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EXECUTIVE COUNCIL
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Addis Ababa, ETHIOPIA

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**REPORT OF 2ND SESSION OF THE SPECIALIZED TECHNICAL
COMMITTEE ON MIGRATION, REFUGEES AND INTERNALLY
DISPLACED PERSONS (IDPs),
16 – 21 OCTOBER 2018, KIGALI, RWANDA**

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**SPECIALISED TECHNICAL COMMITTEE (STC) ON
MIGRATION, REFUGEES AND INTERNALLY
DISPLACED PERSONS
Second Ordinary Session
MINISTERIAL MEETING
20 - 21 OCTOBER 2017
Kigali, Rwanda**

AU/STC/MRIDP/MIN/Rpt(II)
Original : English

***THEME: “Opportunities for Migration and Free Movement of Persons in
Africa and Mitigating Challenges”***

REPORT OF THE MINISTERIAL MEETING

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I. INTRODUCTION

1. The Ministerial Meeting of the 2nd African Union Specialized Technical Committee Meeting on Migration, Refugees and Internally Displaced Persons (STC-MRI 2) was held in Kigali, Rwanda from 20 to 21 October 2017. The theme of the meeting was “*Opportunities for Migration and Free Movement of Persons in Africa and Mitigating Challenges*”.

2. The purpose of the Meeting was to consider and approve the following instruments, documents and reports:

- a) Draft Protocol on Free Movement of Persons, Right of Residence and Right of Establishment in Africa and its implementation roadmap;
- b) Draft Common African Position (CAP) on the Global Compact for Safe, Orderly and Regular Migration;
- c) Revised Migration Policy Framework and its 10 years plan of action;
- d) Progress Report on the AU Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants.
- e) Draft Decisions

ATTENDANCE

3. The 2nd Specialized Technical Committee Meeting on Migration, Refugees and Internally Displaced Persons (STC-MRI 2) was attended by the following 49 AU Member States: Algeria, Angola, Benin, Botswana, Bourkina Faso, Burundi, Cameroon, Central Africa Republic, Chad, Comoros, Congo, Cote d’Ivoire, Djibouti, Democratic Republic Of Congo, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Ghana, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritius, Mauritania, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sahrawi Arab Republic, Sao Tome And Principe, Senegal, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda And, Zimbabwe.

4. The following RECs were also present: IGAD, ECOWAS, EAC, ECCAS and, SADC.

5. The following observers also attended the open session: EU DELEGATION TO AU, GIZ, ICMPD, IOM, UNHCR and, ILO.

II. OPENING

6. In her opening statement, **H.E. Mrs Minata Samate Cessouma**, Commissioner of Political Affairs of the African Union Commission, welcomed all in attendance, thanked the Government of Rwanda for its hospitality in hosting this meeting and, congratulated the Experts for submitting recommendations for consideration by the Ministers. She highlighted the four main issues that would be considered in the STC session and informed that Free Movement of persons and the African Passport in Africa is one of the flagship projects of Agenda 2063 and an

integral part for realising the integration agenda of Africa. She reiterated the need to speak with one voice in addressing the challenges of irregular migration on the Continent, in particular through the Common African Position on the Global Compact for Migration and the Migration Policy Framework. She concluded by expressing support to the implementation of the Horn of Africa Initiative on Human trafficking and smuggling of migrants.

7. H.E Hon. Mohamed Salem Ould Salek, Minister of Foreign Affairs of Saharawi Arab Democratic Republic and outgoing Chair of the 1st STC on Migration, Refugees and Internally Displaced persons expressed his appreciation to the Experts, the outgoing STC Bureau and the Commission for their continued commitment to advancing the Continental migration agenda. He underlined achievements of the 1st STC and strongly recommended that the STC should have meetings with the Commission prior to the Ordinary session of the 3rd STC in 2019. Further, he congratulated the new Chair of the 2nd STC and assured him of his full support and availability in steering the activities of the Bureau; and concluded by extending his appreciation to the Government and the people of Rwanda for the hospitality accorded to all delegations.

