

AFRICAN UNION

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UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, Ethiopia

P. O. Box 3243

Telephone: 5517 700

Fax: 5517844

Website: www.au.int

LC19926

EXECUTIVE COUNCIL
Thirty-First Ordinary Session
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MEETING OF BUREAU OF THE PRC SUB COMMITTEE
ON HEADQUARTERS AND HOST AGREEMENTS

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ON HEADQUARTERS AND HOST AGREEMENTS**

**OLC BOARD ROOM, 13TH FLOOR, ROOM NO. 1312
NEW CONFERENCE CENTRE COMPLEX
AFRICAN UNION COMMISSION
ADDIS ABABA, ETHIOPIA
16 JUNE 2017
08:30AM - 09:30AM**

A. ATTENDANCE

1. The Ambassadors/Permanent Representatives or Representatives of the Bureau attended the meeting:

- a) Benin
- b) Congo
- c) Lesotho
- d) Tanzania
- e) Tunisia

2. The AU Commission was represented by the following representatives of the Office of the Legal Counsel (OLC):

- a) Ms. Adelina Constancia Gaspar, Acting Legal Counsel
- b) Mr. Adewale E. Iyanda, Senior Legal Officer;
- c) Mr. Ermias Kassaye, Legal Researcher;
- d) Ms. Betelhem Arega, Consultant;
- e) Mr. Olalekan Tella, Legal Researcher;
- f) Ms. Tsedenia Gigar Getaneh, Legal Intern;
- g) Ms. Melat Assefa, Legal intern;
- h) Ms. Perpetua Magoke, Legal intern.

3. H.E Amb. Naimi Sweetie Hamza Aziz, Permanent Representative of the United Republic of Tanzania to the African Union chaired the meeting.

B. AGENDA

4. The meeting adopted the following Agenda:

- i) Opening**
- ii) Consideration and adoption of the agenda**
- iii) Consideration of the draft Report of the PRC Sub-Committee on Headquarters and Host Agreements**
- iv) Discussion on Work Plan for the PRC Sub-Committee on Headquarters and Host Agreements**
- v) Briefing on the Outcome of the first Meeting of Committee on Equitable Geographical Distribution of African Union institutions, Organs and Specialized Agencies**
- vi) Any Other Business**
- vii) Closing**

C. DISCUSSIONS

Agenda Item	Key Issues/Observations	Conclusions	Action By
Opening	<p>The meeting opened by the Chairperson of the PRC Subcommittee on Headquarters and Host Agreements (“The Subcommittee”), H.E. Amb. Naimi Sweetie Hamza Aziz Permanent Representative of the United Republic of Tanzania to the African Union who introduced herself as the incoming Chairperson. She requested for support from the Bureau members in the discharge of the mandate of the Subcommittee.</p> <p>The outgoing Chairperson of the Subcommittee, H.E. Nyolosi Mphale Permanent Representative of the Kingdom of Lesotho to the African Union thanked the Office of Legal Counsel for all the support during his term of office and highlighted some of the pending issues that the new Bureau and the Subcommittee will need to address.</p> <p>The opening ceremony concluded with a formal handover of the mantle of leadership from the outgoing to the incoming Chairperson.</p>	None	N/A
Consideration and adoption of the Agenda	The draft agenda was adopted without amendments.	None	N/A
Consideration of the draft Report of the PRC Sub-Committee on Headquarters and Host Agreements	<p>The report of the last meeting of the Subcommittee was presented by a representative of the Office of the Legal Counsel including outstanding issues. Following the presentation, members of the Bureau made the following comments or observations:</p> <p>a) Enquired about the progress on outstanding issues and the need to include timelines;</p>	The report was endorsed with the proposed update to include the report of the Bureau with a matrix to be annexed containing pending issues and their status thereof. The updated report to be presented to the	<p><u>Office of the Legal Counsel</u> to update the report.</p> <p><u>Chairperson of the Subcommittee</u> to present the report to the PRC.</p>

