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DRAFT STATUTE OF THE AFRICAN MIGRATION OBSERVATORY

PREAMBLE

We, the Member States of the African Union;

GUIDED by the objectives and principals enshrined in the Constitutive Act of the African Union.

NOTING that about two thirds of migration occurs on the Continent, and less than 22 percent of migrants from Africa emigrate outside of Africa, with less than 15 percent of African migrants emigrating to Europe or North America.

CONSIDERING that since a great portion of African migration takes place on the continent, the need for up-to-date information on migration trends and patterns is critical for evidence-based interventions for the coherent management of the phenomenon for the benefit of Africa;

ACKNOWLEDGING that the informal character of the majority of migratory movements, the porosity of borders, and the complexity of collecting data on human mobility at the continental level have rendered the management of migratory movements difficult;

NOTING the 2017 Evaluation of the 2006 AU Migration Policy Framework for Africa and its finding on the lack of reliable and up-to-date data on migration which is hindering informed national, regional and continental policy-making on migration;

ACKNOWLEDGING that well managed migration can benefit Member States and the continent at large, and that the availability of quality and up-to-date migration data has the potential to facilitate a coherent migration regime on the continent;

RECOGNIZING the commitment of the Kingdom of Morocco under the leadership of His Majesty King Mohammed VI, Champion of the AU on Migration, to improve migration governance in Africa.

CONSIDERING that the African Agenda on Migration presented by the Kingdom of Morocco to the 30th ordinary session of the AU Conference proposed the creation of the African Observatory on Migration and the appointment of a Special Envoy for Migration in order to promote a better management of migration in the continent;

NOTING Assembly Decision on the Establishment of the African Migration Observatory (Assembly/AU/Dec.695(XXXI) and reiterating its concern on the migration situation in Africa, and **ENDORSED** the decision of the PSC at its 771st meeting held on 11 May 2018, which proposed the establishment of the African Migration Observatory in Morocco;

RECALLING the Decision of the Assembly of Heads of State and Government of the African Union (Assembly/AU/Dec.695 (XXXI), which endorsed the establishment of the African Migration Observatory in the Kingdom of Morocco, following the proposal of His Majesty Mohammed VI, King of Morocco and AU Champion for Migration;

REAFFIRMING the 2018 AU Migration Policy Framework for Africa which recommends the establishment and strengthening of continental arrangements/capacities for migration research, data collection, analysis and sharing;

RECALLING the Global Compact on migration in its subparagraph “f” related to objective 1, which recommended the need to collect and utilize accurate and disaggregated data as a basis for evidence-based policies by establishing and strengthening regional centres/observatories on migration, such as the African Migration Observatory;

RECALLING the Assembly decision AU/DEC.730 (XXXII) which requested the Commission to expedite the elaboration of legal, structural and financial implications as well as the statute of the AMO and welcoming the progress made by the Commission in collaboration with the Government of the Kingdom of Morocco in this regard;

UNDERSCORING that the Observatory shall be a Specialized Technical Office of the AU Commission with a continent-wide mandate;

NOTING the decision of the Executive Council EX.CL/195 (VII) Rev.1 Annex III on the Criteria for Hosting AU Organs;

RECOGNIZING the commitment of the Government of the Kingdom of Morocco to host the African Migration Observatory in line with the General Convention on the Privileges and Immunities of the Organization of African Unity (OAU) adopted by the Assembly of Heads of State and Government of the OAU on 25 October 1965 in Accra, Ghana and the supplementary Host Agreement concluded between the African Union and the Government of the Kingdom of Morocco in Marrakech on December, 10th, 2018;

AGREE AS FOLLOWS:

CHAPTER ONE

Article 1 Definitions

For the purpose of this Statute, the following terms and expressions shall have the meaning assigned to them:

“AMO” means the African Migration Observatory or the “Observatory”, which serves as a specialized Technical Offices of the Commission;

“Assembly” means the Assembly of Heads of State and Government of the African Union, as provided by the Constitutive Act of the African Union;

“AU” means the African Union as established by the Constitutive Act of the African Union adopted on 11 July 2000, which entered into force on 26 May 2001;

“Board” means the Board of the African Migration Observatory;

“Commission” means the Secretariat of the African Union, as provided by the Constitutive Act of the AU;