8. H.E Hon. Mr. Johnston Busingye, Minister of Justice and Attorney General delivered the opening statement on behalf of the Government of Rwanda. He welcomed all participants and thanked the African Union Commission for choosing Rwanda to host the meeting. He recalled that current borders were largely inherited from colonization and balkanized the Continent in total disregard of Africans' interests. He also emphasised that the Continent's recovered political independence is an opportunity to collectively address some of the continental challenges and devise solutions to common challenges. He commended the positive trends in visa openness by African countries and echoed that the gains from free movement of people are real and far outweigh the envisaged challenges. The incoming Chair concluded by recalling that the task ahead is to iron out few issues that were raised, consider and submit the outcome to the STC on Justice and legal affairs and to the Assembly in January 2018 for endorsement; and declared the Session open.

III. PROCEDURAL MATTERS

9. The outgoing STC Chair announced the new composition of the Bureau as follows:

Chairperson:	East Africa: Rwanda
First Vice Chairperson:	West Africa: Mali
Second Vice Chairperson:	Southern Africa: Lesotho
Third Vice Chairperson:	Central Africa: CAR
Rapporteur:	North Africa: Ongoing consultations to select the Rapporteur.

10. Egypt informed the meeting that consultations in the Northern region for the assumption of the role of Rapporteur in the Bureau of the 2nd session of this STC could not reach a consensual solution and proposed that the matter be referred to the Executive Council. The Chair requested Rwanda to facilitate further consultation and report back the following day.

11. On the last day of the meeting, Rwanda reported on the facilitation of negotiation within the Northern region to designate the Rapporteur of the STC Bureau. The outcome of the facilitation is that no agreement was reached and the issue should be submitted to the Executive Council. The meeting endorsed this recommendation.

12. The agenda and programme of work were adopted.

IV. DISCUSSION ON THE THEME : *“Opportunities for Migration and Free Movement of Persons in Africa and Mitigating Challenges”*

13. The meeting engaged a discussion on the above mentioned theme. This discussion was based on a presentation made by the Director for Social Affairs, **Amb Olawale I. Maiyegun**, who emphasized that the effective management of migration can be utilized to enhance Africa’s economic and developmental potential. He highlighted the various African Union legal and policy frameworks, such as the Migration Policy Framework, the 1969 OAU Refugee Convention, and the 2009 AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa, as instruments that represent the importance the African Union attaches to migration in development. He further outlined the multiple Assembly Decisions that have led to the development of the Draft Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment. Within this context, the Director emphasized the need to re-examine the securitization of migration and mobility, and address the fear of host countries of being overwhelmed by irregular migrants and foreign workers. He concluded by posing a series of five questions relating to youth, protection, remittances and diaspora investments, and security.

14. During this segment, Ministers shared their countries’ experiences on migration management and made the following comments and recommendations:

- i) Africa must mobilise itself to improve the living conditions of refugees and migrants both within and outside the continent, including through bilateral agreements, and ensure respect for their human rights and dignity;
- ii) There is need to address the ~~negative~~ root causes of irregular migration on the continent so as to counter its impact on Africa’s socio-economic development;
- iii) There is need to harness the benefits of migration and the opportunities it engenders including, boosting intra-trade, fast tracking continental integration, eradicating poverty, employment creation and ultimately contributing to development;
- iv) Underscored the importance of addressing Migration and Refugee issues at continental level and thus appreciated the efforts being made at the level of the African Union;

- v) Africa must demonstrate greater solidarity and unity to fight against irregular migration, which has led to the tragic deaths of migrants across dangerous land and sea routes;
- vi) Need to take into account disparities in our institutions, in particular security related institutions, **and the different levels of economic development**, between African countries when implementing the Protocol on free movement; and encourage African initiatives to address economic disparities among African countries to enable a conducive environment for the implementation of the Protocol;
- vii) Stability, democracy, socio-economic development and peace across the continent must remain our primary objective as we seek to address issues around migration management;
- viii) Meaningful discussions on migration should be complemented by collective commitment to youth employment achieving and economic prosperity and development on the continent.

V. CONSIDERATION OF THE REPORT OF STC EXPERTS MEETING

15. In a closed session, the report of the STC Expert meeting was presented by the STC Experts Chair. Following this presentation, the Meeting decided to consider the outstanding issues presented in the report and made the following recommendations:

On free movement of persons:

16. The meeting considered the outstanding issues not resolved by the Experts related to the draft Protocol on Free Movement of Persons. The following observations and decisions were made.

