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PERMANENT REPRESENTATIVES' COMMITTEE

Nineteenth Ordinary Session

25 - 26 January 2010

Addis Ababa, Ethiopia

PRC/Rpt(XIX)

REPORT

REPORT OF THE NINETEENTH ORDINARY SESSION OF THE PERMANENT REPRESENTATIVES' COMMITTEE (PRC)

I. INTRODUCTION

1. The Nineteenth Ordinary Session of the Permanent Representatives' Committee (PRC) was held from 25 to 26 January 2010 at the Headquarters of the African Union Commission in Addis Ababa, Ethiopia, under the chairmanship of H.E. Ali Awidan, the Secretary of the People's Bureau of the Great Socialist People's Libyan Arab Jamahiriya. However, as is the practice, the PRC had earlier held meetings on 18 and from 20 to 22 January 2010, to discuss some items on its agenda in order to better prepare for the Executive Council Session. These meetings were chaired respectively by the Ambassadors of Lesotho and Sierra Leone.

OPENING CEREMONY

Statement by H.E Mr. Ali Awidan, Permanent Representative of the Great Jamahiriya, Chairperson of the Permanent Representatives Committee (PRC)

2. The Chairperson of the PRC, in his opening remarks, invited the participants to observe a minute of silence in memory of the victims of the Ethiopian Airlines crash off the coast of Beirut.

3. He then welcomed all the participants, particularly Member States that have no diplomatic mission in Addis Ababa. He also thanked the Government of Ethiopia for the warm welcome extended to the delegations; and the Commission, for the facilities made available to the PRC as well as for its efforts and dedication. He expressed satisfaction at the significant results and progress achieved in 2009. He thanked the Chairpersons of the Sub-committees for the work accomplished in the discharge of their respective mandates. He commended Member States for having maintained a common position during the Assembly sessions held in 2009. He reminded the participants that there was still much work to be done in the building of the African Union and the establishment of the United States of Africa with a view to meeting the aspirations of African peoples. He concluded by thanking the Ambassadors of Lesotho and Sierra Leone for acting on his behalf during his absence and expressed confidence that the PRC would achieve the same quality of work as has always been the case.

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

4. The Chairperson, on behalf of the Commission, expressed condolences to the Government of Ethiopia and the bereaved families of those who perished in the recent Ethiopian Airlines aircraft accident. He also expressed support and sympathy

with the Government and people of Haiti on the unprecedented disaster that befell them. In this regard, he informed the PRC that an account had been opened at the African Development Bank (AfDB) and that an appeal had been made to Member States, and the African Diaspora, among others, to make voluntary contributions as a concrete expression of solidarity with Haiti, which is part of Africa's Sixth Region. He further seized the opportunity to announce that letters of condolence had been addressed to the Government of Togo following the attack on the Togolese football team, and expressing condemnation of the aggressors.

5. He described the ongoing 19th Session of the PRC as a crucial phase and the very bedrock of the AU decision-making process. He expressed the Commission's expectations from the current Assembly, which should, among other things, provide guidance on the way forward regarding the issue of the African Union Authority. He reaffirmed the Commission's unwavering readiness to cooperate and underscored the need to continue to cultivate frank collaboration, mutual respect and a spirit of openness and transparency between the PRC and the Commission. He urged the PRC to diligently consider the Staff Rules and Regulations in view of its impact on the smooth functioning of the Commission. He further reiterated the Commission's commitment to uphold the principles of good governance, transparency and accountability. He concluded by wishing the PRC a fruitful deliberation.

II. ATTENDANCE

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

III. ADOPTION OF THE AGENDA

7. The PRC adopted its agenda without amendment.

IV. ORGANIZATION OF WORK

8. The PRC adopted the following working hours:

Morning : 10 h 00 - 13 h 00

Afternoon: 15 h 00 - 19 h 00

Agenda Item II: ADMINISTRATIVE AND FINANCIAL MATTERS

1. Consideration of the Reports of the Sub-Committees

(a) Advisory Sub-Committee on Administrative, Budgetary and Financial Matters - Doc. EX.CL/535(XVI)a

9. H.E. Thomas Kwesi Quartey, Ambassador of the Republic of Ghana, second Vice-Chairperson of the Advisory Sub-Committee presented the report of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters. He highlighted the main items in the document, including: the Report of the External Auditors, the 2009 Mid-Term Report, Virement Requests, and finally the 2009 Supplementary Budget.

10. The Second Vice-Chairperson of the Sub-Committee highlighted the following main conclusions and observations:

- i. Cases of violations of the AU Financial Rules and Regulations;
- ii. Over-expenditure on some budget lines;
- iii. Lack of adequate human resource capacity in the Department of Internal Audit and the absence of an Audit Charter;
- iv. Non-adherence to the guidelines on fund transfers in the Peace and Security Department;
- v. Non-adherence to procurement procedures;

11. During the debate the PRC made comments and observations as follows:

- i. Over-expenditure on mission budget lines;
- ii. Low execution rates of the program budget;
- iii. Imbalance between the low rate of execution of the program budget and the exorbitant expenditure recorded for missions;
- iv. Difficulties in accessing partner funds due to stringent conditionalities imposed by partners and non-compliance with contractual obligations by the Commission among others;
- v. Non-adherence to deadlines set for submitting mid-term reports;

- vi. Late submission of virement requests and insufficient documentation;
 - vii. Late submission of requests for supplementary budgets;
 - viii. Capacity of the Commission and other organs to absorb the requested supplementary budget;
 - ix. Inappropriate use of partner funds;
 - x. Lack of compliance with the elementary rules of the Financial Rules and Regulations of the African Union, including financial commitments undertaken without the mandatory approval of the PRC concerning the report on the 2009 supplementary budget;
 - xi. While endorsing the recommendations of the Advisory Sub-committee, the need for the Commission to strictly and fully abide by the Financial Rules and Regulations of the African Union and ensure that the consistent breaches do not occur in the future;
 - xii. Congratulated the Democratic Republic of Congo (DRC) for the payment of a substantial amount of its arrears of contributions in accordance with the relevant provisions of the Financial Rules and encouraged it to clear all its arrears in accordance with the schedule agreed to with the Commission;
- 12.** In response, the Commission provided the following clarifications:
- i. Weaknesses observed in the Internal control were attributable to the shortage of staff in the Internal Audit Office. This function is being strengthened and controls will be enhanced;
 - ii. Allowances paid in excess and accounts receivable, which had been outstanding for long periods, are now being collected;
 - iii. The management of suppliers' accounts will improve with the introduction of the SAP software;
 - iv. Sanctions provided for in the Financial Rules and Regulations will be rigorously applied against any violators;
 - v. The absence of an appropriate monitoring mechanism during the transition phase from the former system to the new SAP system was a contributing factor to the expenditure overrun in the budget.
 - vi. The request for supplementary budget could be partly explained by the delay in the release of funds by some partners. Consequently, the Commission had to resort to alternative means of financing such programmes.

13. At the end of discussions, the PRC took note of the report and made the following recommendations to the Executive Council:

- i. The Commission should submit to the PRC a quarterly report on the status of financial resources and expenditure both from assessed contributions and funds donated by partners as earlier agreed;
- ii. All the organs of the AU should strictly comply with the Financial Rules and Regulations of the AU and establish strict control measures to prevent unauthorised use and misappropriation of funds, losses of cash, stores and other assets, and to implement the provisions contained in section B of the Financial Rules and Regulations of the African Union;
- iii. All AU Organs should submit to the PRC, a Quarterly Report on expenditure and resource mobilization;
- iv. The Commission should strictly apply the relevant provisions of the Financial Rules and Regulations of the AU to violators of the rules;
- v. A decision should be taken to the effect that the utilization of arrears should be subject to the formal approval of Council;
- vi. The Commission should strengthen the internal audit system.

(b) Sub-Committee on Structures - Doc. EX.CL/535(XVI) b

14. H.E Mr. Amadou Kebe, Ambassador of the Republic of Senegal, First Vice-Chairperson of the Sub-Committee presented the report of the Sub-Committee which considered the following submissions by the Commission:

- i) A request to make adjustments to the Post-Maputo structure to address some critical shortages and capacity gaps which are essential to the smooth functioning of the Commission;
- ii) The authorization to conduct a comprehensive study (preferably by an external Consultant to be recruited through the procurement process) for a full review of the AUC structures and submit a report to PRC before the next Summit;
- iii) The authorization to re-organise the Post-Maputo structure without any additional financial implications so that the priority needs of the Commission can be addressed.

15. Following thorough scrutiny of these requests, the Sub-Committee recommended the following:

- i) Authorization for adjustments to the structure that in its judgment are reasonable and fair should be granted. In this regard, out of a total of about hundred twenty (**120**) new proposed posts twenty (**25**) with financial implications of about **US\$1.7 million** should be authorized.
- ii) The proposal to conduct a comprehensive study on the structure of the Commission including its regional and representational offices by a competent consultancy firm should also be authorized.
- iii) The Commission should be authorized to make adjustments to the approved Post Maputo Structure provided that such adjustments are presented to the Sub-Committee on Structures and approved by the PRC, and are carried within the approved posts in the Post Maputo Structure. The adjustment of the structure should aim at addressing the Commission's priority needs and should not have any additional financial implications.

