

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, Ethiopia

P. O. Box 3243

Telephone: 5517 700

Fax: 5517844

Website: [www. Africa-union.org](http://www.Africa-union.org)

PERMANENT REPRESENTATIVES' COMMITTEE

TWENTY-FIRST ORDINARY SESSION

24 - 25 January 2011

Addis Ababa, Ethiopia

PRC/Rpt(XXI)

REPORT

TABLE OF CONTENTS

<u>Title</u>	<u>Contents</u>	<u>Page</u>
Section I	Introduction	1
Section II	Consideration of the Activity Report of the Commission	4
Section III	Consideration of the Report of the PRC Sub-Committees	5
Section IV	Consideration of the Working documents and Draft Decisions in preparation for the 18 th Ordinary Session of the Executive Council, Addis Ababa, 27-28 January 2011	25
Section V	Consideration of the recommendations of the PRC on the Report of the Commission on the Implementation of Previous Decisions of the Executive Council and the Assembly	31
Section VI	Other Reports	32
Section VII	Consideration of the Reports of the Sub-Committees of the Executive Council	70
Section VIII	Consideration of the Reports of the AU Organs	70
Section IX	Election	76
Section X	Items proposed by Member States	77
Section XI	Any Other Business	78
Section XII	Date and Venue of the 19 th Ordinary Session of the Executive Council	79
Section XIII	Adoption of the Decisions of the 18 th Ordinary Session of the Executive Council	79
Section XIV	Consideration of the Draft Decisions and Declarations of the 16 th Ordinary Session of the Assembly	79
Section XV	Consideration of the Draft Agenda of the 16 th Ordinary Session of the Assembly	79
Section XVI	Adoption of the Report	79
Annexes		
I.	Draft Agenda of the 18 th Ordinary Session of the Executive Council	
II.	Draft Agenda of the 16 th Ordinary Session of the Assembly of the Union	
III	Draft Programme of Events during the period of January 2011 Summit	

REPORT OF THE TWENTY-FIRST ORDINARY SESSION OF THE PERMANENT REPRESENTATIVES' COMMITTEE (PRC)

SECTION I

a) INTRODUCTION

1. The Twenty-First Ordinary Session of the Permanent Representatives' Committee (PRC) was held from 24 to 25 January 2011 in Addis Ababa, Ethiopia, under the chairmanship of H.E. Dr. Mbuya Isaac G. Munlo, Ambassador and Permanent Representative of the Republic of Malawi to the Federal Democratic Republic of Ethiopia, the African Union and the Economic Commission for Africa. Some of the meetings were chaired by H.E. Mr. Mull S. Katende, Ambassador of the Republic of Uganda, 1st Vice Chairman of the PRC and H.E. Dr. Edward Gbloco Howard-Clinton, Ambassador of the Republic of Liberia, and 3rd Vice Chairman of PRC;

2. However, as is the practice, the PRC had earlier held meetings from 05 to 21 January 2011 during which it:

- (i) Adopted the reports of its previous meetings;
- (ii) Reviewed the Work Programme for the preparatory meetings of the PRC;
- (iii) Reviewed and updated the draft agendas of the PRC, the 18th Ordinary Session of the Executive Council and the 16th Ordinary Session of the Assembly of the African Union as well as the draft Programme of Events and opening ceremonies for the Executive Council and the Assembly;
- (iv) Considered all working documents on the items proposed for consideration by the 18th Ordinary Session of the Executive Council.

b) OPENING CEREMONY

i) Statement by H.E. Dr. Mbuya Isaac G. Munlo, Ambassador and Permanent Representative of the Republic of Malawi, Chairperson of the Permanent Representatives' Committee (PRC)

3. In his opening statement, the Chairperson of the PRC commended the work of the PRC and acknowledged the work accomplished during the preparatory stage of its January 2011 Ordinary Session.

4. He stated the need for the PRC to address the issues of core values and improvement on its working methods in order to make effective use of resources and be more productive. In that regard, he proposed that the issue be included among topics to be discussed during the upcoming PRC/Commission Retreat.

5. The Chairperson of the PRC seized the opportunity to welcome some newly accredited Permanent Representatives to the AU namely: H.E. Mr. Andre WILLIAM ANGUILE, Ambassador of the Republic of Gabon; H.E. Dr. Joran Mukama BISWARO, Ambassador of the United Republic of Tanzania and H.E. Mr. Eineje Egbadekwu ONOBU, Ambassador of the Federal Republic of Nigeria.

6. While appreciating the existing spirit of cooperation between the PRC and the Commission, he called for more dedication and commitment to the work of the PRC and wished the 21st Ordinary Session successful deliberations.

ii) Statement by H.E. Dr. Jean Ping, Chairperson of the African Union Commission

7. In his statement, the Chairperson of the Commission, Dr Jean PING, started by welcoming the excellent collaboration which characterizes the relations of the Commission with the PRC as well as the participation of Member States in deliberations through experts from various countries.

8. The Chairperson then raised the geopolitical situation in Africa, with particular reference to the post-electoral crisis in Cote D'Ivoire and the upheavals which have just marked the Tunisian political scene. These situations are being closely monitored by the Commission.

9. Regarding the issue of collaboration between the Commission and the PRC, the Chairperson highlighted, among others, the adoption of the 2011 budget proposal of which he moreover welcomed the spirit of openness. This adoption is all the more appreciated because it takes place in a less favourable general economic context for most Member States. Hence the need for the PRC to assist the Policy Organs, on the basis of the preliminary works provided by the Commission, to identify alternative sources of financing of the Organs of the African Union in order to reduce dependency on contributions from development partners in the implementation of projects. In the same vein, the Chairperson renewed his commitment to ensure sound management, sanctioned by accountability and put to good use the new data processing tools being experimented for financial management. To conclude this issue, the Chairperson underscored the efforts which the Commission will deploy in order to fulfill the administrative conditions at the required deadlines, prior to the disbursement of funds from partners.

10. In conclusion, the Chairperson urged the PRC to show ever greater determination in the accomplishment of its heavy responsibilities. For its part, the Commission is resolutely engaged in a process of improving its working methods as can be evidenced by the improved quality of working documents. The next envisaged retreat of the Commission and the PRC will enable discussions to be held on the methodological framework of collaboration as well as on certain substantial issues. On the whole, the Chairperson reaffirmed the Commission's readiness to work in perfect agreement with all its internal and external partners.

c) ATTENDANCE

11. In attendance were the following Member States: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Democratic Republic of Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Libya, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, SADR, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Uganda, Togo, Tunisia, Zambia, Zimbabwe.

d) ADOPTION OF THE AGENDA

12. The PRC adopted the following agenda:

- (i) Opening;
- (ii) Consideration of the Report of the PRC Sub-Committees;
 - A. Report of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters, including the Draft Budget for 2011;
 - B. Report of the Sub-Committee on Structures;
 - C. Report of the Sub-Committee on Multilateral Cooperation:
 - a) Report of the Commission
 - b) Report of the Sub-Committee
 - D. Report of the Sub-Committee on Conferences and Programmes;
 - E. Report of the Sub-Committee on Refugees, Returnees and Internally Displaced Persons in Africa;
 - F. Report of the Sub-Committee on Contributions;
 - G. Report of the 27th Ordinary Session of the Policy Committee of the Special Emergency Assistance Fund for Drought and Famine in Africa;
 - H. Report of the Sub-Committee on NEPAD;
 - I. Report of the Sub-Committee on Economic and Trade Matters;
- (iii) Consideration of the working documents and draft decisions in preparation for the 18th Ordinary Session of the Executive Council, Addis Ababa, 27-28 January 2011;
- (iv) Any Other Business.

e) ORGANIZATION OF WORK

13. The PRC adopted the following working hours:

Morning	:	10:00 Hours – 13:00 Hours
Afternoon	:	15:00 Hours – 18:00 Hours

SECTION II: CONSIDERATION OF THE ACTIVITY REPORT OF THE COMMISSION – Doc. EX.CL/621(XVIII)

14. The report was presented by the Deputy Chairperson of the Commission. He indicated that the Commission's activities, during the period under review, drew inspiration from the guidelines of the Strategic Plan 2009-2012 adopted by the Assembly in July 2009. He pointed out the activities carried out within the framework of the 4 strategic pillars covered by the Plan, under the rubric of peace and security; integration, development and cooperation; shared values; and strengthening the institutions.

15. The Deputy Chairperson explained that the Commission was oriented towards result-based performance, rather than activities. In order to boost efforts towards achieving set objectives, the full support of Member States was necessary in mobilizing sufficient budgetary resources for proper execution of programmes. He concluded by highlighting the Commission's key focus on promoting internal good governance and improvement of result-based performance towards attaining the overarching objectives of the African Union.

16. Following the presentation, comments and observations were made as follows:

- (i) The Commission was commended for the quality of the report and its timely submission to the PRC;
- (ii) The report should be consistent, dynamic and updated to contain the events that took place in the last quarter of the reporting period, and for more copies to be availed the respective Delegations for ease of consideration;
- (iii) Need for the Commission to give more attention to peace and security, as well as development issues while noting the improved peace and security situation on the continent;
- (iv) There was need to pursue dialogue in resolving the conflict between Ethiopia and Eritrea, including the carrying out of border demarcation exercise;
- (v) The AU should solicit the assistance of developed countries to tackle landmines;
- (vi) There should be better coordination between the AU and the EU on the issue of migration;
- (vii) More information is needed by Member States on the issue of the AU diplomatic passport and Laissez-passer project and eligibility as well as the travel policy, as was promised by the Commission when discussing the Staff Regulations and Rules.

17. In response, the Deputy Chairperson acknowledged the comments made by some delegations on a wide-range of issues, including peace and security, migration and the result-based orientation of the Commission. He noted that the Commission was making effort to prepare the Activity Report in a consolidated manner and promised that it would be updated in future, regardless of the dynamic environment. On the AU Passport Project, he indicated that the concern raised by some Member States had been taken on board and underlined the criteria and eligibility of staff that would be applied in issuing the passport.

18. Further clarification was provided by the Legal Counsel. He pointed out that travel policy covers class of travel, per diem rates, etc, and that this did not include the passport which is a travel document and not a policy. He added that the passport is governed by decision of the Executive Council and the OAU/AU Convention on Privileges and Immunities, emphasizing that the Chairperson of the Commission was mandated to decide on whom, among AU officers, gets the passport. He concluded that the Commission had decided to give the diplomatic passport to P4 and above.

19. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Take note of the report which is very informative and reflects the various activities undertaken to implement the Strategic Plan 2009-2012 in its 4 pillars;
- (ii) Encourage the Commission to pursue its efforts in improving its performance in the implementation of programmes and policy decisions, as well as in the management of financial and human resources in a result-based manner;
- (iii) Request the Commission to provide adequate information to Member States on issues related to Travel Policy and sharing with Member States on criteria governing the issuance of AU Travel Documents ;
- (iv) Recommend the report to the Executive Council for consideration.

SECTION III: CONSIDERATION OF THE REPORTS OF PRC SUB-COMMITTEES:

- (i) Report of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters, including the Draft Budget for 2011 – Doc. EX.CL/620(XVIII)i**

20. The report of the Advisory Sub-Committee on Administrative, Budgetary and Financial matters, including the draft budget was presented by the Chairperson of the Sub-Committee, H.E. Dr. Ruben Maye Mangué, Ambassador of the Republic of Equatorial Guinea, as follows:

- (i) The initial total budget proposed by the Commission for 2011 was US\$ 276 million, out of which US\$135.3 million was to be assessed to Member States. This total represented an increase of 10% over the 2010 figure. Following concerns expressed by delegations, the Commission was requested to revise the figure downwards to reflect a maximum of 5% increase on the US\$ 116 million assessed contribution of 2010;
- (ii) Following the revision, the final figure on the assessed contribution of Member States stood at US\$ 122.6 million. However, the Commission brought to the attention of the Sub-Committee that due to the reduction of the percentage increase in the budget to 5%, the Commission might be obliged to request supplementary budget;
- (iii) The Chair of the Advisory Sub-Committee recalled the Executive Council decision to establish an African Women's Fund by setting aside 1% of the operational budget of the AUC for inclusion in the 2011 budget.

21. Following the presentation of the Report by the Chairperson of the Sub-Committee, the Deputy Chairperson of the Commission made the following observations:

- (i) The 2011 Budget was based on the AU Strategic Plan 2009-2012 covering four key pillars, namely: Peace and Security; Cooperation, Development and Regional Integration; Shared Values ; and AU Institutional Capacity Building;
- (ii) The Budget entails 12 flagship projects elaborated within the framework of priorities identified during the 13th Ordinary Session of the Assembly of Heads of State and Government of the AU in January 2010;
- (iii) There has been significant improvement on previous years' budgets in terms of greater focus, accountability, clarity of activities and expected outcomes;
- (iv) The total Budget of US\$256,796,178.00 represented an increase of 2.5% over the 2010 figure. It comprised an operational budget of US\$112.4million and programme budget of US\$144.4million. Member States will contribute US\$122.6 million while partners will cater for US\$134.2 million. Of the US\$122.6 assessed to Member States, US\$10.2 million is earmarked for the programme budget and the balance of US\$112.4 million for the operational budget;
- (v) The continued reliance on partners to finance most of the activities in the programme budget remained a source of concern. Failure on the part of such partners to fulfil their pledges could negatively impact on implementation, as experienced in 2010;

- (vi) A 70% implementation rate was achieved in 2010. Partly to blame were delays in the approval of the Budget and the failure to access resources on time. Steps will be taken to improve on the rate of implementation in 2011. The imposition of sanctions on poor performing Departments/Units will be considered in 2011;
- (vii) A number of additional expenditure items, many of which will have no impact on Member States' assessed contributions should be given some consideration. These include:
 - a) The NEPAD budget in view of the fact that the 5% increase was calculated on the 2010 figure which was a minimal amount to support the transitional phase of NEPAD's integration into the AUC;
 - b) Omissions by a number of Departments within the Commission (Human Resources, Science and Technology, Rural Economy and Agriculture, Economic Affairs).

22. During the ensuing debate, delegations welcomed the report of the Sub-Committee and the accompanying budget proposed for 2011, and made the following observations and comments:

- (i) Some delegations expressed concern over the practice of making supplementary budget requests, and hence stressed the need to improve expenditure forecasts, budget preparation and cost control;
- (ii) The Commission should make greater effort to better coordinate the overall budget preparation process of all Organs of the Union. While some delegations called for all Organs to be given the opportunity to defend their respective budgets in the PRC, others were of the opinion that the Commission could defend the entire budget, thereby saving the cost of travel by the various Organs;
- (iii) The 5% ceiling on the budget set by the Policy Organs should be respected;
- (iv) The application of the 5% rule to the budgets of NEPAD Planning and Coordinating Agency and the AU Commission on International Law was questionable in view of the fact that their 2010 budget allocations were seed money to suit transitional arrangements. Those figures should therefore not be an appropriate basis for arriving at the 2011 allocation;
- (v) Where additional budget requests do not impact on Member States' assessed contributions, these could be accommodated;
- (vi) Several delegations expressed concern over the Commission's practice of submitting late additional budget requests because of omissions in the drafts submitted to Member States. Such practice should cease;

- (vii) In the case of NEPAD, the Agency should work closely with the Commission with a view to re-examining and identifying savings on non-essential expenditure items as a means of filling the existing gap. Alternatively, some of the funds already secured in the programme budget could be used to finance the gap in the operational budget. Moreover, additional funds could be sought from partners;
- (viii) Some delegations requested information as to whether the 5% ceiling was applicable to the overall budget or to individual line items;
- (ix) Information was sought on the additional amounts requested by various Departments and Organs.

23. In reaction to some of the issues raised during the debate, the Deputy Chairperson and Director of Programming, Budgeting, Finance and Accounting provided clarification as follows:

- (i) The practice in the past has been that the Commission was responsible for the coordination of budget submissions by all Organs of the Union. Each Organ would defend its budget before the PRC. However, in the case of the 2011 budget discussions, not all Organs had the opportunity to defend their budgets due to some constraints;
- (ii) The 5% rule is applicable to the overall budget figure, and not to individual line items;
- (iii) The request for supplementary budget in 2010 emanated from various factors, including the huge exchange rate losses experienced due to the depreciation of the dollar;
- (iv) The additional funds requested were as follows: (a) Department of Human Resources, Science and Technology: US\$370,000 (to cater for the Observatory for Science and Technology and Innovation (AOSTI). This will be financed by the Government of Equatorial Guinea); (b) Department of Rural Economy and Agriculture: US\$600,000; (c) Department of Economic Affairs: US\$830,000 (to cover costs related to the organization of COMAI meeting, rationalization of RECs, alternative sources of financing the AU, among others). None of these would impact on Member States' assessed contributions as they will be funded by Equatorial Guinea and Partners respectively.

