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P. O. Box 3243, Addis Ababa, ETHIOPIA Tel.: 00251-11-5517700 Cable: AU, ADDIS ABABA Website: www.africa-union.org

PERMANENT REPRESENTATIVES' COMMITTEE
Fourteenth Ordinary Session
25 - 27 June 2007
Accra, GHANA

PRC/RPT (XIV)

REPORT OF THE FOURTEENTH ORDINARY SESSION OF
THE PERMANENT REPRESENTATIVES' COMMITTEE

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I. INTRODUCTION

1. The Fourteenth Ordinary Session of the Permanent Representatives' Committee (PRC) was held at the Headquarters of the African Union (AU) in Addis Ababa, Ethiopia, from 18 to 20 June 2007 and in Accra, Ghana, from 25 to 27 June 2007 under the Chairmanship of H.E. Mr. John Evonlah Aggrey, Ambassador of the Republic of Ghana, Chairperson of the PRC.

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

II. OPENING CEREMONY

a) **Remarks by the Chairperson of the Permanent Representatives' Committee at the Accra Session**

3. H.E. Mr. John Evonlah Aggrey, Ambassador of Ghana, in his capacity as Chairperson of the PRC, welcomed the participants to Accra. He stated that this session was a continuation of the PRC's deliberations, which had started in Addis Ababa. He commended the work done so far, but stressed that much was still to be done. Following this brief introduction, he called on the Deputy Chairperson of the Commission to make his remarks.

b) **Remarks by H.E. Mr. Patrick Mazimhaka, Deputy Chairperson of the Commission of the African Union**

4. H.E. Mr. Patrick Mazimhaka, Deputy Chairperson of the Commission of the African Union, thanked the Government and people of Ghana for the excellent arrangements that had been put in place for the Summit and for the warm reception and hospitality accorded to the delegations. He expressed the hope that the PRC would make maximum use of the facilities that had been put at its disposal to effectively carry out its work.

c) **Opening Statement by the Guest of Honour, H.E. Nana Akufo-Addo, Minister of Foreign Affairs, Regional Integration and NEPAD of Ghana**

5. On behalf of the President of the Republic of Ghana, H.E. Mr. John Agyekum Kufuor, the Government and people of Ghana, Nana Akufo-Addo, Minister of Foreign Affairs, Regional Integration and NEPAD, Chairperson of the Executive Council

extended his very warm welcome to Accra to all delegations. He expressed his satisfaction that the Summit which was to determine the way forward for the African Union was taking place in Accra, at a time when Ghana, along with the whole of Africa, was celebrating its Golden Jubilee.

6. He paid tribute to the sense of responsibility of the PRC for starting its work in Addis in order to ensure that it carries out its work expeditiously and submit appropriate recommendations thereon to the Executive Council. He highlighted the relevance of devoting the Summit to determining the future direction of the African Union that should be based on good governance, respect for human rights and sound economic management. He then declared the session duly open.

III. ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

7. The PRC examined its draft Agenda and adopted it with amendments.

8. The PRC adopted the following working hours.

Morning	:	10h00 – 13h00
Afternoon	:	15h00 – 19h00

CONSIDERATION OF THE AGENDA ITEMS

AGENDA ITEM II : ADMINISTRATIVE AND FINANCIAL MATTERS

1. Consideration of the Report of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters on the Harmonization of the Remuneration Policy - Doc. EX.CL/329(XI)

9. The Chairperson of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters introduced the report by informing the PRC that the prevailing remuneration policy of the Commission had posed challenges with regard to the retention of staff, attraction of suitably qualified personnel, overlaps between grades, and unfavourable comparability in the market place. He also recalled that the package approved in Maputo was based on the SADC salary scale. He indicated that it was against this background that a study was undertaken by a private consultancy firm, which made several recommendations after undertaking a comparative analysis with similar international organizations and some Member States.

10. The Chairperson, thereafter, submitted the under-listed recommendations of the Sub-Committee for consideration by the PRC and submission to the Executive Council:

- i) that the Executive Council should approve and authorize the Commission to charge to arrears of contributions the financial implications of the proposed adjustments to the salary scale amounting to US\$1,892,592.00;

- ii) that the Executive Council should request the Commission to undertake a complementary study on the proposal of the consultants to set its salary scale at 75% of that of the United Nations and identify the problems and challenges that the Commission might face by adopting such alignment ;
- iii) that the Executive Council should authorize the Commission to extend the study on salaries to other organizations, including those outside the African continent and to provide up-dated data to the Member States ;
- iv) that the Executive Council should request the Commission to introduce, as soon as possible, a new Performance Appraisal System and link pay to performance;
- v) that the study on the harmonization of the remuneration policy should be completed by the end of 2008 and the Commission should resubmit the other recommendations contained in the report for further consideration by the PRC. The entire process should interface in the above recommendations with the outcome of the institutional audit, if need be.

11. The Chairperson of the Advisory Sub-Committee concluded by stating that the process was ongoing and required joint efforts of all Member States.

12. Following this presentation, the PRC adopted the above recommendations and agreed to submit them for consideration by the Executive Council. It also recommended that the process should continue and that the Commission together with the Advisory Sub-Committee should resume its work immediately after the July 2007 Ordinary Session of the Assembly in Accra, and submit its recommendations thereon to the next ordinary session of the Executive Council scheduled for January 2008.

2. Consideration of the Report of the Advisory Sub-Committee on the Review of the Social Security System – Doc. EX.CL/330 (XI)

13. In presenting the report, the Chairperson of the Advisory Sub-Committee on Administrative, Budgetary and Financial matters referred to the Decision of the Executive Council, EX.CL/Dec. 342(X), adopted in Addis Ababa in January 2007, which requested the PRC to consider the report on the review of the Social Security Scheme for the African Union. He indicated that the Advisory Sub-Committee met to examine the report of the consultants, but that unfortunately, there was no quorum. He added that the Sub-Committee acknowledged that, in any case, the report was highly technical and complex, and required sufficient time to study it thoroughly.

14. The Chairperson of the Sub-Committee highlighted some of the issues in the report that required the attention of the PRC as follows:

- i. The extension of the retirement age from 60 to 65 years;

- ii. The taxation of pensions in some member states and action by the Commission to exempt pension payable to staff members from taxation;
- iii. The modalities for establishing a Pension Fund, its legal status, its management as well as the financial implications of such a project;
- iv. The cost to the Commission of terminating the contract with ALICO; and
- v. The implications of establishing a separate Fund for Observer and Peacekeeping Missions.

15. The Chairperson informed the PRC that following an extensive exchange of views on the matter, the Advisory Sub-Committee recommended the deferment of the consideration of the report on the review of the social security system. The Advisory Sub-Committee concluded that the review of the social security system was an exercise in progress, which should be fully considered in the fullness of time, probably in 2008 when the institutional audit of the African Union would have been completed.

16. The PRC accepted the recommendations of the Advisory Sub-Committee, subject to further work on the matter in view of its technical nature and to allow for the completion of the institutional audit of the African Union. The PRC directed the Commission to review the status of its relationship with ALICO and report on the actions that may be taken in that regard.

3. Consideration of the Report of the Sub-Committee on Structural Reforms on the Structure of the Commission and the African Court on Human and People's Rights – Doc. EX.CL/331(XI)

17. In his presentation, the Chairperson of the PRC Sub-Committee on Structural Reforms informed the meeting that the Sub-Committee was seized with the following: Volumes I, II and III of post-Maputo Adjustments Part C. He then highlighted the general and specific principles that informed the deliberations of the Committee. He pointed out the five (5) general principles which served as guidelines in the consideration of the proposed structural changes and the recommendations with regard to the structure of the African Court on Human and Peoples' Rights as follows:

- (i) Cost effectiveness in relation to the financial difficulties experienced by Member States in paying their contributions for financing the budget of the Commission;
- (ii) Compliance with basic standards and benchmarks to ensure harmonious integration of the changes into the general framework of existing standards;
- (iii) Legitimacy of the intended changes in terms of their regulatory authority;
- (iv) Relevance of the changes in determining the functionality of the proposals sought;
- (v) Principle of adopting the minimum structure.

18. In addition to these general principles, there were specific principles such as the priority to structural changes without financial implications, optimum use of existing staff and the preference for staff with proven ICT skills.

19. Before submitting the report for approval by the PRC, the Chairperson of the Sub-Committee informed the PRC that due to time constraints, the Sub-Committee was unable to consider Volume III of the Proposed Structural Changes as well as those proposals relating to the Protocol Division.

20. The Chairperson then submitted the recommendations of the Sub-Committee as contained in Document EX.CL/331 (XI) which is attached to this Report.

21. The PRC approved all the recommendations as submitted by the Sub-Committee, with the exception of those related to the Electoral Assistance Unit, which were amended as follows:

- i) Head of Unit (P3),
- ii) Two other Staff at (P2).

A. Structure of the Court

22. The structure proposed by the Court included a total staff complement of seventy-eight (78), with specific indications on various services, grades and levels of remuneration.

23. The Sub-Committee recommended a review of the posts and approved a total staff complement of forty-six (46).

24. The President of the Court requested the floor to make the following remarks:

- (i) The Court has been officially invited to participate in the Executive Council and the Assembly of the Union. It, therefore, concluded that it was entitled to participate in the PRC session. This remark followed statements by certain members of the PRC to the effect that the Court had already been heard by submitting its written response to the PRC on the Sub-committee's recommendations;
- (ii) In accordance with the provisions of the Protocol establishing the Court, the Court should appoint its Registrar and staff. However, the Court deemed that this being the first staff recruitments, the Commission should be associated in the process;
- (iii) The structure of the Court should match its functionality. This functionality will be compromised by the reduction of the staff complement made by the Sub-committee;
- (iv) The proposed downward review of some grades raised the issue of harmonization of remuneration within the various organs of the African Union;
- (v) The need to set up an equitable institutional system to balance positions such as those of the Chairperson of the Commission, the President of the Pan-African Parliament and the President of the African Court, which are all at the same level.

25. Following this intervention, some members of the PRC stressed the need for the Court to become operational as soon as possible, in line with the relevant decisions taken by the Heads of State and Government. However, the start of operations of the Court should be part of a process, and the Court should be satisfied with the recommendations made by the Sub-Committee on structures. Recruitment should be done in accordance with prevailing procedures, Rules and Regulations of the AU and should take into account geographical judiciary representation.

26. The report was then recommended for consideration by the Executive Council as follows:

i. On the Structure of the African Court on Peoples' and Human Rights

a. Structure of the Court

A Staff complement of fifty seven (57) of which eleven (11) are elected and forty six (46) Staff in all categories was recommended.

