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P. O. Box 3243, Addis Ababa, ETHIOPIA Tel.: Tel: +251-115- 517 700 Fax: +251-115- 517844 / 5182523
Website: www.au.int

PERMANENT REPRESENTATIVES' COMMITTEE

Thirty-Sixth Ordinary Session

25 - 26 June 2018

Nouakchott, MAURITANIA

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DRAFT REPORT

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DRAFT REPORT OF THE THIRTY-SIXTH ORDINARY SESSION OF THE PERMANENT REPRESENTATIVES' COMMITTEE (PRC)

SECTION I: INTRODUCTION

1. The Thirty-Sixth Ordinary Session of the Permanent Representatives' Committee (PRC) was held from 25 to 26 June 2018 in Nouakchott, Islamic Republic of Mauritania, under the chairpersonship of Ambassador Hope TUMUKUNDE GASATURA, Permanent Representative of the Republic of Rwanda to the African Union and Chairperson of the Permanent Representatives' Committee.

a) OPENING CEREMONY

i) Statement by the Secretary General of the Ministry of Foreign Affairs of the Islamic Republic of Mauritania

2. Mr. Ahmed Mahmoud Ould Swaid Ahmed, the Secretary General of the Ministry of Foreign Affairs of the Islamic Republic of Mauritania, welcomed the members of the PRC and delegations to their second home, Mauritania as they prepare for the Executive Council and the Assembly of Heads of State and Government. He reassured the meeting that Mauritania, under the leadership of the President, has been diligently preparing for the Summit including the construction of a new Conference Centre where the meetings will be held.

3. Mr. Ould Swaid Ahmed stated that the challenges facing the continent have equipped the Union with commitment and resilience to achieve the noble objectives that were set out by the founders of the Organization of African Unity. He underscored the importance of the different themes and issues that will be discussed during the Summit as a reflection of the dynamic economic situation in the continent. He commended the efforts of Member States and the Commission that resulted in the signing of the African Continental Free Trade Area.

4. Within the framework of institutional reforms and financing the AU, Mr. Ould Swaid Ahmed reminded the meeting of the importance of enabling the Union to be efficient and self-sufficient in order for it to deliver on the aspirations of Agenda 2063 and its First Ten-Year Implementation Plan for a peaceful and prosperous Africa that provides its citizens with dignified livelihoods. In particular, he commended the commitment and dedication of all stakeholders to implement the Theme for 2018, by tackling corruption in the continent. In conclusion, he welcomed all delegations again to Mauritania and wished them successful deliberations.

ii) Opening Remarks by the Chairperson of the Permanent Representatives Committee (PRC)

5. The Chairperson of PRC, the Permanent Representative of the Republic of Rwanda to the African Union, H.E Mrs Hope Tumukunde Gasatura welcomed all to the 36th Ordinary Session of the PRC held in Nouakchott from 25 to 26 June 2018. She

expressed her appreciation to the Government and people of the Islamic Republic of Mauritania for the warm reception and hospitality accorded to all delegations. She also commended the Government and the people of Mauritania for the tireless efforts made towards the preparation of Summit meetings.

6. She commended the PRC for its support and collaboration as well as availability since Rwanda assumed the chairmanship in January 2018. She further thanked the PRC for the work that has already been accomplished in Addis Ababa with regard to the agenda and the role that the PRC played in preparing for the Summit.

7. The Chairperson of the PRC thanked the Chairperson of the AU Commission, H.E Moussa Faki Mahamat for his tireless efforts to ensure the efficient and smooth running of the Union agendas. She appreciated his monthly interactions with the PRC and the Peace and Security Council. She thanked the Commissioners, the Secretary General of the Commission and the entire staff for their hard work and support to the PRC.

8. Recalling the theme for the year 2018 on the fight against corruption, she called on Member States to support the efforts of H.E Muhammadu Buhari, President of the Federal Republic of Nigeria and leader on the theme. She also highlighted the importance of prioritizing the fight against corruption at the national level.

9. With regard to the key achievements registered during the last six months, she underlined the following: the African Continental Free Trade Area, the Protocol on Free Movement of Persons, Right of Residence and Right of Establishment, the Single African Air Transport Market, AU institutional reforms and self-financing and the adoption of the African Common Position for Negotiations of a New Agreement of Cooperation with the European Union on the future of AU/EU relations post 2020. She called on all Member States, who have not yet done so, to sign and ratify the legal instruments adopted and to ensure their implementation. She also recalled the joint Retreat of the PRC and the African Commission on Human and Peoples' Rights in Nairobi held on 4th and 5th June 2018 as mandated by the Executive Council in January 2018 to find modalities for enhanced coordination and collaboration between the two organs. In conclusion, she called on Member States to take serious measures to implement AU decisions and to equip the Commission with adequate resources to realize its activities.

iii) Statement by the Chairperson of the Commission

10. On behalf of the Chairperson of the Commission, the Deputy Chairperson, H.E. Kwesi Quartey welcomed all delegations to the beautiful capital of the Islamic Republic of Mauritania and to its magnificent Conference Centre. He thanked the people and Government of Mauritania for their warm welcome.

11. The Deputy Chairperson particularly thanked the Permanent Representatives' Committee (PRC) for its cooperation with the Commission, commitment and hard work

under the able leadership of its Chairperson and in the spirit of the Cairo Retreat on working methods. He highlighted the importance of the PRC as a vehicle that will move the reform agenda forward. He appreciated the work of the F15 towards the budgetary session while noting progress made on some flagship projects. He called on the PRC to enable the 2019 budget to be examined and seized the opportunity to congratulate the African teams competing in the World Football Cup. Finally, he declared the 36th Ordinary Session of the PRC open.

b) ATTENDANCE

12. The following Member States were in attendance: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroun, Chad, The Comoros, Congo, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, 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, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

SECTION II: ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

a) ADOPTION OF THE AGENDA

13. The PRC adopted its draft Agenda.

b) ORGANISATION OF WORK

14. The PRC adopted the following working hours:

Morning: 09:00 Hours – 13:00 Hours;

Afternoon: 15:00 Hours – 18:00 Hours.

Advanced Session of PRC

15. In accordance with past practice, an advanced session of the PRC was held from 8 to 14 June 2018 to consider items on the agenda.

16. Before reviewing the programme of work, the PRC listened to a series of presentations on activities of the NEPAD Planning and Coordinating Agency. These were made by a team led by NEPAD's Executive Secretary, Dr Ibrahim ASSANE MAYAKI and followed by discussions on NEPAD's mandate and prospects within the context of the ongoing institutional reform.

17. The Secretary General of the Commission presented the PRC work programme, with the following comments:

- i) Only the Women and Gender Development Directorate submitted its report within the prescribed time frame;
- ii) The majority of reports were submitted late; as for the reports of PRC Sub-Committees, none of them were available owing to the late scheduling of their meetings which were planned to hold in parallel with the PRC session;
- iii) Responsibility for this situation is shared between the Member States and relevant Commission departments.

18. The following remarks were made:

- i) Non-compliance with submission deadlines for working documents by the Commission departments is an ongoing concern and the PRC should strive to find a lasting solution;
- ii) The show of tolerance which entails accepting documents submitted beyond deadlines should cease;
- iii) Chairpersons of PRC Sub-Committees should be made aware of the need to hold meetings in time to allow for timely submission of reports;
- iv) The Secretary-General of the Commission should review the order of business and keep on the agenda only those items whose reports are available and accompanied by draft decisions;
- v) The Sub-Committee on Headquarters and Host Agreements was unable to hold its session, although its members were available, due to unavailability of meeting rooms and of interpretation services. The meeting was convened four times, but for the reasons stated above it could not be held;
- vi) The Sub-Committee on Economic and Trade Matters, which has been dormant for a long time, may be able to hold its meeting on 20 June 2018;
- vii) As STC and Ministerial Committee reports are taken note of, greater attention should be paid to PRC Sub-Committee reports;
- viii) There is a need to comply with statutory deadlines for submitting documents to Member States, as prescribed by the PRC.

19. The PRC Chair recalled that it had been agreed that the review of reports from the meetings held in May 2018 would be referred to the January 2019 session.

20. The Secretary-General to the Commission, when questioned on the absence of reports relating to agenda items, gave the following explanations:

- i) The issue of unavailability of reports when they should be considered by the PRC is recurrent; it resurfaces prior to every Summit;
- ii) Commission departments and Member States chairing PRC Sub-Committees fail to meet deadlines;
- iii) Apart from documents related to the AfCFTA, which had been exempted, all other reports were either submitted late or not at all;
- iv) The absence of reports stems from difficulties inherent in current working methods: PRC Sub-Committees and Specialized Technical Committees (STCs) make decisions independently concerning their meeting dates. The Office of the Secretary-General which is responsible for organizing meetings and coordinate the work of each and all, in accordance with its terms of reference, should play its proper role;
- v) With the exception of the report of the Sub-Committee on Budgetary Matters, in accordance with the relevant PRC decision, all other reports of Sub-Committees not yet submitted should be referred to the January 2019 session;
- vi) In the same vein, all items on the agenda for the preparations and coordination of PRC work, the reports of which have not yet been submitted, should be systematically removed from the agenda. Such a measure would be a strong signal that would help to raise awareness of all parties to the urgent need to comply with prescribed deadlines.

21. This intervention by the Secretary-General was supported by a vast majority of delegations, apart from those who felt that exceptions should be granted to the Sub-Committees on Multilateral Cooperation, and on Headquarters and Host Agreements, for the reasons clearly expressed.

22. However, some delegations stressed the need to send a strong signal by dissuasively sanctioning the worrying inclination displayed by various actors not to comply with deadlines for submitting reports. The only report that was accepted after the deadline and whose consideration is essential to the functioning of the Union is that of the PRC Sub-Committee on Budgetary Matters.

23. Going still further, other delegations deplored the reduction of the pressure exerted by rules in a context structured by an institutional reform process and agreed that all shortcomings observed (non-submission of reports on time and unavailability of meeting rooms for convening the Sub-Committee on Headquarters and Host Agreements on four occasions) should be formally brought to the attention of the Chairperson of the Commission.

