

AFRICAN UNION

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UNION AFRICAINE

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**EXECUTIVE COUNCIL**

Seventh Ordinary Session

**28 June – 2 July 2005**

Sirte, Libya

EX.CL/197 (VII)

**REPORT ON THE AFRICAN UNION CONFERENCE**  
**OF MINISTERS ON IMMIGRATION**

**REPORT ON THE AFRICAN UNION CONFERENCE OF MINISTERS ON  
IMMIGRATION**

The African Union Conference of Ministers on Immigration, was held in Tripoli, Great Socialist People's Libyan Arab Jamahiriya, from 17 to 18 June 2005. It was preceded by an Experts Meeting on Immigration, from 15 to 16 June 2005. Forty-four (44) Member States attended the meetings. The main theme of the Conference was the Establishment of Free Movement within Africa, with sub-themes of Liberalisation of Visa Regimes; Right of Residence; African Passport and Deportations and Mass Expulsions.

H.E. Mr. Almabruk Abdalah, Secretary of the General People's Committee for General Security of the Great Socialist People's Libyan Arab Jamahiriya delivered the welcome address.

H.E. Mr. Alpha Oumar Konare, Chairperson of the African Union Commission delivered the keynote address.

The Leader of the Great Jamahiriya, Colonel Muamar Gaddafi addressed the Conference.

The Conference Bureau comprised the following Member States:

Chair	-	Nigeria
1 <sup>st</sup> Vice Chair	-	Libya
2 <sup>nd</sup> Vice Chair	-	South Africa
3 <sup>rd</sup> Vice Chair	-	The Sudan
Rapporteur	-	Burundi

The Conference provided for an opportunity to consider, in depth, the Report of the Experts Meeting, including the recommendations thereof (Annex I); and for deliberations on modalities to realize free movement in Africa. It highlighted the positive commonalities in the current bilateral, multilateral and sub-regional practices on the key elements of free movement and considered the way forward for a successful framework that would enable Africans to travel freely and to contribute positively to the realization of the objectives of, inter alia, unity and integration in Africa, as espoused in the Constitutive Act of the African Union and the Vision and Strategic Plan of Action 2004-2007 of the African Union Commission.

The Conference recalled that the ability of Africans to move freely on the continent had been limited and restricted by, inter alia, the legacy of colonial domination. Against this background, the call for free movement today was in recognition of the fact that our peoples are constantly on the move between our countries, dictated by cultural, trade, commercial, economic and political realities. Therefore, African States should respond to this call by regularizing free movement for our peoples within the provisions of common policy and legislative frameworks, and make traveling easier between African regions.

The Conference recognized that the call for free movement in Africa is anchored in the reality that at the sub-regional levels there are various forms of free movement frameworks that have been negotiated and are operational under various Regional Economic Communities (RECs), including the Community of Sahelo-Saharan States (CEN-SAD), the Community of Eastern and Southern African States (COMESA), the East African Community (EAC), the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS), the Inter-governmental Authority for Development (IGAD), the Southern African Development Community (SADC), and the Arab Maghreb Union (AMU). There is, therefore, a need to build upon these existing sub-regional frameworks, in order to develop an Africa-wide operational framework that would facilitate free movement within the continent.

### **Measures / Tools to Facilitate Free Movement**

The Conference deliberated on the following main measures needed to facilitate free movement within Africa:

1. issuance of an African Passport in general and commencing initially with an African Diplomatic Passport which would be limited to specified categories of African personalities,
2. accessibility to Residence Permits,
3. relaxation of Visa Regimes, and
4. elaboration of a framework that would govern Deportations and Mass Expulsions in accordance with African and international human rights standards.

The Conference agreed that the call for free movement within Africa is premised on a clear understanding of the need to respect the sovereignty of Member States and to recognize their exclusive jurisdiction to regulate and control the admission of persons into their territory, on grounds of security and public order. However, it was stressed that sovereignty needs to be interpreted in a positive way that would ensure respect for human and peoples' rights and facilitate free movement in Africa.

### **An African Passport**

On the issue of an African Passport, the Conference noted that it would facilitate free movement within African countries, which had been hampered by stringent immigration systems and that it would infuse a common identity among Africans and be a political symbol and tool for African integration. It was further noted that an African Passport would contribute to the foundation for unity, solidarity and co-operation among Member States and that its design should reflect the spirit of integration and unity for Africa. Following a lengthy debate, the Conference decided to accept in principle, the concept of an African Passport and that further consultations be carried out at national, sub-regional, regional and continental levels to address pertinent issues relating to constitutional, legal, social, economic, security and human rights aspects. The

proposal for the issuance of an African Diplomatic Passport was also accepted in principle, with recommendation for consultations before its issuance.

### **Visa Regimes**

Considering Visa regimes, the Conference agreed that it is an area, which if well addressed could effectively facilitate free movement in Africa. It noted the existence of different procedures and practices for the issuance of visas in Member States and that due to globalization, Regional Economic Communities were increasingly entering into visa abolition agreements. The Conference, therefore, called on Member States to start negotiations on free movement of persons and harmonization of visa regimes, at the national, sub-regional, regional and continental levels. It called for more visa waivers and / or abolition agreements to be established and for the strengthening of existing ones to facilitate increased free movement in Africa.

### **Residence Permits**

Regarding residence permits, the Conference held the view that Member States should make their residence permits requirements more flexible and accessible in order to realize the benefits of free movement and that residence permit applications from Member States should be accorded preferential treatment.

### **Deportations and Mass Expulsions**

On the issue of deportations and mass expulsions, the Conference observed that while the African Charter on Human and People's Rights prohibited mass expulsions and required that deportations be effected only after due process of the law, the practice was such that it was evident that human rights provisions were not respected. While some Member States felt that the issue should not be discussed as it was a matter related to national security handled by a different outfit, others indicated that in their countries it was handled by the same government departments. The Conference, however, called for the elaboration of a protocol on deportations and expulsions to address these concerns.

### **Conclusions and Observations**

On the whole, there was a general consensus on the need and principle of facilitating free movement in Africa as a strategy for enhancing integration.

While acknowledging the positive effects that free movement would have on the commercial, economic, social, cultural, political and technological development of the continent, some Member States recognized the complexity of the issues related to free movement and the possible negative impact of such movement on the continent, on inter alia, labor market, national security, political implications, brain drain as well as economic imbalance between the strong and weak economies. In this regard, the Conference advised on the need to pursue the proposal on free movement within Africa gradually. It was also proposed to undertake informed, detailed, and comprehensive studies of

the concept that explore a number of key issues and the implications of the establishment of a continent-wide free movement regime, as well as consider the possibility of harmonization of laws, policies, regulations and institutional systems of free movement in Africa. To this end the Conference called for the creation of a Committee of Experts as well as the creation of a specialized office within the AU Commission to coordinate all activities related to the elaboration and implementation of a free movement framework in Africa.

As a way forward, the Conference supported the need for a gradual and phased approach to the concept of free movement starting at the sub-regional level where deliberations and consensus could be built on common positions based on the experience of Regional Economic Communities, which have already started African integration at a sub-regional level through the facilitation of free movement in their regions.