#	Office	Post	Quantity	Grade	Remarks
1	Office of the President				
		President	1	Special (Elected)	
		Special Assistant	1	P3	
		Private Secretary	1	GSA5	
		Security Guard	2	GSB8	
		Driver	2	GSB7	
		Mail Runner	1	GSB6	
		Household Staff	2	GSB5	
		TOTAL	10		
2	Vice-President	Vice-President	1	Special (Elected)	
3	Judge	Judge	9	Special (Elected)	
4	Office of the Registrar	Registrar	1	P6	
		Deputy Registrar	1	P5	
		Secretary	1	GSA4	
		Mail Runner	1	GSB6	
		TOTAL	4		
5	Legal Matters	Senior Legal Officer	2	P3	
		Legal Officer	2	P2	
		TOTAL	4		
6	Linguistic Matters	Translator/interpreter	4	P4	One for each language
		TOTAL	4		

#	Office	Post	Quantity	Grade	Remarks
7	Information, Communication and Technology	Senior Communication and Information Officer	1	P3	
		ICT Specialist	1	P2	
		TOTAL	2		
8	Protocol Services	Protocol Officer	1	P2	
		Protocol Assistant	1	GSA5	
		TOTAL	2		
9	Library and Documentation – Archives, Indexing and Distribution	Librarian	1	P2	This Unit will also handle any activity of Publication of the Court
		Documentalist	1	P1	
		Filing Clerk	1	GSA3	
		TOTAL	3		
10	Finance and Accounting	Finance Officer	1	P2	
		Assistant Accountant	1	GSA5	
		TOTAL	2		
11	Human Resource Management	Human Resource Officer	1	P2	
		Administrative Assistant	1	GSA5	
		Filing Clerk	1	GSA3	
		TOTAL	3		
12	Typing and Reproduction	Secretary	4	GSA4	One for each language
		Reproduction Clerk	1	GSA3	
		Total	5		
13	General Assistance	Security Supervisor	1	GSA5	
		Court Clerk	2	GSA3	
		Receptionist	1	GSA2	
		Security Guard	2	GSB8	
		Driver/Mail Runner	1	GSB7	
		Cleaner	1	GSB6	
		TOTAL	8		
		Total Staff Complement approved	46		
		Total Elected	11		
		Grand Total	57		

b. Apart from the remuneration and conditions of service of staff, the packages for the President, Vice-President and Judges will be applicable until such time as new ones are determined.

The President

Basic Salary: **Basic salary of the D1 Step 10 of the AU Salary Scale, with an increase of 15%, i.e. US\$47,666 + 15% = USD54,816. 00 per annum**

- Post adjustment: 40 per cent of Basic Salary
- Dependent Spouse: 5% of Basic Salary
- Child Allowance: USD250.00 per annum per child up to maximum of 4 children aged 21 years maximum;
- Education Allowance: 75% of Education fee up to a maximum of USD6,500.00 per child and per year for each child up to a maximum of four children aged 21 years maximum;
- One Official car;
- One Service car;
- Free utilities (Water and Electricity)
- Free telephone (Official purpose only)
- The Host Country is to provide free furnished house and Security services;
- Participation in AU Pension Scheme as per AU Conditions, i.e.:

Employer: 15% of basic Salary
Employee 8% of basic salary

- Insurance cover and Medical cover as per AU conditions.

The Vice-President

- Honorarium of USD500.00 per day during Court Session
- Thirty per cent (30%) of ninety per cent (90%) of the salary of the President as monthly salary for inter-sessional
- Ten (10) per cent of ninety per cent (90%) of the salary of the President as monthly Judicature allowance;
- Insurance cover and Medical cover as per AU Conditions

The Judge

The PRC recommended the same conditions as for the Vice-President for the Judges as follows:

- Honorarium of USD500.00 per day during Court Session
- Thirty per cent (30%) of ninety per cent (90%) of the salary of the President as monthly salary for inter-sessional
- Ten (10) per cent of ninety per cent (90%) of the salary of the President as monthly Judicature allowance;
- Insurance cover and Medical cover as per AU Conditions

Other Staff of the Court

Basic Salary: As per the AU Salary Scale and the Grade of the Staff

- Post adjustment: **40 per cent of Basic Salary for internationally recruited staff;**
- Housing Allowance: for internationally recruited staff as per Addis Ababa rates, i.e.
USD1,168.00 per month for staff on grades P4 to D1
USD1,001.00 per month for staff on grades P1 to P3
USD834.00 per month for GSA Staff internationally recruited
- Dependent Spouse: **5% of Basic Salary for all staff**
- Child Allowance: **USD250.00 per annum per child up to maximum of 4 children aged 21 years maximum;**
- Education Allowance: **75% of Education fee up to a maximum of USD6,500.00 per child and per year for each child up to a maximum of four children aged 21 years maximum for internationally recruited staff and 75% of Education fee up to a maximum of USD2,100.00 per child and per year for each child up to a maximum of four children aged 21 years maximum for locally recruited staff;**
- Participation in AU Pension Scheme as per AU conditions, i.e.

Employer:	15%
Employee	8%

Insurance cover and Medical cover as per AU conditions.

i. On the Adjusted Maputo Part © - Volume II

The PRC agreed as follows and recommended to submit the adjustments to the Executive Council for consideration and decision:

a) Department of Social Affairs

Adjustments recommended with financial implications

The following adjustments have been made with financial implications

Secretariat of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC)

#	Office	Post	Quantity	Grade	Remarks
1	Secretariat of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC)				
		Secretary of the ACERWC	1	P5	
		Senior Social Worker	1	P3	

Secretariat of AIDS Watch Africa (AWA) and Division of HIV/AIDS, Malaria Tuberculosis and other Infectious Diseases

#	Office	Post	Quantity	Grade	Remarks
1	Secretariat of AIDS Watch Africa (AWA) and Division of HIV/AIDS, Malaria, Tuberculosis and other Infectious Diseases				
		Head of Division	1	P5	The Secretariat should be renamed Division
		Health Officer	2	P2	

Division of Culture and Sports

#	Office	Post	Quantity	Grade	Remarks
1	Division of Culture and Sports				
		Head of Division	1	P5	
		Other Positions to be redeployed internally			These positions are: 2 x Senior Policy Officer, (One for Culture and one for Sports) and a Secretary

The Executive Secretariat of the African Academy of Languages

(ACALAN)

#	Office	Post	Quantity	Grade	Remarks
1	African Academy of Languages (ACALAN)				
		Coordinator	1	P6	
		Translator/Interpreter	4	P4	
		Senior Programmes and Projects Officer	1	P3	
		Senior Research and Programme Officer	2	P3	
		Finance and Administration Officer	1	P2	
		Documentalist/Research Assistant	1	P1	
		Secretary	1	GSA4	
		Secretary/Receptionist	1	GSA4	
		Driver	1	GSB7	
		Driver/Mail Runner	1	GSB7	
		Cleaner/Mail Runner	1	GSB6	
		TOTAL	15		

Division of Labour, Employment and Migration

#	Office	Post	Quantity	Grade	Remarks
1	Division of Labour, Employment and Migration				
		Migration Officer	1	P2	

Adjustment without financial implications

The PRC recommended the following adjustments to the Structure, without financial implications:

#	Current Title	Current Grade	To be renamed New titled	New Grade
1	Senior Policy Officer (HIV/AIDS, & ORID, Nutrition)	P3	Senior Health Officer	P3
2	Senior Policy Officer (Population)	P3	<u>Senior Health Officer</u>	P3
3	Senior Policy Officer (Employment & Migration)	P3	Senior Employment Officer	P3
4	Senior Policy Officer (Sports)	P3	Senior Sports Officer	P3
5	Senior Policy Officer (Culture)	P3	Senior Cultural Officer	P3
6	The Division Health, HIV/AIDS, ORID, Population	P5	Division of Health, Population and Nutrition	P5

	and Nutrition			
7	The Division of Social Welfare, Culture, Drugs and Related Crimes	P5	Division of Social Welfare, Vulnerable Groups and Drug Control	P5

b) Department of Political Affairs

The following adjustments have been made with financial implications.

Democracy and Electoral Assistance Unit

#	Office	Post	Quantity	Grade	Remarks
1	Democracy and Electoral Assistance Unit				
		Head of Unit	1	P3	
		Programme Officer	1	P2	
		Finance Officer	1	P2	

c) Department of Economic Affairs

The PRC agreed to recommend the following adjustments with regard to the Statistics and Database Analysis Unit

Statistics and Database Analysis Unit

#	Office	Post	Quantity	Grade	Remarks
1	Statistics and Database Analysis Unit				
		Statistician	1	P2	
		Database Administrator	1	P1	

4. Consideration of the Report of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters on the Special Audit Report on the Conference of Intellectuals, Dakar, 2004 - Doc. EX.CL/333(XI)

27. In presenting the Report, the Chairperson of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters recalled the Decision of the Executive Council made in Banjul in July 2006, which directed that the Commission in collaboration with the PRC and Ernst and Young, should work together with a view

to addressing the issues raised by the latter in the Audit of the Dakar Conference of Intellectuals. He informed the PRC that since then, the Commission had worked closely with Ernst and Young as well as Member States, but that Member States had not had any direct contact with Ernst and Young. He, therefore, observed that the presence of Ernst and Young presented the PRC with an opportunity to interact with them with a view to seeking further clarifications that would facilitate bringing the matter to a close.

28. The Chairperson of the Advisory Sub-Committee further informed the PRC that since Banjul, the Commission had engaged Ernst and Young to undertake some further work and had provided appropriate responses. He summarized the main issues as follows:

- a) Failure by Ernst and Young to identify individual shortcomings due to lack of forensic audit;
- b) Ernst and Young had re-iterated numerous deficiencies and breaches of regulations;
- c) Improper accounting of funds (lack of supporting documentation for some transactions);
- d) Outstanding funds from contracted companies (funds not recouped);
- e) Failure of some Member States to honour their pledges/commitments;

29. The Chairperson of the Advisory Sub-Committee also informed the PRC that the Commission had admitted to some inadequacies and irregularities in the running of the Conference, and that some delegations had expressed the view that the matter should be brought to a close in a proper manner once clarification had been provided by both the Commission and Ernst and Young.

30. Following the introduction by the Chairperson of the Advisory Sub-Committee, the AUC indicated that all its responses had been discussed in detail with Ernst and Young, and that in the final meeting, the two sides were able to identify areas of convergence and divergence.

31. Ernst and Young was then invited to make a presentation of their report on the additional work done. In doing so, the representative highlighted the following:

- a. The Commission budgeted and allocated US\$7 million for the Conference from the General Fund. Ernst and Young has been able to substantiate conference expenses amounting to US\$4.1 million only and was not able to give an opinion on the balance;
- b. The majority of the transactions in the Banjul first report were either not supported or were supported by documentations not acceptable to Ernst and Young. From the additional work done, there was no improvement on the situation;

- c. The contract between the service provider (RAPIDAWN) and the Commission was vague and had many grey areas and subject to different interpretations;
- d. Mention has been made about Member States' pledges to the Conference, however, Ernst and Young was not aware of any commitments from Member States;
- e. In order to be able to identify both institutional and individual weaknesses, a sample of 7 procurement files was selected. However, one file was not given to Ernst and Young by the Commission on the ground that there was a conflict of interest because Ernst and Young was one of the unsuccessful bidders in the tender concerned. All the six files revealed major flaws with regard to tendering procedures. Systemic weaknesses of internal controls were observed. Hence, the Dakar conference is not an isolated case;
- f. The Commission is a much bigger organization than the OAU but it is still working with the same internal controls as when it had a smaller budget of about US\$30 million.

