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African Union Member States

**Validation of the Feasibility Study on the Operationalization
of the African Humanitarian Agency**

Virtual Meeting

Addis Ababa, Ethiopia

8 – 9 June 2020

DRAFT REPORT

I. BACKGROUND

1. During its Summit held on 30 January 2016, the Assembly of the African Union adopted a Common Africa Position on Humanitarian Effectiveness (CAP), encapsulating Africa's new humanitarian architecture through Decision **Assembly/AU/Dec.604 (XXVI)**.
2. In the Decision, the Assembly also adopted two main tools to strengthen the implementation of the new architecture, namely, African Humanitarian Policy Framework and an African Humanitarian Agency and further requested the Commission to embark on the process for its operationalisation, anchored on the principles of pan-Africanism and African shared values.
3. In 2017, the AU Commission initiated a consultative process and a feasibility study to determine the financial, structural and legal implications of such an Agency. The study was completed in December 2019.
4. Preliminary recommendations of the study were reviewed in a meeting of Member State and Independent Experts that took place in Johannesburg on 15- 17 April 2019. The draft report was subsequently submitted to the 3rd Session of STC on Migration, Refugees and IDPs that was held on 7 to 8 November 2019 in Addis Ababa, Ethiopia.
5. While taking note of the report, the 3rd Session of the STC on Migration, Refugees and IDPs decided as follows:
 - i. Reaffirm the need for the speedy establishment of the African Humanitarian Agency to respond to the humanitarian challenges on the Continent;
 - ii. Request the Commission to expedite the validation of the feasibility study with full involvement of member states and RECs; submit proposals for consideration by the PRC Sub-Committees on Structural Reforms and Budget Matters; develop the Statute for the Agency;
 - iii. Request the Commission to submit all relevant documents on the Agency for consideration by the Extra-Ordinary Session of the STC on Migration, Refugees and Internally Displaced Persons in March/April 2020; with a view to submitting them to the June/July 2020 Executive Council Meeting, for consideration and adoption after receiving authorization from the Assembly of Heads of States of Governments.

7. Furthermore the 36th Session of the Executive Council held in February 2020, in Addis Ababa, adopted **Decision EX.CL/Draft/Dec.2 (XXXVI)** as follows:

- i. REQUESTS the Commission to expedite the validation of the feasibility study on the African Humanitarian Agency with full involvement of Member States and RECs, submit proposals in relation to the structure and budget for consideration by the PRC, and develop the Draft Statute for the Agency;
- ii. APPROVES the organization of an Extraordinary Session of the STC on Migration, Refugees and Internally Displaced Persons in March/April 2020.

8. Due to COVID 19, the Extra-Ordinary session of the STC and the Member State validation meeting of the feasibility study could not be held as earlier planned. The member state and REC validation meeting is therefore in fulfilment of the above decisions.

II. ATTENDANCE

9. The meeting was attended by the following 36 African Union Member States:- Algeria, Angola, Botswana, Burkina Faso, Burundi, Chad, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, ESwatini, Gabon, Gambia, Ghana, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Morocco, Mozambique, Namibia, Nigeria, Rwanda, Saharawi Arab Republic , Senegal , Sierra Leone, Somalia, Sudan, Togo, Tunisia, Zambia, and Zimbabwe. In attendance also were representatives of the following Regional Economic Communities (ECOWAS, COMESA). The meeting had quorum required (34) for such a meeting as per the AU rules and regulations.

III. ORGANISATION OF WORK

The Agenda was adopted. (See attached copy).

IV. OPENNING REMARKS

11. Opening remarks were made by Dr. Khabele Matlosa, Director for the Department of Political Affairs on behalf of H.E Mrs. Minata Samate Cessouma, Commissioner for Political Affairs, who welcomed all delegates to the meeting.

He informed member states that the meeting is a result of the Decision of the 3rd session of the STC on Migration, Refugees and IDPs that was held in November 2019, which was reiterated later on by the Executive Council in February 2020. He noted that COVID 19 had impacted on the continent variously and the most impacted are the 19 million IDPs and 7.8million refugees. He further noted that the meeting was an important step in the operationalization of an African Humanitarian Agency to achieve effective humanitarian response across the continent.

