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**SPECIALIZED TECHNICAL COMMITTEE (STC) ON**

**MIGRATION, REFUGEES AND DISPLACED PERSONS**

**Extraordinary Session**

**EXPERTS MEETING**

**29 OCTOBER-1 NOVEMBER 2018**

**Malabo, Equatorial Guinea**

**AU/STC/MRDP/EXP/Rpt(Ext.)**

**Original : English**

**THEME: “Overcoming the Challenges of Statelessness, Forced Displacement and the Free Movement of Persons in Africa”**

**REPORT OF THE EXPERTS MEETING**

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1. **INTRODUCTION**
2. The Extraordinary Session of the Specialized Technical Committee (STC) on Migration, Refugees and Displaced Persons at the Experts level took place from 29 October – 1 November 2018 in Malabo, Equatorial Guinea.
3. The meeting was attended by Senior Officials from Ministries of Immigration, Justice, Home Affairs and Interior as the case may be in the different countries. The following 37 countries were in attendance:

Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Congo, DRC, Cote d’Ivoire, Djibouti, Egypt, Eswatini, Ethiopia, Equatorial Guinea, Gambia, Lesotho, Liberia, Libya, Madagascar, Mali, Mauritania, Mauritius, Morocco, Mozambique, Niger, Rwanda, Saharawi, South Africa, South Sudan, Togo, Tunisia, Uganda, Zambia, and Zimbabwe.

1. Present also were representatives of the Regional Economic Communities (RECs), namely the Economic Communities for Central African States (ECCAS), Common Markets for Eastern and Southern Africa (COMESA), and Southern African Development Community (SADC). In addition to the RECs was United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM) who attended the meeting as observers.
2. **OPENING SESSION**

**Opening Remarks by Dr. Khabele Matlosa, Director for Political Affairs, African Union Commission (AUC)**

1. In his opening remarks, Dr. Matlosa thanked the Government of Equatorial Guinea for hosting this important meeting in Malabo and for the warm welcome and hospitality accorded to all delegations.
2. Dr. Matlosa informed the meeting that the draft Guidelines on the Design, Production and Issuance of the African passport are now ready for consideration of the STC as requested by the STC in November 2017 in Kigali, Rwanda. He informed the meeting that the draft Guidelines is a result of several meetings of Chiefs of Immigration as well as Member States Experts in Charge of production and issuance of passports. He further informed that Regional Economic Communities (RECs), The International Organization on Migration (IOM) and the International Civil Aviation Organization (ICAO) had participated in the Members States meetings that drafted the Guidelines and they provided the requisite technical expertise that informed the Guidelines.
3. Dr. Matlosa also informed the delegates of the just concluded meeting of member countries of Committee of Intelligence and Security Services of Africa (CISSA), that was jointly organized by the AUC and Committee of Intelligence and Security Services in Africa (CISSA) Secretariat on security issues related to the Protocol on Free Movement of Persons in Africa. He informed them that it was a successful meeting whose final report will be shared with the STC for their appreciation.
4. He highlighted that a Consultant has been commissioned by the AUC to undertake a feasibility study on the African Humanitarian Agency. He informed that work is underway and he has an initial report ready on the financial implication for the Implementation of the Agency for consideration by the STC. He stressed on the importance of Agency stating that when operationalized, the Agency will constitute a critical mechanism for African response to humanitarian crises on the continent.
5. Dr. Khabele concluded by informing the meeting that there will be a review of the proposed amendment of the draft Protocol to the African Charter on Human and People Rights on the specific aspects of the Right to a Nationality and the Eradication of Statelessness in Africa;

**Statement by Mrs. Maya Sahli Fadel, African Commission on Human and Peoples Rights (ACHPR), Special Rapportuer on the Rights of Migrants, Refugees, Asylum seekers and IDPs in Africa**

1. Mrs. Fadel in her statement made a brief summary of the draft protocol to the African Charter on Human and People’s Rights on the Specific Aspects of the Right to a Nationality and the Eradication of Statelessness in Africa. She indicated that the protocol touched on the rights to nationality hence adds value and benefits of the People of Africa, and encouraged member states to consider its adoption.
2. She concluded her remarks by thanking the Government of Equatorial Guinea for hosting this meeting;

