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**17TH SESSION OF THE AFRICAN COMMITTEE
OF EXPERTS ON THE RIGHTS
AND WELFARE OF THE CHILD (ACERWC)
22-25 MARCH 2011
ADDIS ABABA, ETHIOPIA**

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REPORT

I. INTRODUCTION

1. The 17th Meeting of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) was held at the AUC Conference Centre, Addis Ababa, Ethiopia, from 22 to 25 March 2011.

II. ATTENDANCE

2. The Meeting was attended by Her Excellency Mrs Memounatou Ibrahima, Minister of Social Action and National Solidarity of the Republic of Togo with the Togo delegation, the Delegation of the Republic of Cameroon, the 11 Members of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), as well as the Representatives of the AUC Department of Political Affairs, the AUC Directorate of Women and Gender Development, UNICEF, UNHCR, *UNOHCHR*, Plan International, Save the Children, ICRC, World Vision, African Child Policy Forum (ACPF), Child Helpline International, *Community Law Centre of the University of Western Cape*, Child Protection Alliance (CPA) Gambia, Defence for Children International Sierra Leone, FODDET Togo, CONAFE Senegal.

ITEM 1: OPENING CEREMONY

3. Two statements were made during the opening session

Statement of the Commissioner for Social Affairs, African Union Commission

4. The Statement of the Commissioner for Social Affairs of the AU Commission was read by Dr. Johan L. Strijdom, Head of Division Social Welfare, Vulnerable Groups, Drug Control and Crime Prevention.

5. She expressed concern about the small number of State Parties that have fulfilled their reporting obligation to the Committee as stipulated within the Charter. She further called upon all State Parties to consider their reporting obligations under the ACERWC in order to present the progress made towards the implementation of the Charter. She reaffirmed the Commission's commitment to addressing the situation of African children, and reported some remarkable achievements made including: the AU Commission's launch of the State of African Children's 2010 Report as a useful tool for advocacy and information on statistics of children on the continent. The AUC was also finalizing the preparation of a Monitoring and Evaluation Tool for Africa to be used for follow up with Member States on their progress in implementing the priority actions of the Call for Accelerated Action towards Africa Fit for Children.

6. She further noted the successful launching and related activities by more than 23 AU Member States of the Campaign for Accelerated Reduction of Maternal and Child Mortality in Africa (CARMMA).

7. She also commended the Committee for choosing the theme of this year's Day of the African Child, imploring Member States to take bold actions to ensure street children enjoy all the rights prescribed by the Charter.

8. She concluded by congratulating the national and international NGOs for organizing the CSO Forum in the interest of African children and also for providing support to the Committee in achieving its mandate.

Statement by the Chairperson of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC)

9. The Chairperson of the ACERWC, Mrs. Agnes Kabore, in her remarks thanked the Commissioner for Social Affairs and the Director for their commitment and support rendered to the Committee and also for the warm welcome given to the new committee Members. She expressed concern about the various constraints that have hampered the Committee from carrying out its mandate including, its status and capacity as well as the absence of financial autonomy. She recalled that in the previous two AU Summits recommendations to address these constraints had been submitted by the Committee.

10. The Chairperson further updated the meeting on the status of the preparations for the Celebration of the Day of the African Child, whose theme of the year is: '**All Together for Urgent Action in Favour of Street Children**'. She elaborated that the theme was selected because of the gravity of the impact on children living on the streets, the role of adults in providing positive influence upon the street children protecting them and ensuring that they enjoy the benefits provided by charter on the rights and welfare of the child.

11. The Chairperson of the Committee concluded her remarks by presenting the Agenda of the 17th Session, urging participants to fully take part and provide the necessary inputs.

Introduction of the New Committee member

12. Professor Julia Sloth-Nielsen, a newly elected member, was introduced.

ITEM 2: CONSULTATION AMONG COMMITTEE MEMBERS (CLOSED SESSION)

Amendment to the Program of Work

13. Acting in a closed session, Members of the Committee made several amendments to the Agenda, including slightly changing the time for deliberating on the SIDA Project Proposal, whereby the first session scheduled on 14.30-16.30 will be committed to the Proposal and the time between 17.00 and 18.00 will be committed for deliberating on critical issues affecting children in crisis (Libya and Ivory Coast).

