some decisions were not reported on as they already constituted substantive agenda items for the Executive Council and the Assembly. The Commission further explained that most decisions were taken after the budget had already been approved and as a result consultations were underway with International Partners to mobilize resources for implementation. Another option is to include those financial resources in the next Budget following the adoption of the Decision. The PRC took note of the Report.

### **III. ADMINISTRATIVE AND FINANCIAL MATTERS**

#### **1. Consideration of the Formal Request for Utilization of Arrears to Cover Additional Expenditure as Authorized by the Council – Doc. EX.CL/245(IX)**

8. In presenting the report, the Commission stressed that the special request for certain expenses to be financed through arrears collected had already been discussed in Addis Ababa. It recalled that it had been granted authorization by the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters to use the funds so collected according to the established priorities.

9. The Commission outlined the various amounts required as follows:

- US\$10 million for recruitment;
- US\$0.7 million for the token education allowance for locally recruited staff;
- US\$0.8 million for staff emoluments for the Geneva and Brussels Offices;
- US\$6.1 million for the request submitted by the Pan-African Parliament; and

- US\$4.3 million for additional Staff Costs as approved by the Assembly.

**10.** The Commission further reminded the PRC of the provisions of Decision Ext/EX.CL/Dec.1 (VIII) issued at Khartoum in January 2006, authorising the Commission to finance the above budgetary expenditure through arrears of contribution paid by Member States. These expenditures should be executed according to an order to priorities established by the Commission.

**11.** During the ensuing discussions, some delegations raised the issue of the appropriateness of considering this report since the Commission had officially authorized some expenditure to be incurred depending on the arrears recovered.

**12.** Other delegations, while recognizing the existence of the above-mentioned Khartoum decision, underscored the need to consider the report submitted by the Commission to evaluate progress in the implementation of recommendations contained in the said decision. The consideration of the report of the Commission would therefore focus on the following points:

- i. Implementation of the provisions of the Khartoum decision;
- ii. Amount of arrears paid to date;
- iii. Status of expenditure not covered;
- iv. Consideration by the Commission of the code "Staff" of the Pan-African Parliament budget.

**13.** Several delegations questioned the Commission on the total amount of arrears collected. Indeed, they stated that the figure given by the Commission should include amounts collected between January and June 2006. Therefore, the Commission should update this item of the report. This information is essential in the allocation of funds to the different budget codes.

**14.** The PRC also expressed concerns about the following:

- i. Extremely high amount allocated under "Education allowance" in proportion to the increasing number of staff;
- ii. Lack of transparency in the recruitment process;
- iii. Poor financial management reflected in high expenditure under some codes (telephone, purchase of vehicles);
- iv. No audit on the implementation of budgets of previous years;
- v. High staff costs, whereas the Commission should make savings in view of the difference between the present number of staff and that of the Maputo Structure;

- vi. The budget of the Pan-African Parliament;
  - vii. Unusually high allocation for the code “Consultants” considering the ongoing recruitment process.
- 15.** The Commission made the following clarifications on the issues raised by the PRC:
- i. The US\$8.9 million collected as arrears from Member States were disbursed as and when received;
  - ii. The code “Recruitment” is high due to the attendant costs of the recruitment process;
  - iii. The vehicles requested are meant for the ten Regional Offices following the Auditor’s Report which states that the current cost of maintaining vehicles that are over 10 years old is a strain on the budget;
  - iv. It is impossible to give an exact figure for the Pan-African Parliament budget. The total budget will be determined as a percentage of arrears collected.
- 16.** After this response and discussions, the PRC recommended the following:
- i. The disbursement of US\$0,7 million for the token education assistance for the locally recruited staff;
  - ii. The disbursement of US\$0.8 million for staff emoluments for the Geneva and Brussels Offices; and
  - iii. The disbursement of US\$2.4 million immediately to the PAP and the balance to be disbursed on *pro-rata* basis.
- 2. Consideration of the Structure of Budget and Modalities of Funding – Doc. EX.CL/246(IX)**
- 17.** In introducing this item, the Commission intimated that the issue had already been discussed in Addis Ababa. Following this brief introduction, the Chairman of the Sub-Committee on Administrative, Budgetary and Financial Matters recalled the observations and recommendations contained in the report of the Sub-Committee as follows:
- i) Differentiate the operating budget from the programme budget within a single integrated budget;

- ii) Reformulate the report in a logistical manner;
- iii) Submit three options of budget funding modalities for consideration by the PRC. To this end, the following three options were presented for consideration by the PRC:

**Option 1:**

- Continue with the existing practice adopted in 2005 as a transitional measure where by the recurrent budget is funded by assessed contribution and programs are finance from voluntary contribution of Member States and AU partners.

**Option 2:**

- Member States will first determine the ceiling for the Commission's Budget. The Budget is then developed based on the communicated ceiling taking into account any possible partners pledged contributions and prioritized programs. The total will be assessed on Member States.

**Option 3**

- Member States will first determine the ceiling for the Commission's Budget. The Budget is then developed based on the communicated ceiling taking into account any possible partners pledged contributions and prioritized programs. The funding of the Budget will be as follows:
  - Staff cost, Operating expenses, statutory meetings and selected top priority programs/projects will be assessed on Member States;
  - The remaining program costs will be financed by voluntary contributions of Member States and Partners.

**18.** The Chairman further stated that option 2 had been rejected by the Sub-Committee and that the Commission had been requested to come up with concrete proposals on the implementation of options 1 and 3 taken separately and with a combined formula for the two options.

**19.** The discussions made it possible to outline the following key principles that would henceforth serve as guidelines in the preparations of the budget of the Commission.

- i) Integration into a single budget of the operating cost and the expenses related to the implementation of programmes;

- ii) Implementation of the principle of programme ownership by Member States based on their commitment to finance the budgets related thereto;
- iii) Definition of budget priorities so as to adjust the budget package to the actual contribution capacities of Member States;
- iv) Opening the budget to contributions from partners and strengthening the principle of partnership together with that of voluntary contributions from Member States;
- v) Determining a ceiling rate of contributions calculated on the basis of objective economic parameters;
- vi) Preparation of an activity programme covering a 3 to 4 year period to be used as basis to solicit contributions from partners.

**20.** A consensus emerged in favour of option 3 regarding an integrated budget that combines operating and programme costs. This consensus was however accompanied by the following observation, namely: that payment by Member States of their contributions to the Organization's budget reflects the political will of Member States to provide the African Union Commission with the required resources for its operation. It is needful to underscore this political will.

**21.** Some delegations described the inability of the African Union to fully finance its budget from its own resources as symptomatic of financial crisis, and put forward the following proposals as a way out:

- i) Freeze recruitments;
- ii) Avoid creating any new institution or organ;
- iii) Avoid taking any decision with financial implications;
- iv) Carry out an audit of previous budget execution; and
- v) Strengthen the regime of sanctions against Member States in default of payment of arrears of contributions, and envisage additional sanctions.

**22.** The ensuing debate highlighted the limitations of the above proposals as follows:

- i) Reinforcing the regime of sanctions against defaulting member states would undermine the solidarity of Member States most of which are also LDCs, and generate and increase in the number of

the States under sanctions. Such a situation will erode the political will of African Countries to live together;

- ii) Alternative sources of financing should be explored given the fact that the African Union cannot depend solely on the contributions of its Member States;
- iii) Freezing the recruitment process would result not only in the Commission operating at a level far below the expectations of Member States, but would also be at variance with the implementation of the Maputo Decisions.

**23.** The PRC also discussed the modalities of possible partner contribution to the budget of the Commission, and exchanged views on the content of such modalities. Some delegations were of the view that, to ensure programmes ownership by Member States, such contributions should be made under the regular budget of the Commission, and not be oriented to specific programmes chosen by the partners.

**24.** Others, however, held that the partners intervening in the Commission are also bilateral partners, and, as such, a flexible approach should be devised to allow them the possibility of indicating their preference for any given programme.

**25.** The PRC recommended to the Executive Council the adoption of Option 3 and also that international partners should be requested to progressively provide direct Budget support as opposed to individual project funding. The PRC also recommended that in the implementation of Option 3, the following principles should be observed:

- i) When preparing the budget, the Commission should present the status of contributions received from Member States;
- ii) In no case should any change in the structure of the budget entail a budgetary increase that could affect the contributing capacity of Member States;
- iii) The formula of the integrated budget should not be considered as the mechanical merger of the two parts of the budget (operating cost and programme budget);
- iv) The principle of ownership and opening up to partners should be taken into consideration during the preparation of the budget;

- v) The principle of reinforcing sanctions against defaulting Member States will be further studied after the Banjul Summit;
- vi) Member States should actively contribute to the funding of projects and programmes;
- vii) The budget ceiling will be determined according to objective economic parameters such as average GDP growth rates in Member countries, inflation, etc.;
- viii) The Scale of Assessment adopted in Sirte, Libya in July 2005 makes it possible to take into account the ability of Member States to pay.

### **3. Consideration of the Special Audit Report on the Conference of Intellectuals – Doc. EX.CL/247(IX)**

**26.** The Deputy Chairperson of the Commission introduced the report and indicated that the Commission worked very closely with the Auditors throughout the exercise though the methodology, observations and opinion expressed are entirely those of the Auditors. The Commission could not therefore answer specific questions regarding those areas. He pointed out that the report should have been submitted in March 2006 in keeping with the undertaking made by the Commission in Khartoum however, given the complex nature of the exercise and difficulties experienced by the Commission in collecting and collating necessary original supporting documentation from Dakar, Senegal and South Africa where the service providers are based, this deadline could not be met. Given the importance of the exercise the Commission set up a task force composed of Directors of Finance, Administration and Internal Audit to specifically ensure everything was done to avail all most of the documents and explanations to facilitate the work of the Auditors and this was acknowledged in the audit report.

**27.** The Deputy Chairperson reiterated that the Commission took seriously the recommendations made by the Auditors and assured the PRC that the Commission will do its utmost to address the recommendations and recover any payment due to the Commission.

**28.** In the ensuing debate the PRC once again deplored the reported failure to comply with Financial Rules in the management of the Conference and urged the Commission to put an end to such lapses. It regretted the absence of representatives of Ernst & Young who could have clarified some of their comments in view of the responses provided by the Commission. On the recommendation of Ernst & Young to set up a task force some delegation proposed an expansion of the team to include Member States.

**29.** The PRC characterized the comments made by Ernst & Young that not all original supporting documents were promptly made available as lack of cooperation on the part of the Commission. PRC also felt that due to insufficient financial means, the Commission should have sought postponement of the Conference or authority to incur expenditure thereon.

**30.** Other delegations drew the attention of the PRC to lessons to be learnt from this unfortunate experience with a view to improving and strengthening the financial management system. They suggested that the matter be referred for consideration by the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters that should be mandated to come up with concrete recommendations for consideration of the Council. In this context, one of the issues to be followed up is to undertake a study on costs of organising meetings and to use this as a basis for informing decision-making in approving meetings.

**31.** Others still emphasized the issue of responsibility in the management of public funds and recommended that the Audit Report be submitted to the Executive Council for political decision, the implementation of which would guarantee the credibility of the organization.