16. In the ensuing discussions, the PRC made the following observations:

- i) Since the Commission plans to conduct a global review of the structures through a study and submit a report before the next Summit, consideration and adoption of this report should be deferred so that the matter of structures is considered comprehensively when the report of the study is submitted. This will also give Member States adequate time to study this report thoroughly and make informed opinions.
- ii) The Commission should take necessary action to implement the decision of the Executive Council authorizing the establishment of structures for the co-ordination and management of partnerships.
- iii) While appreciating the good work of the Sub-Committee, some Member States expressed hope that the PRC could consider revisiting some of the requests for new positions declined by the Sub-Committee.
- iv) The matter of the integration of CIEFFA into the AUC structures is long overdue. More than one Summit Decision has been passed authorizing the integration of this Office. Accordingly, the Commission should take necessary action to ensure that the CIEFFA structure as well as the present report of the Sub-Committee on Structures are re-submitted immediately after this January/February 2010 Summit so that a decision can be made thereto by the next Summit in July, 2010.

17. At the end of the discussions, the PRC welcomed the report and made the following recommendations to the Executive Council :

- i) The request of the Commission to carry out a comprehensive study on the AUC structures should be authorized;
- ii) The Commission should be requested to expand the study to include a review of the structures of all other AU Organs and to submit the outcome to the Executive Council through the PRC in June 2010.

(c) Sub-Committee on Contributions - Doc. EX.CL/535(XVI) c

18. H.E. James D. KALILANGWE, Ambassador of the Republic of Malawi, Permanent Representative to the AU, Chairperson of the Sub-Committee on Contributions presented the report on the status of contributions of Member States of the African Union. .

19. The Chairperson of the Sub-committee underscored the amount adopted by the Assembly at its Ordinary Session held in February 2009 in Addis Ababa of a total of **US\$ 164,256,817** made up as follows:

- **\$ 93,804,243** to be collected from Member States;
- **\$ 57,412,574** allocated to specific programmes, obtained from partners; and
- **\$ 13,040,000** representing **40%** of the budget surplus over financial years from 2004 to 2007.

20. In the ensuing debate, the PRC made the following comments and observations:

- i) The Commission should submit a complete update to enable it to assess the overall status of contribution, attaching in the form of a table, the global situation of contributions of Member States in order to exhaustively back up the information contained in paragraph 25 of the initial document;
- ii) Since Seychelles has demonstrated goodwill by speeding up payments, its request for the sanctions to be lifted should be favourably considered if in line with the rules;
- iii) A precedent should not be set by proposing that sanctions be lifted when the necessary conditions have not been met.

21. At this stage, the PRC sought advice from the Legal Counsel who recalled the conditions set forth in the rules for the lifting of sanctions, namely, the full payment of 50% of arrears as well as the establishment of an arrears payment schedule.

22. The PRC also considered the situation of other countries under sanction. Given that the Democratic Republic of Congo has cleared 50% of its arrears, it was recommended that the sanctions against this Member State be lifted. In view of the fact that there has not been the requisite improvement in their contribution status, the following countries remain under sanction:

- i) Eritrea;
- ii) Seychelles.

23. The PRC took note of the report and made the following recommendations to the Executive Council :

- i. Sanctions be lifted on DR Congo;
- ii. Sanctions to be maintained on Eritrea and Seychelles.

(d) Sub-Committee on Conferences and Programmes – Doc. EX.CL/535(XVI)d

24. H.E. Mrs. Nkoyo Toyo, Ambassador of the Federal Republic of Nigeria, Chairperson of the Sub-Committee on Conferences and Programmes presented the report on the Draft Calendar of Meetings and Conferences. She indicated that the preparation of this calendar took into account the considerations and guidelines for the rationalization of meetings and conferences. Thus, two important considerations guided the Draft Calendar of Meetings: the endeavour to merge similar meetings and secondly to avoid scheduling meetings on the eve of the Summit and during major events held on the continent.

25. The Chairperson of the Sub-Committee noted that the Draft Calendar proposed for consideration has shown a drop in meetings from 235 meetings in 2009 to 180 in 2010. It was also decided to allow a maximum of five (5) Ministerial meetings per department.

26. In conclusion, the Chairperson of the Sub-Committee reassured the PRC that reports to evaluate the implementation of this Calendar will be made and forwarded to relevant bodies at the end of each quarter.

27. Following this presentation, the PRC made the following comments and observations:

- i) Efforts were made to streamline the meetings and conferences by reducing them from 235 to 180;
- ii) What is the action to take vis-à-vis the meetings that have no budget code? Should they be deleted or should the PRC expect a subsequent request for a supplementary budget?
- iii) What guarantees are there that this Calendar once approved will not be revised, as experience has shown that the PRC has endorsed programmes that were subsequently modified by the Commission?
- iv) To what extent are the decisions taken during ministerial meetings in which ministers are not represented binding?

28. To address these concerns, the Chairperson of the Sub-committee provided the following explanations:

- i) There will be no modification or revision, because, in preparing this Draft Calendar, each department has submitted its proposals on the basis of previously agreed guidelines;
- ii) It is difficult to further reduce or delete meetings on this Calendar of Meetings given that it is consistent with the Strategic Plan.

29. Responding to a concern raised with regard to the issue of quorum at ministerial conferences, the Representative of the Office of the Legal Counsel stated that the quorum is determined on the basis of the number of member States and not the number of Ministers in attendance and that until such time as the rules are amended, the outcomes of those meetings are binding.

30. At the end of its deliberations, the PRC took note of the report and made the following recommendations to the Executive Council :

- i. The proposed calendar of Meetings for 2010 and other recommendations regarding the rationalization of program of the Meetings of AU, in consonance with the approved budgetary provisions for 2010 should be approved;
- ii. The Commission should be requested to delete from the budget all meetings that are not in the approved calendar;
- iii. The Commission should harmonize its calendar of meetings with that of the UNECA;

- iv. The Commission should submit any additional proposal for meetings through the Bureau of the Sub-committee on Conferences;
- v. The PRC through the Bureau of the sub-Committee on Conferences should be informed on a quarterly basis on the implementation of the approved calendar of meetings.

2. Consideration of the draft Staff Rules and Regulations – EX.CL/536 (XVI)

31. H.E. Mr. Ruben Mangué, Ambassador of Equatorial Guinea and Chairperson of the Sub-Committee on Administrative, Budgetary and Financial Matters in introducing the item, informed the PRC that the Working Group formed by his Sub-Committee to consider this item met in Nazareth in Oct. 2009 for a week, completed its work and submitted a report. However, when considering this Report, the Sub-Committee raised important issues concerning some provisions which needed to be discussed and agreed upon. Other Members of the Sub-Committee who took the floor stated that the consensus decision of the Sub-Committee on Administrative, Budgetary and Financial Matters was to defer consideration of this item until after the January/February 2010 Summit to give the Sub-Committee and its Working Group, time to sort out all the issues raised at its level.

32. At the end of the discussions, the PRC took note of the report and made the following recommendation to the Executive Council: The PRC should be requested to consider the item soon after the forthcoming Summit and submit appropriate recommendations to the next session of the Executive Council in June 2010 for consideration.

3. Consideration of the Draft Budget for the 2010 Financial Year – Doc. EX.CL/537 (XVI)

33. H.E. Ruben Mangué, Ambassador of the Republic of Equatorial Guinea and Chairperson of the Advisory Sub-committee on Administrative, Budgetary and Financial Matters complemented by the Commission presented the report on the draft 2010 budget.

34. In his presentation, the Chairperson of the Sub-Committee noted that the draft 2010 budget had been a joint effort between the Sub-Committee and the Commission in accordance with the applicable rules and procedures.

35. During the ensuing discussions, the PRC made comments and observations as follows:

- i) In view of the low execution rate observed in the 2009 budget, the capacity of the AU Organs to absorb an increased 2010 budget (by 23%) was doubtful.
- ii) The need to prioritise programs and consider the capacity of Member States to pay;
- iii) The significant increase in the Peace Fund by 12%, which is not consistent with the gradual increase recommended in the Sirte Summit;
- iv) The overlap in the observation of elections by various organs of the AU and the need to streamline the tasks related to the observation of elections, which should be coordinated by the Commission;
- v) A part of the arrears should cover certain budget lines to reduce the contributions of Member States;
- vi) The need for alternative sources of financing, including input from the private sector given the inadequacies of the current funding formula;
- vii) The need to effectively integrate NEPAD into the structures of the African Union by harmonizing and streamlining its activities and in this regard, to submit to the sub-Committee on Structures its requests in terms of human resources;
- viii) The status of the Institutional Transformation Project should be clarified;
- ix) The high number of meetings, with the consequent risk of resorting to supplementary budget request;
- x) The need to clarify the 15% increase in current pensions and insurance mechanisms for staff;
- xi) The need to review the travel class of non-AU Commission election observers;
- xii) The need to adhere strictly to the Financial Rules;
- xiii) The need to maintain a zero growth budget in 2010.