“Development Partners” means the multilateral institutions, development agencies, donors and foundations that contribute financially or otherwise to the Observatory;

“Executive Council” means the Executive Council of Ministers of the African Union as provided by the Constitutive Act of the AU;

“Experts” means individuals, other than officials, who owing to their special qualifications are recruited in accordance with the Staff Regulations and Rules on a temporary basis to perform specific assignments for the Observatory;

“General Convention” means the General Convention on the Privileges and Immunities of the Organization of African Unity (OAU) adopted by the Assembly of Heads of State and Government of the OAU on 25 October 1965 in Accra, Ghana;

“Government” means the Government of the Kingdom of Morocco.;

“Host Agreement” means the Host Agreement between the Government of the Kingdom of Morocco and the African Union on the hosting of the African Migration Observatory;

“Host Country” means the Kingdom of Morocco;

“Member State” means a Member State of the African Union;

“Migration Governance” means “the combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (sub-national, national, regional and international) and the relevant processes that shape and regulate States’ approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation.”

“Migration” means “the movement of a person or group of persons from one geographical unit to another across an administrative or political border, with the intention of settling indefinitely or temporarily in a place other than their place of origin. It involves the crossing of one or several international borders, resulting in a change in the legal status of the individual concerned. Migration may be ‘temporary’ or ‘permanent,’ depending on the duration of absence from the place of origin and the duration of stay in the place of destination.” (International Organization for Migration)”

“Observatory” means the African Migration Observatory;

“Regional Economic Communities (RECs)” means the regional integration blocs recognized by the African Union;

“Secretariat” means the management body of the Observatory;

“Statute” means the present legal instrument that defines the mandate of the Observatory;

“STC” means the AU Specialized Technical Committee on Migration, Refugees and Internally Displaced Persons (IDPs);

“Vienna Convention” means the 1961 Vienna Convention on Diplomatic Relations;

In this Statute, words expressed in the singular term shall be construed to include the plural and vice versa.

Article 2

Legal Status of the Observatory Centre

1. The Observatory is hereby established as a Specialized Technical Office of the Commission.
2. The Observatory shall possess in the territory of host country legal capacity for the fulfilment of its objectives, and exercise of its functions, including the capacity:
 - a. To enter into contracts;
 - b. To acquire and dispose of immovable and movable property; and
 - c. To enter and to respond to legal proceedings.

Article 3

Purpose and Objectives

1. Purpose

- a) To improve overall migration governance in Africa.
- b) To work towards addressing migration data deficiencies and guide African countries in the elaboration of migration policies;

2. Objectives

The Observatory shall have the following objectives:

- a) To provide the Continent with a centralized, unified source of data on migration for further research;
- b) To advance the knowledge base of the African Continent on migration and mobility;
- c) To contribute to evidence-based policies and interventions on migration in AU;
- d) To Support the other existing initiatives on migration notably the African Centre for the Study and Research on Migration, the Continental Operational Centre in Sudan for Combating Irregular Migration, the African Union Institute for Statistics (STATAFRIC), Member State's national bureaux of statistics and migration data hubs in Africa and beyond.

Article 4

Principles

The Observatory shall function in accordance with the following principles:

1. Non-interference in the internal affairs of any Member State, respect for the sovereignty and National Laws of Members States of the AU;
2. Respect for democratic principles, human rights, the rule of law and good governance in accordance with the Constitutive Act, the African Charter on

- Human and Peoples' Rights, the Universal Declaration on Human Rights and other relevant instruments;
3. Respect for ethics of law enforcement agencies of Members States of the AU, the principles of neutrality, integrity and the presumption of innocence;
 4. Respect and recognition of African ownership of the Observatory.

Article 5

Core Functions and Activities of the Observatory

1. In order to attain the above objectives, the Observatory shall have the following core functions;
 - a. Monitor migratory flows through data collection, analysis and their sharing, and to that purpose develop migration tools;
 - b. Set up a network of national African statisticians responsible of collecting migration data;
 - c. Harmonize data and improve their availability for a better understanding of interdependence between migration and development;
 - d. Establish regional migration data hubs in the RECs recognized by the African Union;
 - e. Establish an Information system through the creation of a network between the observatory and the RECs, in order to share regularly data and information;
 - f. Provide technical assistance, training and capacity building on migration data collection, analysis and elaboration of migratory policies;
 - g. Promote the integration of migrants in the strategies for the reduction of poverty and in development plans;
 - h. Encourage the protection of personal data of migrants for their respect, dignity and well-being;
 - i. Prepare and disseminate reports on the state of migration in Africa and establish a permanent African System for the Elaboration of Reports on Migration;
 - j. Establish a network of existing research centres in Africa in order to provide policy makers with harmonized and credible data and analysis on intraregional and inter-regional migration;
 - k. Create an African Portal on Migration offering access to updated data on intra and extra African migratory movements;

