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EXECUTIVE COUNCIL

Twenty-Sixth Ordinary Session

23 - 27 January 2015

Addis Ababa, ETHIOPIA

EX.CL/879(XXVI)

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**REPORT OF THE AFRICAN UNION ADVISORY BOARD ON
CORRUPTION ON THE IMPLEMENTATION OF
DECISION EX.CL/DEC.847(XXV) ADOPTED
BY THE EXECUTIVE COUNCIL IN
MALABO IN JUNE 2014**

**REPORT OF THE AFRICAN UNION ADVISORY BOARD ON CORRUPTION ON THE
IMPLEMENTATION OF DECISION EX.CL/DEC.847(XXV) ADOPTED
BY THE EXECUTIVE COUNCIL IN MALABO IN JUNE 2014**

I. INTRODUCTION

1. The African Union (AU) Advisory Board on Corruption (ABC) was established in conformity with Article 22 of the African Union Convention on Preventing and Combating Corruption adopted by the Second Ordinary Session of the Assembly of the African Union, in Maputo, Mozambique in July 2003 and entered into force on 5 August 2006 which stipulates, inter alia that *'there shall be an Advisory Board on Corruption within the African Union.'* The AU ABC was operationalized in 2009 following the election of the first eleven (11) Members for a two (2) year term by the 16th Ordinary Session of the Executive Council and appointment by the 12th Ordinary Session of the Assembly of the AU held in Addis Ababa, Ethiopia in January 2009¹. The Seat of the Secretariat of the AU ABC was at the AU Headquarters, in Addis Ababa, Ethiopia within the Department of Political Affairs (DPA).

2. At the 20th Ordinary Session of the Executive Council held in January 2012 in Addis Ababa, Ethiopia, the United Republic of Tanzania offered to host the AU ABC Secretariat in Arusha, Tanzania². The Assembly meeting at its Eighteen Ordinary Session held in Addis Ababa, Ethiopia³, requested ***"the Commission, in collaboration with the Government of the United Republic of Tanzania, to take necessary measures to ensure the successful establishment of the Secretariat."***

3. The Host Agreement between the Government of the United Republic of Tanzania and the African Union on the Seat of the AU ABC was signed in Addis Ababa, Ethiopia on 18 January 2013.

II. BACKGROUND

4. The AU ABC Secretariat was relocated to Arusha, Tanzania in April 2013. The AU ABC budget comprised the following:

- i) The operational budget [2012: **US\$ 539,466**; 2013: **US\$ 470,486**; and 2014: **US \$ 492,436**] financed through the contributions of the AU Member States was for payment of the salaries of the staff members within the approved structure and two (2) ordinary sessions of the AU ABC. The approved complement of seven (7):five (5) professionals and two (2) support and the recruitment implementation plan for the Secretariat⁴ was as follows:

✓ 1 Secretary to the Board P5

¹ Decisions EX.CL/Dec. 485(XVI)] and Assembly/AU/Dec. 224(XII)

² Doc. EX.CL/719 (XX) Add.3

³ Decision Assembly/AU/Dec.403 (XVIII)

⁴ Doc.EX.CL/687 (XX)i, Part G, paragraph 25 to 27

- ✓ 1 Senior Policy Officer Political and Legal matters P3
- ✓ 1 Senior Policy Officer Economic matters P3
- ✓ 1 Finance and Administration Officer P2
- ✓ 1 Documentalist & Office Assistant P1
- ✓ 1 Bilingual Secretary GSA4
- ✓ 1 Driver/ Mail Runner GSB7

- ii) The financial implications of the structure of the Advisory Board on Corruption amounting to **US\$533,979.59** was to be implemented over a period of three (3) years even though to date, only two (2) regular staff, namely the Senior Policy Officer Political and Legal matters and the Documentalist & Office Assistant have been recruited in October 2013. In addition, the Finance and Administration Officer was transferred from the African Commission on Human and Peoples' Rights to the AU ABC Secretariat in August 2014⁵ :

Year	2012	2013	2014
Percentage	50%	25%	25%

- iii) The programme budget and the running costs of the Secretariat were financed at hundred percent (100%) by a sole partner, the Government of Sweden through the Swedish International Development Cooperation Agency (SIDA). In this regard, the support to the implementation of the AU ABC's Strategic Plan 2011-2015 was initiated in 2011-2012⁶ with regard to the following four (4) pillars:

- ✓ Support to the Implementation of the AU Convention against Corruption;
- ✓ Awareness-raising on the AU Convention against Corruption and visibility of the African Union Advisory Board on Corruption;
- ✓ Building partnerships with Anti-corruption Stakeholders;
- ✓ Organizational efficiency of the Board and Monitoring and Evaluation.

