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Meeting of Member States Experts
on the consideration of the Pan African Investment Code (PAIC) and the African
Inclusive Market Excellence Center (AIMEC)

REPORT

21-23 November 2016

Nairobi, Kenya

I. Introduction

1. The meeting of the Experts from Member States on consideration of the Pan African Investment Code (PAIC) and the African Inclusive Market Excellence Center (AIMEC) was held on 21-23 November 2016, at the Laico Regency Hotel, in Nairobi, Kenya.

II. Attendance

2. The meeting was attended by representatives from the following Member States: Republic of Algeria, Republic of Burundi, Burkina Faso, Republic of Chad, Union of the Comoros, , Arab Republic of Egypt, Republic of Gabon, Republic of Ghana, , Republic of Cote d'Ivoire, Republic of Kenya, Republic of Lesotho, Republic of Liberia , Republic of Madagascar, Republic of Mauritania, Republic of Namibia, Republic of Niger, , Republic Arab Saharawi Democratic, Republic of Senegal, Republic of Sierra Leone, Republic of South Africa, Republic of the Sudan, Republic of Tanzania, Republic of Togo, Republic of Tunisia, Republic of Uganda, Republic of Zambia and Republic of Zimbabwe
3. The meeting was also attended by representatives from the Common Market for Eastern and Southern Africa (COMESA) and UNDP. The list of participants is attached.

III. Adoption of the Agenda

4. The meeting adopted the following Agenda items:
 - i. Opening Remarks;
 - ii. Presentation and discussion on the AIMEC;
 - iii. Presentation and consideration on the PAIC; and
 - iv. Closing Remarks.

IV. Opening remarks

5. Dr. Rene Kouassi N'Guettia Director of Economic Affairs Department at the African Union Commission, delivered opening remarks.
6. He recalled that the present Meeting emanated from the last Specialised technical Committee (STC) on Economy, Finance and integration that was held in March 2016 in Addis Ababa, Ethiopia, which requested the African Union Commission to:
 - Undertake deep consultation on the Pan-African Investment Code (PAIC)

- Undertake a feasibility study on the African Inclusive Markets Excellence Center (AIMEC)
7. He noted that the African Inclusive Markets Excellence Center is intended to become the premier African regional platform for leadership and action on inclusive business and inclusive markets and an accelerator of best practices in inclusive business and inclusive markets programmes and policies. He informed the meeting that the objective of the meeting was to get the participant's opinion about the Centre as the Member States are the main stakeholder of AIMEC and discussing how we can improve the concept of AIMEC. He informed the meeting that the African Union Commission is partnering with UNDP on the AIMEC project and received their support in the elaboration of the Business Plan.
 8. He recalled that the third Conference of African Ministers of Integration (COMAI III) held in Abidjan (Côte d'Ivoire) from 22 to 23 May 2008 mandated the African Union Commission (AUC) to "develop a comprehensive investment code for Africa with a view to promoting private sector participation." The decision was subsequently endorsed by the Heads of State and Government of the AU at Sharm El Sheikh Summit, Egypt in 2008.
 9. He informed the meeting that the draft PAIC was considered by governmental and independent African experts on investment law at a series of consultations at regional and continental levels. They have made a thorough analysis of the Code and proposed amendments that have been incorporated and reflected in the final version of the Code.
 10. He pointed out that the development of the PAIC is based on the idea that national, regional and continental dimensions must be taken into consideration in order to propose a conducive legal environment to promote the flow of investments in Africa and facilitate intra-African trade and promote cross-border investment.
 11. The development of the PAIC forms part of a broader continental framework, namely Agenda 2063, based on a coherent strategic framework for development whose foundation is the promotion of a more inclusive and sustainable growth, the engine of structural transformation on the continent.
 12. He finally thanked participants for their presence which shows their commitment to Africa's development and called upon them to improve the draft PAIC as well as the AIMEC Business plan and validate both drafts in order to be submitted to African Ministers of economy, finance and integration at their next conference to be held end March 2017 for adoption.