CHAPTER TWO

GOVERNANCE AND STRUCTURE OF THE OBSERVATORY

Article 6
Governance of the Observatory

1. The Observatory shall comprise the following bodies:
 - a. The Board of Directors (the Board);
 - b. The Secretariat.

Article 7
Functions of the Board

1. Reporting through the Commission to the relevant policy organ , the Board shall be the highest governance body of, and shall have overall oversight of the Observatory.
2. The functions of the Board shall be to:
 - a. Oversee the overall governance of the Observatory;
 - b. Provide strategic guidance to the Secretariat;
 - c. Consider and approve the Observatory's strategic plans, annual action plans and budgets;
 - d. Oversee the implementation of strategic plans, including financial and budgetary issues;
 - e. Recommend amendments to the Statute of the Observatory;
 - f. Assist the Secretariat in mobilizing resources to ensure that the Observatory fulfils its mandate;
 - g. Submit annual reports through the Commission to the AU Policy Organs on the activities of the Observatory.

Article 8
Board Composition and Tenure of Office

1. The Board shall be composed as follows:
 - a. Two (2) experts on migration, from each of the Five (5) regions of the AU for non-renewable term of two (2) years, with full voting rights. The experts shall be nominated by the STC on Migration, Refugees and Internally Displaced Persons, following consultations;
 - b. One (1) representative of Member States of each RECs, with full voting powers;
 - c. One (1) representative of the Host Country with full voting powers;
 - d. Two (2) representatives of the Commission (Department of Social Affairs, and Department of economic Affairs) (non-voting ex-officio);

- e. The Director of the African Migration Observatory (or his/her Deputy) who shall act as the Secretary of the Board (non-voting ex-officio);
 - f. The Director of African Centre for the Study and Research on Migration (non-voting ex-officio);
 - g. The Director of the Continental Operational Centre in Sudan for Combating Irregular Migration (non-voting ex-officio);
 - h. The Executive Director of the African Union Institute for Statistics - StatAfric (non-voting ex-officio);
 - i. The Legal Counsel of the Commission or his/her representative who shall provide legal advice as may be required, and shall be a non-voting member (1) (non-voting ex-officio);
2. The Board may invite such expertise from relevant professionals to sit at its meetings on an ad hoc basis as may be necessary.
 3. The Chairperson of the Board shall be elected from Member States represented in the Board.

Article 9

Meetings, Quorum and Decision-Making Procedures of the Board

1. The Board shall meet in ordinary session once every year.
2. The Board may be convened in extraordinary session, in conformity with its rules of procedure, subject to availability of funds at the request of:
 - i) One half of its members; or
 - ii) The policy organs of the Union.
3. The quorum for Board meetings shall be two thirds of the total membership of the Board.

Article 10

The Secretariat

1. The Secretariat shall be responsible for day-to-day execution of the strategies and activities of the Observatory.

2. The Secretariat shall be headed by a Director. In the absence of the Director, the Deputy Director shall act in his/her stead.
3. The Director and the Deputy Director shall be appointed by the Commission on the approval of the Board in line with African Union Staff Regulations and Rules and shall be a regular staff members of the Commission.