24. The following additional issues were raised:

- i) In accordance with the relevant decision of the Assembly in January 2018, the item on hosting the African Minerals Development Centre should be placed on the agenda of the Assembly and not on that of the Executive Council;
- ii) The delegation of Senegal recalled the Note Verbale forwarded by the ECA inviting Member States to a retreat after the Nouakchott Summit for the purpose of an exchange on ECA's mandate and its place in the United Nations system.

Recommendations

25. The PRC agreed as follows:

- i) Any reports not available (from Commission Departments, AU Organs, and PRC Sub-Committees) as of this day are deemed referred to the January 2019 Session, with the exception of the Report of the Sub-Committee on budget matters, considering the 2019 budget must be adopted during the July 2018 Session;
- ii) Dates of the TICAD meetings duly noted; the issue regarding Member States' participation will be considered in due course;
- iii) In the future, any documents received after the deadline will be rejected and related items removed from the agendas of the Summit;
- iv) PRC's concerns relating to the non-compliance with deadlines for submitting working documents by Commission Departments, and the unavailability of conference rooms for Sub-committee meetings should be brought to the attention of the Chairperson of the Commission;
- v) The item regarding the hosting of the African Minerals Development Centre will be moved to the Assembly Agenda.

26. A delegation headed by the Director General of State Protocol of the Islamic Republic of Mauritania briefed the PRC on the preparations for the June/July Summit highlighting on various issues including, arrival in Mauritania, issuance of visas, transportation, accommodation, accreditation and security arrangements as contained in the Protocol Guide circulated to Member States. He reassured the PRC that the government of Mauritania has put into place all the necessary measures to ensure the success of the upcoming Summit.

27. Following the briefing, the PRC requested for clarifications and responses were provided by the Director General of Protocol.

SECTION III: REPORTS ON THE ACTIVITIES OF THE PERMANENT REPRESENTATIVES' COMMITTEE (PRC):

- (i) Report of the Joint Meeting of the Sub-Committee on Programs and Conferences, the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters and the Experts of F15**

- a) Report of the Sub-Committee on Programs and Conferences: Mid-Term Plan (MTP) 2018-2023**

28. H.E Ambassador Dieudonné NDABARUSHIMANA, Permanent Representative of the Republic of Burundi and Chairperson of the Sub-Committee on Programs and Conferences presented the above-mentioned report.

29. Upon the presentation, observations and comments were made as follows:

- i) Need to provide explanations on the link between MTP and annual budget preparation process;
- ii) MTP should be aligned to the ongoing institutional reforms, bearing in mind that the reform process is scheduled for completion by January 2019;
- iii) Some delegations recalled that the paragraph on Western Sahara should have been bracketed as agreed upon during the Sub-Committee meeting and requested to delete reference to the Group of Contact for Western Sahara as the Chairperson of the Commission informed that he was tasked with undertaking consultations on the matter and report during the 31st AU Summit scheduled for June/July 2018 in Nouakchott, Mauritania;
- iv) Other delegations were of the view that the consultations being undertaken by the Chairperson of the Commission are not meant to put on hold the ongoing process carried out by the African Union; therefore the reference to the Group of Contact for Western Sahara, set up by the PSC, should remain in the report;
- v) The delegation of the Kingdom of Morocco clarified its stand by stating that the proposal was not to ignore steps taken by the AU in connection with Western Sahara issue, but to wait for the outcomes of the consultations to be undertaken by the Chairperson of the Commission;
- vi) The report should align itself with the right nomenclature of Western Sahara and not Sahara;

- vii) Para 17 of the Report should include additional principles such as prudence, streamlining and realism with regard to the budget process in order to ensure that AU budget is matching with payment capabilities of Member States;
- viii) Para 29 of the report is referring to the consultations within SADC; however the outcomes of these consultations should be channeled through the Committee of 15 Ministers of Foreign Affairs (C15); which was set up by the Assembly during its January 2018 session to ensure participation of all regions in the institutional reform process;
- ix) There is no need to refer the reform related issues to the PRC as the matter is handled at the level of the Summit; this request in para 29 should be deleted;
- x) The proposal to entrust the Chairperson of the Commission to appoint the Deputy Chairperson and Commissioners should be carefully looked into. Taking into account the importance of such an issue, there is a need to set up a PRC Sub-Committee to consider the issue;
- xi) The PRC should be fully involved in the setting up of AU Peace Funds;
- xii) At the current stage, MTP should be given further consideration and there is a need to put together all comments making sure that views of all regions are well taken care of; SADC raised some concerns over the instructional reform;
- xiii) The content of MTP to be modified at the light of the ongoing reform process;
- xiv) SADC claimed the right to channel its observations on the reform process through the Commission;
- xv) The moratorium referred to in para 25 on STCs should be extended to all new organs, as there is need to restrict the establishment of new organs, which requests additional financial (budget) burden;
- xvi) There is a need to enhance staff's performance and to set up an effective accountability system.
- xvii) The report on reforms should be referred to as "the report on AU Institutional Reform"

30. The Chairperson of the Sub-Committee indicated that the Sub-Committee decided to bring the issue of Western Sahara and the participation to the reform process to the attention of the PRC, as no agreement was reached on these two issues.

31. He further stated that the MTP is a work in progress and could be fine-tuned based on amendments being made;

32. The Director of Strategic Policy Planning, Monitoring and Evaluation and Resource Mobilization (SPPMERM) brought clarifications as follows:

- i) The MTP is a general budget framework to guide the process of budget preparation;
- ii) Therefore 2018 budget and all forthcoming budgets would be aligned with MTP;
- iii) Data was collected from all AU Departments as well as 2018 priorities and were reflected in the MTP;
- iv) The MTP took into account the reform process and the budget is flexible enough to accommodate occurring changes;

33. In conclusion the PRC made the following recommendations:

- i) Agreement was not reached on the two issues related to the Western Sahara and the Institutional Reform; however;
- ii) In respect of these two issues, PRC should align itself with relevant decisions made by African Union (AU) decision making bodies;
- iii) The MTP is an enlarged general framework, therefore there is no need to look deeply into details; it is flexible enough to accommodate occurring changes including the progress on the Reform process in accordance with the Summit decisions through the established mechanisms such as the Committee of 15 Ministers of Foreign Affairs, composed of three ministers by Region;
- iv) The MTP is adopted, subject to taking into consideration amendments made by Member States.
- v) The report on reforms should be referred to as “the report on AU Institutional Reform”;
- vi) The threefold structure of the Report to feature in para 3;
- vii) The AU budget for the upcoming years should be aligned with the MTP

b) Report of the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters and the Experts of F15

34. The Deputy Chairperson of the Commission presented the framework for the 2019 budget. He indicated that this is the first time involving the Committee of Fifteen Finance Ministers (F15) in the development of the budget, which is characterized by a decrease from last year's budget. H.E. Ndumiso Ndimba Ntshing, Ambassador and Permanent Representative of the Republic of South Africa and Chairperson of the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters then presented the Report of the Joint Sitting of PRC Sub-Committee, the Sub-Committee on Programs and Conference and the Committee of F15.

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

- i) The inclusion of F15 in the development of the budget is a commendable step, which has resulted in visible improvements in the process;
- ii) The internal system of preparing the budget within the AU Commission should be revised drawing from best practices of similar intergovernmental and international organizations;
- iii) There is need to continue consultations and constructive deliberations on the proposed moratorium on short-term and fixed contracts;
- iv) Since the short-term and fixed contracts are provided for in the AU rules and procedures, suspending issuance of these contracts will affect a large number of staff within the Commission;
- v) The procedure of developing the budget should be based on money-for-performance and be aligned with the objectives of Agenda 2063;
- vi) The set ceiling is not respected during the budget preparation;
- vii) A noticeable reduction of the budget could be possible through a proper division of labour within AU Organs, on the one hand, and between the AU and the RECs, on the other hand;
- viii) The F15 should be engaged to review the nexus between the budget, audit and the scale of assessment;
- ix) There is need to review the management of the Reserve Fund and other similar funds;

- x) The budget formulation and consideration by the relevant PRC Sub-Committees should start;
- xi) The Commission should submit quarterly budget performance as per Executive Council Decision EX.CL/Dec.916(XXVIII);
- xii) The recruitment of staff should prioritize Member States with unfilled quota;
- xiii) The AU travel policy should be governed by reasonable criteria that rationalizes the purpose and duration of missions;
- xiv) There is need for a strategy to be devised to reduce the cost drivers;
- xv) The budget lines for training, conferencing and communication should be centralized.

36. In response, the Chairperson of the Sub-Committee indicated that previous years' budgets were high compared to 2019 budget, therefore, the reduction in expenditure is laudable. He stressed the need to address human resource issues so as to deliver on the objectives of Agenda 2063. He also clarified that the Pan-African Parliament will continue to operate and function, pending the outcomes of the audit exercise. The Chairperson agreed that travels are unjustifiable cost drivers and can be addressed by holding meetings at AU Headquarters. He concluded by urging Member States to attend the Sub-Committee meetings at ambassadorial level.

Recommendations

37. In conclusion, the PRC:

- i) Took note of the Report of the Sub-Committee;
- ii) Urged the Commission to respect the budget ceiling;
- iii) Requested the Commission to strictly adhere to and respect the principles governing AU Travel Policy;
- iv) Emphasized the need to centralize the budget lines for training, conferencing and communication;
- v) Further requested the Commission to consider outsourcing ticketing services to reduce resource wastage and incurring unnecessary costs;
- vi) Recommended to the Executive Council to endorse the total budget of the African Union for the 2019 financial year, which is balanced in resources and expenses in the amount of **US\$ 681,485,337** divided as follows:

- a) Operating budget: **US\$ 416,329,505** including AMISOM operational budget for **US\$ 243,430,467**;
- b) Program budget: **US\$ 265,155,832**;
- c) Financed as follows:
 - **US\$ 280,045,761** by Member States and;
 - **US \$ 401,439,575** by Partners.

