

AFRICAN UNION
الاتحاد الأفريقي



UNION AFRICAINE
UNIÃO AFRICANA

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PERMANENT REPRESENTATIVES COMMITTEE
Ninth Ordinary Session
EXECUTIVE COUNCIL
Sixth Ordinary Session
24 – 25 January 2005
Abuja, NIGERIA

PRC/Rpt (IX)

Report of the Ninth Ordinary Session of the Permanent
Representatives' Committee

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I. INTRODUCTION

1. The Ninth Ordinary Session of the Permanent Representatives' Committee (PRC) of the African Union was held in Abuja, Nigeria, from 24-25 January 2005. The Session was chaired by H.E. Olusegun Akinsanya, Ambassador of the Federal Republic of Nigeria to Ethiopia and Permanent Representative to the African Union with the assistance of the Bureau elected in July 2004.

Chair	-	Nigeria
1 st Vice-Chair	-	Republic of Congo
2 nd Vice-Chair	-	Rwanda
3 rd Vice-Chair	-	Libya
Rapporteur	-	Botswana

2. In attendance were Fifty-one (51) Member States of the African Union. (List of participants attached).

a) **Opening Ceremony**

3. The opening ceremony was marked by two statements. The first was made by the Chairperson of the PRC who welcomed all the delegations and drew their attention to the need to use the time allotted rationally in view of the number of Items on the Agenda. He then gave the floor to the Deputy Chairperson of the AU Commission Mr. Patrick Mazimhaka, who after welcoming the delegations, invited the PRC to proceed directly to consider the Agenda, which he said, reflected the conclusions of the PRC meeting, held in Addis Ababa, Ethiopia, on 14 January 2005.

4. The Chairperson of the PRC then invited the participants to observe a minute of silence in memory of the numerous victims of the Tsunami which hit South Asia as well as part of our continent on 26 December 2004.

b) **Organization of Work**

5. The PRC adopted the following working hours:

- Morning:	-	9.00 a.m. - 1.00 p.m.
- Afternoon	-	4.00 p.m. - 7.00 p.m.

The Report will be adopted in the afternoon of 26 January, 2005.

c) **Adoption of the Agenda**

6. The PRC discussed the Draft Agenda as contained in Doc. EX.CL/1 (VI) PRC/1 (IX) Rev.2, and adopted same with a few amendments. The adopted Agenda had a total of six (6) Items. The PRC recommended the introduction of a sub-item dealing with a brief statement on the status of implementation of the Millennium Development Goals Declaration.

7. Several delegations took the floor on Draft Agenda Item II (2): Consideration of the Draft Protocol on the Merger of the African Court of Human and Peoples' Rights and the Court of Justice of the African Union; Item II (II): Consideration of the Draft Protocol on the Relations between the African Union and the Regional Economic Communities (RECs) and Item II (18): Consideration of the proposed amendments to the Rules of Procedure of the PRC, the Executive Council and the Assembly and the Statutes of the Commission. Some delegations were of the view that the above Items would require more in-depth preparation and consultation, and recommended that their consideration be postponed to the next Session of the Executive Council in July 2005. However, other delegations felt that the Commission should present a progress report to allow for exchange of views on the measures to be taken to present a more comprehensive report on this Item during the next Session in July 2005.

8. After clarifications by the Commission, the PRC adopted its Agenda with an additional Item on the statement on the status of implementation of the Millennium Development Goals Declaration.

9. Other delegations requested that reports be provided or statements made on the financial and administrative situation of the Commission, including the status of contributions, budget performance and the recruitment process. The Commission indicated that detailed information had been provided in the report to be submitted to the Executive Council.

10. Delegations underscored the importance of the PRC to closely monitor the budget performance, status of contributions by Member States as well all pertinent issues such as the recruitment process.

11. On its part, the Commission reiterated its firm commitment to cooperate with the PRC and its Sub-Committees in the discharge of their responsibilities in particular through regular reports and consultation.

12. The adopted Agenda is annexed to this Report.

ITEM II: **1. Briefing by the Chairperson of the African Group in New York on the Reform of the United Nations based on the Report of the High Level Panel on Threats, Challenges and Change**

13. In the absence of the Chairperson of the African Group, the PRC could not hear this briefing.

2. Briefing on the Review of the Status of Implementation of the Millennium Development Goals (MDGs)

14. The item was jointly presented by the Commissioners in charge of Social Affairs, Economic Affairs and Infrastructure and Energy, in that order. The Commissioner for Social Affairs informed the PRC that the Commission was already seized with the matter and that preparations for the mid-decade review of the MDGs had already started in earnest together with the AU's partners. She added that it was intended to put an item on the MDGs on the agenda of the July Policy Organ meetings with a view to coming up with an African Common Position on the MDGs, and that in the meantime the Commission would prepare the necessary documentation. The Commissioner for Economic Affairs concurred with the statement, and referred to a number of meetings that had either already taken place, were currently underway, or were scheduled in preparation for the mid-decade review of the MDGs. Responding to comments on Infrastructure, the Commissioner for Infrastructure and Energy noted that the issue of transportation was not adequately addressed in the MDGs, and that Ministerial Meetings were scheduled for April in Addis Ababa and May in Abuja to come up with indicators for the transport sector.