**32.** One delegation attributed the observed irregularities in the Report to the weaknesses in the financial systems and procedures, adding that it would be premature to adopt the new Financial Rules and Regulations in Banjul if the accounting and financial systems of the Commission are to be improved. The same delegation highlighted the ambiguity of Article 16 of the new draft Financial Rules and Regulations which makes the Chairperson of the Commission the principal Accounting Officer whereas the Statutes of Commission confer such a position on the Deputy Chairperson with sweeping powers in the day-to-day management of the Commission. This state of affairs encourages unhealthy and uneasy environment and therefore calls for urgent measures by the Policy Organs to separate the two responsibilities and, in this regard, create a different body to be responsible for administrative, budgetary and financial management.

**33.** At the end of the deliberations, the PRC:

- i. Took note of the Report;
- ii. Recommended it for consideration by the Executive Council;
- iii. Further recommended that the mandate of the Executive Council should be sought to continue consideration of the report by the PRC through the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters so as to apportion responsibilities and propose possible prosecutions with a view to ensuring that any funds that might have been misappropriated are recovered;

- iv. That Ernst & Young should present the Report to the PRC in order that it can provide additional information and clarification as may be required.

#### **4. Consideration of the Report on the financial situation of the Organization – Doc. EX.CL/248(IX)**

**34.** In its presentation, the Commission indicated that the financial report was prepared at the request of the PRC and explains the sources of income and the various expenditure types as at 15 June 2006. It was explained that the income during this period amounted to US\$48,724,024.75 made up of current year assessment (US\$29,631,705.12); arrears (US\$9,052,862.90); voluntary contributions (US\$10,000,000.00); and miscellaneous (US\$39,456.73). Expenditures amount to US\$22,963,787.72 leaving a positive balance of US\$25,760,237.03. The expenditure composition was Staff Costs (US\$9,942,311.03); Missions (US\$ 413,650.01); Maintenance (US\$168,556.32); Communication (US\$202,582.68); supplies and services (US\$265,118.37); Seminars/Meetings(US\$29,930.34);Projects/Programmes(US\$1,246,482.26); Obligations /Commitments (US\$3,550,006.13); Regional Offices (US\$3,482,729.70); and Pan-African Parliament (US\$3,662,420.98).

**35.** During the ensuing discussions, the PRC expressed concern over the lack of detail of the report. It was suggested that the report should contain some in-depth analysis on the performance of the budget as well as projections and be in conformity with general accounting practices. It was also suggested that the income side should reflect voluntary contributions from international partners. The PRC noted that the pledges by international partners indicated during the preparation of the current budget have not materialized.

**36.** In response, the Commission indicated that a detailed half-yearly financial report would be prepared as provided for in the Financial Rules and Regulations and in line with current practice. It was indicated that every effort was being made to materialize the pledges that were made by international partners and that subsequent reports will contain income from these sources.

**37.** The PRC took note of the Report and agreed to reflect further on its format in order to give appropriate guidance to the Commission.

#### **5. Consideration of the Status of Contributions – Doc. EX.CL/249(IX)**

**38.** In his presentation, the Chairperson of the Sub-Committee on Contributions highlighted the status of contributions as at 26 June 2006 as follows:

- i) The contributions received as at 26 June 2006 amounted to US\$39,949,245.02 out of which US\$29,815,179.12 was paid towards the current fiscal year's assessment. From the receipts, US\$9,509,087.90 constituted collection of arrears of the previous years and US\$624,978 was payment in advance.
- ii) The total outstanding contribution as at 26 June 2006, stood at US\$ 93,189,331.27 made up as follows; arrears up to December 2005 totaling US\$ 53,615,014.39 and uncollected balance of US\$ 39,574,316.88 from current year's assessment.
- iii) From the list of countries under sanction, Benin and Cote d'Ivoire have made a payment of US\$ 430,614.80 and US\$ 1,831,501.83, towards their arrears respectively.
- iv) Nigeria has made voluntary contribution, of US\$10million. This was the amount announced at the Khartoum's Summit.

**39.** He also informed the PRC that after consideration of the Report, the Sub-Committee recommended the following, among others:

- i. The Commission, through its Chairperson, should engage Member States under sanction with a view to finding a solution to the problem of arrears;
- ii. The AUC should endeavour to take all necessary measures to improve collection of contributions. In this regard it was suggested that the commission should hold a mini-summit of member states under sanction alongside the regular Summit to discuss the problems and look for a lasting solution;
- iii. There was need to strengthen the sanction regime in order to encourage member States to live up to their commitments. In this regard, the Sub-Committee on Contributions decided to meet in order examine the issue of arrears in a holistic manner and make appropriate recommendations to the PRC;
- iv. The sanctions against Benin and Cote d'Ivoire should be lifted in view of the fact that they have made payments towards their arrears; and
- v. Sanctions against eleven (11) Member States should be maintained as there has been no improvement in their arrears position, while twelve (12) Member States should be commended for paying their 2006 assessed contributions. Nigeria should be commended for making a voluntary contribution amounting to US\$10 million.

**40.** The PRC was also informed that the Sub-Committee considered a request submitted by the Republic of Somalia to write-off its contribution arrears due to the fact that the country has been afflicted by a conflict situation for the past 15 years. While appreciating the case of Somalia, the Sub-Committee observed that there were also other member States in similar conflict situations and that a holistic approach would be required.

**41.** During the ensuing discussion, several issues were raised including the following:

- i) The PRC expressed concern over the recurring arrear situation which continue to jeopardise the operations of the organisation;
- ii) The idea of a mini Summit to discuss the issue of arrears, may not be appropriate during the forthcoming Assembly meeting owing to time constraints but could be considered for inclusion into the agenda of the next Summit;
- iii) There was a need to reflect further on the types and nature of incentives that could be offered to Member States in order to encourage them to regularise their assessed contributions and their participation in the organization, without having to first clear their entire backlog;
- iv) A consensus emerged that Somalia's case should be considered favourably in view of the special circumstances the country was facing.

**42.** The PRC agreed to recommend to the Executive Council the following:

- i. The Commission, through its Chairperson, should engage Member States under sanctions with a view to finding a solution to the problem.
- ii. The sanctions regime should be strengthened in order to encourage member States to live up to their commitments.
- iii. The sanctions against Benin and Cote d'Ivoire should be lifted in view of the fact that they have made payments towards their arrears;
- iv. The following 11 Member States, should remain under sanctions, as there is no improvement in their arrears position:

1. Cap Verde
  2. Central African Republic
  3. Democratic Republic of Congo
  4. Eritrea
  5. Guinea
  6. Guinea Bissau
  7. Liberia
  8. Mauritania
  9. Sao Tome & Principe
  10. Seychelles
  11. Somalia
- v. The following twelve (12) Member States who paid their assessed contributions of 2006 to the regular budget and Nigeria who made a voluntary contribution be congratulated:
1. Algeria
  2. Angola
  3. Botswana
  4. Ethiopia
  5. The Gambia
  6. Ghana
  7. Mozambique
  8. Rwanda
  9. SADR
  10. South Africa
  11. Swaziland
  12. Zimbabwe
- vi. That the case of Somalia be considered favourably, especially given the fact that the country has made an undertaking to start making payments towards their assessed contributions as from 2007.

**6. Consideration of the Proposed New Financial Rules and Regulations of the African Union – Doc. EX.CL/250(IX)**

**43.** The Ambassador of Rwanda and Chairperson of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters informed the PRC

that the Sub-Committee had examined the New AU Financial Rules and Regulations, and had come up with the following recommendations:

- i) the Budget should be integrated and consolidated;
- ii) the various Funds should be clearly and unambiguously defined;
- iii) the use of the Special Funds should be transparent, and both Member States and the partners should be informed accordingly; and
- iv) some of the Titles and Articles, especially 15, 17, 30, 34, 60, 67, and 124 should be given in-depth consideration so as to obtain consensus in the PRC.

**44.** The meeting then underscored the need to :

- separate the functions of the Accounting Officer from those of the Director of Finance;
- strengthen Article 16 paragraph 4 to empower the Director of Finance and protect him/her from threats of sanction or pressure;
- ensure that the provisions of Article 4 regarding the Monetary Unit of the Union do not contravene the decision to pay the emoluments of the staff of the Geneva and Brussels Office in local currency;
- make provision for punitive measures against staff members who fail to abide by the Financial Rules and Regulations and mismanage community funds.

**45.** There was a lengthy debate as to the appropriateness of including in Article 60, paragraph 3 (new Article 61) with a reference to the need to give preference to African bidders with equal competence so as to promote the African private sector. The PRC then endorsed the idea of including in this Article a provision to this effect, and that in the event of equal competence, preference should be given to African companies, where their financing originates from Member States.

**46.** The PRC recommended the adoption of the Draft Financial Rules and Regulations as amended. The amended version is annexed to this report.

**7. Consideration of the Progress Report on Recruitment –  
Doc. EX.CL/251(IX)**

**47.** In introducing the Report, the Deputy Chairperson of the Commission, indicated that the document under consideration was a progress report since a more detailed report on the issue was submitted during the January 2006 session in Khartoum. He underscored that the Report provided, among other things, information on the approved staff establishment; staff category; the distribution of staff in accordance with quotas approved by the Maputo Decision; personnel selected since January 2006; as well as the list of vacancies that were re-advertised. The Deputy Chairperson stated that the report underscored the need to equip the Commission with adequate human resources. However, he noted the difficulties encountered in the mobilization of financial resources to accelerate the recruitment process. He concluded his intervention by reiterating the Commission's commitment to continue to make the necessary efforts to overcome the difficulties so that from now to the end of the current year, results expected in the area of recruitment will be achieved.

**48.** Most of the delegations underlined the importance of the quota system which guarantees greater justice and equity in the distribution of posts within the Commission. While recognizing the complexity of the issue, they suggested that the question of quotas should not be linked solely to the scale of contributions. They expressed reservations over the transparency of the recruitment process and the veracity of the country-by-country staff complement as published, and raised a series of questions relating to the following points:

- i. Criteria determining the quotas and the reasons for some countries exceeding their quota in violation of the Maputo Decision;
- ii. Reasons for the disparity of staff complement between the different Departments;
- iii. Strategies put in place by the Commission to fill vacant posts in the professional staff category;
- iv. Approaches adopted by the Commission that take into account language and gender criteria in the recruitment exercise;
- v. Reasons for the delay in recruitment exercise;
- vi. The need for Member States to obtain copies of the reports of the independent team of consultants in charge of recruitment;

- vii. Strategies put in place by the Commission to ensure language balance through the recruitment of Arabic and Portuguese interpreters and translators.

**49.** The PRC further indicated that the Union should pay particular attention to the election procedures of political appointees of the Commission in view of the complexity of the exercise, which during the election of July 2003 required the intervention of the Ministerial Committee. On this score, the latter proposed that the matter be referred to the Banjul session of the Council to take a timely decision relating to the modalities to be followed in the election of Commissioners in 2007.

**50.** The PRC further emphasized the need to have regular meetings to discuss the recruitment process on the basis of the periodic reports on the exercise. Delegations also wanted to know whether the Commission was able to contact institutions like the Economic Commission for Africa and the African Development Bank with a view to benefiting from the services of staff seconded by these Institutions. They recommended that an annex to the report lists out the names of the staff of the Commission by country. Lastly, they requested that, in filling the re-advertised positions, preference should be given to countries which are yet to fill their quotas.