36. In response, the Commission provided the following clarifications:

- i) Arrears are random and the Commission cannot base its projections on them;
- ii) Some of the arrears such as the 15 million dollars intended to purchase the Washington office is not fully expended, but the procurement process has already started and the time is economically expedient to acquire the property;

- iii) The increase of 12% of the Peace Fund complies with the decision of Sirte;
 - iv) The increase of 15% in employer's contributions to staff pensions is consistent with the decision taken at the Summit in Sharm El Sheikh;
 - v) The travel class of election observers is governed by an Executive Council decision on conditions of service of staff of the Commission and only Council is empowered to change that decision;
 - vi) The principle of zero growth has been effectively applied to the 2010 budget.
- 37.** At the end of its deliberations, the PRC took note of the draft Budget for 2010 and made the following recommendations to the Executive Council:
- i. The Commission should adjust the budgetary proposals to reflect a 0 growth budget for the AUC and the other organs with the exception of the approved increase in Staff salaries and allowances. Specifically, the reduction should touch on the following:
 - Peace Fund: (6-12%) in 3 years;
 - Freeze (increase of 0%) of the budget of AUC and the other Organs, with the exception of the salaries, allowances, rent and the expenses based on decisions;
 - NEPAD: 3 million USD as a transitory budget while avoiding duplication with the activities of the AUC.
 - ii. The Commission, in collaboration with the other Organs of the Union should establish a coordination mechanism under the Political Affairs Department through which all concerned AU Organs (AUC, PAP and others) would field a single team of observers, to ensure harmonization and rationalization of the AU election monitoring process.
 - iii. The Commission should report regularly on the utilization of partner funds;
 - iv. The draft 2010 Budget should be considered by Council and recommended thereon to the Assembly for approval, taking into account the reservations entered by Nigeria and Tunisia.

Agenda Item III: IMPLEMENTATION REPORT

1. Consideration of the Report of the Commission on implementation of previous Decisions of the Executive Council and the Assembly – Doc. EX.CL/538 (XVI)

38. Introducing this item, the Representative of the Commission stated that as per the established practice, the Commission was to present to the Summit, the status of implementation of all decisions previously taken by the Executive Council and the Assembly. The document under consideration was a synoptic presentation of actions taken by the Commission and other organs; a Summary of challenges and constraints encountered during implementation, and the ways and means to overcome them. He drew the attention of the PRC to three Decisions that required further clarification from the Assembly, namely:

- Decision Assembly /AU/Dec. 263 (XIII) on the outcome of the Sirte Summit of July 2009, on the transformation of the AUC to the AU authority. Clarification was required in view of the fact that there were two versions of the Decision; in one version circulated in Sirte, the number of portfolios was eleven (11) in the Conclusions while when going by the transcript which was distributed to Member States at the request of the PRC, the conclusions during the debate on the Authority on 2 July 2009 provided that Option1 was adopted with ten (10) portfolios;
- Decision Assembly /AU/Dec 258 (XIII) on the establishment of an African Defence Council. Clarification was also needed because there were two versions, the one originally submitted by the Great Libyan Jamahiriya and the one circulated by the Commission;
- Decision Assembly /AU/Dec. 259 (XIII) on the Establishment of the African Agency for the protection of Territorial and Economic waters of African Countries. Like in the preceding case, there existed two versions, the one originally submitted by the Great Libyan Jamahiriya and the one circulated by the Commission.

39. In the ensuing discussions, the PRC made the following comments and observations:

- i) With respect to the Decision on the Authority, clarification from the Assembly was not necessary as the Commission had already started the implementation of the Decision;

- ii) The status of implementation of some Decisions was inaccurately stated in the report, such as the Decision relating to the review of the Protocol on the Pan African Parliament (PAP); there was a need to further check with the relevant Departments/Organs on the actual status of implementation of these Decisions;
- iii) The UN Resolution against the payment of ransom to Terrorist Groups adopted in December 2009 benefited significantly from the contribution by the African Group in New York;
- iv) There was a need to evaluate the financial implications before submitting any draft Decisions to AU organs for consideration.

40. In the light of the above discussions, the PRC took note of the report and made the following recommendations to the Executive Council :

- i) The Commission should provide appropriate guidance on the financial implication of decisions;
- ii) The Commission should check with the relevant Departments and Organs and include in subsequent reports the accurate status of implementation of decisions.

Agenda Item IV: LEGAL AND INSTITUTIONAL MATTERS

1. Consideration of the Report of the Commission on the Status of OAU/AU Treaties - Doc.EX.CL/539(XVI)

41. Presenting the report, the Representative of the Commission recalled that the item on the status of OAU/AU Treaties is placed on regular basis on the agenda of the PRC and the Executive Council to brief Member States on the status of signing and ratification or accession to these treaties with a view to raising awareness on the importance of, and need for, these treaties coming into force. She then indicated that the OAU/AU, through their decision making organs, had adopted forty (40) treaties of which the most recent were the Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted on 23 October 2009 in Kampala, Uganda, and the revised Constitution of the African Civil Aviation Commission (AFCAC) adopted on 16 December 2009 in Dakar, Senegal. These instruments, she added, are open for the signature of Member States.

42. The Representative of the Commission further informed the PRC that during the period under review, that is between June 2009 and 12 January 2010, three (3) treaties, namely, the treaty to make Africa a nuclear-weapon - Free Zone (Pelindaba Treaty of 1996), the African Youth Charter of 2006 and the African Union Non-Aggression and Common Defence Pact of 2005, came into force on 15 July 2009, 8

August 2009 and 18 December 2009, respectively, During the same period, forty four (44) new signatures were appended and twenty six (26) new instruments of ratification or accession were deposited.

43. Regarding the African Charter on Democracy, Elections and Governance, the original copy of the Instrument of ratification of this Charter by the Republic of Sierra Leone has been deposited with the Commission. Paragraph 147 of the Report will therefore be amended accordingly. The revised version of this report will be distributed to Member States at the Session of the Executive Council.

44. In conclusion, the Representative of the Commission highlighted the considerable efforts deployed by certain Member States to sign and ratify OAU/AU treaties, particularly The Gambia which ratified ten (10) AU treaties during the period under review.

45. The delegations which took the floor raised the following issues, among others:

- i) The factors which delay the ratification of OAU/AU treaties identified by the report in its paragraph 6 are not exhaustive. Other constraints facing Member States in the process of ratification of some OAU/AU treaties should thus be taken into account in the report, particularly the obsolete nature of some treaties and the incoherence between the different language versions;
- ii) The issues of updating OAU/AU treaties and the harmonisation of the different language versions also constitute major obstacles to the signing and ratification of these treaties;
- iii) Member States should implement Executive Council Decision EX.CL/Dec.459 (XV) on the status of signature and ratification of OAU/AU treaties and the harmonization of ratification procedures, adopted in January 2009, in Addis Ababa, Ethiopia, which urges all Member States to commence the process of ratification of new treaties within one (1) year of their adoption;
- iv) The initiative taken by the Commission to open treaties for signature by Heads of State and Government at the next session of the Assembly deserves to be sustained. For that reason, it should be included in the recommendations;
- v) The report submitted to PRC should henceforth also include State-level status of implementation of the various treaties which have entered into force;

- vi) An appeal should be made to Member States to ratify the Kampala Convention on the Protection and Assistance of Internally Displaced Persons in Africa as the entry into force of the said Convention will open the way for practical measures to be taken at national and regional levels, to find lasting solutions to the problems of internally displaced persons in the Continent ;
- vii) The need to reactivate the PRC Sub-Committee on Headquarters Agreements which has not held any meetings since it was established, despite requests addressed to the Commission by the Chairperson of the Sub-Committee.

46. Responding to the issues raised, the Representative of the Commission provided the following answers:

- i) A study conducted by the Commission on procedures for ratification in Member States identified the factors which delay ratification of OAU/AU treaties by Member States. The study was presented at the African (Union) Conference of Ministers of Justice held in November 2008 in Kigali, Rwanda, and which put forward important recommendations for lasting solutions to the problems of ratification of OAU/AU treaties which were later endorsed by the Executive Council in January 2009;
- ii) The Commission will, in its future reports, take on board the other major obstacles to the signing and ratification of treaties, namely, the harmonisation and updating of the said treaties.