24. The representative of NEPAD Planning and Coordinating Agency provided further information on the Agency's financial requirements for 2011. In her submission, she reiterated the point that the basis used to arrive at the 2011 figure was inappropriate given that the 2010 figure was seed money to cater for the transitional arrangements. In

2011, the Development Bank of Southern Africa would no longer support the payroll. Hence, a shortfall of about US\$ 5m needed to be financed.

25. In conclusion, the PRC adopted the report of the Sub-Committee and recommended to the Executive Council the following:

- (i) Take note of the report of the Advisory Sub-Committee and the proposed Draft Budget for 2011 financial year;
- (ii) Endorse the recommendations of the Advisory Sub-Committee on the Draft Budget proposed for 2011 financial year, amounting to US\$ 256,796,178.00;
- (iii) Reaffirm the principle of 5% ceiling of the Budget adopted for the preceding financial year and invite the AUC and other Organs to comply with this principle;
- (iv) Agree to include the following elements of the budget that had been omitted, namely:
 - a) Multilateral Environment Agreements Project (MEAs) under the Department of Rural Economy and Agriculture which is funded by Partners (US\$ 600,000.00);
 - b) The establishment of an African Observatory for Science Technology and Innovation (AOSTI) funded by the Republic of Equatorial Guinea (US\$ 370,000.00);
 - c) The Economic Affairs Department programme funded by Partners, amounting to US\$ 830,000.00.
- (v) Accept the request of the African Court on Human and People's Rights (AfCHPR) for internal reallocation of funds within the approved budget within the ceiling of 5% increase;
- (vi) Agree that in order to ensure a smooth integration of the NPCA into the AU Budget, the principle of 5% increase should not be applied for 2011 Budget, and that its budget be reviewed to include the running costs especially the salaries and allowances for existing staff members for an amount of US\$ 5,428,803.00;
- (vii) Authorise the AU Commission to mobilise extra budgetary resources for the AU Commission on International Law (AUCIL) and to submit details of such resources along side the activities and programmes to the PRC for endorsement.

- (viii) Deplore the occurrence of omissions in the preparation and submission of the budget by the AUC and other Organs and stress that this should not occur in the future.

Report of Board of External Auditors

26. During the current Session, the report of the Board of External Auditors for the year 2009 was presented to the PRC by the Chairman of the Board, Mr. Jean Pierre Okalla Ahanda. Prior to his presentation, a question of procedure was raised. The Chairman of the Advisory Sub-Committee on Administrative Budgetary and Financial matters explained that as a matter of procedure, the report ought to have been considered by the Advisory Sub-Committee and the appropriate recommendations made the PRC but due to time constraint, the Chairman of the Board could be allowed to present the report and to provide necessary explanation/clarification since he may not be available when the report would be discussed. On this understanding, the Chairman of the Board made the following observations on the report:

- (i) An internal Audit Charter had been prepared and needed validation;
- (ii) On the whole, there had been a significant improvement in the Administrative, Budgetary and Financial Management of the Organization.

27. However, the following shortcomings were observed and needed to be addressed:

- (i) Non completion of financial reports in time;
- (ii) Over expenditure on some budget lines;
- (iii) Low rate of program budget execution;
- (iv) The new computer software SAP was not fully operational;
- (v) Budget estimates were not realistic;
- (vi) Tenders were not floated for some purchases over \$10,000.00 as required by the Financial Regulations and Rules;
- (vii) A ticket purchased at an exorbitant price;
- (viii) Contracts of some staff were not renewed on time;
- (ix) Disciplinary Board did not meet regularly;
- (x) All Liaison Offices had not fully accounted for funds remitted to them;
- (xi) Significant sums of money were carried in cash for missions outside Addis Ababa, above the \$5000.00 provided in the Rules;
- (xii) Some assets were not recorded;
- (xiii) Board of Survey did not meet regularly to dispose of old items;
- (xiv) In PAP and in the African Court on Human and Peoples Rights, there was no segregation of duties since there is only one Finance Officer;
- (xv) PAP should take Health insurance.

28. Subsequent to the presentation, comments and observations were made and clarifications sought as follows:

- (i) Whether the Organization was getting value for money in its financial transactions;
- (ii) There should be a separate report on the implementations of recommendations of the Board of External Auditors;
- (iii) Why the provisions of Articles 62 and 124 of the Financial Regulations and Rules were not applied to violators?
- (iv) The representation in the Board should be completed with Alternate Members where substantive members were absent;
- (v) Why some staff members were paid without valid contracts?

29. The Deputy Chairperson clarified as follows:

- (i) The Organization was getting value for money as over 90% of the funds were properly utilized;
- (ii) On the application of sanctions under Article 62 and 124 of the Financial Rules, the necessary sanctions would start as from the financial year 2011. Currently, the Commission had established an Audit Implementation Committee that made recommendations to Management;
- (iii) There was overall improvement in the Financial Management of the Organization. The migration from Peach Tree to SAP posed several challenges in the migration of data. This situation had been arrested in 2010;
- (iv) Over expenditure was unavoidable in some budget lines, e.g. exchange rate fluctuations and salaries for staff recruited in the course of the year;
- (v) The Disciplinary Board had been meeting regularly and termination of service recommended in some cases;
- (vi) With regard to imprest, everyone retired imprest upon return from mission before fresh imprest was awarded;
- (vii) On carrying cash around the continent, this was due to the practical difficulties encountered in the transfer of funds within the continent.

30. The Director of Administration and Human Resource Development complemented the clarification by the Deputy Chairperson as follows:

- (i) On the exorbitant price of \$ 17,000.00 for an air ticket, it had to do with a first class ticket purchased for a Special Envoy of the Chairperson for an urgent mission from New York to Madagascar;

- (ii) With regard to payment of staff without valid contracts, this situation would not arise with the use of the present SAP software;
- (iii) On procurement of items where as some items existed in stock, some items were purchased and kept in stock for specific programmes.

31. In conclusion, the PRC recommended to the Executive Council the following:

- (i) Take note of the report and the recommendations;
- (ii) Request that the report be referred to the Advisory Sub-Committee on Administrative Budgetary and Financial matters for detailed discussion and appropriate recommendations to the PRC, after the January 2011 Summit.

(ii) Report of the Sub-Committee on Structures – Doc. EX.CL/620(XVIII)ii

32. The report was presented by the Chairperson of the Sub-committee. In presenting the report, the Chairperson of the Sub-committee focused on the major recommendation based on the proposal by the Commission.

33. Following the presentation, members of the PRC raised questions, made comments and observations and sought clarification as follows:

- (i) The Chairperson and other members of the PRC Sub-Committee on multilateral co-operation reminded PRC that the Executive Council Decision of Sirte on multilateral co-operation clearly stated the establishment of the Coordinating Unit for the coordination of partnerships not a Division as proposed by the Commission. The establishment of the Unit to be headed by a P6 Officer, they felt, will ensure parity and consistency since there were other Units in the Chairperson's office performing similar co-ordination roles;
- (ii) There is need to harmonise structures in respect of partnerships as each partnership could necessitate the establishment of a new structure with high financial and organisational burden on the Commission;
- (iii) There is need to support the proposal of the Commission to facilitate its effectiveness;
- (iv) The request of the Commission to have a Division on Africa-Arab cooperation and the need to set up a coordinating unit for partnerships could have been harmonized by the Sub-Committee during its deliberations if the Commission had provided all the relevant information at the material time;
- (v) Some wondered why the title of the proposed unit was biased towards Africa-Arab cooperation rather than a more generic name on Partnership coordination and management;

- (vi) Need to establish an additional post of Economist in Washington Office given its mandate;
- (vii) Concerns were raised about the need to operationalize the use of Spanish and Kiswahili as working languages of the AU;
- (viii) The appeal of the Commission to establish the posts of Deputy Directors needed further scrutiny by the Subcommittee;
- (ix) Concerns were raised about the right grade of the Chief of Protocol in the Maputo Structure.

34. In addressing the concerns raised, the Chairperson of the Sub-Committee provided clarification as follows:

- (i) The Sub-committee worked on the basis of the request and information from the Commission and made its recommendations on the same;
- (ii) Regarding the creation of a new position to handle Economic Affairs in the Washington Office, the Chair of the Sub-committee clarified that there is already a position existing in that office to handle Economic Affairs;
- (iii) The posts of Deputy Directors were deferred partly due to reasons of their high costs as well as the thought that it could dilute the work of the Directors.
Similarly, it was the feeling of the Sub-committee that not all Directorates will need Deputy Directors, hence the matter was deferred and would be reconsidered again by the Sub-committee as soon as new submissions are made on the matter by the Commission.

35. The representative of the Commission complemented as follows:

- (i) There was a decision of the Executive Council to establish the Africa-Arab Cooperation Division to be headed by a Head of Division, to coordinate the Africa-Arab cooperation programme. The Sub-Committee proposed to add the coordination of other partnerships to this Division in an endeavour to minimize costs and bring all partnerships under one umbrella;
- (ii) To prepare the proposal on structural reforms, the Commission launched an internal study conducted by a Taskforce which engaged in consultations with all stakeholders. The initial proposals by Departments were for over 500 positions which the Taskforce scaled down to 274 before submission to the Structures Sub-Committee;
- (iii) The two Sirte Decisions talked about the establishment of a Coordinator in one decision and the establishment of a unit in the other. The norm in the

AUC is that Co-ordinators are graded at P6 while units are classified below Divisions and headed by a P3 officer;
While the decision was taken to use Kiswahili and Spanish as working languages, the implementation is constrained by limitations in respect of logistics, space, human and financial resources;

36. In conclusion, the PRC recommended to the Executive Council the following:

- (i) Take note of the report of the Sub-committee on structures and the recommendations therein;
- (ii) Approve the recommendations in the report of the Sub-Committee with the exception of the item contained in paragraph (v) below;
- (iii) Endorse the establishment of the 126 new positions within the Commission on understanding that the related financial implications will be staggered in successive annual budgets of the AU over 5 years and based on the priority needs;
- (iv) The proposal for the posts of Deputy Directors and operationalization of the Kiswahili and Spanish languages to be further referred to the Sub-committee on Structures;
- (v) The issue of the structure of the Unit to coordinate Africa-Arab Cooperation and management of partnerships in the Office of the Chairperson of the AUC should be referred to a joint meeting of the Sub-committee on Structures and the Sub-committee on Multilateral Cooperation for consideration and appropriate recommendations to the PRC;
- (vi) In the process of recruitment, stress the need for the Commission to consider the internal redeployment of existing staff and to determine priorities in this exercise in relation with current needs.

(iii) Report of the Sub-Committee on Multilateral Cooperation – Doc. EX.CL/620 (XVIII)iii

(a) Report of the Commission

37. The report was presented by a representative of the Commission.

(b) Report of the Sub-Committee

38. The report was presented by the 3rd Vice-Chairperson of the Sub-Committee, H.E. Mr. L C Pepani, Ambassador of the Republic of South Africa.

39. After the two presentations, comments and observations were made on both reports as follows:

- (i) The Sub-Committee and the Commission should be commended for the quality of the reports and their recommendations;
- (ii) There is need for proper coordination of AU meetings with partners and for a clear delineation of the roles of all stakeholders, including Member States and the Commission;
- (iii) There is need for the active involvement and participation of Member States in Africa's strategic partnerships;
- (iv) There is need for an early conclusion of the Global Review of Africa's Strategic Partnerships and for Departments in the Commission to make inputs that would assist the Sub-Committee in completing its work;
- (v) There is need for close collaboration between the PRC and the Commission on the one hand, and African Ambassadors resident in the capitals of partner countries on the other, in order for Africa to maximize the benefits of its partnerships;
- (vi) Clarification was sought on the progress with respect to the proposal to establish an AU Office in Tokyo, Japan to coordinate the TICAD process.

40. In response, the Commission provided clarification as follows:

- (i) All African stakeholders have specific roles to play in the partnership process and there is no competition between the PRC and the Commission. In other words, there is need to rationalize the roles played by all the stakeholders, in order to achieve maximum benefits;
- (ii) The proposal to open an AU Office in Tokyo will be taken on board within the context of the ongoing evaluation of AU Representational Offices;
- (iii) The Global Review of Africa's Strategic Partnerships is still work-in-progress and the Sub-Committee and the Commission is working closely to complete the work and submit it to AU Policy Organs in due course. In this regard, those Departments that are yet to make input will be requested to do so, to facilitate early completion of the work;
- (iv) The Commission is collaborating closely with African Ambassadors resident in the capitals of partner countries but there is still room for improvement.

41. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Take note of the reports of the Commission and the Sub-Committee on Multilateral Cooperation and the recommendations contained therein;

- (ii) Welcome China's acceptance of the AU as a full member of FOCAC;
 - (iii) Welcome Japan's acceptance of the AUC as a co-organizer of the TICAD process;
 - (iv) Welcome the progress made in the implementation of Africa-India Partnership, in particular the scholarship programme, the ten Vocational Training Centres (VTCs), the five Institutions, and the five Prototype Low Cost Housing Schemes, which were equitably distributed between the five regions;
 - (v) Welcome the 2nd Africa-India Forum Summit to be held in Addis Ababa, in May 2011 and request the concerned Member States to participate in the Forum, and the Commission to make necessary arrangements for the Summit;
 - (vi) On the Africa-South America (ASA) Partnership, express the need for the ASA Coordination Mechanism to meet with a view to clarifying a number of pending issues as reflected in the report;
 - (vii) On Africa-South Korea Partnership, express the need to devise an Implementation Plan focusing on continental and regional programmes, without prejudice to the on-going projects at a bilateral level in Member States;
 - (viii) On Africa-Turkey Partnership, welcome the launch of the joint Implementation Plan for 2010-2014 and call for its effective implementation;
 - (ix) On Africa-EU Partnership, call for the effective implementation of the 2nd Action Plan and the Joint Strategy adopted at the 3rd Africa-EU Summit held in Tripoli, Libya, in November 2010;
 - (x) On the proposed opening of an AU Office in Tokyo, request that this be reviewed in the context of the study on Representational Offices to be submitted to the competent PRC Sub-Committees for appropriate recommendation;
 - (xi) Request the Commission in collaboration with the PRC to accelerate the study on the global review of the strategic partnerships.
- (iv) Report of the Sub-Committee on Conferences and Programmes – Doc. EX.CL/620(XVIII)iv**

42. The report of the Sub-Committee on Conferences and Programmes was presented by its Chairperson, H.E Dr. Monica Juma, Ambassador of the Republic of Kenya.

43. Following the presentation, delegations welcomed the report of the Sub-Committee and made observations and comments as follows:

- (i) The report presented a range of meetings to be held, and all the recommendations were related to the said meetings but did not give indication on Programmes for which Implementation Plans should be presented, as well as their financial implications. The meetings of NEPAD should also be included given that NPCA is now an integral part of the Commission;
- (ii) Several international trade conferences were held last year and none was scheduled between the African Union and the United States of America in the context of the AGOA process;
- (iii) Some delegations expressed concern that too many meetings were financed by partners;
- (iv) The Recommendation by the High Level Panel on the Audit of the African Union to hold one Summit a year was re-echoed by a number of Delegations. However, it was agreed that the Commission in consultation with that PRC should reflect on this matter for an appropriate recommendation;
- (v) The recommendation to compress the meetings of the Department of Peace and Security was challenged by a number of Delegations on the grounds that the Department has the challenging task of implementing an ambitious programme, including the operationalization of the African Peace and Security Architecture (APSA);
- (vi) Some meetings were organized without having been programmed and some of these meetings were not meetings of the African Union;
- (vii) There is need for the publication of documents on the African Union's web site to allow the Representatives of some countries which do not have representations in Addis Ababa, to receive the Documents on time to enable their effective participation;
- (viii) There was need for a clear linkage between Programmes and the Calendar of meetings, with identified priorities and expected results;
- (ix) Most meetings were held without adequate representation at Ministerial level.