**51.** In his response the Deputy Chair confirmed that Member States should have access to the list of recruited staff. He however noted that for reasons of confidentiality, the Commission could only release the list of applicants on conclusion of the recruitment process. He further indicated that taking into consideration competence, quota, gender and qualifications, it is difficult to keep the process linear and clearer to Member States. Nevertheless, information on recruitment is always availed on request and periodically.

**52.** The Deputy Chairperson said that the Commission would look into the correlation between savings made on salaries and emoluments for posts provided for under the budget, and delays in recruitment

**53.** On the issue of quotas, he indicated that the Commission was applying the quota system as per Maputo Decisions. However, there might be a need for a review as more recruitment is due, e.g. at the Pan African Parliament, the Algiers African Centre for Studies and Research on Terrorism and at the Commission. Regarding countries which have exceeded their quota, the Deputy Chairperson explained that in anticipation of the imminent retirement of citizens from a given country, the Commission is compelled to recruit candidates with excellent credentials from that country. He stated that the list of names of Commission staff is available and can be given to any country that so desires. He further indicated that the Commission would consider the suggestion to contact the ECA and ADB to request them to consider seconding experienced

staff to the Commission. Such requests, he said, have been made to some Member States with limited success.

**54.** On the election of Commissioners, the Deputy Chairperson informed the meeting that the Commission has taken the initiative of requesting that a paper be drafted for consideration at the June 2006 session of the Executive Council, in Banjul.

**55.** At the end of the discussions, the PRC took note of the report and made the following recommendations for the consideration and approval of the Executive Council:

- i) To ensure the transparency of the process, the PRC recommends that the Council adopt the principle of Member State oversight of the recruitment process at the Commission. The modalities of this oversight should be agreed upon between the Commission and the PRC;
- ii) As regards the run up to the election of Commissioners in 2007, the PRC recommends that during the current session, the Executive Council set up a Ministerial Committee to define the criteria, modalities of election and the election process in accordance with the relevant provisions of the Statutes of the Commission;
- iii) The PRC recommends that the Ministerial Committee assisted by the Commission to appoint a short-listing panel to provide the necessary support and technical assistance;
- iv) The modalities for election shall be submitted to the Council for consideration at the January 2007 Session.

#### **IV. LEGAL AND INSTITUTIONAL MATTERS**

##### **1. Consideration of the report on the status of OAU/AU Treaties – Doc. EX.CL/252(IX)**

**56.** In introducing the report, the representative of the Commission recalled that the report was a standing item on the agenda of the Executive Council since its decision adopted by the 66<sup>th</sup> Ordinary Session held in Harare, Zimbabwe in May 1997. She noted that the report was dated as at 6<sup>th</sup> June 2006 and indicated that since that date, changes to the status of signature and ratification/accession had taken place. She informed the PRC that the Office of the Legal Counsel would annex an addendum to the Report to take into account those changes.

**57.** The discussions that ensued focused on the following issues:

- (i) The need for the Office of the Legal Counsel to expedite the exercise of identifying mechanisms for ensuring consistency between various linguistic texts of AU treaties;
- (ii) The need for sensitisation of Member States to ensure that they accord priority to signing and ratification/accession to OAU/AU Treaties;
- (iii) The need for constant reminders to Member States of their individual country status list;
- (iv) The need for the Office of the Legal Counsel to expedite the task of harmonization of ratification procedures in Member States in order to speed up the ratification process;
- (v) The need to ensure implementation of OAU/AU treaties and not just signature and ratification/accession by Member States; In this regard, it was proposed that the Commission should submit implementation reports to the Policy Organs;
- (vi) The need to ensure that the process on the review of OAU/AU treaties and the implementation of the appropriate recommendations are finalized as soon as possible;
- (vii) The need to find out the reasons why Member States do not ratify/accede to OAU/AU treaties. In this regard, some delegations were of the view that the Commission could send a questionnaire to Member States. Others felt that since it was the sovereign right of Member States not to ratify/accede to treaties that there was no need to carry out such an exercise.

**58.** Thereafter, the PRC made the following recommendations for consideration by the Executive Council to:

- (i) Take note of the Report;
- (ii) Commend the Chairperson of the Commission for the initiative and efforts aimed at reminding Member States of the status of signature, ratification/accession to OAU/AU treaties and encouraging them to become State Parties to the OAU/AU treaties;
- (iii) Appeal to Member States to accord priority and accelerate the signing and ratification/accession to OAU/AU treaties;
- (iv) Request the Commission to take the necessary steps to implement the decisions relating to the following:

- a) identifying mechanisms for ensuring consistency between various linguistic texts of AU treaties;
- b) harmonization of ratification procedures in Member States in order to speed up the ratification process;
- c) finalization of the process on the review of OAU/AU treaties and the implementation of the appropriate recommendations.

**2. Consideration of the Draft Single Legal Instrument on the Merger of the African Court on Human and peoples' Rights and the Court of Justice of the African Union – Doc. EX.CL/253 (IX)**

**59.** In introducing this item, the representative of the Commission recalled that at its Eighth Ordinary Session held in Khartoum, Sudan in January 2006, the Executive Council had decided that a joint meeting of the PRC and legal experts from Member States should be convened to finalise and submit the Draft Single Legal Instrument on the Merger of the African Court on Human and Peoples' Rights and the Court of Justice of the African Union to the next Ordinary Sessions of the Executive Council and Assembly scheduled in Banjul, the Gambia in July 2006.

**60.** She further recalled that pursuant to the decision of the Executive Council a meeting of the PRC and Legal Experts was held at the AU Headquarters in Addis Ababa, Ethiopia, from 16 to 19 May 2006 to consider various legal matters, namely: Draft Single Legal Instrument on the Merger of the African Court on Human and Peoples' Rights and the Court of Justice of the African Union; Draft Rules of Procedure of the Policy Organs of the Union (Rules of Procedure of the Assembly, the Executive Council and the Permanent Representatives' Committee as well as Statutes of the Commission); and the Background document on the establishment of the African Union Commission on International Law (AUCIL). She further underlined that due to time constraints the meeting only considered the first item.

**61.** In concluding, the representative of the Commission pointed out that the Meeting could not reach consensus on Article 8(2) and (4) of the Protocol relating to signature, ratification and accession, and Articles 3(3) and 29 (2) of the Statutes relating to composition and jurisdiction of the Court respectively. She indicated that it was decided that the paragraphs should be put in brackets for further consideration by the Executive Council.

**62.** The discussions that ensued focused on the following issues:

- (i) Whether there was need for the PRC to discuss the matters put in brackets. In this regard, it was noted that the meeting held in May 2006 was a joint meeting of the PRC and legal experts and that therefore, the issues should be referred to the Executive Council;
- (ii) Reservations entered by some Member States on the fact that Article 1 of the Protocol on the Statute of the African Court of Justice and Human Rights should relate to the establishment of the single Court and not the replacement of the 1998 and 2003 Protocols. It was pointed out that delegations had already entered reservations during the meeting held in May 2006 and that the matter would be referred to the Executive Council;
- (iii) With regard to the paragraphs put in brackets, some delegations were of the view that in addition to those provisions, all alternative views should also be incorporated in the documents (Protocol and Statute) and put in brackets. Others felt that these views could be reflected in the summary report.

**63.** At the end of the debate, the PRC decided on the following:

- (i) Alternative texts to the paragraphs put in brackets in the Draft Protocol on the Statute of the African Court of Justice and Human Rights and the Statute annexed thereto should be reflected in the legal instruments and put in brackets;
- (ii) The Draft Protocol on the Statute of the African Court of Justice and Human Rights and the Statute annexed thereto should be submitted to the Executive Council for consideration and adoption.

## **V. POLITICAL MATTERS**

### **1. Consideration of the Report on the Situation of Refugees, Returnees and Internally Displaced Persons in Africa - Doc. EX.CL/254 (IX)**

**64.** In presenting the Report, the Commission stated that it focused on regional highlights including but not limited to the positive developments concerning the situation in the Sudan with the conclusion of the Darfur Peace Agreement in Abuja, Nigeria; the devastation of Sahrawi refugee camps in Tindiouf, Algeria following the floods that left over 50,000 refugees homeless and the loss of over 70 percent of the refugees food stocks; in Western region over 321,000 Liberian IDPs returned to their counties of origin in a historic process coordinated by the UN Mission in Liberia in conjunction with other UN agencies and other international and African partners; in Central Region Chad was affected by armed conflict which resulted in nearly 60,000 Chadians being

displaced in the border regions. The Commission expressed concern about the recruitment of child soldiers as evidenced by the presence of children in the prisoners of war captured by Chad. In eastern region there was ongoing concern over the inadequate support extended to support the voluntary repatriation to the south Sudan, and the Commission in conjunction with UNHCR held a joint appeal at AU Headquarters to mobilize resources for the UNHCR operation in the Sudan. The AU Commission contributed US\$100,000.00 to UNHCR to assist with the provision of post primary education facilities in South Sudan, in particular for women and girls. During the reporting period Tanzania repatriated thousands of Burundian and Congolese refugees, in conjunction with UNHCR and countries of origin. There was serious concern over the deterioration of the security situation in Somalia, which had led to the further secondary displacement of Somali returnees, and IDPs from Mogadishu and neighbouring towns.

**65.** Members of the PRC welcomed the report and commended it for its high quality and also took the opportunity to commend the Commission for an excellent and well-organized Ministerial Conference on Refugees, Returnees and Internally Displaced Persons, which had just been concluded in Ouagadougou, Burkina Faso. They also commended the Government of Burkina Faso for successfully hosting the Ministerial Conference on 1 and 2 June 2006. In consideration of the Report Member States requested that it include in its coverage more details of all situations of refugees on the continent, in particular those where there were significant developments in terms of return of refugees and IDPs. The PRC also requested that the WAY FORWARD be strengthened in light of the outcome of the Ministerial Conference. The PRC further made some country specific amendments concerning refugee statistics in the Report.

**66.** The Commission clarified that it was trying to make the Situation Report more focused and therefore addressing a few topical situations and avoid presenting to the PRC information that had been previously presented six months earlier. The Commission also highlighted the fact that the Division of Humanitarian Affairs, Refugees and Displaced Persons is constrained by lack of adequate human and financial resources to execute its mandate and called for its strengthening, to enable it to meet Member States requirements, as outlined during the debate. The PRC agreed on the need to strengthen the Division. After an extensive discussion of the report, it was adopted with the amendments proposed by Member States.

## **VI. ECONOMIC, SOCIAL AND CULTURAL MATTERS**

### **1. Consideration of the Report on the Alternative Sources of Funding the AU - Doc. EX.CL/255(IX)**

**67.** The Commission introduced the agenda item by informing the PRC that a meeting of experts was convened in Addis Ababa on 29-30 May 2006 to discuss the various proposals on alternative sources of financing the African Union. This

followed a number of studies that have been undertaken on the subject including the one by President Wade of Senegal. Some of the proposals were submitted by civil society. The experts deliberated on the subject matter by examining nine proposed sources of finance, namely a levy on all imports from outside the Union, levy on insurance policies, tax on international travel, export levies, levy on hydrocarbons, community tax, tourism tax, private sector funding and sundry income.

**68.** It was clear from the discussions that each of the proposals had different implications depending on countries and that the impact could vary with their levels of development.