32. Members of the Sub-Committee sought further clarifications from Ernst and Young on the following issues:

- a. Whether it was possible to know the exact amount of money spent on the Dakar Conference and to give an opinion on what happened to the balance;
- b. Whether Ernst and Young had an opportunity to talk to third parties, including RAPIDAWN and officials from the Senegalese Government;
- c. Whether the monies pledged by some Member States were actually redeemed;
- d. Whether it was possible to find a solution to the weaknesses pointed out by Ernst and Young so as to avoid the Commission committing the same errors again in the future and, if possible, suggest the kind of system that the Commission needs;
- e. Why it had not been possible to pinpoint individuals who committed errors, since it was clear that memos were written, signed, commented on and fund-transfers approved by individuals;
- f. Whether Ernst and Young had the capacity to conduct forensic audit and whether it was prevented by the Commission from doing so.

33. Ernst and Young responded as follows:

- a) Ernst and Young could only substantiate US\$4.1million but does not know what happened to the balance and therefore was not able to give an opinion on it;
- b) Ernst and Young had an opportunity to talk to RAPIDAWN at the meeting convened by the Chairperson of the Commission;
- c) Ernst and Young did not have any information regarding pledges by Member States except Senegal;
- d) Weaknesses at the Commission are systemic and organization-wide. The internal controls at Commission are weak or non-existent. Hence, the difficulty to point a finger to an individual;
- e) Ernst and Young had the capacity to conduct forensic audit, which is part of its activities but was prevented from doing so. With regard to the assessment of the Commission's financial system, this was done in an earlier assignment. However, Ernst and Young would be happy to assist in further work.

34. Following the response by Ernst and Young, Senegal indicated that it never made any financial pledge, but that it had entered into a contractual Host Agreement. On its part, the Commission indicated that it had reservations providing all contracts awarded from 2004 to 2006 due to the fact that the Terms of Reference (TOR) for the Dakar Conference were different and hence the contracts awarded were not similar and not comparable. Nevertheless, Ernst and Young was given a list of tenders awarded, out of which it selected seven (7). The Commission explained that it discovered that Ernst and Young had been an unsuccessful bidder in one of the tenders and, could, therefore, not allow Ernst and Young to access to this document in view of the potential conflict of interest and the need to uphold the confidentiality clause of the winning bidder. The Commission had brought this to the attention of the Advisory Sub-Committee and the PRC in January 2007.

35. The Commission further underscored that it does not condone impunity as evidenced by its admission of the irregularities. It, therefore, seriously objected to Ernst & Young's assertion that the bad management of the Dakar Conference was an everyday occurrence in the Commission. The Commission emphasized that it was the Internal Audit Office of the Commission that first detected the problems with the Dakar Conference, followed by the External Auditors which was why Ernst and Young was invited to assist in putting things right.

36. The Commission further indicated the following:

- The TOR were drawn up with Ernst and Young and on no occasion did it request for a forensic audit in order to establish what the Conference cost, what happened to the balance from US\$7 million and to determine individual lapses;
- The TOR provided for Ernst and Young to interact with or interview the service provider (Rapidawn) as well as individuals who participated in the

organization of the Conference, but Ernst & Young failed to do so. Ernst & Young's claim that it spoke with Rapidawn was therefore incorrect. As requested by Ernst & Young in its report to Banjul, the Commission documented exactly who travelled, where they stayed and how much was paid, and expected this would have had an impact on the earlier opinion by Ernst and Young on the use of funds in this regard, but this was not the case.

- Ernst & Young's claim that most of the expenditure was not supported by appropriate documentation was incorrect as most, if not all expenditures were supported by documentation;
- Ernst & Young had asked that after reviewing the expenditure following the receipt of additional information, it would be able to express an opinion on what was spent as well as the balance, but when this was done, it failed to express any opinion and instead asked for a forensic audit. It was therefore incorrect to claim that it was prevented from carrying out a forensic audit.

37. During the discussions that ensued, some Member States were of the view that the Ernst and Young report had unearthed sufficient evidence that point towards fraudulent practices during the organization of the Conference. There was a need to bring the matter to an end through decisive, concrete and time bound actions including the identification and punishment of the culprits.

38. The Commission once more reiterated its recognition and acceptance of the faults that occurred during the organization of the conference and made a commitment to avoid a re-occurrence of such in the future. In this context, the Commission undertook to abide by the existing financial rules and regulations, and to seek the approval of the policy organs when so required. The Commission also undertook to pursue the matter further and to report to the Executive Council within the timeframe it may set.

39. Following discussions and clarifications, the PRC acknowledged the commitment by the Commission to pursue the matter further with a view to identifying and appropriately punishing the culprits.

40. The PRC recommended the report of the Advisory Sub-Committee for adoption by the Executive Council. The PRC further made the following recommendations for consideration and approval by the Executive Council:

- i) That the Commission should abide by the existing financial rules and regulations and take appropriate measures for the strengthening of the internal control systems as proposed by Ernst & Young in 2004. This should also entail the acquisition of appropriate financial management software;
- ii) That the Commission should take strict measures to identify and punish the culprits as well as to recover from them any financial losses that may have been suffered by the Organization, in this context the

Commission should incorporate appropriate amendments to the Financial Rules;

- iii) That The Chairperson of the Commission should vigorously pursue all the outstanding issues and report to the next session of the Executive Council;
- iv) That in future, the Commission should make use of internal capacity and not outsource the organization of its conferences.

5. Consideration of the Report of the Advisory Sub-Committee on the Reports of the Board of External Auditors for the Pan Africa Parliament – Doc. EX.CL/334 (XI)

41. In presenting the Report, the Chairperson of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters recalled that at its meeting held in January 2007, the Executive Council decided that the Pan-African Parliament (PAP) should utilize only one twelfth (1/12) of its previous year allocation pending the submission of audited accounts for the three financial years 2004, 2005 and 2006. He informed the PRC that PAP had since complied with the decision of the Executive Council and submitted the accounts audited by the AU Board of External Auditors for the three financial years.

42. He also informed the PRC that the audited accounts were considered by the Sub-Committee and that all three audit reports were disturbing in the sense that the Auditors had raised similar anomalies relating to non-compliance with the AU Financial Rules and Regulations in the payment of per diems and other allowances, as well as non-compliance with Executive Council Decision EX.CL/Dec.98 (V) which states that “Member States should bear the expenses of participation of members of the Pan-African Parliament, including the members of the Bureau and the Committees (air tickets, per diem and other related expenses) at the statutory meetings of the Pan-African Parliament and its Committees during the first five years of its existence”. This decision also stipulated that members of the Bureau should not reside at Headquarters during the first five years of the existence of the Parliament.

43. The Clerk of PAP informed the PRC that the decisions by the Bureau were made in good faith to facilitate the smooth take-off of the operations of PAP. He also informed the PRC that the Bureau met on 18 June 2007 and resolved to abide by the Executive Council decisions of 2004 and 2007, and that PAP would therefore:

- i) Cease to make payments in the manner they were made before;
- ii) Seek authority and guidance on the payment of per diems and other allowances;
- iii) Have only two sessions per year and that these would not last longer than 15 days;

- iv) Ensure that the joint consultations with the Commission commence in order to receive proper guidance on the prevailing rules, regulations and procedure.

44. In the discussions that ensued, some delegations felt that the PAP Bureau acted in good faith in the context of ignorance of procedures and rules, and regulations and should, therefore, be given the benefit of the doubt. However, the majority of Member States expressed serious concern about the complete and systematic disregard of existing procedures, Financial Rules and Regulations and decisions of the Executive Council.

45. In line with the Executive Council Decision EX.CL/Dec.98 (V) made in 2004, the PRC agreed to recommend to the Executive Council the following:

- i) That PAP is an organ of the AU and has to be answerable, through established hierarchical organs, to the body that created it;
- ii) PAP should respect the AU Financial Rules and Regulations, the AU Staff Rules and Regulations as well as all relevant Decisions of the Executive Council and refrain from making its own rules;
- iii) PAP should align its internal Rules of Procedure to relevant decisions of the Executive Council as it promised to do during the January 2007 session of Council;
- iv) All members of the Bureau should refund all monies paid/received from PAP for attending meetings of the Bureau in the form of per diem, refunds for air tickets and communications allowance during the financial years 2004, 2005 and 2006;
- v) All members of PAP (including members of the Bureau), should refund all monies received from PAP for attending sessions and meetings of the committees during the financial years 2004, 2005 and 2006;
- vi) The PAP Fund, established without following due procedure, should be frozen until proper regulations governing the establishment of such Funds are followed. The US\$375,000 appropriated for the Fund should be returned to the general coffers of PAP;
- vii) The Clerk of Parliament, in his capacity as the accounting officer, should be protected.

6. Consideration of the Progress Report on Recruitment of Staff of the Commission – Doc. EX.CL/336(XI)

46. In presenting the report, the Commission recalled the Maputo Decision adopted in July 2003 as well as the two adjustments to the Structure that followed in 2005 (Sirte) and 2006 (Khartoum). It also recalled the principles governing these decisions, which enable the Commission to continuously recruit competent staff from

AU Member States, both in the professional category and in grades GSA4 to GSA6 in the General Services Category.

47. The Commission highlighted the breakdown of the current staff establishment, which stands at a total of 912 distributed into elected Officials (10), Professional staff (454) and General Service staff (448). It also provided information on the staff complement per department as well as the distribution of staff per grade. It further stated that, as of 15 June 2007, the total number of staff members at post within the Commission was 609 but that another 42 staff were recently recruited. Underlining the progression in the staffing situation, the Commission stressed the efforts made between 2003 and 2007 and indicated that the staff complement evolved from 284 in 2003 to 651 by 15 June 2007. The PRC was informed about the difficulties encountered in the recruitment process, especially regarding the limitations imposed by the quota system, which compelled the Commission to re-advertise certain positions. The Commission also indicated that female candidates were still few as compared to males candidates. Finally, it raised the issue of the uncompetitive remuneration package offered by the Commission, which is an obstacle to the attraction and retention of competent staff.

48. The Commission then drew the attention of the PRC to the following issues on which the Commission would like the Member States to take a decision on:

- i) The review and distribution of quota with regard to additional professional posts as a result of the adjusted Structure Parts (A) and (B);
- ii) The need to favourably consider the current proposals on the compensation package;
- iii) The necessity to call upon Member States that have not yet filled their Maputo Structure quotas to encourage their nationals to apply for professional posts that are being advertised;
- iv) The need to allocate the necessary financial resources to enable the Commission to complete the recruitment process.

49. In the debate that followed, the PRC congratulated the Commission for the quality of the report and made recommendations for its improvement in the future. It called the attention of the Commission on the need to fully implement the Maputo structure and raised issues relating to:

- i) The question of Gender balance;
- ii) The implementation of the formula of quotas, in particular, reasons for some countries to have staff above their allocated quotas and measures taken with regard to these countries;
- iii) The recruitment of nationals without prior information of their respective Member States;
- iv) The need to observe a moratorium on adjustments to the Structure;
- v) The status of the staff inherited from the OAU vis-à-vis the AU structures;
- vi) The reasons for late commencement of duty by newly recruited staff;
- vii) The use of services of consultants as vacant posts are gradually being filled. In this regard, the PRC requested for information about their number, field of employment, duration of service and level of emoluments;

- viii) The need to freeze the recruitment in the General services where the approved establishment had been exceeded ;
- ix) The need to advertise vacancies in Member States;
- x) The need to consider the confirmation of staff acting for a long period on a vacant position or advertising the position;
- xi) The need to recruit an Arabic-speaking staff in the office of the Legal Counsel since such a recruitment would enable the Commission to speed up the translation and alignment of the legal documents;
- xii) The treatment of countries under sanction with regard to the quota system;
- xiii) The status of implementation of the Banjul Decision on the Oversight by the PRC with regard to the Recruitment process;
- xiv) The objectivity in the recruitment exercise and discretionary powers of AUC management in the selection exercise;
- xv) The need for PAP to establish and apply a quota system.