15. The ensuing discussions stressed the need for the Commission to accelerate the process of elaborating an African Common Position on the way forward, and to do this in partnership with other institutions including the UN-ECA, ADB, RECs, and the AU-NEPAD Programme. It was important to ensure Africa's full involvement in this process, and to link the process at the AU level with the processes at the level of Member States, so as to identify and benefit from whatever linkages exist. The African Common Position should be based on what is actually on the ground, and show both the progress made and the challenges remaining, so that it is clear what Africa needs to do in order to meet the agreed benchmarks. Some delegations suggested the setting up of a mechanism that would enable the AU to review the status of implementation of MDGs, so that Africa would be in a position to submit a common position to the UNGA Review Meeting in September 2005.

16. At the end of the debate, the PRC agreed that the AU Commission should be mandated to actively pursue the MDG review process, which process should be enriched through collaboration with the ECA, AU-NEPAD, the RECs, and the ADB; that this review process should take into account processes at the

national level; and that a report should be submitted to the PRC for consideration as expeditiously as possible, taking into account the timelines connected to the various activities linked to the overall MDG review process, such as consideration of the African Common Position by the Executive Council and adoption by the Assembly prior to the September 2005 global meeting on the MDGs.

3. Consideration of the Draft Protocol on the Merger of the African Court on Human and Peoples' Rights and the Court of Justice of the African Union – EX.CL/162 (VI)

17. In presenting this item, the Representative of the Commission highlighted the context and effect of decision Assembly/AU/Dec.45 (III) adopted in July 2004 by the Assembly. He indicated the actions taken by the Commission in implementation of the decision including undertaking a study on the matter, elaborating a draft legal instrument to effect the merger, convening a consultative meeting with distinguished African scholars, judges and practitioners to consider the study and the draft legal instrument. He noted that a planned meeting of the PRC and government legal experts could not take place in Addis Ababa due to circumstances beyond the control of the Commission. He stated that the words 'integrate into one' and 'merge' are legally one and the same thing and that the draft legal instrument submitted to the PRC was short and simple and was intended to effect the merger whilst maintaining the integrity and specificities of the two courts. Thus, the draft legal instrument envisaged the African Court becoming a Specialized Judicial Division in the merged court which would implement the Protocol on the African Court. The combined Court would have 15 Judges and one President, assisted by one Registrar and two Deputy Registrars.

18. During the discussion, the following issues were raised:

- i) The decision adopted by the Assembly in July 2004 on the merger of the two Courts into a single court should not unduly delay the establishment of the African Court on Human and Peoples' Rights (African Court) in view of fact that the Protocol on the establishment of the Court has already entered into force;
- ii) There is need to convene a meeting of government legal experts to consider the recommendations and draft legal instrument and related issues to enable the policy organs make an informed decision on the matter ;
- iii) Consideration be given to operationalizing the African Court in view of the importance of human rights issues in the continent while working out the modalities for the merger of the two courts. In this

regard, the Assembly could consider reviewing its decision suspending the operationalization of the African Court;

- iv) Operationalizing the African Court when only 19 Member States have ratified the Protocol would not be in conformity with the spirit of the Protocol, which requires representation of the principal legal traditions of the Continent;
- v) In effecting the merger of the two courts, there is need to maintain the identity and integrity of the two courts;
- vi) The role of States Parties vis-a-vis Member States should be clarified.

19. The Legal Counsel suggested that the proposal to establish the African Court pending the merger should also be referred to the proposed meeting of government legal experts in view of the serious legal and other implications involved.

20. At the end of the debate the PRC decided to submit all the issues to the Executive Council for further consideration.

4. Consideration of an Interim Situation Report on:

- a) HIV/AIDS, Tuberculosis, Malaria and other Related Infectious Diseases
- b) Polio Eradication - **EX.CL/149 (VI)**

21. The Report was presented by the Commissioner in charge of Social Affairs who highlighted the timeliness of the Report in view of the forthcoming review of the Millennium Development Goals (MDGs) which are based mainly on social indicators, and driven by a global agenda that now focuses on poverty alleviation and investing in people. The Commissioner drew the attention of PRC to the Report on “Scoring African Leadership for Better Health”, which is a result of the joint efforts of the AU Commission, ECA, UNAIDS and WHO.

22. She noted that in spite of the deep commitment, it had already been projected that Africa might not be able to attain the Millennium Targets due to poverty and the intensifying disease burden particularly due to HIV/AIDs, Malaria and Tuberculosis, and that a comprehensive and integrated approach was required to reverse this.

23. On polio eradication, the Commissioner recalled that Africa had made commendable progress up to 2002 but that sadly, the situation had deteriorated in 2003/4.

24. She then indicated the key issues for consideration and recommended action, laying emphasis on the following: promotion of integrated and functional health systems, and development of human resources, local and international efforts in financing health, up-scaling the continental response to HIV/AIDS control through the repositioning of AIDS Watch Africa (AWA) at the AU Commission, implementing the NEPAD Health Strategy, keeping HIV/AIDS high on the agenda and elaborating an AU HIV/AIDS strategy to respond to the continental emergency declared by Heads of State in 2001.