(ii) Report of the PRC Sub-Committee on Audit Matters – EX.CL/1077(XXXIII)ii

38. The Report was presented by H.E. James Pitia Morgan, Ambassador and Permanent Representative of the Republic of South Sudan and Chairperson of the Sub-Committee. Following the presentation, members of the PRC made comments and observations and sought clarification as follows:

- i) The low execution rate by the Commission is a source of serious concern as it does not justify continued request for additional funds;
- ii) The issue of unused tickets by the Commission should be reviewed and addressed immediately, and those responsible must be held accountable;
- iii) The Commission should develop follow-up mechanisms for a productive interaction between the Sub-Committee on Audit Matters and the Sub-Committee on General Supervision and Coordination on Budgetary, Financial and Administrative Matters;
- iv) The recommendations of the Audit Report have become generic and repetitive even though they highlight serious financial irregularities and deficiencies;
- v) There is need to take concrete measures against those responsible for financial mismanagement;
- vi) The Deputy Chairperson should set up a Committee to address these grievances and report regularly to the PRC through its Sub-Committee on Audit Matters;
- vii) Clarification was sought on the criteria used by the Commission to identify and select airlines for the issuance of tickets;
- viii) The misconduct of the Pan-African Parliament (PAP) has been unchallenged for a long time, which is concerning. In this regard, an accountability mechanism should be put in place to ensure that PAP operates within the rules and regulations of the Union;

- ix) The budget of PAP should be suspended pending an investigation of the misconduct so as to send a message that impunity is unacceptable;
- x) The Office of Internal Office should assess performance of Commission Departments as well as other Organs;
- xi) The Commission should consider outsourcing ticketing services to reduce resource wastage and incurring unnecessary costs;
- xii) The Report on Audit Matter should be forwarded to the Executive Council for deliberation on accountability measures for the Union.

39. In response, the Chairperson of the Sub-Committee informed the meeting that the views expressed are shared by members of the Sub-Committee especially that audit recommendations have become cyclical and repetitive in nature. He also pointed out that the Sub-Committee met with the Deputy Chairperson of the Commission to raise these concerns and come up with remedies to address them.

40. The Director of Internal Audit then complement as follows:

- i) All comments, observations and recommendations have been duly noted and the necessary amendments will be made accordingly;
- ii) The additional reason for low execution rate of the budget is lack of capacity within Departments, which has not been taken into consideration when requesting for budgetary allocation;
- iii) The Office of Internal Audit will conduct audit exercises of other organs including a comprehensive audit of PAP, and the relevant reports will be submit after the completion of each process;
- iv) The Office of Internal Audit works closely with the Board of External Auditors and provide input on various audit issues;
- v) Revision of the Financial Rules and Regulations as well as Staff Regulation are underway and will be submitted for discussion during the January 2019 Summit.

41. The Acting Director of Administration and Human Resource Management clarified that the issue of unused tickets is due to poor planning by Departments, which causes participants to miss meetings. However, the Commission is working to upgrade the travel model and reinforce the Travel Policy to avoid such incidents. She also indicated that the criteria used to issue tickets is the most direct and most economical route as per rule 47 (1) of Travel Policy. As for the proposal to outsource ticketing services, the Acting Director pointed out that it will not resolve the issue as the Commission already uses the same system as travel agencies to purchase tickets.

42. The Representative of the Office of Legal Counsel clarified the procedure to change the name of the AU Advisory Board on Corruption, which should be done through a written request by a State Party to the Chairperson of the Commission, following which, the Chairperson informs Member States of the proposed amendment.

Recommendations:

43. The PRC:

- i) Takes note of the report;
- ii) Calls on the Commission to identify the root causes of the low implementation rate of the budget and to report back to the January 2019 session;
- iii) Requests the Commission to clarify the situation regarding the amount due for purchased and unused air tickets;
- iv) Demands the establishment of a coordination mechanism between the departments in charge of the budget and those in charge of the audit;
- v) Calls on the Commission to set up a monitoring committee to implement the recommendations of the audit;
- vi) Decides to suspend the consideration of the PAP's budget and requests the Commission to investigate the PAP's non-compliance with the regulatory provisions governing the management of human and financial resources;
- vii) Calls on the Commission to take punitive action against staff found guilty of financial malpractices;
- viii) Calls on the Commission to include in the preamble to the decision a reminder of the principles of good governance and to reformulate the provisions accordingly.

(iii) Report of External Auditors

44. The Report on Audit Matters was presented by the Ambassador of Burundi to Ethiopia and Permanent Representative to the AU.

45. After the presentation, the Deputy Chairperson of the Commission thanked the Committee for the able work done and highlighted the following two issues:

- i) With regard to ALICO, he stated that it arose as a misunderstanding that led to a general lack of trust. He indicated that the accounts should have been audited before and after the transfer of funds. He added that the staff agreed to the proposal to allow firms to compete and make presentations before the Staff Association could select the best firm to host the pension fund. Lessons can be learnt from best practices with regard to the temporary transfer of the fund to JP Morgan;
- ii) The name of the African Union Board on Corruption would be changed to the African Union Board on anti-corruption. Perpetrators of mischief will be sanctioned.

46. The PRC made comments and observations on the item as follows:

- i) There should be a mechanism at the AU similar to public accounts Commission at national level to monitor the proper utilisation of Member States' contributions;
- ii) There is need to review the Terms of Reference of the Audit Committee and expand its mandate to enable it look at all aspects of audit, including operations or systems audit;
- iii) Audit reports should be made available to the PRC Sub-Committee before consideration of the budget. In this regard, the decision requiring the Commission to do so must be strengthened;
- iv) The principle of transparency, good governance and trust could be added to the preamble of the draft decision;
- v) The low performance rate of available human resources does not allow effective implementation of programmes;
- vi) Audit reports look similar over the years;
- vii) There is need for the PRC Sub- Committee on Audit Matters to have a conversation with the Board of External Auditors;
- viii) Clarification was sought on dormant accounts;
- ix) The decision of the Executive Council on the change of name of the AUABC can be updated to request State Parties to change its name;

- x) A policy on write-offs must be proposed in order to clear the backlog of write-offs which will otherwise keep recurring under IPSA;
- xi) The AU pension fund should be located in African institutions where the interest rate is attractive;
- xii) A table of all malpractices, action taken if any, etc. must be put up by the Commission;
- xiii) The draft decision must be strengthened to include sanctions;
- xiv) The sanction regime is very clear in the Rules of the AU;
- xv) A deadline should be given to the AUC to expedite the process of transfer of the Pension fund.

47. The AU Commission responded as follows:

- i) When taking action on culprits, it is important to follow legal and due process;
- ii) Audit recommendations will be recurring as long as they are not implemented;
- iii) Accounts are closed by 31st March; only then can audit be performed then report translated; therefore reports cannot be ready in January;
- iv) The AUC does not audit budget performance alone but also carries out systems audit;
- v) Dormant accounts mainly relate to funds from partners, which in any case do not generate interests for the Commission but for the partners;
- vi) The Commission is handling the internal process of write-offs.

Recommendation

48. In conclusion, the PRC made the following recommendations:

- i) Express its deep concern in the decision on audit;
- ii) Commend the work of the auditors;

- iii) Refer to the principles of transparency and good governance in the decision;
- iv) Plan to have a conversation with auditors;
- v) Amend the terms of reference and expand mandate of external auditors in order to carry out a systems audit;
- vi) Relocate the AU pension fund to African institutions with attractive interest rates;
- vii) Recommend the publication of the consolidated audit report.

SECTION IV: REPORTS OF THE COMMISSION:

(i) REPORT OF THE COMMISSION ON THE IMPLEMENTATION OF THE SOLEMN DECLARATION ON GENDER EQUALITY IN AFRICA (SDGEA) 2017- EX.CL/1078(XXXVI)

49. The Report was presented by the Director of the Women and Gender Development Directorate (WGDD). Subsequently, comments and observations were made as follows:

- i) Request for the draft decision and recommendations to be attached to the report;
- ii) Mauritius is referred in Articles 2,3 and 7 of the report as country which has not yet reported on the said articles; this is due to the fact that issues raised therein do not apply to Mauritius;
- iii) There is need for verification of statistical figures contained in the report to reflect realities on the ground;
- iv) Clarifications were sought on advancing gender equality in the continent;
- v) The report should identify and address obstacles hindering the implementation of gender equality in order to develop mainstream and appropriate policies;
- vi) The Commission should follow-up with countries whose performance is not in line with the decision requesting for at least the appointment of 30% of women at decision-making positions;
- vii) Clarification was sought on whether the reporting period is recent or covers all 22 AU Summits;

- viii) Explanation should be provided as to the omission of part of the substance of reports from some Member States in the final report of the Commission;
- ix) Mechanisms should be put in place to encourage Member States to report regularly;
- x) Member States should be informed of the benefits of these reports so as to encourage timely submission.

50. The Director of WGDD clarified as follows:

- i) The Commission regularly encourages Member States that have not yet done so, to submit their reports;
- ii) The reporting period is from 2017, during which 28 reports have been received;
- iii) The report is compiled based on the data provided by national statistics centres of each Member State;
- iv) The Commission has taken the necessary steps to ensure improvement of the report;
- v) The Reports submitted by Member States can serve as a tool for advocating the policy of the country within the framework of gender mainstreaming.

Recommendations

51. The PRC:

- i) Took note of the Report;
- ii) Encouraged Member States which have not yet done so, to submit their reports on time;
- iii) Requested the Commission to follow-up on the implementation of the Solemn Declaration on Gender Equality in Africa.

(ii) REPORT OF THE COMMISSION ON THE RELOCATION OF THE SECRETARIAT OF THE AFRICAN COMMITTEE ON THE RIGHTS AND WELFARE OF THE CHILD – ACERWC (Doc EX.CL/1081(XXXVI))

52. The Acting Director of Social Affairs made a presentation on the relocation of the Secretariat of the African Committee on the Rights and Welfare of the Child (ACERWC). Subsequent to the presentation, comments and observations were made as follows:

- i) Expressed appreciation to the Republic of The Sudan and the Kingdom of Lesotho for holding successful consultations regarding the hosting of the ACERWC Secretariat;
- ii) Further expressed appreciation to The Sudan for withdrawing its bid to host in favour of Lesotho showing a spirit of solidarity;
- iii) The consultation and consensus reached between The Sudan and Lesotho should be included in the draft report;
- iv) Encouraged Member States to follow the same model of solidarity and mutual understanding in future consultations for hosting AU institutions.

53. The Acting Director of Social Affairs responded that:

- i) The report and decisions will be updated as per the recommendations of the PRC;
- ii) Prior to the setting up of the Secretariat, the relevant PRC Sub-Committee will review and consider the proposed structure.