- iv) The Swedish contribution was effected utilizing an already existing (broader) Swedish contribution to the United Nations Economic Commission for Africa (UNECA). In this regard, the AUABC had received:

- ✓ 2011: **US\$106,000** and 2012: **US\$310,000**

⁵ This table indicates the recruitment plan at the AU ABC as approved by the Policy Organs in 2011

⁶ African Union Advisory Board on Corruption 2011-2015 Strategic Plan (June 2011)

- v) It would be recalled that the AU ABC Secretariat had relocated to Arusha in 2013. The Government of Sweden decided under a specific project entitled “Support to the Activities of the African Union Advisory Board on Corruption (AU ABC)” to fund the AU ABC for 2013 to a tune of **US\$ 915,214.93**⁷. In this regard, the Government of Sweden, through its Embassy in Ethiopia, entered into a Grant Agreement⁸ with the United Nations Economic Commission for Africa (UNECA) represented by the Chief Partnerships and Technical Cooperation Office (PATCO) pursuant to which Sweden through UNECA disbursed an amount of **US\$ 809,925** to support the implementation of the AU ABC Strategic Plan 2011-2015.

5. It should be pointed out that the Agreement provided, *inter alia*, that “the funds made available by Sweden shall be subject to the internal and external auditing procedures as provided for in the financial regulations, rules and directives of UNECA” and that the reporting in particular the financial reports and information on the use of the funds would be provided by UNECA. In this regard, the UNECA PATCO submitted to the Swedish side a progress report for the period January to July 2013⁹.

6. However, in March 2014, in violation of the Agreement between Sweden and UNECA, Prof. Adolphe Lawson, the then Interim Executive Secretary (IES) forwarded directly to Sweden the financial statement and the fund utilization matrix with the situation as at 31 December 2013. Sweden then realized that the funds disbursed were not used in line with the approved activities and, in particular, those for the celebrations of the 10th Anniversary of the entry into force of the Convention that was organized by the Secretariat in Arusha, Tanzania from 7 to 9 December 2014.

7. It should be pointed out that out of the **US\$ 809,925**, **US\$350,802** was spent as at 31 October 2014 when preparations were being made for the 10th Anniversary, leaving a balance of **US\$ 459,123** for the activities of the AU ABC until 31 December 2013. The estimated budget for the 10th Anniversary was **US\$491,000**. Ultimately a budget of **US\$ 308,613.98** (travels, workshops, concerts, materials, media production and reporting) was spent and paid from the SIDA funds even though this was not provided for and authorization was not sought from Sweden.

8. On 28 January 2014, Sweden convened a meeting with UNECA indicating it had received a yearly report¹⁰ of the Project directly from the AUABC without the knowledge of UNECA, together with a request for funds to cover a budget deficit of **US\$ 163,000**. Thereafter the Swedish side undertook a mission to Arusha on 13 and 14 February 2014.

⁷ 2013: 915,214.93: US\$ 809,925 to AU ABC and 105,290.21 to UNECA as administrative cost

⁸ Agreement between Sweden and the United Nations Economic Commission for Africa (UNECA) on Support to the Programme to Implement the African Union Advisory Board on Corruption (AUABC) Strategic Plan 2011-2015

⁹ Letter referenced OP/13/09/0526 and dated 19 September 2013

¹⁰ Document referenced AUAB/CORR/0125/2012 and dated 27 November 2013

9. The Office of Internal Audit (OIA) of the AU Commission, following the approved annual audit plan of 2013, and in accordance with its mandate under the AU Internal Audit Regulations, carried out a review of the financial and administrative activities of the AU ABC in December 2013. The outcome of the audit¹¹ for the mentioned period revealed the following irregularities:

- i) 10th Anniversary celebrated by the Secretariat had no budget, the expenditures made lacked appropriate procurement procedure, and there were same overriding of internal controls by the IES;
- ii) Charging of expenditures to the programme budget without budgetary provisions;
- iii) Budget execution and expenditure control included off budget programmes with funding;
- iv) The use of special hotel rates had no relevant approvals, and imprest was given out without complying with Circular ref:AD/FIN/35/4518 dated 29/07/04 upon return from mission;
- v) There was double payment of salary and housing allowance to the IES as his salary was paid both at AUC and AU ABC Secretariat, even though most of the double salary payments were refunded before the audit. Additionally, he was staying in a government provided house whilst receiving housing allowance at the same time;
- vi) Lack of retirements of imprest and travel advances leading to significant amounts unretired;
- vii) Lack of compliance with procurement rules was observed in the procurement of office furniture and other office equipment amounting to US\$79,400.