25. During the subsequent discussion, the PRC welcomed the report and commended the Commission for work well done. The PRC agreed with the recommended actions in general, but requested that they be reformulated in light of the following observations:

- i) The need for Africa to take the lead in Trade Related Intellectual Property Rights (TRIPS) negotiations to promote access to affordable generic drugs - Africa has to plan properly for dialogue at TRIPs negotiations and other fora;
- ii) The report should include clear statistics on the impact of these diseases, and make selective recommendations on each disease - among others, the importance of traditional medicine should not be overlooked;
- iii) Health policies should not overlook the vital role of prevention and the importance of psychological aspects of disease;
- iv) The report should outline what has been done by Africa, noting the constraints and challenges, and urging the international community to meet its obligations;
- v) The need for best practices from countries to be shared;
- vi) Partnerships with the global community including the UN family should be fostered further, especially as concerns review of the MDGs.

26. After an extensive exchange of views, it was agreed to submit the Report as amended to the Executive Council for consideration.

5. Follow-up of Maputo, Sirte and Ouagadougou Declarations on Food Security:

a) Consideration of the Report on the Status of Food Security Situation in Africa – EX.CL/155 (VI)

27. In her presentation on Food Security in Africa, the Commissioner for Rural Economy and Agriculture (DREA) recalled the various Decisions and Declarations of Maputo (July 2003), Sirte (February 2004) and Ouagadougou (September 2004), committing Member States to paying particular attention to the development of the different sectors of agriculture for food security. The Commissioner indicated that current efforts to reduce chronic hunger in Africa are not likely to cut the number of hungry people by half by 2015 as envisaged in the Millennium Development Goal (MDG). She noted the encouraging news that some sub-Saharan countries are amongst the 30 developing countries worldwide that have registered progress in bringing down prevalence of hunger by 25%. The food security situation worsened amongst AU Member States during 2004. The reasons for the deficit vary from crop failures due to drought or floods, to civil strife and locust outbreaks such as occurred in 2004.

28. The Commissioner concluded by proposing the creation of an African Food Security Committee to serve as a platform of exchange on matters of food security in the continent, and the establishment of an African Union representational office in Rome to coordinate Africa's food security matters with relevant world bodies mandated with the issue. The Commissioner also requested that the AU Inter-African Phytosanitary Council be further mandated to facilitate capacity development in the continent for the control of desert locust and other migratory pest species.

29. During the debate, the delegations called for a detailed analysis of issues by the Commission on food safety standards using data from Member States so as to strengthen the data base on food security situation in Africa.

30. The proposal for the establishment of an African Food Security Committee was noted but more details were requested on the financial and legal implications of the issue before further consideration. The proposal also needed to consider the inclusion of sub-regional specialized institutions such as the Inter-State Committee to Combat Drought in the Sahel and National Early Warning Systems to be associated with the proposed Committee.

31. The need to reduce the number of agencies and to avoid the creation of new agencies under the AUC was also emphasized.

32. The proposal for the establishment of an AU delegation to FAO was noted but with a strong suggestion for the delegation to be financially supported by the FAO if it was really deemed necessary after a thorough analysis.

33. The need for Member States to address the factors responsible for deteriorating the food security situation was stressed. Call was made for the elimination of factors such as civil strife, armed conflicts which worsen the food security situations. Member States must create an enabling environment for agricultural activities to flourish. Attempts must also be made by Member States to control natural factors such as drought, floods, desertification and cyclones.

34. The creation of strategic food reserves so as to guarantee, at all times, the availability of staple agricultural commodities, their stable supply as well as access for the regions and households was put forward as a solution to limit certain effects of the Continent's direct dependence on food aid and food inputs.

35. The establishment of a reliable early warning system capable of anticipating the emergence of food crises, taking stock of production and available resources and monitoring phenomenon such as natural disasters (floods, drought, invasion or outbreak of endemic diseases affecting animals, crops and plants) was considered to be essential because it constitutes the preferential tool for combating food insecurity.

b) Consideration of the Follow-up/Progress Report on Maputo, Sirte and Ouagadougou Declarations – EX.CL/156 (VI)

36. As regard the implementation of the Maputo, Sirte and Ouagadougou Declarations on agriculture and food security, the Commissioner for Rural Development and Agriculture gave an account of the initiatives taken and progress made by the AUC. Included amongst these were the development of a plan of action for 2004 to 2007 to implement the declarations, and sensitization and follow-up with Member States as regard to allocation of 10% of national budget to agriculture. On the latter matter, it was noted that while the number of Member States that responded to the Commission's enquiries was not high, response from about eight indicated that Member States are making efforts to live up to the spirit of the commitment. To ease access to information regarding the commitment, the Commissioner urged Member States for more cooperation and to consider, amongst other things, sending copies of their approved annual national budgets to the AU Commission through their Embassies.

37. The AU Inter-African Phytosanitary Council (IAPC) deployed efforts to ensure that African food safety and phytosanitary standards meet international requirements in order to boost export of agricultural products from the continent.

38. The Commissioner reported that contact was established with various African institutions with the view to promoting cooperation and identification of

centres of excellence for the development of the agriculture and natural resource sectors.

39. The report also indicated that AMCOW had already launched the African water facility, which is hosted by the ADB. Arrangement was underway to finalize the instruments for the Facility's administration and management. Initiatives have also been taken at the level of the ADB, NEPAD and the AUC to facilitate joint management of shared waters.

40. During the debate, delegations cited the constraints to the implementation of phytosanitary standards and obligations of the Member States in WTO-SPS requirements as one of the most crucial challenges for the continent in accessing foreign markets of agricultural produce.