Recommendations

54. The PRC:

- i) Took note of the Report;
- ii) Commended the Commission for facilitating successful consultations on the relocation of ACERWC Secretariat;
- iii) Expressed sincere appreciation to the Republic of The Sudan for withdrawing its offer to host the ACERWC Secretariat in favour of the Kingdom of Lesotho;
- iv) Congratulated the Kingdom of Lesotho upon being the host of the ACERWC Secretariat;
- v) Requested the Commission to submit the proposed structure of the Secretariat to the relevant PRC Sub-committees for consideration.

(iii) REPORT OF THE COMMISSION ON THE SITUATION IN PALESTINE AND THE MIDDLE EAST (Doc EX.CL/1081(XXXVI))

55. The Report was presented by the Director of Political Affairs. Following the presentation, comments and observations were made, and clarifications sought as follows:

- i) The representative of Angola indicated that despite the fact that his country participated in the inauguration of the US Embassy in Jerusalem, the stand of Angola in supporting the Palestinian cause it still maintains;
- ii) The Report has been improved as it captures the recent developments on the ground;
- iii) The first section of the Report should be reviewed to reflect the format of a report and not a declaration;
- iv) There is need for Africa to continue speaking with one voice through showing solidarity with the people of Palestine and disregard propaganda aimed at dividing Africa;
- v) Expressed concern regarding the stand of the United States of America (USA) to move its Embassy from Tel Aviv to Jerusalem as it compromises the two-state solution;
- vi) There is need to further reflect on reactivating previous decisions on boycotting goods produced by Israel;
- vii) Whether the Peace conference alluded to in the report has taken place and if the African Union will attend the said Conference;
- viii) Para 51 of the Report requesting AU Member States to cut diplomatic relations with Israel is not relevant since maintaining such relation does not imply lack of support to the Palestinian cause;
- ix) Issues raised in para 12 of the Declaration should be considered by the PRC;
- x) There is no need to set up a new PRC Sub-Committee on the implementation of decisions on Palestine, rather the existing mechanisms on follow-up of decisions should be reactivated and reinforced;
- xi) The representative of South Africa informed the PRC that following the decision of the USA to move its Embassy to Jerusalem, the Government of South Africa recalled its Ambassador in support of Palestine;
- xii) The representative of the Kingdom of Morocco proposed an amendment to the draft Declaration.

56. The Commissioner for Political Affairs responded as follows:

- i) The Commission has taken note of all comments made by the PRC and the draft Report and Declaration will be amended accordingly;
- ii) The support of the AU to the Palestinian cause is constant as the issue features at all AU meetings;
- iii) The Chairperson of the Commission has made on numerous occasions statements to condemn the occurrences in the Palestinian occupied territories.

57. The Director of Political Affairs complemented the Commissioner as follows:

- i) The draft Declaration will be reviewed by willing Members of the PRC as well as the Office of the Secretary General under the guidance of the Department of Political Affairs;
- ii) The Peace Conference referred to in para 27 of the Report has not yet taken place and the possibility for the AU to attend will be explored;

Recommendations

58. The PRC:

- i) Took note of the Report;
- ii) Requested interested members of the PRC to participate in the Working Group tasked with the review of the Report and the Declaration taking into account the previous decisions on Palestine;
- iii) Reiterated the need to continue speaking with one voice and show solidarity with the people of Palestine;
- iv) Urged the Commission to reactivate and reinforce the existing mechanisms on follow-up of decisions on Palestine.

(iv) REPORT OF THE COMMISSION ON THE STRUCTURAL AND FINANCIAL IMPLICATIONS FOR THE AFRICAN SPACE AGENCY – EX.CL/1084(XXXVI)

59. The Report was presented by the Acting Director of the Department of Human Resources, Science and Technology (HRST). Subsequent to the presentation, the following observations and comments were made:

- i) The Report deals with very technical and complex issues and requires more time for its consideration;

- ii) The setting-up of the Agency will have major financial implications and therefore, must go through the relevant PRC Sub-Committees before submission to policy organs for consideration;
- iii) There are discrepancies between the governance structure of the African Space Agency indicated in Para 6 of the Report and the one provided for in the Statutes of the Agency;
- iv) Some Member States offered to host the African Space Agency and the Commission should develop criteria for hosting; these criteria should be considered and endorsed by the PRC prior to their implementation;
- v) Member States should be provided with the final version of the statutes of the African Space Agency.

60. The Acting Director for HRST provided the following responses:

- i) As requested by the PRC, the Report will be considered by the relevant PRC Sub-Committees;
- ii) Necessary measures will be taken to circulate all technical documents and the statutes of the Agency to Member States;
- iii) The governance structure of the African Space Agency will be developed in accordance with its statutes;
- iv) Criteria for hosting the African Space Agency have already been developed and will be submitted to the PRC for consideration.

Recommendations

61. The PRC:

- i) Took note of the Report;
- ii) Requested the Commission to submit the proposed structure to the relevant PRC Sub-Committees;
- iii) Further requested the Commission to develop criteria for hosting the Agency for submission to the PRC;
- iv) Also requested the Commission to circulate the final version of the statutes of the African Space Agency to all Member States.

(v) THE HUMANITARIAN SITUATION IN AFRICA - EX.CL/1082(XXXIII)

62. The Report was presented by the Commissioner for Political Affairs. She emphasized that the Report was based on contributions and input by Member States, however, only five (5) Member States submitted input on the humanitarian situation in their respective countries. In this regard, all Member States are urged to send submissions on time to enrich the Report. The Commissioner also highlighted certain shortcomings and gaps of the Report, which will be addressed before deliberation during the Executive Council. Members of the PRC then made comments and observations, and sought clarifications as follows:

- i) The Report highlight the alarming humanitarian situation in Africa, which continue to be of a concern and is a stark reminder of the plight of refugees, IDPs and migrants;
- ii) The Commission should develop capacity and mechanisms to gather, analyse and share data on the humanitarian situation in Africa so as not to rely on external sources;
- iii) Since 2019 Theme is the Year of Refugees, Returnees and Internally Displaced Persons in Africa: “towards durable solutions to forced displacement in Africa,” the Commission, in collaboration with the PRC and other stakeholders, should prepare the concept note and a roadmap on the theme;
- iv) The humanitarian situation in Africa is fast evolving due to challenges in the continent leading to migration, displacement and other crises;
- v) The Government of Libya has closely cooperated with the African Union, the United Nations and other stakeholders to resolve the issue of stranded migrants in Libya and to facilitate their voluntary repatriation;
- vi) The data and figures provided in the report are, in some cases, not up-to-date and accurate, and the necessary corrections must be done accordingly;
- vii) The Commission should send requests to Member States for input on the humanitarian situation in their countries immediately after the Summit to provide for sufficient time to submit contributions;
- viii) Finding durable solutions to prolonged and protracted refugees displaced by conflicts should also include addressing the political root-causes that have led to those situations such is the case for Saharawi refugees in Algeria;
- ix) Member States that continue to host refugees, IDPs and migrants should be highly commended for the displayed solidarity and hospitality;

- x) The Report should include positive developments and measures taken by Governments and authorities to address and remedy humanitarian crises in their countries;
- xi) In addition to the Saharawi refugees that it has been hosting for over 40 years, Algeria also hosts more than 40,000 Syrian refugees;
- xii) Host countries should adhere to their responsibility under international law especially in terms of protection and voluntary return of refugees;
- xiii) The issue of climate change-induced disasters and food insecurity should be highlighted in the Report as many countries face similar challenge, which can be addressed through the different initiatives by the African Risk Capacity;
- xiv) Africa's contribution to the process of finalizing the Global Compact on Refugees should be included in the Report;
- xv) The current humanitarian situation in Africa urgently calls for the establishment and operationalization of the African Humanitarian Agency;
- xvi) The Report should highlight tangible interventions and actions by the Commission as is the example of responding to Ebola outbreak in the Democratic Republic of Congo;
- xvii) The decision to hold an International Donors Pledging Conference to mobilize resources should be implemented and a definite date set;

63. In response, the Commissioner of Political Affairs the following clarifications:

- i) The interventions and comments show a genuine interest in the Report;
- ii) All observations and proposed amendments have been noted and will be reflected to improve the Report;
- iii) Most of the humanitarian crises are man-made and it is the collective responsibility of all Member States to find lasting solution;
- iv) The concern of accurate statistics and data has always been a serious challenge for the Commission since it receives figures from the Member States and many fail to submit on time, forcing the Commission to resort to figures from international sources;
- v) Due to the unpredictable movement, it is difficult to have exact numbers of refugees and migrants;
- vi) Uganda is indeed an exemplary role-model in the world in its approach to integration and protection of refugees;

- vii) The Government of Libya is making commendable efforts to assist in the repatriation of stranded migrants;
- viii) Political dialogue should continue to find durable solutions to the various conflicts in Africa that have caused displacement for many;
- ix) The Commission regularly undertake solidarity missions with the aim to examine the realities on the ground. During the visits, the AU offers symbolic monetary contribution to the affected communities;
- x) Africa does not only generously host refugees from the continent but also from other countries like Syria and Yemen;
- xi) The issue of Fall Armyworm must be addressed as it has devastating impact on the food security in many Southern African countries by destroying crops and farmland;
- xii) While Member States hosting and willing to host refugees and migrants should be commended, it is also important that they respect international law relating to the protection of refugees;
- xiii) The positive developments and proactive measures by some Member States to address humanitarian crises will be highlighted in the Report;
- xiv) As the Global Compact on Refugees is being discussed, Africa's voice should not be left out;
- xv) Member States are urged to contribute to enable the Commission to undertake the solidarity missions.

Recommendations

64. The PRC:

- i) Took note of the Report on the Humanitarian Situation in Africa;
- ii) Requested the Commission to develop capacity and mechanisms to gather, analyse and share humanitarian data in Africa;
- iii) Further requested the Commission, in collaboration with the PRC and other stakeholders, to prepare a Concept Note and Roadmap for the implementation of 2019 Theme as the Year of Refugees, Returnees and Internally Displaced Persons in Africa;

- iv) Encouraged host countries to assist refugees that wish to voluntarily return to their countries of origin;
- v) Urged Member States to work closely with the African Risk Capacity (ARC) to develop programs to address climate-induced disasters and food insecurity;
- vi) Recommended the Report to the Executive Council for consideration, taking into account the proposed amendments by Member States.

