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**PERMANENT REPRESENTATIVES' COMMITTEE**

**Thirty-Ninth Ordinary Session**

**21 - 22 January 2020**

**Addis Ababa, Ethiopia**

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**REPORT**

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## REPORT OF THE THIRTY-NINTH ORDINARY SESSION OF THE PERMANENT REPRESENTATIVES' COMMITTEE (PRC)

### SECTION I: INTRODUCTION

1. The Thirty-Ninth Ordinary Session of the Permanent Representatives' Committee (PRC) was held from 21 to 22 January 2019 in Addis Ababa, Ethiopia, under the chairpersonship of H.E. Ambassador Osama Abdelkhalek, Permanent Representative of the Arab Republic of Egypt to the African Union and Chairperson of the PRC.

2. As is customary, advance preparatory sessions of the PRC were held starting on 13 January 2020.

#### a) **OPENING CEREMONY**

##### (i) **Statement by the Chairperson of the Permanent Representatives' Committee**

3. H.E. Ambassador Osama Abdelkhalek welcomed all members of the PRC to the 39th Ordinary Session of the PRC and thanked all Permanent Representatives for their sincere collaboration and cooperative spirit witnessed throughout his tenure as Chairperson of the PRC.

4. H.E. Osama Abdel Khalek, Permanent Representative of the Arab Republic of Egypt and Chairperson of the Permanent Representatives Committee spoke of the time that had elapsed since the first session of the PRC which he presided over on 20 February, 2019. He expressed satisfaction at the journey undertaken with the collaboration of the Bureau, the Members of the PRC and all other stakeholders. To each and every one he expressed his deep gratitude. He recalled the principles around which he had organized work in order to improve the working methods for greater efficiency in the pursuit of the Union's objectives as enshrined in Agenda 2063, adding that those principles were underpinned by the sole concern to serve the continent appropriately.

5. The Chairperson of the PRC then took stock of his mandate during which 50 meetings were held. The main activities focused on improving the methods of cooperation with the Commission. Many legal instruments have been finalized. The establishment of the Drafting Committee has guaranteed the faithfulness of the Reports and Decisions to the debates and conclusions of the policy organs. Cooperation between the PRC and the Peace and Security Council (PSC) has been strengthened thanks to the submission of monthly reports of the PSC meetings to the PRC. The Sub-Committees have successfully carried out the preparatory work relating to the major issues which were at the forefront of the Union's agenda, namely the African Continental Free Trade Area and the Institutional Reform of the African Union and other flagship projects of the AU. Indeed, the Continental Free Trade Area was launched in July 2019 during the 12th Extraordinary Session of the Assembly held in Niamey. Still within the context of strengthening regional

integration, the First Coordination Meeting between the AU and the Regional Economic Communities (RECs) / Regional Mechanisms (RMs) was held in Niamey in July 2019 and a division of labour between the AU and the RECs was laid down with a view to a greater efficiency of the work of the Union. The other dimensions of integration were taken care of by infrastructure projects in the area of connectivity, the emphasis on peace and security issues and especially post-conflict reconstruction. The Institutional Reform has made significant strides advanced with the finalization of the new structure of the Commission, the introduction of a new recruitment mechanism and the establishment of a revised Peace Fund. Multilateral collaboration took place in a renewed fashion thanks to an approach that required partners to be respectful of Africa.

6. The Chairperson of the PRC concluded his remarks by thanking all the constituents of the AU Commission, the Chairpersons of the Sub-Committees as well as all his predecessors whom he mentioned by name.

**(ii) Statement by the Chairperson of the Commission**

7. Speaking on behalf of H.E. Mr. Moussa Faki Mahamat, Chairperson of the African Union Commission, the Deputy Chairperson of the AUC, H.E. Quartey welcomed all the members of the PRC and especially the plenipotentiaries from the capitals while officially opened the 39th Ordinary Session of the PRC on 21 January 2020. He referred to the significance of the ongoing Institutional Reform of the Commission, in line with the mandate of the Assembly which requested the Chairperson of the Commission to develop a new departmental structure that is lean and performance-oriented, taking into account the division of labour among the AU, RECs and Regional Mechanisms, Member States and continental organizations.

8. The DCP reported that Sub-Committees of the PRC reviewed the proposed new structure along with the proposed financing strategy in October and November 2019 and subsequently adopted it in December 2019. He informed the PRC that, the new structure and proposed financing will now be considered by the Policy Organs in February 2020. According to DCP, the Sub-Committee provided feedback on the transition plan for the new departmental structure. Based on feedback provided and following validation by the Commission, the sub-committee will review the revised financing and transition plan and then transmit the same for the PRC's consideration during this session.

9. The DCP reaffirmed the Commission's commitment to working with the PRC, in order to give full measure to the desirable cooperation and synergy between the two institutions. He underscored the need to improve on budgetary processes and focus on implementation of Agenda 2063 and hence stressing the need for more collaboration between the PRC and the Commission.

10. Regarding the financing of the Union, the DCP reported that a retreat that brought together the PSC, the Bureau of the PRC, the Board of Trustees and Executive Management Committee of the AU Peace Fund and the Chairs of the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative

Matters, and Audit Matters as well as the Committee of Finance Ministers took place on 11 January 2020. The Retreat took stock of the status of operationalization of the AU Peace Fund. The DCP highlighted the commitment of AU Member States to ensuring predictable and sustainable financing for peace and security activities in Africa. Adding that strategic partnerships on peace and security will always be required, the Peace Fund with its \$400m endowment from Member States will enable the AU to drive its own peace and security agenda on its own terms.

11. Finally, the DCP also mentioned the work done on new structure for the AUC. He pointed that this will be extended to all organs to ensure coherence and harmony between the work of the Commission and other organs to achieve the main phase of the reform and allow the incoming Commission to work in a continuously efficient and effective manner.

12. The DCP expressed appreciation for the work undertaken by the Chairperson of the PRC and during the chairmanship of the AU by Egypt in general.

**b) ATTENDANCE**

13. The following Member States were in attendance: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, The Comoros, Congo, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Eswatini, Guinea, Guinea Bissau, Equatorial Guinea, Eritrea, Ethiopia, Gabon, The Gambia, Ghana, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sahrawi Arab Democratic Republic, Central African Republic, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, The Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

**SECTION II: ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK**

**a) ADOPTION OF THE AGENDA**

14. The PRC adopted its draft Agenda.

**b) ORGANISATION OF WORK**

15. The PRC adopted the following working hours:

Morning: 09:00 Hours – 13:00 Hours;

Afternoon: 15:00 Hours – 18:00 Hours

**SECTION III: REPORTS ON THE ACTIVITIES OF THE SUB-COMMITTEES OF THE PERMANENT REPRESENTATIVES' COMMITTEE**

**(i) Sub-Committee on Structural Reforms, with Report on Financial Implications – Doc.EX.CL/1177(XXXVI)j**

16. The Report and the Draft Decisions relating thereto were presented by Ambassador David Pierre, Permanent Representative of the Republic of Seychelles to the African Union and Chairperson of the Sub-Committee on Structural Reforms.

17. Following the presentation, Members of the PRC made comments as follows:

- i) Commends the Chairperson of the Sub-Committee for his leadership, professionalism and constant search for consensus throughout the deliberations of the Sub-Committee;
- ii) Paragraph 5 of the Draft Decision of the New Departmental Structure should not be used as a pretext to recruit short-term staff on a permanent basis;
- iii) Need to reflect in paragraph 11 of the Draft Decision on the New Departmental Structure the provisions of paragraph 23 of Decision Ext / EX.CL / Dec.1 (XX) which stipulates that “the PRC, in collaboration with the Commission, should submit a workable proposal, in the form of an action plan, addressing the issue of non-permanent staffing without disrupting the activities of the Commission”;
- iv) The Departmental Structure adopted by the Sub-Committee on Structural Reform should be annexed to the Draft Decision on the Departmental Structure prior to its presentation to the Executive Council;
- v) Need not to reopen debates on the New Departmental Structure because it has already been adopted by consensus by the Sub-Committee, and the PRC;
- vi) Need to ensure that the AUDA-NEPAD Coordination Unit has been maintained in the Office of the Chairperson of the AUC in the New Departmental Structure, as decided by the PRC;
- vii) The title of the Draft Decision on the Structure of AU Organs, Technical and Specialized Agencies does not reflect the content of the said Decision; the body of the text makes no mention of any AU organ;
- viii) Need to standardize the grades of Heads of Specialized Agencies;
- ix) The Commission should brief the PRC on the challenges encountered by the Passport Unit and which led to its transfer from the Directorate of Human Resources to the Directorate of Protocol;
- x) Add the name of the State of Libya to the list of participants in the Sub-Committee;
- xi) Need to maintain paragraph 11 as it stands;
- xii) Add to paragraph 4 of the Draft Decision on the New Departmental Structure the term “resources” after “means” to read as follows: “decides that the implementation of the New Departmental Structure will be financed by the existing means and resources (...)”;
- xiii) Paragraph 3 of the Draft Decision on the New Departmental Structure sets a deadline of 4 (four) years for the implementation of the New Departmental Structure, whereas the Sub Committee had decided to fix the transition

period at 2 (two) years.

18. The Head of the Institutional Reform Unit provided the clarifications as follows:

- i) The AUDA-NEPAD Coordination Unit is indeed attached to the Office of the Chairperson of the AUC in the new structure;
- ii) The transfer of the Passport Unit to the Protocol Directorate was the subject of broad consensus in the Sub-Committee.

19. **In conclusion, the PRC:**

- i) Took note of the Report;
  - ii) Clarified that the title of the Draft Decision on AU Organs and Technical and Specialized Agencies reflects the content of the Draft Decision because the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) is an organ of the AU;
  - iii) Decided to amend paragraph 11 as follows: *RECALLS paragraphs 23 and 24 of the November 2018 Decision of the 20th Extraordinary Session of the Executive Council Ext/EX.CL/Dec.1(XX) and INSTRUCTS the Commission to strictly apply the provisions of the AU Staff Rules and Regulations with regard to the compulsory separation **or retirement of permanent and non-permanent staff** and the immediate termination of the renewal of contracts of non-permanent staff beyond the authorized number of renewals, failing which sanctions should be applied and **INVITES the AUC to take the appropriate measures to ensure the continuity of the service;***
  - iv) Decided to fix the transition period from the old to the new departmental structure at three (3) years;
  - v) Recommended the amended Draft Decisions for consideration and adoption by the Executive Council.
- (ii) Sub-Committee on Refugees, Returnees and IDPs – Doc.EX.CL/1177(XXXVI)iii**

20. The Report was presented by Ambassador Rebecca Amuge Otengo, Permanent Representative of the Republic of Uganda to the African Union, and Chairperson of the Sub-Committee on Refugees, Returnees and IDPs, and complemented by the Director of the Department of Political Affairs.

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

- i) Commended the Chairperson of the PRC Sub-Committee and her team on the presentation of the report as well as expressed gratitude to all Ambassadors who led assessment missions to the three countries affected by tropical cyclone Idai in the southern African region namely

- Malawi, Mozambique and Zimbabwe ;
- ii) The voice of Member States must be heard in international fora so that the commitments made by the international community at the Geneva World Forum on Refugees are respected;
  - iii) The operationalization of the African Humanitarian Agency will contribute to solving a good part of the refugee related problems;
  - iv) Some Member States shared their experiences in terms of resilience to the harmful effects of natural disasters;
  - v) The Libyan delegation sought additional explanations relating to the passage of paragraph 67 (English version) of the Report which reads as follows: "*up to the end of 2015, the regional impact of the fall of the Libyan regime had not been felt in Burkina Faso*"; due to lack of explanations, the passage should be deleted;
  - vi) Donations in kind should be given priority to victims of natural disasters that meet their immediate needs rather than financial assistance that arrives late, the amounts of which are often insignificant, like the USD100,000 donated by the AU in the aftermath of Cyclone Idai;
  - vii) The Nigeria delegation invited the Sub-Committee to visit Nigeria in the course of 2020;
  - viii) The delegations of Burkina Faso and Mali rejected the term "inter-community conflicts" and asked that it be replaced by the term "terrorist acts" which better reflects the reality on the ground;
  - ix) The need to check and quote the sources of the figures relating to the number of refugees mentioned in the Report and ensure that they are constantly adjusted to reflect the reality on the ground, more so as the number of refugees are subject to cyclical fluctuations;
  - x) The situation of children in refugee camps or in camps for internally displaced persons is deplorable due to lack of basic commodities, access to healthcare and schooling difficulties which trigger a spiral of poverty;
  - xi) Member States affected by natural disasters and/or hosting refugees and which are also under economic sanctions are in a particularly difficult situation;
  - xii) The Chadian delegation indicated that Chad is hosting a large number of refugees to whom arable land has been allocated, whose new-born have been issued birth certificates and whose school-aged children are schooled in the many schools built for them; the Sub-Committee should have undertaken an evaluation mission in the Lake Chad Basin where the terrorist group Boko Haram is very active;
  - xiii) The Sub-Committee should consider cooperating with the African Risk Management Mutual (ARC);
  - xiv) The Mauritanian delegation indicated that Mauritania hosts a large number of Africans mostly from Mali who are being taken good care of by the public authorities. Mauritania therefore welcomed the proposed visit by the Sub -Committee which planned to visit Member States hosting Refugees;
  - xv) Paragraph 13 of the Report should mention the following Member States:

- South Africa, Angola, Egypt and Morocco for the diligent assistance they provided following the passage of Cyclone Idai;
- xvi) Since the Sub-Committee was unable to undertake all the field missions included in its action plan for 2019, it should consider carrying over the unexecuted ones to 2020;
  - xvii) Commends the actions undertaken by H.E. Teodoro Obiang Nguema Mbasogo, President of the Republic of Equatorial Guinea, and African Union Champion on Refugee Issues. He visited refugee camps in Uganda and Ethiopia. He also donated 50 million dollars for the construction of a school in a refugee camp in Ethiopia, and welcomed refugee families in Equatorial Guinea.

**22.** The Commissioner for Political Affairs provided clarifications as follows:

- i) We should deplore the fact that no Member State has alluded to the theme of the year 2019 devoted to refugees and internally displaced persons at the Geneva World Forum on Refugees;
- ii) Donations in kind during natural disasters are preferable to financial contributions because of their effectiveness;
- iii) The long awaited Conference on the Humanitarian Situation in Africa should be organized in order to brainstorm on alternative solutions to deal more effectively with humanitarian emergencies;
- iv) There is indeed a correlation between the security situation in the Sahel region and the Libyan crisis. This is a factual fact requiring that paragraph 67 of the Report be kept as it is, and as such the indulgence of Libya is sought.

**23. In conclusion, the PRC:**

- i) Took note of the Report;
  - ii) Requested that the Report be amended in accordance with the comments of Member States;
  - iii) Also requested that the Draft Decision under consideration reflect the amendments made by Member States;
  - iv) Commended H.E. Teodoro Obiang Nguema Mbasogo, President of the Republic of Equatorial Guinea and Champion of the Theme of the Year 2019, for his commitment to the refugees.
- (iii) Joint Sitting of the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters and the Experts of F15 – Doc.EX.CL/1177(XXXVI)v**

**24.** The Report was presented by H.E Lazare Makayat Safouesse, Permanent Representative of the Republic of Congo and Chair of the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters

(GSCBFAM Sub-Committee).

**25.** Following the presentation, the Chair of the PRC proposed that the PRC limit its consideration to the various draft decisions attached to the Report. At the end, all specific decisions would be consolidated into a single decision.

**26.** The following draft decisions were considered:

**A. Draft Decision on the Supplementary Budget for the 2019 Financial Year**

**27.** Members of the PRC made comments as follows:

- i) The 20% reduction of the 2019 Budget was offset by the supplementary budgets that had been granted in violation of provisions stipulated by the F15 within the scope of the Golden Rules; Departments had, in the practice of supplementary budgets, found an opportunity to exceed budget ceilings;
- ii) Need to remind the F15 of its obligations to be involved in the budget execution control process;
- iii) The name of Equatorial Guinea was omitted from the List of Participants;
- iv) Mention should be made of the PRC meeting held on 9 October 2019 in paragraph 1 of the draft decision;
- v) Table 2 contains a column entitled "Reallocation": it is necessary to clarify whether or not this refers to internal transfers;
- vi) In paragraph 4 of the draft decision replace "Requests the Commission..." by "Instructs the Commission to...", fix a deadline, which could be in February 2021, and replace the word "issue" with "initiative" ;
- vii) In paragraph 5 of the Draft Decision, fix a deadline, which could be February 202;
- viii) Provide further details on the sum of US \$ 1,100,000 mentioned in paragraph 3 of the draft decision regarding AUDA-NEPAD: indicate whether this amount relates to an already approved budget or whether it is part of the supplementary budget;
- ix) Maintenance works should be financed from resources allocated to the appropriate fund and not from Reserve Fund;
- x) The Report should focus on one point, namely good financial and administrative governance. The major contributing Member States should assume their responsibility in order to avoid all forms of dysfunction. In this regard, it is worth recalling the communication from the Chairperson of the Commission to the PRC on 16 October 2019 which highlighted administrative and financial dysfunctions. The PRC should ensure strict respect for good governance in the best interest of African citizens. As taxpayers, the AU is accountable to them.

**28.** The Chairperson of the GSCBFAM Sub-Committee provided clarification as follows:

- i) Supplementary budgets are in fact additional budgets which are granted in violation of the budgetary ceilings; the practice of supplementary budgets remains a relevant and worrying issue;
- ii) The date of February 2021 could be specified in paragraph 4 of the Draft Decision;
- iii) Regretted the omission of Equatorial Guinea from the List of Participants and this omission would be corrected.

**29.** The Acting Director of the Programming, Budgeting, Finance and Accounting (PBFA) Directorate responded as follows:

- i) Regarding budgets, it should be recalled that the revised Financial Rules and Regulations set a ceiling for funds to be allocated as supplementary budgets;
- ii) Rule 17 thereof authorizes the Chairperson of the Commission to make a transfer of up to 5% above the budget ceiling;
- iii) The amount of US \$ 1,100,000 referred to in paragraph 3 of the draft decision with respect to AUDA-NEPAD comes from the following sources: South Africa and Rwanda made contributions to AUDA-NEPAD amounting to US \$ 600,000; South Africa also made an in-kind contribution valued at \$ 1 million;
- iv) Supplementary budgets are determined in collaboration with the F15;
- v) Maintenance costs (renovation of the AU Permanent Mission Offices in New York, renovation of the Old Conference Centre, etc.) are financed from the maintenance fund, unless the PRC authorizes the reserve account to be debited;
- vi) The current maintenance fund balance is US \$ 6.6 million.

**30. In conclusion, the PRC agreed as follows:**

- i) Make mention of the PRC meeting held on 9 October in the first paragraph of the draft decision;
- ii) In paragraph 2 of the draft decision, indicate the total amount of the supplementary budget by adding the different budgets mentioned;
- iii) Add a footnote to paragraph 3 of the draft decision to explain in an intelligible manner the sources of the amount indicated;
- iv) Also give clear explanations on the maintenance fund and state the balance ;
- v) Delete “Requests” in paragraph 4 of the draft decision and replace it with ‘Directs”, and replace the word “issue” with “initiative”;
- vi) In paragraph 4, set the deadline for 21 February 2021;
- vii) In paragraph 5, set the deadline in February 2021;
- viii) Recommend the draft decision as amended for consideration and approval of the Executive Council.

## B. Draft Decision on Recruitment

**31.** As a prelude to the consideration of this draft decision, the Chief of Staff of the Office of the Deputy Chairperson of the Commission made a presentation, the main thrusts of which are set out below:

- i) Thanked the Chairperson of the GSCBFAM Sub-Committee and lauded the excellent collaborative relations between the GSCBFAM Sub-Committee and the Commission;
- ii) Recalled the provisions of Decision Ext/Assembly.AU/Dec.1(XI) adopted by the 11th Extraordinary Session of the Assembly held in Addis Ababa, Ethiopia, in November 2018, which sets up a group of 10 experts, on the basis of 2 per region, in charge of improving the recruitment process within the AU and reporting to the Executive Council in 2019;
- iii) Pursuant to this Decision, this Group (R10) has been set up and is working with a technical group within the Commission; the two groups held several meetings, the last of which was on 17 January 2020;
- iv) The joint efforts of the two groups led to the preparation of a draft document on a new recruitment system, which will be submitted to Member States for comments prior to its finalization;
- v) Once finalized, this system will be complemented by an action plan with a schedule and implementation status reports will be forwarded regularly to Member States;
- vi) However, implementation, as it stands now, reveals that the cost of R10 is becoming exorbitant (US \$ 20,000 for fees, not including daily subsistence allowances and other related charges) ;
- vii) A work plan with the R10 was therefore agreed on each time they came to the Commission, in order to speed up the process of effective implementation of the new recruitment system;
- viii) It is therefore important not to lose sight of the cost of prolonging the stay of R10 members;
- ix) It was agreed that a joint Commission-R10 report would be presented to Member States.

**32.** Following the presentation, the members of the PRC made comments as follows:

- i) The R10 involvement could be expensive in the short term, but the long-term gains would be more significant;
- ii) The Commission should allow R10 to fulfil its mandate without hindrance;
- iii) It was not up to the Commission to assess the work of R10; since the decision to set up the R10 stemmed from the Commission's failure to conduct the recruitment process in a transparent manner; it is therefore up to Member States to decide on how long R10 members would stay;
- iv) Paragraph 2 (vi) of the draft decision should be reworded: delete "replace" and substitute "suspend"; add the following provision at the end of the paragraph; "The R10 must be involved in the ongoing recruitment process

- and especially for the recruitment of Arabic translators"; write the acronyms in full;
- v) The Commission should speed up the process of the new recruitment software to reduce the delay in the implementation of the new recruitment system;
  - vi) The work plan referred to in paragraph 2 of the draft decision should be clearly explained;
  - vii) The transition plan mentioned in paragraph 3 of the draft decision has not yet been implemented; furthermore, this paragraph should be amended to indicate that the R10 should be involved in all ongoing recruitment processes within the Union; the R10 should also be associated with the implementation of the new structure;
  - viii) The delay in setting up the new recruitment system cannot be attributed to Member States; it was up to the Commission to take urgent measures for the implementation of the new recruitment system;
  - ix) R10 has made a diagnosis on recruitments, yet these are still being handled in the same old manner;
  - x) The draft decision should take into account the initial and final reports of R10;
  - xi) The deplorable dysfunction of the recruitment system is evidenced by the asymmetry between the significant contribution of the major contributing Member States and the number of their nationals working within the Union; all major contributors are underrepresented in terms of staff numbers; the most exemplary case is that of the Kingdom of Morocco: its contribution to the AU budget entitles it to 45 posts; for the past 3 years, only two Moroccans have been recruited. It is imperative to take a decision to remedy this anomaly which cannot go on forever.
  - xii) Paragraphs 2 (vii) and 2 (viii) should be reworded to make the information they want to communicate understandable;
  - xiii) The delegation of the Kingdom of Morocco proposed a paragraph 4a, which reads as follows; *"Also request the AU Commission to work, including through the R10, to remedy as a priority the glaring imbalance in the representation of Member States in accordance with the principle of equitable and balanced representation within the AU Commission"*.

**33. The PRC agreed as follows:**

- i) Takes note with appreciation of the Report;
- ii) Recalls Decision Ext/Assembly.AU/Dec.1(XI) adopted by the 11th Extraordinary Session of the Assembly which sets up the R10 group of experts to rethink the recruitment system within the African Union;
- iii) Also recalls Decision EX.CL/Dec.1057 (XXXV) adopted by the Executive Council in Niamey, Niger;
- iv) Calls on the AU Commission to comply with these two decisions ;
- v) Requests the Commission to allow the R10 to fulfil its mandate as part of efforts to improve the recruitment system within the African Union;

- vi) Recommends that the draft decision, as amended, be submitted for consideration and approval by the Executive Council

### **C. Draft Decision on Preferential Exchange Rates**

**34.** The Chairperson of the PRC recalled that the issue of the preferential rate applied to the AU Permanent Missions in Brussels and Geneva was discussed at length at the level of the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters (GSCBFAM Sub-Committee) and the PRC received the Report of the work of the Sub-Committee. The Report highlighted the extremely high salaries paid at these two Permanent AU Missions.

**35.** The Chair of the GSCBFAM Sub-Committee indicated that there had been no consensus reached on this matter and it was agreed to refer it to the PRC for consideration.

**36.** The Chair of the PRC mentioned that the PRC has given ample time for this matter during its meeting on 9 October 2019 and it was decided to discontinue the application of the preferential rate starting from January 2020.

**37.** Following these interventions, members of the PRC made comments as follows:

- i) Caution is warranted, as indicated by the consultant designated to study the situation and who proposed a 50% reduction. However, it is necessary to take into account the principle of acquired benefits; also, to seek legal advice;
- ii) The solution proposed by the consultant having been rejected, it would be advisable to request the financial services of the Commission to make a simulation with regard to the abolition of preferential rates and to determine whether the induced reduction in salaries would still be compatible with the standard of living in the two cities of Brussels and Geneva, head offices of AU Permanent Missions;
- iii) The Commission should implement Decision 1057(XXXV) on the repatriation of AU funds in foreign banks to African banks by December 2020 at the latest;
- iv) Avoid reopening debate on this issue which has been under discussion since 2016; stick to the conclusions of the PRC meeting of 9 October 2019 which requests the abolition of the preferential exchange rate as from January 2020;
- v) Consideration could be given to closing the Permanent Missions in Brussels and Geneva and resuming recruitments, so as not to be confronted with the principle of acquired rights;
- vi) Prior notice of the termination of the preferential exchange rate should be given to the personnel concerned and the abolition should be applied as from March 2020 since the decision on the abolition will have to be examined and adopted by the Executive Council in February 2020;

- vii) However, it would be necessary to ensure that the wage level after abolition of the preferential rate would be adjusted to the standard of living in the countries concerned (Belgium and Switzerland).

**38.** The Representative of the Permanent Mission in Brussels drew attention to the following aspects:

- i) Correspondence had been sent to the Deputy Chairperson of the Commission explaining the constraints linked to the necessity of operating with the two currencies, the dollar and the euro;
- ii) Two accounts have therefore been opened: a dollar account to receive transfers from the AU and a euro account for payment of local expenses;
- iii) As such, the deletion of the budget line to cover exchange losses creates a major difficulty for the functioning of the Mission; it would be useful to seek legal advice.

**39.** The Chairperson of the PRC felt that there was no need to seek legal advice, the problem being financial and not legal. He added that transitional measures could, if necessary, be considered for local staff.

**40. In conclusion, the PRC agreed as follows:**

- i) The preferential rate applicable to Permanent Missions in Brussels, Belgium, and in Geneva, Switzerland, would be abolished as from March 2020;
- ii) A draft decision to this end will be submitted for consideration and approval by the Executive Council during its 36th Ordinary Session scheduled for February 2020.

**D. Draft Decision on the African Peer Review Mechanism (APRM)**

**41.** Members of the PRC made comments as follows:

- i) It was in July 2018 that the decision to integrate the APRM budget into that of the AU was taken; as such, paragraph 1 of the draft decision requesting for the payment of arrears has no regulatory basis; integrating the APRM into the AU budget cannot have retroactive effects for the AU;
- ii) Arrears should specifically concern States Parties to the APRM and the sanctions mechanism for late payment of contributions would only apply to them;
- iii) The issue of arrears owed to the APRM would pose a legal problem linked to the moment when the decision to integrate the budget of the APRM into that of the Commission would take effect;
- iv) The integration of the APRM budget into the AU budget would concern both assets and liabilities of the APRM at the time the integration would take effect.

**42.** The Acting Director of the Programming, Budgeting, Finance and Accounting (PBFA) Directorate provided the following information:

- i) The APRM has 38 States Parties;
- ii) The amount owed to the APRM prior to the integration of its budget into that of the AU by the States Parties is US \$ 18 million.
- iii) The first approach was to audit these arrears and define the procedures for collecting this amount from the States Parties;
- iv) It is up to Member States to decide how to apply the sanctions mechanism.

**43. In conclusion, the PRC agreed as follows:**

- i) Take note of the Draft Decision;
- ii) Decide to refer the matter to the Ministerial Committee in charge of scale of contributions;
- iii) The Commission should propose to the PRC the different options for submission to Member States for consideration;
- iv) Request the Commission to report back thereon to the Executive Council.

**E. Draft Decision on the 2019 Mid-Year Programme Performance Review**

**44.** Members of the PRC made comments as follows:

- i) There is a need to add the recommendations proposed by the F15 and some Member States in this regard and were adopted by the PRC Sub-Committee and later on adopted by the PRC in its meeting on 9 October 2019;
- ii) In order to facilitate the use of performance reports, a single template should be used by all departments and organs of the Commission;
- iii) Sanctions should be applied to departments which do not submit a report or which does so after the deadline;
- iv) The Chair of the GSCBFAM Sub-Committee has promised to propose a text relating to the sanctions to be imposed on departments/organs which fail to comply with the obligation to submit their programme implementation reports.

**45. In conclusion, the PRC agreed as follows:**

- i) Takes note of the Draft Decision;
- ii) Requests that paragraph 1 of the Draft Decision make reference to the recommendations proposed by the F15 and some Member States in this regard and were adopted by the PRC Sub-Committee and later on adopted by the PRC in its meeting on 9 October 2019;
- iii) Requests the Commission to develop a template to be used by all departments/organs;
- iv) Takes note of the proposal by the Chair of the PRC Sub-Committee on General Supervision and Coordination of Budgetary, Financial and

Administrative Matters to submit a draft text relating to the sanctions to be imposed on departments / organs that fail to submit their reports or which do so after the set deadline;

- v) Recommends the Draft Decision for consideration and adoption by the Executive Council.

**F. Draft Decision on the Evaluation Report of the Africa Capacity Building Foundation (ACBF)**

**46.** Members of the PRC made comments as follows :

- i) The Draft Decision should recall in the paragraph...? all the previous Decisions taken in connection with ACBF;
- ii) Paragraph 6 of the Draft Decision should be reworded to indicate that the AU's External Auditors will only audit the accounts used for the implementation of AU-funded programmes, in accordance with the relevant provisions of the AU Financial Rules;
- iii) Paragraph 7 of the Draft Decision should also be reworded to request ACBF to ensure that the AU is a full member of its Executive Board.

**47. In conclusion, the PRC agreed as follows:**

- i) Takes note of the Draft Decision;
- ii) Requests that the AU External Auditors audit the accounts used for the implementation of AU-funded programmes, in accordance with the relevant provisions of the AU Financial Rules;
- iii) Calls upon the ACBF to grant AU the status of full member of the ACBF Executive Board;
- iv) Recommends the amended Draft Decision for consideration and adoption by the Executive Council.