41. The AU-IAPSC was requested to do more in creating an enabling environment in Member States for phytosanitary surveillance through advocating for updating of phytosanitary rules that were in compliance with international obligations. The AU-IAPSC was also requested to facilitate capacity development in the continent on matters of early warning systems for migratory pests, pest risk analysis and integrated pest and crop management as well as management and eradication of obsolete pesticides.

42. The threat to food security by desert locusts was noted with a strong call for Member States to support the numerous efforts being currently deployed to adopt a regional approach to finding solutions as the migratory pests have no respect for national or political borders. Resource mobilization to stop the problem especially in the Southern Sahelian region was suggested since this area constitutes the main locust corridor between the Sahara and the countries further north.

c) Consideration of the Report on AU-PATTEC-EX.CL/157 (VI)

43. The Commissioner for Rural Economy and Agriculture, in her report on the implementation of PATTEC, cited achievements including: sensitization on and coordination of the campaign; multi-national cooperation; resource mobilization and promotion of synergetic actions amongst Member States. She noted that the resource mobilization efforts resulted in the ADB providing US\$67 million as soft loan and a grant of US\$4.9 million to finance implementation of tsetse eradication activities in six Member States namely Burkina Faso, Ethiopia, Ghana, Kenya, Mali and Uganda. Furthermore, WHO provided support to the programme to the tune of US\$45,000 for publicity and printing of PATTEC information materials. The US State Department also provided US\$250,000 to facilitate studies on the development of procedures for ensuring that tsetse eradication comply with good environmental practices. The Commissioner concluded by calling for coherence, synergy and sense of

focus and commitment from all stakeholders in order to win the war against trypanosomiasis.

44. The PRC took note of the report and acknowledged with appreciation the work of the Commission in increasing awareness, mobilizing support and coordinating activities to advance Africa's war against tsetse-transmitted diseases. While welcoming the assistance of the ADB and other development partners in support of Africa's efforts to eradicate trypanosomiasis, the PRC commended the efforts of the countries that have initiated action or prepared plans aimed at eradicating trypanosomiasis, urged all countries to increase their commitment and appealed to the international community to provide support and collaborate with the Commission in the implementation of the PATTEC initiative. The PRC requested the Chairperson of the Commission to continue reminding affected Member States about their individual and collective obligations to implementing the objectives of the PATTEC initiative.

6. Consideration of the Report on the Criteria for Granting Observer Status and a system of Accreditation within the AU – EX.CL/161 (VI)

45. This item was introduced by the representative of the Commission who recalled that the document was in three sections: Section I dealing with the granting of Observer Status to Non-governmental Organizations, which had been considered and adopted by the PRC and experts in a meeting held in June 2004; Section II relating to accreditation of Regional Integration and International Organizations; and Section III relating to accreditation of non-African States, had been considered by the PRC at its session preceding that of Council in July 2004 and observations made at that time had been incorporated in the text. He said that the objective of the proposals relating to accreditation was to put in place a system for collaborative engagement with development partners, with the right to attend only the public sessions of AU meetings. Finally, he informed the PRC that the Executive Council had in July 2004 requested the PRC *vide* decision EX.CL/Dec. 133(V) to finalize the texts and submit them to the Executive Council at the present session.

46. In the discussion that ensued, the following observations were made:

- i) The document should be referred to a meeting of the PRC and Government Legal Experts;
- ii) The document could be recommended to the Executive Council for adoption in view of the fact that the PRC had already considered the document in June last year;

- iii) Interim arrangements should be adopted for accreditation of Non-African Countries on the basis of reciprocity pending the final consideration of the criteria;
- iv) The PRC should finalize consideration of the document and submit it to the Executive Council in July 2005;
- v) Attendance of observers/invited guests to closed sessions should continue to be limited.

47. At the end of the debate, the PRC decided to establish a Sub-Committee chaired by the Great Libyan Arab Jamahiriya and composed of Burundi, Nigeria, Senegal, Tunisia, Uganda and Zambia to consider the matter to enable the PRC make appropriate recommendations to the Executive Council.

48. During the debate on this issue, the East African Community (EAC), Member States submitted a request for the accreditation of the EAC as a Regional Economic Community.

49. It was noted that the request could not be considered under agenda item 5 because it required a political decision by Council and Assembly in accordance with the practice of admitting RECs in the past.

50. The PRC therefore recommended that the Executive Council considers the request taking into consideration past practice in the accreditation of RECs to the OAU/AU.

7. Consideration of the Progress Report on the Establishment of Regional Offices in the Five Geographical Regions – EX.CL/154 (VI)

51. The Commission explained that, as had been previously indicated during the adoption of the Agenda, no supporting document for this item was available, and a request had been made to withdraw the item from the Agenda.

52. The Commissioner in charge of Economic Affairs nevertheless informed the PRC that internal consultations had taken place, and further consultations with the RECs and Member States were planned in order to enable the Commission to report to the next session of the PRC.

53. After a brief exchange of views, it was agreed that the item be considered at the 7th Ordinary Session of the Executive Council in July 2005.