**69.** The PRC was informed that in their deliberations, the experts examined the advantages, disadvantages, reliability of source, mode of collection and made recommendations on each of the nine proposals. The experts concluded that there was need for more studies to evaluate the impact of each of the proposals on various economies, particularly on national budgets, trade, investment and business environment and how the proposals would provide sustainable revenue to the AU. The Commission proposed that some of the options be eliminated to remain with two or three proposals for further study and preference was on the import levy and tax on air transportation.

**70.** The experts also recommended that the current system of assessed contributions should be strengthened and allowed to continue and be evaluated as soon as possible. The Commission was requested to consult the countries with difficulties and ascertain how they can be assisted to make their payments taking into consideration the specificities of the Member States situation particularly countries in conflict and post conflict situation.

**71.** The PRC welcomed the report of the experts and made the following recommendations:

- i. Further studies that would provide empirical evidence and more information were required for Member States to make informed decisions;
- ii. Areas where studies had been undertaken before be considered and further work be done to examine the impact on the different economies paying attention to issues of sustainability, viability and transparency;
- iii. The Commission should consult the sectors that may be affected for their opinion and let them make commitments and then consult the Ministers of Finance who deal with issues of revenue collection for their input; and

- iv. That the Commission formulates draft terms of reference for the studies and ask each Member State to carry out its own assessment;

**72.** The PRC agreed to endorse the recommendation of the experts for further studies to be undertaken, and for consultations to take place with the Ministers of Finance.

**2. Consideration of the Report on the Follow up of the Africa-Europe Dialogue – Doc. EX.CL/256(IX)**

**73.** In presenting the report, the Commissioner for Economic Affairs underscored the results of the ministerial Troika held in Vienna (Austria) on 8 May 2006. These results are anchored around the following points:

- i) the adoption of the joint matrix for the implementation of commitments taken within the framework of this Dialogue;
- ii) the elaboration of the joint Africa-Europe strategy to be adopted at the next Summit in Lisbon;
- iii) the search for a “creative” option to facilitate the holding of the second Africa-Europe Summit;
- iv) the granting, within the framework of the 9<sup>th</sup> FED, of 55 million Euros to strengthen African Union capacities;
- v) the provision to ACP, under the 10<sup>th</sup> FED, of 22,682 billion Euros, for the period 2008-2013, the major part of which will go to Sub-Saharan Africa;
- vi) the mobilization, by the European Union Commission, through its partnership and existing mechanisms, of 30 million Euros, to support Africa in its fight against the Bird Flu; and
- vii) the updating, every three months, by the Troika of Ambassadors in Addis Ababa, of the joint matrix for the implementation of commitments and its submission to the consideration of ministers during their six-monthly meetings.

**74.** Following this presentation, the PRC exchanged views and made the following recommendations:

- i) As an AU organ, the PRC should be fully associated to the following up of the Africa-Europe Dialogue. To this end, it should be fully involved in the elaboration of the agenda of the Troikas

and give mandate to the Follow-up Committee on the treatment of issues on these agenda;

- ii) Observations of Member States on the European strategy on Africa should be received to help the Commission to better equip itself to elaborate a joint strategy with its European partner;
- iii) In the Dialogue, Europe should consider Africa as an equal partner. In this regard, the holding of the second Summit should not be subject to any preconditions from either side;
- iv) The Sub-Committee on multilateral issues should be reactivated to enable the Follow-up Committee to fully accomplish its mission;
- v) The need to organize a PRC session to define the framework of all initiatives intended for Africa, namely: TICAD, China-Africa Cooperation; Africa-Europe Dialogue; Africa-Asia Cooperation; France-Africa Summit; India-Africa Cooperation; Brazil-Africa Cooperation, etc. Such a session will give the opportunity to better grasp the theoretical and practical implications of these initiatives and give them credibility and effectiveness in their implementation;
- vi) The carrying out of studies to evaluate the impact of all development initiatives and the process of African integration through their advantages; their disadvantages also need to be examined.

### **3. Consideration of the Report on the Establishment of the Financial Institutions - Doc.EX.CL/257 (IX)**

**75.** The Commission introduced a progress report on the establishment of the AU Financial Institutions, namely the African Central Bank (ACB), the African Investment Bank (AIB) and the African Monetary Fund (AMF), which are provided for in Article 19 of the Constitutive Act of the African Union. The Commission informed the PRC of the actions that had been undertaken since Khartoum, in particular, the follow up on the hosting of the ACB and the AMF by the West and Central African Regions and the establishment of Committees on the three financial institutions to steer preparatory work and the convening of a Governmental Experts meeting. Consultations amongst Member states in West Africa resolved that Nigeria would host the African Central Bank. Central Africa was still in the process of consultations.

**76.** On the creation of technical Committees that will spearhead the carrying out of feasibility studies and drafting of the protocols for the institutions, the Commission informed the PRC that Experts on each of the three financial institutions had been identified and recommendations made to the Chairperson. The Host country of each institution will also serve on the technical committee.

**77.** The Commission reiterated its intention to convene a Governmental Experts meeting after the Summit to deliberate on the concept papers for the three institutions and the draft protocol for the African Investment Bank. It is expected that the recommendations of the experts would be tabled before the Conference of Ministers of Finance and Economy that has been rescheduled to October 2006.

**78.** One delegation raised the issue of Headquarters of the African Central Bank which has been reserved for the West Africa Region.

**79.** The PRC commended the Commission for the report and after fruitful debate made the following recommendations:

- i. The selection of the experts to serve on the Technical Committees should be open to competition with the involvement of Member States to ensure balanced representation;
- ii. Member States would prefer to use government experts instead of independent experts;
- iii. That adequate consensus be achieved on the concept papers and the draft protocols by convening a meeting of governmental experts or the PRC to ensure ownership;
- iv. AU Commission should expedite the process of establishing these institutions; and
- v. Refer the question of Headquarters of the African Central Bank to the Executive Council.

**VII. CONSIDERATION OF THE DRAFT AGENDA OF THE 9<sup>th</sup> ORDINARY SESSION OF THE EXECUTIVE COUNCIL**

**PART A: PROPOSED ITEMS FOR ADOPTION WITHOUT DISCUSSION  
(in conformity with the provisions of Rule 9(3) of the Rules of Procedure of the Executive Council)**

**Consideration of the reports on Ministerial Conferences:**

- **Report of the Ministerial Meeting on the Draft African Charter on Democracy, Elections and Governance and on the Review of the 2000 Lomé Declaration on Unconstitutional Changes of Government in Africa - Doc. EX.CL/258(IX)**

**80.** The examination of this item was preceded by procedural questions raised by some delegations. Basing their argument on the absence of a quorum, of consensus on this vital issue as well as the low representation during the second Ministerial Meeting on the Draft African Charter on Democracy, Elections and Governance, held in Brazzaville on 9 and 10 June 2006, the delegations requested that this point, previously listed as an item not to be discussed, be transferred to items to be discussed. Other delegations raised the same arguments to support their request for the adjournment of the debate on this point to the Executive Council session of January 2007.

**81.** Some delegations contended that the Brazzaville meeting was the logical follow-up of the 6 to 7 April 2006 Ministerial meeting in Addis Ababa, at which a quorum was attained; consequently, the issue of a quorum could not be raised with regard to the Brazzaville meeting.

**82.** Pressed by these arguments, the Commission pointed out that although the quorum was not attained in Brazzaville, sectoral meetings do not take decisions but formulate recommendations for competent organs of the Union. On the question of a consensus, the Commission underscored the fact that the Brazzaville meeting arrived at a consensus on all issues discussed, except for the item on the revision/amendment of constitutions on which one delegation expressed reservations. (Article 25(5))

**83.** With regard to representation, it was unanimously agreed that every State has the sovereign right to be represented at meetings at the level convenient to it.

**84.** After the debate, and on the basis of the clarifications made by the Commission, the PRC decided to submit the Report as it was for consideration by the Executive Council.

- **Report of the Ministerial Meeting on Refugees, Returnees and Displaced Persons in Africa – Doc. EX.CL/259 (IX)**

**85.** The Commissioner for Political Affairs informed the PRC that the report focused on the outcome of the Ministerial Conference, which was successfully hosted by Burkina Faso from 29 May until 2 June 2006. She provided details on the preparatory process, which involved Member States, partners such as United Nations Agencies; in particular, UNHCR, WFP and other international organizations like IOM and African NGOs.

**86.** She stated that the objectives of the Ministerial Conference were to reaffirm the regional and international protection regime for victims of forced displacement; mobilize African States, donors and international public opinion in support of victims of forced displacement; identify the gaps in the protection and assistance rendered to victims of forced displacement in Africa and ensuring the sustainability of return of refugees and IDPs and the development of innovative African strategies to deal with forced displacement challenges in Africa. The PRC Meeting was given details on the background papers that had been prepared in conjunction with the PRC Sub-Committee on Refugees and UNHCR, WFP and other partners. They included a review of the implementation of the outcome of the last Ministerial Conference held at Khartoum in 1998; draft policy on access to post primary education for victims of forced displacement; draft annotated legal framework on the protection and assistance of IDPs; reaffirmation of voluntary repatriation in safety and dignity; strengthening refugee protection under the 1969 OAU Convention with a focus on maintaining the civilian and humanitarian character of refugee camps and promoting inter-African resettlement of refugees; enhancing access to assistance for victims of forced displacement and a strategy for resource mobilization.

**87.** Members of the PRC welcomed the report and commended it for its high quality and also took the opportunity to commend the Commission for an excellent and well-organized Ministerial Conference on Refugees, Returnees and Internally Displaced Persons, which had just been concluded in Ouagadougou, Burkina Faso. They also commended the Government of Burkina Faso for hosting successfully hosting the Ministerial Conference on 1 and 2 June 2006. The Chairperson ruled that in conformity with Rule 9(3) of the Rules of Procedure of the Executive Council the Ministerial Conference Report, Declaration and its Recommendations be adopted without discussion and be submitted for Executive Council's consideration and adoption.

- **Report of the 4<sup>th</sup> Session of the AU Labour and Social Affairs Commission (LSAC) – Doc. EX.CL/260(IX)**

**88.** In introducing the report, the Commissioner of Social Affairs recalled that in 2005, the AU and the RECs had convened a meeting with ILO to draft guidelines and a reporting format on the implementation of the Ouagadougou

Plan of Action for Employment and Poverty Alleviation. These were sent to the Member States for comments and following responses from twenty-two Member States, she was in a position to present the biennial report as required by the Ouagadougou Conference.

**89.** She then reported on the activities to be carried out by the Commission at the Regional level on the development of Regional Frameworks on integration of policies and programmes for the promotion of employment and poverty alleviation in line with the Ouagadougou Summit. These include, among others, the setting up of an Advisory Council on Ageing in order to improve the living conditions of elderly persons.

**90.** The Committee was also informed on the status of the Draft Social Policy Framework in Africa. The Ministers of Social Affairs requested that the Framework be submitted to the consideration of Ministers of Social Development.

**91.** On the issue of rethinking the Labour and Social Affairs Commission, the AU Commission was requested to undertake a study and make concrete proposals. Also, following the presentation of a report by the African Rehabilitation Institute (ARI), a specialized agency of the AU, it was recommended that ARI should embark on advocacy visits to Member States and that the latter should integrate people with disabilities in Development programme. In concluding, the Commission announced that the next meeting of the Labour and Social Affairs Commission would be held in Addis Ababa.

