

AFRICAN UNION

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DRAFT COMMON AFRICAN POSITION (CAP)

ON THE

**GLOBAL COMPACT FOR SAFE, ORDERLY AND REGULAR
MIGRATION**

October 2017

One Africa, One Voice, One Message

1.0 INTRODUCTORY NOTE, BACKGROUND AND CONTEXT

- 1.1. The past decade has been characterized by an increase in migration in Africa as a result of a multitude of complex “push-pull” mechanisms. Some of the “push” factors include conflict, terrorism, poverty, political instability as well as lack of socio-economic opportunities in countries of origin. As a result, the appeal of increased economic opportunities or quality of life, among others, in host countries, has become a significant “pull” factor for migrants.
- 1.2. The near-complete absence of a legal migration options, including for asylum seekers, has resulted in migrants using increasingly dangerous routes and techniques in order to reach to their destination countries, rendering them vulnerable to smugglers and traffickers. Furthermore, migration from Africa to Europe has resulted in a considerable loss of life, as migrants cross vast bodies of water or desert, using unsafe modes of transportation.
- 1.3. The proposed Global Compact on Safe, Regular and Orderly Migration seeks to give meaning to the SDG 10 that Specifically 10.7 that speaks to facilitating orderly, safe, regular, and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies. To give meaning and effect to this aspiration, the UN General Assembly through resolution 71/1 entitled ‘New York Declaration for Refugees and Migrants agreed to conduct an intergovernmental consultations and negotiations towards the Global Compact on Safe, Orderly and Regular Migration.
- 1.4. The Global Compact on Safe, orderly and regular migration seeks to address all aspects of international migration and specify a range of principles, commitments and understandings among Member States regarding international migration in all its dimensions, improve on its governance, enhance coordination and partnership, among other areas of mutual interest.
- 1.5. In light of this, the African Union aims to adopt a Common African Position (CAP) on the Global Compact on Safe, Orderly and Regular Migration. The Common African Position will be considered for adoption at the 2018 Ordinary Sessions of the Executive Council and the Assembly following the conclusion of various levels of consultations with Member States.
- 1.6. The adoption of a Common African Position on the Global Compact on Migration will be guided by the fact that human mobility and free movement of all persons within the continent constitute one of the pillars of an integrated

Africa as envisioned in the Abuja treaty establishing the African Economic Community (1991), the ongoing negotiations on the Protocol on the Free Movement of Person Continental Free Trade Agreement and more recently, the Agenda 2063 on the Africa we Want.

- 1.7. The CAP aims at ensuring that Africa has a common voice and its concerns are properly reflected towards the development the Global Compact on Migration. It will provide a reference point for future national, continental and global discourses on Migration management and cooperation.

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2.0 PREAMBLE

MINISTERS RESPONSIBLE FOR MIGRATION FROM MEMBER STATES OF THE AFRICAN UNION:

WELCOMING the resolution by the UN General Assembly entitled New York Declaration for Refugees and Migrants, and the launch of a process of intergovernmental negotiations leading to the adoption of a global compact for safe, orderly and regular migration

COGNISANT OF the uneven impact of globalization on Africa's prospects in the face of a burgeoning youth population;

AWARE that conflicts, poor governance, climate change and environmental degradation— all of which combine to ensure insufficient opportunity in an increasingly young continent -- are the key underlying causes of irregular migration within and from Africa;

Further are aware that to effectively manage migration, these root causes of irregular migration will of necessity have to be addressed with determination and urgency;

RECOGNISING that irregular migration has in recent times taken on serious dimensions and alarming proportions that undermine protections for people on the move and the rule of law, and that this state of affairs calls for a comprehensive approach to migration management within the strict confines of a human rights framework;

RECOGNISING that selective migration approaches adopted by developed and developing countries, which target African skills and talent, constitute an additional threat to Africa's development prospects;

BEARING IN MIND that pro-poor economic growth through productive investments, trade, employment and effective social and economic policies can help reduce the incidence of irregular migration;

RECALLING the necessity to maintain skilled workers on the continent in order to achieve the Sustainable Development Goals (SDGs);