	<p>b) Regarding the request by the Host Country (Ethiopia) to be a permanent member of the Subcommittee, most members of the Bureau were not positively disposed to the idea in view of the fact that this will affect the composition of the Subcommittee from the region, has implications for other member states hosting AU Organs, Institutions and Offices and may raise conflict of interest issues.</p> <p>c) Regarding the request by the Host Country to have a Liaison Office within the premises of the African Union Headquarters to facilitate resolution of issues related to the implementation of the Headquarters Agreement, while most members of the Bureau were not averse to the request sought to know the implications, which should be presented at the next meeting of the Subcommittee.</p> <p>d) The report should be updated with new developments since the last meeting of the Subcommittee with a matrix and deliberations of the Bureau.</p>	<p>Permanent Representatives Committee at the upcoming AU Summit.</p>	
<p>Discussion on Work Plan of the Subcommittee</p>	<p>As indicated in the preceding agenda item, the Office of the Legal Counsel was requested to develop a matrix for the implementation of all outstanding matters in inclusion in the work plan of the Subcommittee.</p> <p>The members of the Bureau also deliberated on the periodicity of the meetings of the Bureau and the Subcommittee with a view to ensuring that they adequately and promptly follow up and address issues arising from the implementation of the Headquarters Agreement and other Host Agreements.</p>	<p>The Sub-Committee agreed to meet on a quarterly basis with the Bureau meeting prior to that.</p>	<p>N/A</p>
<p>Briefing on the Outcome of the first Meeting of Committee on Equitable Geographical</p>	<p>The Acting Legal Counsel, Ms. Adelina Constanca Gaspar gave a brief summary of the outcome of the first meeting of the Committee on Equitable Geographical Distribution of African Union institutions, Organs and Specialized Agencies (<i>"The Committee"</i>) that held on 29 May 2017 at the AU Headquarters. She indicated that the Committee</p>	<p>None</p>	<p>N/A</p>

<p>Distribution of African Union institutions, Organs and Specialized Agencies</p>	<p>considered a draft <i>Guidelines on Equitable Geographical Distribution of African Union institutions, Organs and Specialized Agencies (“The Guidelines”)</i>, the conclusion of which may lead to the development of standard Host Country Agreements to be adopted by the AU Policy Organs.</p> <p>Ms. Gaspar also pointed out that Committee sought clarification of its mandate vis-à-vis the mandate of the Subcommittee. The Committee underscored the need to review and strengthen the <i>Criteria for Hosting AU Organs (“The Criteria”)</i>.</p> <p>Following the presentation, members of the Bureau also expressed the need for the work of the Committee particularly as it relates to the development of the Guidelines, review of the Criteria and standard Host Country Agreement, to be submitted to the Subcommittee for consideration prior to submission to PRC for onward consideration by the AU Policy Organs.</p>		
<p>Any Other Business</p>	<p>No substantive discussion was held under this agenda item</p>	<p>None</p>	<p>N/A</p>
<p>Closing</p>	<p>The Chairperson thanked the Office of Legal Counsel for convening the meeting and requested that the updated report be submitted to the Bureau for consideration so that it is ready to be presented to the PRC the following week.</p> <p>She concluded the meeting by also thanking the members of the Bureau for attending the meeting and their invaluable contribution.</p>	<p>None</p>	<p>N/A</p>

PRC SUBCOMMITTEE ON HEADQUARTERS AND HOST AGREEMENTS

MATRIX OF PENDING ISSUES					
S/N	ISSUES	BACKGROUND/ ACTIONS TAKEN	PENDING ACTION(S)	Action By	Remarks
1.	Finalization of the Study on Host Agreements in Member States Hosting AU Organs and Institutions	<p>1. Desktop research has been concluded;</p> <p>2. Requests for information from AU Organs on the challenges on the implementation of their respective Host Agreements have been sought but only one (1) Organ and one (1) Specialized Technical Office has so far responded, the African Commission on Human and Peoples' Rights (The Gambia) and the Inter-African Bureau for Animal Resources (Kenya), respectively.</p>	<p>1. Request to member states hosting AU Organs on the implementation of their respective Host Agreements;</p> <p>2. Conduct field visit to various member states hosting AU Organs for validation of the desktop research and the responses from the Host Countries and Organs, Institutions or Offices;</p>	AUC	<p>PENDING</p> <p>The conclusion of this study is conditional upon the work being undertaken by the <i>Committee on Equitable Geographical Distribution of African Union institutions, Organs and Specialized Agencies</i></p>
2.	Communication of changes in the Domestic Laws, Rules and Policies of the Host Country	<p>1. The Commission has informed the Host Country of the need for timeous communication to the AU and member states on changes to national laws, rules and policies that may affect the implementation of the Headquarters Agreement;</p>	NONE	Host Country	ONGOING