**Statement by Mr. Anaclet Kalibata, Director General of Republic of Rwanda and the Chair of Specialized Technical Committee (STC) on Migration, Refugees and Displaced Persons.**

1. The Chair of STC, Mr. Kalibata Anaclet, in his opening remarks thanked the Government of Equatorial Guinea for the warm welcome to the beautiful city of Malabo and also thanked the African Union Commission for all the work done in organizing the meeting. He informed the meeting that the issues for consideration by the STC since there had been a long process involving several meetings where deeper debates and reflections took place. He therefore hoped that the documents under consideration by the Experts meeting will be concluded in good time for onwards transmission to Ministers for their adoption and he had no doubt that it will be achieved.

**Statement of Mr. Matias NGUEMA MBA MEDJA, Permanent Secretary, Ministry of Foreign Affairs, REPUBLIC OF Equatorial Guinea Government.**

1. On behalf of the Minister of Foreign Affairs of the Republic of Equatorial Guinea, H.E. Mr. Simeon Oyono Essono Angue, the Permanent Secretary welcomed all delegates to Malabo. He stated that the minister had personally made all efforts to ensure that all delegates attending the meeting are facilitated and the meeting is taking place in good environment. He also thanked the African Union Commission for all the work done in preparations for the meeting to take place successfully.
2. Mr.Matias NGUEMA MBA Medja stated that the Protocol under consideration refers to issue of security and human rights. He indicated that statelessness impacts on the stability of the state because it impedes on the rights of the individual. Therefore, he lauded the AUC for the initiative taken to add a protocol on statelessness to the African Charter on Human Rights. He highlighted that the problems of statelessness in Africa are usually considered as issues of high risks, and added that where there is political will, solutions can be found.
3. He concluded by highlighting the issue of the Guidelines for the production and issuance of the African Passport and invited delegates to make necessary contributions. He ended his remarks by wishing success to the deliberations that will follow and declared the STC Extraordinary Session officially opened.
4. **PROCEDURAL MATTERS: Consideration and Adoption of the Draft Programme of Work of the Experts Meeting**
5. The Agenda of the Experts Meeting was adopted with the following amendments:-
6. The meeting decided that the presentation of the outcomes of the meeting of Committee of Intelligence and Security Services in Africa (CISSA) on Security issues related to Free Movement of Persons in Africa be moved to Any Other Business (AOB) for and noting since it is not an items for debate.
7. The further decided that the presentation of the progress report on the Financial Implications of the Operationalization of the African Union Humanitarian Agency be moved to AOB as an update brief for noting, since it is still work in progress.
8. **DELIBERATIONS**

**Presentation on Guideline for the Specification, Design, Production and Issuance of the African Passport and its two Annexes**

**Annex 1 – Minimum Technical Specification and Security Features**

**Annex 2 - Agreed Colors, Categories and Features of the African Passport**

1. A representative of the African Union Commission made a presentation on African Union Guidelines for the Design, Production and Issuance of the African Passport, highlighting the Background; Purpose of the Guidelines; Mandate for the Development of the Guidelines, the Guiding Principles; the Key Elements of the African Passport and the Way forward. It was also highlighted that the Guidelines aims at operationalization of Article 10 of the Protocol and its implementation Road Map hence needs to be considered alongside these two documents.

**Outcomes of the Deliberations:**

1. During the Deliberations that ensued, the meeting made the following amendments on the Draft African Union Guidelines for the Design, Production and Issuance of the African Passport;

**Background:**

1. The meeting decided to add a paragraph that provides information on the process of developing the Guidelines. To this end, the following meetings should be included in the background.

**14 – 16 May 2018, Seychelles** – Meeting of Member States Chiefs of Immigration, composed of Director Generals and Senior Officials from Immigration, Ministry of Justice, Ministry of Interior/Home Affairs and Ministry of Foreign Affairs as the case maybe in each Member States.