8. Consideration of the Recommendations of the Ministerial Conference on Drug Control – EX.CL/150 (VI)

54. In her presentation, the Commissioner for Social Affairs provided a brief on the proceedings of both Experts and Ministerial Meetings on Drug Control. She informed that the deliberations of the Conference focused on: Progress Report on the implementation of the AU Plan of Action on Drug Control, the theme of the Conference “Mainstreaming Drug Control into Socio-economic Development in Africa and various related sub-themes, the AU Vision, Mission and Strategic Plan in the context of Drug Control and Crime Prevention and Drug Information Systems”.

55. In presenting the Draft African Common Position on Crime Prevention and Criminal Justice, the Commissioner stated that crime is a threat to security, stability as well as socio-economic development. To address this challenge and develop global response, the 11th UN Congress on Crime Prevention and Criminal Justice will be convened from 18-25 April in Bangkok, Thailand. In preparation for the Congress, the African Regional Preparatory Meeting was held during March 2004 in Addis Ababa to consider the substantive agenda items for the Congress. The meeting decided that Africa should prepare a Common Position on each of the substantive items and requested the African Union to identify and coordinate pertinent issues to Africa, lead with an African Common Position and present these to the 11th Congress. The Draft Common Position was prepared by the Commission and submitted to the Expert meeting and the Ministerial Conference. The Commissioner then presented a brief overview of the Draft Common Position.

56. The Commissioner explained that the document was considered by both the Experts and Ministers meetings at length. However, there was no quorum. The Ministers could not therefore adopt the approved documents and recommended that they be presented to the Executive Council for consideration and adoption, in particular the proposed African Common Position. The Commissioner called upon the PRC to consider the three documents (Report of Experts Meeting, Report of Ministers Meeting and Common Position) and recommended them for adoption by the Executive Council.

57. The debate that followed welcomed the quality of the Report. It was underscored that drugs were as bad a hazard as terrorism and disease and thus should be given due attention. While noting the lack of a quorum at the Mauritius Ministerial Conference on Drug Control, it was repeatedly expressed that a lot of effort had been put into preparing this important document. Moreover, the importance of ensuring that Africa presents a common position to the April 2005 Global UN Congress was emphasized. The need to share best practices and the facilities available in some countries, and to support countries recovering from conflicts was also emphasized. It was agreed that the Commission should consider holding a consultative meeting on the margins of

the UN Congress to bring on board those Member States who could not attend the preparatory meetings.

58. At the end of the debate, the reservations related to the lack of a quorum at the Ministerial Meeting were noted. Taking into account the urgency of the matter and the quality of the work already done, the PRC endorsed the two documents and the proposed common Position for adoption by the Executive Council.

9. Consideration of the Progress Report on on-going WTO Negotiations – EX.CL/151 (VI)

59. In her presentation, the Commissioner for Trade and Industry reported on the work carried out by the WTO African Group in Geneva following the adoption of the July package. In this regard, she recalled the two important meetings one held in Geneva and the other in Tunis with the support of the Tunisian Government, the AU, ECA and other partners with a view to identifying the technical and analytical aspects of the July package that required the building of capacity of negotiators for the modalities phase with the assistance of academic research institutions from Africa and other international partners. She highlighted the need for Africa to send a strong political message to the international community to find a solution to the cotton initiative which affects more than 10 million African producers living below the poverty line. She further pointed out the issue of the unfair behaviour of the Northern countries with regard to agricultural subsidies and the need to lay emphasis in the political message on the importance for Africa to meet food security objectives, rural development and poverty reduction. In conclusion, she stressed the need for the African Group to maintain solidarity and unity with the G90 on issues of substance within the WTO.

60. The PRC recognized the importance of the WTO negotiations for the socio-economic development of Africa and emphasized the need for capacity building in Member States and RECs and for better coordination of efforts among New York, Geneva, Brussels, African Groups and the AU Commission in Addis Ababa. It agreed with the recommendation for a fast-track approach to the cotton issue while emphasizing the need to come up with a common position on cotton, springing from the outcome of the recently held Bamako meeting. It further called for the document to be enriched with more information on the roadmaps finalized in Geneva and the reaction of the RECs on the issue as well as with the outcome of the Bamako meeting on cotton. It highlighted the importance of coming out with concrete proposals on the issue of Special and Differential Treatment; on the possibility for African countries to have access to required drugs for public health inclusion in national legislations as decided by the WTO Council. The PRC also emphasized the need to pursue the proposal for support to cotton producers in their exports and for the creation of a fund to

compensate losses. In this regard, the PRC also called for other commodities to be part of the list of tradable goods for negotiations at the WTO.

61. With regard to the meeting to be convened by the Government of Tunisia in 2005, the PRC recommended that the AU Commission sensitize Member States adequately in order to avoid lack of quorum. It also called for a meeting on services in order to deal with African concerns in that sector. It recommended that, in addition to other partners, the expertise of ECA should be tapped for capacity building purposes. The PRC recommended that the AU Commission take the necessary measures to implement the proposal to send a strong political message to the international community to fast track negotiations on the cotton issue.