44. Following observations and comments made during the debate, the Chairperson and the Deputy Chairperson provided clarification as follows:

- (i) In 2010, the Commission had tried to make sure that programmes are in line with its Strategic Plan, result-oriented activities pursued and cost effectiveness ensured;
- (ii) On the issue of quorums at Ministerial Meetings, this was a concern. Member States had the prerogative to delegate Ambassadors and other Officials to represent Ministers. The Member States and the Commission should jointly reflect on this matter;
- (iii) The Commission sometimes participated in some meetings organised by partners such as ECA, WTO the outcome of which may be of relevance to the AU. It was advisable that flexibility be exercised in accommodating appropriate recommendations from such meetings in their decision making processes, as they might be beneficial to the continent;
- (iv) The Commission would continue to use the AU Web Site and e-mail services as efficient means of transmitting electronically documents to Member States. However, it would ensure the proper handling of working documents in a manner that would guarantee non-accessibility by not authorized users;
- (v) Concerning the number of Summits and how to make them more result-oriented, this was a matter that could be debated during the forthcoming AUC – PRC retreat scheduled for March this year;
- (vi) On the question of a possible meeting with the USA, in the context of the African Growth and Opportunity Act (AGOA), this was a matter to be reflected upon and adequately prepared for;
- (vii) Consultations were on-going on the possibility of establishing a partnership with the United States of America. This could be concluded probably in the course of 2011.

45. In conclusion, the PRC recommended to the Executive Council the following:

- i) Take note of the report and recommendations of the Sub-Committee and recommend the said recommendations for adoption by the Executive Council, except the recommendations related to the number of AU Summits per year and AU Meetings on Peace and Security which would be considered at the scheduled PRC/AUC Retreat;
- ii) Endorse the 2011 Calendar of Meetings and recommendations therein;
- iii) Request the Commission to adhere strictly to the guidelines contained in the Report;

- iv) The Sub-Committee on Conferences and Programmes should handle in an equal manner both aspects of Conferences and Programmes under its mandate.

(v) Report of the Sub-Committee on Refugees, Returnees and Internally Displaced Persons in Africa – Doc. EX.CL/620(XVIII)v:

46. The report was presented by the Chairperson of the Sub-Committee, H.E. Mr. Mull Katende, Ambassador of the Republic of Uganda. Subsequent to the presentation, comments and observations were made and clarification sought as follows:

- (i) There was need to include the mission undertaken to Benin where a Cheque of US\$150,000.00 was given to the victims of floods;
- (ii) Given the magnitude of the problems faced by refugees and displaced persons, there was need to integrate them into the societies where they sought refuge similar to what Tanzania is currently doing;
- (iii) The root causes of the exodus of people from the countries of origin or internal displacement were not elaborated in the report;
- (iv) Why the planned evaluation missions did not take place?
- (v) The Sub-committee could play an important role in influencing Member States to implement the recommendations of the Kampala Summit on Refugees, Returnees and Internally Displaced Persons;
- (vi) There was no recommendation on the visit to the Central African Republic;
- (vii) Why the visits by the Sub-Committee were concentrated in one region?

47. In addressing the concerns raised, the Chairperson of the Sub-Committee clarified as follows:

- (i) The Sub-Committee had an action plan, which stipulated the activities to be undertaken within the specified time period;
- (ii) Visits by the Sub-Committee were not concentrated in one region and all regions were visited according to the schedule.

48. In conclusion, the PRC recommended to the Executive Council to:

- (i) Take note of the report and encourage the Sub-Committee to undertake missions to the countries hosting refugees and IDPS;

- (ii) Request the next countries to be visited by the Sub-committee, namely South Africa, Zimbabwe, Rwanda and Tanzania to assist the Sub-committee to undertake the missions to the refugees and IDPs camps in their respective countries;
- (iii) Commend Tanzania for integrating some of the Burundi refugees into its society and call on other Member States to emulate the generosity by Tanzania;
- (iv) Commend Zambia, Uganda and Sierra Leone for ratifying the Kampala IDP Convention and call upon the other Member States to sign and ratify the Convention so that it comes into force as soon as possible;
- (v) Request Member States to implement all past Decisions of the Executive Council and Assembly on Refugees and IDPs.
- (vi) Encourage Member States to ratify the Kampala Convention on Refugees and IDPs
- (vi) Report of the Sub-Committee on Contributions – Doc. EX.CL/620(XVIII)vi**

49. The report was presented by the Chairperson of the Sub-Committee on Contributions, H.E. Mr Joseph Nsengimana, Ambassador of the Republic of Rwanda.

50. Following the presentation, members of the PRC made comments and observations as follows:

- (i) The Commission should update the list of Member States of the African Union and avoid recurrent featuring of non-Member States;
- (ii) Need for the Commission to update the annex stating the contributions made by Member States as some of the countries reported to be in arrears of payment had met their obligations.

51. In response to the observations made, a representative of the Commission made clarification as follows:

- (i) The Republic of Sierra Leone, the Republic of Burundi, and the Republic of The Sudan had fulfilled their commitments, but this came after the Commission report on contribution had been finalized.

52. In conclusion, the PRC recommended to the Executive Council the following:

- (i) Take note of the Report on the Contributions and the recommendations therein;

(ii) Endorse the recommendations as follows:

- a) Remove the Republic of The Sudan and the Republic of Ghana from Recommendation No. (i) of the Report of the Sub-Committee;
- b) Endorse Recommendation No. (ii); and
- c) Delete the Republic of Burundi and the Republic of Sierra Leone from Recommendation No. (iii).

(vii) Report of the Policy Committee of the Special Emergency Assistance Fund for Drought and Famine in Africa – Doc. EX.CL/620(XVIII)vii

53. The report was presented by a representative of the Chairperson of the Sub-Committee.

54. Following the presentation, comments and observations were made as follows:

- (i) The report covered the 17th Ordinary Session of the Policy Committee of the Special Emergency Assistance Fund and not 27th Session as erroneously reflected in the report;
- (ii) The Sub-Committee should be commended for the quality of the report and its recommendations;
- (iii) Member States and partners should make voluntary contributions to the Special Emergency Assistance Fund in order to replenish it and thus enable it to meet emerging challenges.

55. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Take note of the report and express appreciation for the enormous contribution the Fund has made in favour of many Member States;
- (ii) Appeal to Member States to continue their financial support to the Fund on voluntary basis so as to replenish it.

(viii) Report of the Sub-Committee on NEPAD – Doc. EX.CL/620(XVIII)viii

56. The Report of the Sub-Committee was presented by H.E Mr. Manuel T. Lubisse Ambassador of the Republic of Mozambique on behalf of its Chairperson H.E Major General L.C. Pepani, Ambassador of the Republic of South Africa. In his presentation, he highlighted a number of key elements contained in the Report, including the proposed fact-finding visit by the Sub-Committee to the NEPAD Agency in Midrand, South Africa; issues regarding information flow to Member States and proposed structure of the Agency; and recommendations on the proposed budget of the NEPAD Coordination Unit.

57. In a subsequent intervention, the Commissioner for Economic Affairs clarified that the recommendation in the report related to the budget of the NEPAD Coordination Unit and not the NEPAD Agency. He however brought the attention of PRC to the shortfall in the NEPAD Agency's budget and urged that this matter also be considered during discussions on the NEPAD Coordination Unit budget.

58. During the ensuing debate, members of PRC made the following observations and comments:

- (i) The Commission and NEPAD Agency were commended for the remarkable effort which continued to be undertaken in the integration process of the NEPAD Agency into the AU structures and mainstreaming of NEPAD activities with those of the Commission. In the same vein, the resource mobilization and reporting processes should be harmonized and streamlined;
- (ii) The hope that NEPAD brought to the continent during its launch at the Lusaka Summit of 2001 was recalled and the subsequent dwindling of such hope over the years following poor performance was noted. The need to support NEPAD was hence emphasized;
- (iii) The Agency should be provided with adequate funds to effectively carry out its mandate. In the same vein, the Coordination Unit within the Office of the Chairperson should be adequately resourced to ensure effectiveness of the integration of NEPAD into the Commission;
- (iv) Future reports should contain figures on the mobilization and utilization of funds for greater transparency;
- (v) Regarding the various recommendations proposed in paragraph 30 of the Report on the proposed budget of the Coordination Unit, many delegations expressed support to recommendation (c) which calls for rationalization and prioritization within the already approved budget. Others were of the view that the budget was already too tight and hence questioned if any more funds could be saved to cover such an amount;
- (vi) While a number of delegations associated themselves with recommendation (b) which calls for authorization to the Commission to approach partners for additional resources, others were of the view that partner support would be at the risk of losing dignity and ownership of the continent's development process. They also cited the experience in the past where delays in accessing partner funds impacted negatively on the rate of implementation;
- (vii) In light of the aforementioned issues, many delegations called for a two pronged approach: that is embark on rationalization as a primary measure and if this is inadequate, any remaining shortfalls could be filled by approaching partners;

- (viii) Recommendation (a) which proposes that the NEPAD Steering Committee refer the matter to the Assembly, and Recommendation (d) which proposes that the Chairperson of the Commission make a special appeal to the Executive Council, were challenged by a number of delegations on the grounds that they were not in line with the procedures for adoption of budgets;
- (ix) One delegation suggested that US\$10 million be dedicated to the implementation of the Decade for African Women;
- (x) Regarding the shortfall in the NEPAD Agency's budget, there was consensus that the decision reached by the PRC during the budget debate should stand in order to safeguard the integrity of the budgetary process.

59. The Deputy Chairperson, during his intervention, made the following observations and clarifications:

- (i) NEPAD Agency's 2011 Budget was arrived at after application of 5% addition on the 2010 figure which was meant to support the transition. Because of the low base, the amount allocated for 2011 was very low;
- (ii) The 5% rule set relates to amounts payable by Member States. Hence, any increases can only be accommodated through partner contributions;
- (iii) Partners did not deny the Commission funds as implied by some Member States' interventions. Rather, the problem in the past related to delays in the disbursement of funds, hence impacting on implementation;
- (iv) The Commission and NEPAD Agency can embark on a rationalization process but this may not be adequate. Additional funds may be needed from other sources.

60. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the Report and recommendations as well as the programmatic activities of NEPAD Agency for the period July to December 2010;
- (ii) Recall its earlier discussion on the Draft Budget of the African Union, including for the NEPAD Agency and underscore the need to provide this Agency with requisite resources within available means in the AU approved budget;
- (iii) Stress the need for the Commission and the Agency to focus on priority areas with concrete projects and coordinate and harmonize their

programmes and activities as well as to ensure clear delineation of roles between them;

- (iv) Recommend that the NEPAD Coordination Unit within the Office of the Chairperson be provided with the required budget of US\$694,750.00 to be funded under the combined available resources in the approved budget and those mobilized under partners.

(ix) Report of the Sub-Committee on Economic and Trade Matters – Doc. EX.CL/620(XVIII)ix

61. The Report was presented by the Rapporteur of the Sub-Committee instead of the Chairperson, who was unable to attend.

62. Deliberations were structured around the following observations:

- (i) The PRC expressed satisfaction at the revival of the Sub-Committee which was reflected in the resumption of its meetings as well as the nature of issues discussed;
- (ii) The competence of the Sub-Committee did not include the capacity to consider issues which fall within the ambit of sectoral ministerial conferences. The Sub-Committee should therefore not recommend that reserves be included in alternative sources of financing;
- (iii) The Sub-Committee should carry out an in-depth consideration of the different reports emanating from the ministerial conferences within its ambit with a view to conducting a reflection on issues of obvious strategic stakes for the Continent, such as cooperation in the area of trade with China;
- (iv) The Report omitted to raise the issue of accelerating the process for the ratification of instruments establishing the African Financial Institutions.

63. The Representative of the Sub-Committee, in his response to the question of the inclusion of reserves in alternative sources of funding, explained that the issue was simply mentioned during the deliberations of the Conference of African Ministers of Finance which was recently held in Yaounde, but was not the subject of a recommendation.

64. The PRC adopted the Report with the following recommendations:

- (i) Take note of the Report;
- (ii) Also take note of the recommendations made during the Retreat held in Nairobi, Kenya, the deliberations of which greatly contributed to facilitating preparations for and the conduct of the Extraordinary Session of the

Conference of African Ministers of Finance held in Yaounde, Cameroon in December 2010;

- (iii) Encourage the Sub-Committee to organize another retreat as soon as the necessary financial resources are available, in order to discuss issues pertaining to the status of Integration in Africa and the Minimum Integration Programme;
- (iv) Request the Sub-Committee to include in the Report a recommendation inviting Member States to speed up the process for the ratification of instruments establishing the African Financial Institutions.

SECTION IV: CONSIDERATION OF THE WORKING DOCUMENTS AND DRAFT DECISIONS IN PREPARATION FOR THE 18TH ORDINARY SESSION OF THE EXECUTIVE COUNCIL, ADDIS ABABA, 27-28 JANUARY 2011

65. On the basis of Rules 9.2 and 9.3 of the Rules of Procedure of the Executive Council which give to the PRC the responsibility to draw up the provisional agenda of the Council and the proposals of the PRC Bureau on the practical modalities to implement these Rules, the PRC agreed that, for the sake of preparing and facilitating the work of the Executive Council, it would go through all the supporting documents submitted on each agenda item with a view to coming up with a categorization of the items that would be placed under Parts A and B respectively. In so doing and at the end of its session, the PRC would draw up a Draft Agenda for the Executive Council with such a categorization of the various Items.

66. The PRC also decided that it would look at the Draft Decisions prepared by the Commission to ensure that their recommendations were fully and faithfully reflected in these Draft Decisions, before being passed on to the Drafting Committee of the Executive Council.

A. Review and update of Draft Agendas of the PRC, the Executive Council and the Assembly, and draft Programme of Events

67. During its preparatory meetings held from 5 to 21 January 2011, the PRC reviewed and updated the draft agendas of the PRC, the Executive Council and the Assembly as well as the draft Programme of Events. The initial drafts of these documents had been discussed in detail during the PRC meetings held on 18 and 19 November 2010.

(a) Draft Agenda of the PRC

68. It was proposed that the Report of the meeting of Member States' Experts on the theme be deleted and that a new item titled "Consideration of the Working Documents and Draft Decisions in preparation for the 18th Ordinary Session of the Executive Council, Addis Ababa, 27-28 January 2011" be inserted.

(b) Draft Agenda of the Executive Council

69. Following the presentation of the draft agenda by the Commission, comments and observations were made and clarification sought as follows:

- (i) Why were the two items proposed by the Libyan Arab Jamahiriya, namely: the “Reconsideration of Decision Assembly/AU/Dec.263(XIII) on the Transformation of the African Union Commission into the African Union Authority” and “Convening of mid-year Sessions of the Assembly of the African Union (July Sessions), put in brackets, whereas the Rules of Procedure did not prevent any Member State from re-introducing items. Besides, as at the last Summit in Kampala, Libya had made it clear that it reserved the right to reintroduce the items? The brackets should consequently be removed;
- (ii) Why there was no item on the agenda on the review of the modalities for the appointment of Members of the Commission?
- (iii) Whether Member States that proposed items for inclusion in the agenda had provided all necessary supporting documents and Draft Decisions within the set deadline, failing which the items should be deleted from the agenda?
- (iv) Whether the Rules of Procedure allowed for co-sponsorship of an item, outside the deadline, with specific reference to the item proposed by Namibia that had been co-sponsored by a number of Member States after the deadline?
- (v) Whether it was mandatory that items proposed by Member States be accompanied by Draft Decisions?
- (vi) The number of Decisions per Summit was too high. There was need to revisit the Decision to hold two Summits per year.

70. The Commission clarified as follows:

- (i) On the items proposed by Libya, the PRC had, during its meetings of 17-19 November 2010, recommended that these be put in brackets, to allow room for further consultations since there had been no consensus on whether or not to place them on the agenda of the Executive Council;
- (ii) Regarding the absence of an item on the agenda on the review of the modalities of appointment of members of the Commission, consultations would be held at the level of the regions during the current Session of the Executive Council, to constitute the Ministerial Panel. The Commission undertook to prepare a working document on the procedure and Terms of Reference of the Ministerial Panel and submit this issue for the

consideration of the PRC which would come up with recommendations for review by the Executive Council during its coming session;

- (iii) Concerning the submission of draft Decisions by Member States, alongside the items proposed, two Member States, namely Benin and Angola, had not submitted draft decisions. Upon verification of documentation in the Commission, it was discovered that the Republic of Benin had submitted its draft decision on 31 December 2010¹ after the deadline (24 December 2010). On its part, the representative of the Republic of Angola indicated that his country had decided to withdraw its proposed item;
- (iv) With regard to co-sponsorship of an item, the Rules of Procedure were silent on the deadline. However, according to best practices from other Organizations such as the United Nations, since the submission by Namibia was in order, the deadline for co-sponsorship was not consequential;
- (v) During the Kampala Summit, the Assembly took a Decision reiterating that items proposed by Member States must be accompanied by Draft Decisions;
- (vi) The issue of number of Decisions and time frame for reporting was extensively discussed in Kampala, culminating in Decision Assembly/AU/Dec.318 (XV) which requested the Commission and the PRC to work together to come up with guidelines on the adoption of Decisions. In this regard, the Commission had set up a Task Force which was currently working on a document that would be shared with the PRC for its input and consideration during the PRC/Commission Retreat in February/March 2011.