SECTION V: REPORTS OF OTHER AU ORGANS:

(1) REPORT OF THE SPECIALIZED TECHNICAL COMMITTEE (STCs)

- (i) **Reports of the 2nd and 3rd Ministerial Meetings of the African Union Specialized Technical Committee (STC) on Gender Equality and Women's Empowerment (GEWE), Addis Ababa, Ethiopia, 4-8 December 2017- Doc. EX.CL/1083 (XXXVI) and 7-11 May 2018 – Doc. EX.CL/1085(XXXVI), respectively.**

65. The Reports were presented by the Director of the Women and Gender Development Directorate, who highlighted the African Union Strategy for GEWE. Subsequently, comments and observations were made as follows:

- i) The strategy for gender equality and women's empowerment developed does not have financial and structural implications;
- ii) Clarification was sought on the recommendation to transform the Pan African Women's Organization (PAWO) into an AU specialized Agency;
- iii) Need to clarify the rationale behind the recommendation to transform the Fund for African Women into a Trust Fund;
- iv) Requested for the list of women organisations which have benefited from the Fund for African Women across the five regions of the AU;
- v) On the issue of encouraging Member States to co-fund the costs of the development and publication of the Gender Scorecard, it should be noted that Member States already fund it through the Commission's budget;
- vi) There is no clear indication that the 10 year implementation plan of the Gender Equality and Women Empowerment takes into consideration women's empowerment in agriculture and food production;

- vii) The strategy for Gender equality should be implemented in collaboration with all relevant Commission Departments in order to avoid overlapping and duplication of duties;
- viii) The strategy for Gender equality should also take into consideration religious, cultural and social specificities of countries;
- ix) The presentation and recommendations of the Report are for information sharing;
- x) The expansion of the membership of the Steering Committee on the African Gender Scorecard to include representatives of the STC and the PRC should not have financial implications, rather be voluntary;
- xi) In the 2nd report para 25 and 26, the renaming of AU buildings should be deferred to the appropriate Sub-Committees of the PRC;
- xii) In the 3rd report, para 29, on the Fund for African Women, a study has to be conducted and feedback provided to the PRC for consideration;
- xiii) The Commission should realign the Fund for African Women to the objectives of Agenda 2063 with regard to financing priority areas of the AU Gender Equality and Women's Empowerment Strategy;
- xiv) Ensure equitable distribution of Fund among RECs and Member States.

66. The Director of the WGDD provided the following clarifications:

- i) The financial implications of the strategy are covered by the programme budget of the Directorate;
- ii) The transformation of the PAWO into an AU Specialised Agency was approved by Decision EX.CL 994(XXX);
- iii) The launching of the Fund for African Women was guided by the Executive Council's Decision EX.CL/Dec.539(XVI);
- iv) Scorecard activities have so been funded by Partners, there is need to use the programme budget by Member States to fund the Scorecard;
- v) Women in agriculture are reflected in the Gender equality strategy and Directorate WGDD is working closely with the Department of Rural Economy and Agriculture in this regard;
- vi) PAWO is an Organisation set up in 1962 and is currently reinforcing the role of women as provided for in Agenda 2063;

- vii) An assessment of PAWO will be done and a report will be submitted to the PRC;
- viii) The Fund for African Women was set up by the Executive Council in 2010; the feasibility study has already been done and the request is for the expansion of its scope;
- ix) The 2nd assistant to the Secretary General to the PAWO should be mentioned as a founding mother of the PAWO;
- x) The renaming of AU buildings will be deferred to the relevant Policy Organs;
- xi) The Fund is flexible and aligned to Agenda 2063;
- xii) The strategy is a concerted effort between the Commission, the RECs and CSOs;
- xiii) No additional cost will be involved in widening the scorecard;
- xiv) Religious, cultural and social specificities were taken into account during the development and formulation of the strategy for gender equality.

67. The representative of the Office of the Legal Counsel complemented the Director on the issue of the status of PAWO. He referred to the Decision Assembly/AU/Dec.621 (XXVIII) granting the status of Specialized Agency to the PAWO.

Recommendations:

68. The PRC:

- i) Took note of the reports and congratulated the Director of the WGDD on the finalisation of the strategy for gender equality;
- ii) Requested the Commission to thoroughly assess all implications prior to the transformation of the PAWO into a Specialised Agency;
- iii) Further requested the Commission to ensure equality in the allocation of the Fund for African Women across regions;
- iv) Urged the Commission to ensure the expansion of the membership of the steering committee on the African gender scorecard;
- v) Recommended the reports for consideration by the Executive Council.

(ii) Report of the 2nd AU Specialized Technical Committee on Finance, Monetary Affairs, Economic Planning and Integration, Addis Ababa, Ethiopia, 16-17 April 2018 (Doc EX.CL/1085(XXXVI))

69. The Report was presented by the Commissioner for Economic Affairs. Subsequent to the presentation, the following comments and observations were made:

- i) Need to include Eritrea in the list of participants that attended the STC meeting;
- ii) Some recommendations in the report have financial and structural implications; therefore they should be considered by the relevant PRC Sub-Committees prior to submission to the Executive Council;
- iii) There is need for the Commission to do better planning of STC meetings so as to have appropriate representation by Member States at Ministerial level;
- iv) Invitations and working documents for STCs should be sent out to Member States in a timely manner to allow effective and full participation;
- v) There is need to attach the draft decision to the Report;
- vi) A strategy should be devised on how to recover funds lost by Africa through illicit financial flows. In this regard, the Commission should liaise with the United Nations Economic Commission for Africa (UNECA);
- vii) Need for a clarification on the request to allocate 0.15% of Member State's national budget to statistics;
- viii) The Commission to confirm whether the draft Statutes of STATAFRIC and PANSTAT were circulated to Member States for comments;
- ix) Para 32 of the Report requests the involvement of Heads of State and Government in the fight against corruption and clarification is sought as to what their role may be;
- x) The Employment and Social Cohesion Fund cannot be operationalised before it has been set up;
- xi) The fight against illicit financial flows requires cooperation with external organs;
- xii) Review the sequencing of the last two paras of the Declaration.

70. The Commissioner for Economic affairs clarified as follows:

- i) Eritrea will be included in the list of participants;
- ii) In order to ensure high level participation, the meeting of the STC will be organised every March;
- iii) The Commission is in the process of compiling the outcomes of the 2nd STC meeting to be published. The cost of the publication will be covered by Member States;
- iv) The 3rd STC will be organised taking into account the shortcomings of the 2nd STC;
- v) With regard to the recovery of illicit financial flows, discussions are ongoing with the EU for funds located in European countries;
- vi) The 0.15% contribution is an Executive Council's Decision referenced Ex.CL/Dec.987(XXXII) requesting Member States to allocate the said percentage of their GDP to their national statistic centres;
- vii) AU Heads of State and Government should fast-track the implementation of the Charter against corruption;
- viii) The private sector should also be involved in the fight against corruption;

Recommendations

71. The PRC:

- i) Took note of the Report presented;
- ii) Requested the Commission to submit the financial and structural implications of the recommendations contained in the Report through the relevant PRC Sub-Committees;
- iii) The amended report and the draft Decision should be submitted to the PRC for its consideration within a week's time;
- iv) Stressed the need for timely circulation of invitations and working documents for STC meetings;
- v) Urged Ministers to participate in STC meetings in order for the quorum to be met so as to enhance the legal strength of the outcomes;

(iii) Report of the 6th Meeting of the African Union Ministers of Trade, Dakar, Senegal, May 2018

72. The Report was presented by the Director of the Department of Trade and Industry following which comments and observations were made and clarifications sought as follows:

- i) The exclusion and sensitive list of products is a critical factor that would impact the success or failure of the African Continental Free Trade Area (AfCFTA), and therefore, the Assembly should be engaged on the matter to provide guidance on the way forward;
- ii) Clarifications were sought on progress so far in preparing the technical papers on the Criteria for Designating Sensitive Products and Exclusion List, and whether the proposed deadline is feasible;
- iii) The ongoing consultations of the Group of Seven (G-7) should continue on the margins of the upcoming AU Summit in Mauritania;
- iv) The National Committee on AfCFTA is an important step to fast-track the implementation of the AfCFTA Agreement;
- v) Ethiopia provided clarification of its submission of reservation on the AMOT Report, which should be correctly reflected in the Report;
- vi) Morocco expressed dissatisfaction with the proposal to refer the issue of exclusion and sensitive list of products to the Assembly of Heads of State and Government as it is a technical matter that could be resolved at the level of Ministers of Trade;
- vii) Explanation was requested on the process and context of creating the G-7;
- viii) The private sector should be fully engaged in the process of ratification of AfCFTA Agreement and national consultations should be undertaken with the private sector in this regard as they are the main beneficiary of this flagship project;
- ix) The Annexes to the AfCFTA Protocols that were considered by the Ministers of Trade should be disseminated to Member States;
- x) Further clarification was sought on the progress made in identifying the host of the AfCFTA Secretariat.

73. In response, the Director assured the PRC that all comments and amendments will be incorporated accordingly. She also provided the following clarifications:

- i) The issue of exclusion and sensitive list of products is critical and will be brought to the Assembly for consideration;
- ii) The AMOT Report provides timelines and deadlines on various studies and situational analyses, which go beyond the upcoming Summit. The technical papers from the studies build on previous work done by Partners while identifying potential gaps and ambiguities that relate to the different contested issues;
- iii) The proposed deadlines are indeed ambitious, however, they are intended in the spirit of continuing momentum to fast-track the consultations at the national and regional level;
- iv) The schedule of tariffs needs to be concluded before January 2019, and the technical work has already been initiated by the Negotiating Forum;
- v) The proposal to hold a side event for the G-7 at the Summit in Mauritania to facilitate consultations to resolve the outstanding issues will be discussed with the Office of the Secretary General and the Chairperson of the Commission;
- vi) The Annexes will be circulated to all Member States as requested;
- vii) Progress and development on the issue of the AfCFTA Secretariat will be presented by the Commissioner for Trade and Industry during the Executive Council meeting.