V. PRESENTATION OF THE FEASIBILITY STUDY

12. The feasibility study was presented by Prof. Babafemi A. Badejo, (AUC Consultant) who outlined the background, objectives, rationale, mandate, structure, scope and functions of the African Humanitarian Agency based on the consultations with Member States, RECs, Partners and stakeholders.

13. On the rationale to operationalize the Agency, the study underlines the gaps in Africa's humanitarian action and the important role the Agency will play in addressing the gaps.

14. The study recollects that, the mandate to establish the Agency is grounded in various AU Frameworks and decisions. In particular the Constitutive Act, Agenda 2063 and the Humanitarian Policy Framework and the Common African Position on Humanitarian Effectiveness in Africa.

15. Regarding the operationalization of the Agency, the study recommends two options as the most feasible alternatives and for the structure to be implemented in three phases.

16. The Agency is planned to have 60 staff members when fully operational, under the supervision of a Board that is chaired by the Commissioner for Political Affairs and later, the Commissioner of Health, Humanitarian Affairs and Social Development when the AU reforms take effect; and will also include the Commissioners for Peace and Security and Rural Economy and Agriculture as part of the Board Members.

17. On the functions of the Agency, the study proposes 8 functions: primarily collaboration, advocacy (leveraging on humanitarian law), coordination (analysing and managing information), partnerships, capacity building and resource mobilization.

18. The study recommends that the Agency operates in two different modes schematically compared in the report, depending on existing situations of complex emergencies. Under normal situations the study recommends a focus on issues of research and capacity building efforts to strengthen the capacities of member states and RECs. However, in emergency situations the Agency will provide rapid humanitarian response including needs assessment and assistance.

19. On the structure, the study notes that the present Humanitarian Affairs, Refugees and Displaced Persons Division of the Department of Political Affairs of the AUC will continue to play its advisory role on policy, political, diplomatic and strategic issues at the global, continental, regional and national levels. The Division will also provide an interface with the Agency and the AU Organs and decision-making mechanisms and structures of the AU.

20. That the Agency would benefit from an advisory relationship with the Coordinating Committee on Forced Displacements and Humanitarian Action and report annually to the major organs of the AU

21. At regional level, the study proposes to set up presence in the five regions of the continent.

VI. DISCUSSIONS AND RECOMMENDATIONS

22. The Draft feasibility study on the operationalisation of the African Humanitarian Agency was discussed and adopted with the following amendments (**See attached corrected version of the Study**)

Pg. 2 Acronym/Name of the Agency:

23. The meeting highlighted the importance of ensuring that the name of the Agency reflects African Union ownership. The meeting noted the Assembly in its Decisions had named it African Humanitarian Agency; and agreed to recommend to the Assembly to the change of the name of the Agency to **African Union Humanitarian Agency (AUHA)** to give it visibility as an African Union institution.

Pg. 4 Executive Summary:

24. The meeting was in agreement that reliance on the AU Budget would not be sufficient for such an Agency. They highlighted that the Agency requires resources that are sufficient and predictable and requested that other sources of finances envisioned in the study be spelt out.

Pg.6. Background:

25. The meeting agreed that the Agency is expected to provide support to Member States who have the primary responsibility of providing humanitarian assistance to its citizens. The Agency will therefore provide this support **in line with the humanitarian principles and at the request of Member States, in full consultation and cooperation with its national authorities. Guided by the principle of subsidiarity, there will be need for identifying the humanitarian threshold** that necessitates the request for the Agency's support by Member States and could probably be determined/evaluated by the Board.

26. The meeting further requested that the language used in the report***In effect, AfHA will combine a heavy strategic orientation with a light footprint on operations***be amended to reflect a more humanitarian rather than a military expression.