71. As was the case in the previous meetings of the PRC held on 18 and 19 November 2010, there was a lengthy debate as to whether or not to retain on the agendas, the two items proposed by Libya entitled “Reconsideration of Decision Assembly/AU/Dec. 263 (XIII) on the Transformation of the African Union Commission into the African Union Authority” and “Convening of mid-year Sessions of the Assembly of the African Union (July Sessions)” and which had been put in brackets. Some delegations were of the view that the Rules of Procedure gave Libya the right to propose an item, while others held the view that there was a Decision in Kampala on the issue which could not be ignored. Some delegations suggested that asterisks be placed against these items, to explain the brackets, while others argued that the use of asterisks or brackets would undermine the right of Libya to propose an item. The fundamental question was how to balance the rights of Member States to propose items and the obligation of the PRC to protect the integrity of Decisions taken by AU Organs.

72. In conclusion, the PRC recommended to the Executive Council the following:

- (i) A new item be inserted in the draft agenda of the Executive Council titled “Report on the Procedure for the Appointment and Terms of Reference of

the Ministerial Panel on the Election of Members of the Commission in January 2012”;

- (ii) The item submitted by the Republic of Benin was withdrawn since the corresponding draft Decision was submitted after the deadline;
- (iii) The brackets placed on two items proposed by Libya concerning the transformation of the AUC into an AU Authority and the Convening of mid-year Sessions of the Assembly be removed and asterisks placed against these items to indicate that some Member States had entered reservations in the footnote;
- (iv) The views of delegations on the items proposed by Libya mentioned under Para 72 above should be reflected in the PRC report to the Executive Council and Council’s attention be drawn to them.

(c) Draft Agenda of the Assembly

73. The Commission introduced the draft agenda highlighting the areas where changes had been made, namely: the withdrawal of the item proposed by Angola, the removal of the item proposed by Benin due to late submission of the draft Decision, the correction to the title of the item on the Committee of Ten on United Nations Reform, and the PRC recommendation regarding the asterisks and footnote to be placed on the two items proposed by Libya.

74. In conclusion, the PRC recommended to the Executive Council the consideration of the proposed draft agenda of the Assembly with the amendments indicated in paragraph 73 above.

(d) Draft Programme of Events of the 18th Ordinary Session of the Executive Council and 16th Ordinary Session of the Assembly of the African Union

75. Introducing this item, the Representative of the Commission informed the PRC that the Commission had looked at the draft programme of Events and had proposed that, in view of time constraint and the number of personalities seeking to address the Executive Council, only three (3) requests be accommodated, namely: the Minister of State for External Affairs of India, the State Secretary for Foreign Affairs of Japan and the European Commissioner for Development. The other personalities could circulate their statements.

76. Following the introduction of the item by the Commission, comments and observations were made as follows:

- (i) The number of personalities requesting to address the Assembly and the Executive Council was too high, with the consequence that this could divert

the attention of the Assembly and the Executive Council, besides the challenge of time management posed;

- (ii) The Luncheon/Symposium proposed by South Africa on 30 January 2011 should be held at the ECA, venue of the Assembly, rather than in Sheraton to avoid time wasting in the movement of participants;
- (iii) More light should be shed on CoDA;
- (iv) Why was the President of the UN General Assembly invited, whereas his contribution ought to have been covered by the UN Secretary-General;
- (v) Need to confirm the date of the next Africa-India Summit in 2011;
- (vi) It could be embarrassing to delete the names of foreign personalities seeking to address the Executive Council, if invitations had already gone out;
- (vii) The time allocation of 30 minutes for the opening ceremony was too short and unrealistic;
- (viii) Criteria should be devised to determine the foreign personalities to be invited to address the AU Organs, and opportunity given to those who had not yet addressed the Executive Council;
- (ix) Need to adhere to the Rules with regard to who should address the Assembly;
- (x) Whether Mauritius needed to resubmit a fresh proposal on the holding of one Summit a year in view of the fact that its earlier submission had not been considered because it was received after the deadline, and whether the item could be introduced under the agenda item "Any Other Business";
- (xi) The Commission should ensure a wide dissemination of information on AU Scientific Award so as to attract more participation;
- (xii) The Commission should confirm whether all countries had submitted draft Decisions for items they had proposed.

77. The Commission clarified as follows:

- (i) The Commission had expressed similar concerns over the high number of foreign personalities to address the Executive Council when it met to consider the draft Programme of Events and had proposed to the PRC the names of three personalities to address the Executive Council in view of the strong relations existing in the Partnership. The personalities were: the

Minister of State for External Affairs of India, the State Secretary for Foreign Affairs of Japan and the European Commissioner for Development;

- (ii) CoDA stood for “Coalition for Dialogue on Africa,” a recent development from a previous initiative called “Global Coalition for Africa” of the 1990s. The purpose of CoDA was to continue to highlight areas where Africa needed continued support. The project was co-sponsored by the AUC, the AfDB and the ECA and the current Board was chaired by the former President of Botswana, H.E. Festus Mogae;
- (iii) The invitation of the President of the UN General Assembly was not an initiative of the Commission but rather of the Chairperson of the Union;
- (iv) The next Africa-India Summit was proposed to be held in Addis Ababa during the period 23-27 May 2011;
- (v) The time for the opening ceremony would be adjusted accordingly to allow adequate time for the statements;
- (vi) Mauritius would need to submit a fresh proposal when the agenda of the June/July 2011 Summit would be considered, in accordance with the set deadline. On whether the item could be submitted under AOB, nothing prevented a Member State from submitting an item under AOB, except that as per the Rules of Procedure of the Executive Council, no Decision would be taken on such an item. It would be for note taking only;
- (vii) On the Scientific Award, the relevant Department (HRST) provided a detailed explanation on the process;
- (viii) Going by the status of documentation, all Member States had submitted draft Decisions for items they had proposed.

78. In conclusion, the PRC recommended to the Executive Council the following:

- (i) Endorse the proposal to have only three (3) foreign personalities to address the Executive Council, namely: the Minister of State for External Affairs of India, the State Secretary for Foreign Affairs of Japan and the European Commissioner for Development, and that the other personalities could circulate their statements;
- (ii) Include in the draft Programme of Events, an item entitled “African Union Ministerial Committee on Post-Conflict Reconstruction and Development for The Sudan” at 09:00 Hours on 29 January 2011;
- (iii) Request the PRC and the Commission to reflect on the issue of foreign personalities seeking to address AU Organs, during the PRC/Commission Retreat scheduled for February 2011 and to make appropriate

recommendations on the criteria and how best to accommodate these foreign dignitaries.

79. At the end of the review, the PRC recommended to the Executive Council the consideration and adoption of the draft agendas of the Executive Council, the Assembly as well as the Draft Programme of Events, attached to this report as Annexes I – III.

SECTION V: CONSIDERATION OF THE RECOMMENDATIONS OF THE PRC ON THE REPORT OF THE COMMISSION ON THE IMPLEMENTATION OF PREVIOUS DECISIONS OF THE EXECUTIVE COUNCIL AND THE ASSEMBLY – Doc. EX.CL/623(XVIII)

80. The report was presented by the Secretary to the Commission who highlighted that the report was Statutory and was intended to give a synopsis of the implementation of various decisions and declarations adopted by both the Executive Council and the Assembly. He further explained that the implementation of these decisions was further reflected in the various reports submitted to the PRC. And lastly he informed the PRC that the Commission had proposed “Boosting Intra-Africa Trade” as a theme for January 2012 Summit.

81. Following the presentation, members of the PRC raised questions, made comments and observations and sought clarification as follows:

- (i) The rate of implementation of the decisions was very low;
- (ii) The Commission should provide the list of decisions not implemented as well as reasons for non-implementation;
- (iii) Many decisions were repetitive and not easy to implement;
- (iv) There was need to choose the theme of the Summit for adoption by the Summit;
- (v) Omission of the Decision on the Comorian Island of Mayote from the report;
- (vi) There was need to reflected on the nature of decisions to be examined on the basis of their relevance and expected impact;
- (vii) There is need to review and reflect on the impact of past themes of the Summits;
- (viii) The reporting format should be reviewed to allow Departments to present reports on implementation of decisions directly to the PRC;
- (ix) There is need to reduce the number of meetings/conferences per year to enable proper implementation of decisions which would also reduce the number of reports submitted and decisions to be taken;

82. The Commission clarified as follows:

- (i) Rationalisation of decisions could assist in their effective implementation;
- (ii) The increased number of decisions depended on the number of items included in the agendas of the policy organs as well as the number of meetings held;
- (iii) A number of issues would be addressed during the forthcoming AUC/PRC Retreat including: the format of decisions, number of decisions, nature of decisions and criteria for determining the themes for future Summits;
- (iv) The non implementation of Decisions was attributable mainly to lack of financial resources and institutional capacity;
- (v) With respect to the theme, the Commission, in addition for the Theme proposed for January 2012, had proposed that only one theme a year be adopted, with a view to providing sufficient time for its proper preparation and follow up action on the outcomes from the Summit.

83. In conclusion, the PRC took note of the report and recommended to the Executive Council the following:

- (i) Take note of the report;
- (ii) Endorse the proposal to meet in a Retreat : PRC/AUC to execute the mandate deriving from Decision Assembly/AU/Dec.318 (XV) of Kampala in particular to consult on:
 - Format of the decisions;
 - Number of decisions;
 - Nature of decisions;
 - Themes for future Summits and periodicity.
- (iii) Endorse the theme proposed for January 2012 Summit as “Boosting Intra-African Trade”;
- (iv) Agree to consider a Draft Decision on the Comorian Island of Mayotte submitted by Comoros in relation with the current situation.

SECTION VI: OTHER REPORTS

84. During the consideration of the reports of ministerial meetings, a number of cross-cutting issues were highlighted for which the PRC made general recommendations as follows:

- (i) Participation in ministerial meetings: It was observed that the level of representation of Member States in ministerial meetings was lower than the rank of Minister. This raised concern regarding the quorum and the legitimacy of decisions taken. The PRC recommended that the issue be discussed in detail and comprehensively during the planned PRC/Commission Retreat scheduled early March 2011;
- (ii) The need for rationalization of ministerial meetings due to the current trend of proliferation of meetings and the cost implications. The PRC recommended that the issue be discussed in detail and comprehensively during the planned PRC/Commission Retreat scheduled in February 2011;
- (iii) The non-involvement of the PRC in the preparation of ministerial meetings: The PRC recommended its full involvement in the entire process of the preparation of ministerial meetings.

85. The PRC also had a lengthy debate on the interpretation of Rule 9 (3) of the Rules of Procedure of the Executive Council, on the criteria for classification of items into Parts A and B of the agenda of the Executive Council. Some delegations held the view that, items to be placed in Part A were those for which PRC had reached consensus and which the Executive Council may adopt without debate. Others were of the view that items placed in Part A were meant for adoption by the Ministers without discussion as long as there was consensus, irrespective of whether they had financial, structural, technical or legal implications. The PRC concluded the debate by calling for strict compliance with Rule 9 (3) of the Rules of Procedure, adding that the Executive Council was at liberty to discuss any item placed in Part A or Part B. the PRC also agreed that the importance of an item was not part of the criteria for its classification into Part B, and that it was not quite easy to determine the level of importance of an item vis-à-vis another one on the agenda.

1) Report of the Commission on the High Level Conference on Agribusiness and Agro-industry; 8-10 March 2010, Abuja (Nigeria) – Doc. EX.CL/594 (XVII)

86. The presentation of this report was made by a representative of the Commission.

87. The debate that followed this presentation focused on the following points:

- (i) The report is part of a set of five reports that the PRC had delayed presentation for procedural reasons, as these meetings were not on the calendar of meetings approved by the Sub-committee on Conferences and Programmes and were not organized according to the canvas in force;
- (ii) The leniency in favour of these points during the last Summit in Kampala warrants that they all be considered by the current sessions of the Summit. After discussion, the PRC should decide on their inclusion in Part A or Part B of the draft agenda of the Executive Council;

- (iii) Nigeria, host of this conference is to be commended for hosting a conference, the issues of which have a clear impact on improvement of intra-African trade.

88. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report;
- (ii) Place the report in **Part B** of the agenda of the Executive Council.

2) Report of the First AU Conference of Ministers of Meteorology in Africa 12-16 April 2010, Nairobi, Kenya – Doc. EX.CL/587(XVII)

89. The report was presented by a representative of the Commission.

90. The discussion consisted of the following observations and questions:

- (i) The participation at the ministerial level did not attain the quorum required to validate the annexed draft declaration;
- (ii) The constitution of the Conference Bureau violated the procedures, particularly as regards the representation of the Northern Region;
- (iii) It is urgent to clarify the procedure applicable when the AU is invited to attend a conference organized by partners;
- (iv) The Commission will undertake a study on the ministerial conferences in connection with Decision EX.CL/Dec.229(XII) on the composition of the Specialized Technical Committees (STCs);
- (v) The institutionalisation of new ministerial conferences and the establishment of new STCs would necessarily have structural and financial implications;
- (vi) The creation of new STCs cannot be justified simply by invoking the existence of precedents in this area, but should be based on actual current needs;
- (vii) The STCs have rules of procedure, which is not the case for the ministerial conferences. This disparity creates confusion;
- (viii) The procedure for preparation of draft decisions to be annexed to reports submitted by the Commission must be codified to avoid disparities in the presentation;

- (ix) The list of members of the bureau who presided the conference includes two AU Member States under sanctions due to the delay in the payment of their contributions;
- (x) Must all ministerial meetings necessarily end with the adoption of a decision? Can we consider that the quorum for a meeting at ministerial level is attained even if most of the Ministers are represented by individuals having a rank less than that of Minister? Are the documents from such a conference valid?

91. The presenter of the report provided answers to questions raised in connection with the participation of Ministers, the creation of additional STCs, the institutionalization of the Conference of AU Ministers in charge of Meteorology, and the financial implications of such institutionalization.

92. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report;
- (ii) The report should be considered as work in progress and additional work needed to be undertaken;
- (iii) Salient issues such as STCs, proposed Special Committees, level of representation and participation, proliferation of meetings and financial implications should be discussed during the planned PRC/Commission Retreat and appropriate recommendations made to the Executive Council;
- (iv) Place the report in **Part A** of the agenda of the Executive Council.

3) Report of the Second Ministerial Conference on Disaster Risk Reduction: Nairobi, Kenya, 14-16 April 2010 – Doc. EX.CL/589 (XVII)

93. The report was presented by a representative of the Commission.

94. The following observations emerged from the ensuing debate:

- (i) Disaster prevention and risk reduction resulting from these disasters are a major challenge for African countries, hence the importance of the report;
- (ii) The weak capacity for disaster prevention and risk reduction in Africa is linked to inadequate investment in this area;
- (iii) The issue of disaster risk reduction should be considered as part of a comprehensive approach to the problem of climate change;

- (iv) Feasibility studies on the modalities of setting up structures for disaster prevention and the funding mechanism should be conducted;
- (v) The Commission should work closely with the RECs that are also developing regional policies in disaster risk reduction;

95. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report and the recommendations;
- (ii) Endorse the recommendations contained in the report;
- (iii) Call for increased national investment and resource mobilization in the field of Disaster Risk Reduction;
- (iv) Request the Commission to coordinate with RECs for high-level consultations to facilitate Africa's preparedness to efficiently face up to disasters;
- (v) Place the report in **Part A** of the agenda of the Executive Council.

4) Report of the Commission on the Ministerial Conference on follow up on TICAD IV: Arusha, Tanzania, 2-3 May 2010 – Doc. EX.CL/593(XVII)

96. The report was presented by a representative of the Commission. Subsequent to the presentation, comments and observations were made as follows:

- (i) The list of countries that participated should be indicated;
- (ii) The report lacked concrete results and conclusions;
- (iii) Draft resolutions/declarations were not embodied in the report;
- (iv) The issue of opening a Diplomatic Mission in Tokyo had important structural and financial implications, hence the need for further discussions;
- (v) The PRC should be involved in the planning of TICAD conferences through the Sub-committee on Multilateral Cooperation;
- (vi) The link established in the report with climate change was unclear.

97. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report and its recommendations;

- (ii) The additional work involved should be undertaken through the PRC Sub-Committee on Multilateral Cooperation;
- (iii) Place the report in **Part A** of the agenda of the Executive Council.

5) Report on the Ministerial Conference on Animal Resources: Entebbe, Uganda, 13-14 May 2010 - Doc. EX.CL/590(XVII)

98. The report was presented by a representative of the Commission. Subsequent to the presentation, comments and observations were made as follows:

- (i) The scope of the Conference ought to include all issues on animal resources, and not limited to access to markets;
- (ii) There was need to rationalize the holding of the meetings proposed in the report (meeting of Directors, Ministerial Meetings and Summit). The meetings were many and had substantial financial implications.

99. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report and the recommendations contained therein;
- (ii) Place the report under **Part A** of the agenda of the Executive Council.

6) Report of the 13th Ordinary Session of the Conference of African Ministers on Environment (AMCEN): Bamako, Mali, 21-25 June 2010 – Doc. EX.CL/624(XVIII)

100. The report was presented by a representative of the Commission. Subsequent to the presentation, comments and observations were made as follows:

- (i) Some delegations were of the view that the report was outdated as some issues had been overtaken by events, while others held the view that issues such as climate change were still relevant and topical;
- (ii) The Declaration was lengthy, contradictory and repetitive;
- (iii) The Commission should request Member States to come up with a resilient strategy to be discussed during the next session of AMCEN.

101. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report and the recommendations;
- (ii) On the proposal for an African Summit on Green Economy, there is need to harmonize the African Common Position together with ongoing initiatives under other programmes such as Climate Change (CAHOSCC);

- (iii) Welcome the convening of the next Climate Change Summit in South Africa which will focus on Green Economy;
- (iv) AMCEN should be brought under the AU Structures as part of STC No. 1, on Agriculture, Rural Economy, Water and Environment with harmonized Terms of Reference ;
- (v) Place the report in **Part B** of the agenda of the Executive Council.

7) Report of the 3rd AU Conference of Ministers in charge of Communication and Information Technologies: Abuja, Nigeria, 3 - 7 August 2010 - Doc. EX.CL/625(XVIII)

102. The report was presented by the Commissioner for Infrastructure and Energy.

103. Following the presentation, comments and observations were made as follows:

- (i) Need for the Ministerial Conference to be coherent with the Declaration on the theme of the January 2010 AU Summit on ICT in terms of follow-up action and providing policy guidelines;
- (ii) Need to clarify the applications of the Dot Africa Project and the proposal to establish the African Space Agency;
- (iii) Need for the Ministerial Conference to evaluate the outcomes of its previous Decisions in terms of practical achievements recorded and concrete projects that had been established;
- (iv) The extent of the role of International Partners in the Conference should be determined and the need for Africa's ownership of its processes and procedures cannot be over-emphasized;
- (v) Need for proper preparation and planning of Ministerial Conferences in order to achieve concrete outcomes.

104. In response, the Commissioner provided clarification as follows:

- (i) The Ministerial Conference was a success in view of the fact that it developed steps and the roadmap for implementing the Declaration on the theme of the January 2010 AU Summit;
- (ii) International Partners were committed to the Conference and their collaboration with the AU had recorded successes; for example, the establishment of the Pan-African e-Network and the role of the ITU in the area of telecommunication.

105. Further clarification was provided by a representative of the Commission as follows:

- (i) The Dot Africa Project was an African domain that was in the process of being established. A feasibility study for the establishment of an African Space Agency was in progress;
- (ii) International Partners had successfully collaborated with the AU in launching some projects and applications;
- (iii) There was synergy between the activities of AU-NEPAD Agency and the Commission and both were aimed at bringing maximum benefit to the continent.

106. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report and its recommendations;
- (ii) The Ministerial Conference should take stock of, and provide policy guidelines for, the implementation of the Decisions and the Plan of Action adopted by the Assembly of Heads of State and Government on the theme of ICT at its January 2010 Session;
- (iii) The Ministerial Conference should be African Union-owned; its meetings should be adequately prepared and it should come up with measurable and realistic targets and outcomes; and, the role of partners in these meetings should be defined;
- (iv) Place the report in **Part A** of the agenda of the Executive Council.

8) Report of the Conference of Ministers of Fisheries and Aquaculture: Banjul, The Gambia, 22-25 September 2010 - Doc. EX.CL/627 (XVIII)

107. The report was presented by a representative of the Commission.

108. Following the presentation, comments and observations were made as follows:

- (i) The statistic quoted as 1 billion Africans facing malnutrition and hunger was inaccurate and misleading;
- (ii) Need to recast the theme of the next Conference of African Ministers of Fisheries and Aquaculture (CAMFA) to read “Combating Illegal Fishing in Africa”, rather than the adopted theme of “African Fisheries only for Africans”;

- (iii) Need for a continent-wide programme on fisheries, which transcends the respective Regional Economic Communities (RECs);
- (iv) Need to establish a linkage between fisheries and agriculture in order for both to derive synergy from each other;
- (v) Need to institutionalize the Ministerial Conference in order to bring maximum benefit to the African people.

109. In response, the Commission provided clarification as follows:

- (i) The figure of 1 billion Africans facing malnutrition and hunger was an error. That figure represented the number of people worldwide suffering from malnutrition and hunger;
- (ii) The theme adopted for the next CAMFA was aimed at ensuring that Africans benefited first from their fishery resources before the rest of the world. This did not mean that attention was not being given to combating illegal fishing in the continent;
- (iii) Institutionalization of sectoral Ministerial Conferences such as CAMFA was among the topics to be discussed during the forthcoming PRC/AUC Retreat.

110. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report and the recommendations;
- (ii) Request the Commission to facilitate a harmonized African common position in such world fora as the WTO, ICATT and IOTC with a view to strengthening Member States' capacity to effectively participate in regional and global fisheries negotiations and processes;
- (iii) Further request the Commission to support Member States to foster policy coherence with CAADP in the national fisheries sector in order to enhance the role of fish in food security, poverty alleviation and trade development;
- (iv) Request the Commission to develop strategies to curb illegal fishing in African waters;
- (v) Further request the Commission and Member States to facilitate the application of the African Referential and Guide on Food Safety in Member States and the implementation of Rapid Alert System for Food and Feed (RASFF);
- (vi) Place the report in **Part A** of the agenda of the Executive Council.

9) Report of the 4th Session of the AU Conference of Ministers of Drug Control and Crime Prevention – Doc. EX.CL/628(XVIII)

111. The report was presented by a representative of the Commission.

112. Subsequent to the presentation, the following comments and observations were made:

- (i) The Draft Decision was not attached to the report;
- (ii) In paragraph 16, the report should have emphasized on the harmonization of the legislation and its dissemination;
- (iii) The financial situation of the United Nations Africa Institute for Crime Prevention and Treatment of Offenders (UNAFRI) should have been highlighted in the report, and a call made to Member States to input their contribution to enable the Institute to execute its mandate;
- (iv) The role of UNAFRI needed to be understood, since the situation of drug trafficking in the Gulf of Guinea was critical;
- (v) UNAFRI should be strengthened and involved in next year's Summit that would be on Youth;
- (vi) Drug trafficking could be compared to a weapon of mass destruction; it has a negative impact on the development of Africa, and thus needs to be addressed;
- (vii) The aspect of money laundering was not well captured in the report especially its correlation with drug trafficking;
- (viii) The root cause of the phenomenon should be elucidated with a view to showing why people are so addicted to drug;
- (ix) Paragraph 15 of the French version of the report should be harmonized with the English version for the sake of clarity;
- (x) Whether the Commission had the means to undertake the activities listed from paragraphs 16 to 20?
- (xi) On the issue of drug trafficking, there were international structures dealing with the problem; and yet the phenomenon kept growing;
- (xii) With regard to money laundering, the focus should be on drug control and not limited to combating the crime;

(xiii) Drug trafficking had a link with permissiveness and poverty.

113. In its response, the Commission provided the following clarifications/explanations:

- (i) In the process of eradication of the cultivation and abuse of cannabis, the approach adopted by a number of Member States focused more on repression than on prevention. In this connection, the Commission was being requested to assist in sourcing funds for training, expertise and acquisition of appropriate equipment;
- (ii) Harmonization exists already. Most of the Member States that participated in the meeting confirmed that, at the regional level such as ECOWAS and SADC, the practice was well known and AUC would be helping in enhancing the said practice;
- (iii) With respect to the money laundering phenomenon, the meeting exchanged views on the issue on the basis of the Vienna Convention. In future, various intelligence services would be brought on board with a view to effectively tackle drug trafficking;
- (iv) Africa should not let the United Nations Africa Institute for Crime Prevention and Treatment of Offenders (UNAFRI) to fail. The United Nations would take on its responsibility, but AU Member States also have to play their part;
- (v) The growing use of drugs may result in permissiveness and poverty. Children were exposed to these drugs;
- (vi) Tourists coming to Africa could also be providing children with drugs;
- (vii) Attention should be paid more to treatment and education;
- (viii) The Departments of Social Affairs and Peace and Security should work in synergy on drug trafficking with a view to setting up an interdepartmental mechanism with a social development perspective.

114. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Take note of the Report and the Recommendations;
- (ii) Endorse the recommendations which are action-oriented to address the great challenges faced in drug crime prevention, and in coordination and harmonization of legislation in Member States, so as to effectively combat cross-border drug activities;

- (iii) The Theme of the proposed Ordinary Summit of the Heads of State, which is to be held before 2015, should be devoted to drug control and crime prevention;
- (iv) Violence against women should be decisively addressed through national legislation;
- (v) Request Member States to submit reports on an annual basis and on a given date;
- (vi) Call on Member States to contribute financially to UNAFRI to enable it execute its mandate;
- (vii) Place the report in Part A of the agenda of the Executive Council.

10) Report on the Meeting of Ministers responsible for Gender and Women's Affairs and the Launch of African Women's Decade – Doc. EX.CL/629(XVIII)

115. The report was presented by a representative of the Commission.

116. Subsequent to the presentation, the following comments and observations were made:

- (i) The report did not provide any indication as to the progress made in the last three years with respect to Gender equality;
- (ii) The Arabic version needed to be revised;
- (iii) A comprehensive evaluation needed to be conducted on what had been done since the last decade;
- (iv) The report did not clearly indicate the basis on which the ten (10) themes had been defined;
- (v) The report did not provide a clear indication of guidelines for the implementation of the ten (10) themes; and for evaluation of the implementation of the various themes under the Declaration of the African Women's Decade;
- (vi) In paragraph 15 of the report, emphasis had been placed on the rights of women, but not enough on their obligations;
- (vii) The report did not focus on the most critical issues;

- (viii) The issue of equality or parity and of disparity between traditional and conventional laws had not been addressed;

117. The representative of the Commission provided answers and clarification as follows:

- (i) The Commission was working on the Guidelines for reporting on the AU Solemn Declaration on Gender Equality in Africa as well as on the mechanism for implementation of the Declaration of the African Women's Decade;
- (ii) As for the progress made in regard to Gender Equality and Women's Empowerment in Africa, this had been adequately covered in the report of the Chairperson;
- (iii) The ten (10) themes and the measures taken for the evaluation of the Declaration of the African Women's Decade had been arrived at after consultations.

118. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Take note of the Report and the recommendations;
- (ii) Welcome the successful launch of the African Women's Decade in Nairobi on 15 October 2010;
- (iii) Endorse the Nairobi Declaration and the Roadmap for African Women's Decade including financing through the African Trust Fund for Women;
- (iv) Place the report in Part A of the agenda of the Executive Council.

11) Report of the Conference of Ministers of Culture – Doc. EX.CL/630(XVIII)

119. The report was presented by a representative of the Commission.

120. Subsequent to the presentation, the following comments and observations were highlighted:

- (i) The status of the *Centre International des Civilisations Bantu* (CICIBA), one of Africa's Cultural Centres was not defined in the report;
- (ii) On page 5, the name of Member States should be written in full;
- (iii) The Conference of Ministers of Culture was not a Specialized Technical Committee *per se*;
- (iv) There was need for repatriation of stolen cultural goods to Africa;

- (v) Member States should be encouraged to promote the Lusaka Decision to co-host African Union Flag and Anthem during official events;
- (vi) The Report should not be circulated until the Strategy adopted by the Conference of Ministers is attached;
- (vii) The report did not highlight Africa's contribution to Global Civilization.

121. The representative of the Commission provided answers and clarification as follows:

- (i) The Strategy had been discussed and adopted by the Ministers of Culture. The non-attachment of the strategy paper was an omission and would be corrected. It had already been made available to Member States for implementation;
- (ii) The purpose of the Strategy was to help Member States to set up a fund with a view to supporting Culture;
- (iii) A project to have *Lingala* adopted as a regional language had been launched in the Central African region in the context of CICIBA;
- (iv) The process to transform CICIBA into a Pan-African Institute of Culture was underway. A study had been completed and would soon be made available;
- (v) The African School Educational Curriculum had been translated into all AU languages.

122. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Take note of the Report and the recommendations;
- (ii) Endorse the recommendations of the Conference and in particular:
 - a) The implementation Programme for the African Cultural Renaissance Campaign 2010-2012;
 - b) The promotion of national and regional programmes in respect of this campaign;
 - c) The strategy on sustainable financing of the Culture Development Sector in Africa.
- (iii) Call on Member States to ratify the Charter on Africa Cultural Renaissance, serve as Champions for the cultural renaissance campaign and popularize the use of AU Symbols (Anthem, Flag and Logo);

- (iv) Encourage Member States and regional organizations in their efforts and initiatives at promoting cultural projects including the return of stolen cultural goods to Africa and the establishment of museums;
- (v) Create a Cultural Space at the AU Headquarters and support the initiative on African Cultural Village;
- (vi) Express commendations to Ethiopia for the land provided to AU for the construction of an African Cultural Village in Addis Ababa;
- (vii) Place the report in Part A of the agenda of the Executive Council.

12) Consideration of the Report of the AU Conference of Ministers responsible for Agriculture: Lilongwe, Malawi, 26 to 29 October 2010 – Doc. EX.CL/631 (XVIII)

123. The report was presented by a representative of the Commission.

124. Following this presentation, comments, observations and suggestions focused on the following:

- (i) the composition of the Bureau of the Conference was not in accordance with the principle of geographical representation;
- (ii) the organization of conferences should ensure broad participation of Member States;
- (iii) the funding mechanism for fertilizers in Africa;
- (iv) the status of negotiations on the issue of tobacco trade;
- (v) need to link the recommendations to the objectives;
- (vi) reformulation of paragraphs 9, 10 and 18 of the report;
- (vii) reformulation of the fourth paragraph of item (2) relating to the mechanism of financing fertilizer development;
- (viii) need to focus on the RECs in the context of implementation of the commodities values chains.

125. The Commission's representative responded to the questions raised above, adding that proposals would be made on the rewording of the paragraphs indicated.

126. Given the importance of the theme of the Report for Africa: "Realizing the Development of Agriculture in Africa" and particularly the recommendations contained therein, consensus emerged to adopt the report.

127. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report and endorse the recommendations;
- (ii) Place the report in **Part A** of the agenda of the Executive Council.

13) Consideration of the Report of the AU Conference of Ministers of Trade: Kigali, Rwanda, 29 October to 2 November 2010 – Doc. EX.CL/632 (XVIII)

128. The report was presented by a representative of the Commission.

129. This presentation was followed by general debate during which speakers expressed their concerns regarding the following questions:

- (i) the need to expand the African common market , like the European Common Market, to other products in order not to limit it solely to agricultural products;
- (ii) defining the actions to be taken for the renegotiation of the extension of the AGOA deadline;
- (iii) the issue of harmonization of customs barriers;
- (iv) the need to develop a document on promoting intra-African trade;
- (v) accelerating the process of creation and harmonization of national policies for implementation of Free Trade Zones (FTZ) in Member States;
- (vi) the need to hold a mid-term preparatory meeting on the margins of the AU Executive Council session of January 2011 prior to the meeting on AGOA, scheduled for June 2011 in Zambia;
- (vii) the harmonization of positions on the issue of tobacco trade, within the framework of a joint meeting between the Ministers of Finance and Ministers of Trade;
- (viii) the need to revitalize the Sub-Committee on Economic and Trade Issues;

- (ix) the need for mechanisms to ensure implementation of guidelines, and to focus on the implementation aspects of the guidelines at the WTO, and of EPAs and AGOA;
- (x) definition of a common strategy on Africa's relation with China;
- (xi) strengthening the internal market.

130. The representative of the Department of Trade and Industry responded to concerns raised, with particular emphasis on:

- (i) institutional and regulatory barriers to the development of intra-African trade and the need for harmonization of the national legislations governing trade;
- (ii) the need to conduct a study on the status of harmonization of legislations at RECs level;
- (iii) the free movement of goods and services in the context of cross-border trade;
- (iv) the common market for agricultural products was retained on the basis of a study carried out in 2006 which gave priority to agricultural products as a catalyst for continental integration.
- (v) the coordination work between the AUC and the various African groups on the African common position in WTO and EPA negotiations;
- (vi) the rapid conclusion of the Doha Agenda with focus on the development of Africa;
- (vii) AGOA, the framework of cooperation with the United States of America should be reviewed to effectively serve Africa's development.