47. After discussions, PRC took note of the report and made the following recommendations to the Executive council:

- i. Welcome the initiative taken by the Commission to organise, for AU Heads of State and Government, a ceremony for signing/ratification of OAU/AU Treaties and Conventions on the occasion of the 14th Ordinary Session of the Assembly, scheduled to be held in Addis Ababa, Ethiopia, from 31 January to 2 February 2010; and invites it to continue with such initiative;
- ii. An appeal should be made to Member States to prioritise and accelerate the signing and ratification of/accession to OAU/AU Treaties;
- iii. Another appeal should be made to Member States to initiate the process of ratification of new treaties within one year of their adoption in

accordance with Executive Council Decision EX.CL/Dec. 459 (XIV) on the Status of Signature and Ratification of OAU/AU Treaties and the Harmonization of Ratification Procedures adopted in Addis Ababa, Ethiopia in January 2009;

- iv. Members of the Pan-African Parliament should be reminded to assist with advocacy and sensitization of Member States to speed up the process of ratification of/accession to OAU/AU Treaties.

2. Consideration of the Interim Report of the Commission on the abusive application of the principle of universal jurisdiction. Doc. EX.CL/540 (XVI)

48. In her presentation, the Representative of the Commission stated that the report was presented in pursuance of Decision Assembly/AU/Dec.243(XV) on the abusive application of the principle of universal jurisdiction, which was adopted in Sirte, Libya, by the Assembly in July 2009. This decision requests, inter alia, the Commission to follow up on this matter and to report on progress made in the implementation of this Decision, in January/February 2010.

49. In that connection, she informed PRC that as part of implementation of that Assembly Decision, the Commission mainly took measures particularly vis-à-vis the European Union (EU) and the United Nations (UN). With regard to the EU, she reported that only marginal progress had been made in discussions between the African Union (AU) and the European Union (EU) on the issue, to find lasting solutions to the concerns raised by the AU.

50. As regards the United Nations, the Representative of the Commission highlighted the progress made as a result of the inclusion of the issue on the agenda of the 64th Session of the United Nations General Assembly (UNGA) and the discussions at the Sixth Committee.

51. Following this presentation, the PRC took note of the report and recommended that Council consider the recommendations contained therein.

3. Consideration of the Report and Recommendations of the Commission on the Study undertaken by Consultants on the AU Representational Offices – Doc. EX. CL/541 (XVI)

52. In presenting the report, the Representative of the Commission stated that it contained findings of a study “to carry out a comprehensive Cost Benefit Analysis (CBA) to determine the future of existing AU offices before opening new ones”, as proposed by the High Level Panel, chaired by Professor Adebayo Adedeji, that conducted the audit of the AU. He indicated that the report contained the

recommendations of the study carried out by two eminent African personalities who served as Consultants as well as those of the Commission.

53. The Commission's Representative pointed out that the report also contained a summary of the Terms of Reference (ToR) for the assignment as well as the methodology of work that was followed by the Consultants. He added that the task included visiting and holding discussions with officers in the six Missions under review and that the Consultants held working sessions with the various African groups of Ambassadors and representatives of the African Diaspora, the World Bank as well as a Deputy Secretary of the League of Arab States. Furthermore, the report highlighted the findings of the study, the difficulties faced by the Offices and made recommendations on how to deal with them.

54. Among the recommendations made in the report, the Representative of the Commission highlighted the following:

- i) The establishment of a unit charged with the responsibility of coordinating activities of AU Missions;
- ii) The provision of physical infrastructure including high performance office tools to enhance communication capacities, among others;
- iii) The need to maintain and reinforce all the existing six Missions;
- iv) The need to relocate the Office in Lilongwe to the SADC Headquarters in Gaborone, Botswana;
- v) The establishment of four new regional offices to be located within the headquarters of other RECs within the African region;
- vi) The establishment of representational offices outside Africa;
- vii) The need to enhance the capacities of AU's technical offices to enable them perform representational duties by appointing a political/economic officer to the offices;
- viii) The option of requesting Deans of African Ambassadors, Members of the AU, to represent it in countries where it cannot establish offices immediately;
- ix) The need for the recommendations to be implemented in phases, starting with recommendations that do not require additional financial resources (such as those relating to administrative issues); and then gradually moving to others, in view of the financial implications.

55. In the discussions that ensued, the PRC made the following comments and observations:

- i) The Malawi delegation objected to the re-location of the AU regional office of Lilongwe since this was the outcome of a SADC decision and the latter should be consulted on the matter. Many delegations supported the retention of the AU Office in Lilongwe;
- ii) Expenses towards existing representational offices are already on the high side with the Washington office alone requiring 15 million dollars to buy premises;
- iii) The financial implications of implementing recommendations of the report should be worked out and submitted for consideration;
- iv) The performance of existing Representational offices should be appraised and their challenges met before considering the opening of new ones;
- v) There is a need to create and make use of operational synergies between African groups in the world and the PRC in Addis Ababa;
- vi) There is a need to ensure that all regional offices operate within the Maputo structure;
- vii) Regional/representational offices should be rationalized to effectively contribute towards the attainment of the AU's Vision and its objectives;
- viii) There should be an element of transparency in the appointment of Representatives in Representational Offices;
- ix) The functions of the Representational/Regional Offices should be restricted to priority key areas;
- x) The possibility of the two offices in Europe, namely Brussels and Geneva, to cater for the needs of other parts of Europe ;
- xi) The issue of regional offices within RECs should be separated from the opening of representational offices outside Africa; Staff from the Commission could be hosted within RECs or in AU regional offices to minimize costs as the RECs' representatives are hosted by the Commission in Addis Ababa;

- xii) There is a need to establish AU National Committees to popularize the activities of the Union;
- xiii) The AU Commission is in a better position to evaluate the costs and the performances of its regional/representational offices through their regular reports and audits;
- xiv) Countries calling on the AU to open Representational Offices should be called upon to provide some facilities;
- xv) No new Representational Office should be open outside Africa with the exception of the proposed Vienna office;
- xvi) The issue of Regional/Representational Offices should involve the Sub-Committee on Multilateral Cooperation, the Sub-Committee on Structures, the Advisory Sub-Committee on Financial, Administrative and Budgetary Matters, the Sub-Committee on Host Agreements, Privileges and Immunities, and also take into account the transformation of the AUC into the AU Authority and the integration process of the continent;
- xvii) A meeting of Senior Officials could be envisaged to debate the issue of Regional/Representational Offices with a view of charting a clear roadmap on the way forward for submission to the AU policy organs for consideration;
- xviii) In case the proposed Unit on Representation Offices is set up, it should be located in the Political Affairs Department and not in the Chairperson's Office which is already loaded.

56. In addressing the issues raised by PRC, the Representative of the Commission made the following observations and clarifications:

- i) He sought for clarification regarding the immediate implementation of recommendations that have no financial implications; such as the improvement of working situations in existing offices; however, for staff complement, Member States' contributions would be required;
- ii) The establishment of any new representation office would have financial implications, but the Government of Austria had offered office facilities, including equipment although the AU would have to meet staff and running costs. The financial implications had been submitted during the Sharm El Sheikh session but would be re-submitted;

- iii) FOCAC had recommended the establishment of an office in Beijing and this was approved by the Ministers in Sharm El Sheikh; however, the PRC's permission was requested to work out the financial implications of this project taking into consideration the fact that China had reiterated its support to the project.

57. In the light of the above discussions, the PRC took note of the report and made the following recommendations to the Executive Council :

- i. The Commission should consolidate the report and collaborate with the Structures, Multilateral Cooperation, Host Agreements, and Administrative and Financial Matters Sub-Committees to identify priorities with specific financial implications and chart out a clear management plan on how to address the issue for the next Council Meeting in June 2010;
- ii. The Commission should convene a meeting of Senior Officials from Member States to validate the findings of the comprehensive report from the Commission and the various Sub-Committees and to formulate recommendations on the way forward.

Agenda Item V: POLITICAL MATTERS

(a) Report on the Situation of Refugees, Returnees and Internally Displaced Persons in Africa- Doc. EX.CL/542 (XVI) a

58. The Representative of the Commission presented the Report on the Situation of Refugees, Returnees and Internally Displaced Persons (IDPs) in Africa. He indicated that the report gave an account of the current situation of forced population displacement on the African continent and also offered an analysis on the general situation of forced displacement on a regional basis including the phenomenon of natural and manmade disasters. He also stated that the activities undertaken by the African Union (AU) Commission in implementing the various decisions, included the challenges met.

59. The Representative of the Commission drew attention to the statistics in the report which were mainly provided by the United Nations High Commissioner for Refugees (UNHCR), and to some extent the Member States and field missions undertaken by the PRC Sub-Committee on Refugees.

60. He further highlighted the success and the outcome of the African Union Special Summit on Refugees, Returnees and Internally Displaced Persons which was held in October 2009 in Kampala, Uganda. The Kampala Summit, among other things, adopted the African Union Convention for the Protection and Assistance to

Internally Displaced Persons, the Declaration and the recommendations from the Extraordinary Session of the Executive Council that preceded the Special Summit. He stated that twenty Member States had signed the Convention and appealed to the states that had not done so to sign and ratify the Convention. He informed the PRC that the Commission would work on the Plan of Action for the implementation of the outcomes of the Special Summit.