Pg.9 Principles and African Shared Values

27. Discussions on principles underlined the need for the Agency to operate within the framework of **international law and humanitarian principles**. The meeting particularly laid emphasis on **national sovereignty and the primary responsibility of states to initiate and coordinate humanitarian action in their countries**.

28. The meeting recommended to change the following principles to reflect their discussions as follows:

- (f) to read as follows, "***Humanitarian standards for Accountability***"

- (j) on vulnerable groups to read "***Groups in vulnerable Situations***"

- (m) AU Guidelines for Humanitarian Action to reflect the **SHPERE Standards**; principle. The meeting further noted the importance of the compendium of AU Guidelines on humanitarian action. In addition to the existing guidelines, the meeting called for the formulation of **Standard Operating Procedures (SoPs)** to enhance complementarity and streamline operations across the continent. Such SoPs should include harmonization of areas such as policies, staffing, qualifications and training, equipment and materials. The meeting called on the commission to fully involve member states in the formulation of these guidelines

Pg. 10 last paragraph

29. Replace CEO of Africa CDC and AU Space Agency with appropriate titles. **(Director of Africa CDC and Director General of AU Space Agency)** Regarding the complimentary role of Africa CDC and the Humanitarian Agency, the meeting stressed the need for synergy. The meeting noted that AfCDC would deal with the scientific aspects of the pandemics whereas the AfHA would address the humanitarian consequences of the pandemics.

Situation and Emergency Operations Centre

30. The meeting supported the importance of the situation room proposed in the study and noted that it would play a key role in providing member states with timely information and forecasts.

Pg. 11 SWOT Analysis

31. The meeting noted the importance of SWOT analysis in setting up any organization. The meeting called on the AU Commission to undertake this exercise to pave way for the smooth operations of the Agency.

32. Pg.15 the paragraph on '**Justification**' needs to be aligned with the rest of the paragraphs on this page.

Pg.16 Options in the Operationalisation of the Agency

33. Regarding the process for the operationalisation of the Agency, the meeting preferred the **second option**. This was favoured because it would be less costly. The incremental approach in this option also allows for evaluation of progress.

34. On whether the Humanitarian Agency should have regional presence in the five regions of the AU or in the Eight RECs recognise by the AU, the meeting preferred presence in the former. The decision to locate the region Centres will then vest with the regions. Delegations that favoured location in RECs cited the existing capacities and capabilities as well established which would allow for effective take-off of the Agency.

35. On the location of the Agency, the meeting agreed to temporarily host the Agency in Addis Ababa, to allow for member states to bid for its permanent hosting as will be decided by the Assembly

36. **Pg. 17 Mandate and Functions of the Humanitarian Agency:**

Vision - to adjust as follows;

- “To proactively boost resilience and deliver Africa’s humanitarian action, to all people affected by humanitarian crises on the continent, in close cooperation **with Member States and under coordination of national authorities.**”

Mission – to adjust as follows:

- “To provide AU leadership and that of AU member states in humanitarian actions with respect for complementarity and subsidiarity, **wherever there is a request from Member States.**”

Mandate – It is too vague, it needs to be reworked

- The language should be such that it would not be misconstrued to the Humanitarian Agency having supranational authority or functions

Strategic Objectives

- Objective (b) **To prevent adverse effects of humanitarian crises through addressing root causes** - should be deleted.

Functions

- The meeting deliberated on the functions of the Agency at length and decided that the Consultant’s study was not conclusive. Member States will continue to deliberate on the matter especially when they consider the Statutes of the Humanitarian Agency.
- Levels of collaboration at national and regional levels as indicated in the study need to be identified and clearly spelt out.
- All activities indicated in bullet 1, 2, 3, and 4 in the study should be in full consultation and collaboration with member states and national authorities. These include information sharing and data collection, collaboration with partners at national and regional levels, advocacy, monitoring, research as well as needs assessment should all be undertaken in full consultation with member states and national authorities.