**G. Draft Decision on the Reform of AU Staff Pension Plan**

**48.** Draft Decision on the Reform of AU Staff Pension Plan :

- i) Paragraph 9 of the Draft Decision should be deleted; it is in total contradiction with the presentation of the Chair of the GSCBFAM Sub-Committee;
- ii) Member States reiterated the expression of their deep concerns regarding the availability of competent AU staff to undertake this important mission;
- iii) The issue relating to the Pension Fund should be examined in the light of information on: the current balance of the Fund; the bank where the Fund is deposited; the interest generated by the Fund and the fate of the said interest;
- iv) Member States should have a right oversight regarding the way this Fund is managed;

- v) The Pension Fund is funded primarily by contributions from AU staff member and as such, Member States have no power to exercise any control;
- vi) The issue of the Pension Fund is very important and time is needed to explore it in depth;
- vii) Paragraph 10 of the Draft Decision should be reworded to ensure that there no new burdens on Member States regarding its management;
- viii) The management of the Pension Fund should not be left solely to the care of AU staff, more so as this is an issue which should be dealt with a high degree of technicality and skills which do not exist within the Commission;
- ix) The Report on the Pension Fund should not be accepted until the information requested in ii) is provided;
- x) Need to postpone consideration of this issue for more detailed information.

**49. In conclusion, the PRC agreed as follows:**

- i) Takes note of the Draft Decision as amended;
- ii) Refers consideration of this item to the 40th Session of the PRC scheduled for June / July 2020.

**H. Draft Decision on the African Women's Fund**

**50. Members of the PRC mad comments as follows :**

- i) Recall at the beginning the decision authorizing the creation of this Fund;
- ii) In general, the various Funds created within the AU are experiencing financial dysfunctions, in particular due to lack of accountability;
- iii) Such dysfunctions are a reflection of serious disruptions that characterize financial and administrative management within the AU;
- iv) Fund recipients do not report on the use of allocated funds.

**51. In conclusion, the PRC agreed as follows:**

- i) In conclusion, the PRC agreed as follows;
- ii) Requests that the Draft Decision recalls in its paragraph...???? the Decision that created the Fund;
- iii) Requests the Commission to establish a mechanism for a transparent and efficient management of the fund and report to the Executive Council in February 2021.

**I. Decision on the Supplementary Budget for 2020**

**52. Members of the PRC made comments as follows :**

- i) It is difficult to understand the submission of a supplementary budget for a budget year which has just begun;

- ii) The budget adopted for 2020 is capped with a reduction of \$ 32 million (cf. Assembly/AU/Dec/733(XXXII) adopted by the Assembly at its 32nd Ordinary Session held in Addis Ababa, Ethiopia in February 2019. The Reserve Fund is an integral part of Member States' fund;
- iii) The Commission should stick to the budget established by the competent bodies. The amounts of the supplementary budget requested far exceed the 5% that the Chairperson of the Commission may request in accordance with the relevant provisions of the Financial Rules;
- iv) A supplementary budget of US\$ 26 million is excessive and requires further explanation;
- v) The source of the US \$ 26 million should be specified, indicating whether it results from budgetary savings or from any other internal source.

**53.** The Acting Director of Programming, Budget,, Finance and Accounting (PBFA) provided clarifications as follows:

- i) The supplementary budget will be financed from the contingency fund;
- ii) It will be used to finance:
  - the running of R10 that was not included in the budget;
  - the operationalization of STATAFRIC, Tunis, which was not provided for at the time of the adoption of the 2020 budget;
  - \$180,000 for freelance translators/interpreters to cover the work of the Summit;
- iii) The \$26 million mentioned will be provided by partners. An agreement was signed with the EU for budget support that was not included in the 2020 budget;
- iv) Funding has been received from the EU for the deployment of the Joint Units in the DRC and for the African Standby Force (ASF);
- v) The main purpose of the supplementary budget is to deal with emergencies.

**54.** After the above explanations, comments were made as follows:

- i) The draft wording lacks clarity and should reflect the explanations given by the Acting Director of PBFA;
- ii) Member States should be involved in monitoring the implementation of the budget through the relevant Sub-Committee;
- iii) The Commission should provide information on the mobilization of resources from partners, indicating the name of the partner, the amount granted and the purpose for which the funding is allocated;
- iv) The Commission should submit a quarterly financial scoreboard with precise information on the rate of budget implementation and any other

information guaranteeing the transparency of the Union's budgetary process.

**55. In conclusion, the PRC agreed as follows:**

- i) Took note of the draft Decision on the supplementary budget for 2020;
- ii) Requested the Commission to reformulate it for the sake of clarity and to provide in a footnote all the information necessary for its comprehension;
- iii) The draft budget thus amended will be recommended for consideration and adoption by the Executive Council.

**J. Draft Decision on Compensation for Mr. Moctar Yedali (USD283,841.89)**

**56.** Paragraph 41 of the Report mentions that a supplementary budget has been requested in order to pay the amount due to Mr. Moctar and thus implement the decision of the Judiciary Committee.

**57. In conclusion, the PRC agreed as follows :**

- i) The compensation due to Mr. Moctar should be paid to avoid penalties due to late payment from increasing the financial burden on the Commission;
- ii) The Office of the Internal Audit and the Office of the Legal Counsel shall each submit a report to the PRC in May 2020;
- iii) These reports will establish accountability and serve as explanatory memoranda in support of the supplementary budget request;
- iv) The full amount paid to Mr. Moctar will be charged to the persons who will be held accountable for the situation that gave rise to the payment of the compensation;
- v) The Commission will present the reports referred to in (ii) above to the PRC before 31 May 2020.

**(iv) Sub-Committee on Audit Matters – Doc.EX.CL/1177(XXXVI)vi**

**58.** The Report and related draft decisions were presented by the Chair of the PRC Sub-Committee on Audit Matters, H.E. Emilia Ndinelaio Mkusa, and Permanent Representative of the Republic of Namibia.

**59.** Following the presentation, Members of the PRC made comments as follows:

- i) Commend the Sub-Committee for the quality of the Report presented;
- ii) Express their concern about the failure to implement the Audit recommendations of previous years;
- iii) Expressed concern regarding the finalisation of the Forensic Audit as per the deadline stipulated in Decision 1057;
- iv) BoEA has to review the audit firm report before submission to the Sub-Committee;

- v) The AUC should inform members of the PRC on the latest developments since October 2019 concerning the case of double payment of housing allowances;
- vi) The transfer made from the Peace Fund is a serious error and tough sanctions which go beyond the disciplinary sanctions provided for in the Staff Regulations and Rules should follow;
- vii) Paragraph 6 (a) of the draft decision of the Executive Council should be amended to request the AUC to report to the next session of the Executive Council scheduled for July 2020;
- viii) There is a need to add new para. 6(d) to impose sanctions on the staff who did not adhere with AU FRR concerning the disbursement on activities without approval from the relevant policy organs. The AUC Report on pending matters should be considered by the Sub-Committee on Audit Matters by May 2020 at the latest (para 16);
- ix) Mention in paragraph 8 of the Executive Council draft decision the non-implementation of recommendations of the Office of Internal Audit as well as that of the Board of External Auditors on the release of the budget in accordance with paragraph 39 (b) of Decision EX.CL/Dec.1057(XXXV);
- x) In paragraph 15 of the draft decision of the Executive Council, replace "AU Regulations and Rules" with "AU Staff Regulations and Rules as well as AU Financial Rules and Regulations", and para (3) of the Draft Assembly Decision;
- xi) Delete paragraph 18 of the Draft Decision ,and specify in paragraph 26 (iii) of the Report and in paragraph 15 of the Draft Decision of the Executive Council that clarifications and communications from the Office of the Legal Counsel to Heads of AU Organs should be in writing;
- xii) Non-implementation of decisions of policy organs on audit matters constitutes a real challenge;
- xiii) Significant progress has been made in the implementation of disciplinary sanctions;
- xiv) The explanations provided by the AUC on the causes of the transfer of an amount from the Peace Fund are insufficient; the reasons justifying this transfer should have been communicated prior to the transfer and not after it was revealed by an audit;
- xv) The need to give a "human face" to the figures cited: the unauthorized transfer of an amount of 1,687,761.32 US dollars corresponds to an amount from contributions made by low-income populations in Africa. Therefore, amounts allocated by Member States to the AU should be used to finance, under transparent conditions, the development of our Continent and cannot be subject to fraudulent transactions;
- xvi) Need to clarify the provisions of paragraph 5 on the extension by the Assembly of the mandate of the African Court on Human and Peoples' Rights, in violation of the established procedure;
- xvii) In paragraph 3, replace "Mandates" by "Requests";
- xviii) The initial report of the Sub-Committee described the unauthorized transfer as "fraud";

- xix) Replace the term "internal audit office" with that of " Office of Internal Audit";
- xx) In paragraph 16 of the Report, specify the number of the account referred to;
- xxi) Amend paragraph 16 (ii) to read as follows: "Strengthen the PBFA Certification Unit and the Bank Reconciliation Section to prevent possible irregularities related to postings to accounts or banks";
- xxii) Specify, in paragraph 17, the number of special accounts, as well as the number of accounts that have been dormant for over 5 years;
- xxiii) Specify the amount of the arrears referred to in paragraph 5 (b) of the draft Executive Council decision;
- xxiv) Amend paragraph 9 of the draft decision of the Executive Council to read: "Commends the Commission for the adoption of a risk management policy";
- xxv) The Office of the Legal Counsel should reformulate paragraph 15 of the draft decision of the Executive Council to ensure the strict application of regulatory sanctions but also to reaffirm the authority of the legal representative of the AU who is the Chairperson of the Commission over officials of other AU organs. This provision should be the subject of a separate decision combining the draft Assembly decision with paragraphs 13 to 20 of the draft Executive Council decision.

**60.** The Legal Counsel provided clarifications as follows:

- i) If the sanctions are not taken within the framework of the Staff Regulations and Rules, the staff may take legal action against the AUC; disciplinary sanctions must therefore be applied strictly within the scope of the Staff Regulations and Rules; paragraph 5 of the draft decision of the Executive Council should therefore be amended accordingly;
- ii) It would be difficult to sanction staff who have already left the AUC (paragraph 5 (c) of the draft decision of the Executive Council due to the non-applicability of the Staff Regulations and Rules outside the AUC;
- iii) The staff concerned by paragraph 5(d) of the draft decision of the Executive Council may take legal action against the Commission for non-respect of the confidentiality of personal data;
- iv) The AUC suffers from the lack of an appellate court. The judgments rendered by the Administrative Tribunal are final and without appeal. Faced with this situation, recourse to the African Court on Human and Peoples' Rights is an interim solution, pending the operationalization of the African Court of Justice;
- v) Harmonize the paragraph 19 of the Executive Council draft decisions and paragraph 5 of the draft decision of the Assembly;
- vi) On the amendment of the Court's mandate by the Assembly, Article 5 of the Protocol on the Statutes of the Court describes the procedure to be followed for this purpose;
- vii) For staff who have left the Organization, add the words "if possible" in Paragraph 5 of the draft decision of the Executive Council.

**61.** The Chief of Staff of the Office of the Deputy Chairperson of the Commission provided clarifications as follows:

- i) The transfer from the Peace Fund was not a misappropriation of funds;
- ii) It is not a transfer but recurrent payments of salaries as a result of posting errors due to confusion between the old and the new Peace Fund;
- iii) It was not the Board of External Auditors who pointed out this irregularity but the Office of Internal Audit;
- iv) The AUC had proposed the establishment of a financial control department to avoid such irregularities, including those likely to stem from human error.

**62.** Following the intervention of the Chief of Staff of the Office of the Deputy Chairperson, the Chair of the Sub-Committee on Audit Matters made comments as follows:

- i) The irregularity had been revealed by the External Auditors;
- ii) Rejected the explanations provided by the Chief of Staff of the Office of the Deputy Chairperson.

**63. In conclusion, the PRC agreed as follows:**

- i) The disciplinary sanctions mentioned in the second part of paragraph 5 (b) should be applied strictly within the framework of the Staff Regulations and Rules;
- ii) The draft decision of the Executive Council should mention that the Commission should present a report on the progress made in the field of audit at the 38th Session of the Executive Council scheduled for June-July 2020;
- iii) Include in the Report and in the draft decisions the need to stop financing the old Peace Fund and implement the merger of the two Peace Funds after taking all necessary audit requirements;
- iv) The AUC Report on pending cases should be considered by the Sub-Committee on Audit Matters by May 2020 at the latest;
- v) Paragraph 18 should be reworded to avoid any ambiguity. The pre-established procedure relating to the approval of a supplementary budget for the implementation of this decision has been respected;
- vi) Replace the term "Mandates" by "Requests" in paragraph 3;
- vii) Paragraph 17 should be reworded as follows: "*request the AUC to provide legal guidance to all AU Organs and institutions regarding the statutory oversight authority of the Chairperson of the Commission over all non-policy organs and institutions of the Union*";
- viii) There is a need to add new para. 6(d) to impose sanctions on the staff who did not adhere with AU FRR concerning the disbursement on activities without approval from the relevant policy organs;
- ix) Expressed concern regarding the finalisation of the Forensic Audit as per the deadline stipulated in Decision 1057;

- x) BoEA has to review the audit firm report before submission to the Sub-Committee;
- xi) In paragraph 15 of the Draft Executive Council Decision, replace “statutes and regulations of the AU” with “Staff Regulations and Rules, and Financial Rules and Regulations of the AU”, and para (3) of the Draft Assembly Decision;
- xii) Mention in paragraph 8 of the Draft Executive Council Decision on the non-implementation of recommendations of the Office of Internal Audit as well as those of the Board of External Auditors on the release of budget, pursuant to paragraph 39(b of Decision EX.CL/Dec.1057(XXXV)).

**(v) Sub-Committee on Multilateral Cooperation –  
Doc.EX.CL/1177(XXXVI)vii**

**A. Report on the Annual Activities**

**64.** The Report was presented by Ambassador Fafré Camara, Permanent Representative of the Republic of Mali to the African Union, and Chairperson of the Sub-Committee on Multilateral Cooperation.

**65.** Subsequent to the Chair’s presentation, the Ambassador of Mauritania informed the PRC of the decision of the Government of the Republic of Mauritania, which offered to host the Africa-India Summit in 2020, requested for the postponement of the Summit to 2021, taking into account commitments and challenges of the new Government. He added that this matter was communicated by Note Verbale to all Member States and requested the PRC to positively consider the request of Mauritania to postpone the Africa-India Summit to 2021.

**66.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) Commended the Chairperson of the PRC Sub-committee on Multilateral Cooperation for his able steering of the work of the Sub-Committee and for the quality of the report presented;
- ii) Emphasized that Executive Council Decision EX.CL/Dec.899(XXVIII)Rev.2 (paragraph 20) must be adhered to and echoed the need for the African Union to implement its own decisions;
- iii) Expressed concern on the fact that the four (4) Partnership Summits envisaged to hold in 2020 are not feasible taking into account the numerous regional, continental and international commitments of Member States;
- iv) Partnerships that take full account of the principles of reciprocity and mutually balanced benefits in a spirit of win-win partnership should be given priority for 2020; and in this regard, Continent to Continent Partnerships should be given due consideration for 2020;
- v) Welcomed and supported the proposal of Mauritania to postpone the Africa-

- India Summit to 2021;
- vi) Recommended that the Executive Council take a decision on the matter of postponing some of the Partnership Summits;
- vii) Called for the need to inform concerned Partners of the decision to postpone Summits;
- viii) Reiterated the need to abide by Executive Council Decision EX.CL/Dec.877(XXVII) on the Principle of rotation of Partnership Summits;
- ix) Consequently rejected the proposal of India to hold the Africa-India Summit in New Delhi, in violation of the principle of rotation;
- x) Echoed that Partnerships should focus on multilateral aspects and be based on the implementation of continental projects embedded in African Union Agenda 2063;
- xi) Underscored that preparations for Partnership Summits must be comprehensive and be done in a timely manner;
- xii) The Republic of Rwanda expressed appreciation to Member States for according it an opportunity to host the AU-EU Ministerial Meeting. It further clarified that it is proposed to hold it in the first quarter of 2020;
- xiii) Clarity was sought on the level of preparations of the Africa-Arab Summit;
- xiv) Recalled that Partnerships offer an opportunity for Africa to cultivate important ties with other regions, countries and institutions for mutual benefit as well as provide an avenue for mobilizing resources, accessing technology and technical capacity to support the implementation of Agenda 2063 and therefore should be strategically managed;
- xv) Therefore there is need to work out criteria which define a partnership as strategic or not;
- xvi) Recalled the urgent need to address the existing resource gap within the Partnerships Division;
- xvii) Noted that the development of the Partnership Strategy and Policy Framework, will be a solid basis for guiding the establishment and management of a specified number of mutually beneficial Strategic partnerships;
- xviii) Called upon the Commission to develop modalities that ensure that calendars of Partnership Summits are manageable and requested the Commission to produce a consolidated calendar of partnership meetings to facilitate effective planning and management.

**67.** With regard to the level of preparation for the Africa-Arab Summit, the Chairperson of the PRC updated the PRC that during the meeting held in Riyadh on 18 December 2019 where it was proposed that the Summit be held in the first quarter of 2020. He also indicated that consultations are yet to be undertaken with the Republic of South Africa and the Commission to decide on a definite date for the Summit.

**68.** The Chief of Staff commended the PRC for the great achievements realized under the able leadership of the PRC Chairperson and pledged the full support of the Commission to the PRC. He indicated that the College to College meeting will take place in Addis Ababa on 27 and 28 February 2020, and that a meeting was held on 16 January

2020 on preparations for the AU-EU Summit and that the first week of March 2020 was proposed for the 2nd AU-EU Ministerial meeting, pending the approval of the date by the Republic of South Africa. He further indicated that a draft communiqué of the AU-EU Ministerial Meeting will be developed by the Commission and disseminated to all Member States.

**69.** The Chairperson of the Sub-Committee expressed appreciation to Member States and the Commission for their tremendous contribution to the work of the Sub-Committee and stated that proposed amendments to the decisions will be reflected, including the postponement of the Turkey-Africa Summit.

**70. In conclusion, the PRC:**

- i) Adopted the Report taking into consideration proposals made to enrich the draft Decision to be submitted for consideration by the Executive Council;
- i) Welcomed the proposal of the Republic of Mauritania to postpone the Africa-India Summit to 2021 and agreed that a decision on the postponement be drafted;
- ii) Emphasized that Executive Council Decision EX.CL/Dec.899(XXVIII)Rev.2 (paragraph 20) must be fully applied and echoed the need for the African Union to implement its own decisions;
- iii) Reiterated the need for implementation of Executive Council Decision EX.CL/Dec.877(XXVII) on the Principle of rotation of Partnership Summits and requested that it be included in the Executive Council decisions;
- iv) Reflect the agreement to postpone Africa/Turkey Summit in the PRC Report and delete Roman (ii) from para 41 of the Report and para 25 from the Draft Decision;
- v) Decided to keep para 10 (ii) in the Report concerning the role of the African Diplomatic Corps in the partner countries.

**B. Report on Representation in Partnership Meetings**

**71.** The Report was presented by Ambassador Fafré Camara, Permanent Representative of the Republic of Mali to the African Union, and Chairperson of the Sub-Committee on Multilateral Cooperation.

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

- i) Reiterated the right of all AU Member States to participate in Statutory Meetings related to partnerships meetings with another Continent/Organization;
- ii) Mention in the Report that discussions on the issue of participation were rich and intense;
- iii) The reference to the “African Continent” should be deleted as it has no legal basis, and should be replaced by the expression “African Union”;
- iv) The reference to the “African Continent” is explained by the fact that

- v) nomenclature varies according to the type of partnership considered; There was a consensus on the nomenclature of partnerships. However, the consensus remains fragile and it would be prudent to retain the two expressions, “African Union” and “African Continent”;
- vi) The decision should indicate the legal framework as a whole, as determined by successive Executive Council and Assembly decisions on the issue of participation of Member States in partnership meetings;
- vii) The issue of nomenclature could be resolved by distinguishing between partnerships with countries and those with a groups of countries or partners (case of TICAD and the AU-EU Partnership);
- viii) Several delegations proposed that the text of the decision should be maintained as is, due to the fact that it is the result of a compromise;
- ix) Highlighted the possibility of inviting Observers to Partnership Summits, in case of partnership with a country;
- x) Raised regarding the case of partnership with a partner country, when a Member State holds more than one position (Member of the Assembly of the Union and a Chief Executive of a REC for example). The Chairperson of the PRC explained that the understanding is the First Vice Chairperson replaces the Chief Executive of the REC in case of the latter’s membership in the Bureau of the Assembly;
- xi) Some delegations requested that reference be made to “single partner countries” by adding the word “single” in the part which concerns meetings with other countries. Meanwhile, other delegations disagreed with this proposal;
- xii) Some delegations requested that a provision be included in the draft decision to ensure that the African Union has the same right as its partners, within the scope of the principles of reciprocity and mutual benefits, to invite any other stakeholder(s) they deem important to participate in these partners meetings.

**73.** The Legal Counsel indicated the importance of stressing that the “African Union” is a legal entity and the organs has authority to issue decisions on its member states and not beyond. While the term African Continent has no existence legally and also Member States are part of different organizations, so the usage of this term goes beyond the mandate of AU that will be acting ultra vires if a Decision is adopted with this term. Moreover, as the Decision draw different classifications to different types of Partnership, may be it will be pertinent to draw rules depending on the role of AU in each case, because with individual countries, the role of AU differs, it differs in TICAD vs FOCAC VS Turkey, etc., so maybe it is better to review these roles before adopting the final rules.

**74.** The Chairperson of the Sub-Committee provided clarifications as follows:

- i) It is inaccurate to say that the expression “African Continent” does not have a legal basis. Africa exists as an entity at the level of the United Nations;
- ii) The Sub-Committee on Multilateral Cooperation was guided by the concern for legality. Its mandate focused on the participation of Member States in

- partnership meetings and not the nomenclature of partnerships;
- iii) There are strategic issues but not strategic partnerships;
- iv) The invitation of observers is governed by provisions that also apply to the meetings of policy organs;
- v) The text of the chapeau of the draft decision is the result of a consensus and it is preferable to keep it as is;
- vi) The next task to be undertaken by the Sub-Committee on Multilateral Cooperation will be the development of a framework document on partnerships.

**75. In conclusion, the PRC:**

- i) Took note of the Report;
- ii) Agreed to make reference to Executive Council Decision EX.CL/Dec.1057(XXXV), by which the Council decided to refer the issue of AU representation in partnership meetings back to the PRC Sub-Committee on Multilateral Cooperation for further consideration with a view to reaching consensus on the matter in paragraph (i) of the Draft Decision;
- iii) Recommended the Report to the Executive Council for consideration and adoption.

**(vi) Sub-Committee on Human Rights, Democracy and Governance – Doc.EX.CL/1177(XXXVI)ix**

**76.** The Report was presented by Ambassador Baye Moctar Diop, Permanent Representative of the Republic of Senegal to the African Union, and Chairperson of the Sub-Committee on Human Rights, Democracy and Governance.

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

- i) Expressed appreciation to the Chairperson of the PRC for his efforts to operationalize this Sub-Committee;
- ii) Congratulated the Chair of the Sub-Committee and its members on the operationalization of the Sub-Committee. Full support is pledged to the newly established PRC Sub-Committee;
- iii) All AU Organs dealing with Human Rights, Democracy and Governance matters should be included in the Report;
- iv) Clear commitment to the ideals of Human Rights, Democracy and Governance in the African Union is important;
- v) A decision should be adopted on the issue of making the Sub-Committee open-ended;
- vi) The Terms of Reference of this Sub-Committee should be disseminated to all Member States as soon as possible;
- vii) The Central Region is urged to consult and urgently designate its

- representative for the position of Rapporteur on the Bureau;
- viii) Concern was raised on the consideration of the Report by the PRC before its adoption by the Sub-Committee;
- ix) The Report should include all Member States that participated in the Sub-Committee meeting, as well as all issues raised;
- x) The Commission to provide the necessary support to the Sub-Committee to fully deliver on its mandate;
- xi) The Report should be accompanied by a draft decision.

**78.** The Deputy Chairperson, on behalf of the Commission, welcomed the establishment of the Sub-Committee on Human Rights, Democracy and Governance, the elements of which lie at the roots of development and the objectives of African Union Agenda 2063.

**79.** The Chairperson of the Sub-Committee provided clarifications as follows:

- i) Expressed appreciation to the PRC for its support and reaffirmed his commitment to fulfilling the mandate of the Sub-Committee;
- ii) Clarified that the AU Organs dealing with Human Rights, Democracy and Governance matters are already included under the umbrella of AGA which encompasses the eleven (11) AU Organs and eight (8 ) RECs;
- iii) The Terms of Reference will be circulated by the Commission to all Member States;
- iv) Regarding the request for an open-ended Sub-Committee, the PRC should accord the Sub-Committee more time to be fully operational and avoid issues related with quorum; however, the final decision lies with the PRC.
- v) The report was presented before its adoption by the Sub-Committee due to time constraints and the urgent need to brief the PRC and the Executive Council on the implementation of Decision EX.CL/Dec.1045(XXXIV);
- vi) The necessary amendments to the Report will be effected.

**80. In conclusion, the PRC:**

- i) Took note of the Report of the Sub-Committee on Human Rights, Democracy and Governance;
- ii) Congratulated the Chairperson of the PRC, the Chair of the Sub-Committee and its members for the operationalization of the Sub-Committee and pledged its full support;
- iii) Agreed to consider the matter of an open-ended Sub-Committee at a later stage;
- iv) Requested the Commission to:
  - a) expeditiously disseminate the Terms of Reference of the Sub-

- b) Committee to all Member States;  
provide the necessary support to the Sub-Committee to effectively deliver on its mandate;
  - v) Submit a draft decision on the Report.
- (vii) Sub-Committee on African Union Development Agency (AUDA-NEPAD) – Doc.EX.CL/1177(XXXVI)x**

**81.** The Report and the Draft Decision were presented by H.E Mr. Zenene Sinombe, the Chair of the PRC Sub-Committee on AUDA-NEPAD and Permanent Representative of the Republic of Botswana to the AU.

**82.** Following the presentation, Members of the PRC made comments as follows:

- i) Congratulated H.E Mr. Zenene Sinombe, the Chair of the PRC Sub-Committee on AUDA-NEPAD for the quality of the Report;
- ii) Took note of the Report;
- iii) The AU should support AUDA-NEPAD to implement its mandate without delay;
- iv) The Nigerian delegation clarified that the Federal Republic of Nigeria made an annual voluntary contribution of one (1) million dollars to support the AUDA-NEPAD programmes;
- v) The Draft Decision did not fully reflect the recommendations contained in the report;
- vi) There was the need to extend the mandate of H.E Dr. Ibrahim Hassan Mayaki, the Executive Secretary of AUDA-NEPAD, which would expire in March 2020, pending the appointment of his successor. The recommendation should be reflected in the draft decision;
- vii) There was the need to clarify paragraph 10.3 (c) relating to the creation of a development fund as discussions on it had not made any headway since the last meeting of the Steering Committee on AUDA- NEPAD, held in April 2019 in South Africa. The discussions on the matter is on hold;
- viii) There was the need to delete paragraph 2 of the draft decision relating to the request for a supplementary budget for 2020 since a supplementary budget of USD 4 million had already been allocated to AUDA-NEPAD for 2020, in addition to approving the budget of AUDA-NEPAD without any changes. Moreover, the last steering committee meeting in South Africa asked the secretariat of AUDA-NEPAD to submit first a list of projects to the Steering Committee before requesting a supplementary budget;
- ix) An opening paragraph should be added to the draft decision and should read as follows: “the Executive Council takes note of the report”. The paragraph relating to the finalizing of consultations on the use of partner funds (paragraph 1) should be at the end of the draft decision;
- x) There was the need to maintain and strengthen the AUDA-NEPAD Coordination Unit under the Bureau of the Chairperson of the AUC since

- the Unit played an essential role in the coordination of activities between the PRC, the AUDA-NEPAD and the RECs;
- xi) Need to mobilize unused funds to support AUDA-NEPAD projects;
  - xii) There was the need for the structure of AUDA-NEPAD to be made functional, efficient and more visible as early as possible;
  - xiii) There was the need to clarify the role of the AUC and that of AUDA-NEPAD in order to ensure division of labor between the AUC and AUDA-NEPAD thereby minimizing duplication of efforts whilst optimizing the resources available;
  - xiv) Member States indicated that it had very low quota within the governance structures of the AU and so the recruitment process of the Director General of AUDA-NEPAD must be done in a transparent manner and to ensure fairness in accordance with the principle of rotation vis-à-vis the regions which had never occupied the post, especially North Africa, East Africa and Central Africa;
  - xv) The structure of AUDA-NEPAD currently had 29 vacant positions and it was necessary to know the recruitment system that would be put in place to fill them;
  - xvi) There was the need to know whether the extension of the mandate of the current Director General of AUDA-NEPAD would have legal implications;
  - xvii) The resources of the Development Fund come from partner funds and voluntary contributions from Member States and therefore did not entail any financial implication;
  - xviii) At the 18th Meeting of the PRC Sub-Committee on AUDA-NEPAD held on April 14, 2019 in Midrand, South Africa, AUDA-NEPAD justified the request for a supplementary budget for 2020; The PRC should therefore give AUDA-NEPAD the opportunity to present and justify its request for supplementary budget before the Subcommittee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters;
  - xix) Regarding recruitment, it was agreed at the Midrand meeting that the post of Director General of AUDA-NEPAD would be allocated according to equitable regional distribution, but that the recruitment of staff would be in accordance with the Financial Rules and Regulations of the AU which states that the quota is based on contributions from Member States;
  - xx) There was the need to implement Decision (number ???) which stipulates that the least represented Member States of the AU must be given priority in recruitment at the level of all the AU organs;
  - xxi) There was the need to review the Arabic translation of the Report;
  - xxii) There was the need to comply with the procedures for requesting for a supplementary budget;
  - xxiii) The Kenyan delegation proposed to reword the first sentence of paragraph 2 of the draft Decision as follows: "Recognizes the expanded mandate of AUDA-NEPAD and in this regard reminds AUDA-NEPAD that it can submit to the relevant AU structure detailed and itemized programme and project proposals for consideration as a supplementary budget for 2020".

**83.** The Chair of the AUDA-NEPAD Sub-Committee provided clarifications as follows:

- i) Some recommendations contained in the report were not reflected in the draft Decision because they must first be considered by the Heads of State and Government Orientation Committee (HSGOC);
- ii) Maintaining the AUDA-NEPAD Coordination Unit under the Bureau of the Chairperson of the AUC did not require a decision of the Executive Council. The decision could be taken at the level of the PRC;
- iii) The AUDA-NEPAD Development Fund would absorb all the unutilized resources so that the organization would not lose the said resources;
- iv) The report did not recommend the establishment of the development fund but emphasized that in the search for resources to finance the activities of the AU, the mopping up of all unutilized resources by the Development Fund constituted an innovative solution;
- v) The budget of AUDA-NEPAD amounted to USD 17.6 million in 2019. However in 2020 despite the expansion of its mandate, AUDA-NEPAD obtained a budget of only USD 10 million when it had requested for an initial budget of USD 26 million; the request for additional budget was therefore justified by the shortfall of USD 16 million;
- vi) Member States would be furnished with information on the 29 vacant AUDA-NEPAD posts so as to enable their national to apply;
- vii) The regional rotation criterion must be applied in the appointment of the next Director General of AUDA-NEPAD;
- viii) AUDA-NEPAD should have the opportunity to present and justify its request for supplementary budget in accordance with the laid-down procedures;
- ix) To compensate for the poor translation of working documents in the Arabic language, the Member States concerned are invited to apply to the Directorate of Conference Management of Publications where 56 translation and interpreting positions are currently vacant.