Recommendations

74. The PRC:

- i) Took note of the Report of the 6th Meeting of the African Union Ministers of Trade;
- ii) Recommended the Report to the Executive Council for consideration.

(iv) Report of the 3rd Extraordinary Specialized Technical Committee on Justice and Legal Affairs, Dakar, Senegal, 8-9 June 2018

75. The Report was presented by a representative from the Office of Legal Counsel who indicated that the Report does not have any contested issues owing to the extensive legal scrubbing by the Negotiating Forum and Legal Experts from Member States.

76. Following the presentation, members of the PRC commended and congratulated the Commission and the legal experts on the thorough efforts to prepare the necessary documents, and urged them to continue working diligently to finalize other outstanding issues. It was also requested that authenticated text of AfCFTA Agreement and its Annexes be circulated to all Member States.

Recommendations

77. The PRC:

- i) Took note of the Report;
- ii) Recommended the Report to the Executive Council for consideration and adoption.

(2) THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS (AfCHPR) - EX.CL/1088(XXXVI)

78. The Mid-Term Activity Report was presented by the President of the African Court on Human and People's Rights (AfCHPR). The President informed the meeting that the Report also includes the study on the establishment of a Trust Fund for the Court, in implementation of the PRC recommendations and Executive Council decision EX.CL/Dec.994(XXXII). After the presentation, members of the PRC made comments and observations, and sought clarifications as follows:

- i) Commend the Court for the Report, which highlights an increased number of judgments over the reporting period;
- ii) The delegation of Kenya informed the PRC that the Government is committed to upholding and protecting the rights of indigenous communities in Kenya. In this regard, the Government of Kenya has established a Task Force to implement and comply with the Court's decision. The Task Force will engage with the concerned communities to review and discuss their grievances. The finding will then inform the appropriate modalities and measures to address the pending issues by the Government. Kenya will communicate to the Court these developments in due course;
- iii) The recommendation calling for Member States to contribute financially to the Trust Fund is premature and should be deferred to the January 2019 Summit until the structural, legal and financial implications have been considered by the relevant Policy Organs;
- iv) The study on the establishment of a Trust Fund for the Court has not been circulated to Member States and therefore, cannot be discussed and endorsed;

- v) The host country, the Republic of Tanzania, informed the PRC that a meeting was held with the Court to discuss progress on the construction of the permanent premises of the Court. In this respect, a tripartite meeting between the host country, the Court and the AU Commission will take place in order to resolve all the pending;
- vi) Concerns were expressed on the slow pace of implementing and ratifying the Malabo Protocol, which calls for Member States to submit the challenges impeding the signature and ratification process;
- vii) The delegation of Rwanda reiterated its previous position on the non-execution of the Court's orders as it relates to accepting applications from genocide fugitive convicts. The Report should reflect comments and responses provided by member States during the deliberations of the Executive Council;
- viii) Rwanda also sought clarification on whether the issue of the alleged non-compliance with the Court's orders will be recurrent in each Activity Report;
- ix) The financial implications of the establishment of a Trust Fund for the Court should be stated clearly and in transparent manner prior to its implementation;

79. The President of the Court then clarified that the study on the Trust Fund for the Court has been commissioned and finalized, and the report was submitted as an Annex to the Mid-Term Report of AfCHPR. He also underscored the need to comply with the Court's orders, as well as the Court's obligation to report and reflect the realities regarding non-execution of orders, as per the relevant provisions of the Court's Protocol. The President concluded by reassuring the PRC that the Court will endeavour to reconcile its legal obligations and the concerns raised by Member States.

80. The Legal Counsel of the AU Commission further clarified that a communication from the Court has been received on 23 March 2018 requesting for legal guidance on the implementation of the Executive Council decision on Trust Fund. She indicated that the Office of Legal Counsel is in the process of finalizing a comprehensive response on the modalities and measures to implement the decisions in line with AU rules and regulations, which will be shared with the Court in due course.

Recommendations

81. The PRC:

- i) Took Note of the Mid-Term Activity Report of the African Court on Human and Peoples' Rights for the period 1 January to 30 June 2018;
- ii) Urged Member States to communicate to the Court the challenges they face in signing and ratifying the Malabo Protocol;

- iii) Called upon the Court to include in the study the detailed legal, structural and financial implications of the establishment of a Trust Fund of the Court for submission to the policy Organs through the regular procedure;
- iv) Decided to defer the call for financial contributions by Member States to the Trust Fund for the Court until the finalization and endorsement of its Study ;
- v) Further urged the Court to reflect comments and responses provided by Member States on the alleged non-execution of Court orders to the Activity Report;
- vi) Recommended the Report and the draft decision for consideration by the Executive Council, taking into account the proposed amendments.

**(3) THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS (ACHPR)
- EX.CL/1089(XXXVI)**

82. The Report was presented by the Chairperson of the African Commission on Human and People's Rights (ACHPR). The Chairperson also presented the outcomes and recommendations from the Joint Retreat of the PRC and ACHPR held in Nairobi, Kenya on 4-5 June 2018, which was complemented by some members of the PRC that attended the Joint Retreat. After the presentations, comments and observations were made, and clarifications sought as follows:

- i) The need to present the outcomes of the Joint Retreat as a separate document and not as an Annex to the Report of ACHPR;
- ii) list of concern related to ACHPR identified by Member States should be annexed to the retreat recommendations;
- iii) Naming a specific ethnic group should be avoid as it is a dangerous precedence in the Report of ACHPR;
- iv) The ACHPR is an independent organ of AU but it is not supranational neither separated for Member States who created it;
- v) The financial implications of the construction of the permanent Headquarters of ACHPR should be outlined and submitted through the regular procedure;
- vi) There should be two separated decisions on the ACHPR report and the Nairobi retreat recommendation;
- vii) The Joint Retreat was a result of extensive deliberations among two Organs and highlighted the important role ACHPR plays to ensure respect of human rights and fundamental freedoms. Hence the outcome is a joint recommendations;

- viii) There is need to reemphasize the outcomes and conclusions of the Joint Retreat and to find a mechanism to reinforce them;
- ix) Para 17 of the draft decision should be corrected to state the Kingdom of Lesotho instead of Republic of Lesotho;
- x) The Report of ACHPR should reflect a section on the human right situation in Africa as a whole with concrete recommendations and actions to be taken by Governments;
- xi) Clarification was sought on the creation of a Taskforce on the construction of ACHPR Headquarters;
- xii) Explanation was requested about the criteria for transferring two cases to the Court;
- xiii) Further clarification was sought on the nature of the follow-up Mechanism of the Executive Council to monitor the implementation of decisions of ACHPR by Member States and avoid proliferation of institutions;
- xiv) Decision of the Executive Council on ACHPR missions to Member States should be implemented and all stakeholders should extend full cooperation for that purpose;
- xv) The ACHPR should scrutinize information on the situation of Human Rights in Member States and only information supported by evidences should be reflected in the ACHPR report;
- xvi) The ACHPR should enhance a franc, sincere and transparent cooperation with all Member States as per the format agreed between parties;
- xvii) The recommendations of the Joint Retreat should be reviewed and aligned to ensure consistency;
- xviii) Several Member States expressed readiness and willingness to cooperate with ACHPR for better promotion and protection of human rights in Africa;
- xix) ACHPR should address the legitimate concerns of Member States, without their support ACHPR cannot achieve its objective of promoting and protecting human rights in Africa;
- xx) There is need to simplify the reporting obligations by Member States to ensure timely submission of reports;

- xxi) The staff ACHPR are staff of the AU and should abide by the African Union Staff Regulations and Rules;
- xxii) The issue of appointing the Chairperson of ACHPR on a full-time basis need to be further rationalized and reviewed, and therefore, should be deferred for a later stage;
- xxiii) Members of the ACHPR should be recognized in the activity report for the invaluable work they are performing for an enhanced promotion and protection of Human Rights in Africa;
- xxiv) Para 12 of the draft decision should be aligned with recommendations for other Organs such as Pan-African Parliament and AU Advisory Board on Corruption;
- xxv) The AU Commission should respond to the proposed amendments to the design plan for ACHPR Headquarters;
- xxvi) The Gambia expressed its commitment to mobilizing the necessary resources for the construction of ACHPR Headquarters.

83. The Chairperson of ACHPR commended members of the PRC for the constructive and quality contributions, which have been duly noted. She indicated the Report is submitted in line with relevant provisions of the Charter, which means the outcomes and recommendations of the Joint Retreat cannot be included in the Report. The Chairperson of ACHPR also clarified that only formal exchange of communication with Member States may be reflected in the Report.

Recommendations

84. The PRC:

- i) Took Note of the 44th Activity Report of the African Commission on Human and People's Rights (ACHPR) and the Outcomes of the Joint Retreat of the PRC and ACHPR;
- ii) The outcome of Nairobi retreat are final joint recommendation and should be implemented;
- iii) The joint recommendation should be separated from the ACHPR report, both of them should lead to two separated decisions;
- iv) Emphasized the need for staff of the different Organs to abide by the AU Staff Regulations and Rules;

- v) Recommended the draft ACHPR Report and the two draft decisions to the Executive Council including on the joint recommendations for adoption, taking into account the proposed amendments by Member States.

(4) THE AFRICAN UNION ADVISORY BOARD ON CORRUPTION (AUABC) – Doc. EX.CL/1090(XXXIII)

85. The Report was presented by the Chairperson of the African Union Advisory Board on Corruption.

86. After the presentation the following observations and comments were made:

- i) The Report was limited to an update on the implementation of the Executive Council Decision on the audit recommendations. No activity was undertaken;
- ii) The issue of corruption is an important topic, and all AU organs should be sensitized on the need for transparency and accountability;
- iii) There are recurrent acts of corruption within AUABC and although investigative measures had been decided on for the first cases of corruption, the Commission has not reported on the implementation of the decisions;
- iv) The paradox of the African Union Advisory Board on Corruption itself being guilty of acts of corruption is an issue of serious concern in the year 2018, which the AU has dedicated to the fight against corruption;
- v) The PRC Sub-Committee on Audit Matters should conduct investigations into the allegations of acts of corruption and report to the PRC;
- vi) The need to spell out the division of competence between Elected Members and Administrative Staff of the AUABC, in conformity with the relevant regulatory provisions;
- vii) The draft decision accompanying the Report should be completely revised in order to, among other things, incorporate measures aimed at correcting the shortcomings and lack of good governance of the AUABC;
- viii) The institutional relations between the Chairperson of the AU Commission and AU organs, particularly the AUABC should be clarified;
- ix) The PRC should, as the representative of Member States, exercise its supervisory role over the management of the AUABC, pursuant to the Union's regulations concerning the mandate of its organ;

- x) The name of the AU Advisory Board on Corruption should be changed as recommended by the Executive Council;
- xi) The funds unduly allocated for financing the post-graduate studies of an AUABC official must be recovered, either from the beneficiary or from the authorizing officer;
- xii) The AU training policy should be clarified; furthermore, the AU should not be perceived as a provider of training grants, but rather should recruit qualified staff who are ready for the job.