**9 – 11 July 2018, Nairobi, Kenya** – Meeting of Member States Experts in-charge of development and issuance of National Passports, which was composed of Government Experts from agencies/departments dealing with issuance of passports, civil registration/documentation, justice and immigration as the case may be in the different Member States.

**12 -13 July 2018, Nairobi Kenya** – Meeting of Member States Chiefs of Immigration, composed of Director Generals and Senior Officials from Immigration, Ministry of Justice, Ministry of Interior/Home Affairs and Ministry of Foreign Affairs as the case maybe in each Member States.

1. **Para 7 of the Background** – The meeting decided to make reference to the Protocol on Free Movement in addition to the issuance of an African Passport as part of the efforts to achieving Aspiration 2 of Agenda 2063 as follows:

*(Therefore the dream will be translated through the ratification of the Protocol and the issuance of an African Passport …….)*

1. **Guiding Principles**

Para 4 – The meeting decided to add *(in compliance to its national laws and regulations)* at the end of the sentence, in order to respect the sovereignty of Member States.

1. **Categories**

The meeting discussed the possibility of adding another category of passports for refugees. It became clear during deliberations that refugees are not nationals of the host country and therefore cannot be issued with passports by the host country. They however have an international protection regime as enshrined in the 1951 UN Convention on refugees, which is further reinforced in the 1969 OAU Convention on the Specific Aspects of Refugees in Africa. Both of these legal instruments do not require host countries to provide refugees with passports but rather, with travel documents. Article 24 of the Protocol on Free Movement recognizes this International Protection regime and further calls on host countries to establish procedures for the movement of specific vulnerable groups including refugees.

1. **Colors**

The meeting decided to maintain the colors on both the Guidelines and its annexure as decided in the Nairobi meeting *(Diplomatic Passport – Red Pantone 200C; Service/Official Passport – 275C and Ordinary Passport – Green Pantone 355C)*

The meeting further decided to remove the reservations entered by Morocco and Mauritius related to colors of the passports, since the document is simply guidelines and do not constitute a legal document.

1. **Technical Specifications**

The meeting decided to replace *‘are requested to’* with *‘must’* because it is a requirement for countries to comply with ICAO standards.

1. **Validity of the Passport**

The meeting decided to replace *“Children”* with “*Minors.*”

1. **Way Forward**

The meeting decided to reorder the paragraphs in order to reflect the sequence of implementation as follows

Para C becomes Para A

Para A becomes Para B

Para D becomes Para C

Para E becomes Para D

Para B becomes Para E; and it also refers to a Phase out/transitional arrangement as a specific time frame/deadline set out at national level for phasing out the current passports.

1. On harmonization of legislation, the meeting agreed that Member States will have to review their national laws and regulations to allow for the issuance of the African Passports at the national level.
2. The meeting received clarification that the African Passport will replace the national and regional passports and the cost of replacement will be met by the national government issuing the African Passport.
3. Some countries suggested uniformity of the data page and the political message on the prayer page to reflect the African Identity that the African Passport provides to both the issuing state and the passport holder. The meeting was informed that the Member States Experts during the drafting of the Guidelines decided to leave each country to decide on the data page and the prayer based on their national laws and regulations.

**Recommendations**

1. Following extensive deliberations, the Experts Meeting adopted the Draft Guidelines for the Design, Production and Issuance of the African Passport and recommended to submit it to the Ministers of the STC on Migration, Refugees and Internally Displaced Persons for adoption. .
2. Furthermore, the meeting requested the AU Commission to organize a separate forum with all stakeholders to discuss other issues related to the passport including legal mandate and the value of the African passport.