**84. In conclusion, the PRC:**

- i) Took note of the Report;
- ii) Decided to insert the following paragraph in the draft Decision: "Takes note of the Report of the Sub-Committee on AUDA-NEPAD";
- iii) Decided to mention in the draft Decision, the extension of the mandate of the CEO of AUDA-NEPAD;
- iv) Retained the rewording of paragraph 2 of the draft Decision as proposed by the Kenyan delegation;
- v) Decided to rename the AUDA-NEPAD Fund containing all the unutilized resources from partner or voluntary contributions from Member States, and to continue discussions on the matter;
- vi) Decided to maintain the AUDA-NEPAD Coordination Unit under the Bureau of the Chairperson of the AUC and not to refer to it in the draft Decision;
- vii) Recommend the draft Decision as amended to the Executive Council for consideration.

**(viii) Sub-Committee on Rules, Standards and Credentials –  
Doc.EX.CL/1177(XXXVI)xi**

**85.** The Report of the Sub-Committee was presented by Ambassador Mohammed Arrouchi, Permanent Representative of the Kingdom of Morocco to the African Union, and Chairperson of the Sub-Committee on Rules, Standards and Credentials.

**86.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) Commended the quality of the Report presented and requested adequate time for its consideration;
- ii) Requested that the mandate of the Sub-Committee be clearly highlighted in the report, and recalled that its mandate is to align and not amend the legal instruments;
- iii) The reservation registered by the People's Democratic Republic of Algeria was on the exclusion of African Regional Mechanisms (RMs) in the legal instruments. It recalled that the protocol of the PSC had recognized the role played by RMs; further, the Assembly had requested that the Commission aligns all relevant legal instruments in line with the Institutional reform of the African Union. According to Decision Assembly/AU/Dec.635(XXVIII) on the Institutional Reform of the AU, RMs are recognized and play a vital role in the division of labour. A similar concern was expressed by other delegations;
- iv) In para 26 (c) RMs should be included along with RECs in the implementation of key priorities of the Union within the continental scope;
- v) Clarity was sought on the use of official languages. If the possibility of the coming into use of the official languages be addressed through the implementation of the Protocol on amendments to the Constitutive Act of the African Union upon its entry into force, then there is need to include the implementation of the use of Spanish as a working language;
- vi) States are governed by rule of law and some circumstances can prompt request to access the Union's properties unlike as stipulated in Para 33 (b).
- vii) There is need to capitalize on some matters of utmost urgency which already have recommendations and require decisions such as the composition of representation at the level of Head of states, the quorum and voting, the insertion of an Article in the Statute of the Commission to protect the Asset of the Union;
- viii) A timeline should be defined for the electoral process of the election of the Members of the Commission
- ix) The alignment of legal instruments require legal expertise and drafting; therefore the report can be taken note of, and recommended for consideration at the Extraordinary session of the STC on Justice and Legal Affairs to be held in May 2020;

- x) There is need to develop a legal document integrating all AU legal instruments;
- xi) Request was made for policy Organs to expedite the tasking of the PRC which will in turn give mandate to the Sub-committee on the issue of quorum and voting.

**87.** The Chairperson of the Sub-Committee on Rules, Standards and Credentials provided clarifications as follows:

- i) The report is a combined group work between Member States and the Commission and is a progress which requires more time for its consideration;
- ii) The Mandate of the Sub-Committee is to align legal instruments and was done in an objective and transparent manner, however, Member States where given the possibility of highlighting divergent and omitted issues;
- iii) The Sub-Committee in consultation with the Office of the Legal Council will work together to sort out urgent issues requiring decisions.

**88.** The Legal Counsel highlighted that if the Legal Instruments would be considered in July 2020, then there is need for an Assembly Decision to mandate the Executive Council to adopt them.

**89. In conclusion, the PRC:**

- i) Took note in principal of the Report of the Sub-Committee on Rules, Standards and Credentials;
- ii) Requested that Para 37 (a) of the draft Decision reads: Noting.....Decides to provide flexibility .....2021, without exceeding 75 days;
- iii) Recommended that the mandate of the PRC for realignment of the legal instruments be extended till the July 2020 for consideration at the 37th Ordinary Session of the Executive Council in July 2020;
- iv) Requested that the Sub-Committee works with the Office of the Legal Counsel to draft a decision covering all urgent matters for submission to the Executive Council;
- v) To request the Assembly to delegate its authority to the executive council to provisionally adopt the Draft Rules of Procedures of the Assembly and the Statute of the Commission till the final adoption of the Assembly in its ordinary session in Feb. 2021.

#### **SECTION IV: REPORTS OF THE SPECIALIZED TECHNICAL COMMITTEES (STCs)**

- (i) **3<sup>rd</sup> Ordinary Session of the Specialized Technical Committee on Health, Population and Drug Control, Cairo, Egypt, 29 July to 2 August 2019 – Doc.EX.CL/1178(XXXVI)**

90. The Report and the related Draft Decision was presented by the Director of the Department of Social Affairs.

91. Following the presentation, Members of the PRC made comments as follows:

- i) The need to present the Report along with a Draft Decision to the meeting;
- ii) The Draft Decision should be structured around aspects of the Report with financial, legal and structural implications;
- iii) STCs, as ministerial structures, adopt their reports, with the exception of items with financial, legal and structural implications;
- iv) Africa CDC should be in charge of all epidemics and other diseases, it is not necessary to establish new structures for the management of the diseases mentioned in the Declaration;
- v) Requested information on the financial implications of assigning Champions for each of the initiatives and diseases mentioned in the Report;
- vi) Some recommendations contained in the Report are not reflected in the Draft Decision;
- vii) Due to budgetary and substantive reasons, STC sessions should be held every two years and not yearly;
- viii) The need to attach concept notes that explain the proposed initiatives as well as the declarations mentioned, to the Report;
- ix) The need to codify the procedure for the nomination of champions, and clarify their methods of collaboration with departments of the Commission as well as with the Regional Economic Communities (RECs);
- x) The Commission, based on the conclusions of the PRC Meeting of October 2019, has withdrawn the list of Key Commitments proposed to be declared by Member States during the Nairobi Summit on ICPD25: Accelerating the Promise.

92. The Director of the Department of Social Affairs stated that none of the recommendations contained in the Report had financial, legal or structural implications.

93. **In conclusion, the PRC:**

- i) Took note of the Report;
- ii) Decided that the issue of nomination of champions would be considered at a later date;
- iii) Recommended the submission of the Draft Declaration to the Assembly for consideration and adoption.

**(ii) 5th Conference of African Ministers Responsible for Civil Registration, Lusaka, Zambia, 17-18 October 2019 – Doc.EX.CL/1179(XXXVI)**

**94.** The Report was presented by a Representative of the Department of Economic Affairs.

**95.** Following the presentation, the Commissioner for Infrastructure and Energy made comments as follows:

- i) The AU Commission works in close collaboration with the United Nations Economic Commission for Africa (UNECA) on the sensitive issues of cyber-security and protection of personal data, within the context of the development of a comprehensive Digital Transformation Strategy for Africa;
- ii) A large number of Africans do not have digital identities;
- iii) Recommended that the Department of Economic Affairs work in close collaboration with the Department of Infrastructure and Energy in the formulation of the draft decision so as to include cyber-security and protection of personal data.

**96.** Members of the PRC made comments and observations as follows:

- i) The Office of the Secretary General of the Commission should ensure that working documents are available prior to their inclusion on the agenda;
- ii) STC reports that are not accompanied by draft decisions should not be considered by the PRC;
- iii) Any possible financial, legal and structural implications should be systematically attached to STC reports;
- iv) In the event of the absence of representatives of departments in charge of presenting STC reports, the proposed items will be systematically postponed until the next session of the PRC;
- v) Since the Report does not include any financial, legal and structural implications, the PRC can only take note of it.

**97. In conclusion, the PRC:**

- i) Took note of the Report and the Declaration.

**(iii) 3rd Ordinary Session of the Specialized Technical Committee on Communication and ICT, Sharm El Sheikh, Egypt, 25-26 October 2019 – Doc.EX.CL/1180(XXXVI)**

***Update on the Digital Transformation Strategy for Africa (2020-2030)***

**98.** The Report was presented by the Director of the Department of Infrastructure and Energy.

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

- i) The Bureau of the STC-CICT featured in the Report of the STC on Communication and ICT, it is needless for it to be further mentioned in the 2019 Sharm El Sheikh Declaration;
- ii) During the STC Meeting, the issue of artificial intelligence was considered, while it was also discussed during the STC on Education, Science and Technology, so duplication should be prevented, to avoid repetition of tasks regarding that matter;
- iii) On the creation of common Digital Single Market, Internet and Digital Infrastructure are not the only essential components, cyber security legislation is also essential;
- iv) There is a need to sensitize local communities on the importance of digital identification;
- v) Emphasized the request of Ministers of Communication to transfer the common assets of the Pan African e-Network to the management of the Regional Satellite Communication Organization (RASCOM) should further be elaborated to give information as to what led to the proposed Decision. The Experts' Report was not annexed to the Report presented;
- vi) Member States requested to know the financial implications involved in the transfer of the common assets of the Pan African e-Network to the management of the Regional Satellite Communication Organization (RASCOM). Clarity was sought as to the funding of the Pan African e-Network project as Member States were requested to pay yearly contribution of \$90,000 USD to meet 4.2 Million USD indicated in the Report;
- vii) The decision on the transfer of the common assets of the Pan African e-Network Network to the management of the RASCOM should be rewritten to include that an audit should be conducted on the common assets of the Pan African e-Network, following which the transfer request can be made;
- viii) Para 3 of the Draft Decision should be reviewed;
- ix) Draft Decisions should capture all items raised in the Sharm El Sheikh Declaration;
- x) Para 4(i) of the Decision requesting AU to mobilize resources and 4(iii) to develop sectorial components are to be done by policy organs and sectorial bodies respectively;
- xi) The production and launch of the first edition of the Africa Factbook should be finalized;
- xii) Serious concern was raised that Member States were not given adequate time to provide input into the Digital Transformation Strategy (DTS) before its endorsement. A delegation objected to its adoption until due consideration by Member States;
- xiii) As projects under the Digital Transformation Strategy for Africa that are within Agenda 2063 flagship projects, and are financed through the domestic resource mobilization strategy being worked on by Strategic Policy Planning, Monitoring & Evaluation and Resource Mobilization (SPPMERM), or Partners support, so there is no requirement for a new

- xiv) resource mobilization strategy;
- xiv) Given its resource mobilization mandate, AUDA-NEPAD is requested to support the implementation of the DTS.

**100.** The Director of the Department of Infrastructure and Energy provided clarifications as follows:

- i) Comments and observations made by Member States will be taken into consideration;
- ii) Artificial intelligence has several components, however the Commission would ensure there are no duplications;
- iii) The Experts' Report will be shared with Member States;
- iv) Member States were informed that only the hub Pan African e-Network, based in Dakar, Senegal, would be transferred and a monthly contribution of \$90,000 is required from each Member State. The Director added the following:
  - a) The E-Africa Network project is a joint project between the Government of India and the African Union Commission whose main objective is to help build capacity through the transfer of quality education, as well as remote medical expertise and consultations to member countries by some Indian academic and medical institutions. Since March 2017, the network has been established in 48 African Union Member States;
  - b) In July 2017, the African Union Commission placed the network centre under the auspices of Senegal, and since then Senegal has continued to cover electricity and water charges, pending a search for a solution to resume the activities of this project. As a result, the African Union Commission prepared reports on the importance of the sustainability of this network and urged Member States to support the sustainability of the electronic network;
  - c) At the Second Meeting of the Specialized Technical Committee for Communications and Information Technology that was held in Addis Ababa during the period from 20 to 24 November 2017, the Ministers asked the Commission to determine the appropriate financial resources to continue the operation of the African electronic network as a major project for the African Union agenda 2063, and recommended the allocation of sufficient financial resources to continue the operation of the African electronic network;
  - d) Due to lack of funding sources by Member States to support this network financially in light of the financial and structural reforms taking place in the African Union, the telecommunications Ministers requested at their last meeting in Sharm El-Sheikh to transfer the common assets of the network under the management of the Regional Communications Organization (RASCOM).

- v) The Commission was requested to expedite the Digital Transformation Strategy as mandated by the Assembly. The Commission in collaboration with Member States, and key partners including the UNECA, have been working towards the finalization of the strategy. The process was an inclusive one. The Report was sent to Member States a month prior to the Sharm El Sheikh meeting for discussion during the meeting. The finalized document has been shared with Member States for their review and inputs after Sharm El Sheikh meeting, and all the comments received have been added to the Strategy.

**101. In conclusion, the PRC:**

- i) Took note of the Report of the 3rd Ordinary Session of the Specialized Technical Committee on Communication and ICT;
- ii) Stressed the relevance of the Digital Strategy for Africa;
- iii) Noted that the process of the preparation of the Strategy was transparent and consultative;
- iv) Urged the Commission to incorporate the suggestions made by the PRC in the Strategy and circulate the Experts' Report to Member States;
- v) Recommended that the Strategy should be cascaded in due course to sectorial components so as to effectively realize its full potential and benefits;
- vi) Recommended the Strategy to the Executive Council for consideration as the Strategy is considered an African effort in a specific technical field, and it is ultimately a guidance document to facilitate the matter, and it is not a mandatory document that imposes any legal aspects on Member States, and the matter is ultimately up to the relevant Ministers in charge of ICT matters, who requested the Executive Council to adopt this Strategy in accordance with the deliberations that took place in Sharm El-Sheikh, and given that the matter falls within the mandate of the STC;
- vii) Recommended that prior to the transfer of the Pan-African e-Network, an audit excise should be undertaken by the AU.

**(iv) 4th Specialized Technical Committee on Gender Equality and Women's Empowerment, Addis Ababa, Ethiopia, 28 October to 1 November 2019 – Doc.EX.CL/1181(XXXVI)**

**102.** The Report was presented by a Representative of the Women, Gender and Development Directorate (WGDD).

**103.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) Expressed concern over the organizational challenges that resulted in limiting the time for Ministers to deliberate on their agenda items;

- ii) All Draft Decisions/Declarations should be availed for consideration;
- iii) Some recommendations featured in the Report were not mentioned by the presenter such as the AU Strategy for Gender Equality and Women's Empowerment (AU GEWE Strategy);
- iv) Clarity was sought as to the resolution and appropriate channels contained in Para 33 (c) whereby *UNWOMEN were requested to draft the resolution to be delivered through appropriate channel to the United Nations Commission on the Status of Women (CSW Chairperson)*;
- v) Requested to rephrase Para 41 (b) to read " Requests the Commission to continue to make the necessary amendments throughout the Strategy, including acronyms, definitions and annexes, *particularly in relation to sexual reproductive health matters*, to ensure that it is in conformity with the Common Africa Position (CAP)";
- vi) Requested that the same reference to "particularly in relation to sexual reproductive health matters" be added to Para 41 (d) to clarify the language agreed to;
- vii) It was noted that annexes to the AU GEWE Strategy were not adopted at the time of adopting the Strategy, neither were discussed during the STC meeting leading to the request for them to be postponed for further consideration by Member States before inclusion into the Strategy;
- viii) Clarification was sought regarding the reasons behind the transformation of the Fund;
- ix) The advice of the PRC Sub-Committee on Audit Matters is required in this transformation exercise;
- x) Also, there is a need to submit the financial, legal and structural implications of the transformation of the Fund;
- xi) All the annexes mentioned at the end on page 11 of the Report should be circulated;
- xii) Given that the two annexes on Africa Political Declaration and Key Messages Relating to the implementation of the Beijing Declaration and Platform for Action +25 and the Draft Decision on SDGEA reporting cycle respectively are missing, it will be difficult for the Report to be considered;
- xiii) During the STC meeting, controversies emanated on the AU GEWE Strategy and issues of definitions and Member States expressed concern over lack of alignment by the Commission to the Common African Position on the matter;
- xiv) The reference to sexual rights was not agreed to during the STC meeting as it contradicts the Common African Position;
- xv) There is a need to ensure that annexes to the AU GEWE Strategy do not include words or sentences that are at variance with fundamental African cultural values. The position to be adhered to is what was agreed to by Heads of State and government;
- xvi) Working documents such as Africa Political Declaration and Key Messages Relating to the implementation of the Beijing Declaration and Platform for Action +25 reflects the political views of the African Union and need to be cleared by Member States before submission to the Sixty-Fourth Session

of the Commission on the Status of Women New York meeting.

**104.** The Representative of WGDD provided clarifications as follows:

- i) The dissemination of the Strategy was suspended as the annexes were not in accordance with all views expressed especially on sexual and reproductive health;
- ii) A roadmap has been developed by the WGDD to address issues raised during the STC meeting;
- iii) Comments and observations made by Member States will be incorporated in the Report.

**105. In conclusion, the PRC:**

- i) Requested the Commission to include all annexes in the report of the STC;
- ii) Requested for more information on the Fund for African Women and clear mechanism and its transformation;
- iii) Decided to postpone the consideration of the Report to the 37th Ordinary Session of the Executive Council scheduled for June/July 2020 due to the inability to respond to clarifications sought by Member States.

**(v) Specialized Technical Committee on Migration, Refugees and IDPs, Addis Ababa, Ethiopia, 5-8 November 2019 – Doc.EX.CL/1182(XXXVI)**

**106.** The Report was presented by the Director of Political Affairs. He indicated that the STC on Migration, Refugees and IDPs is jointly managed by Political Affairs and Social Affairs Departments.

**107.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) Clarification was sought whether the draft statutes of the three Migration Centres in Mali, Morocco and Sudan were referred to the STC on Justice and Legal Affairs for consideration;
- ii) Clarification was sought about the status of preparation of the documents of the African Humanitarian Agency that will be presented to the Extraordinary Session of the STC due to take place in March/April 2020 for consideration;
- iii) The Executive Council should validate the outcome Report of the Extraordinary Session of the STC on Migration, Refugees and IDPs before the consideration of the draft legal instruments related to the African Humanitarian Agency;
- iv) The Action Plan on Migration should be inclusive;
- v) Reference to be made in para 15 (e) to holding the Pan-African Forum on Migration for the first time at Ministerial Level during its meeting in Egypt in

- September 2019;
- vi) The STC welcomed a proposal by the AUC to appoint a Head of State and Government to serve as a Champion on Free Movement of Persons, Rights of Residence and Rights of Establishment. Some Member States recalled the need to agree on an orderly process regulating the appointment of Champions and that the matter can be addressed by the already existing Champion on Integration;
  - vii) Requested to change Committee in para 18 (e) to the Ministerial Committee on the Challenges of Ratifications/Accession and Implementations of the OAU/AU Treaties;
  - viii) More information was requested on the content of the reservations referred to in para 24 of the Report and requested for guidelines on how to submit reservations;
  - ix) It was reported that no reservation were registered during the STC, therefore the Report should be factual and accurate; However, some Member States expressed concern about the status of countries which are not part of any Regional Economic Communities (RECs);
  - x) A number of delegations raised serious concern over the composition of the Board of the three Migration Centres (article 7), yet due to lack of jurisdiction by this STC, they stressed that only the STC on Justice and Legal Affairs could decide on the issue;
  - xi) Clarification was sought on whether draft instruments for the operationalization of the three Migration Centres are ready for submission to the Extraordinary Session on the STC on Justice and Legal Affairs in March 2020;
  - xii) Expressed concern about the participation of partners in closed session of the STC. This practice should be stopped in order to avoid bad precedence;
  - xiii) The Report should highlight any legal, financial and structural implication which should be submitted to the PRC for consideration;
  - xiv) The Sahrawi delegation would like to reject number 90,000, which contradict the report of UNCHR 2018 (173,000) very well researched. Furthermore the figure of the refugees can be provided by the host country (Algeria) and the Member State concerned (Saharawi Republic).The Moroccan occupation is the root cause to this long protracted situation and need to find its solution through the implementation of relevant resolution of UN and AU. While this situation is prevailing, the Saharawi refugees deserve an adequate International assistance and support.

**108.** The Director of the Social Affairs Department provided clarifications as follows:

- i) The draft statues of the three Migration Centres have already been considered by the STC on Justice and Legal Affairs, and it is expected that the Executive Council will endorse them;
- ii) Partners did not take part in the closed session of the STC;
- iii) It was confirmed that no reservation was made during the STC.

109. The Director of the Political Affairs Department provided clarifications as follows:

- i) Recommendations on legal, financial and structural implications will be made to Member States regarding the African Humanitarian Agency;
- ii) A Feasibility Study on the African Humanitarian Agency has been conducted and will be circulated to Member States in preparation for consideration during the Extraordinary Session of the STC on Migration, Refugees and IDPs in March/April 2020. The Report will then be submitted to the Extraordinary Session on the STC on Justice and Legal Affairs.

110. **In conclusion, the PRC:**

- i) Took note of the Report of the STC on Migration, Refugees and IDPs;
- ii) Recommended that the Draft Decision be presented to the PRC before consideration by the Executive Council.

**(vi) Specialized Technical Committee on Justice and Legal Affairs, Addis Ababa, Ethiopia, 14-22 November 2019 – Doc.EX.CL/1183(XXXVI)**

111. The Report was presented by a Representative of the Office of the Legal Counsel.

112. Following the presentation, Members of the PRC made comments as follows:

- i) The draft decision should be attached to the Report;
- ii) Defer consideration of the Report for in-depth review;
- iii) Add Guinea to the List of Participants ;
- iv) The Report accurately reflects the deliberations of the STC;
- v) The need to include the statutes of the African Humanitarian Agency in the List of Legal Instruments referred to in the draft decision;
- vi) The proposed Counter-Terrorism Fund should first be submitted for consideration by the STC on Defence, Safety and Security;
- vii) Paragraph 54 of the Report should be completed by mentioning that it refers to the statutes of the Centres in Khartoum, Rabat and Bamako;
- viii) Recall the need to respect the moratorium on the establishment of new bodies;
- ix) The need to submit STC Reports as soon as the work is completed to allow for timely review by governments of Member States;
- x) Indicate the exhaustive list of legal instruments in paragraph 55 of the Report;
- xi) The Office of the Legal Counsel should be involved in the drafting of legal documents to ensure that STC experts focus primarily on substantive issues;
- xii) Extraordinary Sessions of the STC on Justice and Legal Affairs should be scheduled well ahead of the AU Coordination Meeting with the RECs/RMs;
- xiii) The Office of the Legal Counsel should in future work with the Directorate of Programming, Budget, Finance and Accounting to assess the costs of

- Extraordinary Sessions of the STC;
- xiv) The position of the STC on the term of office of the Boards of Directors of the three Migration Centres should be reflected in the Report;
  - xv) Reword the footnote to the terms of reference of the Boards of Directors of the Migration Centres to reflect the reservation of the Kingdom of Morocco which should read “*Morocco insisted on its objection to the duration of the term of the Board members which should remain five years as decided by the STC on Migration, Refugees and Internally Displaced Persons. The duration should not have been considered as it does not fall within the legal scrubbing mandate of the STC on Justice and Legal Affairs. Moreover, the duration of the mandate was not included in the compromise language considered at its Ministerial meeting*”;
  - xvi) One delegation highlighted that the composition of the Boards of the three Migration Centres is too large and can impede their capacity to operate effectively and smoothly;
  - xvii) The need to address as a strategic issue the low rate of ratification of African Union legal instruments;
  - xviii) Draft legal instruments should systematically be preceded by an explanatory memorandum to facilitate understanding;
  - xix) The delegation of authority from the Assembly to the Executive Council for the adoption of legal instruments should be permanent due to the changeover to a single ordinary session of the Assembly per year;
  - xx) Permanent delegation of authority from the Assembly to the Executive Council for the adoption of legal instruments could pose serious risks, particularly with regard to those with a strategic dimension requiring consideration by the Assembly;
  - xxi) The legal opinion given by the Office of the Legal Counsel to the STC on Justice and Legal Affairs should be attached to the Report;
  - xxii) Member States recalled the observed non-compliance with Rule 10(2) of the Rules of Procedure of the STC on Justice and Legal Affairs at its 5th Ordinary Session, and requested that the STC on Justice and Legal Affairs as well as the AU Commission ensure compliance with this Rule and of all other provisions of the Rules of Procedure.

**113.** The Representative of the Office of the Legal Counsel provided clarifications as follows:

- i) Guinea will be included in the List of Participants of the STC;
- ii) The Extraordinary Session of the STC on Justice and Legal Affairs will consider the submissions made to the STC;
- iii) Took note of the proposal on the delegation of authority for the adoption of legal instruments. A draft decision will be proposed to that effect;
- iv) The estimated cost of the Extraordinary Session of the STC will be presented at the session on adoption of the supplementary budget;
- v) The footnote on the duration of the term of office for Members of the Boards of Migration Centres will be amended in accordance with the request of the

Kingdom of Morocco.

**114. In conclusion, the PRC:**

- i) Took note of the Report;
- ii) Decided that reservations should be submitted through a Note Verbale addressed to the Commission;
- iii) Decided that the Draft Statute of the African Humanitarian Agency, **the AU Staff Regulations and Rules (SRR), and the AU Financial Rules and Regulations** should be included in the List of Legal Instruments to be considered by the Extraordinary Session of the STC on Justice and Legal Affairs;
- iv) Requested the Commission to review the Draft Decision, in the light of the comments of Member States endorsed by the PRC;
- v) Recommended the revised Draft Decision for consideration by the Executive Council.

**(vii) Extraordinary Specialized Technical Committee on Social Development, Labour and Employment (SDLE-STC), Abidjan, Cote d'Ivoire, 2 and 6 December 2019 – Doc.EX.CL/1184(XXXVI)**

**115.** The Report was presented by the Director of Social Affairs.

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

- i) Commended the Commission for presenting a clear Report;
- ii) Requested the Commission to attach the Three Agenda Documents to the STC Report;
- iii) Requested the use in para 5 of “populations in vulnerable situations” instead of “vulnerable populations”;
- iv) Suggested that the Report of the STC be submitted to the STC on Justice and Legal Affairs for technical review and advice;
- v) Recommended for a Common African Position on the position of the Director-General ILO;
- vi) Requested clarifications regarding quorum in para 7(iii) in relation to the tripartite composition in the rules of procedures of the STC ;
- vii) Also requested the Office of the Legal Counsel to proffer on the Draft Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Citizens to Social Protection and Social Security, on the inclusion or exclusion of non-citizens;
- viii) The Commission was requested to upload all relevant documents on its website for easy accessibility;
- ix) Requested the OLC to annex its opinion proffered during the STC.

**117.** The Director of Social Affairs provided clarifications as follows:

- i) Member States considered all the Report during the Extraordinary Session of the 3rd STC on Social Development, Labour, and Employment in Abidjan, Côte d'Ivoire from 2 to 6 December 2019;
- ii) All Annexes were electronically shared with all Permanent Missions of Member States due to bulkiness. Thus, they could not be attached to the Report during the PRC Session;
- iii) The Commission informed that on the matter regarding the position of the Director-General of ILO, the notification was just for information sharing with Member States.

**118.** A Representative of the Office of the Legal Counsel provided clarifications as follows:

- i) Proffered that the Draft Protocol to the Charter on Human and People's Rights on the Rights of Citizens to Social Protection and Social Security is restricted to citizens;
- ii) Cautioned against amending rules of procedure on quorum to include the tripartite composition and made it clear that only delegates nominated by Member States constituted the quorum during the STC;
- iii) She however advised that should Member States want to change the rules of procedure, then they need to follow the laid down policies on how to amend procedures using the various structures;

**119. In conclusion, the PRC:**

- i) Took note of the Report of the Extraordinary Specialized Technical Committee on Social Development, Labour and Employment ;
- ii) Requested the Commission to channel the Draft Protocol to Charter on Human and Peoples' Rights on the Rights of Citizens to Social Protection and Social Security to the STC on Justice and Legal Affairs for technical input;
- iii) Recommended the adoption of the AU Social Agenda 2063 and the Ten-Year Action Plan on Eradication of Child Labour, Forced Labour, Modern Slavery and Human Trafficking in Africa (2020-2030), with no financial or structural implications;
- iv) Requested the Commission to circulate the three documents considered during the STC to allow Member States to review their amendments;
- v) Requested the Commission to report regularly on the issue of the election of the Director-General ILO;
- vi) Recommended that the Executive Council take note of the Report.

**(viii) 3rd Specialized Technical Committee on Education, Sciences and Technology, Addis Ababa, Ethiopia, 10-13 December 2019 –**

**Doc.EX.CL/1185(XXXVI)**

**120.** The Report was presented by a Representative of the Human Resource, Science and Technology Department.

**121.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) Commended the Report of the 3rd STC on Education, Sciences and Technology;
- ii) Clarification was sought whether the Report was validated by the Bureau of the STC; if not, the Report should be sent to the STC before its circulation to Member States;
- iii) The issue of the establishment of a single Education, Technology and Innovation Fund by the AfDB should not be included in the Draft Decision as it was raised under AOB for information during the STC, as it was stated by the Legal Counsel that no decisions to be taken under the AOB matters;
- iv) Therefore para 34 c) of the report and para 3 of the Draft Decision requesting for the combination of the Fund on Education, Science, Technology and Innovation and the African Fund on Education into one and the request to AfDB for the operationalization of the Fund is not accurate. The language adopted by the Ministers during the STC read as follows “Request the Commission to expedite the establishment of a consolidated fund to support Education, Science and Technology as articulated in STISA 2024”;
- v) The Fund on Education, Science, Technology and Innovation, was already established by the Decision Assembly/AU/Dec.174 (X), and which requested its creation by 2009;
- vi) The Commission was requested to provide any financial implications involved in the creation of the said fund;
- vii) It was suggested that the Commission should explore partnership with Private sector to mobilize resources for the Fund;
- viii) Therefore, the Draft Decision cannot endorse the recommendation regarding the Education Fund until further discussions by the experts, STC and within the AU Policy Organs;
- ix) Clarity was sought on the status and format of the proposed event of the Innovating Education in Africa Expo as to whether it will be an annual event or a side event to Summit and requested to know the financial implications involved;
- x) The proposal to hold the STC-EST Ordinary sessions on annual basis is contradictory to the Assembly/AU/Dec.365(XVII) which stipulates that *each STC should meet at the level of ministers and experts once every two (2) years, with the exception of the STC on Finance, Monetary Affairs, Economic Planning and Integration, the STC on Gender and Women Empowerment and the STC on Defense and Security which shall meet once a year in ordinary session*, and proposal should not be endorsed;

- xi) Welcomed the proposed plan of action for the African decade for technical, professional, entrepreneurial training and youth employment and requested the Commission to assist Member States in the implementation of this plan of action;
- xii) The proposed AU Continental prize for Teachers aimed at celebrating the work of distinguished teachers on the continent should be inclusive and cover all teaching systems across the continent;
- xiii) Requested the Commission to circulate the Continental Teacher Mobility Protocol to Member States;

**122.** The Representative of the HRST Department provided clarifications as follows:

- i) The Decision on the creation of a single Education, Science, Technology and Innovation Fund emanated as a result of concerns raised by Member States at Expert level, on the external financing of such a project. Therefore, the request was made to the Commission to work with the AfDB in order to create the said fund, adding that this fund was considered at the AOB during the STC;
- ii) The Report was amended during the STC;
- iii) The Innovating Education in Africa Expo is being implemented by Member States, and the role of the Commission is to coordinate all education innovations on the Continent;
- iv) The holding of an Extraordinary Session of the STC-EST in 2020 was proposed by the outgoing Chairperson of the STC (Senegal), in order to take stock of the assessment of developmental process of science and technology on the continent;
- v) The proposal for annual meetings was made by Ministers in their bid of strengthening the role of science and technology given its importance to the continent;
- vi) Protocol and Convention documents will be availed to Member States;

**123. In conclusion, the PRC:**

- i) Took note and commended the Report of the Third STC on Education Science and Technology;
- ii) Requested that Para.1 of the Draft Decision reads, *TAKES NOTE of the Third Ordinary Session of the STC on Education, Science and Technology and the recommendations contained therein;*
- iii) Also requested that para. 3 of the Draft Decision be limited to recalling Decision Assembly/AU/Dec.174 (X) on the establishment of an African Education, Science and Technology Fund;
- iv) Recommended to keep the same periodicity of holding the STC-EST every two years in line with Assembly/AU/Dec.365 (XVII);
- v) Recommended the amended Draft Decision to the Executive Council for consideration.