87. The Deputy Chairperson of the Commission informed the PRC of the pressure he was under to dismiss the Executive Secretary of the AUABC, who had seriously resisted manipulation attempts by Mr Daniel Batidam, the Chairperson of the AUABC who had resigned, for payment of allowances to which he was not entitled. The Executive Secretary of the AUABC, who retained her position due to lack of evidence to support the accusations made against her. Discouraged, Mr Daniel Batidam resigned and conducted a smear campaign against the AU in the media, whereas it was he who had given a training grant to an AUABC official, in flagrant violation of the regulatory provisions. The Deputy Chairperson commended the Executive Secretary of the AUABC.

88. The Deputy Chairperson instructed the Office of the Legal Counsel to carry out the necessary enquiries in order to recover the funds allocated for the training of the official concerned. He proposed that appropriate decisions should be taken after thorough consideration in order to avoid hasty measures.

89. The Legal Counsel confirmed the Deputy Chairperson's statement, mentioning the correspondence addressed to her by Mr Daniel Batidam, making unfounded allegations against the Executive Secretary. She then provided the following explanations:

- i) The need to brief elected officials of organs on the AU Financial Rules and Regulations, which should be applicable to everyone;
- ii) The rules are clear and patently distinguish between the competence of elected and administrative officials;
- iii) The problem stems from the fact that elected officials refuse to subject themselves to the regulatory authority;
- iv) The AUABC adopted its Rules of Procedure, and is in the process of incorporating amendments on financial, structural and administrative implications;

- v) However, such amendments should necessarily pass through the relevant PRC sub-committees;
- vi) The need to set up a committee for the evaluation of candidatures to screen candidates for elected positions.

90. The Commissioner for Political Affairs also proposed further reflection on the issue, and added the following:

- i) Clarify the relations between organs and technical departments of the Commission, since the texts on the issue are lacking in precision and clarity;
- ii) Some elected officials of organs do not understand the role of the Chairperson of the commission and do not respect the management rules defined by the AU;
- iii) Each organ elaborates its own Rules of Procedure and frequently adopt provisions that are contrary to AU Financial Rules and Regulations, thereby contributing to misunderstandings.

91. The Chairperson of the AUABC provided responses as follows:

- i) The AUABC referred the issue of change of name to the Office of the Legal Council and the procedure is currently underway;
- ii) The issue of governance essentially involves defining the nature of relations between the Board and its Executive Secretariat;
- iii) The short tenure of AUABC members (two years renewable or not depending on the results of elections), causes instability which is detrimental to the efficiency of the work of the AUABC;
- iv) The need to clarify the respective mandates of the Board and the Executive Secretariat;
- v) The recruitments proposed in the Report were submitted to the relevant PRC sub-committees for consideration;
- vi) The very limited number of staff impacts negatively on the quality of the AUABC's work, hence the need to recruit in order to rectify the shortcomings observed;
- vii) Training requests were frozen pending a clear definition of the training policy;

- viii) The Report presented only covered the area defined by the Assembly decision of January 2018 requesting a report on the implementation of audit recommendations; the January 2019 Report will cover activities undertaken.

Recommendations

92. The PRC:

- i) Takes note of the Report and expresses great concern over its contents;
- ii) Commends the leadership of the Commission for taking measures to recover the funds used to unduly finance the studies of an AUABC official, and to retain the Executive Secretary in her position;
- iii) Commends the Executive Secretary of the AUABC for her professional competence and moral integrity;
- iv) Recommends the strengthening of financial monitoring and supervision of good governance practices and transparency within the AU, pursuant to the regulations of the Union on the mandate of organs, with a view to the full implementation of the recommendations of internal and external auditors.

(5) THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC) EX.CL/1091(XXXIII)

93. The Chairperson of ACERWC presented the Report. Following the presentation, the PRC made comments and observations as follows:

- i) The mandate of the ACERWC needs to be clarified to avoid ACERWC's interference in matters involving the sovereignty of State Parties;
- ii) There is need for State Parties to develop short and medium term strategies for the implementation of the 2040 Africa's Agenda for Children;
- iii) It would not be necessary to request the STC on Justice and Legal Affairs to expedite the process of amending Article 5 (1) of the Protocol on the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights as the STC had already considered the matter and requested for a comprehensive analysis on the legal implications of the amendment ACERWC's mandate, as well as the challenges it faces and the reasons for accessing to the African Court on Human and People's Rights;
- iv) Commend the Government of Sudan and the Kingdom of Lesotho for reaching a consensus on the hosting of the Secretariat of ACEWRC;

- v) Welcome the decision by ACERWC to conduct a baseline study on child labour in Africa and the results should be shared with members of the PRC when finalized;
- vi) State Parties should draw and exchange lessons and experiences related to improving the wellbeing of children;
- vii) Commend ACERWC on the establishment of special mechanisms and encourage ACERWC to cooperate with the formal and informal groups working on the same matters i.e the Group of Friends of Children in Armed Conflicts, which was launched in Addis Ababa;
- viii) On the proposed theme for the Day of African Children for 2019, there is need for further engagement in order to refine it and avoid clashes with other proposed themes for the same year;
- ix) ACERWC should also focus on developing strategies that provide for provisions of quality education, including civic education, and access to primary health care for all children;
- x) Clarification was sought on the challenges faced by Member States that have not signed or ratified the African Charter on the Rights and Welfare of the Child;
- xi) ACERWC should consider conducting an assessment on the status of implementation of the African Charter on the Rights and Welfare of the Child;
- xii) ACERWC should provide the names and composition of the proposed Special Rapporteurs;
- xiii) Some delegations proposed factual and editorial amendments relating to certain sections of the Report, notwithstanding the fact that the Report of ACERWC may not be amended by the PRC.

94. The Commissioner for Infrastructure and Energy gave brief presentation on the importance of the protection of children rights on the internet and cyberspaces. She highlighted the need to remove content that is not suitable for children and the protection of information of children, which may be subject to trading. She concluded emphasizing children's rights to digital education and literacy.

95. In response, the Chairperson of ACERWC provided clarifications as follows:

- i) The mandate of ACERWC is not to interfere with the sovereignty of Member States. ACERWC makes its recommendations based on reports submitted by State Parties through interactive sessions;

- ii) The proposal to develop short and medium term strategies for the 2040 Africa's Agenda for Children is noted and welcomed;
- iii) ACERWC is developing comprehensive report on its mandate and the challenges faced, which will be submit to the next session of the STC on Justice and Legal Affairs as requested;
- iv) There will be further engagements on the theme for 2019 with the relevant Departments concerned;
- v) The names of Special Rapporteurs will be shared but all rapporteurs are current members of ACERWC
- vi) ACERWC will explore opportunities for further collaborate the Department of Infrastructure and Energy on the issue of cyberspace and the protection of children's rights on the internet.

Recommendations:

96. The PRC:

- i) Took note of the Report of the African Committee of Experts on the Rights and Welfare of the Child;
- ii) Commend the Government of The Sudan and the Kingdom of Lesotho for reaching a consensus on the hosting of ACERWC Secretariat;
- iii) Requested ACERWC to share the outcomes and results of the baseline study on child labour in Africa;
- iv) Encouraged the State Parties and ACERWC and to focus on the protection of children's rights in cyberspaces;
- v) Urged ACERWC to finalize the analysis of legal implications of the amendment ACERWC's mandate, as well as the challenges it faces and the reasons for accessing to the African Court on Human and People's Rights.

(6) THE PAN AFRICAN PARLIAMENT (PAP) – Doc. EX.CL/1092(XXXIII)

97. The Report was presented by the President of the Pan-African Parliament. After the presentation, the following comments were made:

- i) The Report failed to mention facts that could have financial and legal implications such as the dismissal of the PAP Executive Secretary;

- ii) The PAP Budget should be considered according to set procedure (preliminary consideration by the competent sub-committee, then consideration by the PRC before being recommended to the Executive Council);
- iii) Paragraph 2 of the Report which mentions the Yaoundé International Conference does not provide information on the study it refers to;
- iv) The number of ratifications of the Maputo Protocol which increased from 5 to 10 according to the Report has not been confirmed;
- v) Paragraph 3 of the draft decision requests the alignment of allowances and the class of travel of Pan-African Parliamentarians with those of other organs of the Union, while the allowances of Parliamentarians are paid from national budgets;
- vi) The two recommendations, seven resolutions and the declaration mentioned under the Ordinary Session held on 8 May 2018 are not annexed to the Report;
- vii) Attach the draft decision, resolutions and recommendations mentioned in Point 1 of the Draft Decision;
- viii) Article 8 of the Protocol does not attribute the PAP the duty of supervision over other AU organs;
- ix) The Draft Decision should be completely revised and reformulated taking into consideration the statutory mandate of the PAP; the PAP cannot ask to be commended for carrying out its statutory functions;
- x) The elections resulting in the renewal of the PAP Bureau did not respect the principle of rotation; some regions have never held the position of President of the PAP since it was established in 2004;
- xi) The item concerning lack of rotation should be brought to the attention of the Executive Council;
- xii) The report on the implementation of Executive Council Decision which recommended an enquiry into the recruitment of the PAP Secretary General is still expected;
- xiii) The organs should work within the framework of their respective statutory mandates; it is Member States that approve the budget and not the Commission; there is a Ministerial Committee responsible for ensuring the ratification of legal instruments and not the PAP;

- xiv) The Report of the External Auditors requested that staff that had been wrongfully dismissed should be reinstated; the PRC expects to be informed about the status of implementation of the external auditors' recommendation;
- xv) The PAP should re-focus on its mandate in order to achieve the objective for which it was established, and align its work with that of other AU organs;
- xvi) The election of members of the PAP Bureau generated a lot of dissent and division within the PAP;
- xvii) Allegations of bad management of staff and funds were rife in the media; if they are proven to be founded, they will raise doubts in the minds of African citizens on the credibility of the AU, which moreover is financed through the taxes paid by the latter;
- xviii) The AU Commission should conduct an enquiry to clarify the situation and eventually establish where the responsibilities lie;
- xix) In proven cases of fraud, strong measures should be taken in line with the theme of the year dedicated to the fight against corruption;
- xx) The PAP should conduct advocacy actions to promote good governance and also ensure the promotion of continental flagship projects;
- xxi) The PAP did not undertake any activities this year under the theme of the year on combating corruption;
- xxii) The Report should highlight the challenges encountered by the PAP so as to enable Member States to better focus their action in support of the PAP;
- xxiii) The necessary rigour to sanction possible irregularities in the management of the PAP should be extended to all organs of the Union in order for a system of double standards not to prevail;
- xxiv) Propose that the Secretary General of the PAP who was dismissed should be recalled, pending the results of enquiries;
- xxv) Any amendment to the Protocol should be in conformity with the provisions of Article 25 of the Protocol.

