

AUCIL/Legal/Rpt (III)
Original: English

Report of The Third Ordinary Session of The African Union Commission on International Law

I. INTRODUCTION

1. The Third Ordinary Session of the African Union Commission on International Law (AUCIL) was held at the Headquarters of the African Union Commission in Addis Ababa, Ethiopia from 23 to 1 April 2011.

II. ATTENDANCE

2. The following Members of the AUCIL attended the Third Ordinary Session and their names appear hereunder as follows

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| 1. | Mr. Blaise TCHIKAYA | Chairperson |
| 2. | Mr. Atanazio Kayafa TEMBO | Vice-Chairperson |
| 3. | Ms. Lilian Bokeeye MAHIRI-ZAJA | General Rapporteur |
| 4. | Mr. Rafaa Ben ACHOUR | Member |
| 5. | Mr. Minelik Alemu GETAHUN | Member |
| 6. | Mr. Adelardus KILANGI | Member |
| 7. | Mr. Kholisani SOLO | Member |
| 8. | Mr. Ebenezer APPREKU | Member |
| 9. | Mr. Chiekh Tidiane THIAM | Member |
| 10. | Mr. Kamel FILALI | Member |

3. The following Member of AUCIL has resigned his position:

Mr. Nkurunziza DONTIEN

4. The Office of the Legal Counsel which acts as the Secretariat of AUCIL was represented by the following officers during the session:

1. Mr. Adewale IYANDA Legal Officer
2. Mr. Mohammed Khalil BOUKHARI Legal Officer
3. Ms. Lulit GETACHEW Legal Intern

III. OPENING OF THE MEETING

Opening Remarks by Mr. Blaise Tchikaya, Chairperson of the African Union Commission on International Law (AUCIL)

5. In his opening remarks, the Chairperson, Mr. Blaise Tchikaya, welcomed the Members to the Second Ordinary Session of AUCIL in Addis Ababa, Ethiopia.
6. Mr. Tchikaya stated that bearing in mind the mandate of AUCIL, he gave the floor to Members to express themselves on contemporary issues affecting the continent particularly in North Africa and Cote D'Ivoire.
7. In his conclusion, the Chairperson thanked the Members for attending the Third Ordinary Session despite their busy schedules and wished the Members successful and fruitful deliberations.

IV. CONSIDERATION AND ADOPTION OF THE DRAFT AGENDA

8. The Members adopted the following Agenda:
 1. Opening Ceremony
 2. Consideration and Adoption of the Draft Agenda
 3. Organization of Work
 4. Presentation of the Inter-Sessional Activities of the Bureau
 5. Consideration and adoption of the Report of the Second Ordinary session
 6. Presentation of the 2011 AUCIL Budget – Secretariat
 7. Consideration of the 2011 Supplementary and 2012 Budget Proposals
 8. Emoluments and Allowances for Members – Way Forward
 9. Presentation and Consideration of the Reports of the Special rapporteurs:
 - (a) Preliminary study, findings and recommendations on harmonization of ratification procedures in AU – Mr. Rafâa Ben Achour;
 - (b) Study proposal on the study and recommendations on 'teaching, study and dissemination of international law and African Union law – Justice Atanazio K. Tembo;
 - (c) Preliminary study on the abuse and development of a Model Law on Universal Jurisdiction – Mr. Kamel Filali; and
 - (d) Preliminary study on the research and appropriate studies on the juridical basis for reparations for slavery and other related matters inflicted on the African Continent – Mr. Blaise Tchikaya;
 10. Progress Report of the Working Group on 'Research, Information and Publication' and proposals on the 2010 AUCIL Yearbook
 11. Status of the AUCIL Secretariat – Department of AHRD
 12. Status of AUCIL Website – Website Administrator
 13. Finalization of the Provisional Rules of Procedure
 14. Proposals on modalities for conducting a visit to the United Nations International Law Commission
 15. Resource Mobilization and modalities for collaboration with Partners
 16. Consideration and adoption of the Report of the third Ordinary Session
 17. Any Other Business
 18. Date and Venue of the Fourth Ordinary Session
 19. Closing Ceremony

V. ORGANIZATION OF WORK

9. The Members adopted the following working hours:
 - Morning: 09h30 – 13h00
 - Afternoon: 14h30 – 17h30.

VI. PRESENTATION OF INTER-SESSIONAL ACTIVITIES OF THE BUREAU – MR. BLAISE TCHIKAYA, CHAIRPERSON, AUCIL

10. The General Rapporteur, Mrs. Lillian B. Mahiri-Zaja presented a brief report on the inter-sessional activities of the Bureau covering the period November 2010 to March 2011 on the following meetings attended by the Bureau:

- i) Meeting of the PRC Sub-Committee on Administrative, Budgetary and Financial Matters: Consideration of Emoluments for AUCIL Members and 2011 Budget Proposals;
- ii) The 18th And 16th Ordinary Sessions of the Executive Council and Assembly of the Union - 27 to 28 And 30 to 31 January 2011, Respectively; and
- iii) Conference on the Promotion of the Court – 9 – 11 March 2011, Lilongwe, Malawi.

