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**REPORT ON THE MINISTERIAL PANEL ON THE ELECTION OF
MEMBERS OF THE COMMISSION AND ELECTION
OF THE COMMISSIONERS**

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I. INTRODUCTION

1. The Ministerial Panel for the Election of Members of the Commission in July 2016 met in Addis Ababa, Ethiopia on 5 April 2016 to prepare a shortlist of candidates and make appropriate recommendations for consideration by the Executive Council during its Twenty-Ninth Ordinary Session scheduled for July 2016 in Kigali, Rwanda. The meeting was held pursuant to Article 14 (2) and (3) of the Statutes of the Commission as well as Executive Council decision EX.CL/Dec.906 (XXVIII) adopted by the Twenty Eighth Ordinary Session of the Executive Council held in Addis Ababa, Ethiopia in January 2016.

II. ATTENDANCE

2. The following Members of the Ministerial Panel attended the meeting:

- i) Algeria;
- ii) Burundi;
- iii) Cameroon;
- iv) Egypt;
- v) Lesotho;
- vi) Malawi;
- vii) Mali;
- viii) Rwanda;
- ix) Sierra Leone; and
- x) The Sudan.

3. The following members of the Independent Team of Consultants were also in attendance:¹

- i) Amb. Layi-Kayode Iyanda (Nigeria);
- ii) Professor Shadrack Gutto (South Africa).

III. OPENING REMARKS

4. In his opening remarks, the Chairperson of the Ministerial Panel, Hon Dr. George Chaponda, Minister of Foreign Affairs and International Cooperation of the Republic of

¹ Professor Hajer Gueldich from Tunisia, one of the Independent Consultants had to return to Tunis on 2 April 2016 after the preparation of the report of the Consultants due to other pressing matters and therefore, could not be present at the meeting of the Ministerial Panel.

Malawi welcomed and thanked the Members of the Ministerial Panel and the Team of Consultants for attending the meeting. He stated that this showed the commitment of the members of the Ministerial Panel to advance and fulfill work assigned to them by the Executive Council.

5. The Chairperson of the Ministerial Panel also welcomed the Members of the Ministerial Panel from the Eastern Region, namely Rwanda and The Sudan and congratulated Rwanda for being appointed Rapporteur. He recalled that the two (2) Members could not attend the meeting of the Panel on 27 and 28 January 2016 as the Eastern Region had not concluded its consultations.

6. The Chairperson of the Ministerial Panel recalled the work that the Ministerial Panel had accomplished since it was constituted. The accomplishments include the election of the Bureau, the adoption of the Modalities and Terms of Reference for the Consultants, the adoption of the budget for the activities of the Ministerial Panel and the adoption of the Report of the Ministerial Panel by the Executive Council.

7. Finally, the Chairperson expressed his appreciation to the Team of Consultants for the quality of its report and for delivering the report on time despite the reduction of the Consultants from ten (10) to three (3). He also thanked the Office of the Legal Counsel and the entire Commission for the support it has provided to the Consultants which enabled them to discharge their mandate.

IV. ADOPTION OF AGENDA

8. After some brief consideration of the draft Agenda, the meeting adopted the following Agenda:

- i) Opening Remarks;
- ii) Adoption of the Agenda;
- iii) Presentation by the Legal Counsel on the Election Process;
- iv) Presentation of the Report of the Team of Consultants by the Facilitator of the Team;
- v) Consideration of the Report of the Team of Consultants;
- vi) Way forward on Finalization of the Report of the Ministerial Panel;
- vii) Any Other Business;
- viii) Closing Remarks;

V. PRESENTATION BY THE LEGAL COUNSEL ON THE ELECTION PROCESS

9. The Legal Counsel, Prof. Vincent Nmehielle gave an overview of the process since the outcome of the meeting of the Ministerial Panel in Addis Ababa from 27-28 January 2016. In this regard, he informed the Ministerial Panel that the Ministerial Panel (at Ambassadors Level) met on 29 February 2016 to receive an update on the election process. The Legal Counsel stated that it was at this meeting that it was agreed that the meeting of the Ministerial Panel should take place on 5 April 2016 and that all the documents for the meeting should be circulated by 1st April 2016. However, the Legal

Counsel noted that it was not possible to do a briefing to the Permanent Representatives Committee (PRC) before the deadline, as agreed by the Ambassadors.

10. The Legal Counsel informed the Ministerial Panel that on or before 15 March 2016, the deadline for submitting candidates for the posts of Commissioners, the Commission received: thirty four (34) candidatures for the various portfolios of the Commission. He indicated that three (3) candidates were submitted after the deadline. The Legal Counsel further informed the Ministerial Panel that out of the three (3) late submissions, two (2) candidates were submitted by a Member State directly and not by the respective region.

11. He highlighted that each region was required to nominate two (2) candidates, including a woman for each portfolio; thus, a total of sixteen (16) candidates from each region for the eight (8) portfolios. Therefore, for the five (5) regions a total of eighty (80) candidates (forty (40) men and forty (40) women) were required to be submitted.