10. In addition, the AU Board of External Auditors carried out in April 2014, an audit of the AU ABC. It was noted that the AU ABC:

- i) Had spent about the same total amount of funds on the celebration of the 10th Anniversary of the establishment of the AU ABC as mentioned above. It was further noted that this celebration was not budgeted for but the funds provided by Sweden for programmes and projects were used to cover the expenses;
- ii) Had purchased assets including furniture and office equipment costing USD 128,300.00, in some cases three (3) quotations were attached to the

¹¹ Document referenced No.OIA/2013/030 (January 2014) and No.OIA/2013/033 (June 2014)

disbursement-vouchers (DVs). However the value of the assets exceeded the quotation threshold;

- iii) Purchased travel tickets from one (1) supplier. Here again, there was no evidence that the company was selected from a competitive tendering;
- iv) The IES failed to retire a total amount of USD 10,935.00 given to him as travel advances for different missions;
- v) In violation of the practice of the AU which provides for business class tickets for Staff when the travel time is eight (8) hours and above, the IES used such facility on at least twenty (20) occasions, with the travelling time ranging from 1:30 hours to 6:50 hours.

11. From the AU Commission side, pursuant to the Special Report of the OIA of January 2014, the following actions were taken:

- i) March 2014: establishment of an investigation team made up of Representatives of the Directorates of Administration and Human Resource Management (AHRM) and Programming, Budgeting, Finance and Accounting (PBFA) and the Office of the Legal Counsel (OLC);
- ii) April 2014:
 - 2 to 5 April 2014: mission of the investigation team on the alleged financial mismanagement and administrative irregularities at the AU ABC Secretariat.
 - 2 April 2014: in conformity with the AU Staff Rules and Regulations¹², a letter of suspension, with pay, dated 6 March 2014 was served on Prof. Lawson and appointment of the Deputy Legal Counsel, as acting Executive Secretary (ES)¹³ and resumption of duties by the latter at the AU ABC Secretariat on 6 April 2014.

(a) ¹² Rule 61 [Administrative and Disciplinary Measures], Rule 61.3 (J) Suspension on Prima Facie Evidence: "The Chairperson or the competent authority of any other organ may suspend a staff member with pay upon receipt of prima facie evidence related to gross misconduct, financial or audit report incriminating him or her for fraud, embezzlement, inappropriate allocation of Union funds or where the staff member is unable to validly account for expenditure of Union's fund. The suspension shall not be for more than an accumulated period of three (3) months pending the decision of the Chairperson or the competent authority of any other organ following the recommendations submitted to him or her by the Disciplinary Board. A staff member, while on suspension, shall not be allowed to travel outside his or her duty station without permission and may be restricted to access certain premises of the Union".

¹³ Memo dated 11 March 2014

- 9 April 2014: Report of the mission to investigate the alleged financial mismanagement submitted to the Bureau of the Deputy Chairperson (DCP).
- 21 April 2014: meeting held between the Acting ES and the UNECA PATCO, at the Headquarters in Addis Ababa. The conclusion was that it was important for the AU ABC to provide the financial report with all the supporting documents and in line with the agreed activities.
- 22 April: meeting held at the request of the Acting ES with the DCP. In attendance were representatives of Administration and Human Resource Management Directorate (AHRM), Department of Political Affairs (DPA), Programme, Budgeting, Finance and Accounting Directorate (PBFA), Office of the Internal Audit (OIA) and Office of the Legal Counsel (OLC). The outcome and recommendations are contained in the minutes of the meeting.
- 23 April 2014: memo¹⁴ from the Ag. Director of AHRM to Prof. Lawson requesting him to respond to the issues raised in the OIA Audit Report and that of the Investigation Team.
- 26 April 2014: response from Prof. Lawson received by AHRM.
- 22 May 2014: meeting between the Acting ES and the Swedish side at the Swedish Mission in Addis Ababa. The request from the Swedish to the AUC was for a forensic audit by auditors paid and identified by them.
- 11 June 2014: meeting, at the request of the Swedish side, between the AUC side (Director PBFA, Director DPA and Acting ES) and Sweden. The Swedish side reiterated its requests for a forensic audit.
- 11 June 2014: Bureau of the Chairperson in receipt of a letter dated 10 June 2014 from the Chairperson of the AU ABC raising a number of issues and making some recommendations.
- 17 June 2014: the Commissioner for Political Affairs briefed the Commission on the state of the AU ABC. A number of recommendations were made on the way forward and approved thereon.
- 24 June 2014: the Executive Council meeting at its Twenty-Fifth Ordinary Session in Malabo, Equatorial Guinea adopted Decision

