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REPORT OF THE COMMISSION ON THE IMPLEMENTATION OF THE ASSEMBLY DECISION Assembly/AU/Dec.605(XXVII) ON THE FINANCING OF THE UNION

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A. INTRODUCTION

1. This report is submitted in compliance with Decision [Assembly/AU/Dec.605 (XXVII) point 7], adopted by the 27th Ordinary Session of the Assembly held in Kigali, Rwanda in July 2016, requesting the Chairperson of the Commission to submit a Report to the Assembly in January 2017 on the progress made in the implementation of the Decisions on the Financing of the Union, which gives an update of actions taken, progress made and challenges encountered.

2. Following the Retreat of AU Heads of State and Government on the Financing of the Union, held on 16 July 2016, the Assembly adopted a decision to institute and implement a 0.2% levy on imported goods from outside the continent to finance 100% of the Operating budget, 75% of the Programme budget, and 25% of the Peace and Security Budget of the African Union, starting from 2017.

3. The Decision also calls for the amounts collected from the levy to be automatically paid by the national administration into an account opened for the African Union with the Central Banks of each member States for transmission to the AU in accordance with each member State assessed contribution.

4. The Summit also decided that the AU Peace fund should be endowed from the 0.2 % levy with an amount of USD 325 million in 2017, rising to USD 400 million in 2020. The Peace Fund will be established with three thematic windows: Mediation and Preventive Diplomacy (Window 1), Institutional Capacity (Window 2) and Peace Support Operations (Window 3). A new enhanced governance structure and independent fund management will be put in place to ensure strong oversight and accountability.

5. The Decision builds on recent decisions of the AU Assembly, which focuses on member States covering a greater share of Union's budget with a view of weaning itself from external dependency in the long run. The leadership of the Union has reached these decisions based on four principles: (i) solidarity, (ii) equitable payment; (iii) capacity to pay; and (iv) no single country bears a disproportionate share of the budget

6. To ensure high transparency and probity in the use of funds, the Decision calls on the AU Commission to put in place a strong oversight and accountability mechanism for ensuring the effective and prudent use of resources. Furthermore, a Committee of Ministers of Finance comprising (ten) member States, representing the (5) regions (two per region) is to be established to participate in the preparation of the annual budget.

B. STATUS OF IMPLEMENTATION OF THE DECISION

7. Following the Kigali Decision the AUC established an inter departmental technical Committee Chaired by the Deputy Chairperson, H.E. Mr. Erastus Mwencha to facilitate and work out the modalities for implementing the Decision by AU member states. The Committee includes the Commissioner for Economic Affairs, the Commissioner for trade and Industry and representatives from of the Bureaus of the Chairperson and Deputy Chairperson, Departments of Programming, Budgeting, Finance and Accounting (PBFA), Economic Affairs, Peace and Security, Trade and Industry and the Office of the Legal Counsel.

8. Under the guidance of the committee the following activities have been taken so far:

(i) In August 2016 an AU Technical Team of Experts undertook an experience-sharing visit to ECOWAS and ECCAS, which have similar mechanisms of import levies in place to learn from their experience;

(ii) In August 2016 the Commissioner for Economic Affairs briefed the conference of governors of African Central Banks in Abuja on the decision.

(iii) The Commission organized a consultative meeting of African Ministers of Finance, on the 15 & 16 September 2016, to strategize on the implementation of the Decision and identified the appropriate documents needed.

(iv) The Committee of ten Ministers of Finance (F10) was inaugurated on the 15th of September. The mandate of the committee is provide guidance and participate in the preparation of the annual budget of the Union.

(v) On the 5th of October 2016 the F10 met on the margins of the annual meeting of the IMF/World Bank in Washington, USA to adopt their Terms of reference and also guidelines for the implementation of the assembly Decision 605.

(vi) The approved Guidelines for the Implementation of the decision on the Financing of the Union has duly been sent to all AU Member States.

(vii) In November a team from the Commission met in Harare with the Director General of Customs during the 8th Ordinary Meeting of the AU Sub-Committee of Directors General of Customs (AUSCDGC). The purpose of the mission was to inform the AU Directors General of Customs on the outcome of the decision on the Financing of the Union and to update on the post-summit activities and preparation for implementation, as well as clarify the role of national customs and make appropriate recommendations thereon to Management.

(viii) As an outcome of the meeting, the Subcommittee of AU DG of Customs established a Technical Working Group to consider how member state Customs Administrations can assist in the implementation of this decision.

(ix) With regards to the Peace Fund the High representative for the Peace Fund has had several meetings and consultations on the actual modalities for implementation.

(x) Consultations are also continuing with relevant UN Organs, Member States and external partners to reach agreement on the 25% / 75% cost sharing arrangement for peace support operations within the context of the peace fund.