It was generally agreed that security concerns should be addressed if the continent was to realize the benefits of free movement. A specific call was made for the balancing of security considerations and those of growth and development while not compromising basic human rights. It was expressed that the implementation of free movement required development of communication systems and sensitization of the police as well as immigration and custom officials. Collaboration on security, e-government and sharing of intelligence information and the registration of non-residents were additional suggestions made to address the security concerns.

### **Conference Resolutions**

The Conference of Ministers which took place from 17–18 June 2005 reviewed and endorsed the Report and recommendations made by the Experts and came up with the following resolutions:

1. To endorse the Report of the meeting of Experts on Immigration as a basis for further consultations on all aspects of free movement at national, sub-regional, regional and continental levels.
2. That the process of facilitating free movement in Africa be pursued gradually considering the interdependence of social, economic, security and human rights dimensions of the movement of persons within the African Union.
3. That the process of facilitating free movement be encouraged and implemented at bilateral, sub-regional, and regional levels, from which an Africa-wide framework would be developed.
4. To accept the concept of an African Passport in principle and that further consultations be carried out at national, sub-regional, regional and continental levels to address all pertinent issues including constitutional, legal, social, economic, security and human rights aspects.

5. To accept in principle the proposal for the issuance of an African Diplomatic Passport and to recommend consultations before its issuance.
6. That a Committee of Experts, charged with providing guidance to the African Union Commission (AUC) on matters relating to free movement of persons be established to carry the process forward.
7. That the AUC establish a specialized office to follow-up on the implementation of activities related to free movement in Africa.
8. That the AUC convene a forum for African Officials at sub-regional, regional and continental level to consult and recommend on issues of common concern such as the harmonization of relevant laws, policies and regulations as well as assess the structures that would facilitate free movement in Africa.

Finally, the Conference requested the AUC to proceed with necessary follow-up action to ensure implementation of these resolutions on facilitating free movement in Africa.

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**EXECUTIVE COUNCIL  
Seventh Ordinary Session  
28 June – 2 July 2005  
Sirte, Libya**

EX.CL/ 197 (VII)

Annex 1

**RESOLUTION**

**Mtg/Immigration/Min/Res.1 (i)**

**RESOLUTION**

We Ministers responsible for Immigration matters meeting in Tripoli, Libya, Great Libyan Arab Jamahiriya, from 17 –18 June 2005;

**HAVING CONSIDERED** the Report of the Meeting of Member States Experts on Immigration matters held from 15 –16 June 2005 in Tripoli;

**GUIDED** by the principles and the objectives of the Constitutive Act of the African Union and relevant decisions of the policy organs of the African Union;

**AFFIRMING** the AU Vision and Mission of an African continent united, integrated and at peace;

**INSPIRED** by the spirit of Pan Africanism to promote unity, solidarity, cohesion, integration and co-operation among the peoples of Africa, the African Diaspora and African States;

**TAKING NOTE** of the progress made by Member States within the context of bilateral, sub-regional and Regional Economic Communities in promoting free movement of Africans at regional level;

**RECOGNISING** the increasing need for Africans to achieve greater integration in socio-economic and political development, conflict resolution, cultural exchange and other forms of cooperation in a globalizing world;

**ACKNOWLEDGING** that Africans need to be able to cross freely borders of Member States at any officially approved and recognized entry point without stringent restrictions;

**RECALLING** the relevant provisions of the African Charter on Human and Peoples Rights' (ACHPR), Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR);



**Mtg/Immigration/Min/Res.1(i)**

**REAFFIRMING** our commitment to achieve greater solidarity between African peoples through inter alia, free movement on the continent;

**CONVINCED** that free movement of Africans would be enhanced by among other measures, harmonisation and liberalisation of visa regimes, liberalisation of residence permits requirements, the establishment of the proposed African passport and establishment of a legal and regulatory framework governing deportations and expulsions consistent with provisions of relevant human rights instruments;

Have therefore **resolved**:

1. To endorse the Report of the Meeting of Experts on Immigration as a basis for further consultations on all aspects of free movement at national, sub-regional, regional and continental levels;
2. That the process of facilitating free movement in Africa be pursued gradually considering the interdependence of social, economic, security and human rights dimensions of the movement of persons within the African Union;
3. That the process of facilitating free movement be encouraged and implemented at bilateral, sub-regional, and regional levels, from which an Africa wide framework would be developed;
4. To accept the concept of an African Passport in principle and that further consultations be carried out at national, sub-regional, regional and continental levels to address all pertinent issues including constitutional, legal, social, economic, security and human rights aspects;
5. To accept in principle the proposal for the issuance of an African Diplomatic Passport and to recommend consultations before its issuance;
6. That a Committee of Experts, charged with providing guidance to the African Union Commission (AUC) on matters relating to free movement of persons be established to carry the process forward;
7. That the AUC establish a specialized office to follow-up on the implementation of activities related to free movement in Africa;
8. That the AUC convene a forum for African Officials at sub-regional, regional and continental level to consult and recommend on issues of common concern such as the harmonization of relevant laws, policies and regulations as well as assess the structures that would facilitate free movement in Africa.

We **request** the AUC to proceed with necessary follow-up action to ensure implementation of these resolutions on facilitating free movement in Africa.

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**Seventh Ordinary Session**

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EX.CL/197 (VII)

Annex II

**REPORT OF THE MEETING OF EXPERTS ON IMMIGRATION**

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AFRICAN UNION CONFERENCE OF  
MINISTERS ON IMMIGRATION  
Meeting of Experts  
15 – 18 JUNE 2005  
TRIPOLI – LIBYA

Mtg/Immigration/Experts//Report(I)

REPORT OF THE MEETING OF EXPERTS ON IMMIGRATION

## **REPORT OF THE MEETING OF EXPERTS ON IMMIGRATION**

### **I. INTRODUCTION**

1. The Meeting of Experts in preparation of the Ministerial Conference on Immigration was held at the Corinthia Hotel Conference Room, Tripoli, Great Socialist People's Libyan Arab Jamahiriya, from 15 to 16 June 2005.

### **II. ATTENDANCE**

2. The following forty-four (44) Member States attended the meeting:

Algeria, Angola, Bénin, Botswana, Burkina Faso, Burundi, Central African Republic, Chad, Congo, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Equatorial Guinea, The Gambia, Gabon, Ghana, Guinea, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, SADR, Senegal, Sierra Leone, Somalia, South Africa, The Sudan, Togo, Tunisia, Uganda, Union of Comoros, Zambia and Zimbabwe.

### **III. OPENING CEREMONY**

**Welcome Address General Saleh Mohammed Rajab, Under Secretary in the People's Committee on General Security of the Great Socialist People's Libyan Arab Jamahiriya**

3. In his welcome address, the Under-Secretary in the People's Committee on General Security, General Saleh Mohammed Rajab extended the welcome of the people and leadership of the Great Socialist People's Libyan Arab Jamahiriya to all the participants to the experts meeting. He highlighted that the call for free movement in Africa was central to the realisation of a United States of Africa as enunciated by the Libyan Leader Colonel Muamar Ghadafi. Free movement would enable Africans to regain their dignity, continuously eroded by the artificial colonial borders that hinder the free movement of African people on the continent.