¹⁴ Memo referenced AHRM/91001560/3520.14 and dated 23 April 2014

EX.CL/Dec.847(XXV) and requested the AU ABC to report in January 2015 on the implementation of the said decision.

- 1 July 2014: Report by the Acting Executive Secretary on the situation of the AU ABC and all the issues requiring urgent attention submitted to the Bureau of the Chairperson.
- 1 July 2014: the Chief of Staff requested the Office of the Secretary General of the Commission (OSGC) to table the said report at the 257th Meeting of the Commission scheduled for 3 July 2014. However, the agenda of 3 July 2014 provides for a Report on the situation at the AU ABC but by the Legal Counsel.
- 3 July 2014: Letter granting authorization for the requested audit by Sweden sent by Director PBFA to the Swedish side.
- 22 July 2014: opening meeting between Representatives of AUC (acting ES and PBFA: 1 Senior Finance Officer and 1 Assistant Accountant), Sweden and PriceWaterhouseCoopers Kenya and agreement reached on the Terms of Reference of the audit.

iii) August 214

- 12 August 2014: closing meeting between Representatives of AUC side (acting ES, 1 Senior Finance Officer and 1 Assistant Accountant), Sweden and PWC at the end of the audit by PWC in Arusha at the AU Headquarters.

iv) October 2014

- 30 October 2014: AU ABC received, from Headquarters, in its account, **US\$294,844.89** for payment of the 2013 and 2014 AU ABC creditors.

12. As indicated above, at the request of the Swedish Government, and upon approval by the AU Commission, PriceWaterHouseCoopers Kenya undertook a special review of the African Union Advisory Board on Corruption (AU ABC) with respect to the project, "Swedish Support to AUABC 2013" for the year ended 31 December 2013 and submitted a report thereon. The specific objectives of the engagement included the following:

- To determine whether donor funds were used for the intended purposes;
- To determine whether procurement of goods and services, and actual implementation of financed activities were executed in accordance with the

approved project documents, budgets, work plans, specifications, and in accordance with the relevant laws, regulations and procedures;

- To establish if, how and by whom irregular and fraudulent practices took place;
- To estimate if applicable, the amount of money lost due to any such practices; and
- To estimate if applicable, the amount lost due to non-compliance with rules and regulations even if not possible to establish as cases of corrupt practices.

13. The review of the supporting documentation for the sampled expenditure transactions revealed the following:

*i) That an amount of **US\$ 463,193.00** was questionable:*

- There was unsupported expenditure amounting to **USD 32,397**. No documentation was provided for the inspection for this amount;
- There was inadequately supported expenditure amounting to **USD 72,421**. For this amount, there were some missing documents relating to the eligibility of the expenditure.
- Expenditure of **USD 357,756** incurred and reported by AU ABC was not in line with the approved Project. There were variances between the detailed listing of expenditure from the AU ABC accounting system and the certified financial statement/report expenditure line items;
- Inappropriate exchange rates applied in translation of transactions incurred in currencies other than USD resulting into a variance of **USD 619** between amounts in the GL and amounts as per supporting documents.