131. Finally, on all these issues, the Commission's representative stressed the need for political support at the highest level to bring the European party to be flexible on its position, by opening a debate on certain contentious issues.

132. The Deputy Chairperson of the Commission intervened at this point to emphasize the need for Africa, like China, to focus on developing its domestic market and to define a common strategy in its relations with China. He also referred to the decision of the Uruguay meeting on the prohibition of tobacco use and the need to convene a meeting between the Ministers of Trade and Agriculture on the tobacco issue.

133. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report, the recommendations and the Declarations of the Ministers;
- (ii) Endorse the recommendations and Declarations of the Ministers on:
 - (a) Strategic framework for strengthening US-Africa Trade relations 2015 and beyond (AGOA) ;
 - (b) WTO issues;
 - (c) Economic Partnership Agreement (EPA) negotiations;
 - (d) WHO Framework Convention on Tobacco control;
 - (e) Intra-African Trade, African Common Market for Agricultural Products, Aid for Trade, UNCTAD Report on LDCs and LDC IV Conference.
- (iii) A Joint meeting of Ministers of Trade, Agriculture and Finance should be held to harmonize Africa's position on Tobacco;
- (iv) Request the Commission to develop a comprehensive programme on Intra-African Trade, encompassing all the decisions and recommendations of the Ministers of Trade and submit it for consideration by the June/July 2011 Assembly;
- (v) Place the report in **Part A** of the agenda of the Executive Council.

14) Consideration of the Report of the AU Conference of Ministers responsible for Energy: Maputo, Mozambique, 1 to 5 November 2010 – Doc. EX.CL/633 (XVIII)

- 134.** The report was presented by the Commissioner for Infrastructure and Energy.
- 135.** The issues raised during the discussions focused on the following items:
- (i) the legality of the report to be considered in view of the attendance;
 - (ii) the issue of quorum in relation to the validity of the conclusions of the Conference;
 - (iii) the need to indicate in the report the absence of a quorum;
 - (iv) the need to discuss the issue of quorum at the next retreat PRC/AUC scheduled for February 2011;
 - (v) the need to determine the period for celebrating the Africa Energy Week;
 - (vi) implementation of the resolution on the study of solar energy;
 - (vii) the amount of the funding released for completion of the study on solar energy.

136. In response to the question of financing the completion of the study on solar energy, the Commissioner noted that this study had been entrusted to AFREC, an organ of the African Union, and that it was conducted by African experts.

137. Regarding the Africa Energy Week, the Commissioner said that it must be staged during the meeting of Ministers in charge of Energy. As for the venue and date of the event, the Commissioner indicated that it would be determined in due course.

138. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report and the recommendations contained therein;
- (ii) Endorse the Declaration and Resolution adopted by the Ministers;
- (iii) Call for increased coordination and harmonization of the work undertaken by the different sectoral Ministerial Meetings such as CEMA, AMCOW and AMCEN to promote cross-border river basins development as well as regional electricity and energy production and exchange networks;
- (iv) Support the initiative to designate a year of Energy Access and call upon the UN to declare 2012 the International Year of Universal Energy, and hence the need for global campaign;
- (v) Place the report in **Part A** of the agenda of the Executive Council.

**15) Report of the Conference of Ministers in Charge of Social Development
- Doc. EX.CL/634 (XVIII)**

139. The report was presented by a representative of the Commission.

140. Subsequent to the presentation, the following comments and observations were made:

- (i) The Annex on the restructuring of the African Rehabilitation Institute (ARI) was not attached to the report;
- (ii) Need for clarification on how the funds relating to ARI had been used so far;
- (iii) Institutes like the African Rehabilitation Institute must be audited as a condition for funding;

141. The representative of the Commission provided answers and clarification as follows:

- (i) Para 3 of the report presented a good picture of what was discussed, and addressed most of the issues raised;
- (ii) The African Rehabilitation Institute was based in Harare, Zimbabwe, and was undergoing complete restructuring;
- (iii) The Annex of the report covering the restructuring of the Institute had been circulated.

142. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the Report and the recommendations;
- (ii) Endorse the recommendations made on various issues pertaining to the implementation of the Social Policy Framework for Africa, the extension to 2019 of the African Decade of Persons with Disabilities, the restructuring of the African Rehabilitation Institute, the proposed establishment of the Advisory Council on Ageing, elaboration of the Protocol as well as the call for accelerated action and the Plan of Action towards Africa Fit for Children;
- (iii) The financial and structural implications as well as the identification of sources of funding should be looked into by the competent Organs in consultation with the AUC and the ACHPR;
- (iv) Place the report in **Part A** of the agenda of the Executive Council.

16) Report of the AU Conference of Ministers of Defence: Addis Ababa, Ethiopia, 3-7 December 2010 – Doc. EX.CL/635(XVIII)

143. The report was presented by a representative of the Commission.

144. After the presentation, comments and observations were made as follows:

- (i) The AU Commission was commended for the quality of the report and its Declaration, as well as for the commitment of the Specialized Technical Committee on Defence, Security and Safety;
- (ii) Need for the report to highlight Member States that participated in the meeting of Ministers of Defence;
- (iii) Need for an early operationalization of the African Standby Force (ASF) in order for it to help address peace and security challenges in the continent;

- (iv) Provision of adequate and predictable funding that is mainly internally generated from within the continent, in order for Africa to take ownership of the ASF programme;
- (v) Need for the establishment of an ASF that can tackle maritime piracy and other criminal activities in the Indian Ocean;
- (vi) Need to compensate the families of deceased soldiers felled in peace support operations in the continent.

145. In response, the Commission provided clarifications as follows:

- (i) The omission of Member States that participated in the meeting was inadvertent and will be reflected in the report;
- (ii) Funding for peace support operations remains a huge challenge. Efforts are being made by the Union to address this challenge by exploring locally generated sources in order for Africa to take ownership of its peace and security issues;
- (iii) Maritime piracy in Somalia is the result of the collapse of state structures. Other security challenges are illegal fishing and dumping of toxic waste, among others. Efforts are being made to address these challenges in a holistic manner;
- (iv) Regrets for the delay in paying compensation to families of deceased soldiers felled in peace support operations in the continent. Member States whose soldiers are deceased in the circumstance will soon be updated on efforts being made to pay compensation. A memorial will be erected in honour of the deceased soldiers at the AU Headquarters in due course.

146. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Take note of the report and appreciate the progress made in the operationalization of the African Standby Force (ASF);
- (ii) Endorse the Declaration adopted by the Ministers of Defence;
- (iii) Welcome the outcome of Exercise Amani Africa held in Addis Ababa, from 13 to 29 October 2010 as well as the Regional Standby Forces exercises aimed at testing the ability of the Commission and the RECs to manage multidimensional missions and facilitating efficient deployment of the ASF;
- (iv) Need to reflect on the issue of funding ASF, including the mobilization of predictable and reliable resources;

- (v) Recommend that the Ministers of Defence explore the possibility of establishing a Standby Force for the Indian Ocean to fight piracy;
- (vi) Need to assess the level of preparedness for deployment of ASF in the different regions of the continent;
- (vii) Need to address the issue of compensation for the soldiers who lost their lives while on AU peace missions;
- (viii) Place the report in **Part A** of the agenda of the Executive Council.

17) Report of the Extraordinary Session of the AU Conference of Ministers of Economy and Finance: Yaoundé, Cameroon, 16-17 December 2010 – Doc. EX.CL/636(XVIII)

147. The Report was presented by the Commissioner for Economic Affairs. In his presentation, he informed PRC that the Conference addressed two key issues, namely: alternative sources of financing the African Union and Legal Instruments (Protocol and Statutes) of the African Monetary Fund. He highlighted the key recommendations proposed by the Conference for consideration by the Executive Council and Assembly.

148. Following the presentation, delegations made the following remarks and observations:

a) On Alternative Sources of Financing:

- (i) This matter should be approached with an open mind, and considered within the framework of a long-term perspective;
- (ii) There was need to resolve the issue of alternative sources of financing which had been dragging on for a long time;
- (iii) Because of the problem of under-funding, the Union remained weak and unable to make an impact in the continent. This had translated into weakness of Africa's voice on the international stage;
- (iv) The continued reliance on partners' funds to finance the Programme Budget was also a cause for concern;
- (v) While some delegations expressed their conviction that many of the options proposed were very practical and could serve as effective solutions to the Union's financial needs, as evidenced by their successful application in some RECs and Member States, others were of the view that they were not innovative enough and that they could add to the heavy tax burdens already being experienced in many Member States;

- (vi) Some delegations supported the recommendation by the Conference that Member States examine the original eight proposed options and apply the option most suited to their economies in view of the fact that it created room for flexibility and took into account differences in Member States economies. Others were of the view that such a recommendation created a basis for inaction and risked undermining the spirit of harmony, unity of purpose and integration;
- (vii) Clarification was sought on the category of commodities on which the proposed import taxes would apply, noting that it would be preferable to limit these to luxury items. The application of tax on hydrocarbon exports was also challenged by a number of delegations;
- (viii) It is important to ensure that a number of criteria were observed including:
 - a) Equity;
 - b) Sustainability;
 - c) appropriate use of funds generated for greater visibility;
 - d) system of rebates to allow excess funds to revert back to Member States;
 - e) The principle of unitary action and Pan-African vision.
- (ix) A lot of technical work had been carried out by experts. What was now required was a political decision;
- (x) There was need to conduct a comprehensive evaluation of the financial needs of the Union, analyse expenditure patterns, and institute a system of prioritization. These should precede the identification of appropriate financing options;
- (xi) While some delegations were of the view that the issue at hand was that of identifying “additional” funds for the Union, others remained convinced that “alternative” sources was the appropriate terminology;
- (xii) The four new proposals recommended for consideration in addition to the eight options proposed would be difficult to apply in practice;
- (xiii) The Commission should reflect on the elaboration of a follow up mechanism for the operationalization of various options.

b) On the African Monetary Fund:

- (i) Some delegations recalled an earlier decision by the Organs of the Union that all legal instruments should be examined by the Conference of Ministers of Justice and Attorneys General prior to adoption by the Executive Council. They therefore called for the Protocol to be subjected to that rule;

- (ii) There was need to come up with alternative proposals to meet the capital requirements of the African Monetary Fund;
- (iii) The Protocol provided for possible amendments to be introduced in the future. Therefore, any concerns that Member States may have could be addressed in future through this avenue;
- (iv) The next Conference of African Ministers of Finance, Planning and Economic Development, scheduled to take place in Addis Ababa, in March 2011 would be an opportunity to resolve outstanding issues such as the Statute and its Annexes;
- (v) The Arab Republic of Egypt entered a reservation on the recommendation to submit the draft Protocol for adoption by the Assembly.

149. In reaction to some of the issues raised during the debate, the Commissioner for Economic Affairs provided clarification as follows:

- (i) The Union's financial situation was grave and needed urgent action to address this problem;
- (ii) The Programme Budget continued to be financed mainly by partners. Hence, there was need to change the *status quo* by adopting alternative sources of financing;
- (iii) All the technical work had already been done in the form of studies and impact assessment. What was now required was a political decision;
- (iv) Many of the options proposed were already being successfully implemented in RECs such as ECOWAS and ECCAS. Their applicability was therefore not doubtful;
- (v) The Conference had recommended the Protocol to the Executive Council for adoption. Another examination by the Conference of Ministers Justice and Attorneys General was not necessary given that an earlier validation meeting by experts had included legal experts.

150. In a subsequent intervention, the Chairperson of the Commission reiterated the importance of addressing the issue of alternative sources of financing. He informed the PRC of similar efforts going on at the level of the United Nations and re-echoed earlier calls to adopt some of the options proposed in view of their viability as evidenced by their successful implementation in some RECs.

151. In conclusion, the PRC recommended to the Executive Council the following:

- (i) Take note of the Report and recommendations including those on alternative sources of financing and on the African Monetary Fund;

- (ii) Endorse the recommendations and Declaration of the Ministerial Conference;
- (iii) Recommend the Draft Protocol on the African Monetary Fund for consideration by the Executive Council while the Draft Statute and its Annexes should be fine-tuned for submission to the next Joint AUC/UNECA Conference of Ministers of Finance, Planning and Economic Development scheduled to take place in Addis Ababa, Ethiopia in March 2011;
- (iv) Call upon Member States that have not yet done so to sign and ratify the Protocol on the African Investment Bank;
- (v) Place the report in **Part B** of the agenda of the Executive Council.

18) Report of the Commission on the Status of the OAU/AU Treaties – Doc. EX.CL/638(XVIII)

152. The report was presented by a representative of the Commission.

153. Following this presentation, the delegations which spoke praised the efforts of the Commission at all levels to facilitate the signing and ratification of treaties of the OAU/AU. They also made the following comments:

- (i) The report should be updated to reflect the latest signatures and instruments of ratification deposited by some Member States;
- (ii) It is important to study the relevance of certain legal instruments in order to update them;
- (iii) Member States should respect and implement all decisions of deliberative Organs on the signing and ratification of treaties of the OAU/AU.

154. In his intervention, the Chairperson of the Commission welcomed the progress made by Member States in signing and ratifying various treaties. However, he specifically invited them to expedite the signing and ratification of the Protocol establishing the African Investment Bank with a view to its entry into force before the end of this year.

155. Replying to questions raised, the Representative of the Commission provided the following answers:

- (i) The Commission will continue in its efforts to facilitate the signing of various treaties by Member States;

- (ii) Information relating to the ratification of a treaty by a State is not reflected in the report before the filing by such State of instruments of ratification or accession thereto.

156. After discussions, the PRC recommended the following to the Executive Council:

- (i) Note the Report and recommendations;
- (ii) Endorse the recommendations;
- (iii) Call upon Member States that have not yet done so to sign, ratify and implement the treaties of the OAU/AU;
- (iv) Place the Report in Part A of the agenda of the Executive Council.

19) Consideration of the Progress Report of the Commission on the implementation of Decision Assembly/AU/270(XIV) relating to the Rome Statute of the International Criminal Court (ICC) – Doc. EX.CL/639 (XVIII)

157. The report was presented by a representative of the Commission. After the presentation, the following comments and observations were made:

- (i) The issue of the opening of an ICC Liaison Office to the AU had been decided by Assembly Decision [Assembly/AU/Dec.296(XV)] adopted in Kampala, Uganda in July 2010;
- (ii) There was need for continuous dialogue between the Commission and the ICC;
- (iii) Whether in the indictment of President Al Bashir, the ICC took into account the “*principle of presumption of innocence*”?
- (iv) The Report should be included in Part B of the Executive Council agenda given the importance of the issue, and to allow for exhaustive discussion at the level of the Executive Council, thereby reaffirming AU’s position on the matter;
- (v) In view of the fact that there was already a consensus on AU position, the report does not have to be discussed by the Executive Council and should thus be included in Part A of its agenda;
- (vi) In the event that the United Nations Security Council adopt resolutions against Chad and Kenya on the visit of President Bashir to their respective countries, what would be the position of the AU?

- (vii) There was need for closer coordination between the Commission and the African Permanent Missions in New York to ensure that decisions of the Union are fully implemented by the African Group in New York;
- (viii) AU decisions are binding on all Member States, who must maintain a balance between their obligations to the AU and their obligations as State Parties to the Rome Statute;
- (ix) It was important that the African Group in New York fully complied with and implemented Assembly decisions so that Africa could speak with one voice;
- (x) Whether it would be appropriate for members of the PRC to meet with the President of the Assembly of State Parties to the Rome Statute, who will be holding a briefing session in the coming days;
- (xi) The ICC and its Prosecutor Mr. Moreno-Ocampo were pressurizing African leaders in order to undermine decisions taken by the AU Policy Organs;
- (xii) Chad and Kenya received President Bashir in support of regional peace and security and in accordance with their obligations under the Constitutive Act of the Union;
- (xiii) The recent indictment of six (6) Kenya officials by the ICC was absent from the Report and should be incorporated accordingly;
- (xiv) The report should also be updated to make mention, if deemed relevant, of the issue of the Prosecutor, the recent meeting of the Panel of the Wise in Algiers and the Special Summit on Conflicts in Africa;
- (xv) The Gambia has a candidate for the post of Prosecutor of the ICC for elections scheduled in December 2011.