61. Concluding, he drew the attention of the PRC to the humanitarian situation prevailing in Haiti as a result of the earthquake which hit the country on 12 January 2010 and appealed to Member States to assist the people of Haiti in their hour of need.

(b) Report on the Activities of the PRC Sub-Committee on Refugees, Returnees and Internally Displaced Persons - Doc. EX.CL/542 (XVI) b

62. H.E Mr. Mull Sebuja Katende, Ambassador of Uganda and Chairperson of the Sub-Committee on Refugees, Returnees and Internally Displaced Persons in introducing the Report on the Activities of the PRC Sub-Committee on Refugees, Returnees and Internally Displaced Persons stated that various activities were carried out which included participation of the Sub-Committee in various meetings, conferences and visits to Member States in accordance with its 2009 Work Programme.

63. He highlighted the active participation of the members of the Sub-Committee to the Special Summit on Refugees, Returnees and Internally Displaced Persons in October 2009 in Kampala, Uganda. He informed the meeting of the outcome of the Summit and appealed to Member States to sign and ratify the Kampala Convention which includes various actions for implementation. He also thanked Algeria for having financially contributed to the Special Summit to the tune of US\$ 600,000.

64. The Chairperson of the Sub-Committee further informed the meeting about the field visits of the Sub-Committee to Côte d'Ivoire, Egypt, Republic of Congo and Sudan and requested that the Ambassadors who led the missions be allowed to brief the PRC.

65. In concluding, the Chairperson recalled the devastating humanitarian crisis in Haiti, following the earthquake in January 2010. In this regard, he called on all Member States to show solidarity with the Haitian people by assisting them.

66. In the ensuing discussions, the PRC expressed its high appreciation to the Chairperson of the PRC Sub-Committee and the Director for Political Affairs for the balanced and comprehensive reports and made the following observations:

- i) The report has to be harmonized in all working languages especially the Arabic text;
- ii) The Commission needs to provide up to-date statistics on refugees, returnees and internally displaced persons to reflect the true picture of the humanitarian situation on the ground;
- iii) Some of the paragraphs contained in the report need to be reformulated as pointed out by the various members of the PRC;
- iv) There is need for more coordination among the AU Commission, the PRC and the PRC Sub-Committee on Refugees as well as among relevant Departments of the AUC to ensure harmonization of actions as regards issues such as conflicts, which contribute to forced displacements;
- v) The Commission should change the style of reporting so that the activities of the Sub-Committee are reflected in its report;
- vi) It is important for Member States to address the problems of refugees, returnees and internally displaced persons and to find durable solutions;
- vii) The right of the Sahrawi people for self determination according to the 1991 UN Implementation Plan needs to be reiterated;
- viii) The mission reports to the PRC Sub-Committee on Refugees should be submitted in good time and also the recommendations emanating from the missions implemented;
- ix) The initiative of the Commission as well as that of Member States that had already provided assistance to Haiti should be commended.

67. At the end of the debate, the PRC took note of the two reports and made the following recommendations to the Executive Council:

- i) Member States should provide support to the efforts deployed to address the crisis situation in Guinea to prevent the spread of refugees in the region and the subsequent impacts of this phenomenon;
- ii) Member States who have not yet signed and ratified the Kampala Convention should do so;
- iii) The Commission, in close collaboration with the PRC Sub-Committee on Refugees should develop a road map or Plan of Action for the implementation of the outcomes of the Special Summit;

- iv) The Commission should follow up on the pledges made by partners in different meetings and conferences in order to ensure the fulfilment of their commitments;
- v) All member states should show solidarity by contributing to alleviate the plight of the Haitians following the devastating earthquake which took place in Haiti on 10 January 2010.

68. During the meeting, the Deputy-Chairperson of the AUC and the Commissioner for Economic Affairs informed the PRC on the steps being taken by the Commission to organize assistance to Haiti, at the AUC's level. In this respect, they indicated that an account was being opened at the African Development Bank to gather Africa's contributions including those from Member States, Institutions and individuals, including the AU Commission elected officials and staff members who are willing to contribute. Furthermore, they underlined that, pooled together, the impact of Africa's contributions would be maximized in expressing Africa's solidarity with Haiti. Finally, they stressed that consultations between the Chairperson of the AUC and Member States in this regard were underway, while a draft Declaration was being prepared for consideration by the PRC.

69. In the ensuing discussions, the PRC took note of and commended the initiative of the Commission as well as that of the Member States that had already extended assistance to Haiti, mostly financial and humanitarian.

2. Consideration of the Reports of the Commission on Africa's Strategic Partnerships:

a) Report on the Activities of the Sub-Committee on Multilateral Cooperation – Doc. EX.CL/543(XVI)

70. H.E. Mr. Edouard Aho-Glele, Ambassador of the Republic of Benin, Chairperson of the Sub-Committee on Multilateral Cooperation, in introducing this report, indicated that the Sub-Committee held a series of meetings and engagements during the period July 2009 to January 2010. These included the preparations for and conduct of the Second Africa-South America (ASA) Summit, the Fourth Ministerial Conference on the Forum of China-Africa Cooperation (FOCAC), and the Second Korea-Africa Forum. He further indicated that the Sub-Committee was seized with the implementation of the outcome of the First Africa-Turkey Partnership Summit and the Africa-India Forum Summit, as well as many other activities. He also informed the PRC that the Sub-Committee was still engaged in the Study of the Global Review of Africa's Strategic Partnerships and would present the outcome of its work to the PRC during its current session.

b) Report on Africa's Strategic Partnerships – Doc. EX.CL/544(XVI)

71. In presenting the report on Africa's Strategic Partnership, the Representative of the Commission recalled that, at its 15th Ordinary Session in Sirte, Libya, the Executive Council adopted decision EX. CL/Dec. 512 (XV), which requested the holding of three partnership meetings in the preceding year. In implementing Council's directives, the following partnership meetings were held, namely, the Second Africa-South America Summit held from 22 to 27 September 2009 in Margarita Island, Venezuela; the Fourth Ministerial Conference on the Forum of China Africa Cooperation (FOCAC) held from 6 to 9 November 2009 in Sharm El Sheikh, Egypt; and the Second Korea-Africa Forum held from 23 to 25 November 2009 in Seoul, Republic of Korea. He highlighted the major hallmarks of these meetings including their outcome documents, the challenges encountered and recommendations proffered by the Commission that would enable Africa optimize its opportunities and derive benefits from them.

72. The Representative of the Commission further underlined progress with respect to the implementation of the outcome of the First Africa-India Forum Summit and the First Africa-Turkey Partnership Forum. With respect to the Africa-India Forum Summit, the progress relates to India's scholarship offered to Africa in the field of agriculture over a four-year period; the establishment of five institutes and ten vocational training centres, as well as the construction of one prototype low-cost houses per region. It was further indicated that efforts were ongoing to conclude the Plan of Action of the Framework for Cooperation of the Africa-India Forum Summit, as well as the Implementation Plan of the Africa-Turkey Partnership Summit.

73. The Representative of the Commission emphasized the need for decisions to be taken in order to address the challenges that had been identified, particularly in relation to the conduct of the ASA process, the need for Africa's representatives in the capitals of the partner countries not to take initiatives and make commitments without reference to or consultation with the PRC and the Commission as well as the need for the latter to play a coordinating role in the FOCAC process as already decided by the Executive Council and the Assembly.

74. The two reports by the Sub-Committee and the Commission were deliberated upon in tandem by the PRC. The following comments and observations were made:

- i. The need for re-visiting the decisions taken during the 2nd Africa-South America Summit in view of the manner some of them were made and the lack of clarity on the purpose of the decisions;
- ii. The need to de-emphasize bilateralism and promote multilateralism in the context of Africa's strategic partnerships;

- iii. The need for a qualitative cost-benefit analysis of Africa's strategic partnerships in order to assess their viability and inherent opportunities;
- iv. The establishment of a structure for managing and coordinating strategic partnerships in conformity with an earlier decision by the Executive Council;
- v. The non-inclusion of a progress report on the Africa-Europe Strategy Dialogue in the reports by the Sub-Committee and the Commission, in spite of the Dialogue being an integral part of Africa's strategic partnerships;
- vi. Dissatisfaction with the organizational arrangements made with regard to the Second Africa-South America (ASA) Summit including the absence of the role of the Commission thus the need to ensure that every effort be made to ensure a successful Third ASA Summit;
- vii. Coordination between the PRC and the Commission together with Africa's representatives in the countries/regions that are engaged in partnership with Africa should be enhanced;
- viii. Progress made in Africa-China relations and the need to integrate the FOCAC Follow-up Mechanism into the AU processes, through the involvement of the PRC and the Commission;
- ix. The need to ensure the realization of the expected results of the outcomes of the Second Africa-Korea Forum;