50. The Commission provided the necessary answers to the issues raised. It specifically underlined the issue of internal promotions that was in the process of being carried out and informed the PRC that the Chairperson of the Commission had set up a Board whose mandate would be to deal with the issue of, among others, staff members that have been stagnating for many years on the ceiling of their grade. The exercise would start immediately after the Accra meetings. The Commission also indicated that it was working on a revised quota allocation taking into account the increase in the staff, which would be submitted to the PRC for consideration at the appropriate time.

51. Some delegations pointed out that some of the issues being discussed, mainly the issue of the quota system were debated during the PRC/Commission Brainstorming held in Nazareth (Ethiopia) from 22-25 April 2007 and therefore, it was necessary that the report on the proceedings of the meeting be finalised and circulated before they could take any decision. Other delegations insisted on the obligation of staff members to take an oath or make a Declaration of loyalty to the Organization before assuming office.

52. At the end of the debate, the PRC recommended as follows:

- i) That the Commission should urgently address recruit all staff approved in the structure;
- ii) That the PRC should transform the conclusions of the Nazareth meeting into a more formal framework. In this respect, the Commission should finalize the report and circulate it as soon as possible;
- iii) That the PRC should further reflect on countries under sanction with regard to filling of their quotas;
- iv) That the Commission should provide the advisory sub-committee on Administrative, Budgetary and Financial Matters all information regarding the recruitments concluded in May 2007, in compliance with the principle of oversight adopted in Banjul in July 2006;

- v) That the Commission should take all necessary steps to address the issue of internal promotions;
- vi) That the Commission should make all efforts to finalize the staff Rules and Regulations and submit them to the PRC for consideration as soon as possible;
- vii) That the Commission should take all the necessary measures to address a number of morale and motivation issues among staff as it is the view of the PRC that, apart from the remuneration structure, there were equally other factors which were obstacles to attraction and retention of staff;
- viii) That the Commission should in future improve the format of its reports. In addition, such reports should cover all aspects of Human Resources and be issued more frequently;
- ix) That the Commission should obtain information on the Pan African Parliament's recruitment process as well on the composition of the current staff complement and report thereon to the PRC;
- x) Staff members should take an oath or make a Declaration of loyalty to the Organization before assuming office.

53. The PRC recommended the Progress Report for consideration and endorsement by the Executive Council.

7. Consideration of the Report of the Sub-Committee on Contributions – Doc. EX.CL/337(XI)

54. In presenting the report, the Chairperson of the Advisory Sub-Committee on Contributions informed the PRC that the status of Member State's contributions as at 14 June 2007 was as follows:

- i) The contributions received from member states amounted to US\$45,325,032.61, out of which US\$26,155,071.99 was paid towards the current fiscal year's assessment; US\$19,140,622.31 as arrears for previous years and US\$29,338.31 as advance payment;
- ii) The total outstanding contribution, stood at US\$106,812,035.48, made up of arrears of US\$36,518,206.47 and uncollected balance of US\$70,293,829.01 from the current year's assessment;
- iii) Out of the total of 53 member states, 21 are in arrears of one year and above, 25 member states are without arrears but have not paid their current year assessed contribution and seven member states namely: Algeria, Botswana, Burkina Faso, Ethiopia, Ghana, Liberia and Zambia are up to date with their contributions, including current year's assessment. In addition, Burkina Faso made an advance payment of US\$29,338.31;

- iv) To date, out of the five Member States who account for 75% of assessed contributions, Algeria and South Africa have paid in full their contributions to the 2007 budget. The remaining Member States have paid a total of US\$5,508,711.99 (23%) out of a total contribution of US\$24,112,226.00 assessed to them for the year 2007;
- v) The Commission has also received a total amount of US\$38,475,912.25 from partners during the period under consideration. Out of the total receipt, US\$28,638,619.00 represents special contribution for the Peace Fund and US\$9,837,293.00 to finance various programs of the AUC approved by the Council for year 2007;
- vi) Following the decision of the Executive Council EX.CL/Dec.335 (X) to waive all the arrears by the Government of Liberia up to the financial year 2003, Liberia paid in full all the remaining arrears of years 2004, 2005, 2006 and current year assessment which amount to a total of US\$320,486.00 thereby taking Liberia is out of sanction;
- vii) Regarding other countries under sanction, the Central African Republic, Guinea and Guinea Bissau have paid US\$1,460,264.00, US\$819,401 and US\$1,230,740 respectively towards their arrears. With these payments, they are now out of sanction;
- viii) The temporary and exceptional exemption from sanctions granted to Sierra Leone and Burundi as decided by the Executive Council remain in force in view of the fact that these Member States continue to honour the agreed payment schedules;
- ix) The list of six (6) countries to remain under sanction are:
 - Cape Verde
 - Democratic Republic of Congo
 - Eritrea
 - Mauritania
 - Sao Tome and Principe
 - Seychelles

55. The PRC considered the above recommendations by the Sub-Committee and agreed to forward them to the Executive Council for consideration and approval.

Request by the Democratic Republic of Congo

56. The PRC was informed of the request by the Democratic Republic of Congo for a reduction of its arrears of contribution in consideration of its emergence from conflict and its offer of premises to host the office of the African Union Representation in Kinshasa. The outstanding arrears of the DRC as of December 31, 2006 was US\$11,160,449.87.

57. The PRC expressed its understanding of the situation of the DRC and directed the Commission to urgently come up with a standard formula that could be applied to all Member States emerging from conflict situations as directed by the Executive Council in its decision EX.CL/Dec.335(X).

Request by the Republic of Cape Verde

58. The PRC was informed of the request by Cape Verde for her sanction to be lifted on the condition that the country would pay US\$265,000 up front and submit a payment schedule to clear the arrears of contribution within a definite period of time. Cape Verde also pleaded that a decision be taken that would enable the President of Cape Verde to participate in the upcoming debate on the Union Government project that will take place at the Accra Summit in July 2007.

59. The PRC expressed its understanding of the request by Cape Verde and took note of it.

Waiver for all Member States under sanction to fully participate in the Accra Summit

60. In view of the significance of the upcoming Assembly debate on the Union Government, some delegations made a proposal for a special waiver to be granted to the six countries under sanction in order for them to fully participate in the Accra Summit. Others, however, were of the view that it was illogical to grant waiver to Member States that have not made any request. At best, the PRC could recommend a waiver for the DRC and Cape Verde, the two countries that have made requests.

61. The PRC sought the advise of the Office of the Legal Counsel on the matter. The Representative of the Office of the Legal Counsel advised that, in accordance with the rules, the PRC could not recommend a waiver for all six (6) Member States under sanction and that granting a waiver in such a way would set a precedent.

62. The PRC noted with appreciation the information provided by SADR to the effect that the country had paid part of its outstanding contribution and forwarded the receipt to the Commission. Liberia expressed gratitude to the AU for its flexibility and understanding towards the plight of countries emerging from conflicts.

AGENDA ITEM III : LEGAL AND INSTITUTIONAL MATTERS

Consideration of the Report on the Status of OAU/AU Treaties - Doc.EX.CL/339(XI)

63. In introducing the report, the Legal Counsel pointed out that the Report was up to date as at 13 June 2007. He underlined that during the reporting period, significant events had happened and highlighted the fact that twenty-seven (27) instruments had been deposited and nineteen signatures appended to OAU/AU treaties. In this regard, he drew attention in particular to the (10) ratification instruments deposited by the Republic of Gabon. He pointed out that the significant

number of signatures and deposit of instruments of ratification of OAU/AU Treaties were due to, among others, the efforts of the Permanent Representatives in sensitizing Member States on the need to expedite the process of ratification/accession to OAU/AU Treaties. He then proceeded to update the PRC on the changes to the status of signature and ratification since the date of the report as follows:

Ratification/accession:

- African Charter on the Rights and Welfare of the Child: Côte d'Ivoire (18/06/2007).
- Revised African Convention on the Conservation of Nature and Natural Resources (revised Version)

Signature:

- African Union Non-Aggression and Common Defense Pact: Mozambique (14/06/2007);
- African Charter on Democracy Elections and Governance: Djibouti (15/06/07) and Congo (18/06/2007).
- African Union Non-Aggression and Common Defense Pact: Zimbabwe (20 June 2006).
- African Charter on Democracy, Elections and Governance: Burundi (20 June 2007)

64. The Legal Counsel further informed the PRC that Algeria had informed the Commission that it had completed the internal procedures for the ratification of four (4) treaties, namely, the Protocol of the Court of Justice of the African Union, the Protocol to the OAU Convention on the Prevention and Combating of Terrorism, the African Union Non-Aggression and Common Defense Pact, and the OAU Convention for the Elimination of Mercenarism in Africa. He observed that upon receipt of the originals of the ratification instruments, the database would be updated. He then welcomed the efforts of Member States in signing and ratifying various treaties and conventions. However, he made mention of the African Youth Charter, adopted by the Assembly in Banjul, the Gambia in July 2006, and now signed by four (4) Member States and the African Charter on Democracy, Elections and Governance, adopted in Addis Ababa, in January 2007 and which had been signed by only two (2) countries, as requiring special attention.

65. The Legal Counsel further stated that the Commission would make available the two instruments, in addition to others in Accra, Ghana, for signature by Ministers of Foreign/External Affairs, who do not need to produce full powers to sign instruments on behalf of their countries. He further drew attention to the fact that during the forthcoming meeting of Ministers of Justice, scheduled for October 2007, it was intended that a report on the ratification procedures that exist in member states, the constraints faced and the process of alleviating these constraints, would be discussed.

66. The discussions that ensued focused on the following issues:

- (i) Whether the information provided by Algeria to the effect that it had concluded the internal procedures with regard to the ratification of four ratification instruments could be reflected in the PRC's report;
- (ii) The need for the Office of the Legal Counsel to recruit an Arabic speaking legal expert as soon as possible;
- (iii) If the Commission had mechanisms in place to ensure that the Member States actually implement the provisions of the treaties that they had ratified /acceded to;
- (iv) The need to implement the previous decisions with regard to outdated treaties, especially those that date as far back as 1960s which have not yet entered into force;
- (v) Whether the Report on the ratification and harmonisation procedures was ready;
- (vi) What efforts were being made by the Commission to ensure that the inconsistencies between the various linguistic texts were addressed;
- (vii) Why Member States do not expedite the process of ratification of the treaties that they have adopted;
- (viii) The withdrawal by a country of its previous reservations entered on a treaty.

