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**REPORT OF PRC SUB-COMMITTEE
ON HEADQUARTERS AND HOST AGREEMENTS**

REPORT OF THE PRC SUB-COMMITTEE ON HEADQUARTERS AND HOST AGREEMENTS

I. INTRODUCTION

1. The PRC Sub-committee on Headquarters and Host Agreements was held at the AU Headquarters in Addis Ababa, Ethiopia on 22 January 2015, under the Chairmanship of Permanent Representative of Mauritania to the African Union and Chairperson of the Sub-committee.

2. The Sub-committee is composed as follows:

Bureau:

- Mauritania (Chairperson)
- Lesotho (1st Vice-Chairperson)
- Eritrea (2nd Vice-Chairperson)
- Gabon (3rd Vice-Chairperson)
- Sierra Leone (Rapporteur)

Membership:

- West: Liberia, Senegal, Sierra Leone and Togo;
- North: Mauritania and S.A.D.R.;
- East: Eritrea, Ethiopia and Kenya;
- Southern: Botswana, Lesotho and Namibia;
- Central: Burundi, Congo and Gabon.

II. ATTENDANCE

3. The meeting was attended by the following Members States of the sub-committee:

Botswana, Burundi, Eritrea, Ethiopia, Gabon, Kenya, Lesotho, Liberia, Mauritania, Namibia, Senegal, Sierra Leone and Togo.

III. OPENING

4. In his opening statement, the Chairperson of the Sub-committee and Permanent Representative of Mauritania to the African Union welcomed the delegations to the meeting of the PRC Sub-committee on Headquarters and Host Agreements (sub-committee) which had not been convened in a long time.

IV. ISSUES CONSIDERED

5. The Sub-committee considered the following issues:

- i) Obligations regarding privileges and immunities;
- ii) Complaints received from the Permanent Mission of Eritrea to the African Union on the alleged abuse of privileges and immunities of the Permanent Representative and his spouse;
- iii) New issues from the staff members of the AU Commission on the implementation of the Headquarters Agreement:
 - a) One year duty free period for the importation of motor vehicle(s);
 - b) Alleged abuse of the use of diplomatic cars;
 - c) Importation of second vehicles for staff members married to Ethiopian nationals or permanent residents;
 - d) Tax on Importation of spare parts by internationally-recruited staff of the AU Commission from P3 and below;
 - e) Alleged ill-treatment of AU Elected Officials by the customs and security personnel at the Bole International Airport;
 - f) Policy on access by AU Staff, Officials and their dependants to their salaries and funds in foreign currency held in Ethiopian Banks.
- iv) Pending or unresolved issues from the report of the last PRC Sub-committee on Headquarters and Host Agreements (January 2013):
 - a) Duty free period for the importation of vehicles on initial recruitment for Staff members;
 - b) Importation of second vehicle for staff members married to Ethiopian nationals or permanent residents;
 - c) Requirement for AUC Staff Member's contract in the issuance of a new or renewal of ID card;
 - d) Reimbursements of seized foreign currency at the airport; and
 - e) Relations between the AUC, the Ministry of Foreign Affairs and other Government Agencies of Ethiopia.

V. DELIBERATIONS

6. In his presentation, the Legal Counsel recalled the mandate of the sub-committee before presenting the summarized conclusions of the meeting of the Joint Headquarters

Implementation Committee. He concluded his remarks by indicating the need for guidelines to fill the implementation gap in the Headquarters Agreement.

7. Following the presentation by the Legal Counsel, delegations made the following comments or observations:

- i) The Permanent Representative of Eritrea to the African Union recalled the alleged incident that occurred upon his arrival at the Bole International Airport on 14 May 2014, and stated the following:
 - His privileged and immunities and those of his wife were allegedly violated;
 - Inviolability of the documents of the Permanent Mission was violated;
 - Unauthorized search of his personal luggage;
 - AUC Protocol Assistant was at the airport, and the Chief and Deputy Chiefs of Protocol of the Commission were informed as the event was unfolding; and
 - Letters were written to the Chairperson of the Sub-Committee and the Chairperson of the Commission protesting the alleged violation and seeking remedy.
- ii) The Permanent Representative of Eritrea to the African Union requested the PRC to urge the Host Country to respect its obligations under the Headquarters Agreement, the OAU General Convention on Privileges and Immunities and the Vienna Convention on Diplomatic Relations;
- iii) The Host Country should consider developing modalities to allow for diplomats to remit or transfer money to their families in their home countries, especially in light of the economic devastation caused by Ebola;
- iv) There is nothing in the Headquarters Agreement that stipulates a one-year year limitation to import a vehicle duty free;
- v) The Host Country and the Commission should develop guidelines that stipulate a time-time frame for duty free importation of a motor vehicle;
- vi) Preventing AUC staff who are married to Ethiopians or permanent residents from importing a second vehicle will amount to discrimination against those staff members;
- vii) The sub-committee should be seized of the complaint from Eritrea;