**92.** In the ensuing discussions, It was recommended that in future the Experts' Report be annexed to the Ministerial Report for the sake of clarity and comprehension. The PRC further stressed the need for a study on the issue of the rethinking of the Labour and Social Affairs Commission in order to enable the AU to take an informed decision on the matter and depart from the old mandate of the OAU. In this regard, a proposal was made on the separation of working methods such as alternating every year, consideration of social and labour issues. The PRC underscored the need to speed up the process of setting up STCs as matter of priority.

**93.** The Report was recommended for the Consideration of the Executive Council.

- **Report of the 1<sup>st</sup> Conference of AU Ministers in charge of ICT – Doc. EX.CL/261(IX)**

**94.** In her presentation, the Commissioner for Human Resources, Science and Technology underscored the vital role played by the information and communication technologies (ICT) in fostering development in Africa, and then placed the holding of the Ministerial Conference within the general context of the initiatives taken in preparation for the WSIS. She reminded the PRC of the

political role the AU has to play in promoting the ICT in a bid to bridge the digital gap, thus substantiating the plan to institutionalize the Conference of Ministers responsible for information and communication technologies.

95. Following her presentation, discussions focused on the following:

- i) Omission in the report of the prerequisites for the establishment of connectivity (basic infrastructure and training of personnel);
- ii) The need to harmonize the form of Ministerial Conferences convened under the aegis of the African Union.

96. The PRC adopted the report with the following recommendation:

- Initiate a global process to harmonize ministerial conferences in terms of their format, periodicity and appellation. The conferences could be known as “African Union Conference of Ministers responsible for Information and Communication Technologies.”
- **Report of the 1<sup>st</sup> Conference of AU Ministers in Charge of Youth – Doc. EX.CL/262(IX)**

97. Introducing the above report, the Commissioner for Human Resources, Science and Technology highlighted the consultations that took place before the Conference, namely: the two Youth Forums (January and May, 2006) two Experts’ Meetings (January and May 2006) and national level consultations in Member States carried out by national youth organizations. The Commissioner further underscored the consideration and adoption of other documents such as the structure of the Conference of Ministers and the Declaration of Ministers Responsible for Youth, adding that justification for these documents resided in the follow up on the implementation of the documents, and the commitment by Member States to popularise the Charter. In conclusion, the Commissioner drew the attention of the PRC to the need to institutionalise the Conference of Ministers responsible for Youth which, she suggested, could meet every two years. She also informed the PRC that the Ministers responsible for Youth had adopted a consensual document after making their own amendments.

98. During the ensuing debate, the PRC pointed to the gaps in the report, namely; the non-adoption of the structure of the Conference of Ministers of Youth and the importance of the amendments made to the African Youth Charter. The PRC then proposed further amendments accordingly.

99. The PRC took note of the report and recommended it for consideration by the Executive Council.

- **Report of the 1<sup>st</sup> Conference of AU Ministers in Charge of Electrical Energy – Doc. EX.CL/263(IX)**

**100.** In his presentation, the Commissioner for Infrastructure and Energy recalled that the theme of the First Conference of African Ministers in charge of Electrical Energy held in Addis Ababa, Ethiopia, on 23 to 24 March 2006 was on “Common Vision and Guidelines for a Continental Policy on the Electrical Energy Sector”. He stated that the main objective of the Conference was to define and adopt guidelines and strategies aimed at promoting the electrical energy sub-sector in Africa, taking into account immediate needs as well as medium and long-term prospects. He observed that some of the key constraints hindering medium and long-term planning in the electrical energy sub-sector included the lack of reliable data on the energy sector at the national, regional and continental levels. In addition, the fact that different standards were applied made it difficult to interconnect the electrical networks of the various regions.

**101.** The Commissioner informed the PRC that the Conference made several pertinent recommendations including the institutionalization of the Conference of African Ministers in charge of Electrical Energy, and the establishment of an African Electricity Fund comprising a special window devoted to rural electrification. He also informed the PRC that the Conference adopted the “Addis Ababa Declaration and Action Plan” aimed at revitalizing and promoting the development of the electrical energy sector in Africa.

**102.** During the ensuing discussions, the PRC commended the report for its in-depth evaluation of the sub-sector and the adoption of a comprehensive Action Plan on the revival of the electricity sub-sector in Africa. It also observed that some further work and analysis still needed to be done including the cost implications of the proposed structure and the operational modalities of the fund. It further underscored the need for effective coordination and synchronisation of key players (Member States, Regional Economic Communities, NEPAD) to promote synergies and minimize duplication.

**103.** The PRC recommended that the Executive Council takes note of the Report, the Plan of Action, and the Addis Ababa Declaration of the meeting of African Ministers in charge of Electrical Energy. It also recommended that further analysis on the cost implications of the proposed structure and on the operational modalities of the African Energy Fund be undertaken. The PRC finally recommended that the Commission should be requested to undertake studies on other energy sources such as new and renewable energy.

- **Report of the 1<sup>st</sup> Conference of AU Ministers in charge of Rail Transport – Doc. EX.CL/264(IX)**

**104.** In his presentation, the Commissioner for Infrastructure and Energy recalled that the theme of the First Conference of African Ministers responsible

for Railway Transport held in Brazzaville, the Republic of Congo, from 13 to 14 April 2006, was “Towards an Efficient Rail Transport System in the Service of Africa’s Development and Integration.” He stated that the main objective of the Conference was to exchange views on the challenges and prospects in the railway transport sector, and to adopt strategic guidelines for the establishment of a continent-wide rail transport policy within a global context of an integrated transport system.

**105.** He observed that the railway constitutes the backbone for any functional multi-modal transport network and is a crucial tool for socio-economic integration and development. However, most railways in Africa were old, having been constructed before independence and had undergone considerable deterioration as reflected in the drastic downturn in their market share even for goods traditionally meant for rail transportation. He also observed that there was an acute problem with the financing of rail transport infrastructure and that the African rail network was characterized mainly by the heterogeneity of gauge systems and the near-total absence of interconnectivity.

**106.** The Commissioner informed the PRC that the Conference made several pertinent recommendations including:

- i) the need to implement structural reforms to make railway companies genuine commercial enterprises;
- ii) the formulation of a Continental Integrated Transport Master Plan as a strategic tool for development of the sector;
- iii) the institutionalisation of the Conference of African Ministers in charge of Transport as a mechanism for the coordination of continental policies and sector strategies;
- iv) the consideration of the possibility of allocating a percentage of GDP to rail infrastructure financing; and
- v) the establishment of a Fund for the financing of transport infrastructure.

**107.** During the discussions that ensued, the PRC expressed its appreciation for the in-depth evaluation of the sub-sector and the adoption of a comprehensive Action Plan for the effective re-activation of the rail transport sector in Africa. It further observed that indeed the railway systems in Africa were obsolete and irrelevant in the sense that in most cases they do not favour the process of integration as they were largely designed initially for the export of primary commodities. The PRC called for the modernisation of railway infrastructure and underscored the need to ensure that African companies with

competencies in managing, running and constructing railways be given priority in the award of contracts.

**108.** The PRC recommended that the Executive Council takes note of the Report, the Plan of Action, and the Brazzaville Declaration of the Meeting of African Ministers in charge of Railway Transport.

- **Report of the 2<sup>nd</sup> Conference of AU Ministers in charge of Air Transport – Doc. EX.CL/265(IX)**

**109.** In his presentation, the Commissioner for Infrastructure and Energy recalled that the theme of the Second Conference of African Ministers in Charge of Air Transport held in Libreville, Gabon, from 18 to 19 May 2006, was "Issues of Air Safety in Africa". He stated that the overall goal of the Conference was to define and adopt a strategy to significantly reduce the rate of air accidents and incidents in Africa. He observed that the liberalization of air transport in Africa following the Yamoussoukro Decision of November 1999 saw the emergence of several airlines, which unfortunately, do not always conform to international safety standards. As a consequence, Africa was in the most unfavourable position in terms of air safety with an average rate of air accidents 6.6 times higher than the world average, although Africa represents only 4.5% of world air traffic.

**110.** The Commissioner informed the PRC that the Conference reaffirmed the necessity to take into account all the current initiatives on air safety in force in Africa and the significance of regional, continental and international cooperation in strengthening air safety in Africa. He stated that the Conference made several pertinent recommendations on issues relating to safety and the supervision of safety; progress made in the implementation of the Sun City Resolution on follow-up to the Yamoussoukro Decision; African Union's common external policy on air transport; and on strengthening the capacities of the African Civil Aviation Commission (AFCAC).

**111.** During the ensuing discussions, the PRC commended the adoption of an overall Plan of Action to strengthen air safety in Africa. It appreciated the timely organisation of the Conference at a time when the African air transport sector was besieged by negative media reports. It underscored the need for Member States to issue licenses only to aircraft which fulfil airworthiness standards and are able to subject themselves to security oversight. In this context, it called on all relevant International Partners to support the air safety programme of the African Union. The PRC also stressed the need to put in place all the mechanisms necessary for the effective implementation of the Yamoussoukro Decision. It further highlighted the need to ensure effective coordination between Member States, RECs and the AU on the implementation of the Yamoussoukro Decision.

**112.** The PRC finally recommended that the Executive Council takes note of the Report, the Plan of Action, and the two Libreville Resolutions, namely on the improvement of air safety and on a common external policy on aviation in Africa respectively.

- **Report of the Conference of Ministers of Information and Communication on the establishment of the Pan-African Radio and Television – Doc. EX.CL/266 (IX)**

**113.** In her presentation, the representative of the Commission recalled the various stages which led to the First Meeting of Ministers of Information and Communication. This inaugural meeting focused on the consideration of the conditions for the establishment of the Pan-African Radio and Television Channel.

**114.** The representative of the Commission then briefed the PRC on the deliberations of the Conference which addressed the editorial policy and programme content, as well as the target public, financing of the proposed Pan-African Channel, the technical and technological resources required as well as its legal and institutional framework. The Conference adopted recommendations on each of the above issues.

**115.** The ensuing debate highlighted the following:

- i. The Conference did not formally adopt its report and therefore, the report has no legal basis;
- ii. Since the report was not formally adopted, it could not be submitted for consideration by the Assembly as requested by some delegations;
- iii. The PRC does not have the mandate to amend the recommendations of a Ministerial Conference;
- iv. The Bureau of the Ministerial Conference should meet to formally adopt the report;
- v. The report should be included in Part A of the PRC Agenda, for information;
- vi. The report should be sent back for consideration by the Experts Meeting and submitted for consideration in conformity with the procedure in force.

**116.** The PRC adopted the following recommendations:

- i. That the Executive Council should not present the Report of the Conference of Ministers of Information and Communication for consideration by the Assembly due to the fact that it had not been formally adopted by the Conference;

- ii. The Executive Council should refer the matter back to Senior Officials, in line with the recommendations of the Ministers of Information and Communication.

- **Report of the Conference of AU Ministers of Agriculture – Doc. EX.CL/267(IX)**

**117.** The Commissioner in charge of Rural Development and Agriculture presented the outcome of the AU Conference of Ministers of Agriculture, which the African Union Commission organized back to back with the 24<sup>th</sup> FAO Regional Conference for Africa in Bamako, Mali from 31<sup>st</sup> January to 1<sup>st</sup> February 2006.