17. Three main positions were expressed on Article 32 on “**Signature, Ratification and Accession**” and on Article 33 dealing with “**Entry into Force**”:

- i) The majority of delegations recommended that the entry into force of the draft Protocol should go through the normal ratification process, including constitutional requirements. In addition, the majority of delegations was of the view that the required number of ratifications for entry into force should be 15.
- ii) Some of the delegations proposed retention of the option of entering into force upon adoption by the Assembly, and this is in conformity with the Assembly decision;

- iii) A proposal by some delegations that the Protocol shall enter into force provisionally upon adoption in January 2018 by the Assembly, and definitively after the deposition of the 15 instruments of ratification by Member States.¹

18. The meeting noted that Articles 32 on “**Signature, Ratification and Accession**”, 33 on “**Entry into Force**”, 34 paragraph 5 on “**Amendment and Revision**”, 36 on “**Suspension and Withdrawal**” and, 37 on “**Reservations**”, all bracketed in the draft Protocol, are interlinked and should be considered all together. In the same vein, all these articles are dealing with legal issues and should be submitted to the STC on Justice and Legal matters which is the appropriate forum to consider and resolve them.

19. A proposal was made to add reference to national law in the definition of the Right to Residence contained in Article 1 in the draft protocol: “**right of residence**” means the right of a national of one Member State to reside and seek employment in another Member State other than their Member State of origin; ***in accordance with the national law of the host Member State***”. There was no objection to the proposal.

20. The meeting encouraged that Member States to consider building positive momentum through the principle of variable geometry in facilitating free movement of person in Africa

Draft Common African Position (CAP) on the Global Compact on Safe, Orderly and Regular Migration

21. The meeting approved the Common African Position on the Global Compact on Safe, Orderly and Regular Migration and recommended its submission to the next session of the Assembly for adoption.

Migration Policy Framework for Africa (MFPA) 2018-2030

22. The meeting adopted the MFPA and its Plan of Action.

23. The meeting took note of the Progress Report on the AU Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants and recommended to forward it to the next session of the Assembly. It was also recommended that AUC and Member States support this initiative.

VI. CONSIDERATION AND ADOPTION OF DRAFT DECISIONS AND RECOMMENDATIONS

24. The meeting adopted the Draft Kigali Decisions and Recommendations with amendments, which is annexed to the present report.

¹ Tunisia, and Egypt registered reservations on this proposal.

VII. ANY OTHER BUSINESS

25. Nigeria, supported by The Gambia, proposed to hold a special session of the STC in 2018 to consider the draft protocol to the African Charter on Human and People's Rights on statelessness and the right to nationality and, operationalization of the African Humanitarian Agency. The Ministers welcomed this proposal.

26. The delegation of Somalia requested for sharing of experience in the area of travel documents. The meeting took note of the request.

27. The Libyan delegation briefed the meeting on the current situation in Libya vis-à-vis the large number of African migrants in the country. The Delegation emphasized the need for support in accordance with the Skhirat agreement. The meeting expressed support to Libyan efforts to restore peace and security and requested the African Union Commission to work with the Libyan authorities and African countries of origin of migrants to facilitate their safe, dignified and orderly return.

VIII. DATE AND VENUE OF THE 3RD SESSION OF THE STC

28. The Ministers accepted the offer of the Republic of The Gambia to host the 3rd session of the STC in 2019 at date and venue to be mutually agreed.

IX. CLOSING SESSION

29. In her closing remarks, The Commissioner for Social Affairs highlighted the contributions of all the relevant documents adopted by the STC in addressing irregular migrations. She thanked all participants for attending the Second Session of the Specialized Technical Committee and congratulated the government and peoples of Rwanda for their hospitality. She paid particular tribute to Rwanda and Nigeria for their progressive policy on visa issuance for Africans. She appreciated the role of the Commission for the successful organization of the meetings and partners for their contribution and support.