# Consideration of the Draft Protocol to the African Charter on Human and People’s Rights on the Specific Aspects of Right to Nationality and the Eradication of Statelessness in Africa

1. Member States Experts considered the text of the protocol in both French and English. On methodology, the meeting agreed to consider only all bracketed provisions following the meeting of Abidjan. The proceeding of the meeting can be presented as follows:

**Title and Preamble**

1. Delegates first discussed the title of the Protocol, focusing on the two bracketed proposals. The first proposal links the draft protocol with the African Charter on Human and Peoples Rights whereas the second proposal proposes that the protocol stands as a separate instrument on nationality and eradication of statelessness in Africa.
2. Several delegates reiterated their support to the idea of linking the protocol with the Charter as an additional Protocol, arguing that it contributes to fill existing legal vacuum on the right to nationality under the Charter. Reference is also made to article 6 and 66 which envisages further development to enhance the Charter. Delegations also argued that the reference to specific aspects is necessary to reflect several African specificities.
3. Following extensive debate including on the question whether the matter should be referred to the STC on Legal Affairs, it was argued that the first proposal be maintained. The Delegation of Morocco expressed reservation regarding the consensus and hence asked for its reservation reflected in the report.
4. Following the consensus, the previously bracketed paragraph 1 and 2 making reference to “State Parties of the Charter” and article 66 of the Charter were maintained. The title of the protocol and its preamble were therefore adopted.

**Article 1: Definitions**

1. Six definitions fully or partly bracketed during previous meeting of experts were submitted for consideration to member States experts.

***Acquisition of nationality***

1. The bracketed segment of the definition of Acquisition of nationality submitted to the attention of the meeting for consideration was **[in conformity with the conditions and procedures established by that State in its national law].** The question was whether the bracketed segment was to be maintained as fully part of the definition or removed.
2. Some experts expressed concerns about redundancy in the definition as a result of keeping the bracketed segment as part of the definition and recommended its deletion. On the contrary others in favour of removing the brackets and maintaining the segment raised the importance of emphasizing on the applicable legal framework with relation to acquisition of nationality which is the national Law. After discussion on both views the meeting decided to remove the brackets and maintain the segment as part of the definition.

***Habitual residence:***

1. The segment of the definition in bracket dealt with the addition of the wording [**and lawful]** as part of the definition of habitual residence. Two contradictory views were expressed. The first view supported removing the brackets and maintaining the segment “and lawful” as fully part of the definition on the basis that deleting it from the definition will encourage illegality which was not the purpose of the draft Protocol. The second view recommended the deletion of the bracketed provision. The main justification being that stateless persons who are undocumented won’t be able to prove that their residence is legal, and in practice will be excluded from the protection intended to operate in their favor.
2. After lengthy debate, the meeting therefore agreed with the decision of the Chairperson to delete the overall definition with the understanding that the meeting would eventually reconsider the deletion of this definition in case further examination of provisions relating to habitual residence in the draft Protocol suggest it.

***Kafala***

1. Even if the definition of the term “**Kafala”** was not bracketed in the draft Protocol submitted to the meeting, the necessity to clarify this concept and to decide whether it should be maintained or deleted in the text of the draft Protocol arose.
2. After consideration of the pros and cons of the definition expressed by Experts, and keeping in mind the purpose of the draft Protocol under consideration, the meeting recommended to keep the definition of “Kafala “ as it applies to some African countries that do not recognize “adoption” in their national laws. Another argument mentioned “Kafala” as one of the African specificities referred to in the title of the Draft Protocol. In addition, a slight modification by adding **“where applicable”** to the definition, was suggested to ensure that the definition do not have any implications on other States which national laws do not provide for the institution of “Kafala”. The definition was therefore maintained with the addition of the wording “where applicable”.

***Parent***

1. After lengthy discussions with contradictory views expressed on the definition of **“parent”** and the bracketed segment of the definition [**or kafeel],** the meeting expressed its view in favour of the deletion the bracketed segment on the justification that the disputed segment was already included in the agreed definition of “Kafala”.

***Regularization***

1. The definition of **“regularization”** was bracketed in its entirety. During the discussions, it was recalled by the independent Expert that Article 7 paragraph 2 which was initially relating to regularization was deleted from the draft Protocol during the previous meetings of member States Experts. The question was therefore to know if the definition itself was still relevant or was to be deleted as a consequence of the deletion of article 7 paragraph 2 to which it was related. Therefore, the meeting decided the deletion of the whole definition.