**(ix) Specialized Technical Committee on Defence, Safety and Security, Cairo, Egypt, 15-19 December 2019 – Doc.EX.CL/1186(XXXVI)**

**124.** The Declaration was presented by the Director of the Department of Peace and Security.

**125.** Following the presentation, members of the PRC made comments as follows:

- i) Congratulated the Egyptian authorities on the excellent organization of the STC;
- ii) The Moroccan Delegation underscored the following points:
  - At the end of the discussion, the draft Declaration was read out by the Secretariat of the Peace and Security Council, and despite its insistence, the Moroccan Delegation was not allowed to take the floor to comment and express its reservations before the adoption of the Declaration;
  - After the adoption of the Declaration, the Chairperson of the meeting indicated that Delegations wishing to express reservations were invited to do so in writing to the Secretariat of the Peace and Security Council;
  - Expressed its strong reservation on paragraph 3(o) of the Declaration, as reworded by the Secretariat;
  - The Moroccan Delegation had requested to add to the first line of paragraph 3(a) of the Declaration the provision of Article 17 of the Protocol Relating to the Establishment of the Peace and Security Council of the AU, which stipulates that the United Nations Security Council has the *primary responsibility* for the maintenance of international peace and security. This proposal, which had been submitted in writing to the Chairperson of the meeting and read out twice by the Moroccan Delegation, was not correctly reflected in the Declaration. Instead of paragraph 3(a), it was inserted in paragraph 3(n), where the term "primary responsibility", although specified in the Protocol, was replaced by "overall responsibility";
  - Deplored, therefore, the bias of the Secretariat of the Peace and Security Council during the STC Session;  
Morocco expressed strong reservations on paragraphs 3(n) and 3(O) of the Declaration of the 12<sup>th</sup> Ordinary Meeting of STC. As stressed during the consideration of the PRC draft report, these reservations should be reflected as two footnotes in the Declaration;
    - Morocco expressed its reservation on paragraph 3(O) as the wording used is not in line with the Protocol Relating to the establishment of the Peace and Security Council and the Communiqués adopted by the PSC at different levels, which refer to the United Nations Security Council "primary responsibility for the maintenance of international peace and security";

- Morocco expressed its reservation on paragraph 3(O) as the Morocco delegation was not given the opportunity to discuss the reworded paragraph. A reference to a specific article and paragraph of the Constitutive Act was inserted while the STC adopted other documents and no reference to the Act was made.
- iii) The Declaration makes no reference to the African Capacity for Immediate Response to Crises (ACIRC) under the African Standby Force (ASF), although the issue was discussed by the STC;
- iv) The Declaration was adopted by the STC and therefore cannot be amended by the PRC;
- v) Appreciate the adoption of the Cairo Roadmap on the Enhancement of Peacekeeping Operations and urge Member States to enrich it before its implementation by sending their inputs to the Commission within the timeframe provided for in the Declaration;
- vi) The provisional adoption of the AU Doctrine on Peace Support Operations (PSOs) is a significant step forward; Member States should therefore enrich the document by sending their comments to the Commission before 1 March 2020 as stipulated in the Declaration;
- vii) Appreciate the adoption of the draft Regulations on Data Processing for the African Police Communication System (AFSECOM);
- viii) The reservation made by the Eritrean Delegation at the STC session on paragraph 3(h) on the Mapping Study on Small Arms and Light Weapons was not reflected in the Declaration as agreed with the Secretariat;
- ix) The document on the draft Cairo Roadmap on Enhancing Peacekeeping Operations has not been sent to Member States for their inputs;
- x) The Delegation of Burkina Faso questioned the appropriateness of: Member States "provisionally adopt", as indicated in paragraph 3(c) of the Declaration;
- xi) Military participation in STC meetings at the expense of police or intelligence elements significantly limits the ability of the STC to achieve its objectives;
- xii) The Declaration accurately reflects the deliberations of the STC;
- xiii) When a Member State makes a reservation, it should do so immediately and not later;
- xiv) The need for the AU to take collective action against terrorism, particularly in those areas of North Africa and the Lake Chad Basin that are hardest hit by this scourge;
- xv) The need to focus on combating the illicit flow of small arms and light weapons as part of the implementation of the theme for the year 2020, "*Silencing the Guns in Africa by 2020*";
- xvi) The need to put a speedy end to mercenarism.

**126.** The Commissioner for Peace and Security provided clarifications as follows:

- i) Congratulated the Egyptian authorities on the success of the STC meeting on Defence, Safety and Security;

- ii) Commended the Egyptian chairmanship of the STC for demonstrating professionalism and leadership;
- iii) The draft Declaration was read by the Rapporteur of the STC Bureau (Rwanda) and not by the Secretariat;
- iv) At the end of the reading of the draft Declaration, and before its adoption, only the Kenyan Delegation requested the floor;
- v) The draft Declaration was adopted in a transparent manner;
- vi) Article 3(o) of the Declaration cannot be the subject of a reservation insofar as it refers to the Constitutive Act of the AU;
- vii) The correct interpretation of Article 17 of the Protocol Relating to the Establishment of the PSC is not to place the AU under the fetters of the United Nations. The UN's involvement has not, in the majority of cases, been able to bring peace to the African Continent. In addition, UN troops based in the Sahel have no mandate to fight against terrorist groups operating there. It is this situation that justifies the numerous declarations of African Heads of State and Government in favour of African solutions to African problems;
- viii) It is not responsible on the part of the AU to want to depend on the UN Security Council;
- ix) The proposal of the Kingdom of Morocco has therefore been readjusted to comply with the provision of Article 17, paragraph 2, which stipulates that "the AU shall have recourse to the United Nations only if necessary";
- x) The case of AMISOM is a perfect illustration of the effectiveness of African solutions to African problems;
- xi) The objective of the Commission, and in particular that of the Department of Peace and Security, is to serve all Member States without exception;
- xii) The integration of ACIRC into the ASF was decided at the ACIRC Ministers of Defence meeting in September 2019 in Pretoria, South Africa, and only remains for CARIC Member States to adopt it on the sidelines of the 33rd Ordinary Session of the AU Assembly of Heads of State and Government;
- xiii) The participation of police and intelligence elements in STC meetings is left to the discretion of the Member States when composing their delegations;
- xiv) The reservation of the Eritrean Delegation will be reflected in the Declaration.

**127. In conclusion, the PRC:**

- i) Took note of the Declaration;
- ii) Recalled that, in accordance with the procedure, the PRC may not amend decisions taken by the STCs;
- iii) Recalled that the right to make a reservation is a sovereign right of each Member State as well as a principle enshrined in international law;
- iv) Decided to reflect the reservation of the Kingdom of Morocco in the report of the PRC;
- v) Directs the AU Commission to forward the draft Cairo Roadmap on the Enhancement of Peacekeeping Operations to Member States, requesting

them to forward their comments to the Commission within two (2) months from the date of transmission.

- (x) **3rd Specialized Technical Committee on Agriculture, Rural Development, Water and Environment, Addis Ababa, Ethiopia, 21-25 October 2019 – Doc.EX.CL/1187(XXXVI)**

***2<sup>nd</sup> Biennial Review Report of the AUC on the Implementation of the Malabo Declaration on Accelerated Agriculture Growth and Transformation for Shared Prosperity and Improved Livelihoods***

**128.** The Report was presented by the Director of the Rural Economy and Agriculture Department.

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

- i) Not all the elements are captured in the Draft Decision;
- ii) Referring back to the Reports of Experts, the recommendation that came out is not what was agreed;
- iii) Budget issue has been mentioned since 2015 without any conclusive implementation neither specific execution;
- iv) Need for better future coordination of budget for cost effectiveness;
- v) Need of looking closely at the financial, legal and structural of proposed funds;
- vi) Existence of a moratorium on the establishment of funds;
- vii) Issue of funds should have been compulsorily explained before submission to the PRC;
- viii) In para 106, there should not be endorsement but recommendation of the proposal to convene an AU Summit on Water and Sanitation on the margins of the 9th World Water Forum in Senegal;
- ix) The Report does not reflect the recommendation of the STC on Terms of Reference for the Sectoral Committees on Environment and Natural Resources; Climate Change, Meteorology and Disaster Risk Reduction: Water and Sanitation; and Fauna and Flora, as the Ministers stressed on conveying this matter to the Bureau of the STC for appropriate recommendations;
- x) Inconsistence of the narrative with the decision of the Committee;
- xi) Difference of the dates on the cover page “21 - 25 October 2019” and the dates on the following page “24 - 25 October 2019”;
- xii) The real problem is the lack of follow-up of the STC activities;
- xiii) Need for clarification if the Report was submitted to the technical Ministers for consideration and adoption.

**130.** The Director of the Rural, Economy and Agriculture provided clarifications as

follows:

- i) The revision of the Draft Decisions will be done;
- ii) The STC Report was via direct submission but the Commission can also share them via diplomatic means
- iii) Implementation of previous decision has been done. Report does exist.
- iv) More staff is approved in the new structure
- v) The Report was adopted by Ministers.

**131. In conclusion, the PRC:**

- i) Took note of the Report;
- ii) Requested the Commission to review the Draft Decision as per the Member States' observations endorsed by the PRC;
- iii) Requested the Commission to avail the STC Report also through the diplomatic channels;
- iv) Recommended the Draft amended Decision to the Executive Council for consideration.

**(xi) Meeting of African Ministers of Trade (AMOT) –  
Doc.EX.CL/1188(XXXVI)**

**132.** Under this item, the Acting Director of the Department of Trade and Industry presented two separate Reports on (i) the Meeting of African Ministers of Trade (AMOT) held in Accra, Ghana, from 9 to 15 December 2019, and the (ii) the 2nd Meeting of the AfCFTA Council of Ministers, also held on 14 December 2019 in Accra, Ghana.

**133.** Following the presentation of the first Report, Members of the PRC made comments as follows:

- i) Provide clarifications on the proposed structure of the AfCFTA Secretariat;
- ii) Need to clarify the Common African Position on the following points:
  - a) products manufactured within special economic zones and indicate at what level the decision on this matter will be taken;
  - b) issues relating to the World Trade Organization (WTO) whose solutions should be consensual;
- iii) Indicate, in the Report, Africa's desire to hold the position of Director-General of WTO;
- iv) Issues relating to the effective start of trade in the AfCFTA on 1 July 2020 are urgent and require additional effort on the part of the Commission (Department of Trade and Industry) for the experts to finalize the preparatory work expected of them;
- v) Experts need more assistance from the Commission to carry out their tasks;
- vi) The Commission should take into account the political will of Member States which attach great importance to the AfCFTA, as evidenced by the large

- vii) number of signature and ratification of the Agreement relating thereto;
- vii) With regard to the issues raised by the G6, AMOT requested legal advice as to whether the handling of such issues falls within the competence of the Assembly of the Union or that of lower organs;
- viii) The slow pace of negotiations is a matter of concern. The pending issues have remained since the end of the 33rd Ordinary Session of the Executive Council held in Niamey, Niger, in July 2019. The lack of progress in the negotiations relating to these pending issues stems from the fact that experts are yet to hold a meeting to consider them;
- ix) The AfCFTA remains one of the Flagship Projects whose implementation is at an advanced stage and the credibility of the AU depends on its full success; it should therefore be effectively operational on 1 July 2020, as planned by the Leaders of the Union;
- x) The Arabic version contains errors which should be corrected.

**134.** The Commissioner for Trade and Industry provided clarifications as follows:

- i) The necessary corrections will be made to the Arabic version;
- ii) The Common African Position on the WTO and AGOA post 2025 is under preparation and will be finalized during the current year;
- iii) African candidatures for the post of Director-General of WTO have been deposited with the Department of Political Affairs of the AU and the Ministerial Committee on African Candidatures within the International System will examine them at the 36th Ordinary Session of the Executive Council, scheduled for February 2020;
- iv) By May 2020, many meetings will be held to finalize the pending issues, including the criteria for special economic zones. The issue of the AfCFTA Secretariat will also be considered;
- v) Progress in the operationalization of the AfCFTA largely depends on the Member States, which must provide the financial resources necessary for holding meetings. Sometimes, meetings did not hold for lack of funds;
- vi) The negotiations should be funded by Member States to safeguard the independence of the process and Africa's dignity. These negotiations require making available a substantial budget;
- vii) The Office of the Legal Counsel will submit the legal opinion stating which body should deal with the questions raised by the G6;
- viii) The draft Report of the AfCFTA Champion is being prepared. The issue of ratification of legal instruments and others will be raised therein and an appeal will be launched to Member States to speed up the process of ratification of the said legal instruments;
- ix) 28 ratifications have already been deposited and the list of the 28 States will be included in the Report. Other instruments of ratification would likely be deposited during the 33rd Ordinary Session of the Assembly in February 2020;
- x) The Negotiating Forum held in Accra, Ghana, rather became a consultation forum owing to the lack of a quorum, as Member States had not made

- budget provision for the participation of their experts in the various meetings;
- xi) The Heads of State and Government having decided to launch the Market on 1 May 2020, it is imperative that the necessary funds be made available to enable our leaders to live up to their commitment.

**135. In conclusion, the PRC:**

- i) Requested the Commission to continue to improve the quality of working documents;
- ii) Encouraged Member States to take all the necessary measures to enable their representatives to participate in all AfCFTA meetings, in order to ensure the effective implementation of the AU Flagship Project;

**136.** Following the presentation of the second Report, the Members of the PRC made comments as follows:

- i) The recruitment of the Secretary General and the three Directors should be subject to the prior adoption of the structure and budget of the AfCFTA Secretariat;
- ii) The Report should reflect the discussions that have taken place on the structure of AfCFTA by highlighting the different positions held by Member States on this important issue;
- iii) A Report on these proceedings should be submitted to the policy organs for consideration ;
- iv) The Report indicated that the advertisement period for the vacancies was two months, contrary to the Commission's note verbale, which reduced it to one month. This reduction in the timeframe should be clarified;
- v) As the draft decision was not attached to the Report, it was difficult to make comments/observations;
- vi) The PRC Sub-Committee on Structural Reforms had devoted an entire session to the consideration of the proposed structure of the AfCFTA and legal advice was sought on the issue of recruitment;
- vii) The Report mentions the setting up of a panel without basing such on any regulations;
- viii) The annexes mentioned in the Report were not attached to it.

**137.** The Commissioner for Trade and Industry provided clarifications as follows:

- i) The Department will take the necessary steps to produce quality reports and will ensure that when mentioned in the Report, annexes are attached;
- ii) The annexes mentioned in the Report will be available in July 2020;
- iii) The decision to recruit the Secretary General and three Directors was taken at the Extraordinary Session of the Assembly held in Niamey, in July 2019, on the launching of the AfCFTA, with a view to making the AfCFTA General Secretariat operational as from March 2020;

- iv) At the meeting of the PRC Sub-Committee on Structural Reforms, the Office of the Legal Counsel indicated that recruitment could not be done without prior adoption of the structure and budget of the AfCFTA General Secretariat;
- v) However, the Ministers considered that this was a political issue, and at their meeting held in Accra, Ghana, they decided to establish the structure of the AfCFTA;
- vi) Member States will hold consultations for the recruitment of the Secretary General and the three Directors, with a view to implementing the Assembly Decision through the AU organs;
- vii) The President of the Republic of Ghana held a meeting with the Chairperson of the African Union Commission to ensure that the decision on the effective establishment of the Office of the AfCFTA Secretariat was carried out;
- viii) Two decisions were made:
  - a) comply with the two-month advertisement deadline (until 19 December 2019) ; and
  - b) the Government of Ghana should cover the costs of recruiting and installation of the Secretary General;
- ix) The grade of the Secretary General is under discussion. There are divergent views on this grade (rank of Commissioner or Deputy Chairperson of the Commission). The various grade proposals were forwarded to the Office of the Legal Counsel;
- x) The Extraordinary Session of the Assembly has been scheduled for May 2020 to resolve pending issues.

**138. In conclusion, the PRC:**

- i) Decided to suspend discussions while awaiting the two draft decisions and the Report of the PRC Sub-Committee on Structural Reform, to consider the draft structure proposed by the Commission and the ministers of trade, and consider the issue of determining the degree of the Secretary General of the Continental Free Trade Area, emphasizing that we should take into account the political priority of that distinguished continental program as an accelerator for continental integration through trade liberalization, calling on the permanent delegates to consider Balancing the greatest political priority with simple procedural considerations.

- **Draft Decisions on the African Continental Free Trade Area**

**139.** The Draft Decisions were presented by the Commissioner for Trade and Industry.

**140.** Following the presentation, it was recalled that the Assembly had instructed that a framework be established to facilitate the start of the AfCFTA by 31 March 2020. This

is still subject to the operationalization of the AfCFTA Secretariat.

**141.** Regarding this operationalization, the Permanent Representative of the Republic of Seychelles, in his capacity as Chair of the PRC Sub-Committee on Structural Reforms, provided the following information:

- i) The Sub-Committee on Structural Reforms met on 10 January 2020 to examine the arrangements for setting up the AfCFTA Secretariat;
- ii) The discussions focused on two important points: the grade of the Secretary of the AfCFTA proposed by the Commissioner as ranking as Deputy Chair of the AU Commission and the autonomy of the Secretariat with respect to the AU Commission;
- iii) The proposed AfCFTA Secretariat structure and budget should be considered by the competent Sub-Committees, namely the Sub-Committee on Structural Reforms and the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters;
- iv) The principle of preliminary consideration by the Sub-Committees was challenged by the Commissioner for Trade and Industry on the grounds that the African Ministers of Trade had already decided to make the Secretariat an autonomous entity;
- v) A legal opinion was sought on the issue and the opinion given indicates that the autonomy demanded should be of a functional nature;
- vi) The call for applications for a post can only be published if the post had been approved by the competent organs and there was an approved budget for it;
- vii) The Sub-Committee on Structural Reforms planned to meet the next day, 18 January 2020 to discuss the issue of the rank of the Secretary General of the AfCFTA and the PRC would be informed of the conclusions.

**142.** Following the intervention by the Chair of the Sub-Committee on Structural Reforms members of the PRC made comments as follows:

- i) The issues related to the AfCFTA are very technical and it is important to support the efforts of the Commissioner for Trade and Industry;
- ii) In order to implement the Assembly decision which demands that the AfCFTA Secretariat be operational by 31 March 2020, a common course of action should be determined to allow all involved to move forward on the path to this operationalization rather than getting bogged down in legal arguments;
- iii) For the operationalization of the AfCFTA Secretariat, a proposal was made to recruit the Secretary General and three directors: these posts were submitted for consideration by the African Ministers of Trade who are yet to respond; it was now up to the Sub-Committee on Structural Reforms to determine the grade of the AfCFTA Secretary General;
- iv) Provide detailed information on the planned Extraordinary Session of the AU Assembly in May 2020 as stated in paragraph 4 of the draft decision;

- v) There is a need to work to ensure the effective launch of the AfCFTA on 1 July 2020, as decided by the Assembly;
- vi) The delegation of the Republic of South Africa announced that the President of the Republic had offered to host the Extraordinary Session of the Assembly in May 2020;
- vii) It would be appropriate for the Sub-Committee on Structural Reforms to consider the recruitment of the Secretary General, the three directors and essential support staff, and that the recruitment decision be made by the Assembly;
- viii) The determination of the grade of the Secretary General of the AfCFTA should be consistent with the grades of the executive secretaries who head other AU institutions, to avoid setting a precedent which would subsequently be harmful to the harmonious functioning of all AU organs;
- ix) Congratulated Ghana for its financial support of 10 million US dollars for the operationalization of the AfCFTA, and this should be reflected in the decision;
- x) The timeframe for submission of applications for posts within the AfCFTA Secretariat was reduced to one month, instead of two months as stated in the decision.

**143.** The Commissioner for Trade and Industry provided clarifications as follows:

- i) The Draft Decision will be revised taking into account the comments made, and above all, to thank the President of the Republic of Ghana for his financial support to the tune of 10 million US dollars;
- ii) The Sub-Committee sessions to be held on 18 January 2020 will consider the Draft Decision and outline the way forward.

**144.** Ambassador David Pierre of Republic of Seychelles and Chairperson of the PRC Sub-committee on Structural Reforms reported on the consideration of the AfCFTA Secretariat structure by the Sub-Committee.

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

- i) Commended the Sub-Committee for the clarity of the report;
- ii) It was reported that the Commission did not make any amendment to the Draft Decisions during the previous meeting;
- iii) Member States made amendments to the Draft Decisions;
- iv) It was reported that the Permanent Secretariat of the AfCFTA shall be operation in by 31 March 2020;
- v) Member States requested the Republic of Ghana to transfer to the ten (10) Million USD donated for the start-up of the Secretariat;
- vi) It was reported Member States agreed that position of the Secretary General shall be SP3 level,

- vii) Member States discussed the grade of the position of the Head of AfCFTA as whether it should be to the level the Deputy Chair Person of the Commission or Commissioner level;
- viii) Reported that the Panel appointed by the Council of Ministers will be part of the recruitment process for the position of Directors

**146.** The Chair of the Sub-Committee, the Ambassador of Seychelles provided clarifications as follows:

- i) He reported that Member States unanimously agreed that position of the Secretary General shall be SP3 level and adding that the recruitment process is at an advanced stage;
- ii) Informed that all processes followed in line with relevant Decisions.

**147.** The Commissioner of Trade and Industry provided clarifications as follows:

- i) Informed that the installation of the Secretary General of the AfCFTA will be a High-Level event which will take place in Accra by 31 March 2020. Thus requesting for the money donated by Ghana to be transferred to the Commission to fund that event;
- ii) He expressed the Commission's commitment to expedite the full operationalization of the Secretariat which hopes to boost intra-African trade and ensure Africa's competitiveness in the global economy.

**148.** The Representative of the Republic of Ghana provided clarifications as follows:

- i) Informed that to the ten (10) Million USD donated by Ghana is already available for use by the Commission;
- ii) Clarified that the Council of Ministers took the decision that the position of the Secretary General shall be on the level of the deputy chair person, asking to keep the decision of the council of ministers without change.

**149. Discussions on the Draft Decision of the Executive Council:**

- i) Delete the fifth paragraph of the draft decision in light of the fact that the Committee of Permanent Representatives does not approve any budget, in addition to Ghana's pledge to provide 10 million dollars to operate the continental free trade area, which is scheduled to start its work by the end of March 2020, assuring that any supplementary budget requested accordingly, could be considered at the proposed extraordinary summit in May 2020.
- ii) Adding "including reviewing the number of directors" at the end of paragraph 7 to consider the numbers of directors and their budget within the framework of the permanent structure of the continental free trade area.
- iii) To add a reference to the formation of the panel and its members that

were chosen by the Council of Ministers at their last meeting in Ghana in December 2019, to choose the Secretary General of the African Continental Free Trade Area.

- iv) To Keep paragraph 9 unchanged and agreed that the position of the Secretary General shall be SP3;
- v) Keep paragraph 11 unchanged.

**150. Discussions on the Draft Decision of the Assembly:**

- i) Amending the word “report” to “decision” in the first paragraph.
- ii) Adding a paragraph before the fourth paragraph that includes the formation of the panel to choose the Secretary General of the Continental Free Trade Area.
- iii) Adding the issue of trying to find a solution to the G6 in the seventh paragraph, among the topics required to be resolved to start trade in July 2020.
- iv) Delete the eighth paragraph for repetition.
- v) Amendment of “financial cost” mentioned in paragraph nine to “supplementary budget” and adding “including the appropriate functions of the appointed directors and the adequate number” in the same paragraph.

**151. The Draft Decision on the Report of the Leader of the African Continental Free Trade Area:**

- i) This Draft Decision was not discussed as it is noted that the Report of the Leader is not yet available. The Report and the Draft Decision will be presented to Executive Council.

**152. In conclusion, the PRC agreed as follows:**

- i) Take note of the Draft Decisions;
- ii) Welcome the offer of the sum of 10 million US dollars by the President of the Republic of Ghana in support of the operationalisation of the AfCFTA;
- iii) Welcome the offer of the President of the Republic of South Africa to host the Extraordinary Session of the Assembly of the Union scheduled for May 2020, while ensuring that all the outstanding issues are concluded before the Extraordinary Summit;
- iv) Decide to merge the two draft decisions to be submitted to the Assembly, and recommend its adoption by the Executive Council, taking into account the amendments made by the PRC.

**SECTION V: REPORTS OF THE COMMISSION, OTHER AU ORGANS AND AU SPECIALIZED AGENCIES**

**a) REPORTS OF THE COMMISSION**

**(i) Report on the Implementation of the AU Theme of the Year 2019: “Refugees, Returnees and Internally Displaced Persons: Towards Durable Solutions to Forced Displacement in Africa” – Doc.EX.CL/1189(XXXVI)**

**153.** The Concept Note was presented by the Director of the Political Affairs Department.

**154.** Following the presentation, Members of the PRC made comments as follows:

- i) The working documents are not available in all the AU working languages contrary to the Rules of Procedure of the policy organs and despite the numerous complaints by Member States;
- ii) Incorporate into the Concept Note the efforts made by Libya within the framework of the Tripartite Working Group mentioned in paragraph 13;
- iii) Need to favour a population-based approach, which will make it possible to assess the real impact of the implementation of the theme of the year; in this connection, Member States should be commended for their positive interventions in favour of refugees;
- iv) More information and clarifications were sought about the pledges mentioned in para 2020;
- v) Underline in the Concept Note the commitment of the President of the Republic of Equatorial Guinea designated as AU Champion on the refugee issue; H.E. Teodoro Obiang Nguema Mbasogo is determined to intensify his efforts, to which should associated all the Heads of State and Government;
- vi) It is important to work, beyond the humanitarian dimension, in the search for durable solutions by identifying the root- causes of forced displacement;
- vii) Need for all Member States to accede to the legal instruments relating to forced displacement;
- viii) The Egyptian delegation proposes March 2020 for the holding in Cairo of the Workshop on Mixed Migration as part of the implementation of the Roadmap, initially scheduled for September 2019; however, the Commission has not yet responded to this proposal;
- ix) The Report should have focused on the root- causes of forced displacement and on actions taken in favour of refugees;
- x) The international community should also be solicited so as to ensure that the AU is not alone in dealing with the refugee issue,
- xi) The AU does not have sufficient capacity to make a positive impact on the lives of refugees; it develops policies and it is up to the Member States, at national level, to take concrete action. The assessment should therefore cover such actions;
- xii) The commitments mentioned in the Report should be listed in order to facilitate the evaluation of their implementation;
- xiii) The Algerian delegation indicated that the 2019 action plan does not mention any action in favour of the Sahrawi refugees based in Tindouf. This

- issue should be discussed at the AU level, in relation to the theme of the year 2020;
- xiv) Consideration could be given to drawing up an annual evaluation report structured around specific indicators;
  - xv) Commends the leadership of the AUC on the signing of the Memorandum of Understanding (MoU) on Migrants between Rwanda, UNHCR and the AUC;
  - xvi) Mention in the project 2019 Implementation Roadmap Matrix the Meeting / Workshop organized on 25 and 26 October, 2019 in Rwanda on the Root-causes of Forced Displacement as well as the visit made by the Ambassadors and delegates participating in this meeting with the Rwanda based Emergency Transit Mechanism; this Mechanism is part of the search for African solutions to African problems and the need to not always on the support of partners;
  - xvii) Reflect in the Draft Decision the need for the implementation of the African Humanitarian Agency and request the AUC to take the appropriate measures to ensure the operationalization of the Agency;
  - xviii) Make recommendations at the end of each section of the Report;
  - xix) One of the main causes of forced displacement is the lack of peace; the advent of peace depends on the ability of Africa to speak with one voice and if necessary, peace should be imposed;
  - xx) The Moroccan delegation rejected the statement made by the Algerian delegation mentioned in point xii above on the grounds that this issue is already being dealt with by the United Nations;
  - xxi) The Saharawi delegation deplored the fact that the causes behind the Saharawi refugee camps in Tindouf were not specified in the Report. In addition, the Report should include a map of refugees in Africa.

**155.** The Commissioner for Political Affairs provided clarifications as follows:

- i) As part of the implementation of the theme of the year 2019, the Commission, the Member States and the Regional Economic Communities (RECs) must each play their role;
- ii) The primary role in the fight against forced displacement on the one hand, and on the other hand, the care of refugees rests with Member States, more so as the Commission does not have the means of direct action on the ground;
- iii) The AUC promoted legal instruments relating to refugees which have been ratified by most of the Member States;
- iv) Member States have done remarkable field work, notably through the signing of the MoU between Rwanda, UNHCR and the AUC on the Emergency Transit Mechanism;
- v) Commends Libya for the efforts deployed by the government in the management of refugees and migrants;
- vi) Need to elicit the international community for burden sharing in the context of refugee management;

- vii) Notwithstanding all efforts made, the number of internally displaced persons and refugees on the continent continues to rise; it is therefore imperative to find solutions to the root- causes of this phenomenon as a matter of urgency;
- viii) The AUC will work in concert with Egypt to prepare the Workshop on Mixed Migration to be held in Cairo in 2020;
- ix) Member States should report to the AUC on the activities undertaken as part of the implementation of the Theme of the Year Roadmap; these activities will be reflected in the General Report on the Implementation of the Roadmap;
- x) The map of refugees in Africa is being developed.