67. In addressing the requests for clarifications, the Legal Counsel responded as follows:

- (i) The information received from Algeria would be reflected in the PRC Report. As soon as the original instruments are received, the database would be updated;
- (ii) The Commission has no mechanism to ensure implementation of OAU/AU treaties. However, some treaties, in particular human rights treaties contain such mechanisms ;
- (iii) Regarding the OAU treaties that dated back to the 1960s, he recalled that a meeting of experts had been convened in 2004 whose recommendations were adopted by the Executive Council and endorsed by the Assembly in July 2004. Some of those recommendations have since been implemented, including the development of a legal instrument for Internally Displaced Persons and the review of the Phyto-Sanitary Convention for Africa;
- (iv) The inconsistency in various linguistic texts of treaties remains a problem but the recruitment of a Legal Expert with knowledge of Arabic would assist in easing the problem;

- (v) On why Member States would sign but not ratify an instrument, it had been noted that some of the constraints included the complex process of ratification, the lack of capacity of the implementing agencies as well as lack of political will;
- (vi) The Commission would be convening a meeting of Experts and Ministers of Justice and Legal Affairs in September/October 2007, to consider and address, *inter alia*, the issue of harmonisation of ratification procedures. To this end, he urged Member States to respond to the Note Verbal from the Commission on the ratification procedures prevailing in their States to facilitate completion of the study.

68. Thereafter, the PRC made the following recommendations for consideration by Council:

- Take note of the report;
- Commend the Chairperson of the Commission for the initiative and efforts aimed at encouraging Member States to become State Parties to the OAU/AU Treaties;
- Appeal to Member States to prioritize and accelerate the signing and ratification/accession to OAU/AU treaties and to request the Commission, with assistance of Member States, to harmonise the texts in the different official languages;
- Request the Commission to expedite the implementation of the previous decision of Council, particularly on the review of OAU/AU Treaties;
- Request the Commission to expedite resolving the inconsistency in various linguistic texts and to appoint an Arabic speaking Legal Experts to assist in this regards; and
- Request the Commission to implement the previous decisions with regard to out-dated Treaties, especially those that date back as far as the 1960s which have not yet entered into force.

AGENDA ITEM IV : POLITICAL MATTERS

1. **Consideration of the Report on the Situation of Refugees, Returnees and Internally Displaced Persons in Africa – Doc. EX.CL/340(XI)**

a) Report of the Commission

69. The Representative of the Commission pointed out that the report informs the PRC of the major developments on the continent as regards voluntary repatriation movements relating to progress made in various peace processes. It underlined the concerns of the AU with regard to natural disasters in Burundi, Mozambique and Madagascar. It also brought to the fore difficulties encountered on the field by humanitarian workers and peacekeepers.

70. As regards regional analysis of the situation, the Commission observed that in the northern part of the continent, the situation of Western Saharan refugees had not changed and that they were faced with a disturbing food shortage. On the other hand, in the Western region, the restoration of peace had a positive impact on the refugee situation and caused large-scale repatriation to Liberia, Sierra Leone and Côte d'Ivoire. The situation was different in Central Africa where the positive development in Burundi enabled a certain number of refugees to return but also where the Darfur conflict had a negative impact on Chad and Central African Republic. The Eastern region experienced problems in Somalia with impact on Kenya, Ethiopia and Uganda. The Southern region was marked by a large-scale movement of Angolan refugees to their country.

b) Report of the PRC Sub-Committee on Refugees

71. The Chairperson of the PRC Sub-Committee on Refugees, Returnees, and Internally Displaced Persons (IDPs) introduced the Draft Report of the meeting of the PRC Sub-Committee on Refugees that was held on 10 April 2007 and its attachments, namely, the Concept Paper on the AU Policy on Access to Post-Primary Education for Victims of Forced Displacement in Africa, the Rules of Procedure and Terms of Reference of the AU Coordinating Committee on Assistance and Protection to Refugees, Returnees and IDPs.

72. Following the introduction of the reports, the PRC first commended the Chairperson of the PRC Sub-Committee and the Commission for the comprehensive reports. It then deliberated at length on the reports and made the following observations:

- i. the PRC, by coincidence, was considering the report on Refugees, Returnees and IDPs on the day of the celebration of World/Africa Refugee Day whose theme was "Refugees, Children and Sports";
- ii. The source of the statistics provided was queried;
- iii. The need to ensure decent and dignified return of refugees to their homeland; in this regard, Tanzania informed the PRC that it was granting Tanzanian citizenship to around 2000 persons from Somalia

- who are of the same ethnic group as one in Tanzania and share the same language;
- iv. Further details on the preparations for the Special Summit were requested;
 - v. The possibility of sending the Concept Paper on the AU Policy on Access to Post-Primary Education for Victims of Forced Displacement in Africa to Ministers of Education for consideration should be envisaged;
 - vi. The need for African peoples to move away from the spirit of xenophobia and be involved in assisting refugees was highlighted;
 - vii. The need to put more emphasis on the status of the refugee was stressed;
 - viii. The need for NGOs to work in collaboration with the present government in Somalia;
 - ix. The necessity to tackle the root causes of the refugee situation;
 - x. Clarification on the nature and functions of the Working Group;
 - xi. The issue of lack of quorum at the Sub-Committee meetings.

73. In its response, the Commission indicated that the United Nations High Commissioner for Refugees was the main source of the statistics provided and complemented by findings during field missions. Regarding preparations for the Special Summit, it informed the PRC that a Working Group responsible for the preparatory work had met twice, together with the partners to identify and allocate tasks for logistics and document preparation. The venue of the Summit is still to be decided upon in consultation with all stakeholders. As for the date, the Sub-Committee in its last meeting decided to hold the Summit some time in September 2008. The Commission explained that its assistance to refugees, returnees and IDPs was limited due to lack of resources and in this regard announced that South Africa was the only country that had contributed US\$13,000. The Commission explained the difference between the Working Group put in place to prepare for the Summit and the Coordinating Committee which has been in place since 1968 but whose reactivation had been requested by the AU policy organs.

74. Following these explanations the PRC recommended the following:

- i) There is a need to cross-check the statistics and adjust the figures that appear in the report accordingly;
- ii) The Terms of Reference of the Working Group should be finalized, validated by the Office of the Legal Counsel and submitted for approval;
- iii) The Sub-Committee, the Working Group and the Commission should continue with the preparations of the 2008 Special Summit on Refugees, Returnees and Internally Displaced Persons;
- iv) The Concept Paper on the AU Policy on Access to Post-Primary Education for Victims of Forced Displacement should be considered by the Ministerial Conference on Education scheduled for September 2007 in South Africa for its consideration prior to its submission to the Executive Council for adoption;
- v) An appeal should be made to the international community to honour pledges made in favour of forced displacement and to enhance efforts in assisting victims of forced displacement in the countries of asylum and

- countries of origin within the framework of post-conflict reconstruction in order to ensure sustainable integration of returnees; and
- vi) That the AU plays an active role in neutralizing the negative forces (FDLR/Interahamwe etc.) which are the causes of insecurity in the East of the DRC and in the sub-regional as a whole.

2. **Consideration of the Report on the Implementation of the Agenda of the African Union on Free Movement in Africa – Doc. EX.CL/341(XI)**

75. The report was presented by the Commission which first recalled the different decisions on this issue, particularly Decision EX.CL.Dec.337(X) adopted in Addis Ababa in January 2007 in which the Commission was requested to take the necessary measures to launch the African Diplomatic Passport as soon as possible.

76. The Commission then briefed the PRC about the different initiatives taken by the Commission in close collaboration with the Bureau of the Committee of Experts of Member States on Free Movement of Persons in Africa, towards the implementation of the above-mentioned decision.

77. Among other initiatives, the Representative of the Commission mentioned the introduction of the selection process based on the evaluation of the capacities of Member States to produce machine-readable passports which culminated in the launching of the African Union Diplomatic and Service Passports on 25 May 2007.

78. The Commission drew the attention of the PRC to the lack of budget provisions for financing this activity, and stressed the need to allocate adequate funds to facilitate the implementation of the relevant decisions of the Executive Council.

79. Lastly, the Commission briefed the PRC about future actions planned by the Commission, notably consultations with Member States at national and regional level, and a meeting of experts from Member States planned for November 2007 to elaborate an operational framework to facilitate free movement in Africa.

80. During the debate that ensued, the PRC made the following observations:

- i) expressed serious concern on the lack of consultation with Member States on the design, nature, form, security features and who should have the authority to issue the African Diplomatic Passport. Tunisia expressed reservations on the procedure followed;
- ii) underscored the importance of closed consultations with Member States as a necessary condition to ensure that national procedures are cleared to allow the use of the passport;
- iii) the launching of the passport was symbolic at this stage and that a process of consultations and negotiations were necessary for Member States to recognize it as a valid travel document;

- iv) sought clarification on the criteria for determining those who travel on the diplomatic and service passports;
- v) there was a need to give an account of costs incurred in the design, production and issuing of the diplomatic and service passports;
- vi) whether omissions such as the Portuguese language on the cover, and the function/position of passport holder had been addressed;
- vii) whether the AU Diplomatic Passport would be issued to Heads of State during the forthcoming Assembly meeting;
- viii) whether funds had been secured for the meeting of experts scheduled for November 2007 and what the TOR of this meeting are;
- ix) whether the resources for the establishment of the specialized office to follow-up on the implementation of activities related to free movement were available.

81. Some delegations felt that the African Union Passport was meant to simply replace the present OAU Laissez Passer and should therefore be issued to staff members of the Commission and representatives of the other organs of the AU.

82. The PRC underscored the need to delink the issue of the African Union diplomatic passport from that of free movement in Africa.

83. Some delegations commended the Commission for the launching of the African Union Diplomatic and Service Passports, in conformity with the relevant provisions of decision EX.CI/Dec.337(X).

84. Finally, the PRC recommended that the Executive Council approves the convening of a forum bringing together African officials at national, regional and continental levels as well as the PRC with a view to holding consultations and making recommendations on issues of common interest such as the harmonization of relevant laws, policies and regulations and evaluating the structures that will facilitate movement in Africa.

AGENDA ITEM V : PEACE AND SECURITY MATTERS

Briefing on the Peace and Security Situation in the Continent

85. This agenda item was introduced by the Chairperson of the Peace and Security Council (PSC) for the month of June 2007, the Permanent Representative of Rwanda to the AU. In his presentation, the Chairperson of the PSC reviewed various conflict and post-conflict situations on the continent, as well as AU initiatives.

86. Concerning Darfur, he informed the PRC of the Government of Sudan's acceptance, at the high level technical meeting in Addis Ababa from 11 to 12 June 2007, of joint proposals on the deployment of a hybrid AU-UN operation. He also stated that encouraging developments have been recorded with respect to reviving

the political process. The Chairperson of the PSC also stressed that relations between Chad and Sudan have recorded encouraging trends and that was as a result of the political will demonstrated by the leaders of the two countries.

87. In Somalia, the efforts made by the AU concerned the deployment of a mission to support peace and promote an all-inclusive dialogue and reconciliation process. Concerning the first point, the Chairperson of the PSC emphasized that logistical and financial constraints rendered efforts to strengthen AMISOM difficult. It was however to be noted that Ugandan troops present on the field have performed a remarkable job, despite a volatile security situation.

88. The Chairperson of the PSC cited encouraging developments in Cote d'Ivoire in the wake of the Ouagadougou Political Agreement signed in March 2007. He stressed the need for the AU and the international community to remain mobilized to support efforts by the Ivorian parties.