***Renunciation of Nationality***

1. In their examination of the definition of “**Renunciation of nationality”** and its bracketed segment **[in accordance with national law],** Member States experts expresseddifferent and contradictory views. Some arguments in favour of maintaining the bracketed segment as part of the definition were among other reasons that it was putting more emphasis on the legal framework applicable to renunciation of nationality.
2. On the contrary arguments against tended to avoid redundancy in the text as a result of keeping the bracketed segment as part of the definition. After a debate among Member States, the meeting decided to remove the brackets and maintain the disputed segment.

**Article 2: Objectives**

1. The meeting decided to remove paragraph (d) concerning the establishment of the obligations and responsibilities.

**Article 3: General Principles**

1. The Chairperson rules that the meeting will not consider this article as it did not contain any bracketed provisions. The article therefore remains unchanged.

**Article 4: Non-Discrimination**

1. As the bracketed part of Article 4.2 (b) **[subject to the provisions of Article 16]** refers to Article 16, the meeting decided to consider it during the discussion on this Article 16.

**Article 5: Attribution of Nationality at Birth**

1. Delegates discussed at length the few bracketed paragraphs of Article 5. Several delegates stated that the article is too complex, inconsistent and has too many exceptions. The chapeau of article 5 that refers to “national laws” dealing with exceptions applicable to attribution of nationality was debated. Some argued that as attribution of nationality is governed by domestic law, the aforementioned phrase is not necessary or is redundant at best.
2. The meeting decided to delete reference to “national law.” It was also agreed that an additional paragraph under article 5(2) clarifying the attribution of nationality to children under the practice of “ Kafala” be included. The meeting also decided to delete the last part of Article 5.1 (c) which is bracketed. The Delegation of South Africa expressed reservation in this regard.
3. A delegate suggested that the French version of 5(1) b is incomplete and requested the same to be revised. Another delegate raised concern regarding the inconsistency between the Arabic version and the English and French texts.

**Article 6: Acquisition on Nationality**

1. The disputed and bracketed provisions submitted for consideration consisted of Article 6.2 and article 6.4

**Article 6.2**

1. With regards to article 6.2, both the initial detailed version and the proposed shortened version were discussed at length. The majority of experts preferred the proposed shortened version for the main reason that it was (1) encompassing enough to address the situation of categories mentioned in the initial version; (2) in accordance with the purpose of the protocol to eradicate statelessness; (3) issues relating to children and spouses were already covered in other articles of the draft Protocol.
2. Discordant views stressed on the two main aspects of the draft protocol notably the right to a nationality and the eradication of statelessness. They denounced the restrictive nature of the shortened proposed version as it was taking into consideration only one aspect relating to the eradication of statelessness. In addition, independent Experts made technical comments on the possible consequences of deleting provisions of the initial version of article 6.2 with regard to children and other specific populations mentioned in the provision.
3. To reconcile both views including the technical aspect raised by the independent experts, the meeting adopted the shortened version which will be enriched with key provisions on the initial version so as to align with the purpose of the draft Protocol which relates both to acquisition of nationality and eradication of statelessness. The meeting requested the independent Experts to present a final version of the text.

**Article 6.4**

1. On the bracketed provisions of Article 6.4 **[and should refrain from conferring nationality en masse, even if multiple nationality is allowed by both States]**, the meeting unanimously decided the deletion of this bracketed segment for the reason that it was infringing on the sovereignty of States on matter relating to nationality on their territory.

**Article 7: Habitual Residence**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 8: Nomadic and Cross border Populations**

1. On the title, States have decided to maintain cross-border instead of border.
2. However, it was asked by some delegates that the term "cross-border" should be defined in the article providing definitions.
3. With regard to the content of Article 8, some States wanted to make amendments to paragraph (a) of Article 8 (1) such as "Take all measures ( ...) to issue related documents”.
4. With regard to paragraph (b) of Article 8 (1), the meeting decided to adopt it this without amendment.