		<p>2. The Host Country has acknowledged the importance of timeous communication to the AU and its member states and will endeavor to do so;</p> <p>3. The Host Country requested the Commission to submit any such issues as at when they arise.</p>			
3.	Detention of a staff members of the AU without explicit “waiver of immunity”	<p>1. On 25 December 2015, a staff member with Ethiopian nationality, Mr. Tinsae Beriso was arrested by the relevant authorities of the Host Country without an explicit waiver of his immunity contrary to Article 21 (6) of the Headquarters Agreement;</p> <p>2. Several communications from the AU Commission to the Host Country have been transmitted stating its position on the matter;</p> <p>3. The matter has been discussed in the meeting of the Joint Headquarters Implementation Committee and the representatives of the Host Country disagreed with the position of the AU Commission that an explicit waiver was required for officials with <i>functional immunity</i>;</p>	<p>1. The staff member, Mr. Tinsae Beriso is still in detention with no formal communication to the AU Commission of the charges against him;</p> <p>2. No agreement between the Commission and the Host Country on the resolution of this matter;</p>	PRC Subcommittee	This matter has exhaustively been discussed and maybe resolved through arbitration or through the involvement of the AU Policy Organs through the Subcommittee

		4. Matter has also been raised during the meetings of the PRC Subcommittee			
4.	Repatriation of the personal effects/vehicle of a deceased staff member	<p>1. Following the demise of a staff member, the late Mr. Christopher Kachiza from Malawi, the Commission was in the process of repatriating his personal effects and vehicle to his home country but was prevented from doing so until <i>duty</i> was paid;</p> <p>2. The former Chairperson of the AU Commission requested the intervention of the Minister of Foreign Affairs, H.E. Dr. Workneh Gebeyehu who promised to look into the matter;</p> <p>3. The matter was raised at during the meeting of the Joint Headquarters Implementation Committee and the representatives of the Host Country promised look into the issue with relevant national authorities and requested the Commission to send a reminder to the Ministry of Foreign Affairs for follow up;</p> <p>4. The matter was brought to the attention of the PRC</p>	The Host Country to update the AU Commission on this matter.	Host Country	PENDING

		<p>Subcommittee on Headquarters and Host Agreements who requested the Host Country to exert its best efforts to reduce the distress of the family of the deceased and ensure ease in the administrative process for the repatriation of the said vehicle.</p>			
5.	<p>Visa denial to an Eritrean national</p>	<ol style="list-style-type: none"> 1. An Eritrean national, Mr. Alem Kidane who was appointed as a staff member of the AU Commission had been denied visa to enter Ethiopia and consequently could not take up his appointment; 2. The matter was brought by Eritrea during the meeting of the PRC Subcommittee on Headquarters and Host Agreement; 3. The representatives of the Host Country indicated during the last meeting of the PRC Subcommittee on Headquarters and Host Agreement indicated that the matter is being handled at the highest level and the outcome will be communicated to the Commission; 	<p>The Host Country to communicate outcome to the Commission.</p>	<p>Host Country</p>	<p>PENDING</p>

		4. The PRC Subcommittee on Headquarters and Host Agreement requested that this matter remain permanently on its agenda until resolved.			
6.	Development of a set of Guidelines on the implementation of the Headquarters Agreement	<p>1. In order to enhance the mutual understanding on the application and implementation of the Headquarters Agreement, the Host Country and the Commission agreed to develop guidelines;</p> <p>2. The Host Country requested the Commission to provide a list of challenges faced in the implementation of the Headquarters Agreement to be used as starting point for developing the guidelines;</p> <p>3. The Host Country and the AU Commission agreed to set up a joint committee to develop the guidelines;</p> <p>4. The PRC Subcommittee on Headquarters and Host Agreement requested the Host Country and AU Commission to expedite the development of the guidelines.</p>	<p>1. The Commission to transmit to the Host Country the list of challenges</p> <p>2. Establishment of the joint committee</p> <p>3. Development of the Guidelines</p>	<p>AUC</p> <p>AUC and Host Country</p> <p>AUC and Host Country</p>	<p>PENDING</p> <p>This task was expected to have been concluded in April 2017.</p>
7.	Issuance of Ethiopian Driver's license	1. The Commission informed the Host Country of difficulties issuance of Ethiopia Driver's	The Host Country to update the AU Commission.	Host Country	PENDING