**156.** The Director of the Political Affairs Department provided further clarifications as follows:

- i) The Department is working in closely with the Sub-Committee on Refugees, Returnees and Internally Displaced Persons in the drafting of the Report;
- ii) All the amendments made by Member States will be included in the Report.

**157.** In conclusion, the PRC:

- i) Took note of the Report.
- (ii) Consideration of the Concept Note and Roadmap on the Theme of the Year 2020: “Silencing the Guns: Creating Conducive Conditions for Africa’s Development” – Doc.EX.CL/1190(XXXVI)**

**158.** The Concept Note and Roadmap on the theme of the year 202 was presented by H.E. Smaïl Chergui, Commissioner for Peace and Security.

**159.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) The draft roadmap and matrix should be enriched with key deliverables with milestones and focus more on tangible security issues;
- ii) Proposal was made to organize an Extraordinary Summit on the theme of the year during the Extraordinary Summit proposed for May 2020;
- iii) Underlined the need for the Commission to work closely with Member States to ensure ownership and implementation of activities under the theme of year;
- iv) Requested the Commission to circulate the matrix of activities and encouraged synergy among all departments towards implementation of proposed activities;
- v) Reiterated the importance of addressing the root causes of conflict on the Continent;
- vi) The documents related to the theme should highlight political and socio-

economic aspects stressing the nexus between peace and security and development, highlighting PCRDR, including launching AUC -PCRDR , as the appropriate continental framework striking such nexus between peace sustainability and development;

- vii) The Commission in collaboration with Member States should use existing frameworks and mechanisms in implementing the proposed activities to avoid duplication;
- viii) Stressed the need for capacity building for Member States in order to attain tangible outcomes on the theme of the year;
- ix) Urged Member States to support the African Standby Force to realize its mandate;
- x) Emphasis was also placed on the need to invest in conducting thorough Disarmament Demobilization and Reintegration programmes;
- xi) Called on Member States to adequately finance African Union Peace and Security initiatives;
- xii) Expressed concerns regarding increasing foreign military presence in the continent;
- xiii) Stressed the need for the concept note , in the attempt to address root causes for conflict, to consider more robust imminent security challenges among those , that shall face the continent in 2020 , reference has been made to several conflicts and post conflict situation including challenges faces post AMISOM draw down phase;
- xiv) In the light of the time limit Morocco is unable to present all its proposed amendments and they will be transmitted to the Commission.

**160.** The Commissioner for Peace and Security responded as follows:

- i) Welcomed comments and proposals from Member States and indicated that they will be incorporated to enrich the report;
- ii) The detailed report will be submitted to Member states after its consideration by the AU Peace and Security Council;
- iii) The matrix of activities will be shared with all Member States as requested;
- iv) Welcomed the proposal to hold an Extraordinary Summit on the theme of the year in May 2020.

**161. In conclusion, the PRC:**

- i) Took note of the Concept Note and Roadmap on the Theme of the Year 2020 and recommended their submission to the Executive Council taking into account proposals from Member States;
- ii) Requested the Commission to circulate the matrix of activities to all Member States as soon as possible.
- (iii) Report of the Commission on the Status of Implementation of Previous Decisions of the Executive Council and the Assembly – Doc.EX.CL/1191(XXXVI)**

**162.** The Report was presented by the Secretary General of the Commission.

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

- i) Expressed appreciation to the Commission for improvement on the quality of and timely reporting.
- ii) Encouraged Member States to meet their reporting obligations with a view to monitoring and assessing the progress on implementation of the Executive Council and Assembly decisions;
- iii) Some information provided in the implementation matrix needs to be updated as further progress has been undertaken on some decisions;
- iv) The Republic of Uganda sought an update on implementation of Executive Council decision EX.CL/Dec.1067(XXXV), which delegated the PRC to consider the candidatures for the post of Judge at the International Court of Justice (ICJ) for the period 2021-2030 and endorse the African candidature by November 2019 and further requested for the outcome of the work of the investigative committee;
- v) The investigation process into the lapses within the Department of Political Affairs regarding the ICJ candidatures launched by the PRC on 23 July 2019, should be highlighted in the implementation matrix under the Executive Council decision EX.CL/Dec.1067(XXXV);
- vi) The Republic of Rwanda indicated that its candidate complied with due process and is still running for the post of Judge at the International Court of Justice;
- vii) The Host Country Agreement of AUPCRD was already signed last December and thus the corresponding paragraph needs to be updated;
- viii) The PRC, in collaboration with the Commission, needs to address the issue of non-submission by Member States of reports on implementation of decisions of the Policy Organs;
- ix) A harmonized style of reporting should be put in place with a view to having uniform and articulate reports;
- x) The Commission should send constant reminders to Member States so as to improve reporting on implementation of decisions;
- xi) There is urgent need to rationalize the agendas and number of decisions taken at each Summit to improve implementation of decisions;
- xii) The Executive Council should adopt the analytical part of the report and take note of the detailed matrix on implementation of decisions;
- xiii) There is need to analyse and address the issue of overlapping and redundant decisions as well as review outstanding non-implemented decisions;
- xiv) Establish a reward and sanctions regime to recognize Departments and Organs that implement decisions of the Policy Organs and hold accountable those that do not implement;
- xv) Adequate time should be allotted to enable Member States collect

- information on implementation of decisions from relevant national bodies;
- xvi) A reporting system should be established to harmonize reporting from the Commission as well as Member States.

**164.** In response to the request for an update on the implementation of Executive Council Decision EX.CL/Dec.1067(XXXV), the Deputy Chairperson informed the meeting that the investigative report into the lapses within the Department of Political Affairs regarding the ICJ candidatures has been finalized and will be shared with the PRC during this session following its imminent validation by the Commission.

**165.** The Republic of Djibouti, in its capacity as former Dean of the Eastern Region at the time the African candidature of ICJ was discussed, further updated the meeting that despite several consultations undertaken within the region to conclude the matter, no consensus has been reached to date and therefore referred it back to the PRC. The Republic of Comoros, current dean of the Eastern Region complemented the former submission reiterating the fact that no new developments have been realized and in this regard, requested that PRC make a decision on the matter.

**166. In conclusion, the PRC:**

- i) Took note of the Report on implementation of the previous decisions of the Executive Council and the Assembly of the African Union;
- ii) Commended the Commission upon the improvement in implementation and requested that all measures be deployed by the Commission to ensure full implementation of decisions of the Policy Organs;
- iii) Recommended that a rewards regime and appropriate measures regime be established to recognize Departments that implement decisions of the Policy Organs and hold accountable those that do not implement;
- iv) Reiterated the need for all draft decisions to be submitted along with their financial, legal and structural implications;
- v) Requested the Commission to develop an annual master calendar of meetings to ensure smooth planning and coordination of meetings and events by the Commission and Member States;
- vi) Underlined the need to rationalize the agendas and number of decisions taken at each Summit to improve implementation of decisions;
- vii) Encouraged Member States to meet their reporting obligations with a view to monitoring and assessing the progress of implementation of decisions of the Executive Council and Assembly decisions;
- viii) Decided to amend the draft decision accordingly and recommended to Executive Council to adopt the analytical part of the report and take note of the detailed matrix on implementation of decisions.

- **Report of the Meeting of the PRC Investigating Team on the Settlement of the African Candidature for the Position of Judge to the International Court of Justice (ICJ)**

**167.** In presenting this Report, the Chairman of the PRC recalled Decision

EX.CL/Dec.1067(XXXV) of the Executive Council taken during the 35th Ordinary Session of the Executive Council in Niamey, Niger in July 2019, mandating the PRC to consider the candidatures for the post of Judge at the ICJ for the period 2021-2030 and select the consensual candidate of the AU, between the candidatures of Uganda and Rwanda. In its first approach, the PRC favoured the path of dialogue by requesting the Dean of the Eastern Region, to which the two Member States belong, to conduct consultations with a view to agreeing on a single candidate. The Permanent Representative of the Republic of Djibouti, in his capacity as Regional Dean, reported to PRC at one of its sessions of the lack of consensus at the end of the consultation process in the Eastern Region to retain a single candidate. During the discussions, the two candidate States regretted the dysfunction at the level of the Political Affairs Department which serves as secretariat of the Ministerial Committee on Candidatures within the international system. It is such dysfunction which apparently was the source of the confused situation that made it difficult to select a consensual candidate for the post of judge at the ICJ. On the basis of this information provided through the arguments of Uganda and Rwanda, the PRC decided to set up a team tasked to conduct an investigation at the level of the Political Affairs Department in order to establish the responsibilities. The team was chaired by H.E. Kwesi Quartey, Deputy Chairperson of the AU Commission.

**168.** The Investigation Report was presented by the Deputy Chairperson of the Commission.

**169.** Following the presentation, the Permanent Representatives of Uganda and Rwanda presented their arguments in favour of their respective candidates.

**170.** The following are the arguments put forward by the Representative of the Republic of Uganda:

- i) Thanked the Deputy Chairperson of the AU Commission and the entire Investigative Team for the work they have done and for finally presenting this report;
- ii) Importance of putting this matter into context. This matter relates to the post of Judge at the International Court of Justice currently occupied by a distinguished female African Judge, Julia Sebutinde, who is seeking re-election for the second and last term;
- iii) Judge Julia Sebutinde was elected to the CIJ in 2011; and is due for re-election;
  - a) In line with the African Women's Decade 2010-2020, Judge Julia Sebutinde is the first African woman Judge to be elected to the ICJ in 70 years of its existence;
  - b) She has 41 years of exemplary and continuous legal and judicial experience;
  - c) Has an impeccable record and served the African continent with distinction-including in the last 8 years.
  - d) Also authored the historic Advisory Opinion on Chagos, in line with AU Decisions EX.CL/901(XXVII) and Assembly/AURev.1 (XXV); among her other proud deeds;

- e) She has championed infernal reforms at the Court and strongly advocated for a fairer staff representation of African professionals at ICJ;
- f) She has an advantage of incumbency and should be given the opportunity to serve a 2nd term like all her African male colleagues. As it is a long practice in the African Group to support re-election of incumbent officer in order to consolidate their experience and balance continuity with rotation. This practice has served Africa very well.
- g) In Judge Julia Sebutinde, Africa has a very good, reliable, and most suitable candidate;
- iv) It is recalled that candidate Julia Sebutinde was recommended for endorsement by the AU Ministerial Committee on Candidatures in Niamey on 4 July 2019. However, due to suspected irregularities, the Executive Council referred the matter to PRC for resolution-hence the PRC Investigative Team and today's Report;
- v) The Report makes it very clear that by the time of the AU Summit in Niamey, only Uganda's candidate for ICJ was valid-submitted in the stipulated time, complete with CV in two working languages;
- vi) More specifically, the Report shows that substantially, Uganda fully complied with the revised Rules of Procedure of the AU Candidates Committee in that:
  - a) Uganda's submission was filed in time, through the Regional Dean, and the Office of Legal Counsel (Para 24.C):
  - b) Uganda's submission was duly accompanied by the Candidate's CV in English and French;
  - c) Uganda requested for endorsement specially "during the AU Summit in Niamey, Niger in July 2019 to allow for sufficient time for her campaign and advocacy (para17 (iii));
  - d) By stating the intended AU Summit, date, venue and reason, Uganda effectively asked for early consideration in the context of Rule 13 of the Rules of Procedure. However, the Investigative Team erroneously interpreted this as not constituting a request for early endorsement because Uganda used other words, other than "early endorsement". We disagree with this semantic distinction and maintain that Uganda indeed, requested for early consideration within the meaning of the Rules of Procedure of the African Union Ministerial Committee on Candidatures;
- vii) Uganda notes that the Report comes very late after the expiry of the PRC mandate to resolve the matter and endorse an African candidate by November 2019;
- viii) The Report also falls short in many aspects because of it:
  - a) Contains factual errors and omissions in Para 17 (iii) Para (24)€ and Para 25:
  - b) Lacks clear conclusions on key issues; and
  - c) Fails to differentiate procedural irregularities that are curable from fatal errors that render a candidature submission invalid;

- ix) With the passage of time, the situation on the ground has been overtaken by events. We understand that some Member States have expressed interest in being elected to the post of Judge of the ICJ for the period 2021-2030. The new circumstances need to be factored in to avoid a similar contention tomorrow;
  - x) Given the urgency of the matter, the changed circumstances, and the need for the African candidate to commence a global campaign, it would be prudent for the PRC not to spend more time on extended debate on the issue. In this regard, Uganda wishes to request:
    - a) The PRC to refer this unresolved matter of endorsing an African Candidate for ICJ back to the Executive Council for final resolution in February 2020; and
    - b) The Office of Legal Counsel to urgently provide a legal opinion on the findings of the Report of the Investigative Team –to accompany this Report to the Executive Council in order to facilitate final resolution of the matter.
- 171.** The Permanent Representative of Rwanda put forward the following arguments:
- i) The draft Report of the Investigation Committee was shared on the instruction of the Deputy Chairperson of the Commission (Chair of the Investigating Committee) to a country (Uganda) with a candidate to the post of Judge to the ICJ, which is a non-member of the Investigation Committee for inputs before its finalization and presentation to PRC. The final report was therefore compromised, lacked credibility and should be set aside and not discussed by PRC. Rwanda read to the PRC an electronic correspondence dated 6 September 2019 from the Commission in support of this argument;
  - ii) No candidate was endorsed by the Ministerial Committee on Candidatures in Niamey, since the Ministerial Committee does not endorse candidates but recommends endorsement by the Executive Council. The Executive Council in Niamey delegated authority to PRC to consider the ICJ candidatures;
  - iii) The Secretary to the Ministerial Committee on Candidatures was very dishonest to himself and to the members of the Ministerial Committee on Candidatures in Niamey. He did not reveal the Candidature of Rwanda to the members of the Ministerial Committee on Candidatures despite being asked by members and claimed to have been denied the floor;
  - iv) The fact that neither Uganda nor Rwanda fulfilled the requirement of an early consideration in Niamey. Therefore Rwanda's candidature was within the deadline for submission of candidatures. The fact that there was no request for early consideration by both Uganda and Rwanda means the item was not supposed to be on the agenda of the Ministerial Committee in Niamey;
  - v) Rwanda submitted all documents related to her candidature to the ICJ to the Commission and never received formal communication from the Commission that the file was incomplete or lacked the CV;

- vi) Rwanda said that principles of rotation and equitable sharing of positions in the international system among AU Member States should be respected. That after nine years of service by the judge from Uganda, it was time for a judge from another AU Member State to take up the position;
- vii) Rwanda also said she has a strong and winning candidate for Africa, Justice Dr Emmanuel Ugirashebuja, the current President of the East African Court of Justice who is suitably qualified with a proven record in international law and able to win for Africa and take on the responsibility to appropriately serve the ICJ if elected. Has a PHD in international law and has practical experience in international law reflected in the CV shared to Member States;
- viii) The Ambassador of Rwanda proposed that the matter be referred back to the Executive Council with a recommendation that the 3 countries which have submitted candidates (Nigeria, Rwanda and Uganda) undertake consultations at the Heads of State level and a political decision to be taken on the sidelines of the AU Summit in February 2020. This should be done with a view of agreeing on a single candidate in order to ensure a common African voice towards one candidate;
- ix) Rwanda recalled that the AU is a Rule based Institution and that submission of candidatures in the international system are governed by Rules 11 and 13 of the Revised Rules of Procedure of the Ministerial Committee on African Candidatures in the international system. These Rules stipulate where candidatures are submitted and the deadline.

**172.** Members of the PRC made comments as follows:

- i) The Report presented today (23 January 2020) was due on 10 August 2019; this delay of 5 months makes its content irrelevant; moreover, it does not meet the expectations of the PRC;
- ii) The conclusions of the Report were not satisfactory;
- iii) ICJ has not yet made the call for candidatures public, but the Commission has imposed a deadline for the submission of candidatures;
- iv) The Nigerian Delegation regretted that the Commission did not even acknowledge receipt of its Note Verbale sent on 27 November 2019 requesting the investigation Report;
- v) The Report did not take into account the evolution of the situation of the candidatures submitted as it did not mention the candidature of Nigeria;
- vi) Nigeria has therefore added its candidature to those already submitted, and it is up to the Executive Council to deliberate on all candidatures;
- vii) The need to safeguard the interests of Africa should be borne in mind; as such, it is not appropriate to invoke compliance with the Rules of Procedure when the ICJ has not yet issued the call for candidatures;
- viii) The Investigation Report contains many ambiguities and conflicting facts;
- ix) The Rules of Procedure of the Ministerial Committee on Candidatures in the International System were not respected;
- x) The provisions of the Rules of Procedure should be adhered to pending improvements in the functioning of the Candidatures Committee;

- xi) There is a need to clarify the Rules of Procedure relating to early candidatures in order to avoid subjective interpretations that are at the root of the situation under consideration;
- xii) The Commission shall take the necessary steps to ensure that staff members comply with the applicable professional rules and shall also hold them accountable for violations thereof;
- xiii) The matter should be referred back to the Executive Council for consideration;
- xiv) The inefficiency and lack of capacity at the Commission particularly at DPA was clear.

**173.** The Permanent Representative of Sierra Leone, in his capacity as Rapporteur of the Ministerial Committee on Candidatures, recalled the Terms of Reference of the mandate given to the PRC by the Executive Council: to select a consensus candidate. Since it was impossible to achieve this objective, the PRC had to report back to the Executive Council.

**174.** The Permanent Representative of Tunisia, in turn, proposed that Rwanda and Uganda continue with consultations with a view to finding a solution to the problem.

**175.** The Deputy Chairperson of the Commission took note of the very passionate debates and called for agreement on a single candidate from Africa as the post is not yet officially opened by the ICJ.

**176.** The Commissioner for Political Affairs made comments as follows:

- i) Commended the Deputy Chairperson of the Commission and the investigation team as the task was not an easy one and the team did its best;
- ii) The Secretariat of the Ministerial Committee on Candidatures, which is the Department of Political Affairs, works in a spirit of impartiality in that it is at the service of all Member States;
- iii) Launched a strong appeal to the PRC to preserve the unity of the Continent;
- iv) It is essential to clarify the working rules of the Ministerial Committee on Candidatures in order to prevent situations such as the one we are currently concerned with;
- v) There is an urgent need to reflect on the issue of considering early candidatures: the 35th Ordinary Session of the Executive Council held in Niamey, Niger, in July 2019 took the decision to close the candidatures for the post of WHO while the post is not yet open;
- vi) Thanked the PRC for the quality of the discussions and especially for the frankness with which they were conducted;
- vii) Note taken of all the comments made;
- viii) The need for the Rules of Procedure of the Ministerial Committee on Candidatures to reflect the international system: to this end, the Department of Political Affairs submitted to Member States a revised Draft Rules of

- Procedure for their inputs; only 5 Member States reacted positively by sending their comments;
- ix) Appealed to Member States to submit their observations and proposals for the revision of the said Rules of Procedure, in particular with regard to early candidature.

**177. In conclusion, the ruling of the Chairperson of the PRC was as follows:**

- i) Thank the Deputy Chairperson for presenting the Report while noting that it was finalized 5 months later than the actual deadline;
- ii) Recall Decision EX.CL/Dec.1067(XXXV) by which the Executive Council delegated to the PRC the mandate to consider the candidatures for the post of ICJ Judge for the period 2021/2030 and to endorse the African candidate for the said post;
- iii) Also recall the efforts made by the PRC in relation to the implementation of the mandate entrusted to it, through two tracks, the first is the setting up of a Committee of Inquiry chaired by the Deputy Chairperson of the Commission, and garnering consultations within the region with the aim of reaching a consensus;
- iv) Express concern over the conflicting facts contained in the Report;
- v) Takes note that the consultations within the region have not led to a solution and that the Report of the Investigation Committee did not result in concrete conclusions or clear recommendations;
- vi) Takes note of a third candidature, that of the Federal Republic of Nigeria;
- vii) Underscore the need to consolidate the African voice on the international stage through the presentation of a single candidature, especially since the post of Judge at the ICJ will be officially opened during the current year in 2020. In this regard, consultations between countries which have presented candidates should be encouraged at all levels in order to achieve this objective;
- viii) Referred the matter to the Executive Council for its consideration and political guidance.

**(iv) Progress Report of the Commission on the implementation of Decision Assembly/AU/Dec.710(XXXI) on the African Union Centre for Post-Conflict Reconstruction and Development (AUCPCRD) – Doc.EX.CL/1192(XXXVI)**

**178.** The Progress Report was presented by the Director of the Peace and Security Department.

**179.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) Member States commended Egypt and the Commission for their efforts towards the operationalization of the AU Centre for Post-Conflict Reconstruction and Development;

- ii) Congratulated Egypt and the Commission for signing of the Host Agreement;
- iii) Called on the Commission to equip the Centre with the necessary human and financial resources for the Centre to go operational;
- iv) Suggested that the Centre should benefit from AU Peace Fund;
- v) Underscored the importance of post conflict reconstruction in order to foster stability and avoid relapse into conflicts;
- vi) Stressed the need for Member States to invest in peace sustainability as a requirement to socio-economic development, emphasizing the need to address the nexus of peace and security and Development;
- vii) Expressed the view that the Centre is considered a direct investment in peace sustainability, having it operationalized shall forge the nexus between peace and development, further more it is a true materialization of African ownership of the best means to address post conflict challenges to peace, with the ultimate goal to avoid relapse into conflict;
- viii) Operationalization of the Centre falls directly in line with the Theme of the Year in 2020, regarding Silencing the Guns;
- ix) Highlighted the urgent need to address the root causes of conflicts on the continent as part of the mechanism to silencing the guns initiative undertaken by the African Union;
- x) The Gambia commended the Commission for the post conflict reconstruction support which she has been receiving to strengthen national institutions like police, human rights and rule of law;
- xi) Clarification was sought on the timeline for launching of the Centre and deployment of staff in Cairo.

**180.** The Director of the Peace and Security Department provided clarifications as follows:

- i) Thanked Member States for their support and paid tribute to Egypt for their cooperation in the establishment of the Centre;
- ii) Informed that there would be consultations within the Commission and in close collaboration with Egypt in the launch and deployment of staff.

**181. In conclusion, the PRC:**

- i) Took note of the Progress Report of the Commission on the Implementation of the Assembly Decision on the African Union Centre for Post-Conflict Reconstruction and Development;
  - ii) Recommended the Report to the Executive Council for consideration;
  - iii) Recommended that the Centre should be provided with financial and human resources to enable it to function optimally.
- (v) AU High Representative for Financing the Union and the Peace Fund's Update on the Regional Consultations on the Scale of Assessment for the AU Peace Fund – Doc.EX.CL/1193(XXXVI)**

**182.** A briefing was given by the Representative of the AU High Representative for financing the Union and the Peace Fund, based on the relevant sections in the Report on the Operationalization of the AU Peace Fund Retreat bringing together the Bureau of the Permanent Representatives Committee, the Peace and Security Council, the Board of Trustees of the AU Peace Fund, Chair of the Committee of Finance Ministers (F15), and Chairs of the PRC Sub-Committees on Audit Matters and General Supervision and Coordination on Budgetary, Financial and Administrative Matters held in Addis Ababa on 11 January 2020, pursuant to the July 2018 Executive Council Decision EX.CL/Dec.1061(XXXV).

**183.** Following the briefing, Members of the PRC made comments and sought clarification as follows:

- i) The Report is to be considered by the PSC, as it is not within the mandate of the PRC given that the current situation whereby some regions are in disagreement, it is advisable that this issue be looked at from the principle of equity and solidarity;
- ii) The Peace Fund and assess contribution issue has always been a conflicting one, in case of no compromise, then the matter can be referred back to the Ministerial Committee on Scale of Assessment and F15;
- iii) Given that discussions on the roadmap for the operationalization of the remaining elements of the AU Peace Fund were postponed, there is need for relevant structures to be involved in subsequent meetings;
- iv) The Peace Fund Manager was omitted in Para. 2 of the Report;
- v) The Northern Region expressed concerns regarding the non-conclusion of the regional consultations as per the Executive Council Decision 1061 and they reiterated their refusal of the application of the scale of assessment;
- vi) The Ministerial Committee will have a meeting on 2 and 4 February 2020 at Expert's and Ministerial level respectively and this issue can be considered during the said meeting;
- vii) The Report circulated to Member States is not very accurate and needs to be reviewed; Member States are encouraged to provide inputs for its enrichment;
- viii) A delegation stated that during the PSC Retreat it was decided that the Peace Fund Secretariat should be part of the Department of Peace and Security in order to ensure proximity and efficiency with the PSC;
- ix) Some delegations clarified that Retreats do not have decision making power and that the proper location of the Secretariat is in the Bureau of the Chairperson in line with Assembly Decision of January 2018;
- x) Concern was raised that F15 Members will not be at the Ministerial Committee Meeting on 2 February 2020, but it was clarified that the F15 will participate in the meeting;
- xi) A proposal by the Northern Region was circulated, suggesting that Central Africa Region to be assessed by 10% and the other four regions to be assessed by 22.5%.

**184.** The Representative of the AU High Representative for Financing the Union and the Peace Fund provided clarifications as follows:

- i) Informed that the Southern Region is still in consultations and will revert to the AUC in due course and that the Commission is still waiting for a final formal stance from the Western Region.

**185. In conclusion, the PRC:**

- i) Took note of the briefing of the Representative of the AU High Representative for Financing the Union and the Peace Fund on the update on the Regional Consultations on the Matter of Assessing the AU Peace Fund;
- ii) Recommended that regional consultations be finalized so that the Report be submitted to the Executive Council for consideration and that the joint sitting of the Ministerial Committee on Scale of Assessment and F15 will consider the matter during the meeting on 2 and 4 February 2020 at Expert's and Ministerial level respectively.

**(vi) Progress Report and Decision of the 2019 AIDS Watch Africa (AWA) – Doc.EX.CL/1194(XXXVI)**

**186.** The Progress Report was presented by the Acting Head of Division, AIDS, TB, Malaria and Other Infectious Diseases at the Directorate of Social Affairs.

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

- i) The AIDS Watch Africa (AWA) event which used to be during the June/July Summit has now been postponed to the January/February Summit as a consequence of One Summit policy;
- ii) During the Thirty-First Ordinary Session in Nouakchott, Mauritania in July 2018, the Assembly agreed to make the AIDS Watch Africa (AWA) as an agenda item instead of the traditional lunch side event;
- iii) The Chairperson of the Union is the Chair of AIDS Watch Africa (AWA) and he/she is mandated to present a Progress Report to his/her peers.

**188. In conclusion, the PRC:**

- i) Took note of the Progress Report and Decisions of the 2019 AIDS Watch Africa (AWA);
- ii) Recommended that the Report be submitted to the Assembly through the Chairperson of the African Union.

**(vii) Briefing on the Ministerial Follow-up Committee on the Implementation of Agenda 2063 – Doc.EX.CL/1195(XXXVI)**

**189.** The Briefing Paper was presented by H.E. Zenene Sinombe, Chairperson of the Ambassadorial Committee on Agenda 2063 and Permanent Representative of the Republic of Botswana to the African Union.

**190.** Following the presentation, Members of the PRC made comments as follows:

- i) Commended the Chair of the Sub-Committee for his leadership and the work accomplished by the Sub-Committee;
- ii) Expressed the need for Member States to apply the tools and models developed to analyse national data and report on progress in implementing Agenda 2063, as part of their national development plans;
- iii) Expressed the need to change the timing of the side event on the presentation of national reports of Member States on the implementation of Agenda 2063 scheduled for 6 February 2020 in Addis Ababa, to avoid an overlap with the Session of the Executive Council scheduled for 6 and 7 February 2020;
- iv) The mandate of the Sub-Committee will end in March 2020, the regional deans are requested to designate, as soon as possible, the new members who will compose the Sub-Committee;
- v) The delegation of South Africa indicated that the South African government has created a newspaper published in 5 languages for the purpose of popularizing Agenda 2063;
- vi) There is a need for Member States to domesticate Agenda 2063;
- vii) Welcomed the organization of the seminar on the implementation of Agenda 2063 which was held in Nairobi, Kenya, in November 2019 and whose work was very useful for Member States;
- viii) Welcomed the implementation of quantifiable indicators and their alignment with the Sustainable Development Goals (SDGs);
- ix) The delegation of Algeria indicated that the preparation of national reports on the progress of the implementation of Agenda 2063 was a step that required time, since the approach is multisectoral;
- x) Need to send missions to assess the implementation of Agenda 2063 in the Member States ;
- xi) The Sahrawi delegation, in its capacity as Dean of North Africa, indicated that consultations were under way to appoint the Representative of North Africa to serve on the new Sub-Committee on Agenda 2063;
- xii) The delegation of Rwanda indicated that the Rwandan authorities had started the process of domestication of Agenda 2063 and had also conducted an assessment of the alignment of the SDG indicators with those of the National Poverty Reduction Strategy.

**191.** The Commissioner for Social Affairs provided clarifications as follows:

- i) The AUC plays an important role in the national domestication of Agenda 2063 and can support Member States in the preparation of their national reports on the implementation of Agenda 2063;
- ii) The AUC should be responsible for monitoring and evaluation of the implementation of Agenda 2063 in Member States;
- iii) It is necessary to strengthen collaboration between the AUC, AU Organs and Member States in order to prepare more comprehensive reports on the implementation of Agenda 2063.

**192.** The Chairperson of the Sub-Committee on Agenda 2063 provided clarification as follows:

- i) Welcomed the preparation of the continental report on the implementation of Agenda 2063, 6 years after the creation of Agenda 2063;
- ii) Commended the efforts made by the AUC and UNECA to align Agenda 2063 with Agenda 2030;
- iii) Welcomed the establishment of the "*integrated planning and reporting tool*", the result of collaboration between the AUC, AUDA-NEAPD and UNECA, the official launch of which will take place in March 2020;
- iv) The AUC, through the Directorate of Strategic Policy Planning, Monitoring, Evaluation and Resource Mobilization (SPPMERM), is engaged in the process of domestication of Agenda 2063;
- v) Called on all AUC Departments to fully commit to the domestication of Agenda 2063;
- vi) The AUC should regularly update the information relating to the implementation of flagship projects of Agenda 2063 and keep the Member States informed.

**193. In conclusion, the PRC:**

- i) Welcomed the design of the monitoring and evaluation mechanism and the *integrated planning and reporting tool*, which are important achievements in the implementation of Agenda 2063;
- ii) Took note of the Report.

**(viii) Report of the African Union Commission on the offers by Member States to host the African Inclusive Market Excellence Centre (AIMEC) – Doc.EX.CL/1196(XXXVI)**

**194.** The Report and the related Draft Decision were presented by a Representative of the Office of the Chairperson of the Commission.