Article 11 **The Director**

1. The Director is the Chief Executive Officer of the Observatory.
2. Under the supervision of the Commissioner for Social Affairs of the Commission, the functions of the Director shall be to:
 - a) Implement directives of the Board and the Commission as may be applicable;
 - b) Organize, coordinate, direct and supervise the overall day-to-day operations and management of the Centre in accordance with the strategic plans and policies approved by the Board and the AU;
 - c) Plan, develop, and implement the Observatory's policy and programme objectives, plans, and evaluate progress while ensuring efficiency and cost effectiveness;
 - d) Provide strategic planning, overall management and institutional representation of the Centre in fulfilment of its mission, goals, and strategic objectives;
 - e) Prepare and submit to the Board and the Commission strategic and operational plans, budgets, financial statements and operational reports of the Observatory;
 - f) Ensure the vision, mission and guiding values of the Observatory are developed, communicated, and implemented at all levels;
 - g) Propose to the Board strategic alliances and partnerships for the joint execution of programmes and activities with development partners;
 - h) Act as Secretary of the Board to effectively carry out the Board's governance roles;
 - i) Serve as the spokesperson for the Observatory, and represent the Observatory in in continental and international partnerships and gatherings;
 - j) Promote an accountable, ethical, informed and transparent organizational culture;
 - k) Ensure coordination of the Observatory's activities in collaboration with other multi-lateral, continental, regional and national migration statistics institutions and partners;
 - l) Advocate on behalf of the Board and the Observatory at large to ensure that the positions and actions of the Observatory are successfully presented to all interested parties;

- m) Represent the Observatory at all meetings, conferences or similar venues where the Observatory seeks to be recognised to advance its mission and strategic goals;
- n) Provide expert advice to the Board, the African Union and its Member States, key stakeholders and partners;
- o) Ensure the Observatory has an annual work-plan in place, in line with the financial resources necessary to achieve its core functions, outcome-oriented goals, and objectives;
- p) Oversee the execution of the Host Agreement;
- q) Oversee all legal agreements and seek guidance, in this regard, from the Board and the commission when necessary;
- r) In partnership with the Board, provide leadership and direction in efforts to identify and secure technical assistance support for the Observatory's programmes and initiatives;
- s) Propose the annual budget to the Board and African Union Commission in keeping with established processes and timelines;
- t) Perform any other functions in line with the objectives of the Observatory and as entrusted by the Commission.

Article 12

The Deputy Director

Reporting to the Director, the functions of the Deputy Director include the following:

1. The Deputy Director reports to the Director and supervises and provides guidance on programmatic, finance and administrative operations of the AMO.
2. The Deputy Director is responsible for ensuring implementation of high quality business operation of the AMO by coordinating the daily work of staff, and ensuring compliance with AU regulations and rules as appropriate;
3. His major responsibilities shall be to:
 - a) Advise and guide the Observatory's management on programmatic, finance and administrative operations, including work-plans, operational policies, procedures and systems, supporting critical and routine programme operations.
 - b) Facilitate programme management support, including financial management, human resources management, procurement, information technology networks and equipment, travel, facilities management and other functions executed at both headquarters and the Observatory.
 - c) Supervise the development of programme objectives and work-plans of staff.
 - d) Ensure the implementation of the strategic goals and objectives and work-plans by staff.
 - e) Supervise reports by staff and prepare executive reports for management.
 - f) Work with staff to ensure overall agency compliance to AU rules and regulations, including established documentation and procedures for transacting administrative support functions processed by AU service divisions.
 - g) Ensure periodic staff appraisals.

- h) Facilitate and support the overall institutional accountability functions - including those necessary for auditing, budgeting, financial analysis, procurement, capital assets and property management and payroll and other operational systems and procedures - are implemented and monitored in accordance with AU and the Observatory's internal controls.
- i) Serve as the principal manager of the Observatory's budget.
- j) Develop and manage budget frameworks and coordinate implementation and execution of these tools, keeping senior management informed as appropriate.
- k) Serve as agency's point of contact with AU service divisions to resolve issues and problems preventing end-to-end service provision.
- l) Reviews and processes approvals for routine actions within multiple agency administrative systems, e.g., procurement and travel.
- m) Oversee staff, providing a full range of logistics support, procurement and travel
- n) Perform other duties as assigned by the Director.

Article 13

Other Staff

The Observatory will have other Staff Members, in charge of, among others, surveys/data collection, analysis, publications, finance, human resource development, administration, events and seminars management, networking and operations who shall be hired by the Commission in accordance with the AU Staff regulations and rules and within the approved structure and budget.

Article 14

Budget and Contributions

1. The regular budget of Observatory shall be within the budget of the AU;
2. In addition to the regular budget of the African Union, other sources of funding the Observatory, in accordance with AU rules and regulations, may include;
 - a. Voluntary contributions from AU Member States;
 - b. Contributions from Development Partners of the African Union and the Commission;
 - c. Contributions from the Private Sector;
 - d. Contributions from national and regional institutions;
 - e. Any other source of funding in accordance with AU Financial Rules and Regulations
3. The budget calendar of the Centre shall be that of the African Union.
4. Staff remuneration, administrative expenses and related budgets of the Centre shall be covered by the Union.

