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UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Res./02/2022 Resolution on "A HUMAN RIGHTS-BASED APPROACH TO THE IMPLEMENTATION AND MONITORING OF THE AFRICAN CONTINENTAL FREE TRADE AREA" AGREEMENT

Adopted at the Fifth Forum of the African National Human Rights Institutions to the 73rd Ordinary Session of the African Commission on Human and Peoples' Rights.

We, the African National Human Rights Institutions (NHRIs), meeting at the Fifth Forum of NHRIs under the theme "***Trade and Human Rights in the African Continental Free Trade Area (AfCFTA) Agreement: Inclusive Implementation of the AfCFTA with Participation of Vulnerable Populations***" leading to participation in the ***73rd Ordinary Session of the African Commission on Human and Peoples' Rights***;

CONSIDERING the obligations that African Union Member States have subscribed to under the 1981 African Charter on Human and Peoples' Rights and the confirmation of their responsibility in the 2000 Constitutive Act of the African Union, namely, to promote and protect human and peoples' rights on the African Continent;

ACKNOWLEDGING that the right to participation is implied in article 22(1) and (2) of the African Charter, which provides that: "*All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind*" and that "*States shall have the duty, individually or collectively, to ensure the exercise of the right to development*", respectively;

NOTING that the right to participation is also implied in article 24 of the African Charter which states that, "*All peoples shall have the right to a general satisfactory environment favourable to their development*";

CONSIDERING THAT the requirements to ensure increased and beneficial participation in the operationalisation of the AfCFTA Agreement as spelled out in article 7 thereof, and that

article 7 (c) provides specifically that State Parties shall "*accord special consideration to the provision of technical assistance and capacity-building through continental support programmes*";

RECALLING THAT the AfCFTA is one of the flagship projects of the African Union Agenda 2063, the "Africa We Want";

NOTING THAT the following three of the seven aspirations of the Agenda 2063 emphasize inclusion and participation: *Aspiration (1)* - a prosperous Africa based on inclusive growth and sustainable development; *Aspiration (3)* - an Africa of good governance, democracy, respect for human rights, justice and the rule of law and *Aspiration (6)* - an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children;

APPRECIATING that more than twenty African countries have already set up national strategies to implement the AfCFTA Agreement;

CONSIDERING the paramount importance of protecting the rights of vulnerable populations during the roll-out of these national strategies;

BEARING IN MIND, the AfCFTA Agreement in its article 27 (Technical Assistance, Capacity Building and Cooperation) which provides that "*State Parties recognize the importance of technical assistance, capacity building and cooperation in order to complement the liberalization of services, to support State Parties' efforts to strengthen their capacity in the supply of services and to facilitate implementation and attainment of the objectives of this Protocol;*"

NOTING that business enterprises are currently the major beneficiaries of the operationalization of the AfCFTA Agreement;

WELCOMING the NANHRI 2022 Report entitled ***Baseline Assessment and Stakeholder Mapping of NHRIs, and Other Actors Involvement in African Continental Free Trade Area (AfCFTA) Processes*** and recommendations appended thereto;

STRESSING that the principle of "Leaving No One Behind" must guide the operationalization of the AfCFTA Agreement to build the "Africa We Want" based on inclusive growth and sustainable development;

CALL on the African Commission on Human and Peoples' Rights to:

1. Work with NHRIs and relevant AU organs in mainstreaming human rights in implementing the AfCFTA Agreement in national strategies adopted by member states.
2. Urge States to protect and promote greater policy coherence by adopting and strengthening National Action Plans on Business and Human Rights developed in the implementation of the UN Guiding Principles on Business and Human Rights, which should take into account the implementation of the AfCFTA Agreement.
3. Urge State Parties to ensure that business enterprises in their territories respect human rights and adopt human rights due diligence frameworks to mainstream accountability in their business operations.

4. Conduct human rights impact assessments of the AfCFTA Agreement in a systematic, regular and participatory manner focusing on the human rights implications and provide solutions that address any potential implementation gaps, including market failures and governance gaps.
5. Work with AU Member States and relevant AU organs to ensure the business development of women, PWDs and youth engaged in micro, small and medium-size enterprises.
6. Work with regional and international partners to provide the necessary support to States, NHRIs, civil society organizations and other relevant stakeholders.
7. Ensure that States explicitly recognise the role of vulnerable groups, including women, youths and PWDs, in trade in Africa and the impact of the AfCFTA Agreement on them by adopting the necessary protocols to that effect.
8. Urge States to develop and implement frameworks to protect the right of indigenous people to development, including land ownership, intellectual property, biodiversity, traditional knowledge, and cultural expression.
9. Urge States to ensure broad consultation and active, free, informed, and meaningful participation of vulnerable and marginalized populations in the revision, implementation and assessment of the AfCFTA Agreement as well as the negotiation of subsequent protocols to the Agreement.
10. Urge States to ensure the provision of disaggregated data with the view to informing the development of targeted trade and investment liberalization policies to ensure that benefits of trade and investment policies are fairly distributed among diverse sectors of society.
11. Urge NHRIs and relevant AU Organs to initiate and maintain channels of collaboration with the AfCFTA Agreement Secretariat.

Done in Banjul, The Gambia this October 20, 2022