4. General Rajab stressed the fact that the African peoples were prepared to test and identify the challenges which the continent could face in the areas of free movement of persons, issuing of visas, residence permits, etc.

5. In conclusion, General Rajab indicated that the issue of free movement of persons on the continent could be resolved if mechanisms are put in place.

**Keynote Address by Mrs. Julia Dolly Joiner, Commissioner for Political Affairs**

6. In her keynote address, the Commissioner for Political Affairs, Mrs. Julia Dolly Joiner, expressed gratitude and appreciation to the people and Government of the Great Socialist People's Libyan Arab Jamahiriya, for the warm welcome and traditional hospitality accorded to delegates. She acknowledged and hailed Colonel Ghadafi and the people of the Great Jamahiriya for hosting the meeting and for the conducive environment provided, thanked all participants for attending the meeting and hoped that the deliberations would traverse Africa's boundaries and justify the rising expectations of African peoples in the continent and the Diaspora.

7. The Commissioner then stated that the meeting was a significant opportunity for Africans to realize free movement within our great continent as provided for in the 1948 UN Universal Declaration of Human Rights, 1981 African Charter on Human and People's Rights, and the AU's Constitutive Act, and articulated in the AU Vision and Mission and Strategic Plan of the Commission approved by the Heads of State and Government. She also stated that it was her conviction and hope that it was possible to find positive commonalities in our current bilateral and multilateral practices on the key elements of free movement, and to chart the way forward for a successful African Project, enabling African citizens and the African Diaspora to travel freely without let or hindrance and contribute positively to the realization of a united, integrated Africa at peace in her diversity.

8. The Commissioner recalled that the ability of African citizens to move freely on the continent had been limited and restricted by, inter alia, the legacy of colonial domination. Against this background, the call for free movement today was in recognition of the fact that our peoples are constantly on the move between our countries, dictated by cultural, trade, commercial and political realities. Therefore, African States should respond to this call by regularising free movement for our peoples within the provisions of common policy and legislative frameworks, and make travelling easier between African regions than from Africa to Europe. She noted that politically, the call for free movement in Africa is anchored in the reality that all over the continent at bilateral and multilateral levels there are various forms of free movement frameworks that have been negotiated and are operational under various regional economic communities, including Community of Sahelo-Saharan States (CEN-SAD), Community of Eastern and Southern African States (COMESA) East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Inter-governmental Authority for Development (IGAD), Southern African Development Community (SADC), Arab Maghreb Union (AMU). There is, therefore, a need to build upon these existing sub-regional and bilateral frameworks, as well as on the spirit, commitments and principles of the Constitutive Act of the African Union, the Vision, Mission and Strategic Plan of the Commission, and the provisions of the African Charter on Human and People's Rights to develop an operational framework that would facilitate free movement in Africa.

9. She highlighted the measures needed to facilitate free movement within Africa, namely; issuance of an African Passport, making Residence Permits more accessible, relaxation of Visa Regimes, and elaboration of a framework that governs Deportation and Mass Expulsion in

accordance with African and international human rights standards. She, however, emphasised that it is essential, that in the short term concrete measures be undertaken including but not limited to the issuance of an African Passport that would be initially limited to specified categories of African nationals. Such a diplomatic passport would be recognized within the African Union and reciprocal arrangements entered into between the AU and other countries and regions to ensure its reciprocal recognition. The issuance of an African passport would be a resounding and definitive statement of commitment that the African Union is committed to ensuring greater freedom of African nationals with a singular identifying travel document that clearly asserts the African identity.

10. She concluded by pointing out that the concept paper presented to the meeting provided the broad outlines of what is needed to advance free movement in Africa, while acknowledging that more work will have to be undertaken to elaborate on the various elements of free movement, relating to an African passport, liberalisation of visa requirements, easing of residence requirements, and elaboration of a framework governing deportation and mass expulsions in accordance with African and international human rights standards.

#### **IV. ELECTION OF THE BUREAU**

11. The Meeting elected the following Bureau:

- |   |                       |                         |
|---|-----------------------|-------------------------|
| - | Nigeria               | Chairperson             |
| - | Great Arab Jamahiriya | First Vice-Chairperson  |
| - | South Africa          | Second Vice-Chairperson |
| - | The Sudan             | Third Vice-Chairperson  |
| - | Burundi               | Rapporteur              |

#### **V. ADOPTION OF THE AGENDA**

1. Adoption of the Agenda
2. Organisation of Work
3. Remarks by the Chairperson of the Session
4. Consideration of the Concept Paper on Free Movement
5. Adoption of the Report
6. Closing Remarks by the Chairperson of the Session

12. The Agenda was adopted without amendements.

#### **VI. ORGANIZATION OF WORK**

13. The Meeting adopted the following working hours:

- Afternoon 16.00 -1900 – First Day
- Morning 9.00 - 13.00 – Second Day
- Afternoon 22.00 -

## **VII. REMARKS BY THE CHAIRPERSON OF THE SESSION**

14. The newly elected Chairperson, Mr Chukwurah Udeh, Comptroller General of Immigration of the Federal Republic of Nigeria, thanked the delegations for expressing confidence in his country by electing him to chair of the Experts Meeting. He also welcomed the other members of the Bureau. He concluded his remarks by expressing the hope that the Meeting would be able to deliberate on the issue of free movement and make appropriate recommendations for consideration by the Ministerial Conference.

## **VIII. AGENDA ITEM 4 CONSIDERATION OF THE CONCEPT PAPER ON FREE MOVEMENT**

### **Introductory Remarks by Mr. Patrick Tigere, Head of Humanitarian Affairs, Refugees and Displaced Division, Department of Political Affairs, AU Commission**

15. In his introductory remarks, the Head of Humanitarian Affairs Division, Department of Political Affairs stated that free movement is a viable proposition within Africa not only because of the positive impact on social, cultural and economic development on the continent but also because of the existence of political will and relevant regional legal instruments, at sub-regional and continental level, supporting this initiative to consolidate the integration of African peoples. He went on to highlight the four keys elements that would help facilitate free movement in Africa to include the issues of liberalization of Visa Regimes, liberalization of Residence Permits, elaboration of a humane Deportations and Mass Expulsions framework consistent with the African Charter on Human and Peoples Rights and the consideration of the issuance of a continental wide Travel Document i.e. an African Passport as articulated in the Conceptual Paper, and emphasised by the Commissioner for Political Affairs in her keynote address earlier.

16. The Head of Humanitarian Affairs Division further explained that the call for free movement is premised on a clear understanding of the need to respect the sovereignty of Member States and recognise their exclusive jurisdiction to regulate and control the admission of persons into their territory. However, he stressed that it was important that sovereignty be interpreted in a positive way that would ensure respect for human and peoples' rights and facilitate free movement in Africa.

### **Presentation of the Concept Paper on the Establishment of Free Movement In Africa**

17. The Consultant, Mr. John Nangurai took the delegates through the concept paper on Establishment of Free Movement in Africa. He began by noting that the objective of the paper was to

explore modalities and options for the realisation of free movement in Africa. He highlighted the historical background on movement in Africa and observed that existing borders were a creation of colonial administrators, an act that has resulted in the alienation of Africans. He observed that this situation was inherited by African governments upon independence. He noted that the concern with free movement had now come to the fore owing to globalisation and increased integration in Africa that have created a functional need for easier movement. He drew the attention of the delegates to the provisions of the Constitutive Act and the Vision, Mission and Strategic Plan of the AU which stress unity and solidarity and call for a peaceful, integrated, and prosperous Africa.