62. With these enriching remarks, the document was recommended for consideration by the Executive Council.

10. Consideration of the Progress Report on Negotiations of the Economic Partnership Agreements (EPAs) – EX.CL/152 (VI)

63. The Commissioner recalled the provisions of the Cotonou Partnership Agreement (CPA) which aim at making EPAs, instruments for the promotion of rapid and sustainable development, the eradication of poverty and the smooth and gradual integration of Africa into the global economy. She quoted in particular Article 37.3 which provides for the strengthening of capacity in the public and private sector during the preparatory phase through measures that increase competitiveness and support regional integration initiatives such as assistance to budgetary adjustment and reform, infrastructure development and investment promotion. She added that the first phase of negotiations was not sanctioned by a formal agreement and that all 48 ACP African countries had embarked on the second phase within four groupings without any country expressing desire to remain outside the process. She then drew the attention of the Committee on the major challenges involved in the negotiations for African countries as raised by the RECs during the first meeting of the coordination mechanism between the AU and the RECs. These are: (i) geographical configuration of the EPAs, (ii) the issue of compatibility between WTO and EPA Rules; (iii) the reciprocal relationship between the EU and ACP countries given the gap between their levels of development, (iv) the imbalance in the present multilateral trading system, (v) the heavy procedures of access to EDF resources and additional resources to African countries to face direct and indirect adjustment costs.

64. She stressed the fact that, although EPAs were about to enter into force in three years' time, the provisions of Article 37.3 were still not implemented. In this regard, she highlighted the need for RECs to remain united and proposed that Council calls on the EU to allow the AU Commission as an

integration Organisation to access EDF resources for the implementation of the NEPAD programme.

65. The PRC expressed concern about the geographical configuration for the negotiation of EPAs which does not coincide with the RECs as organised within the AU. It called for the AU to develop capacity for the coordination of EPA negotiations to ensure that Africa speaks with one voice although EPAs divide Africa into RECs/negotiating groups and that the North African countries are part of the Barcelona process.

66. On the issue of resources, the PRC pointed out that EU resources were categorised into programmable and non-programmable resources and that the AU not being a party to the CPA was not eligible under the first category but should be able to access the non-programmable resources. In conclusion, the PRC stressed the need for African countries to build capacity not only for market access but above all in order to face supply-side constraints so that they can make good use of whatever agreement they will enter into in 2007.

11. Consideration of the Report on the Definition of the African Diaspora – EX.CL/164 (VI)

67. The Commission, in its presentation, noted the decision of the Executive Council in Sun City, South Africa, in May 2003 (EX.EX.CL/Dec.6 (III)) that directed the Commission to develop a Concept Paper on relations with the Diaspora, amongst others. The Commission observed that it had convened this workshop and is now presenting its outcome for consideration in view of the impending launching of ECOSOCC in the first quarter of 2005.

68. During the discussion, delegations observed that the definition contained several important elements but did not include the modern Diaspora or the need for commitment to the African cause, and was not formulated in precise legal terms. Furthermore, the process of its formulation should also have involved more active participation of Member States.

69. The PRC therefore recommended that the definition should be referred to experts of Member States for further consideration. It was stressed that the date of the launching of ECCOSOC should be determined by the Chairperson of the Commission in consultation with the Chairperson of the Union taking into account the need to first develop a clear definition of the Diaspora.

12. Consideration of the Draft Protocol on Relations between the AU and the Regional Economic Communities (RECs) – EX.CL/158 (VI)

70. Introducing the item, the Commissioner in charge of Economic Affairs gave the background to the Draft Protocol, together with a summary of its contents. He recalled that with the coming into force of the Constitutive Act of the African Union, the previous Protocol adopted in 1998 under the aegis of the OAU needed to be reviewed at the request of the Assembly to align it with the new exigencies. Thereafter, the Commissioner invited the PRC to consider the Draft Protocol.

71. In the ensuing debate, the following observations were made:

- i) there was need to refer the matter back to the PRC to enable it make appropriate recommendations to the Executive Council;
- ii) since the terms and conditions of the Protocol were agreed to by the Commission and the RECs, they could be recommended for adoption by the Executive Council;
- iii) although the Protocol relates to relations between the Commission and RECs, it would nonetheless have financial and other implications for Member States;
- iv) in view of the fact that the Protocol on the relations between the OAU and the RECs was still in existence, the delay in the adoption of the new Protocol would not unduly adversely affect the existing relationship between the Commission and RECs.

72. At the end of the debate, it was recommended that the matter be further considered by the PRC and legal experts from Member States before submission to the 7th Ordinary Session of the Executive Council in July 2005.

13. Consideration of the Report of the Chairperson on the Criteria for hosting AU Organs – EX.CL/163 (VI)

73. In presenting the document, the Representative of the Commission informed the meeting that the document had been considered by the session of the PRC preceding that of the Executive Council in July 2004, and made comments and observations that have been incorporated into the text. The Executive Council had also requested the PRC to finalise consideration of the text through the PRC Sub-Committee on Headquarters and Host Agreements, whose membership has not yet been determined.

74. In the discussions that ensued, the following observations were made:

- i) the membership of the Sub-Committee on Headquarters and Host Agreements should be submitted to the Commission and the Sub-Committee operationalised as soon as possible;
- ii) the PRC could not consider the full document either at its July 2004 session or at its Abuja meeting;

75. At the end of the debate, it was recommended that the matter be further considered by the PRC before submission to the 7th Ordinary Session of the Executive Council in July 2005.

14. Consideration of the Report on the Outcome of the AU High Level and Inter-Governmental Meeting on Terrorism and the Launching of the African Centre on Research and Study on Terrorism – Doc. EX.CL/146 (VI)

76. The report was presented by the Commissioner for Peace and Security, who intimated that the high-level inter-governmental meeting took place in Algiers, from 13 to 14 October 2004. He further said that the Centre on Research and Study on Terrorism was formally inaugurated on 13 October 2004, in the presence of the Head of State of Algeria and representatives of the AU Member States partners.