12. However, he drew the attention of the Ministerial Panel to the fact none of the regions had complied with the modalities for presentation of candidates. In addition, the Legal Counsel informed the Ministerial Panel that submission of documents was not properly coordinated, as in various cases, documents were being submitted simultaneously by the Member States and the regions thus making compilation quite difficult.

13. By way of information, the Legal Counsel briefed the Ministerial Panel on the candidates submitted for the posts of Chairperson and Deputy Chairperson of the Commission on or before the deadline of 31 March 2016. He indicated that three (3) and four (4) candidates were submitted for the posts of Chairperson and Deputy Chairperson respectively.

14. He concluded by indicating that the Commission had nominated three (3) Consultants to carry out the exercise, two (2) of which were present and that the Facilitator of the Team would submit their Report directly to the Panel. One of the Consultants could not stay for the meeting of the Ministerial Panel due to prior commitments.

15. The Legal Counsel thanked the Consultants for their dedication and commitment to the process. Furthermore, he drew the attention of the Ministerial Panel to two (2) corrections on the Report of the Consultants regarding the region of one of the candidates and the portfolio for another candidate who had been subsequently re-evaluated by the Consultants.

16. In conclusion, the Legal Counsel reminded the Ministerial Panel that the list of candidates must be circulated at least three (3) months before the elections in accordance with Article 16 (1) of the Statutes of the Commission.

VI. PRESENTATION OF THE REPORT OF THE TEAM OF CONSULTANTS BY THE FACILITATOR OF THE TEAM

17. In presenting the Report of the Team of Consultants, Ambassador Layi-Kayode Iyanda, the Facilitator of the Team informed the Ministerial Panel that they met in Addis Ababa, Ethiopia from 27 March to 1 April 2016. He informed the Ministerial panel that the Legal Counsel gave them a detailed briefing on their Terms of Reference and the process of election of Commissioners. Amb. Layi-Kayode Iyanda indicated that the Legal Counsel emphasized that the election process is highly sensitive and that therefore, confidentiality of all information assessed, should be maintained.

18. He indicated that the Office of the Legal Counsel submitted a total of thirty seven (37) candidates to them for analysis and evaluation.

19. Regarding the criteria for analysis and evaluation, the Facilitator informed the Ministerial Panel that the Team decided to retain the five (5) criteria used in the last exercise for the elections of Members of the Commission in 2012, namely education, experience, leadership, achievement and vision and strategy.

20. The Facilitator stated that three (3) candidates were not evaluated. One (1) candidate submitted a CV with scanty information only as to his educational qualifications and expertise and nothing more. The other two (2) candidates did not submit their CVs.

21. On equivalence of educational qualifications, the Facilitator informed the Ministerial Panel that the Consultants had taken into account the UNESCO World Guide which is an authoritative and comparative survey for academic qualifications.

22. Regarding the vision and mission, the Facilitator submitted that in lieu of interviews, this was the most reliable and practicable method of assessment. He regretted the fact that some of the candidates either did not submit their vision and mission or submitted poorly articulated statements.

23. The Facilitator then went on to inform the Ministerial Panel that the scoring was arrived at by consensus after an objective assessment and evaluation of the CVs.

24. The Facilitator highlighted the challenges that were encountered by the Team of Consultants during their assignment. Some of the challenges related to the reduction of the number of the Consultants from ten (10) to three (3), submission of scanty information, no performance evaluation for candidates seeking re-election, and non-compliance on the number and gender configuration of the candidates.

25. The Facilitator drew the attention of the Ministerial Panel to the observations and recommendations that they have made to the Ministerial Panel in order to address the challenges and improve the process in future. The recommendations made were:

- i) The need for improvement in the recruitment exercise by giving it wider publicity at continental, regional and national level as already recommended by the previous Ministerial Panels;
- ii) For effective and efficient pre-selection process, the shortlisted candidates should be interviewed, if there is financial resources to accommodate this process;
- iii) The regions should be encouraged to hire consultants to assist with the shortlisting of candidates at the regional level;
- iv) As part of the application process, candidates should be required to provide certified copies of educational qualification and other relevant documentary evidence;
- v) Furthermore, it should be made clear to prospective candidates that the submission of statement of Vision and Strategy is an important aspect of their application;
- vi) The Assembly should enforce its own rules that require the regions to submit two candidatures for each portfolio; and
- vii) The Commission should endeavour to supply the performance appraisal of any commissioner seeking re-election, in conformity with article 14 of the Statutes of the Commission.

26. The Facilitator ended his presentation with a note of appreciation for the opportunity availed to the consultants to serve the African Union and the continent in that capacity.