18. The Consultant led the Meeting through the justification for free movement and observed that a number of international human rights instruments including the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the African Charter on Human and Peoples' Rights provided for free movement. He further observed that while there are many advantages of free movement, states have for reasons of national security, economic reasons and social concerns curtailed movement. The advantages that he cited and which he concluded outweigh the disadvantages include increase in integration, technological advancement, investments and industrial growth and increase in intra-regional trade in both goods and traded services.

19. The Consultant noted that the call for free movement was not new considering that most Regional Economic Communities (RECs) have already embraced it. He observed that there was political goodwill among Member States and called for the removal of divergent visa regimes and immigration laws in Africa. He stressed on the need for Member States to collaborate on security matters.

20. The Consultant discussed in detail the African passport and noted that it would facilitate free movement within African countries which had been hampered by stringent immigration systems. He was of the view that an African passport would infuse a common identity among African citizens and be a political symbol and tool for African integration. He felt that the African passport would contribute to the foundation for unity, solidarity and co-operation among Member States and proposed that its design reflect the spirit of integration and unity for Africa. Relating to the possible launch of a future African passport, he proposed that interim arrangements to effect the roll out would need to be put in place for the initial issuance of an African diplomatic passport, which would be issued to a limited specified category of Africans.

21. The Consultant noted the existence of different procedures and practices for the issuance of visas. However, due to globalization, Regional Economic Communities were increasingly entering into visa abolition agreements. In his recommendations, he called on Member States to start negotiations on free movement of persons and harmonise visa regimes in the continent. He was of the view that more visa waiver or abolition agreements should be established while existing ones should be strengthened to facilitate increased free movement in Africa.



22. With regard to residence permits, the Consultant was of the view that Member States ought to make their residence permits requirements more flexible in order to realize the benefits of free movement. He recommended that residence permit applications from Member States should be accorded preferential treatment.

23. The Consultant further observed that while the African Charter on Human and People's Rights prohibited mass expulsions and required that deportations be effected only after due process of the law, the practice was such that it was evident that human rights provisions were not respected. He called for the elaboration of a protocol on deportations and mass expulsions to address these concerns.

24. The Consultant also highlighted the fact that it was necessary for a number of detailed studies to be carried out to explore, in depth, a number of key issues and implications of the establishment of a continent wide free movement regime. He also indicated that the concept paper was not exhaustive but only identified some of the key issues related to free movement in the four areas highlighted in the paper.

25. The Consultant concluded the presentation by stressing that laws, policies, regulations and institutional systems of free movement need to be harmonized and called for the creation of a specialized office within the AU Commission to deal with free movement.

### **General Discussions on the Concept Paper on the Establishment of Free Movement in Africa**

26. After the presentation on the concept on the establishment of free movement in Africa, Member States deliberated on the general concept of free movement as follows:

- i). All delegations were grateful to the people and the Government of the Great Socialist People's Libyan Arab Jamahiriya, for the hospitality accorded to the participants and to the AU Commission for preparing and presenting the concept paper submitted for their consideration. Overall, there was a general consensus on the need and principle of facilitating free movement in Africa as a strategy for enhancing integration in Africa.
- ii). On the Concept Paper presented, most delegations expressed appreciation for the work done by the consultant and expressed agreement on its structure, framework and content. However, some delegations stressed the need to further enrich the paper and make it more exhaustive. Others felt that enough time had not been given to consider the document in details so as to contribute more meaningfully.
- iii). Delegates felt that the concept paper was balanced and fair as it highlighted both advantages and challenges expected to facilitate free movement in Africa, while others felt that the positive aspects of the report far outweighs the negative aspects. There was therefore no need to lose hope, but to engage in more consultations and build consensus in order to

ensure that the document is fully implemented. In addition, it was agreed that there was need to consider the legal instruments and agreements signed by Member States e.g. Lome Convention, Cotonou Agreements, which needed to be taken into consideration in order to address the legal problems.

- iv). While acknowledging the positive effects that free movement would have on the commercial, economic, social, cultural, political and technological development of the continent, some Member States recognized the complexity of the issues related to free movement and the possible negative impact of such movement on the continent including on labor market, national security, political implications, brain drain as well as economic imbalance between the strong and weak economies. In this regard, some delegates advised on the need to approach the discussions on free movement with caution, informed by detailed, extensive and exhaustive study of the concept.
- v). In drawing a parallel with the European Union, some delegations felt that although the EU achieved a lot on integration, the recent developments on the rejection to adopt a new constitution by some of its Member States indicated that the EU model was not without challenges and should therefore not be replicated in its totality in Africa. To this end, these delegates felt that free movement in Africa could only be achieved gradually and failure to recognize expected challenges would only result in difficulties in the implementation. Member States highlighted the positive example in the area of free movement provided by ECOWAS, EAC and AMU, and indicated that many lessons could be learnt and adapted to advance free movement on the continent.
- vi). The delegates supported the approach of focusing deliberations and consensus building on common positions at a sub-regional level, based on the Regional Economic Communities, such as ECOWAS, SADC, EAC, which have already started African integration at a Sub-regional level through the facilitation of free movement in their regions. In addition, the meeting agreed on the need for a gradual and phased approach to the concept of free movement starting at the sub-regional level and between sub-regions as the 2<sup>nd</sup> phase.
- vii). On the question of expulsion and mass deportation, some delegates felt that it was a matter that should not be dealt with at the meeting since it was a matter related to national security and in some countries it is dealt with by the Ministry of Interior and not a matter of immigration. Some delegates indicated that in their countries it was a matter dealt with by the same government departments.
- viii). On the question of the African passport, some delegates felt that it was too early to decide on the need of such a document and, therefore, needed further deliberations on the same. It was a general feeling that the considerations and implementation of such a document should be gradual and with caution. Some delegates wondered whether the institution of such a document would indeed facilitate free movement on the continent and

whether it was not more prudent to deal with liberalization or even abolition of visas on national passport as a more effective way of facilitating free movement on the continent. Most delegates suggested that more time be given to reflect on the matter, while other delegates suggested the setting up of an ad hoc committee to reflect on all the aspects of an African passport in relation to its impact on issues of national security.

- ix). However, other delegates highlighted the need for an African passport and the phasing of the implementation of such a document, but wanted further discussions on the details of what such a document should entail, how it should be implemented, what form it would take, and the institution that should process it.
- x). On the issues of visa liberalization, delegates agreed that it is an area that if well addressed could effectively facilitate free movement in Africa. Some delegations underscored the benefits of liberalization of visa regimes and practices in Africa.