**118.** The Report focused on four key elements comprising of: (1) The Status of Food Security in Africa; (2) The CAADP-Sirte Integrated Implementation Plan (3) the Progress report on CAADP Implementation with emphasis on country level activities; and (iv) Agriculture Expenditure Tracking System (10% budget allocation). It highlighted the concern of the serious food insecurity situation in many parts of the continent and recognized the strategic initiatives that are being undertaken at different levels to increase food production and access. It reiterated the importance of harmonizing and coordinating African agricultural programmes and initiatives by the AUC and NEPAD.

**119.** Progress made by many Member States in the development of National Medium-Term Investment Programmes (NMTIPs) within the framework of CAADP was also highlighted. In this regard, Member States were urged to accelerate the implementation of CAADP by adopting the National Medium-Term Investment Programmes (NMTIPs) and include them in their National Medium-Term Expenditure Frameworks to ensure funding. The report noted the development of the Agriculture Expenditure Tracking System on the 10% Budgetary Allocation to Agriculture and called for Member States to adopt the Classification of Functions of Government (COFOG) System as described in the newly developed Agriculture Expenditure Tracking System for use by AU Member States in reporting their allocations to agriculture.

**120.** The report was recommended for consideration by the Executive Council.

- **Report of the Conference of AU Ministers of the Environment – Doc. EX.CL/268 (IX)**

**121.** The Commission proposed the withdrawal of this item from the agenda.

- **Report of the 4<sup>th</sup> Conference of AU Ministers of Trade – Doc. EX.CL/269(IX)**

**122.** The Commissioner for Trade and Industry presented the Report of the 4<sup>th</sup> Ordinary Session of the Conference of African Union Ministers of Trade held from 12 to 14 April 2006 in Nairobi, Kenya. The purpose of the Conference was to consider the ongoing process of integration in the Continent, and which is being achieved through trade liberalization and facilitation, as well as the rationalization of the RECs.

**123.** The Conference adopted the following three main documents:

- The resolution on the rationalization of RECs;
- The Nairobi Ministerial Declaration on the Doha Work Programme;
- The Nairobi Declaration on Economic Partnership Agreements.

**124.** The Commissioner recalled that in view of the vital stakes in the WTO negotiations and the Economic Partnership Agreements, the Commission organized three ministerial meetings within a year, namely in Cairo, Arusha and Nairobi, in order to guide negotiators at each stage of the way requiring Africa to take a position. However, the timeframe for the conclusion of WTO negotiations on Agriculture and Non-Agricultural Market Access (NAMA), which timeframe scheduled for April 2006, was not honoured and so another WTO ministerial meeting may hold in Geneva in June 2006. She added that the Kenyan Minister of Trade and Industry, AU spokesperson for Trade, the Chairperson of the Commission as well as the official in charge of the African Group in Geneva, are making contacts with AU partners to win their support for the common African position.

**125.** The Commissioner declared that the Aid For Trade Initiative was introduced to pacify Africa, but should not be considered as a substitute to the conclusions of the ongoing WTO negotiations. She added that although Africa is represented by the spokespersons of the African Group, the ACP and the LDCs in the Special Team set up by the WTO Director General to define the contents and modalities of the implementation of this initiative, Africa has, on its part, formulated its common position on the issue, and African leaders should be vigilant in order to optimize the benefits of this initiative.

**126.** With regard to the EPAs, negotiations are proceeding at regional level, although they have somewhat slowed down because of the firm determination of African countries to first do a mid-term evaluation of the negotiations. The Commissioner underscored the fact that the evaluation will enable an active participation of Member States concerned and lead to an identification of the problems which need intervention at high political level. The deadline for

conclusion of the negotiations, set for December 2007, remains unchanged, although the hopes of its being honoured are slim.

**127.** During the discussions, delegations raised the following issues:

- The strategy used by the AU Commission to win the cooperation of the ECA in international negotiations;
- The need for Africa to use its raw materials as bargaining chip in the negotiations;
- The role of EPAs as an economic development tool aimed, among other things, to gain access for African commodities to the European market;
- The need for the Commission to participate in the negotiations and coordinate the RECs so that they may speak with one voice;
- The importance of seeing to it that the EU position on the EPAs does not lure Africa into an unfair trade deal;
- The need to do an evaluation of the EPAs in 2006;
- The vital need to maintain the synergy in WTO negotiations so as to attain the best results and ensure that the EPAs take into account Africa's needs;
- The need to insist on the fact that the Aid For Trade Initiative should strengthen African capacities to participate effectively in multilateral negotiations and take into account health and phytosanitary issues;
- The support of Africa in strengthening the mandate of UNCTAD for the important role it plays for Africa and Least Developed Countries (LDCs);
- The need to prolong the waiver accorded to AGOA in WTO.

**128.** Responding to the questions of the PRC, the Commissioner said that Africa's strength in WTO was in its numbers and on this basis its voice cannot be ignored. Concerning the Commission's partnership with the ECA, she assured the PRC that it was exemplary and very close, as it is too with its trade policy research centre. She went on to say that sanitary and phytosanitary issues were among Africa's requests for inclusion in the Aid For Trade package. The Commission was playing its coordination role and the RECs had presented not only progress reports at the Nairobi Conference, but also the Cairo Declaration on the EPAs drafted in agreement with the RECs, requesting that no REC

should sign an EPA agreement without consultation with the others. She pointed out the divergence of views between the RECs concerned on the one hand, and the EU on the other, and emphasized the fact that new EU Commissioners want to refocus on issues of development, for which a meeting has been scheduled for 22 July 2006. On the delicate question of the differences in regions for the purpose of EPA negotiations and the AU regions, the Commissioner indicated that the results of the Banjul Summit on integration would play a major role on the matter. She also assured the PRC that some Singapore issues that were refused by Africa at WTO were introduced in the EPA negotiations at the level of certain regions for the sole purpose of dismantling a few internal constraints and which will benefit only some local operators and not external ones. With regard to the opposition of some countries to the prolongation of the waiver on AGOA, she informed the meeting that initial talks on the matter were promising. Finally, on commodities, the Commission was working on the launching of an African Commodities Exchange.

**129.** Following the discussions, the PRC recommended the following:

- That a strong message be addressed to the United Nations to support UNCTAD and UNIDO for the assistance they give to African countries.
- **Report of the Ministerial Committee on Candidatures - Doc. EX.CL/270 (IX)**

**130.** Report to be submitted directly to the Executive Council.

- **Report of the 1<sup>st</sup> AU Conference of Ministers of Integration (CAMEI) – Doc. EX.CL/282 (IX)**

**131.** The PRC took note of the Report and recommended it for consideration by the Executive Council.

**PART B: ITEMS FOR DISCUSSION (In conformity with the provisions of Rule 9 (3) of the Rules of Procedure of the Executive Council)**

- 1. Consideration of the Report on the Establishment of the Electoral Assistance Unit and the Electoral Assistance Fund – Doc.EX.CL/272 (IX)**

**132.** In her presentation, the Commissioner for Political Affairs first recalled the major stages of the process which led up to the studies on the Unit and the Fund, in conformity with the decisions adopted in July 2002 by the OAU Council of Ministers and the Assembly of Heads of State and Government. She then informed the PRC of the conduct of the Meeting of Government Experts held in Brazzaville from 6 to 7 June 2006, and drew its attention to the recommendations made by the meeting on:

- (i) the general mandate of the Unit and the missions devolving on it as a result of this mandate, the position of the Unit in the structure of the Commission, strengthening the capacities of the Political Affairs Department and financing the Unit;
- (ii) the role of the Fund, its administrative and financial management, beneficiaries, strategies for the mobilization and reconstitution of funds and the sources of funds.

**133.** It emerged from the Commissioner's presentation that:

- (i) the mandate of the Unit and missions of the Unit would focus on the promotion of democracy and elections in Africa;
- (ii) the Unit would be directly under the Political Affairs Department with a skeletal structure and the recruitment of personnel should be gradual;
- (iii) the need to strengthen the capacities of the Political Affairs Department;
- (iv) the running costs for the Unit should be funded from the regular budget of the Commission but its operations and programmes could be financed from the Fund;
- (v) the Fund should serve as a support to the activities of the Unit which will be responsible for its administrative management and the Finance Department for its financial management;
- (vi) the beneficiaries of the Fund will be primarily Member States as well as national electoral institutions, civil society organizations, political parties, media and other actors of the democratic process;
- (vii) the Fund while being open to external resources of partners of the African Union, should remain exclusively African.

**134.** During the ensuing discussions, the Permanent Representatives' Committee commended the high quality of the Report of the Commission and welcomed the establishment of the Unit and Fund which would contribute to strengthening the capacities of the Union in the promotion and consolidation of democracy and election observation in the Continent.

**135.** Some delegations requested clarifications on the beneficiaries while expressing the view that it was necessary to avoid categorizing them. They underscored the fact that on the one hand, the Unit and the Fund had the vocation for promoting democracy on the Continent and assisting National

Electoral Commissions to enable them manage the electoral process at the national level; while on the other hand, assisting the Union in strengthening its observer capacities of electoral processes, before, during and after the elections. Consequently, it was not desirable to have other actors benefit from it as recommended by the experts, especially political parties, civil society and the media.

**136.** At the end of its deliberations, the Committee approved the recommendations of the expert's meeting and requested that the operationalization process of the Fund and the Unit be accelerated. It emphasized the need for African ownership of the Fund and the electoral process and had on this score, invited the Member States to contribute to the Fund.

**137.** Concerning the beneficiaries, the meeting decided that the beneficiaries would essentially be national electoral bodies and the Electoral Assistance Unit.

**138.** Lastly, the Committee decided to submit these recommendations for approval by Council.

**2. Consideration of the Report on the Situation in the Middle East and Palestine – Doc. EX.CL/273 (IX)**

**139.** The PRC referred this item to the Executive Council.

**3. Consideration of the Report on the Elaboration of a Framework Document on Post-Conflict Reconstruction and Development – Doc. EX.CL/274 (IX)**

**140.** The Commissioner for Peace and Security introduced and contextualised the report on the elaboration of the framework document on post-conflict reconstruction and development to the PRC.

**141.** This was followed by comments from delegates of the PRC who congratulated the Commission for producing a sound draft policy on post-conflict reconstruction and development.

**142.** The delegations also raised certain issues that need consideration during the operationalisation of the policy after its adoption. These are:

- a) there was a recommendation relating to the follow-up mechanisms to consider the creation of an AU Standing Multidimensional Committee – that is independent, that would muster all necessary available resources and that has as its mandate the role of

interlocutor with the UN Peace building Commission directly in a similar manner as the AU PSC does with the UNSC;

- b) It was also recommended to establish a dedicated secretariat within the AU Commission to oversee the issue of PCRD;
- c) Prioritize the use of African capacity in assisting countries emerging from conflicts in the form of AU volunteers (AUVs) that are multi-skilled in all aspects of reconstruction and development; and
- d) Other participants also noted the need to provide space for traditional mechanisms in reconstruction, the need for capacity building throughout post-conflict reconstruction and the imperative to be sensitive to the lead role of countries emerging from conflicts in identifying and prioritizing their needs, all of which are covered in the draft document.

**143.** Having agreed that the draft policy is a critical one, in the future reconstruction and development agenda of the continent and that it was comprehensive, the PRC adopted it.