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Africa and Mitigating Challenges”***

DECISIONS AND RECOMMENDATIONS

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PREAMBLE

WE, Ministers in charge of Migration, Refugees and Internally Displaced Persons meeting at the Second Session of the Specialized Technical Committee (STC) on Migration, Refugees, and Internally Displaced Persons of the African Union, held on 16 to 21 October 2017, in Kigali, Rwanda,

Recalling the vision of the African leaders for a united, prosperous and peaceful Africa representing a dynamic force in the global arena and an enduring dedication to Pan Africanism and African Renaissance;

Cognizant of the Constitutive Act of the African Union adopted in Lomé, Togo, in July 2000, that highlights the ambition of accelerating the political and socio-economic integration of the continent; and the fact that this will not be achieved if there is no free movement of people, goods, capital and services;

Recalling the Treaty Establishing the African Economic Community (Abuja 1991), Assembly Declaration *Assembly/AU/Decl.6(XXV)* of Johannesburg on Migration; Assembly Decision *Assembly/AU/Dec.607(XXVII)* of Kigali of June 2016;

Guided by our common vision for an integrated continent, politically united and based on the ideals of Pan Africanism and the vision of Africa's Renaissance as reflected in Aspiration 2 of the African Union Agenda 2063;

Mindful of the provisions on free movement of persons as enshrined in the 1948 United Nations Universal Declaration of Human Rights and in Article 12 of the 1981 African Charter on Human and Peoples Rights;

Acknowledging the contributions made and building on the achievements of the Regional Economic Communities and other intergovernmental organizations towards progressively achieving the free movement of persons;

Convinced that the free movement of people, capital, goods and services will result in significant increases in trade and investments amongst African countries and strengthening of Africa's place in global trade, foster tourism, promote cultural integration and Pan-Africanism, facilitate intra-Africa trade and investment, promote education, increase remittances within Africa, promote mobility of labour, create job opportunities and employment and improve the standards of living of the people of Africa while promoting the mobilization and utilization of the human and material resources of Africa in order to achieve self-reliance and development;

Recalling the various decisions of the AU Assembly, including Assembly/AU/Decl. 6(XXV) adopted in Johannesburg in June 2015, in which the Assembly recognized the impact of migration on development and expressed concern over the gravity of

irregular movements of African migrants within Africa and beyond; and requesting the AU Commission to make preparatory consultations with Member States on the development of a continent-wide Protocol on Free Movement of Persons and the need to build institutional capacities of Member States to enhance effective migration governance;

Recalling Also the decision of the Assembly adopted in July, 2016 in Kigali, Rwanda Assembly/AU/Dec.607(XXVII) welcoming the launch of the African Passport and urging Member States to adopt the African Passport and to work closely with the African Union Commission to facilitate the processes towards its issuance at national level based on international standards, design and specifications;

Underscoring the various existing legal and policy frameworks that have been adopted by Member States to manage Migration and Mobility on the continent. These documents include the AU's Constitutive Act, Agenda 2063, the Kampala Convention for the Protection and Assistance of Internally Displaced Persons, the Niamey Convention on Cross Border Cooperation, the Maputo Protocol, the Revised Migration Policy Framework for Africa, the African Common Position on Migration and Development, the AU Border Governance Strategy and other similar AU instruments and initiatives such as the African Peace and Security Architecture (APSA), the African Governance Architecture (AGA), the African Remittances Institute (AIR), the Joint Labour Migration Program (JLMP), the Minimum Integration Plan (MIP), the Free Trade Agreement, the Comprehensive Africa Agriculture Development Program (CAADP) and the Program for Infrastructure Development in Africa (PIDA);

Desirous of adopting the African Common Position (CAP) on the Global Compact for Safe, Orderly and Regular Migration to ensure that Africa's concerns are properly reflected at the global level and other international fora and the continent speaks with one voice;

Having Considered the Draft Protocol to the Treaty Establishing the African Economic Community Relating to free movement of persons, right of residence and right of establishment as amended and the draft Implementation Roadmap annexed to this Protocol as an integral part of the Protocol²; Migration Policy Framework for Africa and its Implementation Plan; the Common African Position on Safe, Orderly and, Regular Migration; and the Progress Report on the Horn of Africa Initiative on Human trafficking and Smuggling of Migrants;

² Egypt and Eritrea expressed their reservation to the phrase: "as an integral part of the Protocol".