11. After the presentation by the General Rapporteur, the following comments/observations were made by the Members:

- i) That Members should first be consulted before the Bureau attends meetings on its behalf in order to ensure that the Bureau is guided by the input of AUCIL Members;
- ii) AUC did not facilitate the attendance of AUCIL Members at the last AU Summit in January 2011;
- iii) Secretariat should facilitate the attendance of at least three (3) Members at the next AU Summit sessions; and
- iv) Expressed reservation as to why AUCIL was not invited to the last Meeting of Government Experts on the Transformation of the AU Commission into the AU Authority.

VII. CONSIDERATION AND ADOPTION OF THE REPORT OF THE 2ND ORDINARY SESSION

12. The Commission adopted the Report of its Second Ordinary Session with amendments. (See Annex 1)

VIII. PRESENTATION OF THE 2011 AUCIL BUDGET

13. Mr. Adewale Iyanda, Legal Officer informed the members that in accordance with Executive Council decision EX.CL/Dec.600 (XVIII) adopted during its 18th Ordinary Session in January 2011, a total of *Two Hundred and Thirty-Six Thousand, Two Hundred and Fifty US Dollars* (\$236,250) was approved for AUCIL activities for the fiscal year 2011.

14. After presentation of AUCIL budget, the following observations and comments were made:

- i) Need to develop a resource mobilization strategy to urgently address the financial constraints of AUCIL; and
- ii) The executive council decision did not explicitly provide for AUCIL to mobilize extra-budgetary resources like was the case with NPCA.

IX. CONSIDERATION OF THE 2011 SUPPLEMENTARY AND 2012 BUDGET PROPOSALS

15. The Chairperson after a meeting with the Finance department, said he was advised that the AUCIL needs to revise its proposed budget specifically on the following areas:

- a) Air tickets for members to attend the Executive Council meeting and the Assembly of Heads of State – only two members will attend
- b) Procurement of laptops for members (should be funded from partner funds)
- c) Other miscellaneous office expenses such as publication of the AUCIL Yearbook, (should be funded from partner funds)

16. The Commission adopted the 2011 supplementary and 2012 budget proposals with amendments as annexed to this report. (See Annex 2 & 3)

X. EMOLUMENTS FOR MEMBERS OF AUCIL – WAY FORWARD

17. After extensive discussions on the matter, the Members agreed on the need to follow the recommendation by the PRC Sub-Committee on Administrative, Budgetary and Financial matters for all Organs to submit a joint proposal on Emoluments and Allowances for Members of Organs.

18. The Office of the Legal Counsel (OLC) was requested to elaborate the joint proposal bearing in mind the need to reflect in the proposal the peculiarity of AUCIL particularly in the way and manner it has to undertake its mandate.

XI. PRESENTATION AND CONSIDERATION OF THE PRELIMINARY REPORT OF THE SPECIAL RAPPORTEUR ON THE HARMONIZATION OF RATIFICATION PRODUCERS IN AU MEMBER STATES – MR. RAFAA BEN ACHOUR

19. Mr. Rafâa Ben Achour presented his '*Preliminary Report on the Ratification of OAU/AU Treaties and How to Harmonise Ratification Procedures with a View to Speeding-up the Process*' as annexed hereto. He highlighted some of his findings and recommendations which he said was in line with the Study Report conducted by the AU Commission on the same subject matter.

20. After deliberations, Members agreed to defer the consideration of this agenda until its next session in view of the fact that neither the initial preliminary report nor the Resolution, which was the subject matter, had been translated from French to English. The Secretariat was requested to take immediate action to ensure all members receive the translated documents to enable them make inputs at the next session.

XII. PRESENTATION AND CONSIDERATION OF THE STUDY PROPOSAL ON THE 'STUDY AND RECOMMENDATIONS ON 'TEACHING, STUDY AND DISSEMINATION OF INTERNATIONAL LAW AND AFRICAN UNION LAW' – JUSTICE ATANAZIO KAFAYA TEMBO

21. As the Special Rapporteur, Justice Atanazio K. Tembo, was not due to present his preliminary report at this session, he however presented a 'Study Proposal' detailing the Research Methodology, Budget and bio-data of proposed research assistants for the research.

22. After a brief deliberation on the Study Proposal, the Members agreed that the Special Rapporteur present his preliminary report during its next session.

XIII. PRESENTATION AND CONSIDERATION OF THE PRELIMINARY STUDY ON THE ABUSE AND DEVELOPMENT OF A MODEL LAW ON UNIVERSAL JURISDICTION – MR. KAMEL FILALI

23. Mr. Kamel Filali presented his '*Preliminary Study on the Abuse and Development of a Model Law on Universal Jurisdiction*', as annexed hereto. He highlighted some of his findings and recommendations.

24. After a brief deliberation on the Study Proposal, the members agreed that the following title be changed to read:

'AFRICA AND THE QUESTION OF THE APPLICATION OF UNIVERSAL JURISDICTION'

XIV. PRELIMINARY STUDY ON THE RESEARCH AND APPROPRIATE STUDIES ON THE JURIDICAL BASIS FOR REPARATIONS FOR SLAVERY AND OTHER RELATED MATTERS INFLICTED ON THE AFRICAN CONTINENT – MR. BLAISE TCHIKAYA

25. Mr. Blaise Tchikaya presented his '*Preliminary Study Report*' on the research and appropriate studies on the juridical basis for reparations for slavery and other related matters inflicted on the African continent, as annexed hereto. He highlighted some of his findings and recommendations.