### **Discussions on Visa and Residence Permit Regimes**

27. Under the discussions on this item, the following observations were made:

- i) There was general acceptance of the proposals in the concept paper with majority of delegates feeling that visa liberalisation would result in greater interaction between people and that their waiver would increase integration of the continent. However, some delegations felt that visa fees should not be waived as they remained an important source of revenue. To this end the Meeting called for an in depth study on the visas and residence permits regimes as well as the harmonisation of legislations within the regions.
- ii) The reference to ECOWAS and SADC as success cases from which the AU could model its framework was reiterated by a number of delegates. In particular reference was made to the effective border controls that have been put in place in these regions. It was indicated however that the experience on free movement under ECOWAS could be evaluated with a view to identifying the loopholes.
- iii) Delegates felt that security concerns should be addressed if the continent was to achieve the benefits of free movement. Specifically, there was a call for balancing security considerations and those of growth and development while not compromising basic human rights. It was generally felt that the implementation of free movement required development of communication systems and sensitisation of the police as well as immigration and custom officials. Collaboration on security, e-government and sharing of intelligence information and the registration of non-residents were additional suggestions made to address the security concerns.
- iv) Some delegations felt that the right to residence permits could not be applied across the board while a few others felt that there should be no

distinction between the various types of visas. The meeting's attention was drawn to the fact that there existed a distinction between permanent and temporary residence with the former being issued for long-term stay while the latter for short visits.

- v) Some delegations shared the experiences of their countries in relation to visas and residence permits and in this regard indicated that preferential treatment was given to African citizens.
- vi) It was noted that the issue of implementation was critical and therefore there was need for experts on the continent to meet and follow-up on the issues, and that implementation be gradual. Other delegations proposed that emphasis be laid on bilateral agreements and that Member States be encouraged to enter into such agreements with their neighbours for abolition of visas and thereafter replicate these at the regional level. Delegations felt that there was need to consult within their regions to address the issues in greater details. Sound infrastructure, an effective institutional framework and viable mechanisms were highlighted as key to the realisation of free movement.

### **Discussions on the African Passport, deportations and mass expulsions**

28. During the discussions under this item, the following observations were made:

- i) While a few delegations felt that the issues on the African passport and, deportations and mass expulsions did not fall under the debate on free movement, there was agreement among some of them that the African passport would achieve further integration of the continent. It was proposed that an in depth study be undertaken in order to remove the expected challenges relating to the African passport. Some Member States felt that it was important to ensure that any deportation or expulsions are carried out in full compliance with the African Charter on Human and People's Rights and other relevant international human rights instruments.
- ii) Some delegations suggested that Appendix 1 of the concept paper should be amended to include other groups of people such as Prime Ministers, Deputy Ministers of regional governments of Member States with a federal system of government, members of the Secretariats of Regional Economic Communities, and Heads of Central Banks while others felt that the categories identified in the concept paper could serve as the first group of persons for the initial issuance of the African passport.

## **RECOMMENDATIONS**

29. Following constructive deliberations delegates recommended:

- i) That the concept of African integration through free movement in Africa be accepted and developed.

- ii) That the contents of the concept paper be accepted in principle and be used as a basis for further development and that more time be given to Member States to allow for further consultations both at the national and sub-regional levels.
- iii) That the process of facilitating free movement in Africa needs to be pursued gradually considering the interdependence of social, economic, security and human rights dimensions of the movement of persons in Africa.
- iv) That the idea of an African Passport be accepted in principle and that further consultations be carried out at sub-regional level to address among others the legal and security implications.
- v) That the process of facilitating free movement be implemented in phases and that the process be encouraged at the bilateral and regional levels from which a continent wide framework would be developed.
- vi) That there is need for further consultations of experts and immigration chiefs both at the national and regional levels (Regional Economic Communities) to consider the concept paper, harmonize laws, policies and regulations as well as assess the structures that would facilitate free movement in Africa. To this end, a working group of experts should be constituted under the auspices of the African Union Commission to take the process forward. The group of experts be also charged with monitoring and providing guidance to the implementation process.

### **ADOPTION OF THE REPORT**

30. Delegates adopted the report and recommendations of the meeting by consensus.

### **IX. ANY OTHER BUSINESS**

31. The Under Secretary in the People's Committee on General Security read out a statement from Colonel Ghadafi to the European Union Heads of State. The message was well received by the delegations.

### **X. CLOSING**

32. The Chairperson of the Experts Meeting thanked all delegations for their patience and constructive deliberations during the meeting. He also expressed gratitude and appreciation to the Libyan Jamahiriya and the AU Commission for making the meeting possible. The Chairperson expressed his hope that the recommendations of the meeting would be endorsed by the Ministerial Meeting as the basis for launching the process towards the establishment of free movement on the continent.

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**EXECUTIVE COUNCIL  
Seventh Ordinary Session  
28 June – 2 July 2005  
Sirte, Libya**

**EX.CL/ 197 (VII)  
Annex 1**

**RESOLUTION**

## **RESOLUTION**

We Ministers responsible for Immigration matters meeting in Tripoli, Libya, Great Libyan Arab Jamahiriya, from 17 –18 June 2005;

**HAVING CONSIDERED** the Report of the Meeting of Member States Experts on Immigration matters held from 15 –16 June 2005 in Tripoli;

**GUIDED** by the principles and the objectives of the Constitutive Act of the African Union and relevant decisions of the policy organs of the African Union;

**AFFIRMING** the AU Vision and Mission of an African continent united, integrated and at peace;

**INSPIRED** by the spirit of Pan Africanism to promote unity, solidarity, cohesion, integration and co-operation among the peoples of Africa, the African Diaspora and African States;

**TAKING NOTE** of the progress made by Member States within the context of bilateral, sub-regional and Regional Economic Communities in promoting free movement of Africans at regional level;

**RECOGNISING** the increasing need for Africans to achieve greater integration in socio-economic and political development, conflict resolution, cultural exchange and other forms of cooperation in a globalizing world;

**ACKNOWLEDGING** that Africans need to be able to cross freely borders of Member States at any officially approved and recognized entry point without stringent restrictions;

**RECALLING** the relevant provisions of the African Charter on Human and Peoples Rights' (ACHPR), Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR);

**Mtg/Immigration/Min/Res.1(i)**

**REAFFIRMING** our commitment to achieve greater solidarity between African peoples through inter alia, free movement on the continent;

**CONVINCED** that free movement of Africans would be enhanced by among other measures, harmonisation and liberalisation of visa regimes, liberalisation of residence permits requirements, the establishment of the proposed African passport and establishment of a legal and regulatory framework governing deportations and expulsions consistent with provisions of relevant human rights instruments;

Have therefore **resolved**:

1. To endorse the Report of the Meeting of Experts on Immigration as a basis for further consultations on all aspects of free movement at national, sub-regional, regional and continental levels;
2. That the process of facilitating free movement in Africa be pursued gradually considering the interdependence of social, economic, security and human rights dimensions of the movement of persons within the African Union;
3. That the process of facilitating free movement be encouraged and implemented at bilateral, sub-regional, and regional levels, from which an Africa wide framework would be developed;
4. To accept the concept of an African Passport in principle and that further consultations be carried out at national, sub-regional, regional and continental levels to address all pertinent issues including constitutional, legal, social, economic, security and human rights aspects;
5. To accept in principle the proposal for the issuance of an African Diplomatic Passport and to recommend consultations before its issuance;
6. That a Committee of Experts, charged with providing guidance to the African Union Commission (AUC) on matters relating to free movement of persons be established to carry the process forward;
7. That the AUC establish a specialized office to follow-up on the implementation of activities related to free movement in Africa;
8. That the AUC convene a forum for African Officials at sub-regional, regional and continental level to consult and recommend on issues of common concern such as the harmonization of relevant laws, policies and regulations as well as assess the structures that would facilitate free movement in Africa.