89. In the Comoros, the reconciliation process is facing serious difficulties that could jeopardize the significant progress registered over the last years by the Comorian parties with the support of the international community, in particular the AU. Africa must not relent in its efforts to preserve the achievements registered and to consolidate the reconciliation process.

90. The Chairperson of the PSC also observed that there had been progress in the conflict in Northern Uganda, after several years of unprecedented violence perpetrated by the Lord's Resistance Army (LRA). He highlighted the post-conflict reconstruction and development efforts under way in Liberia, Burundi, Democratic Republic of Congo (DRC) and the Central African Republic (CAR). He equally expressed satisfaction with the restoration of constitutional rule in Mauritania, following a process that the AU had monitored and supported from the beginning to the end.

91. Finally, he informed the PRC that the PSC had undertaken a first mission in the field, in May and June 2007, in Sudan, Chad and CAR, as part of efforts to promote peace and security in the region. The Mission report would be submitted to the appropriate PSC meeting.

92. The Chairperson of the PSC concluded by stating that although undeniable efforts had been registered, there was still much to be done. Hence the need for constant and renewed mobilization of all stakeholders concerned to extinguish the deadly conflicts plaguing the continent and hindering its socio-economic development.

93. The PRC took note of the briefing.

AGENDA ITEM VI : ECONOMIC MATTERS

1. Consideration of the Report on the Follow-up of Africa-Europe Dialogue – Doc. EX.CL/342(XI)

94. This agenda item was not discussed by the PRC due to lack of documentation in all working languages.

2. Consideration of the Progress Report on the Preparation of the Africa-India Partnership Forum Summit – Doc. EX.CL/343(XI)

95. Introducing this item of the agenda, the Representative of the Commission recalled the two preparatory meetings held respectively in New Delhi from 13 to 16 March and in Addis Ababa from 23 to 24 May 2007. A meeting of the PRC Sub-Committee on Multilateral Cooperation was held prior to the second meeting with the aim of considering the draft declaration and reaching a consensus on this issue.

96. In addition to the draft declaration, the Commission had prepared an action plan covering the main target cooperation areas as defined during the first meeting.

97. To conclude his presentation, the Representative of the Commission informed the PRC that consultations between the two parties were ongoing.

98. Following the presentation, the Chairperson of the Sub-Committee on Multilateral Cooperation, stressed that it would be in the interest of African countries to cooperate with India whose technological advances and potentialities in various domains could be very useful to Africa.

99. During the discussions, some delegations raised the principle of cooperation between Member States and individual non-African countries since there was no AU policy on the matter. Even where the principle of cooperation with individual non-African countries is established, the criteria and terms of reference of such cooperation should be well defined and care taken to make sure that the countries in question have a comparative advantage from which Africa could benefit. Concern was raised on the Summit format with regard to the participation of all the personalities mentioned in the Banjul decision and the need to review the said decision by including the outgoing Chairperson of the Executive Council.

100. However, other delegations insisted on the advantages African countries could draw from a partnership with India within the scope of South-South cooperation.

101. On the issue of the legitimacy of cooperation between Member States and an individual non-African country, the Commission reaffirmed the decision of the Executive Council recommending that it should carry out an evaluation of all partnerships every two years.

102. Following the discussions, the Commission and the Chairperson of the Sub-Committee confirmed not only that all African interests would be safeguarded in the elaboration and implementation of the partnership with India, but also that the

proposed date for the holding of the Summit was totally indicative and that all PRC suggestions would be taken into account.

103. The PRC adopted the report and recommended it for consideration by the Executive Council.

3. Consideration of the Report of Experts on Standardization in the Industry Sector organized jointly by the AUC and UNIDO in Tunis, Tunisia, from 22 to 24 February 2007 - Doc. EX.CL/344(XI)

104. Presenting this item, the Representative of the Commission informed the PRC that the meeting of experts on standardization was jointly organized in Tunis in February 2007 with the assistance of UNIDO. She further informed the PRC that market access conditions under WTO had become very strict. The developed countries had been raising the issue of sanitary and phyto-sanitary conditions that developing countries must comply with. While the issue of tariff reduction was increasingly being addressed, sanitary and phyto-sanitary conditions, on the other hand, had been inhibiting market access. Thus, the aim of the meeting was to share views with the countries that have experience in the area of standardization, together with the RECs and donors. The meeting concluded that Africa should and indeed, can acquire the basic quality infrastructure needed to improve conformity of African products to the standards of developed countries. However, given the high cost of such an operation, the acquisition of quality infrastructure must be done using a regional approach for establishment of laboratories for analysis, system certification, etc. Lastly, the Commission indicated that this document had been submitted to it for information and that it was part of preparations for the January 2008 Summit on Industrialization, to be preceded in September 2007 by an extraordinary session of the Conference of Ministers of Industry (CAMI).

105. The PRC took note of the report.

4. Consideration of the Report of Experts on the Framework for Foreign Private Investment jointly organized by the AUC and UNIDO in Addis Ababa, Ethiopia, from 12 to 13 March 2007 - Doc. EX.CL/345(XI)

106. Presenting this report, the Representative of the Commission informed the PRC that the Experts' meeting was organized in Addis Ababa on 12 and 13 March 2007, jointly with UNIDO to consider the draft common platform designed to facilitate investment in African countries. She pointed out that the initiative by Microsoft and UNIDO sought to bridge the information gap between the government, the private sector and the civil society. This software package would enable investment agencies to better manage information on potential investors in order to make the most of regional and national opportunities. She also pointed out that Microsoft and UNIDO intend to strengthen the technical capacities of these agencies in order to more effectively manage such information and the software package itself. Lastly, the representative of the Commission informed the PRC that the document would be presented to the extraordinary session of the Conference of Ministers of Industry scheduled for September 2007 in South Africa.

107. The PRC took note of the report.

5. **Consideration of the Report of Directors General of Customs Administrations held in Abuja, Nigeria, from 7 to 11 May 2007 - Doc. EX.CL/346(XI)**

108. The Representative of the Commission informed the PRC that the meeting of Directors General of Customs Administrations was inaugurated in 2004 and that it has been held regularly every year since 2005. She pointed out that the Directors General of Customs Administrations met in order to be more involved in the integration process in Africa. Thus, from 9 to 11 May 2007, they considered the impact of the economic partnership agreements on Customs Administrations. Their report shows their interest to better monitor the preparation of the relevant EPAs. The Directors General decided to convene an experts' meeting in order to better examine relations between EPAs and rules of origin and their impact on the daily work of Customs Administrations whose procedures would have to be reviewed. The Representative of the Commission added that the Directors General also examined the problem of strengthening the capacities of Customs Administrations as well as problems concerning integrity and the fight against corruption in Customs Administrations. The Representative of the Commission informed the PRC that the report had been submitted for information and that it would be considered by the Ministers of Finance for validation of the recommendations.

109. The PRC took note of the report.

6. **Consideration of the Report on the Evaluation of the Big Table on the Natural Resources of Africa held in Addis Ababa, Ethiopia, on 1 February 2007 - Doc. EX.CL/347(XI)**

110. The Report on the Evaluation of the Round Table on Africa's Natural Resources was presented by the Director of Trade and Industry. The 2007 Round Table was an informal meeting that took place on 1 February 2007 in Addis Ababa, Ethiopia, and was jointly organized by ECA and ADB to discuss Africa's natural resources as a catalyst for development. Ten African countries, seven OECD countries, officials and experts from OECD as well as some civil society organizations attended the meeting.

111. The meeting discussed various aspects of the management of Africa's natural resources and concluded that the continent was endowed with immense natural resources, whose rational management could trigger the process of sustainable economic growth. It was however pointed out that multi-national companies currently dominated the exploitation of these natural resources. They recommended that a meeting on Africa's resources should take place in mid-October 2007.

112. In the discussions that ensued, the PRC encouraged the Commission to continue its participation at similar future African meetings in order to project the African position. However, a number of issues were raised by some delegations regarding the form and structure of the report; the status of the report; whether the report should be presented to the Conference of African Ministers of Industry (CAMI) that will take place in South Africa in September 2007 or that of the Ministers

responsible for natural resources; and the budget for the meeting of experts that should precede the meeting of Ministers responsible for natural resources.

113. The PRC took note of the report and emphasized the importance of natural resources to the socio-economic development prospects of the African continent as well as for peace and security. It urged the Commission to develop a concept paper on the issue in conjunction with the ECA and the ADB, and recommended that the report of the Round Table be presented to the Conference of African Ministers of Industry (CAMI) that will take place in South Africa in September 2007.

7. **Consideration of the Report on Assessing Africa's Progress Towards the Millennium Development Goals, 2007 - Doc. EX.CL/332(XI)**

114. The PRC took note of the Progress Report on the MDGs.

AGENDA ITEM VII : CONSIDERATION OF THE DRAFT AGENDA ITEMS OF THE 10TH ORDINARY SESSION OF THE EXECUTIVE COUNCIL

PART A: PROPOSED ITEMS FOR ADOPTION WITHOUT DISCUSSION (in conformity with the provisions of Rule 9 (3) of the Rules of Procedure of the Executive Council)

1. **Report on the Protocol on Relations between the AU and the RECs**
- Doc. EX.CL/348(XI)

115. In introducing this report, the Representative of the Commission referred to Article 95 of the Treaty establishing the African Economic Community (AEC) which stipulated that relations between the Commission and the RECs should be governed by a Protocol concluded with Member States and signed by the Chief Executives of the OAU and RECs. He added that under the aegis of the AU, there was a need to review the existing Protocol in order to take into account the provisions of the AU Constitutive Act. He further added that the Protocol had been discussed between the PRC and the RECs and that it was being recommended to the policy organs with a view to give authorization to the Chairperson of the Commission to sign it with the Chief Executives of the RECs. The Commission then introduced briefly the contents of the eight chapters of the Protocol.

116. The Chairperson of the PRC underlined the importance of the Protocol, particularly in enabling the Commission to play its rightful coordination.

117. Delegations that took the floor highlighted the following issues:

- The Protocol should have been submitted first to the 2nd session of the Conference of Ministers of Integration which was scheduled to take place in Kigali, Rwanda in June 2007 but was postponed;

- The working languages specified in the Protocol should reflect all the working languages of the AU;
- The signature of the Protocol is long overdue;
- The Commission's capacity should be strengthened to enable it play effectively its coordination role;

118. The representatives of CEN-SAD and COMESA pointed out that this item was among those proposed for adoption without discussion because it had been examined by the PRC in 2005 and considered by the Ministers of Integration in Ouagadougou in 2006, and was further endorsed by the Summit in Banjul, in July 2006 and could be adopted without discussion.

119. The PRC then recommended the document to the policy organs for adoption and for authorization to be given to the Chairperson of the Commission to sign it on behalf of the African Union.

2. Report of the 1st AU Conference of Ministers in charge of Maritime Transport , 19 to 23 February 2007, Abuja, Nigeria – Doc. EX.CL/349(XI)

120. In presenting the Report, the Representative of the Commission informed the PRC that the First African Union Conference of Ministers responsible for Maritime Transport was held in Abuja, Nigeria from 22 to 23 February 2007 under the theme: “the Role of Maritime Transport in the Development of Africa”. The meeting, organised in collaboration with the Government of the Federal Republic of Nigeria aimed at defining and adopting an African vision on the development of the Maritime Sector in order to formulate an overall sub-sector strategy covering several key areas.