98. The Legal Counsel provided clarifications as follows:

- i) There are no provisions for the PAP to play a supervisory role over AU organs; the only supervisory organ established is the Executive Council;

- ii) The Article of the Protocol on the allowances of Pan-African Parliamentarians does not indicate the source of such allowances (national budgets or the budget of the Union);
- iii) However, it is also mentioned that each Member State is responsible for its parliamentarians serving at the PAP;
- iv) Following-up on ratifications of legal instruments by Member States is the responsibility of the Office of the Legal Counsel of the AU Commission;
- v) The Report mentioned ten (10) ratifications of the Protocol while the Office of the Legal Counsel only received six (6);
- vi) Under international law, ratification is counted after it is deposited; only the act of depositing confirms ratification.

99. The Director of Internal Audit provided the following information concerning recruitment at the PAP:

- i) The investigation requested by Member States concerning recruitment at the PAP has been carried out and the report is annexed to the Audit Report;
- ii) Furthermore, Member States had requested for a comprehensive audit of the PAP; the next audit report would address the said request;
- iii) The recruitment of staff at PAP staff does not conform to the standard procedure;
- iv) The Report of the Board of External Auditors is still pending.

100. The President of the PAP responded as follows:

- i) All the activities undertaken have been done in line with the relevant provisions of the Constitutive Act;
- ii) Most of the criticism levelled against him cannot be justified unless the constitutive act were to be amended;
- iii) The allowances due the members of the Pan-African Parliament have been spelt out in Article 10 of the Protocol;
- iv) The Secretary General of the PAP failed in his duty to prepare the activity report of the PAP; his unavailability compelled the President to dictate the report to the Deputy Secretary General of the PAP by phone from Yaoundé;

it was imperative to comply with the grace period accorded by the Secretary General of the Commission;

- v) The allegations of financial impropriety against the President were untenable since he was neither the authorizing officer nor the accounting officer; however, the president has been subjected to an unprecedented media lynching with the various media houses in South Africa and elsewhere heaping unsubstantiated allegations against him;
- vi) The working environment at the PAP had hitherto been calm until the avalanche of unsubstantiated accusations which were meant to seriously undermine the moral integrity of the President and cause widespread disaffection against him;
- vii) The inappropriate professional profile of the staff recruited at the PAP is aggravated by extra expenses incurred in sending them on training;
- viii) The Secretary-General of the PAP has not been dismissed; in the face of his failings, the President has taken precautionary measures in the sole interest of the smooth running of the institution;
- ix) The Chairman of the Commission sent an investigation mission to PAP following allegations of mismanagement of human and financial resources;
- x) The conference held in Yaoundé brought together all the regions with a view ensuring, inter alia, the ratification of the AU's legal instruments, particularly by the Member States of Central Africa;
- xi) Member States have completed the internal process of ratification of the instruments and this is the reason why they have been encouraged to proceed with the deposit of ratifications with the Commission of the African Union;
- xii) Members of the Pan-African Parliament are made up of mostly former high-ranking personalities; they do not accept to travel in economy class; the class of travel corresponding to their rank in terms of protocol is therefore business class;
- xiii) Article 12 of the Maputo Protocol has addressed the issue of rotation; once it comes into force, the principle of rotation will apply automatically;
- xiv) It is absolutely inaccurate to claim that the election of the members of the Bureau of the PAP has generated division within the PAP; the President was elected by a large majority (133 votes) from the five regions of the continent; the divisions mentioned are therefore artificial;

- xv) The missions undertaken abroad by the members of the PAP were not financed from by the budgets of PAP or national parliaments. The related costs were borne by partners;
- xvi) The President of the PAP fully supports the idea of conducting an institutional audit of the PAP and will comply with the conclusions.

101. The Secretary General of the Commission intervened on the delays by the organs in the submission of their activity reports. He drew attention to the following issues:

- i) The organs should comply with the prescribed deadlines for the submission of their working documents;
- ii) The delays put undue pressure on the translation division under and Member States do not receive the documents within the prescribed deadline;
- iii) In addition, the organs must limit the size of their delegations to summits to only essential staff;
- iv) Accreditation of organs at Summits will hereafter be limited to the number of badges indicated in their letters of invitation;
- v) The organs are urged to contribute to the smooth conduct of the summit meetings by complying with all the organizational guidelines laid down by the General Secretariat.

Recommendations:

102. The PRC:

- i) Takes note of the report;
- ii) Requests:
 - a. that the PAP should focus on the dissemination of AU flagship projects;
 - b. the PAP should refrain from undertaking activities that constitute a duplication of the mandates of the other AU organs;
 - c. that the principle of rotation should be respected during the renewal of the members of the Bureau of the PAP office is respected.
- iii) Recalls that PAP does not have a mandate to engage in parliamentary diplomacy;

- iv) Awaits the outcome of the investigation instituted by the Chairperson of the Commission following the dismissal of some staff the PAP.

(7) THE AFRICAN UNION COMMISSION ON INTERNATIONAL LAW (AUCIL) – Doc. EX.CL/1093(XXXIII)

103. A representative of the AUCIL Secretariat presented the Report on behalf of its Chairperson. Following the presentation, the PRC made comments and observations as follows:

- i) In light of the proposal on theme of the year for 2020, clarity sought on the existence and meaning of African Union law;
- ii) While noting the efforts of AUCIL in involving member states in its work, there was an acknowledgement that an information gap exists between the AUCIL and Member States;
- iii) There is need to conceptualise the proposed theme for 2020 within the priorities expounded under Agenda 2063 but that it would require further discussion and consideration;
- iv) There were already other proposed themes for the year 2020 such as on ‘Silencing the Guns in Africa’ and such the AUCIL and Peace and Security Department could work together to come up with a single proposal;
- v) If the theme proposed was to be considered, it should be amended to read, “The African Union Law Towards Peace, Security *and Sustainable Development*”;
- vi) The need for AUCIL to strengthen cooperation with African Universities teaching international law and to sign Memoranda of Understanding (MoUs) with African Centres of Excellence;
- vii) The issues relating to the staffing of the Secretariat should be submitted through the relevant PRC Sub Committees for consideration;
- viii) Whether the request to the STC on Justice and Legal Affairs to include a permanent agenda item on the heading “Progressive Development and Codification of International and African Union Law” applied to both ordinary and extra ordinary sessions of the STC. Furthermore, it was indicated that this may conflict with the Rules of Procedure of the STC;
- ix) The need for AUCIL to conduct studies that will assist in achieving and implementing Agenda 2063 flagship projects including the African Union integration agenda;

- x) The AUCIL should consider issues related to the ratification of OAU/AU treaties.

104. In response, clarification was provided as follows:

- i) AU law refers to all treaties, decisions and policies adopted under the auspices OAU/AU;
- ii) There was need for Member States to be involved in setting the agenda and determining the studies that AUCIL undertakes to ensure its relevance to Member States priorities. In this regard, the Statute of AUCIL could be amended to indicate that the STC on Justice and Legal Affairs provide oversight in the selection of studies undertaken by the AUCIL thereby enhancing ownership by member states;
- iii) AUCIL could consider having open sessions where Member States participate in its deliberations of AUCIL;
- iv) Many studies have not been concluded due to inadequate responses from Member States to the questionnaires sent out.

Recommendations

105. The PRC:

- i) Took note of the Report;
- ii) Decided that the theme for the year 2020 requires further discussion and consideration through the Follow-up Ministerial Committee on Agenda 2063;
- iii) Recommended that the Rules of Procedure of the STC on Justice and Legal Affairs be first amended to include AUCIL Studies as a permanent item on its agenda; and
- iv) Requested the AUCIL to consider having open sessions where Member States can participate;
- v) Urged Member States to respond to questionnaires of study of the AUCIL in a timely manner.

**SECTION VI: CONSIDERATION OF THE DRAFT AGENDA OF THE 33RD
ORDINARY SESSION OF THE EXECUTIVE COUNCIL AND THE
DRAFT AGENDA OF THE 31ST SESSION OF THE ASSEMBLY OF
THE AFRICAN UNION**

106. The PRC adopted the draft agenda of the 33rd Ordinary Session of the Executive Council and the draft Agenda of the 31st Ordinary Session of the Assembly of the African Union with amendments.

**SECTION VII: CONSIDERATION OF THE DRAFT DECISIONS AND
DECLARATIONS OF THE EXECUTIVE COUNCIL**

107. The PRC considered the Draft Decisions of the 33rd Ordinary Session of the Executive Council, made amendments and recommended the Draft Decisions to the Executive Council.

**SECTION VIII: ADOPTION OF THE REPORT OF THE PERMANENT
REPRESENTATIVES' COMMITTEE (PRC)**

108. The PRC met on Tuesday 24 June 2018 and adopted its Report.

SECTION IX: ANY OTHER BUSINESS

109.

SECTION X: CLOSING

110.

2018-06-26

Draft Report, Permanent Representatives' Committee Thirty-Sixth Ordinary Session 25 - 26 June 2018 Nouakchott, Mauritania

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