		<p>license in only Amharic language and requirement to undergo medical examination for renewal;</p> <p>2. The Host Country promised to look into the request in collaboration with relevant national authorities</p>			
8.	Physical body search of VIPs at the VIP section of Bole International Airport	<p>1. During the meeting Joint Headquarters Implementation Committee, the Commission raised concern about the introduction of body search for VIPs at the VIP section of the airport, which was never communicated ahead of time to the Commission or member states;</p> <p>2. The Host Country indicated that the state of security in world required a heightened security measures in accordance with international civil aviation regulations;</p> <p>3. The PRC Subcommittee on Headquarters and Host Agreements requested the Host Country to put in place technology that is more dignifying such as body scanners.</p>	The Host Country to look into other more dignifying options other than touching, including the option of using body scanners as practiced in most countries across the world.	Host Country	PENDING
9.	Imposition of 2% tax/levy on the importation of new vehicle	1. A new tax imposition of a 2% tax on importation of new vehicle was imposed by the	The Ministry of Foreign Affairs of Ethiopia (MOFA) responded to	N/A	RESOLVED

		<p>Host Country on the importation of new vehicles by AU staff members;</p> <p>2. The matter was raised during the meetings of the Joint Headquarters Implementation Committee and the Host Country requested the Commission to send a formal communication on the matter in order to resolve with the relevant Ministry of Finance.</p>	<p>the Commission indicating that the Ministry of Finance has waived the application of the tax as a prerogative of the Minister of Finance.</p>		
10.	Case of Amare Wolde	<p>1. Mr. Amare Wolde, a former staff member of the AU Commission who bought a vehicle from the AU Commission duty free. However, Ethiopian Customs Authority subsequently confiscated the vehicle on the premise that duty should be paid. Mr. Wolde took the matter to court and rulings of the Federal and Supreme Courts of the Federal Democratic Republic of Ethiopia have been issued;</p> <p>2. The Commission asserted its immunity from legal processes in accordance with the Headquarters Agreement and requested for an out of court settlement;</p>	<p>The matter to be settled out of court at the Immunities and Privileges section of the Ministry of Foreign Affairs.</p>	<p>AU Commission, Host Country & Amare Wolde</p>	<p>PENDING</p>

		<p>3. The Commission requested the Host Country to inform the Courts that the AU is immune from legal processes and an out of court settlement will be reached;</p> <p>4. The Host Country informed AU Commission that the message was conveyed to the Courts and to set a date to resolve the matter in the presence of all relevant parties.</p>			
11.	Money Transfer System	<p>1. This matter brought by a number of member states requesting the Host Country to institute an instant money transfer system to allow diplomats to remit funds to relatives;</p> <p>2. This matter was discussed by the PRC Subcommittee Headquarters and Host Agreements and the Host Country has promised to look into it.</p>	Host Country to update on the introduction of an instant money transfer system	Host Country	PENDING

12.	Maximum withdrawal limit for AU Staff Members traveling	<ol style="list-style-type: none"> 1. The Host Country communicated that the Proclamation regulating foreign currency had been issued increasing the amount that a Diplomat could withdraw from the bank accounts when traveling outside Ethiopia. The amount had been increased from \$5,000 to \$10,000 since 2013. 2. The Commission informed the Host Country that the Commercial Bank of Ethiopia is yet to implement the Regulation and called the latter to intervene. 	Host Country to update the Commission on the implementation of the Proclamation by Commercial Bank and other banks in Ethiopia.	Host Country	PENDING
13.	Request by the Host Country for full membership of the PRC Sub-committee on Headquarters and Host Agreements	<ol style="list-style-type: none"> 1. During the last meeting of the PRC Subcommittee on Headquarters and Host Agreements, the representatives of the Host Country requested that Ethiopia be granted full membership in order to effectively respond to the issues that arise out of the implementation of the Headquarters Agreement. 2. The PRC Subcommittee on Headquarters and Host Agreement has deliberated on the issue and some concerns have been raised concerns regarding the implications on 	The matter requires a final decision by the PRC on the recommendation of the PRC Subcommittee on Headquarters and Host Agreements.	PRC Subcommittee on Headquarters and Host Agreements	PENDING

		the composition of the Subcommittee from the region, the membership of other member states hosting AU Organs, Institutions and Offices as well as possible conflict of interest issues.			
14.	Request by the Host Country for a liaison office on the premises of the AU Headquarters	<p>1. During the PRC Subcommittee on Headquarters and Host Agreements, the Host Country requested for the establishment of a liaison office on the premises of the AU Headquarters to, among others, facilitate the resolution arising out of the implementation of the Headquarters Agreement.</p> <p>2. The PRC Subcommittee on Headquarters and Host Agreements requested the Commission to provide the cost and other implications and present a detailed report with recommendations to the next meeting for consideration.</p>	The Commission to submit detailed report.	AU Commission	PENDING

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