(xi) In December, the Chairperson of the Commission sent out letters to all the member states updating them on activities undertaken and also asking for feedback on state of implementation at country level. A few countries have replied but the commission is yet to receive replies from the majority of the Member States.

C. CONCLUSSION AND WAY FORWARD.

9. Since July the commission has been very active in ensuring momentum for the implementation of the decision is maintained. So far the signs are positive. Evidence on the ground indicates that some countries have already initiated implementation or are seriously considering options for implementation.

10. Within this period the F10 has been constituted and has started working.

11. The guidelines for implementation have been developed and circulated to member states.

12. As part of the deliberations of the F10 it has been agreed amongst member states to use 2017 as a transit year to allow countries to adjust internal rules and regulations.

13. In the interim member states will continue to honor their obligations towards the Union with regards to the regular budget and the Peace Fund in line with the assessed contributions.

14. As a way forward member states are enjoined to communicate to the commission the actions taken so far to facilitate implementation.

15. Member states are also requested to assist the by putting place the necessary fiscal framework to enable the AUC to open accounts at the national treasuries or central banks.

ANNEX

FREQUENTLY ASKED QUESTIONS ON THE IMPLEMENTATION OF THE KIGALI DECISSION ON FINANCING THE UNION

1. How was the 0.2% on imports arrived at?

The search for a viable, equitable, sustainable and predictable source of financing the African Union, started before the transformation of the OAU into the AU 15 years ago. It gained greater momentum with the submission of the Obasanjo reporton financing the Union which was submitted in 2013.
In the lead up to the Kigali retreat, the AUC working in close collaboration with the UNECA undertook several simulations with different sources of funding in line with the original proposal from President Obasanjo. Several options were considered. These include surcharge on SMS, hospitality levy for hotels stays, levy on all air tickets to and from Africa and a basket of others including the levy on imports.
After a careful evaluation of the potential of all the options, the 0.2% came out as the most viable in the sense that it was achievable, equitable in the sense that the rate was the same across all the countries, sustainable in the sense that it would be available over the short medium to long term, predictable in the sense that one could assess the expected inflows from existing national data and also the AU could expect to receive funding on time once the scheme sets in.

2. Will all the funds raised under the 0.2% levy on eligible imports be remitted to the African Union?

No**.** As the decision stands now the AU can only receive from levy funds that does not exceed the amount authorized under the AU budget. It is projected that the 0.2% Union Levy will raise about 1.2 billion dollars annually. This is above the current AU budget and it is expected that the application of the AU levy by member States will generate more than their assessed contributions. In line with the decision however, Member States shall pay only their assessed contribution as approved by the Assembly and keep the difference between the generated revenue and their assessed contribution for their own development needs.

3. Is such a levy in compliance with international norms?

There is therefore no evidence of non-compliance with international obligations. This levy is not new on the continent and indeed variations of such levy are being used by several regional organizations worldwide. In Africa, levies on imports are being used to fund ECOWAS, ECCAS and CEMAC.
Such levies are usually applied within the framework of Customs Unions and FTAs and do not conflict international norms. In the light of the introduction of the CFTA in 2017, which will in essence include an Africa wide Customs Union, such a levy is possible and fully justifiable.

4. **What Constitutes eligible goods and how will it be determined?**

For the purpose of implementation, the levy shall be applied to all non-exempt goods from non-African countries. The criteria for exemption are contained in the draft guidelines on AU import levy adopted by the committee of 10 finance ministers and sent to all member states. In essence, the eligible goods at this point shall be determined by member states in line with national priorities.

5. **How will the levy be assessed and how will it be collected?**

a. The Union levy shall apply to the Cost, Insurance and Freight (CIF) value at the port of disembarkation for all eligible imports in each member state.

b. The National Customs Administrations of a Member State shall be responsible for assessment and collection of the Union levy.

c. Amounts collected, as Union levy shall be paid directly into an account opened in the name of the African Union Commission with the Central bank of each Member State.

d. Once the fiscal authorities give the authorization such accounts will be opened.

6. When should levies collected be remitted to the Union?

a. As indicated above Funds collected under the levy will be paid directly into an Account for the AU with member states central banks and this account shall be accessible to the AU as and when the funds are paid into the account.

b. The amount the AU can access from the National Accounts shall however be limited to the assessed contributions for the financial year.

7. What will the funds be used for?

a. In accordance with the assembly decision of June 2015 the funds will be used to cover the following:
   - 100% of operational budget of the Union
   - 75% of the Programme budget of the Union
   - 25% of the Peace support operations of the union.

b. These targets will be achieved progressively over 5 years starting 2017.

8. Will the funds raised also cover the Peace fund?

a. The July 2016 Assembly decided that the Peace Fund would be endowed with $325m in 2017, rising to a total of $400m by 2020 from the 0.2% levy

b. The endowment represents a maximum amount that will be replenished annually as needed.

c. The Peace Fund covers more than just the peace support operations. This endowment will enable the AU to fully finance mediation and preventive diplomacy activities, institutional readiness and capacity, maintain a crisis reserve facility as well as meet its commitment to finance 25% of its peace operations budget.