121. He further informed the PRC that the Ministerial Meeting had discussed constraints, opportunities and the way forward and adopted an “**Abuja Declaration on Maritime Transport in Africa**” as well as a “**Plan of action**”.

122. During the discussions that ensued, some delegations were of the view that reports of Sectoral Ministers should not be subjected to discussion by the PRC. Others on the other hand were of the view that discussing the reports would assist in understanding the structural and financial implications, particularly because the PRC is the clearing house for the Executive Council on these issues.

123. Some Member States sought clarification on the status of the proposed coordinations mechanism, (the African Maritime Organization) whether it would be related to, and integrated into the AU Structures, or whether it would be autonomous. Clarification was also sought on the variations with regard to the documents adopted by Sector Ministers (i.e. resolutions, declarations, communiqué and decisions). They wanted to know the legal force of each of them.

124. The Representative of the Commission indicated that there was no set standards with regard to the documents that Sector Ministers can adopt.

125. Following the above clarification, the PRC noted that it prepares recommendations for adoption by the Executive Council and the Assembly. Thereafter, the PRC took note of the Report and agreed to submit the following recommendations to the Executive Council :

- i) Take note of the report of the First African Union Conference of Ministers responsible for Maritime Transport;
- ii) Commend the Ministers responsible for maritime transport for the comprehensive strategy and commitment to meeting the challenges facing maritime transport in Africa;
- iii) Endorse the Declaration and Plan of Action on Maritime Transport in Africa;
- iv) Request the Commission, in collaboration with the RECs, specialised institutions, Member States and other stakeholders to take all the necessary measures to ensure the implementation of the Action Plan for the development of the maritime transport sector in the continent;
- v) Appeal to the International Maritime Organisation (IMO), the United Nations Economic Commission for Africa (UNECA); the African Development Bank (ADB), the European Union and other development partners to support the implementation of Plan of Action of the African Union on maritime transport; and
- vi) Request the Chairperson of the Commission to submit a progress report on the implementation of this decision to the next Session of the Executive Council.

3. Report of the Commission on the Outcome of the 3rd AU Conference of Ministers responsible for Air Transport, 7 to 11 May 2007, Addis Ababa, Ethiopia - Doc. EX.CL/350(XI)

126. Presenting the report, the Representative of the Commission indicated that the third African Union Conference of Ministers responsible for Air Transport was organized in collaboration with the Government of the Federal Democratic Republic of Ethiopia and was held at the Commission in Addis Ababa, Ethiopia from 10 to 11 May 2007 under the theme "Achieving a single, safe and secure airspace for Africa's development and integration". The Ministerial Conference was preceded by a preparatory meeting of experts from Member States held from 7 to 10 May 2007.

127. The main objective of the conference was to review the progress made and take decisions on the implementation of specific activities related to decisions, resolutions and action plans previously adopted by the Ministers in their 1st and 2nd Conferences held respectively in Sun City, South Africa, in May 2005 and in Libreville, Gabon in May 2006. The report identified the current agenda of the continent in air transport as the liberalization of air transport markets within the context of the 1999 Yamoussoukro Decision.

128. The Ministers adopted a Final Communiqué and a Declaration on Civil Aviation Security in Africa aimed at strengthening control systems for unlawful acts of interference in the field of civil aviation in Africa. A Plan of Action for the period 2007 – 2010 was also adopted and the Commission was requested by the PRC to consolidate the Plan of Action with the one previously adopted at the Second Conference held in Libreville, Gabon, in May 2006. Finally, the report made some recommendations for the consideration of the Executive Council.

129. Following the observations by some delegations and the explanations provided by the Commission, the PRC took note of the report and recommended it for adoption by the Executive Council.

4. **Draft Report of the 10th Extraordinary Session of the Executive Council and the Conclusions of the Brainstorming Session of Foreign Ministers in Durban, South Africa, 8 to 10 May 2007 – Doc. EX.CL/351(XI)**

130. In presenting this agenda item, the Commission pointed out that focus should be on the report of the 10th Ordinary Session of the Executive Council with particular emphasis on the Report of the Chairperson of the Commission on the Strengthening of the Commission, which was presented by the Legal Counsel.

131. Following the presentation of the Report on the Strengthening of the Commission, the Ministers had raised two essential points: that is, the principle of strengthening the Commission and the election of members of the Commission during the July 2007 Assembly in Accra, Ghana.

132. On the first point, the Commission added that the Executive Council felt that the Commission should undergo a comprehensive audit, the results of which would determine the appropriateness and modalities of strengthening the Commission. In this context, the Executive Council considered the terms of reference of the audit and approved them as amended. Furthermore, Council observed that the cost of the proposed amendments to the structure of the Commission had not been estimated, which made it impossible to evaluate the financial implications of the reforms.

133. On the issue of holding elections in July, two opinions were expressed. One of the options was that a proposal be made to the Heads of State and Government to postpone the elections until the next session of the Assembly in January 2008. The argument in support of this position was based, *inter alia*, on the idea that the outcome of the audit exercise would inform the decision on strengthening the Commission. The other option was that elections should be held in July, in conformity with the relevant provisions of the Constitutive Act, the Rules of the Procedure of the policy organs and the Statutes of the Commission.

134. Some delegations felt that it was a draft report of the Executive Council, which was not adopted, and as such, the PRC did not have the competence to consider it. The PRC should take note of it and refer it to the Executive Council.

135. Other delegations, on the other hand, underscored the need to consider the report in order to be able to brief Ministers on the issues .

136. At the end of the debate, the PRC came to the conclusion that it could consider the modalities for the implementation of some of the instructions given by the ministers. To this effect, the PRC asked the Commission the following questions:

- Has the audit process already begun? What are the guarantees that this audit will be carried out independently?
- Has the Commission already estimated the financial implications of the proposed reforms?

137. To these questions, the Commission gave the following clarifications:

- In reference to the decision taken by the January 2007 Assembly, the agenda of the Accra Assembly would be limited to two items relating to 1) the Grand Debate on the Union Government, and 2) the elections of members of the Commission;
- The Executive Council had considered and adopted the amended terms of reference of the audit. On this basis, the Commission was in the process of finalizing the modalities for implementation as well as the study on the costs. The relevant documents would be available shortly. The audit would be carried out by independent personalities that would be identified by the Chairperson of the Commission and the Chairperson of the Executive Council. The option in favour of a firm was rejected due to its financial implications which would be extremely high, and the difficulty there would be in finding such a firm in Africa;
- The Chairperson of the Commission and the Chairperson of the Executive Council agreed to consider the possibility of charging the cost of the audit to the regular budget of the Commission;
- The relevant services of the Commission were prepared for the possibility of holding the elections of members of the Commission in July 2007 during the Assembly in Accra, Ghana. However, the responsibility of convening the Ministerial Panel on elections of Members of the Commission was within the exclusive competence of the Panel.

138. Closing discussions on this issue, the Chairperson of the PRC stressed that the decision to postpone the elections of members of the Commission is merely a recommendation to be made to the Assembly of the Union by the Executive Council.

5. Report of the Conference of African Ministers in charge of Border Issues, 4 to 7 June 2007, Addis Ababa, Ethiopia - Doc. EX.CL/352(XI)

139. The item relating to the “Report of the Conference of African Ministers in Charge of Border Issues held in Addis Ababa, from 4 to 7 June 2007” was presented by a Representative of the Commission.

140. The Representative of the Commission recalled that the holding of this Conference was within the framework of the AU Border Programme and pursuant to previous decisions adopted by African Leaders. In this regard, it is worth mentioning the solemn commitment by all Member States to respect the borders existing at independence, as well as the relevant provisions of the Memorandum of Understanding on Security, Stability, Development and Cooperation in Africa (CSSDCA) adopted by the Assembly of Heads of State and Government in Durban, South Africa in July 2002 which provides for the delimitation and demarcation of African borders by 2012, where such an exercise has not taken place.

141. The Representative of the Commission recalled that the Assembly of the Union at its 8th Ordinary Session held in Addis Ababa in January 2007 encouraged the Commission to pursue its efforts at structural prevention of conflicts, including through the implementation of the AU Border Programme.

142. The Ministerial Conference which was held on 7 June 2007 adopted a “Declaration on the African Union Border Programme and its Implementation Modalities”. This Declaration focuses on the following points: justification of the AU Border Programme, its objectives, implementation principles, partnership and resource mobilization, and initial measures for the launch of the Border Programme as well as the follow-up on the Declaration.

143. The PRC took note of the report and decided to recommend the Declaration to the Executive Council for approval.

144. Furthermore, the PRC was informed by the Mozambican delegation of the organization in Maputo, in October 2008 of the 2nd International Symposium on the Demarcation and Maintenance of Border Areas. This Symposium would be preceded by a meeting of experts, also to be held in Maputo, in November 2007. The Mozambican delegation expressed the hope that all Member States would be represented at the Symposium scheduled for Maputo.

6. Report of the 1st AU Conference of Ministers in charge of Sports, 4 to 8 June 2007, Addis Ababa, Ethiopia – Doc. EX.CL/353(XI)

145. The Representative of the Commission recalled that the First Session ever of the Conference of Ministers in charge of Sport was held in Addis Ababa, Ethiopia, 4 – 8 June 2008. The Ministerial Meeting was preceded by the Experts Meeting. She also indicated that the next Session of Ministers for Sport would be held in 2008 and that Ghana had offered to host it. The Representative of the Commission mentioned the helicopter accident that had resulted in the demise of the Togolese

Minister for Sport and other Sports Officials the day before the Conference, as well as the spectators claimed by an accident at a Stadium in Zambia.

146. She explained that, among others, the Ministers considered the Report of Experts and adopted the recommendations therein as amended, summarized in the Addis Ababa Declaration of the First Session of the AU Conference of Ministers of Sport. The major recommendations are as follows:

- (i) The Conference of Ministers of Sport should be institutionalised as a statutory body of the AU;
- (ii) Member States should conduct an evaluation on the status of sports at national level as a strategy to promote and popularise sport, forward results to the AU Commission for compilation of a report to the next session;
- (iii) Identify and implement activities of the International Year of International Football. It is in this connection that Algeria is hosting the All Africa Games and Africa-Asia Games in Algiers, July 2007;
- (iv) Develop an AU Sport Policy Framework with measurable objectives and which should address issues such as sport and communication, inter-sectoral collaboration and anti-doping;
- (v) Establish a Committee comprising the Bureau of the Conference AU Commission and representatives of the 7 zones of the Supreme Council for Sports in Africa (SCSA), other sports Federations and Confederations to:
 - Study the restructuring of the SCSA,
 - Develop an MoU on a harmonized regime for strengthening relations between African Governments, Sports Federations and International Sport Federations;
- (vi) The AU to consider having a Ministerial Conference of Youth and Sport. In this connection, the AU Departments of Human Resources/Science and Technology and that of Social Affairs indicated they would work towards convening one session of Ministers in charge of Youth and Sport.