75. In response to the issues raised, the Chairperson of the Sub-Committee and the Representative of the Commission provided the following clarifications:

- i. The report on the global review of strategic partnerships was yet to be presented hence, substantive discussion on it should be held after the presentation of the report;
- ii. The activities of the Sub-Committee did not entail follow-up on the Africa-EU Dialogue, resulting in its not being covered in the reports by both the Sub-Committee and the Commission. A detailed progress report will be presented by the Commission at an opportune time;
- iii. The Group of Ambassadors in Addis Ababa have the primary role for handling partnerships taking into account earlier decisions by both the Assembly and the Executive Council and there is a need for those directives to be respected by Africa's representatives in South America and in the other capitals of the respective partners;

- iv. The brief mention of the AGOA process was due to the fact that more details were provided on it in the Study itself;
 - v. The method used in announcing India's scholarship offer to Africa did not mean that the cooperation was bilateral in nature, but the method used was considered the best possible way of doing it taking into account the multilateral nature of the cooperation between Africa and India; and
 - vi. The seeming delay in implementing Council decision on the establishment of a Unit in the Office of the Chairperson of the Commission was to allow for the completion of a comprehensive study by the Commission on structures.
- 76.** At the end of its deliberations, the PRC took note of the report and made the following recommendations to the Executive Council:
- i) The coordinating role of the Commission in the management of partnerships in collaboration with the PRC and Africa's diplomatic representations in the capitals of countries/regions that have cooperation arrangements with Africa implemented;
 - ii) Member States and the Commission should ensure that partners respect the Banjul format on Africa's participation in meetings with them and for Africa' representatives outside the continent to respect the Decisions of the Assembly and the Executive Council on partnerships;
 - iii) The PRC and the Commission need to expedite action on the conclusion of the Global Review exercise, which is still work-in-progress.

Agenda Item VI: ECONOMIC, SOCIAL AND CULTURAL MATTERS

1. Consideration of the Report of the Commission on the Dissolution of the Supreme Council for Sport in Africa and the proposed AUC Directorate for Sport in accordance with the new Architecture for African Sport – Doc. EX. CL/546 (XVI)

77. In presenting the report, the Commissioner for Social Affairs, stated that it contained the outcome of the 3rd Session of AU Conference of Ministers of Sport (CAMS 3) that was held in Abuja, Nigeria from 15 to 16, October 2009 and was being presented with a view to obtaining direction on the future of African Sport; which she said played a key role in Africa's social and economic development, integration, and peace and security.

78. The Commissioner pointed out that, at its Second Session, held in Accra, Ghana from 10 to 14 October 2008, CAMS decided that the Supreme Council for Sport in Africa (SCSA) should be dissolved in order to avoid duplication with the mandate of the Commission regarding coordination of sports policy matters in Africa. She added that this decision was adopted by the Executive Council in January 2009 (EX.CL/Dec.470 (XIV)) which recommended that SCSA be dissolved in accordance with its constitution; and subsequently, for that purpose, a General Assembly of the SCSA was held on 16 October 2009.

79. She further highlighted the following issues in the report:

- i) The Ministerial Meeting took note of the resolutions by the General Assembly of the SCSA held on 16 October 2009; among others, that SCSA be dissolved;
- ii) A transitional mechanism be established and operationalised to transfer SCSA's functions to the AU Commission; and that the dissolution of SCSA should come into effect four (4) months after the hosting of the 2011 All Africa Games in Maputo, Mozambique, following an Extraordinary Session of its General Assembly to dissolve it legally;
- iii) A Directorate for Sport with a complement of five staff be established in the Department of Social Affairs to coordinate the proposed Architecture for African Sport which consists of three structures: the AU Conference of Ministers and its Bureau as institutionalized by the AU Executive Council and Assembly which would provide political leadership on African Sport; an Advisory Board for African Sport working through its eight (8) technical committees; and the Department of Social Affairs with its Directorate for Sport to coordinate the implementation of the Policy framework for Sustainable Development of Sport in Africa (2008 – 2018);
- iv) The proposed Directorate for Sport be self-financed through a separate Sport Trust Fund at the Commission that will be funded by Member States' contributions as were paid to SCSA, as well as a percentage of the income from the All Africa Games;
- v) Member States should pay their arrears of contribution to the SCSA to enable its smooth liquidation;
- vi) The settling of outstanding Member States' contributions be made a condition for participation in the forthcoming All Africa Games;

- vii) Support should be provided to South Africa, host of the FIFA 2010 World Cup, not only will cultural artifacts, but also art in general from Africa to be displayed before and during the historical event;
- viii) African countries be encouraged to lobby the qualifying teams to acclimatize and practice in their countries.

80. In the discussions that ensued, the PRC made the following comments and observations:

- i) The liabilities of SCSA and amounts owed to the Council including outstanding Member States' contributions, unpaid staff salaries and other obligations should be determined with a view to settling them;
- ii) Member States should pay their arrears to SCSA as a precondition to their participation in the forthcoming All Africa Games;
- iii) On dissolution of the SCSA, the transition arrangement from SCSA to the Architecture for African Sport should take into consideration legal, financial, technical and other obligations, and should determine the fate of the SCSA's programmes and projects;
- iv) A formula for financing and staffing the proposed Architecture for African Sport, under the department of Social Affairs could be looked into and submitted to the Sub-Committee on Structure;
- v) In view of the fact that a Trust Fund might not be sustainable, the CAMS 3 decision on the establishment of a self-financing Directorate for Sports should be re-examined vis-a-vis the normal financing mechanisms within the AU;
- vi) The unfortunate event on the Togolese team to the on-going Africa Cup of Nations raised questions from some quarters on the preparedness of Africa to host the FIFA 2010 World Cup;
- vii) The Togolese delegation expressed appreciation for the messages of comfort from Member States and the AUC on the unfortunate event on the Togolese team to the on-going Africa Cup of Nations;
- viii) In fixing the dates of the next African Union ordinary summit scheduled for June/July 2010 due note should be taken of the dates of the final phase of the next World Cup due in South Africa.

81. In addressing the issues raised by PRC, the Commissioner for Social Affairs made the following observations:

- i) The Ministerial report which appears under Part A of the agenda for noting without discussion has issues especially on Structure and ensuing financial implications and therefore should be moved from Part A to Part B of the Agenda in order to open it for discussion by the Executive Council;
- ii) The changes proposed on Structure are likely to have financial implications; thus, the decision taken by CAMS 3 needed to be re-examined with a view to determining how the proposed Architecture for African Sport would be implemented.

82. In the light of the above discussions, the PRC took note of the report and made the following recommendations to the Executive Council:

- i) The Supreme Council for Sports in Africa (SCSA) should be dissolved and its functions should be transferred to the African Union Commission and the proposed new Architecture for African Sport;
- ii) Further studies should be conducted by the Commission regarding the integration of the functions of SCSA into the African Union Commission, including the transitional mechanism and the current financial situation relating to SCSA and submit the outcome to the PRC through the relevant Sub-Committees (including the Structures Sub-Committee; and the Sub-Committee on Administrative, Budgetary and Financial Matters) at its ordinary session in June 2010;
- iii) The dates of the final phase of the World Cup scheduled to take place in South Africa in 2010 should be taken into account in fixing the dates of the next African Union Summit scheduled for June/July 2010

2. Consideration of the Report of the Commission on the Participation of the Commission in the World Expo Shanghai 2010 scheduled for the period 1st May to 31st October 2010 in Shanghai, China – Doc. EX.CL/550 (XVI)

83. In his presentation, the Representative of the Commission recalled that not less than 256 countries and international organizations including the AU Commission had confirmed their participation in the World Expo 2010 Shanghai which is scheduled to take place from 1 May to 31 October 2010. He added that most African countries would be present in the African pavilion and that each country would have about 250m² at its disposal to house its stand.

84. As regards the participation of the Commission, the Representative of the Commission underscored the fact that the Commission's activities would focus on the main theme of the Expo which is "Better City, Better Life" or better management of cities for better living; the organization of a forum by each participant and of 6 thematic forums designed and implemented by the organizer which is the Bureau for the Coordination of the Expo, as well as the National Day or the Day of Honour on which there would be a display of cultural events. He added that the sub-theme adopted by the Commission was: "Renewable energy at the service of the management of African mega cities."

85. With regard to the financial aspect, the Representative of the Commission declared that China had granted financial assistance amounting to US\$650,000 to the Commission to enable it participate in the Expo in the same way as the Least Developed Countries (LDCs) but that an additional amount had been requested from Member States to ensure the participation of the Commission in this event over a six-month period and that a decision would be proposed to this effect.