We **request** the AUC to proceed with necessary follow-up action to ensure implementation of these resolutions on facilitating free movement in Africa.



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**EXECUTIVE COUNCIL**  
**Seventh Ordinary Session**  
**28 June – 2 July 2005**  
**Sirte, Libya**

**EX.CL/197 (VII)**  
**Annex II**

**REPORT OF THE MEETING OF EXPERTS ON**  
**IMMIGRATION**

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AFRICAN UNION CONFERENCE OF  
MINISTERS ON IMMIGRATION  
Meeting of Experts  
15 – 18 JUNE 2005  
TRIPOLI – LIBYA

Mtg/Immigration/Experts//Report(I)

**REPORT OF THE MEETING OF EXPERTS ON IMMIGRATION**

## **REPORT OF THE MEETING OF EXPERTS ON IMMIGRATION**

### **I. INTRODUCTION**

1. The Meeting of Experts in preparation of the Ministerial Conference on Immigration was held at the Corinthia Hotel Conference Room, Tripoli, Great Socialist People's Libyan Arab Jamahiriya, from 15 to 16 June 2005.

### **II. ATTENDANCE**

2. The following forty-four (44) Member States attended the meeting:

Algeria, Angola, Bénin, Botswana, Burkina Faso, Burundi, Central African Republic, Chad, Congo, Côte d'Ivoire, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Equatorial Guinea, The Gambia, Gabon, Ghana, Guinea, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, SADR, Senegal, Sierra Leone, Somalia, South Africa, The Sudan, Togo, Tunisia, Uganda, Union of Comoros, Zambia and Zimbabwe.

### **III. OPENING CEREMONY**

#### **Welcome Address General Saleh Mohammed Rajab, Under Secretary in the People's Committee on General Security of the Great Socialist People's Libyan Arab Jamahiriya**

3. In his welcome address, the Under-Secretary in the People's Committee on General Security, General Saleh Mohammed Rajab extended the welcome of the people and leadership of the Great Socialist People's Libyan Arab Jamahiriya to all the participants to the experts meeting. He highlighted that the call for free movement in Africa was central to the realisation of a United States of Africa as enunciated by the Libyan Leader Colonel Muammar Ghadafi. Free movement would enable Africans to regain their dignity, continuously eroded by the artificial colonial borders that hinder the free movement of African people on the continent.

4. General Rajab stressed the fact that the African peoples were prepared to test and identify the challenges which the continent could face in the areas of free movement of persons, issuing of visas, residence permits, etc.

5. In conclusion, General Rajab indicated that the issue of free movement of persons on the continent could be resolved if mechanisms are put in place.

#### **Keynote Address by Mrs. Julia Dolly Joiner, Commissioner for Political Affairs**

6. In her keynote address, the Commissioner for Political Affairs, Mrs. Julia Dolly Joiner, expressed gratitude and appreciation to the people and Government of the Great Socialist People's Libyan Arab Jamahiriya, for the warm welcome and traditional hospitality accorded to delegates. She acknowledged and hailed Colonel Ghadafi and the people of the Great Jamahiriya for hosting the meeting and for the

conducive environment provided, thanked all participants for attending the meeting and hoped that the deliberations would traverse Africa's boundaries and justify the rising expectations of African peoples in the continent and the Diaspora.

7. The Commissioner then stated that the meeting was a significant opportunity for Africans to realize free movement within our great continent as provided for in the 1948 UN Universal Declaration of Human Rights, 1981 African Charter on Human and People's Rights, and the AU's Constitutive Act, and articulated in the AU Vision and Mission and Strategic Plan of the Commission approved by the Heads of State and Government. She also stated that it was her conviction and hope that it was possible to find positive commonalities in our current bilateral and multilateral practices on the key elements of free movement, and to chart the way forward for a successful African Project, enabling African citizens and the African Diaspora to travel freely without let or hindrance and contribute positively to the realization of a united, integrated Africa at peace in her diversity.

8. The Commissioner recalled that the ability of African citizens to move freely on the continent had been limited and restricted by, inter alia, the legacy of colonial domination. Against this background, the call for free movement today was in recognition of the fact that our peoples are constantly on the move between our countries, dictated by cultural, trade, commercial and political realities. Therefore, African States should respond to this call by regularising free movement for our peoples within the provisions of common policy and legislative frameworks, and make travelling easier between African regions than from Africa to Europe. She noted that politically, the call for free movement in Africa is anchored in the reality that all over the continent at bilateral and multilateral levels there are various forms of free movement frameworks that have been negotiated and are operational under various regional economic communities, including Community of Sahelo-Saharan States (CEN-SAD), Community of Eastern and Southern African States (COMESA), East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Inter-governmental Authority for Development (IGAD), Southern African Development Community (SADC), Arab Maghreb Union (AMU). There is, therefore, a need to build upon these existing sub-regional and bilateral frameworks, as well as on the spirit, commitments and principles of the Constitutive Act of the African Union, the Vision, Mission and Strategic Plan of the Commission, and the provisions of the African Charter on Human and People's Rights to develop an operational framework that would facilitate free movement in Africa.

9. She highlighted the measures needed to facilitate free movement within Africa, namely; issuance of an African Passport, making Residence Permits more accessible, relaxation of Visa Regimes, and elaboration of a framework that governs Deportation and Mass Expulsion in accordance with African and international human rights standards. She, however, emphasised that it is essential, that in the short term concrete measures be undertaken including but not limited to the issuance of an African Passport that would be initially limited to specified categories of African nationals. Such a diplomatic passport would be recognized within the African Union and reciprocal arrangements entered into between the AU and other countries and regions to ensure its reciprocal recognition. The issuance of an African passport would be a resounding and definitive statement of commitment that the African Union

is committed to ensuring greater freedom of African nationals with a singular identifying travel document that clearly asserts the African identity.

10. She concluded by pointing out that the concept paper presented to the meeting provided the broad outlines of what is needed to advance free movement in Africa, while acknowledging that more work will have to be undertaken to elaborate on the various elements of free movement, relating to an African passport, liberalisation of visa requirements, easing of residence requirements, and elaboration of a framework governing deportation and mass expulsions in accordance with African and international human rights standards.