Swearing in of Members of the Committee

14. The Deputy Legal Counselor of the AUC swore in Prof. Julia Sloth-Nielsen and Ms. Maryam Uwais as members of the Committee.

ITEM 3: PROCEDURAL MATTERS

(a) Adoption of the Agenda and Programme of Work

15. The Agenda and Programme of Work were adopted as amended.

(b) Organisation of Work

16. The Committee agreed to conduct its deliberations in open and closed sessions according to the Agenda.

ITEM 4: BRIEF PRESENTATIONS BY PARTNERS

17. The Chairperson of the ACERWC invited representatives of the partners present to make brief presentations on their work with the Committee. Amongst the highlighted issues in the presentations include:

18. The Representative of **UNICEF**, which is a lead UN agency on children's matters, highlighted the achievements of the collaboration between the Committee and UNICEF regarding advocacy for ratification of the Charter and in the celebration of the Day of the African Child. This year's theme is related to street children which will enable appropriate reflection on the situation and prompt actions to address this issue. She said that statistics show that an estimated 32 million children live in the streets in Africa. She concluded by stressing deep concern on the crisis in North Africa whereby children and youth are being killed and injured, pleading with the concerned authorities to find a rapid solution to this crisis.

19. **The Representative of African Child Policy Forum (ACPF)** informed the meeting of the launch of their report on the Child Well being (2011), which focuses specifically on the issue of child budgeting. He said that there was a need to move from pledge to concrete action, i.e. budgeting for children. Thus, the report makes a plea to governments to live up to their commitments through the development of priority activities for children and allocation of sufficient resources for the implementation of these activities.

20. The Representative of the **Child Helpline International (CHI)** introduced her Institution, saying that CHI is a global network with thirty (30) partners in Africa ranging from government organizations to NGO's. CHI's role is to gather data which then becomes the voice of children. The analysis of the data is used to lobby and advocate for the promotion of children's rights with governments. Their vision is to establish a Child helpline system in each country.

21. The Representative of the **Office of the High Commission on Human Rights** supported UNICEF's statement, and highlighted the collaboration between the AU and the Office of the High Commission on Human Rights in three areas, namely supporting the AU Capacity Building Strategy; signing a Memorandum of Understanding between the Office of the High Commission on Human Rights and the AUC for further collaboration; and the collaboration between the African Committee and the UN CRC.
22. The Representative of **Plan International** highlighted the relevance of the theme of the Day of the African Child for 2011. She requested the Committee to look for ways on how to enhance its collaboration with the African Commission on Human and Peoples' Rights as well the UNCRC, particularly during the draft of the Protocol on Individual Communication.
23. The Representative of the **AUC Political Affairs Department** informed the meeting of the Human Rights Strategy for Africa which will be a tool to enable the three arms dealing with Human Rights, namely the African Court on Human and People's Rights, the African Commission on Human and People's Rights and the African Committee on the Rights and Welfare of the Child, to liaise and consult on issues of mutual concern as well as harmonize their Rules of Procedure. The Strategy will be implemented through a platform endorsed during the 16th Assembly of the Union.
24. The Representative of **World Vision International** highlighted the work of her institution in the advocacy and community-based work for the most vulnerable children, and she also said that they are developing tools for child participation.
25. The Representative of **Save the Children** urged the Committee to bring the issue of budgeting for children in the forthcoming meetings of Ministers of Finance and Health to enable that appropriate resources are made available to the sector. He concluded by reiterating the commitment of Save the Children in collaborating with the Committee in its work with the RECs, particularly ECOWAS and SADC.
26. The Representative of **CONAFE Senegal** highlighted the challenges facing the training on child rights issues; access to education for children with disabilities; and the allocation of adequate resources for children.
27. The Representative of the **Community Law Center University of Western Cape** introduced his institution's work and activities undertaken in relation to supporting law reform in Southern and East Africa, and advocating for effective engagement of children with disabilities in the education system..
28. The Representative of **Child Protection Alliance (CPA) Gambia** presented his institution, informing the meeting that the African Children's Charter was recently translated into three local languages to enable ease of reference by the communities in The Gambia. CPA is working closely with Gambian authorities to ensure that the report of the Gambia is presented to the Committee during its next session.
29. The Representative of **Defence for Children International in Sierra Leone** mentioned that his organization works mainly with issues related to juvenile justice and

