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EXECUTIVE COUNCIL

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

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

I. INTRODUCTION

1. Pursuant to the decision of the Executive Council on Headquarters and Host Agreements made in the January 2015 summit vide Decision on the Reports of the PRC Sub-Committees EX.CL/ Dec 854 (XXVI) in which the Executive Council inter alia:

33. 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);

34. URGES:

- i) the Host Country to continue to ensure the effective discharge of its obligations under the Headquarters Agreement;**
- ii) the Commission and its staff members and member states of the African Union to respect the laws of the host country in accordance with the Headquarters Agreement;**

35. REQUESTS:

- i) 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;**
- ii) The Host Country to look into the modalities of effecting legal money transfer, foreign exchange and remittances;**

36. 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;

37: REQUESTS:

- i) the Commission to study the Host Agreements with all 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;
- ii) the Sub-committee to consider the implementation of Host Agreements between the AU and Member States hosting other AU Organs, Offices and institutions.

2. The PRC Sub-Committee on Headquarters and Host Agreements meeting was held at the AU Headquarters in Addis Ababa, Ethiopia on 3 June 2015, under the Chairmanship of Permanent Representative of the Kingdom of Lesotho to the African Union and Chairperson of the Sub-committee, H.E Amb. Nyolosi Mphale .

3. The Sub-committee is composed as follows:

Bureau:

- Lesotho (Chairperson)
- Tanzania (1st Vice-Chairperson)
- Gabon (2nd Vice-Chairperson)
- Benin (3rd Vice-Chairperson)
- Mauritania (Rapporteur)

Membership:

- Central: Burundi, Congo and Gabon.
- East: Eritrea, Kenya and Tanzania
- Southern: Lesotho, Mozambique and Namibia;
- West: Benin Liberia, Senegal, and Togo;
- North: Libya and S.A.D.R.;

4. Attendance

The meeting was attended by the following Sub-Committee Members States:

- i) Lesotho, Eritrea, Kenya, Libya, Mozambique Namibia, Niger and Togo
- ii) The Federal Democratic Republic of Ethiopian, the Host Country, was invited to the meeting to respond to the issues pertaining to the

implementation of the Executive Council decision and other issues needing clarification and response.

II. OPENING

5. In his opening statement, the Chairperson of the Sub-Committee and Permanent Representative of Lesotho to the African Union, H.E Nyolosi Mphale welcomed the delegations to the meeting of the PRC Sub-committee on Headquarters and Host Agreements (sub-committee). He reminded the sub-Committee of the main issues decided upon by the Executive Council during the last Summit and obligation by both the Host Country and the African Union Commission to report on the issues raised therein before June 2015. The Chairperson requested the Commission represented by the Legal counsel to read the report.

6. In his presentation, the Legal Counsel recalled the Decision of the Executive Council and then presented the following summarized report on the implementation of the said decision:

- i) The AU Commission, in implementing the decision of the Executive Council, has engaged the Host Country in discussing and solving the issues raised therein above. However given time constraints and the number of issues involved as well as other engagements with the Host Government, the issues are yet to be fully addressed. The AUC continues to engage the Host Government on the above said Decision and expects to finalize the issues for proper reporting by the next summit in January 2016.
- ii) With regards to the conduct of studies on the implementation of other Headquarter Agreement in other Member States, the AU Commission has initiated the process and developed a framework to facilitate the conclusion of the study by the next summit in January 2016. The Legal Counsel informed the Sub-Committee that there were however, no resources to embark on the process of assessing the implementation of the respective host agreements. He indicated that this therefore would require more time.
- iii) He concluded his remarks by acknowledged the need to expedite engagement with the Host Country and the submission of the report to the sub-Committee.

III. DELIBERATIONS

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 the decision by the Executive Council

requesting the Host Government and the Commission to investigate and report on the complaint to the Sub-Committee. He raised concern over the non-submission of the reports by the Host Government and AUC as per the Executive Council Decision. He contended more specifically to the following:

- a) That the Reports should have been presented during this meeting;
 - b) Notwithstanding the non-submission or report by the Host Government, the Commission should have submitted its own independent incident report;
 - c) That the delay was inexcusable given the timeframe the report should have been prepared and presented as per the decision of the Executive Council;
 - d) That the delay in decision making may have in a way contributed to a recurrence of mistreatment on one diplomatic staff of the Permanent Mission of Eritrea by immigration officer at the Bole Airport immigration office on 7 March 2015.
- ii) The delegations reiterated the need for the Host government to fulfill its obligations in accordance with the provisions contained in Headquarters Agreement, the OAU General Convention on Privileges and Immunities and the Vienna Convention on Diplomatic Relations;
 - iii) The delegations sought clarification on tax refund issues;
 - iv) Some delegations recounted their experiences with airport security and expressed the need for proper education of government employees on the privileges and immunities of diplomats;
 - v) The delegations expressed concern and sought clarification on the new security measures at the Bole Airport which brought about a change in policy that necessitated the search of diplomatic staff and staff of the AUC.

8. Following the comments and observation made by delegations, the Chairperson of the sub-Committee called on the representative of the Ethiopian delegation to provide a response. The representative of the Ethiopian delegation provided the following response:

- i) That they had investigated the complaint filed by Eritrea and found no substantiated evidence on the allegations;
- ii) That the new security measures were put in place in compliance with international civil aviation security and safety rules and standards;

- iii) He reiterated the commitment of the Host Country to ensure that all privileges, facilities and immunities enjoyed by the AU diplomatic community are protected; affirmed commitment of the Host Government to fulfill their hosting obligations;
- iv) That the Host Government was working with other state institutions to fast track the implementation of legal money transfer, foreign exchange and remittances as well as addressing other issues raised in the Decision of the Executive Council.

IV. CONCLUSIONS AND RECOMMENDATIONS

9. Following the deliberations on the report of the Commission presented by the Legal Counsel and submissions by the delegations and the Host government Sub-committee concluded and recommended to the PRC as follows:

- i) EXPRESSES its dismay over the non-submission of the reports and URGES:**
 - a. the Host Country and the Commission to submit their reports on the complaint submitted by the State of Eritrea to the Sub-Committee by the end of August 2015;**
 - b. the Host Country to continue to ensure the effective discharge of its obligations under the Headquarters Agreement;**
- ii) REQUEST the Host Government to engage the Commission prior to any need for a change of policies, rules and practices that hitherto accorded certain privileges and immunities to the diplomatic personnel accredited to the African Union and elected officials and staff of the African Union;**
- iii) REQUESTS the Executive Council to provide adequate resources to undertake the study on the Host Agreements with all countries hosting AU Organs, Offices and Institutions;**
- iv) FURTHER REQUESTS the Host Country to look into modalities of effecting legal money transfer, foreign exchange and remittances;**
- v) FURTHER request the Commission to submit a comprehensive report on the implementation of this Decision and submit to the Sub-Committee before the end of November 2015.**

V. CLOSING

10. In closing the meeting, the Chairperson of the Sub-Committee thanked all delegates for attending and particularly the Host Government for addressing some of the issues that were raised.

2015

Draft report of the PRC sub-committee On headquarters and host agreements

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