1. **DECIDE TO:-**

A. **DRAFT PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF RESIDENCE AND RIGHT OF ESTABLISHMENT:**

- i) **Transmit** the amended Draft Protocol and its Implementation Roadmap to the STC on Justice and Legal Affairs for consideration and onward transmission to the AU policy organs in January 2018;
- ii) **Request** the Commission to convene a meeting of Member States Immigration Chiefs to develop, Guidelines and specifications for the design, production issuance and use of the African Passport as launched by Heads of State and Government in July 2016 in Kigali, Rwanda;
- iii) **Request** the Commission, to submit to the relevant Policy Organs, a proposal to establish a specialized technical unit that will provide technical assistance for the realization of the Implementation Roadmap annexed to the Protocol and to follow up the implementation of the Protocol after adoption;
- iv) **Request** the Commission to report on the entry into force of the Protocol and the status of its implementation by Member States to the 3rd Session of the STC on Migration, Refugees and Displaced Persons.

B. **MIGRATION POLICY FRAMEWORK 2018-2030**

- i) **Adopt** the revised Migration Policy Framework for Africa (MPFA) - 2018-2030;
- ii) **Adopt** the Plan of Action (2018-2030) annexed to the Migration Policy Framework;
- iii) **Encourage** Member States to consider aligning their policies to the Migration Policy Framework in order to facilitate proper migration management and governance;
- iv) **Reaffirm** Executive Council Decision EX. CL/Dec.314 (IX) on the creation of the African Centre for the Study on Migration and requests the Commission; in collaboration with the Government of the Republic of Mali, to expedite the process towards the establishment of the Centre by submitting to the relevant AU organs the administrative, financial and legal implications of the establishment of the Centre;

- v) **Request** the Commission to conduct a mid-term assessment in 2024 and end term evaluation in 2030 of the Implementation of the Migration Policy Framework;

C. AU HORN OF AFRICA INITIATIVE (AU-HOAI) ON HUMAN TRAFFICKING AND SMUGGLING OF MIGRANTS

- i) **Take Note** of the Progress Report on the AU Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants;
- ii) **Commend** the Member States of the Initiative for the progress made and **encourage** them to continue dialogue and collaborate in tackling organized criminal groups;
- iii) **Urge** that the initiative be sustained and replicated to other trafficking and smuggling routes across the continent and also extend the operational mechanisms for the initiative to other Regions including the G5 Sahel countries;
- iv) **Request** the Commission to support the Regional Operational Centre in Khartoum (ROCK) and the Training Centre in Cairo for Law Enforcement and to facilitate the participation of other AU Member States, not part of the AU-HoAI, and RECs upon their request;
- v) **Request** the AU policy organs to allocate adequate resources for the implementation of the AU-HOAI activities;
- vi) **Request** the Commission to transmit the Progress Report to the Executive Council and the Assembly.

D. DRAFT COMMON AFRICAN POSITION (CAP) ON THE GLOBAL COMPACT ON SAFE, ORDERLY AND REGULAR MIGRATION

- i) **Approve** the Draft Common African Position as amended and transmit to Assembly for adoption, and subsequently to the African Groups in New York, Geneva and Brussels for use during multilateral negotiations;
- ii) **Urge** Member States to speak in one voice during the negotiations of the Global Compact on safe, orderly and regular migration while taking due consideration of the Common African Position.
- iii) **Encourage** Member States to be guided by the CAP in the negotiations of bilateral labour migration agreements;

2. **ACCEPT** the offer of The Republic of The Gambia to host the third session of the STC on Migration, Refugees and Internally Displaced Persons in Africa, scheduled for 2019.

3. **EXPRESS APPRECIATION** to H.E. President Paul Kagame, the Government and People of Rwanda for hosting the second session of the STC and for the warm hospitality extended to all participants.

Done in Kigali, Rwanda, 21 October 2017

2018-01-26

Report of 2nd Session of the Specialized Technical Committee on Migration, Refugees and Internally Displaced Persons (IDPs), 16 – 21 October 2018, Kigali, Rwanda

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