*ii) That AU ABC utilised almost the total allocated budget of **USD 759,487**. However, there were significant over- and under- utilization of budget line items in that one (1) budget line (Axis 2) was significantly over-utilized while two (2) budget lines (Axis 1 and Axis 4) were significantly under-utilised. There was no authorisation obtained from the Swedish Embassy for these significant budget reallocations as shown in the table below:*

Budget Line	Description	Budget (USD)	Actual Expenditure (USD)	Variance (USD)	% Utilization
Axis 1	Support to Implementation of Convention	219,000	143,516	75,484	66%
Axis 2	Awareness-Raising on Convention and Visibility of the Board	111,000	361,715	-250,715	326%
Axis 3	Building Partnerships	109,925	94,997	14,928	86%
Axis 4	Organizational Efficiency of the Board and Monitoring and Evaluation	319,562	159,195	160,367	50%
	Total	759,487	759,423	64	100%

iii) *That there were instances of non-adherence with the AUC procurement regulations as follows:*

- The process of supplier selection was not open and transparent and there were no sufficient records maintained to indicate that supplier sourcing was competitively done. ABC mainly single sourced most of the purchases for goods and consultancy services even where the amounts were above the direct sourcing threshold of USD 500;
- ABC did not have a tendering/ selection committee during the implementation period;
- There were instances where goods received notes were not prepared to evidence timely delivery of goods.

iv) *Non-compliance with the financial and internal control procedures:*

- Weaknesses in cash and bank management procedures;
- Failure to keep proper records for office stores and consumables – No records for items issued by AU ABC from the store like office

stationery and items purchased for the anniversary like bags, caps and folders were maintained;

- Weaknesses in cash and bank management procedures
- Project assets were not tagged;
- Failure to adhere to AUC inventory management procedures;
- Weaknesses in the management of vehicle fuel and usage costs;
- Failure to adhere to AUC travel guidelines; and
- Non-adherence to the AUC recruitment policies.

14. The table attached hereunder provides an overview on the required actions that needed to be taken in order to remedy the critical situation that the AU ABC was and continues to face.

III. CONCLUSION

15. The AU Commission has identified all the issues that need to be addressed and the remedies required. In this regard, it has expedited the recruitment of a substantive Executive Secretary and will ensure that the Secretariat is efficient and effective by endowing it with the necessary financial and human resource capacity. Following the advertisement of the post of the Executive Secretary, shortlisting was done on 10 June 2014. Interviews of the shortlisted candidates took place on 15 July 2014. The report of the interview was submitted to the Appointment, Promotion and Recruitment Board (APROB) on 4 September 2014. The APROB Minutes were endorsed for implementation on 12 November 2014. The AU Commission is now ready to appoint the new Executive Secretary early in 2015. The Commission is confident that the new Executive Secretary together with the new Members of the AU ABC to be elected in January 2015 will be in a position to set the AUABC on a new path in its discharge of its vital mandate.

Key Issues	Facts	Remarks	Office/ Department	Action required
<i>The Commission was requested in collaboration with the Government of the United Republic of Tanzania to take necessary measures to ensure the successful establishment of the Secretariat</i>	<p>The Commission did not provide the necessary support to the AU-ABC during the relocation and setting of new offices in Arusha as is the practice.</p> <p>The Commission has not finished the recruitment of the regular positions which was to commence in 2012 and only two (2) staff members have been recruited so far.</p>	<p>The Commission was to second staff members from AHRM and PBFA as it has been done in the past for other Organs such as the Pan African Parliament, etc to assist in establishing the office.</p> <p>The Commission was also to expedite the recruitment of the substantive Executive Secretary.</p>	AHRM	AHRM to provide explanation as to why the recruitment has been delayed and only one senior officer and the documentalist have been recruited since 2012
Appointment of the Interim Executive Secretary	The Interim ES was recruited following advertisement and interviews. In addition, the contract extensions were done by AHRM based on the request by either AU-ABC Chairperson or the Director, DPA.	It is irregular for a short term staff to take up a substantive position and then to be given the responsibility to relocate and establish the Secretariat in Arusha, Tanzania.	AHRM and DPA	AHRM and DPA to provide clarification on the whole process
Appointment of an Assistant Accountant as acting Finance	Since the relocation in Arusha, an Assistant	The need for a full time Finance Officer is compounded by the fact that the	AHRM	AHRM to expedite the recruitment or redeployment