age of criminal responsibility. He requested the Committee to work towards having a common minimum age of criminal responsibility in Africa.

30. The Chairperson of the Committee commended all the partners for their continued support to the Committee and pledged that the Committee would translate these recommendations into action.

ITEM 5: PRESENTATION OF THE NGO FORUM RECOMMENDATIONS TO THE ACERWC

31. In the recommendations, presented by the Executive Director of the ACPF, representing the 4th CSO Forum held from 19th to 20th March in Addis Ababa, the CSO Forum requested the Committee:

- To strongly consider having a day of general discussion on children living and/or working on the street with the relevant stakeholders, including children, with the goal to establish agreed-upon indicators that would inform policy, programmatic interventions and research.
- To urge State Parties to ratify and domesticate the African Union Convention for the Protection and Assistance of Internally-Displaced Persons in Africa (Kampala Convention) to grant greater protection to women and children.
- To adopt a General Comment on article 24 of the African Children's Charter giving consideration to issues relating to alternative care including inter-country adoptions in the best interest of the child within the African context.
- To adopt a resolution on the rights of children with disabilities.
- To give an advisory opinion on article 13 of the African Children's Charter, giving due consideration to the language that promotes the dignity of children with disabilities.
- To call upon states to properly implement laws and policies passed and adopted for the rights and well-being of children with disabilities.
- To adopt guidelines on how child participation will be realized in the fulfillment of their mandate.
- To meaningfully engage children in the identification of the theme of the Day of the African Child.
- To liaise with the African Commission on Human and Peoples' Rights and other regional and international human rights mechanisms to ensure the protection of the rights of children in these countries which have ratified this Charter.

- To strongly urge these nine remaining countries to ratify the African Children's Charter.

32. The CSOs also presented a communiqué made at the same forum on the situation in Libya requesting the Committee to urge the parties in the conflict to ensure that:

- **The right to free movement** of people and children within Libya without fear of violence, according to international law and the African Union Convention for the Protection and Assistance of Internally-Displaced Persons in Africa (Kampala Convention);
- The **protection of children in armed conflict** and to further ensure that civilians, especially children, are not harmed by the ongoing violence, having due regard to United Nations Security Council Resolutions 1612 and 1973;
- The safe **transit of humanitarian supplies and personnel** into Libya and to allow children and their families to access food and humanitarian assistance, especially the roughly 700,000 children apparently trapped in Tripoli;
- The **distinction between military and non-military targets**, including hospitals, schools, and areas populated by civilians;

33. After the presentations and discussion which followed, it was agreed that the situation of violation of children's rights in Code d'Ivoire should also be considered by the Committee.

ITEM 6: CONSIDERATION OF COMMUNICATIONS RECEIVED (CLOSED SESSION)

34. The Committee considered two communications received previously.

Communication concerning violations of Right to Nationality of Nubian Children in Kenya

35. The Committee conducted a hearing on the communication Com/002/2009 concerning violations of nationality rights of Nubian children in Kenya, whereby the authors of the communication were heard on merit. The Committee noted that, despite *Note Verbals which have been sent* the Note Verbal which has been sent, the Government of Republic of Kenya did not send a declaration or written statement to contradict the communication nor did it send a representative to present the government's position. The Committee decided to go ahead to consider the merit of the communication.