9. Will the proposed regional contributions to the Peace Fund create an unfair burden for some regions?

a. AU Heads of State and Government were keen to emphasise the importance of the AU regions and the fact that Regional Economic Communities (RECs) and Regional Mechanisms (RMs) have often constituted the first line of response. To this end, the Peace Fund will also support regional responses to conflict and insecurity.

b. However, in recognition of the concerns raised by some Member States regarding burden-sharing, particularly in AU regions that have fewer Member States, the following 2017 transitional implementation approach is proposed:
- The $325 Peace Fund budget will be reflected in the AU's 2017 budget.
- Member State contributions to the 2017 AU budget will be made in line with the existing scale of assessed contributions.
- Member States will remit their annual contributions to the AU Accounts held within their Central Banks or equivalent institutions.
- Member States' annual contributions will be transmitted to the AU thereafter.

10. When is this levy expected to start? Transition arrangements.

a. In accordance with the Kigali decision, implementation should start from 2017. However the F10 has agreed that 2017 will be used as a transition year to enable Member States to adapt their national laws and regulations to allow for full compliance. It is expected therefore that by start of 2018 all countries would either have started implementation or will be ready to.

b. The above notwithstanding it is important to note that some countries have already initiated action to implement. These include Kenya, Rwanda, Chad and Ethiopia.

c. Any of the above notwithstanding, Member states shall continue to honor all financial obligations to the AU during the transition period.

11. Governance and Accountability. How will member states ensure that the funds raised are effectively applied prudently?

a. The AU and its organs recognize the need to deepen and accelerate financial reforms. To ensure existing accounting and financial Management practices are in compliance with the highest international standards. In addition, the accountability mechanism approved by Executive Council in January 2016[1] and subsequently at the Kigali retreat shall be strictly enforced. This clearly spells the structures and mechanisms that will be put in place by the member states to ensure proper usage, accountability and high fiduciary standards.

b. As per the Kigali retreat a committee of 10 Finance Ministers has been set up to oversea budget preparation and implementation management to ensure that the funds generated are used prudently in line with member states approved programmes

c. Further financial and budget reforms including stringent internal controls will be enforced to ensure proper transparency oversight and accountability in line with best practice.

12. What is the role of F10- Ministers of Finance in the oversight and accountability?

The Assembly in recognition of the need for deeper financial and management reforms spelt out a clear role for finance ministers. In accordance with this decision a committee of 10 minister of finance (F10); two per region shall be constituted shall participate in the preparation, monitoring and evaluation of the annual budget. The F10 was inaugurated on the 15th of September and has since had three meetings

13. How is the F10 constituted?

As per the Kigali Decision the F10 is made up of 10 ministers – two ministers each from the five regions. The members were selected through consultation with the Regional Deans of the Permanent Representative Council PRC. The current membership is as follows:

Northern Region – Algeria and Egypt
Southern Region – South Africa[2]
Eastern Region –Ethiopia and Kenya
Western Region – Ghana and Ivory Coast

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[1] Ex.Cl/948(Xxviii)

[2] The Second member from the south is yet to be communicated by the Botswana Ambassador who is the Dean of the region

Central region – Chad and Cameroun

14. What is the status of implementation so far?

Since the Kigali summit several activities have taken place to facilitate implementation. These are sumarised in table 1 below:

15. Update on the Implementation of the Peace Fund

Since the Kigali Decision, the African Union Commission has focused on the technical aspects of the operationalization of the Peace Fund. A Peace Fund Implementation Task Force has been established within the Commission. It is encouraging to note that despite some administrative delays progress has been made in the following areas:

Work-stream 1: Defining the Eligibility Criteria for the Peace Fund Windows

(i) Two out of the three envisaged technical workshops have been held as follows:

- Mediation and Preventive Diplomacy Window 1: Technical Workshop held in September 2016 and Draft Eligibility criteria produced and currently being reviewed;
- Peace Support Operations Window 3: Technical Workshop held in December 2016 and Draft Eligibility criteria and proposals on the scope of the 25% AU Member State contributions to the AU PSO budget are under preparation;
- Institutional Capacity Window 2: This workshop will be held in March 2017.

(ii) Target: All the Technical Work including Eligibility Criteria to be completed by mid- March 2017

Work-stream 2: Peace Fund Instrument

As part of his mandate the AU High Representative for the Peace Fund is developing detailed proposals for the Peace Fund's governance structures and other oversight and accountability elements are currently being developed. Initial drafts are expected in March 2017.

Target: A final draft including all the eligibility criteria will be ready by end March 2017.