Key Issues	Facts	Remarks	Office/ Department	Action required
Officer	Accountant (GSA) has been acting as Finance Officer (P2). Her contract ends on 31 July 2014. The renewal of her contract would be unacceptable.	Assistant Accountant has been identified in the audit as having paid herself undue money and has been requested to refund an important amount.		of a Finance Officer
Double payment of salary and housing allowances to the Interim Executive Secretary	AHRM should have issued a transfer letter/assumption of duty after which Payroll and PBFA should have stopped payment of his Addis Ababa salary.	There seems to have been lack of coordination between AHRM, PBFA and DPA during the relocation of the AU-ABC to Arusha, thus, this was an institutional weakness	AHRM and DPA	AHRM and DPA to provide clarification on how this could have happened
Institution of disciplinary measures or criminal proceedings	The Commission was considering instituting criminal proceedings against the Interim ES. However, the conduct of the Interim ES bordered on abuse of office and administrative infringements of the AU rules and procedures.	The Office of the Legal Counsel was to undertake consultations on the institution of criminal proceedings under Tanzanian law	OLC	OLC to report on actions taken or on way forward since the Contract of Prof. Lawson ended on 30 June 2014
Celebration of the 10th Anniversary	The Interim ES decided to celebrate the	The Commission was to take decisive action against the	BDCP and PBFA	BDCP and PBFA to report on action taken

Key Issues	Facts	Remarks	Office/ Department	Action required
	10 th Anniversary when the activity was not approved by the Board and there was no budget. Nevertheless, the Secretariat used the SIDA-UNECA funds to pay for some of the expenditures. Most of the suppliers have not been paid for services rendered.	Interim ES before briefing the PRC for possibilities of supplementary budget or decide on any other course of action.		
Request by the Swedish to audit the AU ABC Accounts	The Swedish, the sole partner of the AU ABC has requested that they be allowed to pay for and appoint independent auditors to audit the accounts on Terms of Reference to be agreed to with the AUC.	The findings of the OIA and the Board of External Auditors are the same. A new audit might not bring to light anything new.	CP	Management needs to decide if it is opportune to have another audit or just to give communicate to the Swedish the Reports of the AU Auditors
Wrong charging of expenditures	purchases of stationeries, furniture, office equipment and other items of US\$90,606.98 were wrongly charged to SIDA-UNECA which does not have budgetary provision for	The AUC should assist in finding resources to refund the money wrongfully deducted.	DPA and PBFA	DPA and PBFA

Key Issues	Facts	Remarks	Office/ Department	Action required
	furnishing or operational activities of the office.			
Payment of the short term staff at the AU ABC Secretariat	The six (6) short term staff out of the total staff of eight (8) was paid under the SIDA Fund but since there are no more funds there is need to decide whether to retain or lay off those staff members.	The Commission would have to find resources to pay those staff members if they are to be retained but also if they have to be laid off.	PBFA	PBFA was to look into the matter with a view to making appropriate recommendations
Appointment of the Deputy Legal Counsel as Acting Executive Secretary	When working out the modalities for the special appointment of the Deputy Legal Counsel, it was established that the position of ES was at P5 and Prof. Lawson was only receiving the package of a P6 Step 6. Therefore, the most senior officer at the Secretariat could have been appointed Acting ES.	The Staff Rules and Regulations (SRR) do not provide for an officer to hold two (2) different positions in two (2) different organs of the AU. Further, the SRR only provides for acting on a position higher than the substantive one that the staff holds.	OLC	OLC was to look into the SRR and proffer a legal opinion to enable management make an informed opinion
The Department of Political Affairs to supervise the operationalization of the AU ABC	DPA indicated that it had stopped overseeing the activities of the AU ABC	The AU ABC is an independent organ such as the African Commission on Human and Peoples' Rights, the African		

Key Issues	Facts	Remarks	Office/ Department	Action required
	because of an opinion from OLC wherein it was stated that the AU ABC is an independent organ.	Committee of Experts on the Rights and Welfare of the Child, etc. However, the mandate of the AUC is to oversee the operationalization of AU ABC, in conformity with Decision Assembly/AU/Dec.4 03 (XVIII) and this is yet to be done.		