**Article 9: Marriage**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 10: Children’s Rights**

1. Article 10, paragraph 1 incorporated a bracketed phrase “ **as soon as possible**” aimed at putting a condition on State responsibility to take legislative and other measures to ensure that a child’s birth is registered at birth and nationality is attributed accordingly. There was no objection to the phrase “as soon as possible. “ The wording therefore is maintained. One delegate however highlighted that the Arabic version of the provision requires that the registration of birth and attribution of nationality be carried out immediately after birth. The delegate requested the Arabic text be reviewed and its consistency with other versions be ensured.
2. The second item that was discussed by delegates was paragraph 3 of article 10 where the word “**impartial**” was inserted to qualify the partiality of the representative who may be allowed to intervene on behalf of a child in a legal proceeding. Some delegates noted that notion of “impartiality” is difficult to establish and that national laws normally provide situations where a parent, a representative of the minor, a guardian or a state counsel may participate without a need to establish ‘impartiality.” It was agreed that the word “impartial” be deleted.
3. Concerning Para 4 which deals with the obligation or duty of parents or guardians, several delegations mentioned that the provision is redundant or superfluous and hence recommended its deletion. Agreement was reached to delete.

**Article 11: Multiple Nationality**

1. Article 11, which deals with notions of dual or multiple nationality, incorporated a number of elements which were bracketed.
2. Delegates commenced debate on the title of Article 11 where the words “dual” and “multiple” were bracketed. Several delegates noted that the notion of ‘multiple” nationality includes “dual” nationality. It was therefore agreed to keep “multiple” in the title.
3. Concerning paragraph 2, delegates also agreed to replace “Notwithstanding sub article (1)” with “**nevertheless**.” It was suggested that the change reinforces the linkage between the two elements of the paragraph.
4. Under paragraph 3 of article 11, delegates debated whether to restrict the scope of the paragraph to the child or refer to a “person” more generally. Some delegates argued that children require specific protection and this focus is consistent with the aim of the Protocol more generally. It was agreed to maintain reference to “**child**.”
5. In paragraph 3 of article 11, the word “reasonable period” was bracketed. The “period” here refers to two situations, (a) a time in which a child may be required to choose between different nationalities after attaining majority and, (b) the waiting period for a statement to be received from consular offices before presuming that a person does not hold the nationality of such a State. Delegations argued that the phrase “reasonable” should be maintained in order to put limitation to time within which nationality issues may be sorted. Not doing so, some of these delegates argued, will result in statelessness. The meeting decided to maintain the phrase “**reasonable**”.
6. Citing the expansive scope of the article which goes beyond the prevention of statelessness, Zimbabwe and Lesotho expressed their position that the entire article should not have been included in the Protocol.

**Article 12: Evidence and Entitlement to a Nationality**

1. Delegates discussed paragraph 2 of article 12 where the only bracketed issue relates to the question whether to use “**shall**” or “**may**” with regard to the responsibility of a State party in making legal arrangements or other appropriate mechanisms for a presentation of oral testimony in situations where documentary evidence is not available.
2. Many delegates noted that in the absence of documentary proof, it will be difficult to have proof unless arrangements are not made for presentation of “oral testimony.” It was therefore recommended that the responsibility for a State to make such arrangement be compulsory. Several delegations highlighted that in the absence of such obligation, there will be a high-level of statelessness. A decision therefore was made to maintain the word “shall.”

**Article 13: Documentation of Nationality**

1. Under article 13 relating to documentation of nationality, the subparagraph 2 and its 4 segments in brackets were submitted to the attention of Member states for consideration as follows:
2. **[after satisfaction of the administrative formalities established in national legislation]:** the majority of Member States experts highlighted its importance as a provision of article 13.2. The meeting therefore decided to remove the brackets and maintain the segment as part of the article 13.2
3. **[LEGALLY]:** was also maintained in the text of article 13.2 as unanimously agreed by the meeting.
4. **[a birth certificate where relevant,]** and **[a national identity card where such documents are in use,]:** the meeting decided to delete these two bracketed provisions on the grounds that these specific elements were to be determined under the national law of each Member State. Taking into account the above, Article 13.2 was amended accordingly.