36. After consideration, the Committee adopted the decision where it found the Government of Kenya in violation of the alleged rights and reserved its detailed decision, to be given *as soon as possible* within a month from this date, detailing its reasoning as well as the recommendations it would make to the Government of the Republic of Kenya

in respect of remedies that it deems appropriate in order to promote, protect, respect and fulfill the best interests of the children of Nubian *descent* in Kenya.

Communication on Violation of Children's Rights in Northern Uganda

37. After consideration, the Committee declared admissible the communication concerning violation of children's rights in Northern Uganda.

ITEM 7: CONSIDERATION OF STATE PARTY REPORT: CAMEROON

38. The Representative of Cameroon requested that consideration of Cameroon's report be rescheduled for the next session of the Committee. The latter took note of the request and decided that Cameroon's report would be considered at its next session

ITEM 8: CONSIDERATION OF STATE PARTY REPORT: TOGO

39. After extending words of welcome to the Togolese delegation led by her Excellency Mme Memounatou Ibrahima, Minister for Social Action and National Solidarity, the Chairperson of the Committee thanked Togo for submitting its report on the implementation of the Charter and responding to the invitation to present the report before the Committee.

40. The Chairperson gave the floor to the Rapporteur for the Togo report who made the opening remarks.

41. The Minister informed the Committee that the Republic of Togo ratified the African Charter on the Rights and Welfare of the Child in 1998 and this was followed by development of a series of instruments (within the framework of their constitution) to facilitate implementation of the charter. These instruments include a law prohibiting FGM, abolition of human trafficking, the civil status decree, and prohibition of child labour, all harmonised with international principles.

42. The Minister also informed the Committee that the Republic of Togo has various structures and institutions in place to implement the various pillars of the Charter, such as, the national Committee for Reintegration of Children after human trafficking, the national committee for abolition of child labour and the directorate for access to rights and justice. These important arms of government are specialized in their respective areas and authority has been decentralized to them.

43. The Committee was also informed that the Republic of Togo has various fora on which it addresses child rights issues such as the Children's clubs, radio and TV programmes hosted by children and a toll free telephone line for child rights issues. The Government of the Republic of Togo has established partners to work with in fostering the rights of the child, notably UNICEF, UNHCR and some CSOs.

44. As part of implementation of the rights of the child, the Government of the Republic of Togo is offering to children free primary education, school feeding

programmes, provision of educational materials, vitamin A supplementation and immunisation, and distribution of Insecticide Treated Nets.

45. The Committee was informed that there are no Judges or courts specialized in child rights, so the Republic of Togo has embarked on training of Judges, lawyers and law enforcement officers. In order to protect children that are breastfeeding, custodial sentences are not imposed on mothers for minor offences. In the event of a custodial sentence, efforts are made to separate the mother from the child unless she refuses to consent.

46. The main challenges faced in implementing the charter are deficiency of funds and difficulties in obtaining data. Financial challenges have led to the closure of some centres for handicapped children.

47. After hearing the Togolese Government delegation, the Committee raised several concerns which were addressed by the delegation as follows;

- Juvenal justice
- Child legislation
- Education
- Child labor
- Traditional practices affecting children
- Health system
- The Republic of Togo shall embark on more research in order to get baseline data and to enumerate the causes of the problems towards child rights.
- Preparations for the Day of the African Child are going on well and subject to availability of funds, some members of the committee may be invited to participate.
- Provided the objectives are well clarified, the Republic of Togo is ready to receive a lobbying mission on the Charter.
- The submission of a proposal to the Global Fund, seeking funds to promote the rights of the child.

48. The Chairperson of the Committee thanked the Togo delegation for the clarity of the responses provided and indicated that the Committee would transmit its recommendations and observations to the Republic of Togo.

ITEM 9: DISCUSSION ON SIDA PROJECT PROPOSAL (CLOSED SESSION)

49. The floor was given to the Consortium Representatives to update the Committee on progress. They informed the meeting that SIDA had approved the proposal and they had given firm assurance that they support the collaboration between the Committee and the Consortium.