**195.** Following the presentation, members of the PRC made comments as follows:

- i) Commended the quality of the Report presented as well as the professionalism of the Team of Experts who led the process;

- ii) The delegation of Bénin made 3 comments as follows:
  - a) The Report should be considered by the Executive Council in accordance with procedure;
  - b) The political criteria should be taken in to account, in addition to the technical criteria, in decisions on headquarters agreements, particularly the principle of equitable regional distribution of AU institutions;
  - c) Bénin planned to initiate discussions with Tunisia in a bid to reach a compromise on the decision to be taken by the Policy Organs on the AIMEC Headquarters Agreement;
- iii) Decision EX/CL/Dec.1057 on the implementation of Equitable Regional Distribution of AU Institutions should be taken into consideration in the Report.

**196.** The Legal Counsel provided clarifications as follows:

- i) In accordance with procedure, it is the responsibility of the Assembly to take decisions on the headquarters agreements of AU Organs. This should be reflected in the Draft Decision by replacing “decides” with “recommends to the Assembly”.

**197. In conclusion, the PRC:**

- i) Took note of the Report;
- ii) Decided to insert a paragraph in the Draft Decision thanking the Republic of Bénin and the Republic of Tunisia for their offers to host the AIMEC;
- iii) The Executive Council should take note of the Draft Decision and recommend it to the Assembly for consideration and adoption.

**(ix) Report of the Establishment of the African Union High Council of Local Authorities (AU-HCLA) – Doc.EX.CL/1197(XXXVI)**

**198.** The Chairperson of the PRC Sub-Committee on Structural Reforms provided clarifications as follows:

- i) The Sub-Committee did not consider the proposed structure of the High Council due to failure to adopt its Statute;
- ii) It is therefore recommended that this item be considered at a later date, after the Statute is adopted.

**199. In conclusion, the PRC:**

- i) Consideration of the Report should be deferred until the 37th Ordinary Session of the Executive Council scheduled for June/July 2020.

**(x) Report on the Situation in Palestine and Middle East –  
Doc.EX.CL/1198(XXXVI)**

**200.** The Report was presented by the Director of Political Affairs.

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

- i) As per practice, the African Union reaffirms its firm support for the Palestinian cause at each Ordinary Summit;
- ii) The Commission should circulate the Draft Declaration in all African Union working languages;
- iii) Responsibility of the State of Israel for its acts has to be properly reflected in the Report, and thus the word “ Israeli settlers” in paragraph one should be replaced by “ State of Israel” and throughout the Report;
- iv) Legislative reference must be included throughout both documents where applicable;
- v) Para 11, 12 and 13 of the Draft Declaration should be redrafted to be clearer and more concise;
- vi) Sought clarity as to whether the Report is from January to June 2019 as indicated in the Report;
- vii) The way paragraph 20 of the Report is drafted gives the impression that there are two parallel tracks, one being reconciliation and the other elections, which is not the case. The ultimate goal of elections is to achieve reconciliation. Thus, the lines starting from “since the Palestinian people” till the end of paragraph 20 should be deleted and replaced with “The ultimate goal of the elections is to achieve reconciliation”;
- viii) There is need for alignment of the Report and Draft Declaration in all the AU languages and wording should be improved in both documents;
- ix) Add the following paragraph “Welcome the UNGA Decision adopted in December 2019 to renew the mandate of the UNRWA for another 3 years until 2023 and calls upon the international community to further support the financial assets of the Agency with the aim of enabling it to effectuate its mandate fully” both at the end of the Report and in the Draft Declaration particularly through replacing operative paragraph 7 of the Declaration;
- x) Resumption of negotiations between the two sides is paramount in achieving lasting peace in the Middle East;
- xi) Reiterated their condemnation to the forced occupation of Palestinian lands and regret that the Government of Israel does not respect international laws; affirming the need to reach a comprehensive solution based on the relevant UNSC Decisions on the borders of 1967;
- xii) Add the following at the end of operative paragraph 11: “This policy represents a case of racial segregation and contradicts the International Convention on the Suppression and Punishment of the Crime of Apartheid;
- xiii) Proposed the deletion of para 17 and 18 of the Report as they seem redundant;

- xiv) Reference should be made in the Declaration to existing relevant resolutions.

**202.** The Director provided clarifications as follows:

- i) The Report covers the period January to December 2019 and necessary amendments will be made to reflect this;
- ii) All comments and proposals by Member States will be given due consideration and included in the final Report and Draft Declaration;
- iii) Member States are asked to present their comments and observations in written format to the Department of Political Affairs so as to be included in the amended version.
- iv) A small Committee of Member States and the AU Commission will meet and refine the two documents.

**203. In conclusion, the PRC:**

- i) Took note of the Report and Draft Declaration on the situation in Palestine and the Middle East and recommended it for adoption by the Assembly after including the remarks and proposals of Member States;
- ii) Reaffirmed the African Union support for the Palestinian cause;
- iii) Requested the Commission to circulate the Draft Declaration in all African Union working languages;
- iv) Agreed that the Drafting Committee will meet to review and refine both documents for consideration by the Summit.

**(xi) Report on the Humanitarian Situation in Africa – Doc.EX.CL/1199(XXXVI)**

**204.** The Report was presented by the Director of the Political Affairs Department.

**205.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) The countries of origin should be included in the AU/UN/EU Tripartite Task Force, and they should be consulted on the way forward;
- ii) The Libyan delegation stated that his country has illegal immigrants and not refugees. These individuals are accommodated in reception centres and not refugee camps, where they were provided assistance pending an appropriate solution to their situation;
- iii) There were two types of illegal migrants in Libya including those who were already working in various sectors and receiving a monthly income allowance of nearly USD 200 from the Libyan Government. They were approximately 600,000, according to the United Nations, and should not therefore be counted as refugees. The other type of migrants are those who use Libya as a transit country to other destinations;

- iv) The information on the number of refugees in Sudan should be corrected;
- v) The Sudanese delegation rejected the tagging of Sudan as a “producer” of refugees, deeming the term inappropriate as the country was only a transit point for many illegal migrants;
- vi) The opening of the Continental Operations Center on Migration in Khartoum should be commended;
- vii) There was the need to expedite the operationalization of the African Humanitarian Agency to enable Africa to generate its own refugee statistics;
- viii) The Algerian delegation proposed that the part of the Report on the North Region should mention the role of the African Union in addition to that of Algeria and the United Nations in the provision of humanitarian aid to Sahrawi refugee camps in Tindouf;
- ix) The Algerian Government and UN Agencies provide humanitarian aid. This refugee crisis is one of the most protracted refugee situations in Africa which continually struggles to achieve international attention and resource allocation;
- x) One delegation highlighted that alleviating the suffering of populations in the refugee camps in Tindouf, Algeria, remains the responsibility of the host country which has the obligation of preserving the Civil character of the camps and of facilitating a full-fledged census and registration, in cooperation with UNHCR and in line with the OAU Conventions of 1969, which read: “The situation of Sahrawi refugees remains a matter of serious concern and the “African Union calls on the international community to help improve the living conditions of the affected persons”;
- xi) There was also the need to differentiate between climate refugees and political and economic refugees;
- xii) There was a need to harmonize the figures quoted in paragraphs 3 and 7 of the Report concerning the number of refugees in Uganda and Sudan;
- xiii) There was the need to use the term "voluntary returnees" to reflect the legal terminology established by the United Nations;
- xiv) There was a need to clarify the term DDR mentioned in the Report and also specify the sources of information;
- xv) The full title "The Global Compact on Refugees" should be spelt out in order to avoid confusion with "The Global Compact for Migration";
- xvi) The Sahrawi delegation deplored the inaccuracies in the paragraph relating to the situation of the Sahrawi refugees who number 173,600 living in 5 different camps. Precise information was needed in order to understand the causes of the humanitarian situation which has lasted for over 40 years;
- xvii) The regional approach to the Report adopted this year represented a positive paradigm shift that better reflected the reality on the ground;
- xviii) The situation of children in refugee camps was worrying;
- xix) The humanitarian solution to the refugee problem would remain provisional as long as it was not accompanied by the search for durable solutions through peacebuilding and development;
- xx) The Nigerian delegation informed the PRC of the creation of a Ministry for Humanitarian Affairs, Disaster and Social Development which was working

- to find lasting solutions for the 2,000,000 refugees being hosted by the country;
- xxi) The delegation of Burkina Faso deplored the use of the term "inter-communal conflicts" in paragraph 78 of the Report and proposed that it should be replaced with the term "terrorist acts", which reflected the situation on the ground;
  - xxii) The delegation of Burkina Faso also requested the addition of a paragraph to the Draft Decision welcoming the efforts made by Burkina Faso in its fight against terrorist groups whose actions were responsible for the internal displacement of people;
  - xxiii) The Ethiopian delegation informed that the number of the IDP's in Ethiopia is 350,000, since their numbers have decreased following the return of most of them to their regions of origin as a result of the policy implemented by the government;
  - xxiv) The Moroccan delegation rejected the figure of 173,600 refugees in the Tindouf camp, emphasizing that the UNHCR had been quoting the figure of 90,000 in its reports since 2018;
  - xxv) The Moroccan delegation proposed adding the following sentence to section IV (3) of the Report: "the situation of refugees... Bojadour and Auserd it should be recalled in this regard that the UNHCR stated that it will continue to rely on 90,000 as a planning figures until a full-fledged registration and census is carried out in the refugee Camps in Tindouf, Algeria";
  - xxvi) The South African delegation invited the AU Commission to enquire from the UNHCR about the exact number of people who took refuge in a church in Cape Town, South Africa. The delegation also clarified that those involved were young people who refused to attend school and who rather wanted to emigrate to the United States and Canada. The delegation also emphasized that the South African government was deeply disturbed by the situation, especially when the country did not have a refugee camp on its territory;
  - xxvii) The Comoros delegation requested that the human and material damage suffered by the Union of the Comoros following the passage of cyclone Kenneth should be mentioned in the Report.

**206.** The Director of the Department of Political Affairs provided clarifications as follows:

- i) The proposed amendments would be taken into account in the revised Report;
- ii) The operationalization of the Khartoum Center on Migration would help address the challenges relating to the accuracy of figures on refugees;
- iii) UNHCR would be consulted on the exact number of the people who had sought refuge in the church in Cape Town, South Africa;
- iv) The activities organized in favour of refugees would be extended well beyond the year 2019 devoted to refugees.

**207.** The Commissioner for Political Affairs provided the following answers in addition to the intervention by the Director of the Department of Political Affairs:

- i) The number of refugees was generally highly unstable due to the rapidly changing situation on the ground;
- ii) Concerning the number of refugees in the Tindouf camps, humanitarian agencies communicated the figure of 173,600 whereas the UNHCR communicated a number of 90,000. Pending the determination of the figure closest to the reality on the ground, it would be wise to keep the two figures in the Report;
- iii) Commended Nigeria for the creation of a Ministry dedicated to the management of refugee issues;
- iv) The situation of children in refugee camps was all the more worrying since most of them were out of school for long period of time;
- v) The theme of refugees would continue to be relevant till all the guns were silenced;
- vi) Repatriations were not always voluntary and so it was necessary to agree on an approach with the Member States concerned in order to find the appropriate formula.

**208. In conclusion, the PRC:**

- i) Took note of the Report;
- ii) Welcomed the regional approach adopted in the Report;
- iii) Requested the Commission to incorporate the amendments proposed by Member States;
- iv) Requested various delegations to submit to the Commission by Note Verbale the exact figures on refugees their countries are hosting.

**(xii) Progress Report on the Establishment of the African Union Youth Fund – Doc.EX.CL/1200(XXXVI)**

**209.** The Progress Report was presented by the Commissioner for Human Resources, Science and Technology.

**210.** Following the presentation, Members of the PRC made comments as follows:

- i) The Report focused more on the strategy and structure of the Fund rather than the mode of financing the Fund and its governance;
- ii) The Report should have been considered first by the PRC Sub-Committee on Structural Reform and the PRC Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters in accordance with the procedures in force;
- iii) The status of the 7 independent members of the Board mentioned in paragraph 17 should be clarified in order to guarantee the appropriation of the AU of the Fund;

- iv) The Report emphasized the significant financial contributions expected from partners, a situation which carried the risk of loss of AU control over the Fund;
- v) The Report did not specify the sources of funding which will make the operationalization of the Fund possible;
- vi) The Audit Report had also highlighted the creation of many funds but which were not operational due to the absence of funds;
- vii) The Fund alone would not be able to solve all the problems facing the youth in Africa; there was the need to consider a holistic approach;
- viii) It was, as a matter of priority, incumbent on Member States to address the problems facing the youth in their respective countries;
- ix) There was an urgent need to operationalize the Fund which was established in 2017 to reduce the level of unemployment among young people by 25% by 2023 (Goal 6 of Agenda 2063).

**211.** The Commissioner provided clarifications as follows:

- i) The recommendations made would be taken into account in the revised version of the Report;
- ii) Although the Fund would not solve all the problems of young people, it had to be operationalized in pursuance of the Decision of the Assembly which established it in 2017;
- iii) The financing of the Fund depended more on Member States; the contribution expected from partners would only be a complement;
- iv) With regard to financing, the decision establishing the Fund provided that there should be a 1.5% / 1% deduction from the annual budget of the AU. However, to date, no deductions had been made;
- v) Furthermore, the Fund was designed to be a trust fund to generate interest thus enabling the auto-replenishment of the Fund;
- vi) The governance of the Fund would be in the hands of a Committee comprising exclusively of African personalities;
- vii) The Fund would draw on the operations of the Peace Fund, the implementation of which was sufficiently advanced.

**212.** In conclusion, the PRC agreed as follows:

- i) Took note of the Report;
- ii) Requested the Commission to incorporate the amendments in the revised version;
- iii) The Report should be considered by the Sub-Committee on Structural Reforms and by the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters;
- iv) Consideration of the Progress Report should be deferred until the 38th Ordinary Session of the Executive Council scheduled for February 2021.

**(xiii) Follow-Up to the 1st Mid-Year Coordination Meeting, 8 July 2019, Niamey, Niger – Doc.EX.CL/1203(XXXVI)**

**213.** The Report and the related Draft Decision were presented by the Head of the AU Institutional Reforms Unit.

**214.** The Egyptian delegation, which had chaired the meetings of experts responsible for reviewing the Draft Protocol on Relations between the AU and the RECs, as well as the Draft Rules of Procedure for the Coordination Meeting, provided clarifications as follows:

- i) Recalled the Niamey Declaration of the First Mid-Year Coordination Meeting between the AU and Regional Economic Communities (RECs) which states in paragraph 12, “...*Request the Commission, RECs to engage Member States in this process prior to its submission to the Specialized Technical Committee (STC) on Justice and Legal Affairs, and its adoption by the upcoming AU Assembly, after due consideration by the 36th Ordinary Session of the Executive Council, in February 2020...*”;
- ii) The PRC set up a group of experts to consider the following three (3) draft documents:
  - a) Draft Revised Protocol on Relations between the AU and Regional Economic Communities (RECs). This document was adopted by the STC on Justice and Legal Affairs;
  - b) Draft Rules of Procedure for the Mid-Year Coordination Meeting. The PRC should decide on the rotation criterion for Chief Executives who speak at opening ceremonies of Mid-Year Coordination Meetings in accordance with Rule 10 (1). The Experts’ Meeting did not reach a consensus on this item;
  - c) The document on the division of labour between the AU and RECs requires further consideration and will therefore be deferred to the 37th Session of the Executive Council scheduled for July 2020;
- iii) The designation of a group of experts to further consider legal documents has been very successful and this practice should now be encouraged as a working method.

**215.** Following the presentation, Members of the PRC made comments as follows:

- i) Thanked Egypt for its leadership throughout the Meetings of the Group of Experts;
- ii) Thanked the Institutional Reforms Unit for the work accomplished since the First Mid-Year Coordination Meeting held in Niamey, Niger, in July 2019;
- iii) The Rules of Procedure for the Mid-Year Coordination Meeting should also apply to the Committee on Coordination;
- iv) Rule 1 of the Draft Rules of Procedure of the Mid-Year Coordination Meeting mentions and provides a definition for the "Executive Council". However, there is no mention of it in the body of the text. There should be

- a link between the Executive Council and the Mid-Year Coordination Meeting;
- v) Delete paragraph 5 of the Draft Decision on the adoption of the Revised Protocol on Relations between the AU and the RECs, since the Protocol has already been included in the Draft Decision on Legal Instruments;
  - vi) The presentation made by the Egyptian delegation on the work accomplished by the group of experts should be forwarded to members of the Executive Council in the form of a written summary;
  - vii) Rule 7 of the Draft Rules of Procedure should logically be the last article of the document;
  - viii) Paragraph 5 of the Draft Decision deals with the Protocol on Relations between the AU and RECs, but makes no reference to the African Development Bank (AfDB), the UN Economic Commission for Africa (UNECA) or the Leader of the AfCFTA, as requested by the Heads of State at the First Mid-Year Coordination Meeting;
  - ix) Replace the term "*directeurs généraux*" in Rule 4 of the Draft Rules of Procedure by "*chefs exécutifs*" in the French version of the document;
  - x) Following the decision to extend participation in the Mid-Year Coordination Meeting to certain continental institutions, such as the AfDB or UNECA, it would also be necessary to include sub-regional Institutions like the Lake Chad Basin Commission (LCBC) and the Inter-Regional Cooperation Committee (IRCC) which are involved in a reform process and which may benefit from the dynamic of the relations between the AU and the RECs;
  - xi) Paragraph 5 of the Draft Decision on the Adoption of the Revised Protocol is not relevant, since the issue of division of labour between the AU and the RECs is being further developed;
  - xii) The Draft Rules of Procedure should reflect the participation of institutions such as the AfDB, UNECA and AUDA-NEPAD;
  - xiii) Need to adopt Rule 10.1 (d) of the Draft Rules of Procedure;
  - xiv) The Revised Protocol was discussed and adopted during the Session of the STC on Justice and Legal Affairs held in Addis Ababa on 14 November 2019 and this should be reflected in the Report;
  - xv) Need to align the Arabic version of the Draft Rules of Procedure with the English version. Some legal terms are translated incorrectly;
  - xvi) Deplore the translation quality of working documents and stress the need to use external translation services which are more efficient and less costly; also stress the need for specialist translators, especially in the legal field.

**216.** The Egyptian delegation provided clarifications as follows:

- i) Paragraph 5 of the Draft Decision refers to the Draft Revised Protocol which was adopted at the Session of the STC on Justice and Legal Affairs;
- ii) There is consensus on the fact that only one Chief Executive would speak on behalf of the 8 RECs during opening ceremonies of the Mid-Year Coordination Meetings. However, it is up to the PRC to decide on the criteria for the geographic rotation mentioned in Rule 10.1 (d);

- iii) The possibility mentioned by the Head of the Institutional Reform Unit of extending participation in Mid-Year Coordination Meetings to UNECA and AfDB was mentioned as an example; Rule 4 (2) of the Rules of Procedure of the Mid-Year Coordination Meeting specifies that “(t)he Chairperson of the Mid-Year Coordination Meeting may (...) formally invite Member States, institutions or personalities based on the specific agenda items under discussion”;
- iv) Paragraphs 5 and 6 of the Draft Decision relate to the adoption of the Revised Protocol and the Draft Rules of Procedure. These two documents have already been included in the Draft Decision on Legal Instruments. The Office of the Legal Counsel should therefore advise the PRC on the procedure to be followed to avoid duplication of decisions to be adopted.

**217.** The Head of the Institutional Reform Unit provided clarification as follows:

- i) The proposal to apply the Rules of Procedure of the Mid-Year Coordination Meeting to the Committee on Coordination should be further considered as the meetings are of different levels;
- ii) Need to have legal translators given the difficulty for a general translator to understand and correctly translate a legal text;
- iii) During the First Mid-Year Coordination Meeting, the Heads of State and Government decided to extend participation in Mid-Year Coordination Meetings to the AfDB, UNECA, the Leader of the AfCFTA and the AfCFTA Secretary General. The Draft Rules of Procedure should therefore reflect this;
- iv) It is necessary to distinguish between the statutory members of the Mid-Year Coordination Meeting (the 5 Heads of State and Government of the Bureau of the Assembly, the 8 current Chairs of the RECs and the Heads of the Regional Mechanisms) and other participants, namely the Chairperson of the AUC, the Chief Executives of the RECs, the Executive Secretary of AUDA-NEPAD and the Presidents of African Financial Institutions. The AfDB, UNECA and the AfCFTA attend as participants;
- v) The LCBC and the IRCC cannot participate in Mid-Year Coordination Meetings in the same manner as the AfDB or UNECA because the two aforementioned Institutions do not participate directly in the integration process in Africa;
- vi) The Revised Protocol and the document on the division of labour are two separate documents and therefore the adoption of one does not influence the adoption of the other;
- vii) There is no relation between the Mid-Year Coordination Meeting and the Executive Council. The Mid-Year Coordination Meeting decided that the Rules of Procedure and the Revised Protocol should be considered by the Executive Council.

**218.** The Representative of the Office of the Legal Counsel provided clarifications as follows:

- i) The Revised Protocol on Relations between the AU and the RECs, as well as the Draft Rules of Procedure of the Mid-Year Coordination Meeting had been considered by the STC on Justice and Legal Affairs in the Draft Decision on Legal Instruments;
- ii) Paragraphs 11 and 12 of the Assembly Decision on the First Mid-Year Coordination Meeting state that the Assembly took note of the Draft Rules of Procedure and the Draft Revised Protocol and that it would adopt those documents after the Executive Council had considered them. Consequently, the Revised Protocol and the Draft Rules of Procedure should each be the subject of a separate decision from the Draft Decision on Legal Instruments;
- iii) The reference to the participation of the Champion of the AfCFTA and the AfCFTA Secretary General in Mid-Year Coordination Meeting should be deleted from paragraph 6 of the Draft Decision and be included in Rule 10 (1), since it is a decision of the Heads of State and Government.

**219. In conclusion, the PRC:**

- i) Took note of the Report;
- ii) Recommended that the revised Protocol and the Draft Rules of Procedure be maintained in the Executive Council Draft Decision, although they are already included in the Draft Decision on Legal Instruments;
- iii) Recommended that the participation of the AfCFTA Champion and the AfCFTA Secretary General be reflected in Rule 10 of the Rules of Procedure;
- iv) Recommended that the rotation of the Chairpersons of RECs in speaking at the opening session of the Mid-Year Coordination Meeting should be done in alphabetical order (in English).

**b) REPORTS OF OTHER AU ORGANS**

- (i) ACTIVITY REPORT OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS (AfCHPR) – Doc.EX.CL/1204(XXXVI)**

**220.** The Activity Report was presented by the President of the Court.

**221.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) Commended the Court for the sensitization missions it conducted to Djibouti, Comoros and Zimbabwe in 2019 and other activities it undertook in 2019;
- ii) Lauded the Court for organizing the 4th African Judicial Dialogue in November 2019 in Kampala, Uganda, yet some Member States highlighted

- the impermissibility of giving an institutional effect to outcomes of a forum with consultative nature;
- iii) Called for an interrogation of the difficulty facing Member States in the ratification of the Kampala Convention;
  - iv) Benin stated that it will comply with the Decision of the Court;
  - v) It was reported that Equatorial Guinea ratified the Kampala Convention;
  - vi) Clarifications were sought on the status of the implementation of Executive Council Decision 1064 which instructed the Court to discontinue the practice of extending contracts of outgoing Judges;
  - vii) Welcomed the discussions on the role of the judiciary in the fight against terrorism and protection of human rights during the dialogue forum in Kampala;
  - viii) Urged the AU Commission and the Court to expedite the processes of organizing the Joint Retreat between the PRC, Legal, Judicial and Legislative Organs of the Union in view of the ongoing reforms;
  - ix) Member States were encouraged to make voluntary contributions to the operationalization of the Legal Aid Fund;
  - x) Took note of the Decision of Tanzania to withdraw from the African Court on Human and People's Rights;
  - xi) Clarifications were sought about the reason the Court presented a Report to the 35th Executive Council although it is required to report only to every Ordinary Session of the Assembly.

**222.** The President of the Court provided clarifications as follows:

- i) Commended the Government of Uganda for hosting the 4th African Dialogue Forum and for the participation of President Yoweri Museveni at the event;
- ii) Stated that the Legal Status of the outcome recommendations of the Judicial Dialogue will be channelled through AU Policy Organs;
- iii) Clarified that the contracts of outgoing Judges will not be renewed.

**223.** The Registrar of the Court provided clarifications as follows:

- i) He explained that the Court sought the legal opinion of the OLC on the matters related to the use of funds from partners to which the OLC advised that the matter be referred to the Executive Council for considerations;
- ii) Informed that funding arrangements with the EU ended in December 2019 and that the proposed 2020 budget is fully dependent on funding from Member States.

**224. In conclusion, the PRC:**

- i) Took note of the Activity Report of the African Court on Human and Peoples' Rights;

- ii) Recommended the Report to be submitted to the Executive Council for consideration;
- iii) Decided to amend the Draft Decision in its paragraphs 2, 3, 6 and 8, while merging paragraphs 4 and 5, and recommend it to the Executive Council.

**(ii) ACTIVITY REPORT OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS (ACHPR) – Doc.EX.CL/1205(XXXVI)**

**225.** The Report was presented by the Chairperson of the ACHPR.

**226.** Following the presentation, Members of the PRC made general comments and comments specific to the particular situations of individual Member States as follows.

• **General Comments**

- i) The ACHPR should take into account the need to ensure a balance between the respect for human rights and the sovereign right of Member States;
- ii) Member States support the ACHPR and commend the work it is doing;
- iii) Congratulate the new President of the ACHPR on his election;
- iv) Significant improvement in the level of collaboration between the ACHPR and Member States;
- v) The Report contains many factual errors that need to be corrected;
- vi) Paragraph 6 of the Draft Decision needs to be reworded to focus instead on a comprehensive study to improve the functioning of the ACHPR;
- vii) Define the criteria that made it possible to qualify the conduct of the elections as peaceful;
- viii) Important positive developments were mentioned in the Report to be credited to the Member States concerned;
- ix) Paragraph 5 of the Draft Decision should be deleted;
- x) Delete the reference to permanent authorizations to be granted by Member States for the promotion and protection missions of the ACHPR in paragraph 4 of the Draft Decision;
- xi) Delete paragraph 10 of the Draft Decision, as it is unrelated to the Report, while another delegation highlighted the need for it to be retained;
- xii) Encourage collaboration between the ACHPR and all other AU Organs to cover all aspects of human rights from a holistic perspective;
- xiii) In paragraph 30 of the Report, clarify the mandates of the NGOs/CSOs that have been granted observer status at the ACHPR and also specify the criteria for the selection of these NGOs/CSOs;
- xiv) Consider the establishment of a mechanism to facilitate the voluntary return of refugees to their countries of origin (paragraph 27 of the Report);
- xv) The conclusions of the PRC-ACHPR Retreat held in 2017, Nairobi, Kenya, should be considered by the PRC as a separate agenda item and not as an annex to the ACHPR Report;

- xvi) The ACHR should be 100% financed by States in order to reduce or even eliminate dependency on partners in accordance with the Assembly Decision;
- xvii) The review of the structure of the Secretariat referred to in paragraph 61 should be considered after the reform of the AU;
- xviii) The ACHPR should work closely with the recently established PRC Sub-Committee on Human Rights, Democracy and Governance;
- xix) The AUC should take urgent measures to implement Decision EX.CL.974 on the strengthening of the ACHPR; however, the six-month period mentioned in the said Decision seems short;
- xx) Member States should have at least one month to submit their inputs to the ACHPR Report and not 14 days, which is a very insufficient timeframe.

- **Specific Comments**

- Egypt

- i) Submitted all its reports, the last of which was submitted in May 2019;
- ii) Explanations required regarding the contradiction relating to Communication 670/17 declared both receivable and non-receivable;
- iii) No explanation regarding the allegation in para 46 (xvii) on the closure of media and Internet in the context of the elections; calls for the deletion of this point;
- iv) Egypt made remarks and corrections on paragraphs 22, 27, 35(7) and 17, and asked that they be revised.

- The Gambia

- i) The Government's efforts were acknowledged and commended in the Report;
- ii) The Government will support the construction of the ACHPR Headquarters.

- Malawi

- i) The Report was submitted, albeit late;
- ii) Paragraph 46 (xix) of the Report: the right to demonstrate is enshrined in the Constitution. There was no use of force against demonstrators during eight months that the demonstrations lasted; on the contrary, it was a security officer that was killed by demonstrators. The use of the election dispute, which prompted the demonstrations was referred to the Constitutional Court;
- iii) The ACHPR should have sent a fact-finding mission to the field;
- iv) Reserves the right to append its replies to the ACHPR Report;
- v) Rejects this Report and its conclusions.

- Angola

- i) Nine States held peaceful general elections and only 2 are mentioned as having been peaceful;
- ii) The President of the Republic has set up a Commission to pay tribute to the victims of political violence in order to bring peace to families; this is a positive development which should be taken into account in the Report.

- Zimbabwe
  - i) Welcomes paragraphs 21 and 22 which mention that Zimbabwe is up to date with its reports; reaffirms its commitment to its international obligations;
  - ii) Is ready to receive the ACHPR outreach mission;
  - iii) The abductions mentioned in paragraph 46 of the Report are not factual; this matter should be investigated; the ACHPR should specify that this is a simple allegation.
  
- Morocco
  - i) No mention in the Report of the positive developments between the Kingdom of Morocco and the ACHPR. A letter was addressed by the Minister of Foreign Affairs to the President of ACHPR regarding the Terms of Reference of the dialogue between the Commission and Morocco. The dialogue between the two was initiated following a ministerial letter addressed to the former President of the ACHPR;
  - ii) The President of the ACHPR is invited to engage with the Kingdom of Morocco;
  - iii) Morocco cannot accept the language used in the Report and in the proposed draft decision regarding Morocco, which has not ratified the Charter.
  
- Equatorial Guinea
  - i) In paragraph 25 of the Report, mention Equatorial Guinea as the 29th country to ratify the Kampala Convention;
  - ii) Has not yet received a request for a visit from the ACHPR (para 38 of the Report); however, Equatorial Guinea has held a formal meeting with the Commissioner for Political Affairs.
  
- South Africa
  - i) Will submit its periodic report without delay (paragraph 22);
  - ii) Urgent appeal letter of the Commissioner-Rapporteur on the situation of human rights in the Republic of South Africa addressed to the President of the Republic of South Africa: the government will organize a conference on migration towards the end of 2020 to analyze the root causes of the issue.
  
- Libya
  - i) Report should include the release of prisoners in Libya;
  - ii) Protocol on the abolition of the death penalty: this is a matter of State sovereignty which also has religious implications; State sovereignty should be respected;
  - iii) Encourages other Member States to welcome migrants.
  
- Eritrea
  - i) Replied to the communication addressed to it.

- Nigeria
  - i) Paragraph 46 (xxviii): No journalist has been arrested in the course of his or her work; the journalist mentioned was arrested for inciting sedition; this should be reflected in the Report.
  