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Twenty-Sixth Ordinary Session

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**REPORT OF THE AFRICAN UNION ADVISORY BOARD ON
CORRUPTION ON THE IMPLEMENTATION OF
DECISION EX.CL/DEC.847(XXV) ADOPTED
BY THE EXECUTIVE COUNCIL IN
MALABO IN JUNE 2014**



SC13849

**REPORT ON IMPLEMENTATION OF DECISION EX.CL/Dec.847 (XXV) ON THE
REPORT OF THE AFRICAN UNION ADVISORY BOARD ON CORRUPTION (Doc.
EX.CL/860 (XXV))**

- I. At its twenty-fifth ordinary session held in Malabo, Equatorial Guinea, from 23 to 24 June 2014 , the Executive Council of the African Union adopted the Decision **EX.CL/Dec.847 (XXV) on the Report of the African Union Advisory Board on Corruption (Doc EX.CL/860 (XXV))**. By that Decision:

The Executive Council,

1. **TAKES NOTE** of the Activity Report of the African Union Advisory Board on Corruption and **ENDORSES** the recommendations contained therein;
2. **COMMENDS** the Advisory Board on Corruption for the work accomplished and **ENCOURAGES** it to continue its efforts;
3. **EXPRESSES** its grave concern on the alleged misappropriation of resources allocated to the Commission and **REQUESTS** the AUC and its Audit Services Directorate to submit, as soon as possible, a comprehensive report on the investigation being undertaken and measures to be put in place to redress this situation at the January 2015 Assembly session;
4. **CALLS UPON** the AU Commission and the AU Advisory Board to enhance their cooperation to remedy the situation through an appropriate mechanism;
5. **ALSO CALLS UPON** the Commission to provide to the Advisory Board the requisite human and financial resources within the allocated budgetary provisions to enable it fulfill its mandate. In this regard, the AU Commission should be urged to fill the post of Executive Secretary in an expedient manner;
6. **FURTHER CALLS UPON** all Member States that have not yet done so to sign, ratify and implement the African Union Convention on

Preventing and Combating Corruption and report to the Advisory Board on its implementation as provided for under that Convention;

7. **STRESSES** the need for Member States to provide the necessary support to the Advisory Board, in particular, the requisite resources from the AU Budget and voluntary contributions rather than over depending on funding from external partners;
8. **REQUESTS** the Advisory Board to follow up on the implementation of these recommendations and submit a report at the next session of the Assembly.

II. The African Union Advisory Board on Corruption **observes** that none of the crucial items specified in **paragraphs 4, 5, 6 and 7** of the above Decision has been implemented by the African Union Commission.

1. Regarding item 3, the Advisory Council received a draft report of the Audit Services Directorate on the status of the misappropriation that occurred and the preventive and final measures to be taken. The Board is awaiting the final report which, hopefully, will be presented to the Assembly in January 2015.
2. On item 4 concerning the strengthening of cooperation between the Board and the Commission, the Advisory Board observes that relations between the two bodies have remained profoundly unsatisfactory. To date, no meeting has been initiated to review the modalities of establishing an appropriate mechanism for managing and monitoring the Board's resources, despite the fact that the Advisory Board had taken the initiative which unfortunately had yielded no result.

In fact, by letter dated 15 January 2014, we had requested the Chief of Staff of the Office of the Chairperson of African Union Commission to convene a working session with the various Commissioners, Directors and other Heads of Organs with a view to strengthening cooperation between the Advisory Board and the Commission. No reply was received. We sent out a reminder on 17 February 2014, but again there was no reply. We wrote again on 13 March 2014 but still there was no reply. In very low spirits, we wrote to the Chairperson of AU Commission on 10 June 2014; no response to date and no mechanism has yet been put in place.

After the Malabo Assembly session, the Commissioner for Political Affairs, the Director of Political Affairs and a senior officer of that Department met the Advisory Board Chairperson and one of his senior staff members in Malabo.

To date, no item of what was discussed during that meeting has been implemented.

On 8 October 2014, we wrote to the Commissioner for Political Affairs reminding her of the need to implement Executive Council

and Malabo Assembly decisions on the situation of the Advisory Board.

In response, the Director of Political Affairs sent us the interim report on the misappropriation by the Acting Executive Secretary, Professor Adolphe LAWSON.

3. Concerning item 5 on allocation of human and financial resources, the Advisory Board observes, with regret, that no initiative has been taken to implement the crucial provision of Decision **EX.CL/Dec.847 (XXV)** despite numerous reminders and notifications to AU executing authorities.

In fact, pursuant to paragraph 8 of the said decision, the Chairperson of AU Advisory Board on Corruption, by letter dated 8 October 2014, copy of which is attached to this report, contacted the Commissioner for Political Affairs to find out whether the above-mentioned decision has been effectively implemented. The letter is yet to receive a response.