158. In response, the representative of the Commission provided the following clarification:

- (i) The Report would be updated to include the application for indictment against six (6) Kenyan officials as well as the recommendation from the Panel of the Wise on the interconnectedness between peace and justice;
- (ii) The ICC had indeed lodged applications for indictment against six (6) Kenyan officials including the Deputy Prime Minister and Minister of Finance, the Ministers for Agriculture and Industrialization, the Head of the Civil Service and Secretary to the Cabinet, and the Commissioner of Police;
- (iii) In view of the fact that no ICC organ is headed by an African, although Africa represents the largest regional block in the ICC, African State Parties

should be urged to nominate candidatures to fill the position of ICC Prosecutor that will be up for election in December 2011;

- (iv) The Chairperson of the Commission and other senior officials would continue to meet with officials of the ICC whenever they request for appointment;
- (v) Non-implementation of AU decisions by the African Group in New York was not out of lack of coordination between the Commission and the Group since many meetings had been held with them and communications sent to them in the past on the issue;
- (vi) Coordination between the Commission and the African Group in New York had improved tremendously through the adoption of working arrangements with the coordinators of the African Group in New York and in The Hague on ICC and on Universal Jurisdiction.

159. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Endorse the recommendations of the Commission;
- (ii) Place the report in **Part B** of the agenda of the Executive Council.

20) Consideration of the Progress Report of the Commission on the Implementation of Decision Assembly/AU/Dec. 292(XV) on the Abuse of the Principle of Universal Jurisdiction – Doc. EX.CL/640(XVIII)

160. The report was presented by a representative of the Commission. After the presentation, comments and observations were made as follows:

- (i) AU Member States should make use of the principle of reciprocity to put political pressure on countries which abuse the principle of universal jurisdiction;
- (ii) It is important for Senegal to effectively deal and proceed with the trial of former Chadian Leader Hissène Habré;
- (iii) The EU position that the principle of universal jurisdiction was exclusively an issue of national competence was unfair since the arrest warrants were compulsory for all EU countries;
- (iv) The AU should still pursue the matter with the EU since the EU had in some cases amended the principle for some non-AU countries;
- (v) It was discouraging that most of Member States did not provide the necessary information to the Commission regarding the number of pending cases instituted in European countries against their nationals;

- (vi) Member States that had not submitted their observations to the UN on the scope and application of the principle should do so by 30 April 2011;
- (vii) It was important that the African Group in New York fully complied with and implemented Assembly decisions so that Africa could speak with one voice;
- (viii) The arrest warrants on senior Rwandese officials in France were withdrawn about a month ago after thorough investigations by another French Judge, and the Report should be updated accordingly;
- (ix) What was the objective of the model law on universal jurisdiction?

161. In response, the representative of the Commission provided the following clarification:

- (i) The matter should still be pursued with the EU since the EU arrest warrants indeed came about through the EU Framework Decision adopted by the Council, and the exercise of the principle created tension between the AU and EU;
- (ii) The Assembly had requested the Commission to prepare the model law on universal jurisdiction, given that currently many AU Member States did not have the national laws required to apply the principle;
- (iii) Coordination between the Commission and the African Group in New York had improved tremendously through the adoption of working arrangements with the coordinators of the African Group in New York on ICC and on Universal Jurisdiction, respectively.

162. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) The AU Commission should continue to pursue the matter at the UN and with the EU;
- (ii) AU Member States should apply the principle of reciprocity and extend mutual legal assistance to each other in the investigation and prosecution of these cases;
- (iii) AU Member States should provide the required information and observations on the scope and application of the principle of universal jurisdiction to the UN before 30 April 2011;
- (iv) Member States should provide to the AU Commission the list of pending cases instituted in European countries against their nationals as previously requested;

- (v) The report should be placed under Part B of the agenda of the Executive Council.

21) Report of the Commission on the Situation in the Middle East and Palestine – Doc. EX.CL/641(XVIII)

163. The report was presented by a representative of the Commission.

164. Following the presentation, members of the PRC made comments and observations as follows:

- (i) There was need to update the report to include pertinent recommendations made at important meetings that discussed the Situation in the Middle East and Palestine, such as the outcomes of the Joint meeting of the AU/PSC and Arab League Peace and Security Council;
- (ii) The report should be updated to reflect the recent recognition of the State of Palestine by a number of countries;
- (iii) In view of the need for the Executive Council to discuss the Situation in the Middle East and Palestine, the report should go to Part B.

165. In conclusion, the PRC recommended to the Executive Council the following:

- (i) Take note of the Report and its recommendations;
- (ii) Endorse the recommendations contained in the Report;
- (iii) Reiterate its unflinching support to and solidarity with the Palestinian People for the recovery of its national rights including the recovery of all its land and the establishment of its own independent state in the Palestinian territories and the end of Israeli settlement on Palestinian land;
- (iv) Call upon the Security Council to convene an emergency session to address the Arab-Israeli conflict in all its dimensions in the event of failure of the ongoing negotiations;
- (v) Request the Commission to update the report so as to reflect the outcomes of the Joint meeting of the AU/PSC and Arab League Peace and Security Council and also the recent recognition of the State of Palestine by a number of countries;
- (vi) Place the report in **Part B** of the agenda of the Executive Council.

**22) Report of the Commission on the Humanitarian Situation in Africa –
Doc. EX.CL/642(XVIII)**

166. The report was presented by a representative of the Commission.

167. Following the presentation, members of the PRC made comments and observation as follows:

- (i) There is need to ensure the accuracy of the data used in reporting;
- (ii) There is also need to build disaster management capacity and lay more emphasis on disaster preparedness;
- (iii) Member States should assist the Commission with information on the humanitarian situation in their countries.

168. In addressing the concerns, the representative of the Commission undertook to ensure data accuracy and emphasized the need for Member States to assist the Commission in accessing accurate information and data.

169. In conclusion, the PRC recommended to the Executive Council the following:

- (i) Take note of the Report and the recommendations;
- (ii) Endorse the Report and the recommendations on ways of addressing the humanitarian situation on the continent;
- (iii) Call for the acceleration of the process of signature, ratification and implementation of the African Convention for the Protection and Assistance to Internally Displaced Persons in Africa adopted in Kampala, Uganda, in October 2009 with a view to ensuring its entry into force by 2011;
- (iv) Call on the Commission to undertake a detailed situational analysis in Member States and RECs on existing mechanisms and Policy Frameworks on humanitarian action with a view to facilitating coordination of efforts in this matter;
- (v) Request the Commission to take appropriate measures to ensure the accuracy of the data used in reporting;
- (vi) Urge Member States to place emphasis on disaster preparedness;
- (vii) Place the report in **Part A** of the agenda of the Executive Council.

23) Report of the Commission on the Meeting of Member States' Experts on Shared Values: Addis Ababa, Ethiopia, 13-15 December 2010 – Doc. EX.CL/619(XVIII)

170. The report was presented by a representative of the Commission. Subsequent to the presentation, comments and observations were made as follows:

- (i) Given the importance of the Summit Theme, more time should have been devoted to discussions, and the papers should have been provided sooner;
- (ii) It was important that there be greater focus on specific shared values (Governance and Democracy), as opposed to the wider issues that fell within the overall framework of shared values;
- (iii) The Commissioner and Department were commended for the wide consultative process that was engaged upon in preparation for the Session on the Summit Theme;
- (iv) The focus of discussion in preparation for the Summit debate should be on the Draft Declaration that emerged from the Experts' Consultation;
- (v) There needed to be clearer explanation of the intended Governance Platform and the relationship between the Governance Architecture and the established Peace and Security Architecture;
- (vi) It was imperative that the history of Africa feature in the dialogue on Shared Values and that there be consideration of African specific values, including wisdom, hospitality and the specific context of emancipation and the manner in which it impacted on matters of African ownership;
- (vii) It was important that the matter of shared values be also approached from a historical perspective and that Africa's past be regarded as a basis for assertion of African values;
- (viii) African values should also be ascertained from African culture and specific values that reflect how Africans engage with one other;
- (ix) It was imperative that the values be looked at in the context of their direct contribution to unity and integration;
- (x) The shared values that are being referred to were contained in the various instruments, and hence the focus should be on the challenges in implementation;
- (xi) The period for evaluating the application of shared values needs to be stated in the report or declaration;

- (xii) The role of communication and the media (press freedom) needed to be highlighted in any reflection on shared values, as information is the basis for democracy;
- (xiii) The freedom of movement across the Continent also needed to be highlighted in the dialogue on shared values;
- (xiv) A deadline should be established for the ratification of all treaties/charters and conventions on shared values;
- (xv) The symbols of the African Union needed to feature at the level of Member States;
- (xvi) Africa should look within itself to secure values, and should be careful about our relationships with other partners;
- (xvii) Shared values are a complex terrain of engagement and debate, and it is important to recognize that the debate would continue into the future.

171. In response of representation of the Commission clarified as follows:

- (i) Debate was important and needed to be located in the context of integration and unity;
- (ii) All the values articulated in the meeting were important and were reflected in the various instruments of the Union;
- (iii) It was important to situate the debate in the context of the Assembly decision and, in particular, the obstacles and challenges in implementing shared values;
- (iv) It was important for the future that there be focus on the ratification and domestication of shared values instruments;
- (v) The Governance Platform was most important as it provides the basis for coordination and harmonization. It was also clarified that the Platform was a process and not a structure;
- (vi) In addition to guiding the debate, the inputs from the PRC were appreciated as they would help to shape the work of the Political Affairs Department.

172. In conclusion, the PRC adopted the report and recommended to the Executive Council the following:

- (i) Take note of the report as well as the discussion paper and the Draft Declaration submitted by Member States' Experts;

- (ii) Note with appreciation the consultations undertaken by the Commission around the Discussion Paper with the RECs, the civil society, youth and gender fora;
- (iii) Need to clearly identify and define the core values and take into account the socio-economic context of each region;
- (iv) Stress the need to link Africa's core values and governance architecture with the Peace and Security architecture and to develop a roadmap for realizing the objectives of such structures and ensuring African ownership and primary responsibility in confronting development challenges and accelerating the integration of the continent;
- (v) Underline the close linkages between Democracy, Governance and Development;
- (vi) Call on Member States to sign, ratify, domesticate and implement the AU instruments on Democracy and Governance, propose that a timeframe be agreed upon for the ratification by all Member States of the relevant Treaties, and the elaboration of a timeframe for the ratification of the legal instruments;
- (vii) Need for periodic review of application/implementation of identified shared values;
- (viii) Recommend that AU Anthem, Logo and other Symbols be applied in all Member States and popularized through educational institutions;
- (ix) Need to strengthen synergies with the Regional Economic Communities (RECs) in promoting shared values taking into account the challenges of globalization;
- (x) Need to clarify the proposed establishment of the African Governance Platform and its role and place vis-à-vis the existing structures;
- (xi) Recommend the adoption of the Draft Declaration by the AU Policy Organs;
- (xii) Place the report in **Part B** of the agenda of the Executive Council.

24) Report of the Commission on the Implementation of the AU Solemn Declaration on Gender Equality in Africa (SDGEA) - Doc. EX.CL/643(XVIII)

173. The report was presented by a representative of the Commission.

174. Following the presentation, members of the PRC made comments and observation as follows:

- (i) Need to commend the Republic of Rwanda on their efforts in the implementation of Decisions on Gender issues;
- (ii) Report did not capture recent developments in the various countries;
- (iii) Need to reflect issues relating to Female Genital Mutilation (FGM);
- (iv) Need for all Member States to lay emphasis on education of the girl child;
- (v) What was the reason for the fact that only three reports were received from countries in 2010 as against the high numbers received in the previous years?

175. In addressing the issues raised, the representative of the Commission clarified as follows:

- (i) The report did not capture some of the recent developments due to late submission by countries, but the said developments would be factored in as soon as they were submitted;
- (ii) Issues of the FGM would be catered for in the final report;
- (iii) Member States to submit reports as soon as finalized to enable the Commission produce updated reports;

176. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Take note of the report and the recommendations;
- (ii) Urge Member States which have not done so, to submit their baseline reports;
- (iii) Endorse the amended guidelines for reporting on the AU Solemn Declaration on Gender Equality in Africa (SDGEA) as well as the implementation framework of that Declaration;
- (iv) Call upon Member States that have not yet done so, to sign and ratify the Protocol to the African Charter on Human and People's Rights Relating to the Rights of Women in Africa;
- (v) Commend Rwanda for its leadership in efforts at promoting Gender Equality;

- (vi) Further call upon Member States to address the gap between normative instruments and the situation on the ground;
- (vii) Place the report in **Part B** of the agenda of the Executive Council.

25) Progress Report of the Commission on the Implementation of Assembly Decision on the Transformation of the African Union Commission into the African Union Authority – Doc. EX.CL/644(XVIII)

177. The report was presented by a representative of the Commission.

178. Following this presentation, the delegations which spoke praised the efforts of the Commission for the implementation of the decision of the Assembly. They also requested that the different instruments be considered by the PRC prior to submission to deliberative organs for consideration and adoption.

179. At the end of the debate, the PRC recommended to the Executive Council as follows:

- (i) Take note of the Progress Report and recommendations and appreciate the work done so far by the legal Experts of Member States on the review of all the relevant legal instruments;
- (ii) Endorse the recommendations therein and encourage the Commission to pursue its efforts in finalizing the preparations for all legal instruments to be submitted to Policy Organs in due course;
- (iii) Place the report in **Part A** of the agenda of the Executive Council.

26) Report of the Commission on the Draft African Charter for Public Service – Doc. EX.CL/645(XVIII)

180. The report was presented by a representative of Commission.

181. Following the presentation, members of the PRC made comments and observations as follows:

- (i) It would be advisable to submit the Charter document to the Conference of Ministers of Justice and Attorneys General for harmonization;
- (ii) The Commission should clarify whether it was procedural to pass such documents through State authorities;
- (iii) The document should be adopted and place in Part B after review by Legal Experts;

- (iv) Need to make the Public Service independent, impartial and neutral and not subjected to undue pressure from successive political regimes;
- (v) The non-implementation of the Decisions of the Organs should be addressed;
- (vi) Issues of good governance and corruption as well as improvement of the working conditions of African public servants should be appraised and adequately addressed;
- (vii) In view of the corrupt practices that may be evident in the Public Service, punitive measures should be elaborated and enforced;
- (viii) There was need to reflect aspects of the socio-political realities prevalent in Member State;
- (ix) The list of participants in the meeting should be attached.

182. Addressing the issues raised, the representative of the Commission clarified as follows:

- (i) The Executive Council had already mandated the Commission to submit the document to the Member State relevant authorities and their legal experts to finalize it. It was proposed that the document be submitted to the Executive Council as they would be able to consult with national competent authorities;
- (ii) Agreed that there was need for improvements on the document.

183. In conclusion, the PRC recommended to the Executive Council the following:

- (i) Take note of the Report on the African Charter on the Values and Principles of Public Service and Administration;
- (ii) Recommend the Draft Charter for consideration by the Executive Council with the proposed amendments and taking into account the socio-economic and political realities of Member States;
- (iii) Call on Member States to take necessary measures for the signing, ratification and actual implementation of the said Charter;
- (iv) Place the report in **Part B** of the agenda of the Executive Council.

27) Report on the Procedure for the Appointment and Terms of Reference of the Ministerial Panel on the Election of Members of the Commission in January 2012 – Doc. EX.CL/626(XVIII)

184. The Report was presented by a representative of the Commission.

185. At the end of the presentation, the delegations that took the floor made the following comments:

- (i) The Ministerial Committee should consider the modalities of electing members of the AU Commission so as to propose, *inter alia*, a solution to the problems encountered during previous elections of Commission members following the mechanical application of the gender parity principle which has often kept the best candidates from being elected;
- (ii) The process of selecting independent consultants who are to assist the Ministerial Committee must be transparent;
- (iii) The financial implications of the Ministerial Committee meetings should be determined to enable the Member States to know the approximate cost of the operation;
- (iv) Who are the Commission members who would not be eligible in January 2012;
- (v) The Ministerial Committee should be made up of fifteen (15) members, equally divided among the five (5) geographical regions.

186. In answer to the issues raised, the Representative of the Commission gave the following clarifications:

- (i) The gender parity principle is enshrined in the Constitutive Act of the AU, the Rules of Procedure of the Assembly and the Statutes of the Commission;
- (ii) The financial implication of the Ministerial Committee will depend on the number of meetings the Committee would hold to carry out its mission;
- (iii) The mandate of all the members of the Commission will end in April 2012, even if elections were organised in January 2012. On this occasion, the following Commission members will not be eligible in January 2012: the Commissioner for Political Affairs; the Commissioner for Social Affairs; the Commissioner for Trade and Industry and the Commissioner for Economic Affairs.

187. At the end of the debate, PRC recommended to the Executive Council as follows:

- (i) Take note of the Report and recommendations contained herein;
- (ii) Put in place the Ministerial Panel on pre-election of candidates for the posts of Members of the AU Commission during its 18th Ordinary Session in January 2011;
- (iii) Request the Ministerial Panel to elaborate modalities for the election for it to make recommendations at the 19th Ordinary Session of the Executive Council in June 2011;
- (iv) Request the Commission to start the process of identification of the Team of Consultants;
- (v) Authorise expenditure for this process;
- (vi) Place the Report in **Part B** of the Agenda of the Executive Council.