86. In the ensuing discussions, the PRC raised many issues and made the following observations and remarks:

- i) The objects of art that will be exhibited by the Commission were likely to be a duplication of those exhibited in African stands;
- ii) The financial assistance granted by China should be enough for the Commission to participate in the Expo;
- iii) What amount is the Commission requesting from the Member States? Has this request been submitted to the Advisory Sub-Committee as should have been done?
- iv) It would be advisable to see the content of the proposed decision;
- v) What type of support was the Commission expecting from the Ambassadors present in Beijing? The Ambassadors in Beijing may not be available; it would be better therefore to request the support of the embassies in general rather than that of the Ambassadors;
- vi) There had been no discussions between the Commission and the Member States since the year 2006 before the Commission accepted the invitation to participate in this event; as the Continental Organization, its participation should have been the mobilization of expertise for Member States;

- vii) Are the Member States in a position to finance their own participation and that of the Commission at the Expo?
- viii) The participation of Member States does not exclude that of the Commission which will present the vision, the mission, the activities and the successes achieved by the Pan-African Organization to the 70 million visitors expected at the Expo;
- ix) What is the composition of the established Interdepartmental Committee and what is the role of its Sub-Committees?
- x) The Commission should not present any documentaries, etc on individual countries as this will be done by the Member States themselves, but it would have to limit itself to the history of the OAU, to date;
- xi) The main theme should be carefully structured so as not to use the elements expressed in the thematic forums again;
- xii) The new AU flag should fly beside the national flags during the Expo;
- xiii) Instead of having one or several officials from the Commission present for six months in Beijing, the African embassies in Beijing could each put one official at the disposal of the Commission, on a rotational basis;
- xiv) What are the guarantees of protecting the intellectual property of the objects taken to China?
- xv) It would be advisable for the Commission to adhere to the available budget;
- xvi) PRC should be provided with additional information on logistics and arrangements made pertaining to the participation of Member States in the Expo.

87. In addressing all the various concerns expressed, the Representative of the Commission made the following clarifications:

- i) China is one of the partners who favours bilateral relations; an African Union stand within the African stand would project the image of a united Africa;
- ii) One object per region to be displayed in the Commission stand would be suitable;

- iii) The US\$ 650,000 budget made available by China is set aside for the building and management of the stand;
- iv) A sum of US\$ 150,000, after having been lowered by the Commission in view of the payment capacities of the Member States, was included in the 2010 Draft Budget at the request of the Department of Trade and Industry in spite of the fact that the activity involved all the Commission;
- v) The stand would represent the five African regions as well as the theme chosen for the event;
- vi) The Commission's process of participation began in 2006, with the choosing of the themes, signing of the contract, administrative commitments, visiting the site, etc.
- vii) In-house, a Steering Committee was created as well as Sub-Committees to consider technical issues such as the media, construction of the stand, transport of the objects, etc.
- viii) The Commission will present the history of the OAU/AU since 1963, as well as its programmes;
- ix) Specifically, Africa Day should be organised right after 25 May, the anniversary of the creation of the OAU, so as to enable those in charge of the Commission to take part in it;
- x) The objects on display should be returned to the countries of origin and will not be left in China, which should limit the risks of intellectual property rights being violated.

88. After these explanations, the PRC took note of the report and made the following recommendation to the Executive Council:

- i) The Commission should undertake activities related to the Shanghai World Expo, and focus on coordination and representation aspects for the continent and avoid duplication;
- ii) Member States should display the new AU flag alongside their national flags at their respective stands;
- iii) The Commission should take appropriate measures to establish a legal framework aimed at the protection of intellectual property rights of Africa's cultural artifacts.

3. Consideration of the Report of the Commission on the State of Play of the WTO Doha Round Negotiations – Doc. EX.CL/551 (XVI)

89. In her presentation, the Commissioner for Trade and Industry informed the PRC that the Commission organized in Addis Ababa in March 2009 the 5th Ordinary Session of the Conference of Ministers of Trade to review and strengthen the position of the African Group on multilateral trade issues. She added that the Conference also discussed the economic and financial crisis and thus contributed to the report of the G20 held in London. She also mentioned the organization in October 2009 of a meeting of Trade Ministers in Cairo by Egypt, coordinator of the African Group at the WTO, to take stock of the progress of the negotiations and in particular to set forth the African common position before the 7th Ministerial Conference of the WTO held in Geneva in early December 2009. She pointed out that several documents had been prepared in Egypt, but given the informal nature of the meeting, the documents were formally adopted at an Extraordinary Meeting of African Ministers in Geneva before the WTO Conference. She also informed the PRC that the Cairo meeting had also paved the way for an interactive session between the Chief Negotiators and the Director General of the WTO.

90. Due to time constraints, the Commissioner asked the PRC to refer to the report for technical issues. She recalled the decisions of the G20 and the G8 which called for the conclusion of the Doha Round in 2010. She called the attention of the PRC to the fact that, with the economic crisis, the great powers that had promoted market deregulation and trade liberalization on philosophical grounds, began to advocate protectionism, thereby putting a stop to negotiations at the WTO. She stressed that the partners were seeking to review their stance while the African Group defends the gains achieved before the crisis. She stated that at the WTO Conference, Africa had to vehemently reiterate that development is of paramount importance in the negotiations. She called the attention of the PRC to the content of some paragraphs and insisted that the purpose of the 7th WTO Conference was not to negotiate, but to conduct an appropriate assessment of the institution, and the Chairperson closed the meeting with a summary of the discussions.

91. In their statements, members of the PRC made the following comments and observations:

- i) The report should be better organized in order to highlight Africa's participation;
- ii) Africa should move closer to groups with common interests;
- iii) Africa should continue the negotiations with emphasis on the development dimension;
- iv) Africa should ensure that its concerns are taken into consideration during preparation of the agenda and decision-making;

- v) Africa should not allow the reopening of negotiations on the gains achieved;
- vi) It is expedient to negotiate with the United States in order to extend the AGOA scheme which expires in 2015;
- vii) The Commission should convene a meeting of Foreign and Trade Ministers to discuss multilateral trade issues;
- viii) The Department of Trade and Industry should meet with the PRC more often for discussion and to enlist get their input;
- ix) The Commission had not reported on the status of EPA negotiations for nearly a year;
- x) It is very important that Africa continue to speak with one voice;
- xi) It should be ensured that the bilateral does not take priority over the multilateral;
- xii) The inconsistencies and contradictions in the negotiations are a paradox to the very philosophy of the WTO multilateral trade system, and thus, Africa should continue to close ranks;
- xiii) Accession to the WTO should be facilitated according to the texts adopted on the issue;
- xiv) The Department could brief the PRC on other programmes in the area of trade;
- xv) The coordination of negotiations by the Commission should be encouraged.

92. In response to the issues raised, the Commissioner gave the following clarifications:

- i) The AU effectively forms a bloc with other groups with common interests; hence in Geneva, prior to the 7th WTO Conference, Africa found itself with the G110 in order to exercise greater influence on the negotiations;
- ii) The actual mandate of the African Group in Geneva is to oversee the design of the agenda and influence decision-making by working closely with other groups;
- iii) The Geneva Group deals, on a daily basis, with trade issues and reports to the Conference of African Ministers of Trade with which the Addis Ababa Group is frequently associated;
- iv) The African Group in Washington as well as the AU Office in Washington and the Department of Trade and Industry monitor the AGOA regime and

have been called upon in the past to influence its prolongation; however, the Commission is appealing to the United States of America for a permanent regime, for duty free and quota free market access for all African countries without exception, in order to respect the AU principle of integration, attract investments, allow the plurality of rules of origin, etc. The Commission also makes use of American lobbyists for this purpose;

- v) The Commission envisages activities relating to the theme of the next Assembly on the reconfiguration of world economic institutions;
- vi) Since the signing of the interim agreements for which the European Union brought pressure to bear on African States with a view to protecting their own interests, there have been no significant movements in these negotiations;
- vii) It is regrettable that some States, taken individually, undermine the common positions;
- viii) Some of the concerns raised such as accession to the WTO are contained in the Cairo documents which had been transmitted to the Permanent Representatives;
- ix) The Commission had invited top Chinese and Indian government representatives to explain to Member States the advantages and conditions of preferential access to their countries' markets during the Conference of African Ministers of Trade, in order to enable Africa to benefit further therefrom; information will also be published on the site so that economic operators could make use of it;
- x) The Commission is working in close collaboration with the RECs on the elimination of tariffs, regulations, standards related and other matters;

93. The Deputy Chairperson to whom questions had been posed, provided the following additional explanations:

- i) Trade is a good parameter to evaluate economic performance. If Africa's share of global trade which is presently less than 2% is increased to only 3%, Africa will reap more than the actual Official Development Assistance (ODA) coming to Africa;
- ii) AGOA, which is a unilateral instrument between the United States and Africa, has benefited Africa, especially the textiles sector during the quota regime but once the quota was removed, better producers like China and Bangladesh took over the market;
- iii) The US has been sensitized to consider Africa's priorities and relinquish the unilateral time-bound arrangement that is not investment friendly; in this regard, more contacts with the US are expected in the near future;

- iv) The EU through the EPAs is balkanizing Africa; this continent has raw materials and people but lacks technology to prosper.
- 94.** At the end of the debate, the PRC took note of the report and made the following recommendations to the Executive Council:
- i) The need for Africa to speak with one voice with a view to ensuring that critical elements of great interest to Africa are fully taken into account , including the need to put back on the agenda the development dimension of the Round, and to pursue negotiations in agriculture, NAMA, Services, trade facilitation and accession to the WTO, among others;
 - ii) The Commission should study all other aspects of trade within the continent, in particular, the promotion of intra-African trade and the harmonization of positions among African countries regarding other trade arrangements such as EPAs and AGOA.