**Article 14: Renunciation of Nationality**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 15: Loss of Nationality**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 16: Deprivation of Nationality**

1. Submitted for discussion were article 16.2; 16.3.a;16.3.d; 16.4; and 16.7

Article 16.2

1. The two bracketed segments of article 16.2 namely **[unless the fraud or false representation was not material or took place more than ten years earlie**r] and **[or where the effect of deprivation would be disproportionate to the reason for deprivation]** were tabled for discussion on whether they must be maintained or purely deleted.
2. During debate on the overall provision experts detected some inconsistencies which caused difficulties in understanding the sense of this provision. After debate and the absence of a consensus on the matter, it was proposed by the chair to: 1) to delete the bracketed segments from article 16.2; 2) delete the segment “**at birth”** contained in the article; and 3) tasked the consultants to rephrase the article appropriately.

 Article 16.3.a

1. The two bracketed segments of this article namely **[unless the fraud or false representation was not material or took place more than ten years earlier]** and **[ or where the effect of deprivation would be disproportionate to the reason for deprivation]** where discussed at length with reference also made to the decision also taken in article 16.2 for consistency of the overall article 16.
2. In the absence of consensus, the chairperson of the meeting recommended to delete both segments as per the main trend on this matter. The amended provision therefore read as follows:

***Article 16.***

1. ***3. A State Party may provide for the deprivation of nationality acquired after birth if:***
2. ***“The person acquired its nationality by means of fraud or false representation or concealment of any relevant fact attributable to the applicant.***

Article 16.3.d

1. After exploring the pros and cons for deleting the entire bracketed provision, the meeting recommended its deletion on the grounds that it was arbitrary in nature and considering that the bracketed provisions were already covered by article 16.3.c. As a consequence article 16.3.d was purely and simply deleted.

Article 16.4

1. Article 16.4 tabled for discussion was entirely bracketed. Different and contradictory views were expressed as to maintain the disputed provision, delete it or simply modify its content. To reconcile the views and keeping in mind the purpose of the draft Protocol which includes eradicating statelessness on the one hand and in the best interest of the child as per the legal counsel’s guidance, the bracketed article was maintained but rephrased.
2. The amended provision therefore read as follows : “A State Party may not deprive nationality from a child person who was attributed nationality under Article 5(2)(a) of this Protocol, unless his or her parentage is established during his or her childhood and he or she acquires the nationality of one parent.

Article 16.7

1. Under this provision, 5 segments in brackets were discussed and one recommendation made for correction. After reviewing the disputed segment of the article, the meeting recommended the deletion of four of the five bracketed segments namely [ in any case]; [is encouraged not to]; [loss or]; and [subject to article 16(4) changed to 16(3)] and recommended to 1) remove the bracket on the segment [shall not] and 2) maintain it a part of article 16.7.
2. The article was therefore amended to take into account the above mentioned recommendations.

**Article 17: Recovery of Nationality**

1. The President of the STC presented the two proposals and according to the procedure, the delegates have to choose one of them. After debate, it was decided to maintain the first proposal which provides that a State Party shall provide in its internal law the possibility for a person who has renounced his nationality to reintegrate it.
2. Paragraph 3 has been entirely deleted.

**Article 18: Limitations on Expulsion**

1. The meeting had to make a choice between different proposals contained in Article 18.1, 18.3 and 18.4.
2. With regard to Article 18 paragraph 1, it was decided to maintain the first proposal.
3. Article 18.1 will therefore read as follow: « A State Party shall not expel a person from its territory on the grounds that the person is a non-national, except after exhaustion of administrative and judicial remedies »
4. Concerning article 18.2, it was decided to delete « without confirmation that he or she both is a non-national and has another nationality”. The amended version of 18-2 will read as follow: « A State Party shall not expel a person while a challenge or review of a decision to deny recognition of or to deprive that person’s nationality is pending before a competent administrative or judicial authority”.
5. The two remaining paragraphs of this article have been also corrected.
6. Some delegations raised concern about the Arabic version and called of its revision to align it with other versions. They requested that this concern be reflected in the report:

**Article 19: Undetermined Nationality, Recognition and Protection of Stateless Persons**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 20: Succession of States and Nationality**

1. The bracketed provision in paragraph 2 of article 20 deals with the status of persons of habitual residence in a territory affected by a succession of States. One delegate indicated that this provision is difficult to accept given that there is no definition of “habitual residence.”
2. Another delegate proposed the inclusion of a phrase “subject to the agreement of concerned parties” as this is standard practice and methodology in handling issues that may arise from succession. It was agreed by delegates to maintain the bracketed paragraph with the addition proposed above.
3. Paragraph 4, article 2 states that a predecessor state shall not arbitrary withdraw its nationality from a person before he or she acquires confirmation of the nationality of a successor state. Following a discussion, delegates agreed to keep the word “arbitrary.”
4. Liberia opposed the proposal to maintain the bracketed provision. It was suggested by the chairperson that its position will be reflected in the report.