V. PROCEEDINGS

13. The meeting on AIMEC was chaired by Dr. René Kouassi N'Guettia Director of Economic Affairs Department at the African Union Commission,

A. AFRICAN INCLUSIVE MARKET EXCELLENCE CENTER

14. The background and needs of the AIMEC was presented by a representative of UNDP. He presented the African Inclusive Markets Excellence Centre and informed the meeting that the objective is to get stakeholder feedback on the business plan and understand how to improve it, discuss how to implement AIMEC in an efficient and good way and discuss how next steps can be taken.
15. He highlighted that AIMEC is planned to be the premier pan-African action oriented platform on inclusive business (IB) and inclusive market development (IMD): identifying, promoting and facilitating the replication of best practice and innovation in IB and IMD policy, programming and partnerships.
16. Regarding the research methodology of developing AIMEC Business Plan, he explained that it integrates multiple sources and that Inclusive businesses bring low-income people to the value chain - on the demand side as customers, and on the supply side as employees, producers and entrepreneurs.
17. He noted that AIMEC is in full support with Africa's development frameworks such as Agenda 2063 and AIMEC will collaborate with Regional Economic Communities (RECs) to incorporate best practice in promoting inclusive markets in regional value chains.
18. He informed the meeting that AIMEC will support more inclusive markets and businesses, thus facilitating job creation, income generation, poverty reduction, regional economic integration and inclusive growth. In addition, AIMEC will provide seed funding for the replication of good practices in IB and IM policy and will be the repository of top and actionable knowledge and good practices in the area of inclusive growth partnerships with Private Sector through IB and IM. Research at AIMEC will provide evidence whether and where sub-regional or country-specific action is needed according to specific circumstances.
19. A presentation of the details regarding the AIMEC's strategy. The presenter focused on the mission, the vision, the services, the target audience, and the topics and the sectors to cover. AIMEC aims to be a recognized platform for thought leadership and action on inclusive business (IB) and inclusive markets (IM). The AIMEC's activities can be divided into three pillars
i) Pillar 1: *Identify the IB and IM policies and programs.* ii) Pillar 2: *Facilitate the collaboration of key actors and facilitation of the replication, adoption and development of best practices.* iii) Pillar 3: *Replicate and support scaling of successful programs and piloting of innovation in IB and IM.* AIMEC will target both the public and private sector stakeholders and will facilitate public-private collaboration. AIMECS will select an annual thematic sectors/focus, identify research in IB/IM programs and policies in (sub) sectors, and will dedicate a report to the selected themes.
20. A presentation of the organizational set-up of the centre was done. The presenter made proposals on the details of organizational set-up including the different options for ownership/legal structure, governance, staffing. The operational success factors are the following: clear ownership and leadership,

Pan-African outlook, flexibility, ability to attract funding and earn money. The two options are:

- i) Structural option I: AUC owned centre and regarding the legal structure the centre should be a Project of an existing AUC unit or a trust/foundation;
- ii) Structural option II: Centre owned by others organizations linked to AUC, with a pan-African outlook;

21. The following criteria for hosting the AIMEC were also proposed:

- The host country is interested in leading the development of solutions for IB and IM and will provide political support and leadership to the Centre.
- The location should be politically stable to ensure a conducive operational and working environment.
- The host country should supply financial and/or in-kind resources, at a minimum during the set-up phase.
- The Centre should be located close to relevant institutions to be able to build up networks and participate in events and meetings easily.
- It will be beneficial if the location has a high ease of doing business to enable smooth operations

Discussion

22. The meeting raised the following issues:

- The integration of various ongoing initiatives and processes within the AIMEC was mentioned as critical to the Center
- The need to show solidarity between African countries
- The necessity to review and harmonize fiscal policies in order to attract the entrepreneurs operating in the informal sector;
- The value proposition of AIMEC is clear and appealing for the participants. The initiative is very important, especially for small companies;
- The role of AIMEC in providing access to domestic and foreign markets outside Africa and the potential role of the diaspora;
- Necessity of collaboration with others institutions like African Development Bank and Regional Economic Communities;
- In addition to the annual report, the use of new technologies / virtual platforms for dissemination would be beneficial;
- The funding issue and the important role of the member states for an internal funding. The funds for AIMEC not yet secured but discussions with donors have started;
- The sectors to focus on: Agribusiness, energy but also fisheries;
- The AIMEC will not provide directly investment funds for small companies, but it might allocate funds for training and will identify best practices;