#### **IV. ELECTION OF THE BUREAU**

11. The Meeting elected the following Bureau:

- |   |                       |                         |
|---|-----------------------|-------------------------|
| - | Nigeria               | Chairperson             |
| - | Great Arab Jamahiriya | First Vice-Chairperson  |
| - | South Africa          | Second Vice-Chairperson |
| - | The Sudan             | Third Vice-Chairperson  |
| - | Burundi               | Rapporteur              |

#### **V. ADOPTION OF THE AGENDA**

1. Adoption of the Agenda
2. Organisation of Work
3. Remarks by the Chairperson of the Session
4. Consideration of the Concept Paper on Free Movement
5. Adoption of the Report
6. Closing Remarks by the Chairperson of the Session

12. The Agenda was adopted without amendments.

#### **VI. ORGANIZATION OF WORK**

13. The Meeting adopted the following working hours:

- |   |           |                           |
|---|-----------|---------------------------|
| - | Afternoon | 16.00 -1900 – First Day   |
| - | Morning   | 9.00 - 13.00 – Second Day |
| - | Afternoon | 22.00 -                   |

#### **VII. REMARKS BY THE CHAIRPERSON OF THE SESSION**

14. The newly elected Chairperson, Mr Chukwurah Udeh, Comptroller General of Immigration of the Federal Republic of Nigeria, thanked the delegations for expressing confidence in his country by electing him to chair of the Experts Meeting. He also welcomed the other members of the Bureau. He concluded his remarks by expressing the hope that the Meeting would be able to deliberate on the issue of free

movement and make appropriate recommendations for consideration by the Ministerial Conference.

**VIII. AGENDA ITEM 4 CONSIDERATION OF THE CONCEPT PAPER ON FREE MOVEMENT**

**Introductory Remarks by Mr. Patrick Tigere, Head of Humanitarian Affairs, Refugees and Displaced Division, Department of Political Affairs, AU Commission**

15. In his introductory remarks, the Head of Humanitarian Affairs Division, Department of Political Affairs stated that free movement is a viable proposition within Africa not only because of the positive impact on social, cultural and economic development on the continent but also because of the existence of political will and relevant regional legal instruments, at sub-regional and continental level, supporting this initiative to consolidate the integration of African peoples. He went on to highlight the four keys elements that would help facilitate free movement in Africa to include the issues of liberalization of Visa Regimes, liberalization of Residence Permits, elaboration of a humane Deportations and Mass Expulsions framework consistent with the African Charter on Human and Peoples Rights and the consideration of the issuance of a continental wide Travel Document i.e. an African Passport as articulated in the Conceptual Paper, and emphasised by the Commissioner for Political Affairs in her keynote address earlier.

16. The Head of Humanitarian Affairs Division further explained that the call for free movement is premised on a clear understanding of the need to respect the sovereignty of Member States and recognise their exclusive jurisdiction to regulate and control the admission of persons into their territory. However, he stressed that it was important that sovereignty be interpreted in a positive way that would ensure respect for human and peoples' rights and facilitate free movement in Africa.

**Presentation of the Concept Paper on the Establishment of Free Movement In Africa**

17. The Consultant, Mr. John Nangurai took the delegates through the concept paper on Establishment of Free Movement in Africa. He began by noting that the objective of the paper was to explore modalities and options for the realisation of free movement in Africa. He highlighted the historical background on movement in Africa and observed that existing borders were a creation of colonial administrators, an act that has resulted in the alienation of Africans. He observed that this situation was inherited by African governments upon independence. He noted that the concern with free movement had now come to the fore owing to globalisation and increased integration in Africa that have created a functional need for easier movement. He drew the attention of the delegates to the provisions of the Constitutive Act and the Vision, Mission and Strategic Plan of the AU which stress unity and solidarity and call for a peaceful, integrated, and prosperous Africa.

18. The Consultant led the Meeting through the justification for free movement and observed that a number of international human rights instruments including the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, and the African Charter on Human and Peoples' Rights provided for

free movement. He further observed that while there are many advantages of free movement, states have for reasons of national security, economic reasons and social concerns curtailed movement. The advantages that he cited and which he concluded outweigh the disadvantages include increase in integration, technological advancement, investments and industrial growth and increase in intra-regional trade in both goods and traded services.

19. The Consultant noted that the call for free movement was not new considering that most Regional Economic Communities (RECs) have already embraced it. He observed that there was political goodwill among Member States and called for the removal of divergent visa regimes and immigration laws in Africa. He stressed on the need for Member States to collaborate on security matters.

20. The Consultant discussed in detail the African passport and noted that it would facilitate free movement within African countries which had been hampered by stringent immigration systems. He was of the view that an African passport would infuse a common identity among African citizens and be a political symbol and tool for African integration. He felt that the African passport would contribute to the foundation for unity, solidarity and co-operation among Member States and proposed that its design reflect the spirit of integration and unity for Africa. Relating to the possible launch of a future African passport, he proposed that interim arrangements to effect the roll out would need to be put in place for the initial issuance of an African diplomatic passport, which would be issued to a limited specified category of Africans.

21. The Consultant noted the existence of different procedures and practices for the issuance of visas. However, due to globalization, Regional Economic Communities were increasingly entering into visa abolition agreements. In his recommendations, he called on Member States to start negotiations on free movement of persons and harmonise visa regimes in the continent. He was of the view that more visa waiver or abolition agreements should be established while existing ones should be strengthened to facilitate increased free movement in Africa.

22. With regard to residence permits, the Consultant was of the view that Member States ought to make their residence permits requirements more flexible in order to realize the benefits of free movement. He recommended that residence permit applications from Member States should be accorded preferential treatment.

23. The Consultant further observed that while the African Charter on Human and People's Rights prohibited mass expulsions and required that deportations be effected only after due process of the law, the practice was such that it was evident that human rights provisions were not respected. He called for the elaboration of a protocol on deportations and mass expulsions to address these concerns.

24. The Consultant also highlighted the fact that it was necessary for a number of detailed studies to be carried out to explore, in depth, a number of key issues and implications of the establishment of a continent wide free movement regime. He also indicated that the concept paper was not exhaustive but only identified some of the key issues related to free movement in the four areas highlighted in the paper.

25. The Consultant concluded the presentation by stressing that laws, policies, regulations and institutional systems of free movement need to be harmonized and called for the creation of a specialized office within the AU Commission to deal with free movement.

### **General Discussions on the Concept Paper on the Establishment of Free Movement in Africa**

26. After the presentation on the concept on the establishment of free movement in Africa, Member States deliberated on the general concept of free movement as follows:

- i). All delegations were grateful to the people and the Government of the Great Socialist People's Libyan Arab Jamahiriya, for the hospitality accorded to the participants and to the AU Commission for preparing and presenting the concept paper submitted for their consideration. Overall, there was a general consensus on the need and principle of facilitating free movement in Africa as a strategy for enhancing integration in Africa.
- ii). On the Concept Paper presented, most delegations expressed appreciation for the work done by the consultant and expressed agreement on its structure, framework and content. However, some delegations stressed the need to further enrich the paper and make it more exhaustive. Others felt that enough time had not been given to consider the document in details so as to contribute more meaningfully.
- iii). Delegates felt that the concept paper was balanced and fair as it highlighted both advantages and challenges expected to facilitate free movement in Africa, while others felt that the positive aspects of the report far outweighs the negative aspects. There was therefore no need to lose hope, but to engage in more consultations and build consensus in order to ensure that the document is fully implemented. In addition, it was agreed that there was need to consider the legal instruments and agreements signed by Member States e.g. Lome Convention, Cotonou Agreements, which needed to be taken into consideration in order to address the legal problems.
- iv). While acknowledging the positive effects that free movement would have on the commercial, economic, social, cultural, political and technological development of the continent, some Member States recognized the complexity of the issues related to free movement and the possible negative impact of such movement on the continent including on labor market, national security, political implications, brain drain as well as economic imbalance between the strong and weak economies. In this regard, some delegates advised on the need to approach the discussions on free movement with caution, informed by detailed, extensive and exhaustive study of the concept.
- v). In drawing a parallel with the European Union, some delegations felt that although the EU achieved a lot on integration, the recent developments on the rejection to adopt a new constitution by some of its Member States



indicated that the EU model was not without challenges and should therefore not be replicated in its totality in Africa. To this end, these delegates felt that free movement in Africa could only be achieved gradually and failure to recognize expected challenges would only result in difficulties in the implementation. Member States highlighted the positive example in the area of free movement provided by ECOWAS, EAC and AMU, and indicated that many lessons could be learnt and adapted to advance free movement on the continent.