**Article 21: Rules and Procedures relating to Nationality**

1. The article deals with review of of decision by administrative or/and by judicial institutions. The word “ or “ has been bracketed. In order to maintain consistency, it was suggested that the word “ or will be maintained. Agreement was reached on this proposal

**Article 22: Monitoring and Implementation**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 23: Interpretation**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 24: Cooperation among States and with International Agencies**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 25: Signature, Ratification, and Accession**

1. Two bracketed provision were submitted for consideration: [States Parties to the African Charter] and [Member States of the African Union].
2. In ensuring consistency with the formula agreed upon in the preamble of the draft Protocol, the meeting recommended to remove the brackets on [States Parties to the African Charter] and maintain it as part of the provision. The other segment was deleted

**Article 26: Reservations**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 27: Entry into Force**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 28: Status of the present Protocol**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 29: Amendment and Revision**

1. This Article did not contain any brackets and therefore was adopted as drafted.

**Article 30: Denunciation**

1. This Article did not contain any brackets and therefore was adopted as drafted. After completion of consideration of all Articles, the meeting considered proposals of new drafting submitted by the consultants in regard to the definition of cross-border populations/Communities and Articles 6.2, and 8.1.The new language proposed will be reflected in the last version of draft protocol. The delegation of Niger expressed reservation on the new language proposed in Article 8.
2. The Delegations of Egypt and Liberia expressed reservation on Article 7 on Habitual residence, which was not discussed because it did not contain any brackets. Algeria also expressed reservation on Art 5, para 2.
3. After a debate, the meeting also decided that it will not open discussions on provisions without brackets. It further decided that it will consider the clean version of the draft protocol.
4. The meeting recommends to the Ministers of the STC on Migration, Refugees and Internally Displaced Persons f to adopt the draft protocol.
5. **ANY OTHER BUSINESS**

**African Humanitarian Agency (AHA):**

1. Delegates noted the briefing given by the Consultant on the operationalization of the African Humanitarian Agency which is based on the AU Assembly decision made in January 2016. While noting the importance of the agency, several stressed the need to expedite the operationalization of the establishment. Some however pointed out that the background document was shared late, making it difficult for them to study the document in-depth and therefore hard for consideration and subsequent adoption. Member States also suggested that going forward there was need to share the documents through embassies of Member states in Addis Ababa and requested the AU to facilitate the process.
2. Some delegates noted that the document presented by the consultant does not explain the mandate of the envisaged agency and what added value it has in light of the operational presence of other UN agencies. A question was also raised on how the funding for the agency will be raised. In addition, there was not clarity on the nature of the operations by the agency, whether it will of operational nature or conceptual one dealing with strategy. The nature of the mandate will have an implication on the ability of Africa’s capacity to respond to vulnerable or affected population;
3. Delegates underlined the role that the Agency can play as a catalyst for development. It was stated that the agency while intervening at the operational level (humanitarian level), can also play a role in supportingdurable solutions and strengthening the link between development and humanitarian action.
4. Concerning the added value and contribution of the agency and its potential relationship with other UN mandated agencies such as UNHCR, it was stated that the agency will support an “African operational footprint.” However, such institutional arrangement will take into account existing structures. Overall, Member States stressed the importance of an African-led agency that could lead and coordinate humanitarian action.

**Regional Operational Centre in Khartoum (ROCK):**

1. Participants inquired about the hosting of the above-mentioned center by Sudan. Participants were informed about some of the measures taken by the Government of Sudan on hosting the ROCK: The Government of Sudan has assigned a building within the Police Academy and pledged to meet all expenses relating to utilities.