- DRC (the Delegation proposed the following points for inclusion in the Report)
  - i) Paragraph 35: it would be appropriate, by way of encouragement, that a letter of congratulations be sent to the President of the DRC, H.E. Félix Antoine Tshisekedi Tshilombo, the new Head of State, following the example of the 8 Heads of State and Government listed in this paragraph, who has made the fight for the respect of human rights one of the priorities of his mandate, he has opened up the country's political space, guaranteed freedom of the press and opinion, allowed the recovery of nationality by those who had lost their citizenship, freed political prisoners and promulgated an amnesty law allowing the return of exiles, including the most emblematic ones;
  - ii) Paragraph 45 (xx): the human rights violations and abuses and violence in eastern DRC are the work of armed groups, such as the ADF/Nalu and other armed militias and not caused by the government, which is fighting these violent groups and protecting the civilian population.
  
- Sudan
  - i) After the fall of President Bashir, there have been positive developments; a high-level Commission of inquiry was set up on 27 September 2019 to investigate the unfortunate events of 3 June 2019; it will make recommendations to be implemented;
  - ii) An agreement was reached between the government and civilians for a three-year transitional period;
  
- Cameroon
  - i) A letter of congratulations was sent to the President of the Republic, H.E. Paul Biya by the ACHPR following the dialogue with the latter;
  - ii) Developments in the management of the crisis in the North-West and South-West regions (holding of the major national dialogue, release of certain detainees held in connection with the crisis in these regions, release of certain opposition leaders, etc.);
  - iii) This information should be reflected in the Report;
  - iv) Cameroon submitted its report in October 2019 contrary to what is indicated in paragraph 21 of the Report (consolidated report covering the period 2013-2018); paragraph 22 of the Report should be corrected accordingly.
  
- Kenya
  - i) The Government, reiterates its respects for human rights as enshrined in the Constitution of the Republic of Kenya and other International legal instruments to which Kenya is a signatory, including the African Charter;

- ii) The Government on 10 November 2017, established an Inter-Ministerial Taskforce with the mandate to study the decision of the Court in addition to the other decisions issued by the local courts in relation to the Ogiek's occupation of the Mau forest; and also recommend measures of implementing the Court judgment;
- iii) The Government gazetted a second Task Force to facilitate enforcement. It expanded the Task Force's mandate to include recommendations not only on implementation, but also on enhancing the participation of indigenous communities in sustainable forest management;
- iv) The Task Force was constituted by the Attorney General of the Republic of Kenya and comprise of other Independent Commissions such Kenya National Commission Human Rights (KNCHR) and National Land Commission (NLC). The task force has taken positive steps to engage with the community and is almost completing its report;
- v) The Government is committed to see that the Tasks Force publish its report to inform further action.

➤ Ghana

- i) Paragraph 46(xviii): There is no restriction of liberty in Ghana. The journalist mentioned was accused of cybercrime.

➤ SADR

- i) The ACHPR has never visited the SADR, despite the violation of the rights of the Saharawi people by Morocco which continues to keep the Saharawi people in prison, thus acting in violation of the Constitutive Act of the AU;
- ii) Violation of the Saharawi people's right to self-determination;
- iii) Human rights are not privileges but fundamental rights;
- iv) The ACHPR should carry out its mandate and visit the SADR.

➤ Morocco (on a point of order)

- i) Paragraph 10 of the Draft Decision is addressed to the Kingdom of Morocco, and thus Morocco retains the right to respond.

➤ Burundi

- i) The human rights situation is good in Burundi: the Commission on Human Rights and the Government are working closely together to enhance these rights;
- ii) Many refugees and exiles are returning home and are well received;
- iii) The improvement of human rights takes time (review paragraph 26 of the Report with regard to Burundi).

➤ Gabon

- i) Paragraph 34 of the Report: Government confirms that a response will be submitted to the ACHPR on the case cited;
- ii) The government will submit the three missing reports;

- iii) The spelling of the name of the Gabonese Republic in the French version of the Report should be corrected.

➤ Rwanda

- i) Paragraph 22 on submission of periodic reports: Rwanda has submitted all reports;
- ii) Paragraph 36: Rectify the number of migrants received by Rwanda: there are more than 300 and not the 46 mentioned in the Report.

➤ Mauritania

- i) Regrets that Mauritania was not listed among the Member States that held fair and transparent elections in July 2019 that led to a peaceful regime change; an important event both for Mauritania and for Africa (para. 45(iii)); this should be mentioned in the Draft Decision;
- ii) Rectify the spelling of the name of the President of the Republic in the Arabic version.

➤ Guinea

- i) Paragraphs 19 and 22 on the restriction of the freedom to demonstrate: the right to demonstrate is enshrined in the Constitution. Demonstrations are therefore authorized, but they are subject to regulations: the request for a demonstration must indicate the date and place of the demonstration. Problems arise when the opposition refuses to communicate the date and place of the demonstration;
- ii) This often results in physical violence and destruction of property; and the State therefore takes measures to protect persons and property in accordance with its regalian role;
- iii) Each country has the right to adopt its own constitution; the current constitution dates from 2010 and the President of the Republic wants to propose a more modern constitution;
- iv) Article 51 of the Constitution authorizes the President of the Republic to submit a draft Constitution, or amendments thereto, either to the National Assembly or by referendum for adoption;
- v) The President has never stated that he will be seeking a third term.
- vi) This information should be reflected in the Report.

➤ Zambia

- i) Paragraph 26 of the Report on communications from various parties: there is an error with regard to Zambia; of the previous 5 Presidents of the Republic, none of them had the first name of Gregory;
- ii) The government has already reacted to the ACHPR communication.

➤ Tanzania

- i) Paragraph 34 (2) of the Report on urgent appeal letters: the case of journalist Erick Kabendera is under investigation and therefore cannot be discussed at this time;

- ii) Tanzania will submit a report on this issue in the course of the year 2020;
- Congo
  - i) Paragraph 45 of the Report on the area of concern: The Report should have taken into account the humanitarian situation in Congo as a result of the effects of climate change, which led to landslides and the destruction of important road infrastructure.
- Mauritius
  - i) Paragraph 45 (ii): Mauritius held legislative elections which were conducted in a peaceful manner as evidenced by observers present in the country; the paragraph should be amended to reflect this.

**227.** The Chairperson of the ACHPR provided clarifications as follows:

- i) Factual errors would be corrected;
- ii) Several Member States had talked of reports already submitted, verifications would be made, and necessary corrections to update the Report would be effected;
- iii) Reports should be submitted every two years. Therefore, if a report had been submitted in 2017, the next report would be expected in 2019;
- iv) All new communications would be taken into account;
- v) The election update would be taken into account and all States that had organized transparent and peaceful elections would be mentioned in the Report;
- vi) Welcomed the commitment of the Government of The Gambia to build the headquarters of the ACHPR in Banjul; proposed that this commitment be included in the Draft Decision to be submitted to the Executive Council for consideration;
- vii) NGOs carry out activities in several areas; their field of action is very vast;
- viii) The ACHPR applies clear criteria in granting observer status to NGOs and Civil Society Organizations (CSOs);
- ix) The platform with CSOs is very productive because it is a place of exchange that enhances the involvement of citizens; this should rather be welcomed;
- x) Commended the countries that had made the commitment to submit their reports;
- xi) The Draft Decision, in paragraph 4, talked of "standing authorization" due to the commitment that Member States had made to collaborate with the ACHPR;
- xii) Paragraph 13 of the Draft Decision is a standard provision; and the 14-day timeframe for States to submit written observations is sufficient time.

**228.** In conclusion, the PRC agreed as follows:

- i) Take note of the Report and ask the ACPHR to address any factual error raised by Member States;

- ii) Delete from paragraph 4 of the Draft Decision the reference to the expression "standing authorization"; it is the sovereign right of States Parties whether or not to accept a visit by the ACHPR to their territories;
- iii) Calls on States Parties to grant authorizations on a case-by-case basis;
- iv) Delete from the end of paragraph 5 of the draft decision reference to the adoption of the new revised structure at the June/July 2020 Summit;
- v) Paragraph 7 of the Draft Decision: delete the words "...within the next six (6) months..." and replace by "take measures for the expeditious implementation of the decisions and to report to the Executive Council on the measures taken in this regard";
- vi) Paragraph 9 of the Draft Decision: maintain the formulation adopted at the 35th Ordinary Session of the Executive Council held in Niamey in July 2019, which states: "Encourages the Kingdom of Morocco and the ACHPR to continue engaging in a dialogue about its mission to the territory referred to by the African Union as the Sahrawi Arab Democratic Republic and the United Nations as Western Sahara as mandated by previous relevant African Union Decisions";
- vii) Request Member States to officially convey their substantive remarks on the Report, within 14 days from the end of the Executive Council, to be annexed to the published Report;
- viii) Submit the Draft Decision as amended to the Executive Council for consideration;
- ix) Morocco registered its reservation on the conclusions (i) and (vi) as it cannot accept the wording used in the Report of the ACHPR and in the Draft Decision. Morocco has not ratified the Charter on Human and Peoples' Rights and the wording of the Decision does not encourage dialogue and will not facilitate any progress.

**(iii) ACTIVITY REPORT OF THE PAN-AFRICAN PARLIAMENT (PAP) – Doc.EX.CL/1206(XXXVI)**

**229.** The Report was presented by the President of the Pan-African Parliament.

**230.** Following the presentation, Members of the PRC made comments as follows:

- i) The Report should have contained an analytical summary;
- ii) The image of PAP has been tarnished. The paragraphs of the Report that mention this deterioration of the PAP's image should be deleted;
- iii) PAP should provide further information on the steps it plans to take to correct its tarnished image;
- iv) The Commission had felt that the procedure that led to the dismissal of Mr. Vipyra Harawa, former Clerk of the PAP, was illegal and had requested the latter's reinstatement;
- v) No AU Organ can claim to have an autonomous status that exempts it from respecting all the procedures in force in the AU. The Chairperson of the AU

- Commission, as the legal Representative of the AU, takes precedence over all other Heads of Organs;
- vi) The declarations and position of the PAP regarding different economic and political issues should be perfectly aligned with the Position of the AUC Chairperson and AU Policy Organs. Paragraphs 6, 8, 9, 10 and 11 of the Draft Decision should be deleted;
  - vii) The issue of the dismissal of Mr. Vipya Harawa should be dealt with by the competent bodies of the Commission;
  - viii) All proposals with financial implications should be submitted for consideration by the competent Organs pursuant to the provisions of the Financial Rules and Regulations;
  - ix) During the last three years, the PAP has gone beyond its mandate as an advisory organ by making declarations on political situations, which is the responsibility of other competent AU Organs;
  - x) Need to organize a retreat between the PRC and PAP, to consider all outstanding issues, particularly since the President of the PAP himself acknowledged that the PAP's image has been sorely tested;
  - xi) The retreat will make it possible to find a way forward with a view to improving the operational functioning of the PAP, and collaboration between the PAP and other AU Organs. Proper preparation concerning the modalities and outcomes of the retreat should be put in place;
  - xii) The PAP's Strategic Plan 2019-2023 mentioned in the Report should be made available to Member States.

**231.** The President of the PAP provided clarifications as follows:

- i) Some Member States raised their political issues with the PAP and it was in that context that the PAP made declarations;
- ii) The different investigation reports cleared the PAP President of the allegations of financial malpractice he was accused of. It was clearly established by the audit that the President of the PAP was not responsible for the double payments certain Member States complained of;
- iii) Out of the 12 charges retained, 11 were brought against the Deputy Clerk for Finance, Administration and Human Resources. The judge hearing the case had requested his dismissal;
- iv) The retreat will provide an opportunity for the President of the PAP to reconstitute the context of the financial malpractice and highlight the main challenges the PAP as an Organ is faced with. It will also provide an opportunity to set the record straight that the PAP does not oppose the Commission's decisions;
- v) The PAP should always act in compliance with the decisions of the Commission.

**232.** The delegation of The Gambia stated as follows:

- i) The Gambia delegation indicated that the former Deputy Clerk for Finance,

Administration and Human Resources in the course of serving his country and the Pan-African Parliament (PAP) has demonstrated unalloyed professional ethics and competence. The President of the Pan-African Parliament (PAP) should withdraw the statement as the questions were asked by the members of the Permanent Representatives' Committee (PRC) were not specific to his case and the matter is being currently arbitrated through the appropriate mechanisms of the Union”.

**233. In conclusion, the PRC agreed as follows:**

- i) Took note of the Report;
- ii) Deleted paragraphs 6, 8, 9,10 and 11 of the Draft Decision;
- iii) Merge paragraphs 1 and 2 of the Draft Decision to remove the reference of commending the actions and work of the PAP;
- iv) Requested the PAP to comply with the decisions of the Executive Council and respect procedures regarding issues with financial implications;
- v) The PAP should make the Strategic Plan 2019-2023 mentioned in the Report available to Member States;
- vi) The PAP and the Bureau of the PRC should jointly define the modalities for the preparation for and holding of a PRC-PAP Retreat to consider all outstanding issues;
- vii) Decided to submit the Draft Decision as amended to the Executive Council for consideration.

**(iv) ACTIVITY REPORT OF THE ECONOMIC, SOCIAL AND CULTURAL COUNCIL (ECOSOCC) – Doc.EX.CL/1207(XXXVI)**

**234.** The Activity Report was presented by a Representative of the CIDO Directorate.

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

- i) Zambia expressed appreciation on the relocation of the ECOSOCC Secretariat to Lusaka;
- ii) Zambia expressed concerns over the information contained in the Report deeming it inaccurate and assured the Commission of its commitments to honour and support the Secretariat in accordance with the spirit of the Host Agreement;
- iii) Zambia reported that the Secretariat is housed in the same building accommodating many government ministries and departments;
- iv) Further appealed to the Commission to accelerate the recruitment process to facilitate the full functioning of the Secretariat;
- v) Expressed condolence for the death of the Consultant attached to ECOSOCC, Prof. Pius Adesanmi, who died in the ill-fated ET plane crash last year;

- vi) Requested the Secretariat to conduct the in-depth research study as was mandated by the Executive Council, and circulate it for consideration by Member States in order to be presented to the Executive Council meeting in June/July 2020;
- vii) Reported that twenty-one (21) National Chapters have been opened and encouraged the remaining Member States to establish national chapters;
- viii) Expressed concern over the many requests related to budget, either for reallocation of previously approved budget or requests for supplementary budget, and stressed the necessity to respect due processes;
- ix) Also expressed concern that AU Institutions such as ECOSOCC may use their reports that are considered at the Executive Council to bypass these due processes;
- x) Clarification was sought on para 13 about the specific modalities that would govern how Civil Society Organizations (CSOs) would receive accreditation to engage any Organ, institution or specialized technical agency of the AU;
- xi) Clarification was sought about the Livingstone Formula in para 16;
- xii) Called for more interactions with ECOSOCC and Member States.

**236.** The Representative of CIDO Directorate provided clarifications as follows:

- i) Commended the Government of Zambia for the facilities and support it is providing to the ECOSOCC Secretariat;
- ii) Reported that the Interim Secretariat will last only for 12 months;
- iii) Informed that African CSOs are accredited based on their competences and portfolios of their operations;
- iv) Promised that ECOSOCC will work closely with Member States;
- v) Informed that the Secretariat will organize a retreat between the PRC and ECOSOCC to facilitate better working relationship.

**237. In conclusion, the PRC:**

- i) Took note of the Activity Report of the ECOSOC Secretariat;
  - ii) Encouraged the Government of Zambia and the Commission to work together on the relocation of the Secretariat and report about it during the Executive Council in June/July 2020;
  - iii) Delete Roman No (i) and (iii) from para 3 in the Draft Decision and introduce the amendment proposed by the Zambian Delegation to (ii) concerning the cooperation of both parties on issues related to the relocation of the Secretariat;
  - iv) Recommended that the Draft Decision as amended be submitted to the Executive Council for consideration.
- (v) ACTIVITY REPORT OF THE AFRICAN UNION COMMISSION ON INTERNATIONAL LAW (AUCIL) – Doc.EX.CL/1208(XXXVI)**

***Consideration of the Amendment of the AUCIL Statute and Update on the offer by Equatorial Guinea to host the Secretariat of AUCIL***

**238.** The Activity Report was presented by a representative of the Office of the Legal Counsel (OLC) in his capacity as focal person for the AUCIL Secretariat.

**239.** The delegation of Libya underscored the need for the working document to be available in all the working languages of the Union before examining the document. It deplored the fact that the Commission does not pay the same attention to the Arabic language and proposed that the item be removed from the agenda in accordance with the relevant provisions of the Rules of Procedure. It was supported in its position by the delegations of Mauritania, Equatorial Guinea and Angola who expressed the same frustration.

**240.** The Chairperson of the PRC stressed the urgent need for the Commission to resolve this problem through innovative solutions such as the outsourcing of the translation of documents into Arabic and Portuguese in order to allow each delegation to work in the language that it masters best. However, he sought the indulgence of the delegations concerned, since postponing consideration of the item would further create a backlog compared to the initial work programme.

**241.** The Delegation of Libya and the other delegations concerned agreed to examine the document in its English and French versions, provided that their concerns were reflected in the PRC Report.

**242.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) Delete the first sentence of paragraph 9 of the Report which says that the Report covers the period from January to December 2019, which is not correct;
- ii) Delete from the Draft Decision paragraphs 7, 8 and 9 which are related to the budget;
- iii) Issues pertaining to the budget mentioned in paragraph 5 of the Draft Decision fall within the purview of the PRC Sub-Committees on Structural Reform and the General Supervision and Coordination of Budgetary, Financial and Administrative Matters before any consideration by the Policy Organs; the term “approve” should therefore be deleted from this paragraph;
- iv) In paragraph 6 of the Draft Decision replace “congratulates” with “takes note”;
- v) AUCIL officers should inform Elected Officials of the procedures governing administrative and financial management within the AU;
- vi) Paragraphs 61 and 62 of the Report raise many challenges that AUCIL faces and appropriate measures should be taken to enable AUCIL to fulfil the mission entrusted to it, in accordance with Council Decision 1047

- (XXXIV) which requests that AUCIL be fully funded by Member States;
- vii) The Report raises very relevant issues, in particular the issue relating to the exploitation of natural resources which are a matter of concern for African countries; the latter should take control of the management of their natural resources; it is a fundamental principle of peoples' rights;
  - viii) The appendices attached to the Report constitute documentary resources of great importance;
  - ix) AUCIL also stresses the inconsistency that characterizes the work of the Executive Council which adopts Decisions that are not implemented;
  - x) It would be advisable to place on the agenda of the STC on Justice and Legal Affairs a permanent item on the codification of international law;
  - xi) AUCIL should limit the number of studies it undertakes and focus more on studies related to the effective implementation of Agenda 2063;
  - xii) The PRC should make a recommendation to the Executive Council for the amendment of the AUCIL Statute at the end of its 10th year of existence; the delegation of Equatorial Guinea renewed its request to amend the said Statute which would allow the relocation of the AUCIL secretariat to Malabo in Equatorial Guinea in accordance with the offer made by that Member State;
  - xiii) The delegation of Equatorial Guinea also indicated that it had responded positively to the Note Verbale from the Commission outlining the conditions to be fulfilled to host an AU Organ; following the said response, the issue should therefore have been placed on the agenda of the STC on Justice and Legal Affairs;
  - xiv) The delegation of Rwanda, in support of Equatorial Guinea's request, proposed that the PRC make a recommendation to the Executive Council requesting the Commission to initiate the process of relocation of the AUCIL Secretariat; however, the first step in such an approach is to start the process of amending the Statute.

**243.** The Representative of the Office of the Legal Counsel provided clarification as follows:

- i) The Office of Legal Counsel was not involved in the drafting of the Draft Decision;
- ii) The process of recruiting AUCIL staff has already been launched;
- iii) It is up to Member States to decide on the amendment of the AUCIL Statute;
- iv) The AUCIL Statute provides that it may be amended by the Executive Council;
- v) No decision has been taken to relocate the AUCIL Secretariat;
- vi) The Bureau of the STC on Justice and Legal Affairs and the AUCIL Office discussed the relocation of the Secretariat, but this issue was not formally debated;
- vii) The criteria to be met to host an AU Organ or institution has been effectively communicated to Equatorial Guinea at the time.

**244. In conclusion, the PRC agreed as follows:**

- i) Takes note of the Report and the studies contained therein;
- ii) Deletes paragraph 4 of the Draft Decision;
- iii) Requests the Commission to prepare the draft structure of an independent AUCIL Secretariat and report to the 37th Ordinary Session of the Executive Council in June/July 2020;
- iv) Requests that the Draft Decision be amended in paragraphs 3,5, 6, 7 and 8, in accordance with the proposals made and refers to the relevant Sub-Committees those aspects of the Decision that have financial, legal and structural implications;
- v) Takes note of the organization of the 8th Edition of the Forum on Democracy, the Rule of Law and the Fight against Corruption;
- vi) Takes note of Equatorial Guinea's offer to host the AUCIL Secretariat;
- vii) Requests that the amendment of the AUCIL Statute, in accordance with the rules of procedure in this regard, precede the relocation procedure of the AUCIL Secretariat;
- viii) Recommends the Draft Decision as amended for consideration by the Executive Council.

**(vi) ACTIVITY REPORT OF THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC) – Doc.EX.CL/1209(XXXVI)**

**245.** The Report and the related Draft Decision were presented by the Chairperson of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC).

**246.** Following the presentation, Members of the PRC made comments as follows:

**a) General Comments**

- i) The PRC paid homage to Mr. Mohamed Ould Hmeyada, from the Islamic Republic of Mauritania, member of the ACERWC, who died on 1 March 2019, in the course of his duties;
- ii) Need to advocate strongly for the universal ratification of the African Charter on the Rights and the Welfare of the Child;
- iii) States Parties to the African Charter on the Rights and Welfare of the Child must comply with Article 43 of the said Charter, which mandates the ACERWC to receive and consider the Report of States Parties on the implementation of the Charter;
- iv) The ACERWC should be more involved in protecting the rights of children victims of armed conflict in pursuance of the theme of the year 2020: "Silencing the Guns";
- v) Reword paragraph 11 of the Draft Decision by adopting some of the wording of paragraph 8 of Assembly Decision/AU/Dec /737(XXXII) on Female

- Genital Mutilation;
- vi) The Report should mention the organization of the Conference of the Countries of East and North Africa held in Asmara on 21 October 2019 under the theme: “Disseminating Agenda 2040 and the Outcomes of the Study on Children on the Move”;
  - vii) The Report should congratulate Egypt for its successful hosting of the 34th Ordinary Session of the ACERWC;
  - viii) Member States should, in cooperation with the UNHCR, and relevant AU Organs, strive to uphold the rights of children on refugee camps, in particular their rights to registration, including in the civil status registers, in order to protect them from statelessness, in accordance with Assembly Decision AU/Dec.718 (XXXII) and Kampala Convention. Specific amendments to the Draft Decision will be transmitted to the Commission;
  - ix) Need to list the human rights of children in the introductory paragraph of the Report;
  - x) Paragraph 2 of the Draft Decision should be amended to congratulate Member States for commemorating the African Day of the Child;
  - xi) Need to state whether the information on the worsening violence against minors in the Report was mentioned in the country reports or whether it is the outcome of ACERWC investigations in the field;
  - xii) Paragraph 14 of the Draft Decision on the human and financial resource needs of the ACERWC had financial, legal and structural implications; the request must consequently and in accordance with the procedure, be examined by the Sub-committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters;
  - xiii) Need to mention in paragraph 4 the Member States which had not yet ratified the African Charter on the Rights and the Welfare of the Child. Rather the Member States that have already ratified it should be commended;
  - xiv) Need to mention in the Report the concrete progress made in terms of protecting the rights and welfare of children since the establishment of the ACERWC;
  - xv) Need to strengthen the fight against the exploitation and sexual abuse of children through the internet;
  - xvi) The inaugural report of the Member States on the implementation of Agenda 2063 presented during the 3rd working visit of the PRC Sub-Committee on AUDA/NEPAD to Johannesburg, South Africa which took place from January 18 and 19, 2020, noted that there was a negative rate of implementation of the texts relating to the rights of the child;
  - xvii) The ACERWC should pay particular attention to the following themes: the protection of children from recruitment and enrollment into armed militias and / or separatist groups, the protection of children in refugee camps and the protection of children against radicalization and violent extremism;
  - xviii) Need to coordinate ACERWC missions to States Parties with the respective diplomatic missions in Addis Ababa;
  - xix) The Report should indicate the key achievements of the ACERWC, its main

challenges and future prospects in terms of the attainment of the objectives of the African Charter on the Rights and Welfare of the Child.

**b) Specific Comments**

- i) The delegation of Zimbabwe rejected paragraphs 35 and 37 (5) which stated that Zimbabwe did not fully comply with the final observations and recommendations of the ACERWC. The delegation of Zimbabwe stated that the process required time and that the national authorities were fully committed to the implementation of the recommendations of the ACERWC. Most of the recommendations in paragraph 12 were being implemented and should be included in the Report;
- ii) The Nigerian delegation indicated the commitment of the Nigerian authorities in protecting the rights and well-being of children through the establishment of a Federal fund and a broad based national awareness campaign to end child marriage;
- iii) The Tanzanian delegation assured the ACERWC that the Tanzanian authorities were working to finalize the communication mentioned in item 12 of paragraph 17. The delegation also requested the ACERWC to provide further clarification on the communication received by Tanzania mentioned in paragraph 18;
- iv) The Libyan delegation reaffirmed the determination of the Libyan authorities to strengthen the capacity of the Libyan High Committee for Children towards improving the welfare of children;
- v) The South Sudanese delegation indicated that the Government of the Republic of South Sudan had ratified the African Charter on the Rights and Welfare of the Child and deposited the instruments of ratification with the AUC. It requested the assistance of the ACERWC and the AUC in its efforts to protect the rights of the child in the context of armed conflict;
- vi) The delegation of South Africa indicated that certain provisions of the African Charter on the Rights and Welfare of the Child, especially those relating to the issue of birth certificates to non-nationals, were in contradiction with the Constitution of the Republic of South Africa. The delegation further stated that, contrary to what was mentioned in paragraph 6 of the Report, the Republic of South Africa did not have unaccompanied migrant children on its territory;
- vii) The Saharawi delegation stated that the parliament of the Saharawi Arab Republic would examine the African Charter on the Rights and Welfare of the Child at its next Session;
- viii) The Botswana delegation indicated that the authorities of the Republic of Botswana had aligned their definition of child with that of the African Charter on the Rights and Welfare of the Child and had subsequently initiated a national process aimed at withdrawing the reservation they made (in respect of Table i p.2 of the Report);
- ix) The Mauritanian delegation indicated that the Islamic Republic of Mauritania was not affected by paragraph 37 related to the observations and

- recommendations on the periodic national report, since the report it transmitted to the ACERWC was still under consideration. The Delegation therefore requested that the name of the Islamic Republic of Mauritania should be deleted from this paragraph.
- x) The Liberian delegation reiterated its commitment to implement the objectives enshrined in the African Charter on the Rights and Welfare of the Child through a nation-wide awareness campaign on the education of girls. The delegation requested that the effort should be reflected in the Report of the ACERWC;
  - xi) The Beninese delegation rejected the issue of birth registration, issuance of birth certificates, gender disparity in school enrollment and violence against children mentioned in item 2.1 paragraph 3 of the preliminary Report on the Republic of Benin;
  - xii) The Rwandan delegation stated that the Rwandan authorities paid particular attention to the rate of vaccination and so the recommendation on the issue was not relevant. The delegation also rejected the recommendation on the need to increase the budget allocation to the education sector since it represented more than 10% of the national budget and was even increased on regular basis.

**247.** The Chairperson of the ACERWC provided clarifications as follows:

- i) The recommendations of the ACERWC were developed following discussions with Member States at the time the reports were presented, and take into account the Report, additional issues and responses provided by Member States;
- ii) The ACERWC's visits to evaluate the implementation of observations and recommendations are carried out two years after the submission of the Initial State Party Report;
- iii) Future ACERWC reports will review the implementation of previous recommendations;
- iv) The protection of children in armed conflicts is at the center of the ACERWC's priorities, as demonstrated by the appointment of a Special Envoy for Children and Armed Conflicts (Decision Assembly/AU/Dec.718 (XXXII));
- v) The structure of the Secretariat should be accepted prior to the recruitment of staff;
- vi) Member States that have not yet ratified the African Charter on the Rights and Welfare of the Child were named in the Draft Decision, in a bid to remind them of the need to ratify the Charter in 2020, the year that marks the 30th Anniversary of its adoption. However, the decision whether to name them or not is entirely up to Members of the PRC;
- vii) Thanked Member States that have ratified the Charter and submit their reports regularly;
- viii) It is regrettable that although various States Parties submit reports regularly to the Geneva Committee on the Rights of the Child, they do not do so for

- the ACERWC;
- ix) Need to undertake wide-ranging actions at national level for the implementation of Agenda 2040, in order to attain the Aspiration of an Africa Fit for Children.

**248. In conclusion, the PRC agreed as follows:**

- i) Took note of the Report as revised;
- ii) In paragraphs 4 and 7 of the Draft Decision, Member States that have not yet ratified the African Charter on the Rights and Welfare of the Child should not be named;
- iii) Amend paragraph 11 as proposed by Burkina Faso;
- iv) Since paragraph 14 of the Draft Decision has financial implications, the request submitted by the ACERWC should be submitted to the PRC Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters;
- v) Decided to submit the Draft Decision as amended to the Executive Council for consideration and adoption.

**(vii) ACTIVITY REPORT OF THE AFRICAN UNION ADVISORY BOARD ON CORRUPTION (AUABC) – Doc.EX.CL/1210(XXXVI)**

**249.** The Activity Report was presented by the Chairperson of the Board. He expressed his condolences and sympathies to the family and the Republic of Ghana on the passing away of late Mr. Daniel Batidam, the former Chairperson of the African Union advisory Board on corruption.