4. Consideration of the Report of the 7th Meeting of the AUC/RECs Coordination Committee – Doc. EX.CL/552 (XVI)

95. In presenting this item, the Commissioner for Economic Affairs indicated that the Coordination Committee was provided for under Article 7 of the Protocol on Relations between the African Union and the Regional Economic Communities (RECs) signed in Addis Ababa on 27 January 2008. He further informed the PRC that the seventh meeting, attended by five of the eight RECs recognised by the African Union, was held in Libreville, Gabon, on 15 January 2010. Among the key issues discussed were the implementation of the Protocol on Relations between African Union and the RECs, the Minimum Integration Programme, peace and security and infrastructure development as well as an exchange of views on African and world economic, political and environmental issues such as free movement, funding of integration, the global economic and financial crisis, and partnerships.

- 96.** The Commissioner highlighted some of the key recommendations made by the Coordination Committee, including the following:
- i. RECs should provide for the implementation of the Protocol on Relations between the AU and RECs in their annual budgets;
 - ii. The AU Commission and RECs should continue the advocacy with donors in view of supporting the regions as well as the continent's infrastructure development initiatives;
 - iii. Member States which have not yet done so should take the necessary measures to reduce and abolish visa formalities at regional and continental levels;

- iv. Member States which have not yet done so should provide the AU Commission and the RECs with mechanisms which would enable them to generate their own funds for their functioning and for the implementation of projects;
- v. During Assembly Sessions, Chief Executives of RECs should be given the opportunity to brief Heads of State and Government on developments at REC level.

97. During the ensuing debate, the PRC expressed appreciation to the Commission for the concise Report and made the following comments and observations:

- i. The level of cooperation between the Commission and the eight RECs recognised by the African Union should be enhanced in view of the fact that the RECs are the building blocks of Africa's integration;
- ii. Concern was expressed over the absence of three of the eight AU recognised RECs at the meeting and, hence, clarification was sought on the reasons;
- iii. Some delegations questioned the rationale behind the proposed revision of the Protocol on Relations between the AU and the RECs scheduled for later this year;
- iv. The rationalization of AU and RECs programmes and activities should be ensured;
- v. Given the tight schedule of Heads of State and Government of the Union during the half-yearly Assembly sessions, some delegations expressed doubt about the feasibility of honouring the request to create opportunity for Chief Executives of RECs to address the Assembly. Hence, they urged further reflection on this matter; and
- vi. The coordination meetings should be held on a regular basis.

98. In his response to the issues raised by the PRC, the Commissioner for Economic Affairs clarified as follows:

- i. All RECs are usually invited to Coordination Committee meetings. CEN-SAD and IGAD were not able to make it to the January meeting due to other engagements. AMU, however, has not been attending any AU meetings;
- ii. The planned revision of the Protocol aims at taking into account the comments made on the Report submitted to the Extraordinary Session of the Executive Council held in Arusha, Tanzania. It will address the issue of enhancing cooperation;

- iii. The Protocol provides for two Coordination Committee meetings every year. However, due to conflicting dates with other AU and REC meetings, it has been difficult to hold these meetings as scheduled. Efforts are underway to harmonise the calendar of meetings of the AU and those of the RECs to address this problem.

99. At the end of the debate, the PRC took note of the report and made the following recommendations to the Executive Council:

- The Commission and RECs should work together with a view to the strengthening the coordination and rationalization of their programmes and activities for the acceleration of the integration process of the continent.

5. Consideration of the Report of the Chairperson on the Implementation of the AU Solemn Declaration on Gender Equality in Africa (SDGEA) – Doc. EX.CL/553 (XVI)

100. In presenting this item, the representative of the Commission recalled that she had, in previous reports informed Member States of the low rate of response in terms of country reports received on the progress of the implementation of the Solemn Declaration on Gender Equality in Africa. She added that, as a strategy to improve the reporting and general response of Member States to this important agenda, the Commission organized a meeting in Banjul in 2009 on the occasion of the fifth anniversary of the Declaration to, among others, review the reporting tools and requirements and devise ways and means of ensuring that Member States submit their country reports as required. This resulted in a considerable increase in the number of reports received in 2009, from less than ten reports in the previous years to twenty-one reports. She informed the Sub-Committee that given this increase, the Commission needed more time to synthesize and analyze the large number of reports received and submit a comprehensive report to the June/July, 2010 sessions of PRC and Executive Council.

101. The representative of the Commission further informed the meeting that the current report is therefore only an overview highlighting progress made at the Commission in 2009 in terms of gender parity; the establishment of AWA (AIDS WATCH AFRICA), African Trust Fund for Women which later became “Fund for African Women”; and the annual progress report on the implementation of the SDGEA and ratification of the protocol on Women’s Rights.

102. In the ensuing discussions, the PRC made the following observations:

- i) The matter of voluntary or mandatory contributions for the establishment of a Trust Fund for African Women needs to be clarified in terms of:

- How the decision was reached to change from voluntary to mandatory contributions.
 - To which budget the 1% mandatory contribution proposed should be charged: the Union budget or the national budgets of Member States?
 - Its financial implications on Member States.
- ii) Given the seriousness of the matter of the proposed financing mechanisms for the Fund, it is recommended that this item be transferred from Part A to Part B of the Agenda of the Executive Council to enable substantive discussion on the issues raised;
- iii) The delegations of Tunisia and Namibia brought to the attention of the Commission that their countries had submitted reports but this is not reflected in the report;
- iv) The report submitted by the Commission is incomplete in that it does not include a synthesis/analysis of the Country Reports received;
- v) Accordingly, the report is noted and detailed discussions are deferred to the next summit in June/July 2010, which would give the Commission adequate time to work on and submit a more comprehensive report along with the annexes referred to in the report;
- vi) Progress with regard to gender parity within the Commission should also be reported on.

103. In response to the issues raised, the representative of the Commission provided the following clarifications:

- i) The omitted names of Tunisia and Namibia from the list of countries that had submitted reports would be added;
- ii) The idea of making voluntary contributions towards the Fund for African Women was recommended to the sectoral Ministerial Conference by the Experts. The Ministers considered the matter and resolved to recommend instead that from the assessed contributions of Member States to AU, 1% should be put aside mandatorily as contribution towards the Fund;
- iii) There had been an increase in female employees at the AUC over the past one year from 32% to 34%.

104. At the end of the discussion, the PRC took note of the report and made the following recommendations to the Executive Council :

- i) The Commission should present for consideration through the PRC the proposed modality of contributions towards the Trust Fund recommended;
- ii) The Commission should submit a comprehensive report for consideration at its next Ordinary Session in June/July 2010 in Kampala, Uganda;
- iii) The Commission should ensure that all recommendations entailing financial implications be properly evaluated in advance and the relevant financial implications established to enable informed decision making within the laid down procedures.

VII. ITEMS PROPOSED BY MEMBER STATES

1. One Goal: Education for all (Item proposed by the Republic of Sierra Leone) – Doc. Ex.CL/554 (XVI) Add.1

105. In a brief introduction, the representative of Sierra Leone called on Members of the PRC to support the campaign for Education for all, built around the 2010 FIFA World Cup in South Africa. He under scored the importance of Education as a basic Human Right and that poverty could only be conquered through education. He urged the African Union to play a leading role in ensuring that the initiative was achieved by passing a Resolution that no child should be uneducated by the year 2015.

106. The PRC recognized the importance of this laudable initiative.

107. In concluding the discussion, the PRC took note of the proposal and recommended it for consideration by the Executive Council :

VIII. CONSIDERATION OF THE DRAFT AGENDA OF THE 16TH ORDINARY SESSION OF THE EXECUTIVE COUNCIL – Doc. EX.CL/1 (XVI) Rev.5

108. The PRC examined the draft agenda and proposed the following amendments:

- Deletion of the item on Draft Staff Regulations and Rules in view of the fact that the report of the Sub-Committee had not been finalized.

IX. ANY OTHER BUSINESS

Statement by the Permanent Representative of the Republic of Uganda

109. In a statement, the Permanent Representative of the Republic of Uganda invited the Permanent Representatives' Committee (PRC) to hold its Twentieth Ordinary Session that would precede the Executive Council Session in Kampala, Uganda in June 2010.

110. The PRC took note of the invitation with appreciation.

CLOSING

111. The Chairperson of the PRC thanked members of the PRC for their support and valuable contributions to the success of their deliberations.

2010

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