26. After presenting his report, the Commission made the following recommendations:
- Commended the Special Rapporteur for a concise and well researched Report; and
 - Requested that a revised report should be resubmitted at its next Session taking into account the observations of Members.

XV. PROGRESS REPORT OF THE WORKING GROUP ON 'RESEARCH, INFORMATION AND PUBLICATION' AND PROPOSALS ON THE 2010 AUCIL YEARBOOK

27. The Working was requested to submit a preliminary report during the next session in Oct/ Nov 2011.

XVI. STATUS OF THE AUCIL SECRETARIAT

28. Following discussions between the Bureau and the Director of Administration & Human Resources Development (AHRD), the Members were informed that AUCIL will be involved in the recruitment of a Secretary for AUCIL. This will be done by sending AUCIL, through Office of the Legal Counsel, the over sixty (60) CVs for selection and short-listing for those who will be interviewed. Members were informed that this will be done in conjunction with the Director AHRD in May 2011.

XVII. STATUS OF THE AUCIL WEBSITE

29. The AU Website Administrator made a PowerPoint presentation of the AUCIL website and briefly discussed in detail the following items on the website:

- i) AU logo;
- ii) Members with profile;
- iii) AUCIL news and events;
- iv) Reports of AUCIL meetings;
- v) Social networking tools;
- vi) Publications and speeches;
- vii) Multimedia gallery;
- viii) Opinion polls; and
- ix) AUCIL newsletter and/or other publications.

30. The Members expressed appreciation for the work done so far and re-affirmed the appointment of Mrs. Lillian Mahiri-Zaja, General Rapporteur as focal point who will liaise with the Website Administrator through the Secretariat to ensure that all the recommendations of the Commission are incorporated into the website.

31. Following the observations by Members, the AU Website Administrator indicated that all comments and observations will be taken into account. Finally, on enquiries he informed the Members that the Website is already LIVE and can be accessed through the AU website.

XVIII. FINALIZATION OF THE PROVISIONAL RULES OF PROCEDURE

32. Discussions on this agenda item were deferred to the next session.

XIX. PROPOSALS ON MODALITIES FOR CONDUCTING A VISIT TO THE UNITED NATIONS INTERNATIONAL LAW COMMISSION

33. Discussions on this agenda item were deferred due to lack of financial resources.

XX. RESOURCE MOBILIZATION AND MODALITIES FOR COLLABORATION WITH PARTNERS

34. During the discussion of this item, Members agreed that it is important to elaborate the AUCIL Strategic Plan, 2011 and 2012 Work plans as well as the 2011 Supplementary and 2012 budgets. In this regard, Mr. Adelardus Kilangi was appointed as Special Rapporteur to elaborate the framework for the Strategic Plan.

35. Following his appointment, Mr. Kilangi elaborated the framework for the Strategic Plan and informed the meeting that the following areas would require input from the Members:

- a) The Vision, Mission and Values of AUCIL
- b) Analysis of Context
- c) Resource Mobilization Strategy

36. After Mr. Kilangi's presentation, Members were appointed to elaborate on each of the areas of the Strategic Plan identified above.

37. After discussions on submissions of the various areas the Members decided that the Special Rapporteur spends extra days in Addis to finalize the Strategic Plan and 2011 and 2012 Work Plan for discussion with Partners at a date to be determined.

XXI. CONSIDERATION AND ADOPTION OF THE REPORT OF THE THIRD ORDINARY SESSION

38. The Commission decided to adopt the Report of its Third Ordinary Session during the next Session in Oct/Nov 2011.

XXII. DATE AND VENUE OF THE FOURTH ORDINARY SESSION

39. The Commission decided while the Bureau will meet from 20 October 2011, the Fourth Ordinary Session will take place from 24 October to 5 November 2011 in Addis Ababa, Ethiopia.

XXIII. ANY OTHER BUSINESS

40. The following issues were raised and discussed by members:

- i) Members should be able to receive the draft agenda in advance so as to make inputs to it. That it is still not practicable to change what is in place now and members could use the Strategic Plan to assist in deliberating issues /items that should be on the agenda.
- ii) The agenda should introduce a new item under which members can discuss topical issues that are relevant to the development of international law.
- iii) AUCIL's procedure of carrying out its work as set out under Article 5 (2) (b) of its Statute: it requires AUCIL to circulate a questionnaire to Member States to solicit information on specific proposals for study. It was generally agreed that such a questionnaire should be presented to members for deliberation and adoption before it is sent out to member states.

XXIV. CLOSING CEREMONY

41. In his closing remarks, the Chairperson thanked all Members for their contributions and for the spirit of cooperation that had enabled the Session to deliver on its mandate. He thanked all the members for the commitment and dedication exhibited during the entire duration of the session and formally closed the session.