The Consortium indicated that SIDA would not be the only source of funding and they were willing to solicit funding from other sources. The Consortium however stressed

they expected the AU to remain the main source of funding for the activities of the Committee.

50. After the presentation the Committee Members sought clarifications on a number of issues, particularly those activities that have to do with the budget, that is:

- (i) Induction for new committee members;
- (ii) Lobby the chairperson of the AU and PRC for ACERWC resources and functionality;
- (iii) Assist the ACERWC to finalize and adopt its communication guidelines and Rules of Procedure in a workshop with the three treaty bodies (ACERWC, ACmHPR and ACtHPR);

51. Committee Members also sought clarifications on the following contractual and administrative issues:

- (i) Redefinition of the partnership between the CSO Consortium, the Committee and the AUC (Department of Social Affairs);
- (ii) Contractual responsibilities of the respective parties to the envisaged Project;
- (iii) Inconsistence in the translation of the draft Project Proposal from English to French; and
- (iv) Project Governance.

52. After the representatives of the CSO Consortium made respective clarifications on the issues above mentioned, the Committee requested representatives of the CSO Consortium to re-work on the draft proposal so as to have a correct translation of the document and send it to the Secretariat of the Committee

53. The Committee also agreed to collaborate with the Consortium on the SIDA project and request the consortium to formalize it within the context of AUC rules.

ITEM 10: DISCUSSION ON CRITICAL ISSUES (CLOSED SESSION)

54. Issues Affecting Children in Crisis in Africa (Libya and Ivory Cost: The Committee discussed the critical situation of wanton violations of children's rights in Africa, particularly Libya and Ivory Coast. In particular, it was deeply worried with the violations of children's rights in the countries currently experiencing political unrest and resolved to denounce these violations

55. Allocation of an autonomous budget to the Committee: following discussions on the issue, the Committee observed that the decision taken by the Member States to adopt the 2012 budget at the June 2011 Summit makes it practically impossible for it to

submit an autonomous budget proposal at this stage, the Committee thus decided to later submit an autonomous budget proposal for 2013.

ITEM 11: CONSIDERATION OF COMMITTEE WORKING DOCUMENTS FOR REVIEW: RULES OF PROCEDURE (CLOSED SESSION)

56. After canvassing some Rules of the Draft Document, the Committee decided to continue working on the remaining Rules in another meeting to give more time to review the draft Rules, it was agreed that the representative of the Legal Counsel would be invited. The Committee requested Save the Children support.

ITEM 12: DISCUSSION ON THE DELOCALIZATION OF THE ACERWC SECRETARIAT (CLOSED SESSION)

57. The Chairperson informed members that during the presentation of the Committee's report at the Summit of the African Union held in Kampala in June 2010, Burkina Faso and Angola proposed to explore the possibility of hosting the secretariat of the Committee.

58. The Secretary of the Committee informed members that she had been approached by the representative of the Embassy of Lesotho who expressed their wish to host the secretariat.

59. After discussions, the Committee reiterated its desire to see its Secretariat relocated from the Headquarters of the African Union Commission; it was thus decided to again contact State Parties which had made proposals to that effect. A working group was set up to reflect and present a report on the financial, material and human resource implications, drawing inspiration from the example of the African Court on Human and Peoples' Rights in Arusha and the African Commission on Human and Peoples' Rights in Banjul. Mr Benyam Mezmur was designated to draft a host country agreement.

60. It was also decided to approach partners to solicit their support.

ITEM 13: ADOPTION OF THE THEME OF THE DAY OF AFRICAN CHILD FOR 2012 AND PREPARATION OF THE CELEBRATION FOR 2011(CLOSED SESSION)

61. **Adoption of the theme of the Day of African Child for 2012:** The Committee discussed and adopted the DAC for 2012 as follows: "The Rights of Children with Disabilities: The Duty to Protect, Respect, Promote and Fulfill."