Similarly, by letter dated 29 October 2014, the Chairperson of African Union Advisory Board on Corruption contacted AU Commission Chairperson with copy to the Commissioner for Political Affairs, informing her that the Advisory Board was awaiting "implementation of the recommendations made by the Executive Council at its 25th Ordinary Session held in Malabo from 23 to 24 June 2014." To date, the Advisory Council has not received a reply.

Moreover, the Rules of Procedure of the African Union Advisory Board on Corruption statutorily institutes at least four ordinary sessions each year. For budgetary reasons, the non-availability of resources contrary to item 5 of the Decision of Malabo, did not make possible the holding of the 2nd, 3rd and 4th sessions of the Board beyond the single session held in March 2014. Therefore, no activity could be carried out during 2014 due to lack of financial resources. For a body, members of which are not permanent and are expected to meet at least four times a year, the consequences are enormous.

Furthermore, recruitment of an Executive Secretary as recommended as a matter of urgency by the Malabo Decision has still not been effected. The Advisory Board Executive Secretariat is still being administered by an acting officer; and yet, upon publication of the relevant Advertisement late January 2014, the Advisory Board wrote to the Chief of Staff of the Office of the Chairperson of the Commission transmitting the job profile of the Executive Secretary and underscoring the need for an Advisory Board member to participate in the final stage of selection of an Executive Secretary. To date, no member of the Advisory Board has been invited to take part in recruitment of an Executive Secretary, despite the fact that the letter was forwarded to all relevant authorities in charge of staff recruitment.

4. Regarding item 6 of the Decision, the non-implementation of the afore-mentioned measures set forth in the Malabo Decision did not make it possible for the Advisory Board to undertake the promoting of the Convention among non-signatory States, a crucial aspect of its mandate. As a matter of fact, many African States have signed and ratified the United Nations Convention against Corruption, but have not done the same for the African Union Convention. This poses a challenge to us.
5. On item 7, a continuous advocacy action must be undertaken vis-à-vis the States to encourage them to participate and invest in preventing and combating corruption.

In fact, since the launch of the Advisory Board's activities, Member States have contributed very little to the funding of the activities. The African Union cannot create a body and leave the financing of its activities only to partners.

6. The afore-listed situations have had disastrous consequences on the implementation of the mandate of the AU Advisory Board on Corruption, the proper functioning of the organ and, indeed, its credibility vis-à-vis the partners.

All these operational challenges, compounded by the difficult mobilization of financial and human resources to properly and effectively address the problem of corruption, raise questions as to whether there is meaningful will on the part of the States Parties to actually prevent and combat corruption on the Continent.

The fight against corruption is an investment to which all States Parties to the African Union Convention on Preventing and Combating Corruption must unflinchingly subscribe if they are really aspiring to achieving emergence by 2025. Development has a price and the fight against corruption is the *mantra*, the only way through to that goal.

The fight against corruption thrives mainly on people's mindset about the struggle. It is up to the States to put out strong signals by rallying a sterling determination around the struggle to be actualized in the strengthening of the Advisory Board, a body for the anti-corruption fight with which the Convention signatory States have been endowed.

III. In view of the foregoing, the African Union Advisory Board on Corruption humbly makes the following recommendations:

1. Effective implementation of Decision EX.CL/Dec.847 (XXV) on the Report of the African Union Advisory Board on Corruption particularly through strengthening the mechanisms for communication between the Advisory Board and the African Union Commission;

2. Recruitment of an Executive Secretary for the African Union Advisory Board on Corruption;
3. Exceptional financial allocation in the amount of Six Hundred and Eighty-Four Thousand, Four Hundred Forty-Five US dollars (684,445 US dollars) to the Board, to save its activities in 2015, because since the withdrawal of the Swedes, there has been no funding for the activities;
4. Review the status of Members of the Advisory Board to make them all permanent or make at least three of them permanent Members so to breathe new life into the Board and thereby enable it to obtain results;
5. Organization of continuous advocacy with States Parties to the Convention on the need to finance the activities of the Advisory Board in terms of its mission of preventing and combating corruption.

The Chairperson

signed with official seal

Dr. Jean-Baptiste ELIAS

2015

Report of the African Union advisory board on corruption on the implementation of decision Ex.CI/Dec.847(Xxv) adopted by the executive council in Malabo in June 2014

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