- Training, support and mobilization of resources for member states should only be done at the request of the country.
- It was agreed that the Agency should recognize the sovereignty of States and should not act as a supra-national entity.
- It was further noted that the Agency is not expected to replace other UN and International Humanitarian Organization, nor is it aimed at duplicating their programs and activities. Therefore, the functions of the Agency remain vague in the study and needs to be reviewed and sharpened within the Statutes of the Agency.
- The Commission was requested to develop guidelines for humanitarian assessments which the Agency can use to conduct humanitarian assessments in member states.
- The meeting emphasized the need for the Agency to be innovative and provide a shift in humanitarian response in Africa by providing African solutions and enhance the development humanitarian nexus.

37. Pg. 19 on the Proposed Organizational Structure

The meeting requested the following: -

- Propose a leaner structure linked to RECs/Regions, and preferred the proposal of 39 staff to 61 staff:
- The Commission to provide Job Descriptions for each post;
- On the issue of the Board, some countries felt that the Board should not include the Commission because the Commission remains the Secretariat, and that the Board should be made of member states only. Other countries expressed the need to include Commissioner of Political, Peace and Security because conflicts are part of the root causes of displacements and Commissioner of Social Affairs who has the Humanitarian mandate. Those opposed to this felt inclusion of the Commissioner for Political, Peace and Security will be politicizing the Agency, given that the root causes and the durable solutions are political in nature. The issue was not concluded and will be revisited during the adoption of the Statutes;
- The meeting decided to refer this aspect of the study to the relevant PRC Sub-Committee on Structures.

38. Pg. 20 Financing of the Agency

- The meeting highlighted the need for Funding for the Agency to be predictable, flexible, reliable and sustainable;
- The meeting stated that the proposal to use the 1.5 % of National Budget under Sendai Framework of Work by the Agency, raised legal issues and was also a sovereign decision. They did not support the proposal;
- The legality of the Humanitarian Agency providing services to the private as a form of fund-raising sector should be reviewed;
- The proposal to use the AU Special Emergency Assistance Fund is not viable because the Fund is not replenished for a long time;
- The meeting highlighted the need for ensuring that there are funds available to enable the Agency to undertake timely intervention and management of crises during emergency situations;
- The meeting called for the Agency to institute accountability mechanisms to ensure efficient use of resources.
- Meeting highlighted the need to ensure that the financial implications of hosting the Agency should be included in the Host Country Agreement in order to avoid misunderstanding that can affect the establishment and operations of the Agency;
- The meeting also inquired how the reform process would affect the launch of the Agency and how it fits in the new structure, bearing the additional cost to the Member States;
- The meeting took note of the salary proposals and recommended that the posts and salary scales need to be rationalized and should be harmonized with AU salary scale and be submitted to relevant PRC Sub-Committee on Structures as well as Budget for approval;
- While the consultant highlighted how the Agency can benefit from multiple sources of funding within and beyond the AU, the meeting stressed that the AU cannot establish an Agency without knowing how it will be funded. Therefore, issues related to funding of the Agency must be based on AU Rules and Regulations and should be appropriated through the AU budgetary process and therefore referred this aspect of the Agency to the relevant PRC Sub-Committee on Budgetary matters.

39. Pg. 22 Legal Status of the Agency

- The meeting highlighted that this aspect of the Agency shall be considered under the Statutes of the Agency;
- The meeting requested for member states with comments on the Statutes to send to the AU Commission as soon as possible;
- The Commission was requested to incorporate those comments as soon as possible including those made by the Office of the Legal Counsel and send an updated version to the Member States;
- The Commission to call for a meeting with All Member States to consider the draft Statutes;
- The Office of the Legal Counsel to attend the next meeting and to present the draft Statutes to the Member States for their deliberations.

CLOSING:

The Chairperson of the STC on Migration, Refugees and IDPs, who was also the chairing the meeting, thanked all member states for actively participating in the meeting and encouraged them to do the same in the next meeting that will be considering the Statutes of the Agency and will also adopt the Report of this meeting. He requested the Commission to share with member states the report of the meeting in good time to enable them prepared adequately for its adoption.

There being no other issued to discuss, the chairperson of the meeting declared the meeting closed.