Work-stream 3: Peace Fund Partnerships

(i) AU-UN PSO partnership. United Nations Security Council Resolution (UNSCR 2320) was voted unanimously on 18 November 2016. While this was a procedural resolution, it represents a key milestone in the AU's long-standing policy objective of securing predictable and sustainable financing for AU authorized and mandated peace support operations.

(ii) The UNSC welcomed the AU High Representative's for the Peace Fund's proposals on the Peace Fund and for the first time expressed its readiness to consider the AU's proposals on the use of UN assessed to support AU PSOs. The AU discussions with the UNSC will take place in May 2017 with a view to achieving a substantive resolution on this matter in 2017. The AU Commission and UN Secretariat have held consultations at working level and will continue to engage closely in the run-up to the update to the Security Council in May 2017.

(iii) Establishing a clear basis and criteria for AU Peace Fund support to eligible RECs/RMs peace and security activities will be one of the key priorities in 2017. The Initial proposals will be ready for internal review in April 2017.

(iv) All technical preparations for the establishment of the Peace Fund will be completed in 2017 with a view to fully operationalizing this element of the Kigali decision in 2018. The AU High Representative for the Peace Fund is expected to complete all aspects related to his current mandate within this period.

(v) It has to be noted that, for the 2017 budget estimates, Member States are expected to pay 65M based on the current scale of assessment.

Experience Sharing on the implementation of the Decision

The Chairperson the Commission has written to all Member States requesting updates on the implementation of the Decision.

Kenya has taken steps to implement the Kigali Decision. At the F10 inaugural meeting, on 15 September 2016, H.E Mr. Henry Rotich, Kenya's Cabinet Secretary for the National Treasury shared the experience of Kenya in implementing the Decision on the financing of the Union. In order not to adversely impact the economy of Kenya, he informed the meeting that Kenya implemented the Decision by lowering an existing levy (import declaration fee) from 2.5 percent to 2 percent.

The 0.2% of the AU levy is then derived from the import declaration fee which is paid into an escrow account with the central bank of Kenya. The implementation of the decision in Kenya relies on existing legal frameworks so as to avoid the introduction of a new levy. A law is being enacted by the Kenyan Parliament on the AU levy to allow for the funds to be transferred to the Central Bank of Kenya and subsequently to the AU Commission.

At the last F10 meeting in January 2017, H.E Mr. Mbogo Ngabo Seli, Chair of the

F10 and the Minister of Finance of Chad, informed meeting that Chad has taken steps to implement the Decision. The Ministry signed already a convention with the Central Bank and opened an account in the name of AU.

Member States reiterated their commitment to the implementation of the Decision. However, the existing financial laws in one country make the channelling of the funds through the central bank not suitable. It is therefore assessing other mechanisms to transfer the funds from the levy to AU Commission.

The Republic of Congo has put in place a mechanism for the implementation of the Decision. Its parliament has enacted a law to back the implementation and has created an AU account with BEAC. It is ready to transfer funds to the account once the processes are finalized.

Another Member State has set up inter-ministerial committee to draw up modalities for the implementation of the decision. A mechanism is expected to be in place by the end of 2017.

Consultation between the F10 and the Bureau of the Association of African Central Banks indicates that African central banks are very supportive with the implementation of the Kigali Decision would have no difficulty in setting up the AU Accounts once the fiscal authorities of the Member States give the necessary directives.

Most Member States have proposed that 2017 be used as a transitional period to allow for member States put in appropriate mechanisms for the full implementation of the Decision in January 2018.

Since the Kigali Decision was taken the AU Commission has undertaken missions to the Secretariats of ECOWAS and ECCAS. The purpose of the working visit was to learn from the experience of the two RECs who are currently implementing similar import levies for funding the respective Secretariats. The conclusions and observation from the visits to the two RECs are:

Table 1. Summary of Activities to date

	Timeline	**Activity**
1.	August 2016	Study visit to ECCOWAS and ECCAS
2.	August 2016	Briefing of conference of Governors of African Central banks by Com. Econ Affairs, in Abuja
3.	15th September 2016	Inauguration of the F10
4.	15th September	Received information that Kenya had started implementation
5.	16th of September	Consultative meeting with African finance ministers

6.	October	Meeting of the F10 on the sidelines of the IMF/ World Bank meeting in Washington: • ToR adopted • Guidelines for implementation adopted
7.	November	Briefing to the STC on Finance Sub-committee of African customs Director General in Harare
8.	January 2017	F10 consultative meeting with Association of African Central Bankers

16. How Many Member States have started implementation

As at January the commission has information that Kenya has started implementation. Other countries have indicated that they have initiated action to comply with the decision and these are in different stages of preparation towards implementation. They include Ethiopia, Republic of Congo, Rwanda and Chad. A note verbal has been sent to all member states for updates on state of implementation and this information will be made available as soon as it is ready

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