62. **Preparation of the celebration for 2011:** With regard to the preparations for 2011's DAC, the Committee was informed that two institutions working with street children in Africa had requested the Committee to collaborate in preparing the 2011 DAC. The Committee agreed to work with the two institutions and directed the Secretary to inform them to that effect.

ITEM 14: CONSIDERATION OF OBSERVER STATUS APPLICATIONS (CLOSED SESSION)

63. The Committee noted that Save the Children had presented a copy of a host country agreement with a State Party, namely Kenya, and thus decided to withdraw the reservations on granting it observer status.

64. The Committee examined the request for observer status from Child Helpline International and decided to grant it, subject to the presentation of a host country agreement with a State Party to the Charter and of a declaration of commitment to support the work of the African Union and the Committee and to promote the dissemination of information on its principles and activities.

65. The Committee decided to refer the examination of the request for observer status from Community Law Centre to one of its members, who will present a report thereon at the next session.

ITEM 15: COLLABORATION WITH THE UNCRC (CLOSED SESSION)

66. Following a presentation by the Chairperson on actions undertaken within the framework of this collaboration, it was decided that: -Mr. Benyam **D. Mezmur** should continue to work on the 2 conventions with Mr Kemal Filali, who was designated by the United Nations Committee on the Rights of the Child.

67. – to conduct, in 2011, two joint activities with the UN Committee, namely a sensitization mission on the African Charter to a member country and a joint workshop on the recommendations and observations of the two (2) committees. The Secretary of the Committee, in collaboration with Mrs Agnes Aidoo, Vice Chair of the UN Committee, with the assistance of Mr Yanclo Cyprien and Prof Julia Sloth-Nielsen, will prepare draft terms of reference for these two (2) activities.

- UNICEF support will be solicited for implementing these activities.

ITEM 16: ADOPTION OF THE THEMATIC (CLOSED SESSION)

68. The Committee adopted the thematic and the members were assigned thematic areas as follows:

- Violence against children:**Dr. Benyam D. Mezmur;**
- Child Education :**Alfas Chitakunye;**
- Juvenile justice:**Maryam Uwais;**
- Child Participation: **Cyprien Yanclo;**

- Integrated development of early childhood:**Felicite Muhimpundu;**
- Survival and development:**Fatima Delladj-Sebaa;**
- Orphaned and other vulnerable children:**Amal Muhammad al-Hangari;**
- Family responsibilities and child responsibilities:**AndrianirainyRasamoely;**
- Registration of children: **Prof. Julia Sloth-Nielsen;**
- Child abuse and exploitation:**Agnes Kabore;**
- Children in armed conflicts and natural disasters, refugee and displaced children: **Clement Mashamba.**

ITEM 17: Any Other Business (Closed Session)

69. The Committee noted with concern that it had received State Party Reports of only 14 countries out of 46 ratifications, and decided to send *Note Verbal* with an updated table on the ratification and the submission dates to all member state to draw their attention

70. The Committee resolved that members should regularly endeavor to consult each other online as well should acknowledge receipt of online correspondences from their colleagues.

71. The Committee received and considered a template prepared by Prof Julia Sloth-Nielsen regarding the Day of the African Child (DAC); and it was unanimously adopted subject to it being translated into French for Francophone members to comment on. The Template would be circulated by the Secretariat to all States Parties to the Children's Charter so that it would be used to report on the commemoration of the DAC.

ITEM 18: Adoption of the draft Report

72. The report was adopted as amended.

ITEM 19: Closing

73. The Secretary of the Committee on behalf of the Department of Social Affairs commended the members of the Committee for their participation especially for the quality of work accomplished and reassured that the outcome would be submitted to the Commissioner.

74. She also thanked the Partners for their usual support which has enabled the Committee to undertake its mandate.
75. The Chair of the Committee in her closing remarks thanked the Committee members for having demonstrated seriousness in doing their work which led to the success of this session.
76. She further thanked the staff of the Department of Social Affairs that did not spare any effort in ensuring the success of the session. She then declared the 17th session officially closed.