**4. Consideration of the Report on the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) – Doc. EX.CL/275 (IX)**

**144.** The above agenda item was referred to the Executive Council for consideration.

**5. Consideration of the Report of the Commission on the Strategic Framework for Migration Policy for Africa – Doc. EX.CL/276 (IX)**

**145.** The Commissioner for Social Affairs presented the Draft Strategic Framework, indicating that the document was a means to provide a framework to Member States to elaborate migration policies. She proposed the renaming of the document as “Migration Policy Framework for Africa” to ensure that it is viewed as a framework for use by Member States and is therefore not funding them. It was explained that consequential changes in the language had been accordingly made. The Commissioner highlighted the 9 thematic areas of the Framework and recalled the need for a Migration Policy Framework for Africa to address, amongst others, issues of labour and migration within and outside the continent. She further noted the role of the Diaspora and its positive contribution to the socio-economic development of the continent. The Commissioner noted that the process of finalising the framework commenced three years ago.

**146.** In the ensuing discussion, delegations expressed appreciation for the efforts deployed to finalise the framework. Delegates questioned whether the comments received from Member States were reflected in the final draft. The framework was appreciated as a viable tool for Member States to engage each other and other continents in negotiations on migration issues. The Commissioner explained that all amendments had been reflected as contributions of Member States. She also noted that the two documents, the Framework and the Common Position on Migration and Development, were complementary and not mutually exclusive.

**147.** The PRC noted that the framework provided a basic framework for Member States to develop their respective migration policies at national and regional levels, and agreed to recommend the Draft Migration Policy Framework for Africa to the Executive Council for adoption.

#### **6. Consideration of the Report of the Experts Meeting on Migration and Development (Algiers) – EX.CL/277 (IX)**

**148.** In her presentation, the AU Commissioner for Social Affairs recalled that the issue of migration had emerged as a development challenge. She also recalled that the mandate to convene the Experts Meeting, had been granted by the Khartoum Executive Council (January 2006), upon the proposal by Algeria. She noted that the Meeting was well attended by a wide range of delegates from Member States, Regional and International Organisations and the Diaspora. She indicated that the outcome of the Experts Meeting was the African Common Position on Migration and Development, which was annexed to the Report.

**149.** In presenting the Common Position, the Commissioner emphasized that migration needs to be broadly and holistically approached. It should be considered from a development perspective. She noted that the document sets out a preamble and Priority Policy Issues, cross cutting issues and recommended actions. Among these, she highlighted remittances which surpass 1 billion US\$ annually but should not replace ODA; human resource development; the role of the Diaspora, braindrain and the challenge of child trafficking. She also explained that the Common Position complements the Migration Policy Framework for Africa, which is a broad guide for African countries while the Common Position is a negotiation tool with other continents and could be utilized for the UN High Level Meeting on Migration subject to broadened scope to include two other issues, namely, human trafficking and institutional mechanisms. She concluded by tabling the document for approval, subsequent consideration and adoption by the Executive Council.

**150.** During the debate that followed, delegations noted that although the document had been initially prepared for dialogue with the EU, the Common Position could be further developed for broader political statements or to serve as a strong negotiation tool. Concerning the UN High Level Meeting, it was

proposed that the revised document be considered and adopted by the African Ministers responsible for Immigration in the margins of the High Level Meeting. In this regard, a request was made that human trafficking and institutional mechanism for international cooperation be included in the document. It was also proposed that certain aspects such as remittance should be elaborated, as this issue was going to be a major focus at the High Level Meeting. The PRC was reminded that the Ministerial Meeting on Africa-EU Dialogue still holds and would be hosted by Libya when the parties are ready.

**151.** At the end of the debate, the document was recommended for adoption by the Executive Council as a Common African Position subject to the broadening of its scope and inputs from African delegations to the High Level Meeting.

## **7. Consideration of the Report on the Rationalization of RECs - Doc. EX.CL/278 (IX)**

**152.** In its presentation, the Commission outlined the work that has been undertaken by the Commission in collaboration with the Economic Commission for Africa and the Global Coalition for Africa on regional integration and rationalization of the RECs. Consultative meetings were held at expert level in Accra, Ghana, in October 2005 and in Lusaka, Zambia, in March 2006. These consultations culminated in the Conference of African Ministers in charge of Integration, which met in Ouagadougou, Burkina Faso, in March 2006.

**153.** Scenarios for rationalization of RECs were presented at all consultative meetings. During the Ouagadougou conference each REC made a presentation of progress made in the integration process and the challenges being experienced. The Ministers noted the need for rationalization of Regional Economic Communities (RECs) and made a number of recommendations, which will be submitted to the Assembly in Banjul. They also issued a declaration in which they agreed, among others, to:

- i. Request the Assembly of the African Union (AU) to impose a moratorium on the recognition of new RECs. Accordingly, only the following eight RECs should remain recognized:
  - Economic Community of West African States (ECOWAS);
  - Common Market for Eastern and Southern Africa (COMESA);
  - Economic Community of Central African States (ECCAS);
  - Southern African Development Community (SADC);
  - Inter-Governmental Authority on Development (IGAD);

- the Arab Maghreb Union (UMA);
  - Community of Sahelo-Saharan States (CEN-SAD) ; and
  - East African Community (EAC).
- ii. Revisit the Abuja Treaty to rearrange the timetable of its implementation taking into account the provisions of the Sirte Declaration of 9.9.99, and finalize the new Protocol on Relations between the AU and the RECs for signature in the shortest time possible;
- iii. Request the AUC and the RECs to:
- Harmonize and coordinate policies and programmes of RECs as important strategies for rationalization;
  - Carry out an institutional audit of the RECs to assess the challenges and efficiency constraints in implementing the Abuja Treaty.
- iv. Encourage the RECs to promote free movement of persons, goods, capital and services in order to enhance continental integration;
- v. Invite the African Union to institutionalise the meeting of African Ministers responsible for Integration to follow up on the continental integration process.

**154.** After considerable discussion, the Permanent Representatives Committee (PRC) made the following recommendations:

- The AU should work with the recognized RECs in the harmonization and coordination of their programmes and policies till they attain a level of customs union at which stage it will be easier to merge them;
- There is need for a distinction between a REC and an Inter-Governmental Organization;
- There should be a transitional period for Member States to attain a certain level of integration;
- The process of regional integration needs to involve all stakeholders;
- The PRC supported the halting of the recognition of new RECs;

- Although the AU Commission will undertake studies on cost and benefits of belonging to RECs, the decision regarding which REC a Member State belongs should be the responsibility of the Member State concerned;
- The work on regional integration and rationalization of RECs should ensure synergies with other on-going initiatives, including work on the establishment of the Union Government;
- It is important that there be information, including on capacity constraints pertaining to the various RECs.

**155.** In conclusion, the PRC agreed to present the recommendations of the Ouagadougou Ministerial Conference to the Executive Council.

**8. Consideration of the Report on the Integration of Africa in Multilateral Trade: WTO Negotiations and Economic partnership Agreements (EPAs) with the European Union – Doc. EX.CL/283 (IX)**

**156.** When introducing the report, the Commissioner for Trade and Industry reminded the PRC that after the Conference of AU Ministers of Trade and Industry held in Nairobi in April 2006, whose report had already been examined by the PRC, there had been a number of developments. She drew the attention of the PRC to the main issues raised in the Report:

- Questions of interest to Africa;
- Some meetings that had failed to hold, including that scheduled for April ending on agricultural modalities and Market Access for non-agricultural products (NAMA);
- Forces obstructing negotiations;
- The need to authorize a high level mission to make contact with influential partners who can enable progress in the WTO negotiations.

**157.** With respect to EPA, the Commissioner stressed on:

- profound differences between the European Union and the various RECs/negotiating groups;
- the major challenges Africa is facing in negotiating these agreements;

- the agreement in principle that the EPAs are development tools that can buttress the integration process; and
- the need to establish high level contacts to raise the awareness of partners.

**158.** In conclusion, the Commissioner informed the PRC that two draft decisions had been prepared and will be submitted for consideration in view of granting the high level mission authorization and enabling the RECs to engage in fruitful discussions aimed at proposing to AU organs various draft agreements before they are signed.

**159.** In the ensuing discussions, the PRC underscored the need for Africa to process its commodities, including cotton, locally in order to have a greater say on the global market. It observed that there was no distinction between WTO and EPA questions in the report. It also expressed its concern over the fact that the EPA negotiations are taking place at the level of individual RECs/negotiating groups without the other RECs being able to participate in such negotiations and exchange experiences. To this end, it wanted to know the fate of the protocol governing relations between the AU and the RECs, and recommended that the AU Commission should focus on the coordination of efforts so as to ensure that the RECs work together.

**160.** The Commissioner said that as a matter of fact, Africa's share in international trade was low, and even declining, and that the Commission was exerting efforts to encourage Africa to venture into manufacturing industry and export only finished or semi-finished products. In this connection, she pointed out that Member States should be united and demand that partners should assist Africa to process part of its basic commodities locally and, where necessary adopt the relevant legislation. She informed the PRC that the Commission was working towards the establishment of a Pan-African Commodities Exchange but that she was concerned because some African States had no control over their commodities and that the positive results achieved in Hong Kong with respect to access to a tax free market without quotas could benefit only non-African least developed countries.

**161.** The Commissioner expressed the need to ensure that EPAs comply with WTO rules, as one of the challenges was to include the Singapore Issues, sidelined at the WTO, in EPA negotiations, considering that only the issue of trade facilitation had been maintained.

**162.** The Commissioner for Economic Affairs then indicated that the Protocol Governing Relations between the African Union and the RECs was discussed with the RECs, but would only be signed at the end of discussions on the

rationalization of RECs. He concluded that this Assembly of the African Union would surely guide the Union on the way forward.

**163.** After lengthy discussions on the high-level mission to sensitize partners whose subsidies tend to have a disruptive effect on the competitiveness of African products, the PRC gave its agreement in principle. It further requested that the Heads of State seize the opportunity of the G8 Meeting slated for Saint Petersburg to accomplish this essential task.

**9. Consideration of the Report of the Meeting of the Sub-Committee of Directors General of Customs on Trade Facilitation within Africa and the Process of Establishing Customs Unions – Doc. EX.CL/284 (IX)**

**164.** In her presentation, the Commissioner recalled that the theme of the Second Meeting of the AU Sub-Committee of Directors General of Customs held in Harare, Zimbabwe from 3 to 7 April, 2006 was on Regional/Continental Integration. She stated that the objective of the meeting was to give an opportunity to Customs officials as frontline actors in the implementation of regional integration programmes at the borders to brainstorm and report on the difficulties, constraints, opportunities and challenges that Customs administrations face in their daily operations. The multiplicity of RECs and multiple memberships of countries to several RECs has been underscored as one of the major impediments to trade facilitation and this situation will worsen with the regional configuration proposed by the forthcoming EPAs. The Sub-Committee made some pertinent recommendations, amongst others, the rationalization of RECs and harmonization of RECs programmes.

**165.** In the debate that ensued, the PRC highlighted the importance of implementing some of the critical recommendations notably transit operations. It was of the view that the rationalization of RECs was beyond the scope and mandate of the Sub-Committee of Directors General of Customs, particularly since a reflection process at the level of Ministers responsible for Integration had been initiated in Ouagadougou. It further highlighted the fact that the report had not yet been examined by the Conference of Ministers of Finance. The Committee therefore recommended that the report should not be presented as a stand-alone item to the Executive Council but that, given the pertinence of the reflection and conclusions, it should be presented as annex to the Report of the 4 Ordinary Conference of Ministers of Trade.