- The issues of trade barriers and road harassment: Some progress toward regional integration (AU passport, Common market in Africa, the financial institutions etc.). AIMEC will be an additional one;
- AIMEC a mechanism to promote public-private partnership for inclusive growth;
- The need to be action-oriented in order to be attractive. Move quickly from ideas/initiative to project/action.
- The organizational structure to recommend (UN, AUC or in between), the successful models that exist and the staff recruitment;
- Necessity that AIMEC is administrated by Africans;
- Necessity to clearly define the mechanism of management and funding;
- AIMEC should be an autonomous structure but with a reporting system supervised by the AUC;
- Need to avoid too much bureaucracy and slow decision making process;
- Possibility to initially start as a project/program;

Recommendations

23. The following recommendations were proposed:

- i. Clearly identify/define the concept of *best practice* and how to measure it;
- i. Not only focus on *good practices* but also on failures/bad practices;
- ii. The AIMEC should be an AU's centre;
- iii. Make the centre autonomous, independent and technical; and
- iv. Envisage the expansion of the centre and the creation of regional offices;
- v. Validate the Business plan and agree to submit it to the consideration of the STC in March 2016.

Way Forward and Next steps

24. The Chairperson informed the meeting that the AIMEC Business plan will be reviewed before its submission to the Conference of African Ministers of Economy, Finance and Integration in March 2016 for adoption.

25. He called upon representatives of Member States to engage internal consultations to raise awareness about the centre and make proposals on potential hosting countries.

26. He informed the meeting that after a decision on the creation of the Centre by the AU Summit, a hosting agreement will be negotiated with the Member State that will be chosen to host the centre.

B- Pan-African Investment Code (PAIC)

27. The meeting elected its bureau as follows:

- Chairperson Kenya
- 1st Vice Chair Chad
- 2nd Vice Chair Togo
- 3rd Vice Chair Egypt
- Rapporteur Zimbabwe

28. The meeting on PAIC was chaired by Ms. NG'ENO Roslyn from the Kenya Investment Authority (KenInvest).

29. A representative of the African Union Commission made a presentation on the Pan-African investment Code. He informed the meeting on the genesis, rationale and objective of the PAIC. He went to highlighting the mandate given by the African Ministers of Economy, finance and integration to undertake deep consultations and come up with an agreed text. He stressed on the need to focus only on articles reflecting the legal nature of the text (articles 2,3,51 and 52) as well as articles that did not reach agreement in Kampala meeting (articles 42,43 and 44). He finally recalled the importance of this meeting in finalizing the code that went through in-depth series of revisions and amendments.

Discussions

30. The detailed discussions were held on the following points

- Country representatives proposed comments on outstanding articles in addition of the amendments already received from 8 countries
- The need to review some provisions in the preamble of the PAIC
- The binding and non-binding nature of the code was discussed thoroughly
- The meeting put in place a drafting committee composed of the following Member States assisted by key consultants to review the text and make proposals:
 - Egypt
 - Chad
 - Togo
 - South Africa
 - Kenya
 - Uganda
 - Zimbabwe

31. The drafting Committee reviewed the draft PAIC and made amendments to the preamble, Article 2, Article 3, Article 41, Article 42, Article 45, Article 50, Article 51 and deleted Article 52. The reviewed Code was presented to the participants and adopted with amendments.

Recommendations

32. The following recommendations were proposed

- i. Adopt the PAIC as a guiding instrument on investment promotion and facilitation
- ii. Need to harmonize the PAIC in the four languages and submit the amended PAIC for adoption by the African Ministers of Economy, Finance and Integration during their STC in March 2016 in Dakar, Senegal
- iii. Recommend to the Ministers to use the PAIC as a reference framework document in the negotiation of the CFTA investment chapter.

VI. Closing Remarks

33. In his closing statement Dr. René N'Guettia Kouassi, Director for Economic Affairs, AUC, underlined the importance of the PAIC towards achieving the AU Vision of "An Integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena". He stressed the usefulness of the PAIC in the process of developing a sound and competitive private sector in Africa coherent with the transformative Agenda of the Continent under the global framework of Agenda 2063.

34. He expressed the appreciation of the AUC to the Member States for their positive contributions and inputs in improving the Draft Pan African Investment Code. He invited all Member States to remain committed to the Code and share it with their Ministries for their awareness. He Urged Member States for their unwavering support prior to the adoption by the AU Heads of State and Government.