77. The Second Inter-governmental Meeting had underscored the urgent need to operationalize the Algiers Centre. The meeting had in addition, requested the Chairperson of the Commission to establish contact with the appropriate Algerian authorities regarding the appointment of an interim Director for the Centre, pending a decision by the competent organs of the AU on the structure and functioning of the Centre. Lastly, the meeting had requested the Chairperson of the Commission to propose a structure and an annual budget for the Centre and to prepare a document on the modalities for its modus operandi, for consideration and approval by the appropriate organs of the AU.

78. In conclusion, the Commissioner informed the PRC that, pursuant to the recommendation of the Algiers meeting, the Government of Algeria had designated an Interim Director, subsequently formally appointed by the Chairperson of the Commission. The Commission has also prepared a draft document on the modalities for the functioning of the Centre, which is being submitted to the present session of the Executive Council for consideration and approval.

79. All the delegations which took the floor in the ongoing debate welcomed the outcome of the Algiers meeting and the launch of the Centre for the Study

and Research on Terrorism. They particularly emphasized the need to spare no effort to ensure that the Centre becomes operational as quickly as possible.

80. After discussion and having noted with satisfaction the measures already taken by the Commission to implement the recommendations of the Algiers Inter-Governmental meeting, the PRC:

- Reiterated the necessity for member States to take effective action to combat terrorism, and, the imperative need to operationalize the Centre for the Study and Research on Terrorism;
- Endorsed the recommendations contained in paragraph 18 of the report on the outcome of the Second Intergovernmental meeting (EX.CL/146 (VI)).
- With particular regard to the structure and modus operandi of the Centre, the PRC requested that the relevant document (Annex II of report EX.CL/146 (VI)) be submitted for its consideration as soon as possible;
- Recommended that the Executive Council endorse the Declaration of the Second High-Level Intergovernmental Meeting on the Prevention and Combating of Terrorism in Africa (Annex I of report EX.CL/146 (VI));
- Decided to recommend to the Executive Council, that a meeting of State Parties to the Algiers Convention on the Prevention and Combating of Terrorism be convened to evaluate the status of implementation of this instrument.

15. Consideration of the “Outcome and Way Forward Document”: Africa’s Common Position for the Decade Review of the Implementation of the Dakar and Beijing Platforms for Action (Beijing + 10) – EX.CL/147 (VI)

81. PRC took note of the document and agreed to submit it to the Executive Council for consideration and endorsement.

16. Consideration of the Report on the Institutionalization of the Private Sector Forum in Africa – EX.CL/153 (VI)

82. In presenting the report, the Commissioner in charge of Economic Affairs explained why such a Forum was required, noted the vital role that the proposed Private Sector Forum is expected to play in the implementation of the AU Strategic Plan and the AU-NEPAD Programme, and how such a Forum would be implemented and financed. Referring to the recommendations made

by the First AU-Private Sector Forum held in Addis Ababa on 27 June 2004, he highlighted the following proposed actions:

- ❑ the need to institutionalize the Forum which would be convened once every year starting from February 2005, and to mandate the Commission to co-organize this Forum with the Private Sector and to make the necessary budgetary provisions;
- ❑ the need to recognize the importance of the Forum as an essential tool for liaison and partnership between the AU and the Private Sector in the promotion of sustainable development.

83. In the ensuing debate the PRC welcomed the initiative and reaffirmed the importance of Private Sector in Africa's development efforts. However, the PRC stressed that the role of the AU should be a facilitative one, with the Private Sector driving the process. Regarding the financing aspect, the PRC was of the view that the Private Sector should be able to provide the necessary resources for such an activity with the facilitation of the AU. As concerns the periodicity of the meetings of the proposed Forum, some delegations proposed that the meetings be held once every two years in collaboration with ECA, ADB, the Labour and Social Affairs Commission as well as Chambers of Commerce and Industry.

84. At the end of the debate, the PRC recommended that the Report as amended be submitted for consideration by the Executive Council and for adoption in principle of the establishment of the Forum.

17. Consideration of the Report on the Situation of Refugees, Returnees and Internally displaced Persons in Africa – EX.CL/148 (VI)

85. Introducing the report, the Commissioner in charge of Political Affairs stated that conflicts in Africa continue to produce mass displacement of people, resulting in major humanitarian crises. She gave a brief overview on the situation of refugees in the various regions of Africa. Thereafter, she highlighted some of the activities undertaken by the AU Commission, the Commission on Refugees and other partners to improve the situation of refugees, returnees and IDPs in Africa. These activities include field visits to affected countries to assess the situation and the provision of financial assistance. She also referred to the obstacles that have hindered the work of the Commission, as reflected in the report.

86. In his contribution, the Chairperson of the Commission on Refugees stressed the need for more concerted action to address the situation of refugees, returnees and IDPs. To that end, he made several suggestions for improving the AU response to refugee crisis, including the need to revitalize the AU Coordinating Committee on Assistance and Protection to Refugees and IDPs

and to set up mechanisms and partnerships in collaboration with the AU partners and various humanitarian organisations to enhance the capacity of Member States and other stakeholders. He ended by expressing his full commitment to promote the rights of refugees, returnees and IDPs and assured the Commission of his availability at all times to improve the contribution and interventions of the AU in the refugee-related work.