147. During the ensuing discussion, issues were raised and explanations provided as follows:

- i) Concerning the dilemma on expenses for hosting meetings it was explained that this referred to the usual financial implications for hosting AU Conferences;
- ii) As concerns the query on whether the Ministers adopted a Report or not, the delegations were reminded that the Ministers considered and adopted the recommendations by the Experts meeting as well as the Addis Ababa Declaration which is a Summary of the major recommendations;

- iii) The Report of the Ministers Meeting was forwarded to Members of the Bureau as had been agreed.

148. The PRC took note of the Report. It was recommended to the Executive Council for adoption.

7. Report of the Third Session of the AU Conference of Ministers of Health, from 9 to 13 April 2007, Johannesburg, South Africa - Doc. EX.CL/354(XI)

149. The Representative of the Commission indicated that the Ministerial Conference was held in Johannesburg, South Africa from 9 to 13 April 2007 on the theme: "Strengthening of Health Systems for Equity and Development". The main objective of the conference was to discuss health issues in general and the strengthening of health systems in particular.

150. The meeting adopted the following documents:

- i) The Africa Health Strategy;
- ii) The Pharmaceutical Manufacturing Plan for Africa;
- iii) The Plan of Action on Violence Prevention in Africa;
- iv) The Monitoring and Reporting Mechanism Plan for the Outcomes of the May 2006 Special Summit on HIV/AIDS, TB and Malaria;
- v) The Johannesburg Declaration.

151. In conclusion, the Representative of the Commission urged the PRC to consider the report and forward the recommendations contained in the respective documents above to the Executive Council for endorsement.

152. During the discussions that ensued, the following issues were raised:

- i) whether or not the Annexes attached to the report were adopted by the Ministerial Conference;
- ii) the relevance of the Plan of Action on Violence Prevention in Africa to the Ministerial Conference.

153. In response, the Representative of the Commission assured the PRC that the documents were adopted and that the Plan of Action was relevant as it contained cross-cutting issues with social implications, as well as actions towards continental efforts aimed at promoting access to affordable generic medicines.

154. The PRC took note of the report, in particular the Africa Health Strategy and the Johannesburg Declaration and requested that specific recommendations be submitted to the Executive Council.

8. Report of the Ministerial Committee on Candidatures to the International System - - Doc. EX.CL/355(XI)

155. In view of the fact that the Candidatures Committee meets on the margins of the Executive Council, the PRC referred the document for consideration by Council.

9. **Consideration of the Report of the UN-ECA Conference of African Ministers of Finance, Planning and Economic Development – Doc. EX.CL/335 (XI)**

156. The Representative of the Commission reported that the ECA Conference of Ministers of Finance took place in Addis Ababa from 29 March to 3 April 2007, and was organised in close collaboration with the Commission and African Development Bank. He added that a joint ECA/AU Commission Secretariat was set up to prepare the Conference. The theme of the Conference was “Accelerating Growth and Development towards MDGs: New Challenges and path ahead”. The Representative of the Commission stated that mention was made at the Conference that although Africa made substantial progress, its economic growth was still below the 7% set to attain the MDGs and reduce poverty. The Conference further pointed out differences in terms of growth across countries and regions in spite of macro-economic reforms, mainly due to the impact of high prices of petroleum. It therefore made recommendations towards seeking new sources of energy, especially renewable energy.

157. The Conference adopted the ECA plan of activities. The Ministers called for the necessity to build statistics and launch the forum for employment, to deal with peace and security, to invest in infrastructure and mobilise African human resources including the Diaspora. The Conference further highlighted the non-respect of commitments by the international community in terms of ODA and FDI, and identified the challenges that need to be overcome to attain the MDGs. The Representative of the Commission pointed out that the ECA, AUC and ADB were requested to jointly design a process to monitor MDGs. He recalled that the Conference also discussed the issues of regional integration, resource mobilisation, Aid for Trade and the integration of NEPAD into the AU. He reminded the PRC about the decision taken for the AUC to organise the Conference in 2008 jointly with ECA and ADB. Lastly, he called on the PRC to invite Council to endorse the Ministerial statement and Resolutions and to adopt the Decision of ECA Ministers of Finance.

158. The PRC took note of the Report and recommended its adoption by Council.

**PART B: ITEMS FOR DISCUSSION (in conformity with the provisions of Rules 9 (3) of the Rules of Procedure of the Executive Council)
(For information)**

1. **Consideration of the Report of the Chairperson of the Commission -Doc. EX.CL/356(XI)**

159. The PRC referred the document for consideration by the Executive Council.

2. **Consideration of the Report of the Permanent Representatives Committee – Doc. PRC/Rpt (XIV)**

160. The PRC adopted its report and referred it for consideration by the Executive Council.

3. Consideration of the Report of the Ministerial Troika on the AU/EU Joint Strategy – Doc. EX.CL/357(XI)

161. The PRC referred the document for consideration by the Executive Council.

4. Consideration of the Status of Negotiations of Economic Partnership Agreements with the European Union - Doc.EX.CL/358(XI)

162. The Representative of the Commission presented the Progress Report on the EPAs Negotiations, a process that began in 2002 between four of Africa's RECs/ Regional Groups and the European Union (EU). In the Cotonou Partnership Agreement (CPA), the EU and the African, Caribbean and Pacific (ACP) countries agreed that EPAs should be WTO-rules compatible and serve primarily as an instrument for the promotion of sustainable development, the eradication of poverty and the effective integration of ACP countries into the global economy.

163. According to the CPA, the negotiations are supposed to be concluded by the end of 2007 and EPAs to enter into force with effect from January 1, 2008. Currently, the EPAs negotiations are at a crucial stage and all the African Regions/Groups negotiating EPAs are under pressure from the EU to conclude the negotiations by the end of 2007 in spite of the fact that some substantive issues are yet to be satisfactorily addressed. Such issues include the need for the provision, on a predictable basis, of adequate resources over and above the EDF to accelerate the transformation of African economies; to build the supply-side and trade capacities of the countries; and to finance EPA related adjustment costs.

164. The report identified the challenges facing Africa in the EPAs negotiations as that of ensuring that the outcomes of the negotiations adequately take account of the interest and concerns of the developing countries and that EPAs are concluded as an instrument for development. Finally, the report made recommendations for the consideration of the Executive Council.

165. In the debate that ensued, it was observed that the EPAs negotiations were compartmentalized and structured on a different configuration from the RECs. It recalled the decision of AU Heads of State and Government to extend the deadline for the negotiations so as to take on board the outstanding issues pertaining to development. It also called for the need for African exports to continue to have access to the EU market. The issue was highlighted that since AU was given the mandate to coordinate EPAs negotiations, it should be proactive and be more involved in relevant meetings of the RECs.

166. The PRC took note of the report and reaffirmed the earlier decision taken by AU Heads of State and Government that it was not possible to conclude EPA negotiations by end of 2007. On the issue of coordination, the AUC and RECs were encouraged to continue to work in harmony in order to safeguard the interest of the continent. It was also indicated that paragraph 3 of the recommendations of the report should be reformulated in order to project alternative measures to be taken by Africa.

5. Consideration of the Report on the Status of Trade Negotiations in the World Trade Organisation (WTO) - Doc. EX.CL/359(XI)

167. In its presentation, the Representative of the Commission recalled the Declaration of the Doha Ministerial Conference which, in 2001, echoed the commitment of Member States to begin a new negotiation cycle focused on development. Despite this commitment, the negotiations have not moved forward. They were blocked in July 2006 and only recommenced in January 2007.

168. The Representative of the Commission subsequently gave information on the current situation of negotiations on major issues which are of vital importance to Africa, namely, agriculture, customs duties on industrial products, agricultural subsidies and export regimes practiced by countries of the North, market access, cotton and food aid. She also drew attention to other areas of negotiation such as LDC issues, rules, regional trade agreements, access to medicines, aid for trade and the Integrated Framework.

169. In conclusion, the Representative of the Commission underscored the concerted joint role played by the African negotiating group, the African Ministers of Trade and the Commission. This systematic collaboration enabled the formulation of recommendations for the practical implementation of the Doha commitments aimed at making the Doha cycle a development cycle.

170. In the course of the debate, the PRC made some observations and expressed the following concerns:

- i) the balance sheet of the negotiations remains bleak because of the inflexibility of developed countries on issues crucial to Africa;
- ii) Africa must obtain concessions on cotton;
- iii) food aid is not a good option for Africa;
- iv) Africa must seek concessions on TRIPS;
- v) Aid for trade should lead to a release of additional resources;
- vi) The Commission should pay special attention to the situation of capacity building in the Commission as per the Banjul Assembly decision of July 2006 by giving priority to the search for competent staff within the Continent.

171. The PRC moreover deemed the recommendations of the Commission modest given that they did not cover all the areas of concern for Africa. By reason of its complexity, it was requested that the progress report submitted by the Commission be first of all considered by the competent sectoral conference of ministers.

172. The Chairperson of the PRC invited the PRC to propose further recommendations to strengthen those submitted in the report, with the indication that this item will be included in the agenda of the Executive Council.

6. Consideration of the Report on the Situation in the Middle East and Palestine – Doc. EX.CL/360(XI)

173. The PRC referred the document for consideration by the Executive Council.

7. **Consideration of the Report of the President of the Pan-African Parliament (PAP) – Doc. EX.CL/361(XI)**

174. The PRC referred the document for consideration by the Executive Council.

8. **Consideration of the Report of the Standing Committee of ECOSOCC to the Assembly as envisaged in Section 10(d) of the Statute approved by the Assembly - Doc. EX.CL/362(XI)**

175. The PRC referred the document for consideration by the Executive Council.

9. **Consideration of the Report of the African Court on the Human and People's Rights – Doc. EX.CL/363(XI)**

176. The PRC referred the document for consideration by the Executive Council.

10. **Consideration of the Report of the African Committee of Experts on the Rights and Welfare of the Child – Doc. EX.CL/338(XI)**

177. The PRC referred the document for consideration by the Executive Council.

11. **Consideration of the Report of the African Commission on Human and Peoples' Rights (ACHPR) – Doc. EX.CL/364(XI)**

178. The PRC referred the document for consideration by the Executive Council.

12. **Election of Members of the African Commission on Human and Peoples' Rights – Doc. EX.CL/365(XI)**

179. The PRC referred the document for consideration by the Executive Council.

13. **Election of Commissioners – Doc. EX.CL/366(XI)**

180. The PRC referred the document for consideration by the Executive Council.

AGENDA ITEM VIII : ANY OTHER BUSINESS

Position of Executive Secretary for the United Nations Convention to Combat Desertification (UNCCD)

181. H.E. the Ambassador of the Republic of Benin informed the PRC that the term of office of incumbent Executive Secretary of the United Nations Convention to Combat Desertification Secretariat was coming to an end in 2007. In view of the importance of this Convention to Africa, the continent should continue to play a pivotal role in its implementation and every effort should be made to identify an African candidate as a replacement. There was, therefore, a need for Africa to agree to present another African candidate to the Conference of Parties. The Commission was requested to draft a decision for adoption by the Executive Council and thereafter by the Assembly.

Late Distribution of Documents

182. The PRC expressed serious concern on the late distribution of documents, especially for Ministerial Meetings that had been held some months before the PRC Meeting. It was of the view that timely distribution of documents would facilitate in-depth scrutiny and internal consultations, thus enabling meaningful contributions during meetings.

AGENDA ITEM IX : ADOPTION OF THE PRC REPORT

183. The PRC adopted its Report as amended.

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