**10. Consideration of the Report on the Establishment of an African Commodities' Exchange – Doc. EX.CL/285 (IX)**

**166.** In her presentation, the Commissioner for Trade and Industry called the PRC's attention to the operationalisation of the main goals of the Arusha

Declaration and Plan of Action, adopted by the Summit of Heads of State and Government in Khartoum in January 2006. They are:

1. the setting up of a Task Force at continental level for strategic reflection on commodities;
2. the strengthening of the production and marketing capacities of commodity producers/exporters' associations;
3. the boosting of solid networks between producers and consumers by fair trade;
4. aid for the establishment of a commodities diversification fund;
5. advocacy and support for the creation of a commodities exchange, at Pan-African, regional and national levels.

**167.** As part of the efforts for this operationalisation, a meeting of experts was held in Gaborone (Botswana) in May 2006 and another with the RECs in Addis Ababa in June 2006, she said.

**168.** The Commissioner informed the PRC that the Gaborone meeting culminated in the elaboration of a roadmap containing the different stages of the establishment of a Pan-African Commodities Exchange by the end of August 2007. The Addis Ababa meeting provided the opportunity for RECs to endorse the operationalisation plan of the Arusha Plan of Action which contains 21 activities the RECs should consider in their development strategies.

**169.** She went on to explain to the PRC the significance of the Commodities Exchange whose main role will be to create transparent conditions for the African commodities market and thus make possible the emergence of their real economic value in the understood interest of increasing the purchasing power of producers. The Exchange will also add value to commodities by enabling their processing in Africa into semi-finished or finished products for the export market. The new added value to African commodities will help to improve their competitiveness and Africa's share of multilateral trade.

**170.** The PRC was also informed of the offer of an African private economic operator to create a Pan-African commodities exchange by using Indian technology and on the basis of a public-private sector partnership. The operator, who will present his idea to the RECs to demonstrate the soundness of the project, solicits the African Union's support in the form of advocacy, the Commissioner said.

**171.** In the ensuing discussions, the PRC, having noted the pertinence of a commodities exchange, drew the Commissioner's attention to the following:

- i) the need to involve Member States in the build-up process to the establishment of the commodities exchange;
- ii) the need to be vigilant with regard to the offer of the private economic operator, whose identity, financial capacity and ability to carry the project through for the interest of African producers should be well examined;
- iii) the need to provide detailed information on this process and in particular on the use of the economic operator to carry out the study.

**172.** The PRC took note of the Report.

**11. Consideration of the Report on Aid for Trade – Doc. EX.CL/286 (IX)**

**173.** In presenting the Report on Aid For Trade, the Commissioner for Trade and Industry reminded her audience that the purpose of the initiative was to strengthen Africa's supply capacity by developing basic infrastructure and institutional capacities for production and trade so as to attain an international competitive level. It was important for the Commission to arrive at a common position on the issue before the next meeting of the WTO General Council at the end of July 2006, she told the PRC.

**174.** To this effect, the AU Commission organized a retreat on Aid For Trade in Montreux (Switzerland) on 07 and 08 April 2006. The retreat examined the factors hindering supply, made an evaluation of the existing frameworks for capacity building, such as JITAP and the Integrated Framework, and discussed the new Aid For Trade Initiative. It also identified the production and supply constraints in terms of infrastructure that hinder Africa's performance on the world market. The Commissioner pointed out that the resources for the initiative should be additional resources and be given as grants so as to truly contribute to the development of beneficiary countries.

**175.** To conclude, she informed the PRC that the document of the reflection on Aid for Trade is already on the website of the Commission to attract feedbacks from other African development actors.

**176.** The following observations were made on this point in the course of the debate:

- i. Although the recommendations of the Montreux retreat were welcomed, it was proposed that workshops on the question at regional and continental level be organized;

- ii. The need to evaluate the financial needs for the implementation of the Initiative were noted;
- iii. One of the guiding principles in the implementation of the Initiative is that it should not be seen as a substitute for development aid;
- iv. Given that the commitment to allocate 0.7% of GDP for development aid was not honoured by developed countries, no assumptions should be made that this new initiative would fare differently;
- v. Also, given that aid cannot rid Africa of poverty, there is need to improve the terms of trade with regard to the price of African commodities so as to provide Africa with financial resources;
- vi. A request to be provided with this type of reports before sessions was made.

177. The PRC took note of the report.

## 12. Consideration of the Report on Avian Influenza – Doc. EX.CL/287 (IX)

178. In her presentation, the Commissioner for Rural Economy and Agriculture explained that the report presented progress made by the African Union Commission to coordinate an African response to the threat of the Highly Pathogenic Avian Influenza (HPAI) on the continent. The report highlighted the African countries that are affected by the disease and the response strategy to avian influenza developed by African countries. The report also highlighted the fundraising and advocacy activities undertaken by the Commission both on the continent and outside the continent. It concluded by requesting for a special budget for AU/IBAR to meet the needs of the current campaign to control the Avian flu on the continent.

179. During the discussion of the report, delegations expressed appreciation for progress reported on the implementation of the African Strategy for the prevention and control of the Avian Flu as well as the efforts of the AU Commission in resource mobilization to combat the spread of the disease. The PRC supported the request made by the AU-IBAR to carry out its coordination role in the implementation of the strategy. However, a formal and detailed request would have to be made in this regard, in line with the Financial Rules and Regulations. The PRC also requested for clarification on the outcome of the high level meeting on Avian Influenza held in Vienna on June 6-7, 2006 and Mali offered to host the next International Conference on Avian influenza to be held in December 2006. Some delegations called for the need to address the socio-economic impact of the disease by providing compensation in the affected communities, in the form of poultry farms as a source of livelihood of many of the

affected areas. The need to address the challenges posed by migratory birds as a source of the virus was also highlighted. The report was adopted as presented.

13. **Consideration of the Report on the Implementation of the Executive Council Decision on the Free Movement Initiative in Africa as it related to the African Diplomatic Passport – Doc. EX.CL/288 (IX)**

**180.** The Commissioner for Political Affairs introduced the Report, and informed the meeting that the Progress Report was being presented to the Executive Council for information as directed by the Bureau of the Committee of Experts on Free Movement at the conclusion of its meeting held in Addis Ababa on 15-16 June 2006. She recalled that the Commission had provided information to Council in January 2006 at Khartoum, outlining the challenges that it was facing in implementing this decision.

**181.** She informed the Meeting that following the Meeting the Committee agreed on a Matrix on the Implementation of the said Executive Council decision. She also indicated that the Commission had provided briefing notes on the Commission's efforts to date in implementing the Decision. She also brought the attention of the PRC to the Report of the Meeting of the Bureau of the Committee of Experts on Free Movement. She informed the meeting that no decision was being sought from the Executive Council as outlined in the last paragraph of the Progress Report.

**182.** During the general debate some Member States expressed concern over the procedure that involved the presentation of the outcome of a Bureau meeting to the Council and sought advice from the Legal Counsel. Some Member States Members of the Committee of Experts queried the aspect of the Progress Report which indicated that the Committee had failed to meet on at least four occasions. They sought clarification from the Commission on this point. However a significant number of Member States welcomed the Report, notwithstanding their recognizing the legitimate procedural concerns expressed by some Member States. These Member states indicated that this progress report was indeed being submitted for information purposes as indicated in the last paragraph of the Progress Report and as affirmed in the record of the meeting of the Bureau of the Committee of Experts.

**183.** In response to the request for clarification the Commissioner for Political Affairs, confirmed that the Commission had indeed tried on several occasions to convene a meeting of the Committee of Experts to no avail, and she brought the attention of the PRC meeting to foot note no.3 on page 1 of the Briefing Notes. She also informed the Members of the PRC that the Commission was in possession of the record of the said Note Verbales and could avail them to

Members of the PRC who wished to review them. She also clarified that in conformity with decision EX/CL.211 (VII) of July 2005, the Commission was enjoined to report on progress to Council in 2006. The Legal Counsel in response to the procedural concerns of Member States, indicated that since there was already an existing Council decision calling for the progress report, the Commission was only fulfilling that requirement and therefore the concern of Member States could be assuaged by moving the item from Part B to Part A of Section VII in conformity with Rule 9(3) of the Rules of Procedure of the Executive Council.

**184.** Following the clarification of the Commission, the Chairperson ruled that the Progress Report be presented to Council under Part A of Section VII, and in the absence of any objections, it was so decided.

**14. Report of the High Level Meeting of African Airline Companies (for information) - EX.CL/289 (IX).**

**185.** This item was removed from the agenda of the PRC.

**ITEMS PROPOSED BY MEMBER STATES**

**186.** The following items were proposed by Member States:

- 1. Transformation of the All Africa Ministerial Conference on Decentralization and Local Development (CADDEL) to an African Union Structure (Item proposed by Cameroon (Doc. EX.CL/290 (IX) Add.1**
- 2. Establishment of an African Centre for Study and Research on Migration (Item proposed by Mali) – Doc. EX.CL/290 (IX) Add.2**
- 3. Re-thinking the Labour and Social Affairs Commission of the AU (Item proposed by the Republic of the Congo) – Doc. EX.CL/290 (IX) Add.3**
- 4. Ratification of the Convention on the Protection and Promotion of the Diversity of Cultural Expression (Item proposed by Mauritius on behalf of Member States, members of OIF) – Doc. EX.CL/290 (IX) Add.5.**

**187.** The PRC recommended all the above items for consideration by the Executive Council.

**VIII. ANY OTHER BUSINESS**

**188.** The PRC received a communication of the Representative of the Executive Secretary as part of the consultations the Executive Secretary of United Nations Economic Commission for Africa (ECA) was holding with a view to repositioning the ECA. The PRC was briefed on the ongoing reform programme in the ECA motivated by the emergence of an African agenda and the ECA's bid to respond to the reforms of the United Nations System. The representative of the ECA outlined the three areas in which the organization intended to obtain results, namely reconstruction, strengthening cooperation between the ECA, the ADB and the African Union, as well as reinforcing its sub-regional presence with the RECs and providing the latter with technical support. In conclusion, the representative of the ECA informed the PRC that all these initiatives had been approved by the Meeting of Ministers of Finance held in Ouagadougou, Burkina Faso, in May 2006.

**189.** The PRC commended the ECA for its efforts at implementing these reforms and made a commitment to support the process.

**IX. ADOPTION OF THE PRC REPORT**

**190.** The PRC adopted its Report with some amendments.

**X. COMMUNICATION FROM THE DEAN OF AFRICAN AMBASSADORS TO CHINA**

**191.** The Dean of African Ambassadors accredited to China briefed the PRC on the forthcoming China-Africa Forum. On behalf of his colleagues the Chairperson of the PRC expressed appreciation for the briefing and pledged the commitment of Member States to cooperate in assisting during the preparatory process.

**XI. CONSIDERATION OF THE DRAFT AGENDA OF THE EXECUTIVE COUNCIL**

**192.** The PRC considered the Draft Agenda of the 9<sup>th</sup> Session of the Executive Council and recommended it for adoption.

**XII. CLOSING**

**193.** The Chairperson thanked his colleagues for their cooperation and rich exchange of ideas which undoubtedly contributed immensely to the fruitful deliberations.

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