**250.** Following the presentation, Members of the PRC made comments as follows:

- i) Expressed their sincere condolences to the family and to the Republic of Ghana on the death of Mr. Daniel BATIDAM, former Chairperson of the African Union Advisory Board on Corruption (AUABC);
- ii) Recalled the conclusions of the PRC-AUABC Retreat held on 7 and 8 October 2019 in Kigali, Rwanda, which called for the Board's name to be changed to include a reference to the fight against corruption;
- iii) Paragraph 8 of the Draft Decision reflects the amendment procedure as prescribed in the Convention; Nigeria has taken the initiative to change the name of the Board;
- iv) Anti-corruption activities were expected to continue well beyond 2018, the theme of which was devoted to the fight against corruption;
- v) There is a need to revisit the number of Member States who have signed the Convention;
- vi) The Board should assist Member States in the recovery of assets illegally moved out of the Continent in order to contribute to the implementation of Agenda 2063;

- vii) The Board has to clarify whether the practice of holding Ordinary and Extraordinary Sessions is in conformity with its Statute;
- viii) The Board should also provide information on its level of representation in meetings in which it has participated externally; (Board Members or Secretariat staff);
- ix) The Board should ensure the quality of documents, in particular by ascertaining that their content is the same in all the Union's working languages; and that they are drafted in accordance with established standards;
- x) The Tunisian Delegation informed the PRC that Tunisia ratified the Convention on 9 July 2019; that the instruments of ratification will be deposited at the 33rd Ordinary Session of the Assembly in February 2020;
- xi) In the same vein, the Delegations of Mauritius and Chad confirmed that their countries have ratified the Convention; Chad has already deposited its instruments of ratification;
- xii) Paragraph 23(f) of the Report refers to certain Member States as tax havens and as high-risk countries because they are countries of destination or transit of stolen assets. The following Member States expressed their surprise to see their countries' names mentioned and wondered about the methodology used which had led to the appearance of their names in the Report; These Member States include the following and their reactions:
- Angola: Contrary to what is mentioned in the Report, Angola plays a very active role in the asset recovery process and in the fight against corruption. This information should be included in the Report;
  - Senegal: Expressed great surprise to find its name on the list of countries considered as tax havens in Africa. It recalled the legal and institutional mechanisms it put in place to fight corruption and money laundering, namely the National Anti-Corruption Office (*OFNAC*), the Court for the Suppression of Illicit Enrichment (*CREI*), the National Financial Information Processing Unit (*CENTIF*) and the obligation for all elected or appointed authorities to declare their assets. Senegal also questioned the working methods that led to such a misrepresentation, and called for paragraph 23 (f) of the Report to be simply deleted;
  - South Africa: Paragraph 23(f) is not preceded by any explanatory memorandum containing a reasoning leading to the designation of South Africa. Calls for the deletion of this paragraph;
  - Mauritius: Highlighted its commitment to various international instruments , initiatives and frameworks relating to governance and transparency of financial centres, question the methodology that purported to cast baseless allegation by attributing the term “tax heaven” in relation to Mauritius, and requested the deletion of the paragraph 23f;

- Zimbabwe: No evidence is reported to support the allegation in the Report. Such an allegation carries a real risk of tarnishing the country's image;
  - Madagascar: Numerous institutions have been set up to combat corruption and money laundering. The image of the countries mentioned can be severely damaged by this.
- xiii) Reword paragraph 11 of the Draft Decision as follows "Requests the AU Commission to clarify the role of the Board and that of the Secretariat in order to avoid overlapping competencies";
- xiv) Paragraph 34(l) of the Report, which recommends that the Commission should take steps to settle the conflict between the Board and the Secretariat, is not justified insofar as the Executive Council, having been seized of the matter at the time, had settled it by Decision 10116/1018; paragraph 33(b) of the Report should instead confirm that the division of roles between the Board and the Secretariat is already in place, providing for a calm working climate;
- xv) Paragraph 6 of the Draft Decision, which calls on Member States to take progressive measures to abolish bank secrecy, should instead focus on the need to develop appropriate means to detect movements of illicit financial flows;
- xvi) Member States refused the call for abolishing banking secrecy in their jurisdictions;
- xvii) The Board should develop strong collaborative relationships with regional and national anti-corruption and financial investigation agencies. It should take advantage of actions carried out at national level in this area;
- xviii) Explain the administration of the questionnaire on the thematic assessment of trends in asset recovery referred to in paragraph 20 of the Report;
- xix) Given that only 17 Member States replied to the questionnaire, it should be questioned whether this limited number of replies can identify a valid trend in the recovery component in Africa;
- xx) Reword paragraph 34 (a) by deleting the reference to non-State parties, which are not eligible to adhere to conventions;
- xxi) Align Recommendation 34 (i) with paragraph 8 of the Draft Decision;
- xxii) Delete "Congratulates" in paragraphs 5 and 7 of the Draft Decision and replace it with "welcomes";
- xxiii) The Tanzanian Delegation welcomes the positive interaction between the Board and its country; with regard to the refund of VAT to international organizations based in Tanzania, the government has initiated a verification process after which refunds will be made ;
- xxiv) Paragraph 10 of the Draft Decision should provide precise information on the frequency of the Retreat between the Board and the PRC and also specify the addressee of the conclusions of the Retreat;
- xxv) The Nigerian Delegation advocated for the change of the current name of the AU Advisory Board on Corruption to the AU Advisory Board on Anti-

- Corruption and indicated that Nigeria has already initiated the process of amending the Convention in this regard;
- xxvi) Several Delegations expressed their support for this initiative by Nigeria;
  - xxvii) The Delegations of Mauritania and Namibia described the efforts made in their respective countries in the fight against corruption;
  - xxviii) The Cameroonian Delegation welcomed the successful holding of the Board-PRC Retreat and the quality of the report submitted; it also wondered about the fate of the book "Overcoming Corruption" to which Cameroon had contributed;
  - xxix) Collaboration between the Board and the PRC Sub-Committee in charge of Democracy, Elections and Good Governance will be beneficial to the effectiveness of the Board;
  - xxx) Consideration of the conclusions of the Board-PRC Retreat should be a separate item on the PRC agenda.

**251.** The Chairperson of the Board provided clarifications as follows:

- i) The methodology that led to the identification of the countries referred to in paragraph 23(f) of the Report was based on the administration of a questionnaire to Member States on the asset recovery mechanism: they were asked to indicate the destination of flows at the continental level. Their different answers included countries mentioned;
- ii) Although only 17 Member States replied to the questionnaires, a round table of 32 Member States was organized and their opinions were taken into account;
- iii) However, the Board takes note of the concerns expressed by the Delegations whose countries have been listed in the Report in paragraph 23(f);
- iv) Paragraph 6 of the Draft Decision is taken from the Nouakchott Declaration on the Fight against Corruption which encouraged Member States to abolish bank secrecy. That Declaration also stressed the need for the Board to work with all national anti-corruption agencies;
- v) Paragraph 11 of the Decision will be redrafted along the lines of the proposal made by the Kenyan Delegation and approved by the PRC Chairperson, there was indeed a meeting chaired by the Adviser to the Chairperson of the Commission on Policy Coherence, which clarified the division of tasks between the Board and the Secretariat;
- vi) The reference to non-State actors in paragraph 34 will be deleted and replaced by "non-States Parties";
- vii) Note was taken of all proposals for rewording.

**252. In conclusion, the PRC agreed as follows:**

- i) Take note of the Report as revised including in relation to paragraph 23 (f) therein;
- ii) Delete the reference to bank secrecy in paragraph 6 of the Draft Decision and request the Board to focus on the detection of illicit flow movements;

- iii) Refomulate paragraphs 7,9, 10 and 11 ;
- iv) Request the Board to take into account all proposed rewording and amendments;
- v) The conclusions of the PRC-Board Retreat will be reviewed by the PRC which will report to the 37th Ordinary Session of the Executive Council in June/July 2020;
- vi) Request the Commission to clarify the division of roles between the Board and the Secretariat;
- vii) The Board should avoid naming Member States in future in connection with unverified allegations and should always consult with the Member States concerned and refer to the relevant Policy Organs;
- viii) Recommended the Draft Decision as amended for consideration by the Executive Council.

**c) REPORTS OF AU SPECIALIZED AGENCIES**

**(i) Activity Report of the African Risk Capacity Agency (ARC) – Doc.EX.CL/1211(XXXVI)**

**253.** The Activity Report was presented by Director General of the African Risk Capacity Agency.

**254.** Following the presentation, Members of the PRC made comments as follows:

- i) Member States should be encouraged to join the ARC because of the benefits it provides in terms of coverage of natural and other disasters;
- ii) The ARC's request for a thematic champion to popularize its cause cannot be met since the PRC would propose to the Executive Council a new approach in the designation of Heads of State and Government as Champions, based on rational criteria with a view to reducing the number of Thematic Champions;
- iii) Paragraph 3 of the draft Decision should be amended accordingly;
- iv) There was a need to adopt a common template for drafting Decisions at the AU. Decisions should be clear, concise and precise in order to make for easy understanding and also facilitate their implementation;
- v) The frequency of presentation of reports should be specified in the statutes of the ARC;
- vi) Commended the ARC for all the measures taken to strengthen the resilience of Africa in the face climate-related challenges. The ARC should work in close collaboration with all the relevant organs of the AU agencies and should consider extending its scope of activities to encompass areas such as social affairs, peace and security, etc.;
- vii) Closer collaboration the Champion on climate related issues would enhance the visibility as well as the efficiency of the ARC;

- viii) The delegation of Mauritania stated that they had already deposited their instruments of ratification and urged other Member States to emulate its example because Africa needed to adopt a proactive approach in the prevention and management of natural disasters;
- ix) The ARC should develop a holistic approach by collaborating closely with Africa CDC in the management of epidemics;
- x) Member States should provide strong support to the ARC to enable it to carry out its mission effectively;
- xi) The delegation of Senegal expressed its gratitude to the ARC for the work done in Senegal;
- xii) Expressed gratitude to the Director General, whose mandate would end soon, for the services rendered.

**255.** The Director General of the ARC provided clarifications as follows:

- i) Expressed his appreciation to the members of the PRC for their support to the ARC;
- ii) The task of ARC was not easy, but it was also exalting and fraught with many challenges;
- iii) The draft Decision would be reworded to incorporate all the proposed amendments;
- iv) The ARC had concluded an agreement with Africa CDC and was still advocating for even closer collaboration with the other AU organs and agencies;
- v) As part of measures to effectively combat drought, Member States could access funding within two weeks;
- vi) The Department of Rural Economy and Agriculture served as the focal point of the ARC at the AU;
- vii) Instead of appointing a Thematic Champion to promote the ARC, Member States could propose alternative solutions;
- viii) The Heads of State and Government of the AU established the ARC with a view to lessening their dependence on the rest of the world in the event of the occurrence of natural disaster;
- ix) In a year alone ARC disbursed USD600 million for 12 African countries affected by disaster.

**256.** In conclusion, the PRC agreed as follows:

- i) Take note of the Report;
- ii) Request that paragraph 3 of the draft Decision should be reworded as follows: "Requests the AU Commission to support the awareness-raising mechanisms developed by the ARC and facilitate its collaboration with other competent organs of the AU";
- iii) Direct the Commission to assist the ARC in its campaign to raise awareness about its activities and to mobilized resources in view of the commendable efforts it's been making and the challenges confronting the organization;

iv) Recommend the Draft Decision as amended to the Executive Council for consideration.

**(ii) Activity Report of the African Capacity Building Foundation (ACBF) – Doc.EX.CL/1212(XXXVI)**

**257.** The Report and the related Draft Decision were presented by a Representative of the ACBF.

**258.** Following the presentation, Members of the PRC made comments as follows:

- i) Welcomed all the activities carried out by the ACBF during 2019, and supports those planned for 2020;
- ii) Capacity building on the Continent contributes greatly to the achievement of the Agenda 2063 aspirations;
- iii) Need for the ACBF to be financially independent;
- iv) Commended the ACBF for its commitment to reinforcing human capital;
- v) Welcomed the development by the ACBF of capacity building programmes to support the implementation of the AfCFTA;
- vi) Need for Member States to build their human resource capacities;
- vii) Need to build the capacities of Member States in the area of conflict prevention;
- viii) Need to organize donors conferences and mobilize the private sector to this effect;
- ix) Supported the ACBF's supplementary budget request;
- x) The supplementary budget request should be considered by the PRC Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters in accordance with set procedure. Paragraph 2 of the Draft Decision should be amended accordingly;
- xi) Paragraph 6 of the Draft Decision does not reflect the conclusions of the PRC Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters, and should therefore be deleted, and that the correct proposal was not to accord the ACBF a supplementary budget, but rather, for the ACBF to be responsible for the capacity building component of all departments.

**259.** The Representative of the ACBF provided clarifications as follows:

- i) Reaffirmed the commitment of the ACBF in building human, institutional and organisational capacities throughout the Continent;
- ii) The proposed amendments would be included in the Report;
- iii) ACBF will work in collaborating with the Commission to reword some paragraphs of the Report;
- iv) The 2020 Action Plan largely takes into account the youth dimension, particularly when the latter is faced with conflict situations.

**260. In conclusion, the PRC:**

- i) Took note of the Report;
- ii) Urged the ACBF to collaborate with the AUC to develop means to solicit external financing from partners to enable the foundation to perform its activities and mandate;
- iii) Affirmed their support to the mandate of the ACBF and the important role it plays;
- iv) Recommend the Draft Decision as amended to the Executive Council for consideration, after including the following amendments:
  - Delete paragraph 6 of the draft decision and amend paragraph 2 by adding a sentence to reflect the option proposed by the PRC Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters to not accord the ACBF a supplementary budget but rather for the ACBF to be responsible for the capacity building component at all departments;
- v) State the correct name of the PRC Sub-Committee on General Supervision.

**SECTION VI: ITEMS PROPOSED BY MEMBER STATES**

- (i) **Consideration of the draft Common African Position (CAP) on Asset Recovery (AR) – (Item proposed by the Federal Republic of Nigeria) – Doc.EX.CL/1213(XXXVI)Add.1**

**261.** The draft Common African Position (CAP) on Asset Recovery (AR) was presented by the Representative of the Federal Republic of Nigeria.

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

- i) Commended the Federal Republic of Nigeria for proposing the item on the Common African Position on Asset Recovery;
- ii) Agreed that Africa should identify, recover and protect its assets;
- iii) Requested for a list of inventory of assets to be recovered;
- iv) That items to be recovered should include but not be limited to legal governmental frozen assets, illicit financial flows, rubbed assets as well as human capital and cultural assets;
- v) Suggested that proceeds from recoveries should be used to support the implementation of Africa's development transformation as envisaged within the framework of Agenda 2063;
- vi) Acknowledged that corruption hampers the development of the Continent;
- vii) Suggested that relevant Specialized Technical Committees (STCs), namely

the STC on Justice and Legal Affairs , STC on Finance and Monetary Affairs Corruption map out strategies and a plan of action on the implementation of the recommendations contained in the report before further consideration;

- viii) Member States requested for guidelines on how to detect, and identify procedures for the recovery of lost or stolen assets;
- ix) Called on the Assembly to pronounce itself on the principle of recovery, identification, recovery and return of assets, the management of recovered assets and seek cooperation and partnership with relevant agencies, systems, institutions and countries that will support this process **gives directives to the relevant policy organs to work on the draft CAPAR**
- x) Suggested that negotiations and arbitrations be incorporated as part of the pillars;
- xi) The Member States' concerns pertaining to the present practices by destination countries of keeping identified African assets in foreign jurisdictions have to be reflected in the draft decision.
- xii) The draft assembly decision has to emphasize that the use and disposal of recovered and returned African assets, is the sovereign right of individual Member States.
- xiii) There is a need to underscore the importance of applying the domestic laws in several paragraphs of the draft CAPAR.
- xiv) Member States recognized the adverse impact of the non-repatriation of illicit financial flows on the enjoyment of human rights in the source country, and welcomes and strongly supports in this regard the relevant periodic initiative sponsored by the African Group and led by Egypt Libya and Tunisia at the UN Human Rights Council in Geneva
- xv) The recommendations of the first African anti-corruption forum, held in Sharm El-Sheikh, Egypt on 12 and 13 June 2019 were also recalled.

**263.** The Representative of the Federal Republic of Nigeria provided clarifications as follows:

- i) Expressed appreciation to Member States for their support, contributions and observations to the report;
- ii) The Representative of the Federal Republic of Nigeria reported that there was extensive consultations among key stakeholders including the Anti-Corruption agencies from Member States in the preparation of the report;
- iii) Agreed to incorporate the comments, recommendations into the Concept Note and draft Decision so as to enrich the Report.

**264. In conclusion, the PRC:**

- i) Took note of the Concept Note on the Draft Common African Position (CAP) on Asset Recovery (AR) presented by the Federal Republic of Nigeria;
- ii) Urged Member States to submit in writing their recommendations and suggestions on the report;

- iii) Requested the Commission to submit the amended Concept Note and Draft Decision to the Executive Council for consideration of the way forward.
- (ii) **Strengthening National Capacities for Effective Management of Weapon Stockpiles (*Item proposed by the Republic of The Gambia*) – Doc.EX.CL/1213(XXXVI)Add.2**

265. The Report was presented by the Representative of the Republic of Gambia.

266. Following the presentation, Members of the PRC made comments as follows:

- i) Welcome this initiative which is in line with the theme of the year: "Silencing the Guns". Such an initiative constitutes an important starting point in the process aimed at silencing the guns on the continent and is at the very heart of the objective pursued by Africa;
- ii) The document should however be enriched by exploiting all regional initiatives and those of the United Nations in terms of Member States' capacity building in the field of stockpile management with a view to an effective fight against proliferation of small arms and light weapons on the Continent;
- iii) The contribution of regional disarmament centres and UN specialized agencies is necessary for the implementation of this initiative;
- iv) Given the importance of the issue, the report and the draft decision should be submitted directly to the Assembly for consideration;
- v) Consideration of the Report by the Executive Council would enrich the document before its submission to the Assembly;
- vi) Control and regulation of movement of arms on the continent is an essential condition for development and peace;
- vii) Many legal instruments exist with regard to the control of movement of arms in Africa; what is woefully lacking is their effective implementation;
- viii) The draft decision, in its paragraph 6 (2) which calls on AU's institutional and technical partnerships to deploy technological systems to assist Member States in monitoring and tracking small arms and light weapons has financial implications;
- ix) It would be better to draw on the expertise of AU institutions such as AFRIPOL and the Centre for Studies and Research on Terrorism, within the framework of a partnership with these institutions. In this connection, it is worth recalling the Communiqué of the 860th meeting of the Peace and Security Council (PSC) which stressed the need to work with these different mechanisms;
- x) The PSC is mostly concerned by this issue. The latter has numerous resources which can facilitate the attainment of the objective set; the various communiqués issued by the PSC could be of great help. It would be advisable to take advantage of the programmes and resources already available by limiting ourselves to national capacity building;

- xi) The draft decision should reflect more the definition of activities related to the implementation of the theme of the year 2020;
- xii) The draft decision should also call on Member States to ratify the Convention on Small Arms and Light Weapons;
- xiii) Consideration should also be given to collaborating with the countries that manufacture small arms and light weapons;
- xiv) Sudan has successfully collected weapons in the Darfur region thanks to constructive and fruitful discussions with rebel groups, civil society actors and cooperation with the media after a long process of negotiations.

**267. In conclusion, the PRC agreed as follows:**

- i) Took note of the Report and the amendments proposed by Member States and endorsed by the PRC;
- ii) The Gambia is invited to present an amended draft decision to be submitted to the Executive Council which will then be tabled before the Assembly for consideration
  
- (iii) Promoting Closer Collaboration and Cooperation between the African Union, the African Diaspora (6th Region), People of African Descent and the Caribbean and Pacific Regions (Item proposed by Kenya) – Doc.EX.CL/1213(XXXVI)Add.3**

**268.** The Report was presented by the Representative of the Republic of Kenya.

**269.** Following the presentation, Members of the PRC made comments as follows:

- i) Commends Kenya for the relevance of its initiative to propose a draft declaration on the African Diaspora;
- ii) The concept of 6th region is complex and has no legal definition that would facilitate its use. Therefore, it would be prudent not to refer to it in the Declaration. However, the Office of the Legal Counsel is invited to clarify the legal basis of this concept, given that it is used in the Statute of ECOSOCC;
- iii) The importance of the Diaspora in the development process is confirmed through the expertise made available to Member States and also through the transfer of funds which, in some cases, represent more than a quarter of national budgets. The delegation of the Republic of Togo shared its country's experience on this subject and intimated that it will making a statement to that effect during the 33rd Ordinary Session of the AU Assembly and the organization of a forum on the Diaspora;
- iv) The Republic of Ghana has declared 2020 as the Year of Return of Persons of African Descent. It has already granted Ghanaian citizenship to 126 of these persons and will be organizing a forum to welcome them home in August 2020;

- v) The importance of the Diaspora for Africa has already been demonstrated in the ACP agreements;
- vi) Sought clarification on the outcome of R400 Summit held from 27 to 29 September 2019 in North Carolina and expressed concern on appreciating the programme of events and summits organized within its framework without being shared with Member States ;
- vii) Requested information about the modalities of organizing an Africa-CARICOM Summit in 2020 and a Summit between Africa and the Caribbean and Pacific States in 2021;
- viii) The Africa-CARICOM Summit and the R400 Summit proposed to take place in 2020 run the risk of contradicting the principle adopted by the Assembly to hold only two summits per year within the framework of partnerships. Furthermore, the format and the framework of the Summit planned for 2021 as well as the Ministerial Conference should be specified;
- ix) The concept of Diaspora should be broadened to include African Diaspora in Australia and New Zealand;
- x) Commended Member States that have national structures for relations with the Diaspora;
- xi) The Declaration should take into account all previous initiatives relating to the Diaspora, in particular the Conference of African intellectuals and the Diaspora held in Dakar, Senegal in 2004, the World Diaspora Summit held in South Africa in December 2012, the establishment of a regional office following a recent meeting of Member States in Khartoum, Sudan in 2018 on the Diaspora.

**270.** The Deputy Chairperson welcomed the initiative of the Republic of Kenya and recalled that the Durban Conference in South Africa had described, and rightly so, slavery as a crime against humanity. He recounted some tragic episodes of slavery which call for an in-depth investigation to establish the responsibilities of the slave traders who plundered raw materials in Africa to launch the industrial revolution in Europe.

**271.** The Representative of the Office of the Legal Counsel explained the concept of the 6th region. It was introduced at the World Diaspora Summit held in South Africa in December 2012. It has been used to encourage diaspora participation in African Union summits. Its use is limited to this framework. ECOSOCC, for its part, uses the term diaspora, and not that of 6th region which has not been legally defined.

**272.** The Representative of the Permanent Mission of Kenya provided the following clarifications:

- i) Thanked all the speakers for their commendations and very useful inputs aimed at to improving the content of the Declaration;
- ii) Invited the members of the PRC who have made contributions to forward same to it for inclusion in the Declaration;
- iii) Stressed the urgent need to facilitate relations between Africa and its Diaspora;

- iv) Confirmed that the African Diaspora is understood in an inclusive manner;
- v) As regards the organization of the summits identified in the Declaration, Kenya will ensure that all AU Summits previously scheduled are taken into account;
- vi) These different Summits are not to be considered in the contexts of summits organised under partnerships. The planned Ministerial Meeting is open to all Member States.

**273. In conclusion, the PRC agreed as follows:**

- i) Amend the Concept Note taking into account all the inputs;
- ii) Submit the amended Concept Note to the Commission for circulation to the Permanent Missions;
- iii) The amended Concept Note and the Draft Declaration will be submitted to the Executive Council for consideration.

**(iv) Impact of Sanctions and Unilateral Coercive Measures (*Item proposed by the Republic of Namibia*) – Doc.EX.CL/1213(XXXVI)Add.4**

**274.** The Report was presented by Ambassador Emilia Ndinelao Mkusa, Ambassador of the Republic of Namibia.

**275.** Following the presentation, Members of the PRC made comments and sought clarification as follows:

- i) Commended the Ambassador of the Republic of Namibia for the quality of the report;
- ii) Argued that the imposition of adverse unilateral coercive sanctions against a number of Member States pose a serious obstacle to economic and social development of the continent;
- iii) Informed of the sanctions imposed on Cuba by the United States as they hamper the implementation of the SDGs and called for the lifting off, of the said sanctions;
- iv) Renew the expression of solidarity with the people and Government of Cuba regarding the illegal sanctions imposed on them by the United States;
- v) Called on States to refrain from imposing unilateral coercive measures against other States;
- vi) Urged and appealed to concerned States to discontinue the application of sanctions;
- vii) Expressed grave concern at the negative effects on the civilian population, in particular women and children, of targeted countries;
- viii) The Republic of Zimbabwe highlighted the negative effects of the sanctions imposed on her which have affected the economic recovery of the country;
- ix) The Republic of Sudan requested for the US sanction to be lifted, particularly removing Sudan from the US list of States sponsoring terrorism, in support to

- the efforts of the ongoing political transition aimed at promoting democratic values;
- x) The Republic of South Sudan also lamented about the consequences of the sanctions imposed on them which is affecting post conflict recovery of the country;
  - xi) The Republics of Somalia and Burundi also expressed the difficulties they have been facing as result on unilateral and unjust sanction and called for the lift off of these sanctions in order to facilitate socio-economic development and stability;
  - xii) The delegation of Somalia stressed the need to lift the arms embargo imposed on Somalia to allow it to enhance preventative measures in overcoming and tackling the challenges faced by the security forces in protecting the Nation.

**276.** The Ambassador of the Republic of Namibia commended Member States for the support to Namibia's request for sanctions to be lifted on AU Member States and Cuba.

**277. In conclusion, the PRC:**

- i) Took note of the Concept Note on the impact of sanctions and unilateral coercive measures on some AU Member States and Cuba;
- ii) Recommended the Concept Note and the Draft Declaration for consideration and adoption by the Assembly.

**SECTION VII: CONSIDERATION OF THE DRAFT AGENDA OF THE 36<sup>TH</sup> ORDINARY SESSION OF THE EXECUTIVE COUNCIL AND THE 33<sup>RD</sup> ORDINARY SESSION OF THE ASSEMBLY OF THE AFRICAN UNION**

**278.** The PRC considered the draft Agenda of the 36th Ordinary Session of the Executive Council and the draft Agenda of the 33rd Ordinary Session of the Assembly of the African Union, and recommended them for adoption by the Executive Council.

**SECTION VIII: DATE AND VENUE OF THE 37<sup>TH</sup> ORDINARY SESSION OF THE EXECUTIVE COUNCIL AND 2<sup>ND</sup> COORDINATION MEETING BETWEEN THE AU AND RECs/RMs**

**279.** The PRC considered the date and venue of the 37th Ordinary Session of the Executive Council and the 2nd Coordination Meeting between the AU and the RECs/RMs and ... The PRC recommended these dates and venues for adoption by the Executive Council.

**SECTION IX: CONSIDERATION OF THE DRAFT DECISIONS OF THE EXECUTIVE COUNCIL**

**280.** The PRC considered the Draft Decisions of the 36th Ordinary Session of the Executive Council, and recommended the Draft Decisions to the Executive Council for consideration and adoption.

**SECTION X: ANY OTHER BUSINESS**

**281.** No issues were discussed under this Agenda item.

**SECTION X: ADOPTION OF THE REPORT OF THE PERMANENT REPRESENTATIVES' COMMITTEE (PRC) – Doc....**

**282.** The PRC met on 30 January 2020 and adopted its Report.

**283.** During the consideration and adoption of the Draft Report the following observations were recorded:

**Kenya:**

- i) Noted that the Report of the PRC does not contain the issue of the consideration and endorsement of the African Candidate for election to the Non-Permanent seat at the United Nations Security Council for the period 2021-2022;
- ii) The Report of the PRC does not feature this matter although the Report of the Commission on the Implementation of Previous Decision of the Executive Council and the Assembly in document EX.CL/1191(XXXVI) which was considered by the 39th Session of the PRC does include that subject at Item 30 on Page 78 of the annex of the Report concerning Executive Council Decision EX.CL/Dec.1067 (XXXV). The Council in paragraph 6 of the said Decision, decided to: “delegate to the PRC to consider the candidatures of the Republic of Kenya and the Republic of Djibouti for the post of Non-Permanent Member of the United Nations Security Council for the period 2021-2022 and to endorse the African candidature to that post by November, 2019”;
- iii) The Commission’s Report is accurate and is substantiated by the Report of the 14th Meeting the Permanent Representatives Committee on the settlement of the candidature of the Eastern African Region for the UN Security Council for the Period 2021-2022 held on 21st August 2019. During that meeting, acting on the basis of the delegated authority of the Executive Council endorsed Kenya as the African candidate for the Non-Permanent

Member of the United Nations Security Council for the period 2021-2022. This was decided by a vote conducted in accordance with the rules of procedure of the Executive Council. The Legal Opinion on this matter, issued by the Legal Counsel of the African Union further affirms this;

- iv) It is expected that there is a report back on any matter that has been delegated by a higher Organ. The delegation of Kenya, therefore, requested that the PRC in its Report, in the relevant section write a brief-back report to the Executive Council on the full implementation of the assignment delegated under paragraph 6 of EX.CL/Dec.1067 (XXXV) and append both the Report of the 14th Meeting of the PRC and the Legal opinion;
- v) Further, the delegation request that a Draft Decision on the matter be submitted to the Executive Council. The delegation has prepared elements of a Draft Decision that the PRC should consider for submission to Executive Council.

**Djibouti:**

- i) Objected to the inclusion of the matter of the African candidature to the UN Security Council non-permanent seat for the period 2021-2022 as this matter was not addressed during discussions related to any item at the agenda of the 39th Session of the PRC;
- ii) Expressed grave concern over the improper process adopted by the PRC to address this matter during the PRC meeting held in August 2019, bearing in mind that in accordance with its Rules of Procedures the Executive Council cannot delegate to the PRC (Article 5). It also expressed its objections against the departure of the process from the proper procedural framework;
- iii) Requested that the Policy Organs have the opportunity to decide on different candidatures based on the rules of procedures of the AU Ministerial Committee for candidatures in the international system and bearing in mind the principle of rotation.

**Chairperson of the PRC :**

- i) The matter did not feature in the Report as it was not raised by any Member States at any of the items on the agenda;
- ii) It is stated clearly at the matrix annexed to the Report on implementation of decisions that this task is fully implemented. There is no need to report back on a fully implemented assignment particularly that all the needed follow up was duly undertaken including officially informing the African Group in NY with the decision of the PRC;
- iii) The interventions of both delegations on this matter will be accurately

reflected at the section dedicated to the adoption of the Report.

**284.** The Adviser on Strategic Partnership to the Chairperson of the Commission made the following comments in respect with the item proposed by the Republic of Kenya:

- i) On point no. 6 in the draft declaration, which commits African Union heads of state to a Summit with the Caribbean and Pacific in 2021, it is not clear from the draft declaration whether that Summit is focused on the topic of African diaspora, i.e. whether it is relevant to the topic of this declaration.
- ii) If not on diaspora, but rather on partnership with the Caribbean and Pacific, and irrespective of whether or not the proposed summit takes place within our outside the AU context, we request the consideration of the esteemed government of Kenya to postpone this item until a next summit to allow the subcommittee to study the matter in line with the Executive Council decision of March 2018, which decided that negotiations should start for a partnership between the AU and the Caribbean and Pacific regions.
- iii) In terms of phrasing, there are two options:
  - a. delete number 6 altogether from the draft declaration, or
  - b. amend to read as follows "commit to study the possibility of holding a partnership Summit with the Caribbean and Pacific", with no mention of dates for the summit and no invitation to member states of the AU to host it.

**285.** The PRC adopted the Report as amended.

## **SECTION XII: CLOSING**

**286.** The Chairperson of the PRC expressed appreciation for the constructive deliberations by all delegations and adjourned the Meeting.

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# Report, Permanent Representatives' Committee Thirty-Ninth Ordinary Session 21 - 22 January 2020 Addis Ababa, Ethiopia

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