SECTION VII: CONSIDERATION OF THE REPORTS OF THE SUB-COMMITTEES OF THE EXECUTIVE COUNCIL

1) Consideration of the Report of the Ministerial Committee on Candidatures – Doc. EX.CL/646(XVIII)

188. This report is to be submitted to the Executive Council by the Ministerial Committee.

SECTION VIII: CONSIDERATION OF THE REPORTS OF OTHER AU ORGANS

1) Consideration of the Report of the Pan-African Parliament (PAP) – Doc. EX.CL/647(XVIII)

189. The report was presented by a Member of the Bureau of the Pan African Parliament (PAP).

190. Following the presentation, members of the PRC made comments, observations as follows:

- (i) Budgetary constraints should be considered when looking at the proposal made by PAP;
- (ii) Election observation missions undertaken by PAP should be coordinated at the level of the Commission in order to ensure prudent management of funds allocated for these missions;

- (iii) Special attention should be paid to the recommendations made by PAP and there was a need to devise on ways by which the Organ could be assisted to deliver on its mandate;
- (iv) The Protocol establishing PAP should be revisited;
- (v) The conditions of service of members of the Parliament should be the same as those of that of the African Union Commission since PAP was an Organ of the Union.

191. In conclusion, PRC took note of the report and recommended to the Executive Council to the following:

- (i) Take note of the Report and Recommendations;
- (ii) Welcome the outcome of the PRC/PAP Retreat held in South Africa in October 2010 and encourage close working relationships between all AU Organs;
- (iii) Request the relevant PRC Sub-Committees to consider the proposal of PAP on structures and budgetary matters and make appropriate recommendations for consideration, taking into account available resources;
- (iv) Stress the need to accelerate the process of reviewing the Protocol establishing the PAP.

2) Consideration of the Report of the Presiding Officer of the General Assembly of ECOSOCC – Doc. EX.CL/648(XVIII)

192. The report was presented by the Presiding Officer of the General Assembly of ECOSOCC.

193. Following the presentation, members of the PRC made comments, observations as follows:

- (i) ECOSOCC should not be encouraged to depend on external support and should be provided with requisite means to execute its mandate, as it represents the gateway to Civil Society in Africa;
- (ii) ECOSOCC should galvanize more the activities of Civil Society in Africa;
- (iii) There is need to harmonize the relationship between ECOSOCC and its Secretariat (CIDO Directorate).

194. In responding to some of the issues raised, the Presiding Officer of the General Assembly of ECOSOCC remarked as follows:

- (i) The mobilisation of external resources was done in conformity with the AU Financial Regulations and Rules;
- (ii) ECOSOCC had no budgetary provision and had not managed any funds nor given requisite secretarial support since its inception;
- (iii) ECOSOCC was not functioning properly and required the attention of the Decision Making Organs of the Union.

195. In conclusion, the PRC adopted the report and recommended to the Executive Council the following;

- (i) Take note of the Report;
- (ii) Stress the need to support ECOSOCC in its activities;
- (iii) Request the Commission to continue rendering the required secretarial services to the Organ, through CIDO Directorate as a dedicated Secretariat.

3) Consideration of the Report of the African Commission on Human and Peoples' Rights (ACHPR) – Doc. EX.CL/649(XVIII)

196. The report was presented by the Chairperson of the African Commission on Human and Peoples' Rights (ACHPR).

197. Following the presentation, members of the PRC made comments, observations as follows:

- (i) What mechanisms did the Commission employ to gather information contained in the report?
- (ii) The primary role of the ACHPR was to up-date the African Union on the situation of human rights in Africa;
- (iii) Need for the African Commission to abide by its mandate to report on cases of human rights violation;
- (iv) Need for categorization of the claims made against countries; and all the accusations and pronouncements on human rights violations by countries should be backed by facts;
- (v) The ACHPR should endeavour to issue balanced reports that would also reflect efforts on respect of human rights;
- (vi) The report should be reviewed and updated, as many countries had submitted the necessary reports.

198. Responding to some of the issues raised, the President of the ACHPR clarified as follows:

- (i) The Reports used in the compilation of the human rights violations were obtained from the countries concerned as well as the people whose rights had been violated, and through the Rapporteur for Freedom of Expression in Africa (*established to create awareness of the importance of the full observance of freedom of expression and information in the hemisphere, given the fundamental role it plays in the consolidation and advancement of the democratic system*);
- (ii) On Saharawi Republic, the ACHPR had made efforts to obtain necessary permission to undertake a fact finding mission to the country without success. However, the representative of the Saharawi Republic confirmed that approval had been issued for the Commission to undertake the said mission;
- (iii) Countries should take seriously issues relating to violation of human rights rather than being defensive.

199. In conclusion, the PRC adopted the report recommended to the Executive Council to the following:

- (i) Take note of the report and the activities of the Commission;
- (ii) Call on the ACHPR to include in future reports, the status of Human and People's Rights in the continent;
- (iii) Encourage the African Commission to work closely with the African Court on Human and Peoples Rights;
- (iv) Further encourage the African Commission to incorporate in its report, the responses by Member States in order to have a balanced view;
- (v) Urge the ACHPR to categorize the claims made against Member States and highlight the efforts made by Member States in the respect of Human Rights.

4) Consideration of the Report of the African Court on Human and Peoples' Rights (AfCHPR) – Doc. EX.CL/650(XVIII)

200. The report was presented by the President of the African Court on Human and Peoples' Rights (AfCHPR).

201. Following the presentation, members of the PRC made comments, observations and sought clarification as follows:

- (i) When would the merger of the African Court on Human and Peoples' Rights (AfCHPR) and the African Court of Justice become effective?
- (ii) Why would the African Court on Human and Peoples' Rights (AfCHPR) require additional budget as they had been operational since inception;
- (iii) There was need to ensure the operationalization of the merged African Court of Justice and Human Rights;
- (iv) Member States should be encouraged to ratify the Protocol on the merger of the AfCHPR Court with the African Court of Justice;
- (v) The Court remained the key instrument for restoring the dignity of the continent;
- (vi) There was need to address the unlawful disengagement of a staff of the AfCHPR;
- (vii) The estimated cost of providing life insurance for the judges was too high.

202. In responding to the issues raised, the President of the AfCHPR provided clarification as follows:

- (i) The effort to merge the AfCHPR and the African Court of Justice was in process;
- (ii) The AfCHPR had made request for additional budgetary provisions in the anticipation that it would soon commence procedural functions;
- (iii) The Staff was disengaged because his contract was not confirmed. However, an appeal tendered by the staff would be reviewed by the Court in the course of the first quarter of 2011;
- (iv) The Legal Counsel clarified the issue of the merger of the two courts in that the required number of ratifications to start operationalization of the merged Court was still awaited;
- (v) On the issue relating to the cost of life insurance of Judges, he indicated that that more information was being gathered by the Commission in that regard.

203. In conclusion, the PRC recommended to the Executive Council to the following:

- (i) Take note of the Report and the Recommendations;

- (ii) Express its appreciation and gratitude to the United Republic of Tanzania for its effort toward the provision of a building to the Court for its permanent seat and other facilities and encouraged Tanzania to accelerate the process;
- (iii) Invite State Parties to the Protocol which have not done so to make a special declaration authorizing individuals and NGOs to submit cases to the Court, after duly exhausting all available local remedies;
- (iv) Request the Sub-Committee of Structural Reform to consider the proposal of the AfCHPR on structure and make appropriate recommendations to the PRC;
- (v) Stress the need to accelerate the ratification of the Protocol and other necessary arrangements for the operationalization of the Protocol on the merged African Court of Justice and Human Rights;
- (vi) Call upon Member States that have not yet done so to sign and ratify the Protocol on the African Court on Human and Peoples' Rights;
- (vii) Also stress the need to accelerate steady efforts aimed at empowering the African Court to be seized with cases of crimes against humanity, war crimes and crimes of genocide.

5) Consideration of the Report of the AU Advisory Board on Corruption – Doc. EX.CL/651(XVIII)

204. The Rapporteur presented the Report of the Advisory Board. His presentation focused essentially on the mandate, and the internal and external activities of the Advisory Board.

205. Following the presentation, the comments, observations and suggestions made by different speakers during discussions focused on the following issues:

- (i) Despite the entry into force of the African Union Convention on Preventing and Combating Corruption, advocacy for the signing and ratification of the Convention by the other Member States should be actively pursued;
- (ii) The human and financial resources are insufficient for the smooth functioning of the Board;
- (iii) Is it possible to extend the two-year mandate of members of the Board, considering the delay between their appointment and the time they assumed office? Can these members be re-elected?
- (iv) There is a need to establish an independent Secretariat to expedite the elaboration of reports and follow-up on certain dossiers;

- (v) It was observed that in practice, very few Member States respond to the basic questionnaires sent to them;
- (vi) In order to be more efficient in its work, the Board needs a new structure;
- (vii) Only the Republic of Malawi and the Republic of Congo have submitted periodic reports; the other State Parties have not communicated reports on the assessment of the level of domestication of the African Union Convention on Preventing and Combating Corruption to the Board.

206. Following the different interventions, the Rapporteur indicated that in conformity with Article 22(5) of the African Union Convention on Preventing and Combating Corruption, the correct name of the Board is the « Board ». As regards the issue of the mandate of the Board, it would be the responsibility of the Executive Council to take a decision. The Rapporteur also stated that considering the sensitiveness of the issue of corruption, the Board could assist Member States in combating corruption, but only on the basis of objective, reliable, specific and sound elements. Hence the need for Member States to send periodic reports to the Board. In conclusion, the Rapporteur stated that in view of the responsibilities entrusted to the eleven members of the Board in their countries of origin, the Board wishes to make use of experts to conduct legal studies in some areas.

207. The Representative of the Commission confirmed the name « Board ». He also stressed the difficulty for a new organ to be able to function without resources, and that in that regard, it would be important to try to satisfy the secretariat needs of the Board. Concerning the terms of reference of the Board, the Commission pointed out that the mandate of the Board would come to an end this year and that to renew the mandate of the Board for the eleven positions, it had already received fifteen candidatures.

208. In conclusion, the PRC endorsed the report and recommended to the Executive Council the following:

- (i) Take note of the Report and the Recommendations;
- (ii) Endorse the recommendations and stress the importance of the mandate of this Organ;
- (iii) Request the Sub-Committee on Structure and the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters to study the proposals of the Advisory Board on Corruption and make appropriate recommendations to the PRC for consideration;
- (iv) Call upon all Member States that have not done so to sign and ratify the AU Convention on Preventing and Combating Corruption and ensure that it is domesticated and implemented on the ground;
- (v) Call upon States Parties to respond to the questionnaires on Corruption;

- (vi) Provide necessary/ adequate financial and political support to enable it to fulfil its mission.

SECTION IX: ELECTIONS

- 1) **Election of Eleven (11) Members of the Advisory Board on Corruption – Doc. EX.CL/652(XVIII)**
- 2) **Election of one Member of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) – Doc. EX.CL/653(XVIII)**

209. These items are for the consideration of the Executive Council.

SECTION X. ITEMS PROPOSED BY MEMBER STATES

- 1) **Reconsideration of Decision Assembly/AU/Dec.263(XIII) on the Transformation of the African Union Commission into the African Union Authority (Item proposed by the Great Socialist People's Libyan Arab Jamahiriya) – Doc. EX.CL/615(XVII) Add.10**
- 2) **Convening of mid-year sessions of the Assembly of the African Union (July Sessions) (Item proposed by Great Socialist People's Libyan Arab Jamahiriya) – Doc. EX.CL/615(XVII) Add.11**
- 3) **Offer of the Great Socialist People's Libyan Arab Jamahiriya to host the 21st Ordinary Session of the Assembly of the Union in June/July 2013 (Item proposed by the Great Socialist People's Libyan Arab Jamahiriya) – Doc. EX.CL/654(XVIII)Add.1**
- 4) **Establishment of an African Union Center for Post-Conflict Reconstruction and Development (AUCPCRD) (Item proposed by the Arab Republic of Egypt) – Doc. EX.CL/654(XVIII)Add.2**
- 5) **Briefing on African participation in the International Conference on Biodiversity, October 2011 in Nagoya, Japan - Item proposed by the Gabonese Republic – Doc. EX.CL/654(XVIII)Add.3**
- 6) **The African National Congress (ANC) Centenary Celebrations (Item proposed by the Republic of South Africa) – Doc. EX.CL/654(XVIII) Add.4**
- 7) **The African Diaspora Consultative Process (Item proposed by the Republic of South Africa) – Doc. EX.CL/654(XVIII) Add.5**

- 8) **Women as a Resource in Sustainable Development and Economic Growth in Africa (Item proposed by the Republic of South Africa) – Doc. EX.CL/654(XVIII) Add.6**
- 9) **The mandatory application of the principle of geographical representation in all African Union organs which have elected members (Item proposed by the Republic of Chad) – Doc. EX.CL/654(XVIII)Add.7**
- 10) **The Establishment of Regional Programmes to valorize African Liberation heritage (Item proposed by the United Republic of Tanzania) – Doc. EX.CL/654(XVIII)Add.8**
- 11) **Decision on AU “decision-making process, lack of implementation of decisions, and the need to uphold and respect the integrity of Summit decisions by all Member States of the Union (Item proposed by the Republic of Namibia and co-sponsored by the Republic of Angola, Republic of Botswana, the Democratic Republic of Congo, the Federal Democratic Republic of Ethiopia, Kingdom of Lesotho, the Republic of Malawi, the Republic of Mauritius, the Republic of Mozambique, the Republic of South Africa, the Kingdom of Swaziland, the United Republic of Tanzania, the Republic of Zambia and the Republic of Zimbabwe) – Doc. EX.CL/654(XVIII)Add.9**
- 12) **Proposed Holding of African Union Summits on Integration (Item proposed by the Republic of Malawi) – Doc. EX.CL/654(XVIII) Add.10**
- 13) **The Yaoundé International Conference “Africa 21”: Global Partnership for the Development of Africa - Item proposed by the Republic of Cameroon) – Doc. EX.CL/654(XVIII) Add.12**

210. The PRC took note of the reports and recommended them for consideration by the Executive Council.

SECTION XI: ANY OTHER BUSINESS

i) Briefing of the PRC by the Executive Secretary of African Capacity Building Foundation (ACBF)

211. In the course of its deliberations, the PRC was briefed by the Executive Secretary of the African Capacity Building Foundation (ACBF) during which the organization made a number of requests, namely: the opportunity to address the Assembly of Heads of State and Government, the issuance of visas to facilitate the movement of ACBF staff, etc.

212. The general sentiment expressed by the PRC was that of satisfaction with the work being done by ACBF across the continent. The PRC indicated that it was necessary for the AU to give it the necessary support.

213. The PRC concluded the briefing with a word of appreciation to ACBF and a pledge to look its requests and how best they could be accommodated.

SECTION XII: DATE AND VENUE OF THE 19TH ORDINARY SESSION OF THE EXECUTIVE COUNCIL

214. This item will be considered by the Executive Council.

SECTION XIII: ADOPTION OF THE DECISIONS OF THE 18TH ORDINARY SESSION OF THE EXECUTIVE COUNCIL

215. This item will be considered by the Executive Council.

SECTION XIV: CONSIDERATION OF THE DRAFT DECISIONS AND DECLARATIONS OF THE 16TH ORDINARY SESSION OF THE ASSEMBLY

216. The PRC recommended that these items be referred to the Drafting Committee for consideration.

SECTION XV: CONSIDERATION OF THE DRAFT AGENDA OF THE 16TH ORDINARY SESSION OF THE ASSEMBLY

217. The PRC discussed this item during consideration of the draft agenda of the Executive Council as reflected under Section III above.

SECTION XVI: ADOPTION OF THE REPORT

218. At the close of the deliberations the PRC adopted its report which it recommended to the Executive Council for consideration.

CLOSING CEREMONY

219. In his closing remarks, the Chairperson of the PRC thanked all the delegations, the Commission, interpreters and translators for their cooperation and contribution to the success of the deliberations. He then declared the 21st Ordinary Session of the PRC closed.

AFRICAN UNION UNION AFRICAINE

African Union Common Repository

<http://archives.au.int>

Organs

Council of Ministers & Executive Council Collection

2011

Permanent Representatives' Committee Twenty-First Ordinary Session

African Union

African Union

<http://archives.au.int/handle/123456789/4494>

Downloaded from African Union Common Repository