87. On his part, the immediate past Chairperson of the Commission on Refugees deplored the misery, suffering and loss of dignity that refugees and IDPs are being subjected to, and urged that even with her limited means Africa should continue to show that she cares about their plight. While commending some of the interventions of the AU Commission in certain areas such as the Darfur region, he nonetheless expressed the view that the work of the Commission on refugees was not being effectively facilitated by the Commission. In this respect, he cited for example the fact that while some very specific recommendations were made by the Commission on Refugees, they were not adequately circulated to all concerned

88. In the ensuing discussion, delegations underscored the importance of addressing the problems of refugees, returnees and IDPs, and stressed the need for the AU Commission to work in close collaboration with the AU Commission on Refugees and humanitarian agencies. The following proposals were made:

- i) Holding of a Ministerial Conference on refugees, returnees and IDPs in 2005/2006;
- ii) Undertaking and strengthening regular field assessment missions to countries affected by humanitarian crises;
- iii) Addressing the problem of donor fatigue and embarking on resource mobilization in favour of humanitarian issues in the spirit of burden sharing;
- iv) Strengthening the Early Warning System in the Conflict Management Division;
- v) Harmonization of data on refugees.

89. Thereafter, the PRC took note of the report and recommended it to the Executive Council for consideration.

18. Consideration of the Report of the Chairperson on the Status of OAU/AU Treaties – EX.CL/159 (VI)

90. In introducing the item, the Representative of the Commission recalled that the item was a regular item on the Agenda of the Executive Council at the request of the OAU Council of Ministers in 1997. He observed that the objective of the report was to remind Member States of the Treaties adopted under the aegis of the OAU/AU and the need to sign and ratify or accede to them as speedily as possible. He added that the report reflected the situation as at 22 December 2004.

91. In the ensuing debate, the following observations were made:

- i) the delegations of Mali and Niger drew attention to the fact that their countries had ratified some of the Treaties after December 2004;
- ii) a delegation underlined the need for modalities to be worked out to ensure that there is no inconsistency between the various linguistic texts;
- iii) Member States should prioritize the process of signature and ratification or accession of OAU/AU treaties.

19. Consideration of the Proposed amendments to the Rules of Procedure of the PRC, the Executive Council and the Assembly and the Statutes of the Commission - (EX.CL/160(VI)

92. The Committee took note of the fact that the documents had been submitted to it by the Commission in July 2004 but had not been considered largely due to the budgetary process. It also observed that the consideration of the proposed amendments would require a lot of time and the involvement of government legal experts. It therefore, recommended that the matter be considered by the PRC and Legal Experts and finalized for submission to the 7th Ordinary Session of the Executive Council scheduled for July 2005.

ITEM III. ITEMS PROPOSED BY MEMBER STATES

1. **Report on the Asian-African Summit in Bandung, April 2005**
EX.CL/165 (VI) Add.1
(Item proposed by the Republic of South Africa)
2. **Egypt's Hosting the Fourth Ministerial Conference of the China-Africa Cooperation Forum in 2009 – EX.CL/165 (VI)Add.2**
(Item proposed by the Arab Republic of Egypt)

**3. Development of an African Policy on the Supply of Items to Peace Keeping Operations in Africa - EX.CL/165 (VI) Add.3
*(Item proposed by the Federal Republic of Nigeria)***

93. Items 1 and 2 were noted without discussion. During the presentation by the Delegation from Nigeria under Item 3, a point of order was made that under the current Rules of Procedure, Items proposed by Member States were to be submitted to the Executive Council.

ITEM IV. CONSIDERATION OF THE DRAFT AGENDA OF THE SIXTH ORDINARY SESSION OF THE EXECUTIVE COUNCIL

94. The PRC agreed considered the draft agenda and recommended it with some amendments to the Executive Council for consideration.

ITEM V. ANY OTHER BUSINESS

95. No issue was raised under this item.

ITEM VI. ADOPTION OF THE REPORT

Consideration of the Report on the criteria for Granting Observer Status and a System of Accreditation within the AU – EX.CL/161 (VI)

96. During the adoption of the report, the Sub-committee of the PRC set up to consider Item II (6) reported that it had not met formally but had nevertheless held consultations and came up with the following recommendation on transitional arrangements: “pending the adoption of the Criteria for Granting Observer Status and the System of Accreditation within the AU, Non-African States could be granted accreditation with the Union on the basis of reciprocity and their partnership and contribution to the realization of the objectives of the Union.”

97. In the debate that ensued, the following observations were made:

- i) the reference to non-Member States should be changed to EU Member States. However, other delegations felt that the proposal if accepted would be discriminatory;
- ii) that instead of elaborating transitional arrangements that may pose difficulties in their implementation, it would be better to defer the issue for consideration by the PRC after the present session;
- iii) that the proposal as submitted was not problematic.

98. At the end of the debate, the PRC recommended that the transitional arrangements should not be accepted but rather be referred together with the rest of the document to the PRC for further consideration.

99. Thereafter, the PRC adopted its report as amended and recommended it for the consideration of the Executive Council.

ITEM VII. CLOSING

100. The Chairperson of the PRC thanked all the delegations for their cooperation and contributions which have enriched the outcome of the deliberations. He then declared the Session closed.

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