- viii) Some delegation recounted their experiences with airport security and expressed the need for proper education of government employees on the privileges and immunities of diplomats;
- ix) The Host Country should consider aligning its practice with those of other countries in regard to the importation of spare parts;
- x) The Commission should study other host agreements signed with countries hosting other AU Organs with a view to comparing the privileges, facilities and immunities;
- xi) The Host Country and the Commission should consider reviewing the Headquarters Agreement with a view to addressing the gaps.

8. Following the comments and observation made by delegations, the representative of the Ethiopian delegation provided the following response:

- i) Reiterated the commitment of the Host Country to ensure that all privileges, facilities and immunities enjoyed by the AU diplomatic community are protected;
- ii) As indicated in the report, some of the issues have already been resolved while other have been discussed extensively between the Host Country and the Commission;
- iii) On the complaint by Eritrea, the Host Country had looked into the allegations and did not find any evidence of abuse of the immunities of the Permanent Representative of Eritrea but will report its findings to the sub-committee in due course;
- iv) Money transfer and foreign exchange are regulated by the relevant laws and regulations of the Host Country but the government will look into the request made;
- v) As indicated in the Headquarters Implementation Committee's report, guidelines will be developed for the importation of spare parts;
- vi) The Host Country will look into the issue of the limit of foreign exchange a staff member can withdraw from their bank account.

9. Following the deliberations, the Chairperson of the Sub-Committee established a Working Group under the Chairmanship of Mauritania and composed of Sierra Leone, Lesotho, Ethiopia, Eritrea, Kenya and the Commission. The Working Group which was set up to review the conclusions and recommendations of the PRC met and came up with the recommendations reflected below.

VI. CONCLUSIONS AND RECOMMENDATIONS

10. Following the deliberations on the report of the Joint Meeting of the Headquarters Implementation Committee, Sub-committee concluded and recommended to the PRC to:

1. **TAKES NOTE** of the report of the PRC Sub-committee on Headquarters and Host Agreements;
2. **EXPRESSES** its appreciation to the Federal Democratic Republic of Ethiopia, for its commitment as the Host Country, for extending the necessary privileges, facilities and immunities to the African Union and its Member States in accordance with the Agreement between the African Union and the Federal Democratic Republic of Ethiopia on the Headquarters of the African Union (Headquarters Agreement);
3. **URGES** the Host Country to continue to ensure the effective discharge of its obligations under the Headquarters Agreement;
4. **REQUESTS** Member States, the Commission and its staff members to respect the laws of the host country in accordance with the Headquarters Agreement;
5. **ALSO REQUESTS** the Host Country to look into modalities for effecting legal money transfer, foreign exchange and remittances;
6. **FURTHER REQUESTS** the Host Country to conduct an investigation into the complaint submitted by the State of Eritrea on the alleged violation of the privileges and immunities of its Permanent Representative and his spouse at the Bole International Airport on 14 May 2014 and report back to the Sub-Committee before June 2015 and **ALSO REQUESTS** the Commission to submit its report on the incident to the Sub-Committee before June 2015;
7. **INVITES** both the Host Country and the Commission to continue to engage to ensure mutual implementation of their respective obligations under the Headquarters Agreement in a predictable manner AND **STRESSES** the need for the Joint Headquarters Implementation Committee to meet regularly in order to continue to follow-up the effective implementation of the Headquarters Agreement as well as resolve, in a timely manner, all outstanding matters;
8. **REQUESTS** the Commission to study the Host Agreements with other countries hosting AU Organs, Offices and Institutions and present a comparative analysis of the privileges, facilities and immunities to the Sub-committee in June 2015;

9. ***ALSO REQUESTS*** the Sub-committee to consider the implementation of Host Agreements between the AU and Member States hosting other AU Organs, Offices and institutions.

VII. CLOSING

11. In closing the meeting, the Permanent Representative of Kenya thanked all delegates for attending and particularly the Host Government for addressing some of the issues that were raised.

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