- vi). The delegates supported the approach of focusing deliberations and consensus building on common positions at a sub-regional level, based on the Regional Economic Communities, such as ECOWAS, SADC, EAC, which have already started African integration at a Sub-regional level through the facilitation of free movement in their regions. In addition, the meeting agreed on the need for a gradual and phased approach to the concept of free movement starting at the sub-regional level and between sub-regions as the 2<sup>nd</sup> phase.
- vii). On the question of expulsion and mass deportation, some delegates felt that it was a matter that should not be dealt with at the meeting since it was a matter related to national security and in some countries it is dealt with by the Ministry of Interior and not a matter of immigration. Some delegates indicated that in their countries it was a matter dealt with by the same government departments.
- viii). On the question of the African passport, some delegates felt that it was too early to decide on the need of such a document and, therefore, needed further deliberations on the same. It was a general feeling that the considerations and implementation of such a document should be gradual and with caution. Some delegates wondered whether the institution of such a document would indeed facilitate free movement on the continent and whether it was not more prudent to deal with liberalization or even abolition of visas on national passport as a more effective way of facilitating free movement on the continent. Most delegates suggested that more time be given to reflect on the matter, while other delegates suggested the setting up of an ad hoc committee to reflect on all the aspects of an African passport in relation to its impact on issues of national security.
- ix). However, other delegates highlighted the need for an African passport and the phasing of the implementation of such a document, but wanted further discussions on the details of what such a document should entail, how it should be implemented, what form it would take, and the institution that should process it.
- x). On the issues of visa liberalization, delegates agreed that it is an area that if well addressed could effectively facilitate free movement in Africa. Some delegations underscored the benefits of liberalization of visa regimes and practices in Africa.

## Discussions on Visa and Residence Permit Regimes

27. Under the discussions on this item, the following observations were made:

- i) There was general acceptance of the proposals in the concept paper with majority of delegates feeling that visa liberalisation would result in greater interaction between people and that their waiver would increase integration of the continent. However, some delegations felt that visa fees should not be waived as they remained an important source of revenue. To this end the Meeting called for an in depth study on the visas and residence permits regimes as well as the harmonisation of legislations within the regions.
- ii) The reference to ECOWAS and SADC as success cases from which the AU could model its framework was reiterated by a number of delegates. In particular reference was made to the effective border controls that have been put in place in these regions. It was indicated however that the experience on free movement under ECOWAS could be evaluated with a view to identifying the loopholes.
- iii) Delegates felt that security concerns should be addressed if the continent was to achieve the benefits of free movement. Specifically, there was a call for balancing security considerations and those of growth and development while not compromising basic human rights. It was generally felt that the implementation of free movement required development of communication systems and sensitisation of the police as well as immigration and custom officials. Collaboration on security, e-government and sharing of intelligence information and the registration of non-residents were additional suggestions made to address the security concerns.
- iv) Some delegations felt that the right to residence permits could not be applied across the board while a few others felt that there should be no distinction between the various types of visas. The meeting's attention was drawn to the fact that there existed a distinction between permanent and temporary residence with the former being issued for long-term stay while the latter for short visits.
- v) Some delegations shared the experiences of their countries in relation to visas and residence permits and in this regard indicated that preferential treatment was given to African citizens.
- vi) It was noted that the issue of implementation was critical and therefore there was need for experts on the continent to meet and follow-up on the issues, and that implementation be gradual. Other delegations proposed that emphasis be laid on bilateral agreements and that Member States be encouraged to enter into such agreements with their neighbours for abolition of visas and thereafter replicate these at the regional level. Delegations felt that there was need to consult within their regions to address the issues in greater details. Sound infrastructure, an effective

institutional framework and viable mechanisms were highlighted as key to the realisation of free movement.

### **Discussions on the African Passport, deportations and mass expulsions**

28. During the discussions under this item, the following observations were made:
- i) While a few delegations felt that the issues on the African passport and, deportations and mass expulsions did not fall under the debate on free movement, there was agreement among some of them that the African passport would achieve further integration of the continent. It was proposed that an in depth study be undertaken in order to remove the expected challenges relating to the African passport. Some Member States felt that it was important to ensure that any deportation or expulsions are carried out in full compliance with the African Charter on Human and People's Rights and other relevant international human rights instruments.
  - ii) Some delegations suggested that Appendix 1 of the concept paper should be amended to include other groups of people such as Prime Ministers, Deputy Ministers of regional governments of Member States with a federal system of government, members of the Secretariats of Regional Economic Communities, and Heads of Central Banks while others felt that the categories identified in the concept paper could serve as the first group of persons for the initial issuance of the African passport.

### **RECOMMENDATIONS**

29. Following constructive deliberations delegates recommended:
- i) That the concept of African integration through free movement in Africa be accepted and developed.
  - ii) That the contents of the concept paper be accepted in principle and be used as a basis for further development and that more time be given to Member States to allow for further consultations both at the national and sub-regional levels.
  - iii) That the process of facilitating free movement in Africa needs to be pursued gradually considering the interdependence of social, economic, security and human rights dimensions of the movement of persons in Africa.
  - iv) That the idea of an African Passport be accepted in principle and that further consultations be carried out at sub-regional level to address among others the legal and security implications.
  - v) That the process of facilitating free movement be implemented in phases and that the process be encouraged at the bilateral and regional levels from which a continent wide framework would be developed.
  - vi) That there is need for further consultations of experts and immigration

chiefs both at the national and regional levels (Regional Economic Communities) to consider the concept paper, harmonize laws, policies and regulations as well as assess the structures that would facilitate free movement in Africa. To this end, a working group of experts should be constituted under the auspices of the African Union Commission to take the process forward. The group of experts be also charged with monitoring and providing guidance to the implementation process.

#### **ADOPTION OF THE REPORT**

30. Delegates adopted the report and recommendations of the meeting by consensus.

#### **IX. ANY OTHER BUSINESS**

31. The Under Secretary in the People's Committee on General Security read out a statement from Colonel Ghaddafi to the European Union Heads of State. The message was well received by the delegations.

#### **X. CLOSING**

32. The Chairperson of the Experts Meeting thanked all delegations for their patience and constructive deliberations during the meeting. He also expressed gratitude and appreciation to the Libyan Jamahiriya and the AU Commission for making the meeting possible. The Chairperson expressed his hope that the recommendations of the meeting would be endorsed by the Ministerial Meeting as the basis for launching the process towards the establishment of free movement on the continent.

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