VII. CONSIDERATION OF THE REPORT OF THE TEAM OF CONSULTANTS AND THE WAY FORWARD

27. After presentation of the Report of the Team of Consultants, the Ministerial Panel made the following observations:

- i) That It was regrettable that all the regions did not comply with the rules particularly on the number and gender configuration of candidates;
- ii) The deadline for submission of candidates should be extended in order to allow regions to comply with the rules on the submission of candidates as well as to enable candidates submit the missing documents;
- iii) The scoring was not necessary because the regions had submitted suitable candidates. However, other Members were of the view that the scoring, though not perfect, was the only available to evaluate candidates;

- iv) That there were some discrepancies in the scoring of the candidates;
- v) Whether the Consultants were recruited on the basis of geographical considerations. It was also noted that some consultants belonged to countries that had submitted candidates;
- vi) Member States and the regions should be committed and show seriousness to the process as the future of the organization was at stake. In this regard, it was pointed out that it is not difficult to submit a man and a woman for each portfolio and the documentation on or before the deadline;
- vii) The primary objective should be to get the best qualified candidates for the job and that the rules and procedures should be flexible to accommodate this objective;
- viii) That the order of the election should be changed and that it should either be done by drawing lots or alphabetically because the current practice suggests that there is a hierarchy of the portfolios. However, other Members noted that the proposal could only be considered for future elections as the practice which is based on Article 12 of the Statutes of the Commission cannot be changed at this stage.

28. The Legal Counsel and the Facilitator of the Team of Consultants provided clarifications as follows:

- i) That Article 16 of the Statutes of the Commission requires that candidates are circulated three (3) months before the deadline. In this regard, it was not possible to extend the deadline. Furthermore, it was noted that in view of the limited budget, it could not be possible to bring the Team of Consultants for the evaluation;
- ii) Where documents were missing, the Office of the Legal Counsel followed up with the respective Member State and region to submit the same;
- iii) Statistics on the number of candidates were provided for the previous elections, as follows: 75 (2003), 45 (2008) and 25 (2012);
- iv) That the scoring was done in an objective manner and based on the documents submitted. It was pointed out that the final list to be circulated will not have the scores;
- v) It was impossible to ensure geographical distribution on the consultants as they were reduced from ten (10) to three (3). However, they were identified objectively by the Commission based on the need for continuity, gender, AU languages, and the principle that the Consultants should not be from the same countries as members of the Ministerial Panel;

- vi) The Consultants, as persons of integrity, ensured that there was no compromise in the process if some Consultants belonged to countries that had submitted candidates.

29. Egypt informed the meeting that Egypt was withdrawing their candidate on Peace and Security in favour of the candidate from Algeria. In this regard, the Legal Counsel requested Egypt to send an official note to the Office of the Legal Counsel for record purposes.

30. At the end of its discussions, the Ministerial Panel agreed to the following:

- i) Thirty-three (33) candidates as evaluated by the Team of Consultants should be presented to the Executive Council for election and circulated to Member States at least three (3) months before the election in accordance with Article 16 (1) of the Statutes of the Commission. The List of the thirty three (33) candidates excludes the three (3) candidates who were not evaluated by the Consultants as reflected in paragraph 20 above and the one (1) candidate that was withdrawn by Egypt;
- ii) The CVs of the candidates should also be circulated to Member States;
- iii) The list of the candidates should be prepared on the basis of the scores but that no scores should be included;
- iv) The order of the elections should not be changed at this stage and that the practice which is based on Article 12 of the Statutes of the Commission should be maintained.

31. In the light of the observations made by the Members of the Panel, the Legal Counsel and the Team of Consultants, the Ministerial Panel decided to make the following recommendations to the Executive Council:

- i) A strong appeal should be made to Member States and the Regions to comply with the rules and modalities on elections of Members of the Commission;
- ii) The need for the rules relating to the elections to be reviewed in accordance with the decisions already taken previously with a view of addressing the challenges faced. In this regard, the Sub Committee on Rules, Standards and Credentials should be urgently operationalized.

VIII. ANY OTHER BUSINESS

32. No issue was raised under this item.

IX. ADOPTION OF THE REPORT

33. The Panel considered the draft Report and adopted it for submission to the Executive Council.

X. CLOSING REMARKS

34. The Chairperson of the Ministerial Panel thanked the Members of the Ministerial Panel for their meaningful participation and constructive contributions during the meeting. He indicated that the issue was a sensitive one but nonetheless the Ministerial Panel had done justice to it in the interest of the African Union. He further commended the Members of the Ministerial Panel for the efficiency on which they had undertaken their work leading to the adoption of the report.

35. The Chairperson of the Ministerial Panel recalled that the Panel had made a number of critical recommendations to the Executive Council for consideration and indicated that he believed that the Ministerial Panel had created a precedent in the manner future elections would be managed.

36. On behalf of the Ministerial Panel, the Chairperson also thanked the Legal Counsel and his team, the Team of Consultants, interpreters, translators and all the technical staff for their efficient support.

37. The Ministerial Panel then adjourned its meeting.

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