5. Programmes of the Centre shall be funded by resources from the AU, voluntary contributions by other Member States, or funding from development partners.
6. The budget shall be prepared and considered in line with the African Union Financial Rules and Regulations.

Article 15
Headquarters of Observatory

1. The headquarters of the Observatory shall be in Rabat, the Kingdom of Morocco.
2. If a Member State offers to host the meetings and conferences of the Observatory, it shall be responsible for all extra expenses incurred by the Observatory as a result of the session being held outside the Host Country.

Article 16
Code of Conduct

1. In the performance of their duties, the Director and other staff of the Observatory shall not accept nor receive instructions from any government or any authority other than the Union.
2. Each Member State shall undertake to respect the exclusive nature of the responsibilities of the Director and any other staff member of the Observatory—, and shall not influence or seek to influence them in the performance of their duties.
3. The Director and the other staff of the Observatory shall not, in the discharge of their duties, engage in any activity or conduct incompatible with the proper discharge of their duties. They shall avoid conflict between professional and personal interests or obligations sufficient to influence the impartial exercise of their official duties or responsibilities.
4. Where the Director of the Observatory fails to comply with his/her obligations, an *ad hoc* Committee approved by the Board shall conduct an inquiry and provide an appropriate report and recommendations for its consideration and decision.
5. Where a staff member fails to comply with his/her obligations, the internal procedures referred to in the Statute and the AU Staff Rules and Regulations shall be applied. The staff member concerned shall have the right of appeal in accordance with the Staff Rules and Regulations of the Union.

6. The Director and other staff of Observatory—may accept, on behalf of the Commission, gifts, bequests and other donations made to the Observatory, provided that such donations are consistent with the objectives and principles of the Observatory and shall remain the property of the Observatory. The director shall report to the relevant Policy organs on such donations.

Article 17

Role of the Department of social Affairs and the relationship of the AMO with Member States, Development Partners and Other Stakeholders

1. The Department of Social Affairs as the focal department on the subject matter shall ensure synergy between the Observatory and the Commission.
2. In carrying out its functions, the Union shall dedicate necessary resources to building partnerships aimed at improving the effectiveness of its operations.
3. Within the African Continent, the Observatory shall maintain working ties with development partners and stakeholders, particularly with recognized think tanks, RECs, civil society organizations and other relevant organs of the Union and technical offices (especially the Africa Research and Study Centre on Migration and the Continental Operational Centre for Combating Irregular Migration) in pursuit of its mandate.
4. The Observatory shall develop partnerships with Member States and RECs, and shall also coordinate its operations with regional and continental institutions that collect migration data across Africa.
5. In pursuit of its objectives, the Observatory shall closely cooperate with African diaspora think tanks and other international think tanks working on migration data issues, and such cooperation shall strive to ensure synergy and partnership.
6. The Observatory may be requested by Member States, the RECs, the Commission, other Organs of the Union, and international organizations to provide technical assistance in any field within its competence.

Article 18
Privileges and Immunities

1. The Observatory shall enjoy in the territory of the Host Country, the privileges and immunities specified in the General Convention and the Vienna Convention.
2. The host country agreement and applicable international law shall supplement the General Convention.

CHAPTER THREE

FINAL PROVISIONS

Article 19
Rules of Procedure

The Rules of Procedure of the Observatory shall be approved by the Board and the Commission in conformity with AU rules and procedures.

Article 20
Amendment

1. The Statute may be amended upon the recommendation of:
 - a. The Executive Council;
 - b. The STC; or
 - c. The Board or the AUC.
2. The amendments shall enter into force upon their adoption by the Assembly.

Article 21
Working Languages

The working languages of the Observatory shall be those of the AU.

Article 22
Authentic Text

This Statute is drawn up in four (4) original text in Arabic, English, French and Portuguese, all four texts being equally authentic.

Article 23
Entry into Force

The present Statute shall enter into force upon its adoption by the Assembly.

**Adopted by the Ordinary Session of the Assembly held in,..... on
.....2020.**

2020-02-10

Draft Statute of the African Migration Observatory

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