RECALLING the decision of 1st Ordinary Session of the AU Executive Council held in July 2002 in Durban, South Africa that called for the involvement of the African Diaspora in the programs of the Union;

FURTHER RECALLING the July 2003 Maputo Summit Assembly Decision AU/Dec.26 (II), which amended the Constitutive Act to provide for the participation of the African Diaspora in the building of the AU;

DESIROUS of adopting this African Common Position on the Global Compact for Safe, Orderly and Regular Migration to ensure that its concerns are properly reflected at the global level and other international fora;

CONCERNED that the emphasis on addressing irregular migration has mainly been driven by security and border control considerations rather than by broader development frameworks and on mainstreaming migration into development strategies that include gainful employment, remittances and financial inclusion and the circulation of professionals of all skill levels, and arrangements for free movement and mobility of persons

Recalling the 2016 AU Assembly Decision number Assembly/AU/Dec.607 (XXVII) adopted in Kigali, Rwanda and later in the Decision number Assembly/AU/Dec.607 (XXVIII) in Addis Ababa, Ethiopia that tasked the Commission to develop the Protocol on Free Movement of Persons in Africa, as envisioned in the 1981 African Charter on Human and Peoples' Rights and the 1991 Treaty establishing the African Economic Community (Abuja Treaty), and to move ahead with the launching of the African Passport;

RECOGNIZING the contribution and building on the achievements of the Regional Economic Communities (RECs) and other intergovernmental organizations towards progressively achieving a well-managed migration and mobility process in the continent;

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, 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 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);

HAVE AGREED AS FOLLOWS IN LINE WITH THE SIX THEMATIC AREAS OF THE GLOBAL COMPACT ON MIGRATION AND EXISTING AFRICAN UNION POLICY PROVISIONS:

A. Thematic area 1: Addressing the Drivers to Migration including adverse effects of climate change, natural disasters and human-made crises, and gender and other inequalities, through protection and assistance, sustainable development, poverty eradication, conflict prevention and resolution.

The myriad factors that can trigger migration, both regular and irregular need to be addressed appropriately by African countries. In light of this, Member States therefore recognize the following:

1. That effective management of migration is dependent on the strengthening of mechanisms towards preventing conflict as well as the mechanisms for regional security and early warning systems and emergency responses. A holistic and multi-sectorial approach to migration governance and policy development is further needed in the continent, especially in the area of poverty reduction and migration data collection. Efforts must also be made to counteract the negative perception of migration on the continent and beyond; as well as emphasize and harness its benefits.
2. Military engagements and interventions in Africa by Western countries that have resulted into a protracted conflict situation hence triggering migration crisis in the continent.
3. As a way of preventing and minimizing crisis-induced migration, the reinforcement of UN-AU collaboration in the area of conflict prevention, management and resolution is instrumental in promoting mechanisms for regional security and early warning systems
4. Support the Improvement/enhancement of the capacity of relevant national institutions that deals with labor migration in Africa to enable them deal effectively on labor related issues and formulate sound national and regional labor related policy to promote sustainable development and poverty eradication as drivers of migration.
5. Promote intra and inter regional cooperation between the sending and the receiving countries to not only enhance protection of migrants in the receiving countries but also ensure smooth return and reintegration of migrants back at home.

6. The need to implement the free movement of Persons Protocol and the Joint Labor and Migration Program (JLMP) to facilitate mobility and the free movement of people on the continent.
7. The review of education systems to integrate ideals of innovation and creativity in order to divert the focus from over reliance of formal employment and facilitate a more self-reliant and entrepreneurial mindset for African youth. Also the harmonization of higher education programmes in accordance with the AU Higher Education Harmonization Strategy and the Continental Education Strategy for Africa (2016 -2025) This will also encourage the portability of skills across the continent.
8. That good governance, environmental protection and peace-building strategies are areas that should be considered at the continental and regional levels within the framework of the mobility and migration in Africa.
9. Member States to adopt and implement the existing African Common position on Climate Change and its Strategy to effectively address the dimensions of climate change and its impact on Migration, which can then be cascaded down into national level policies.
10. Member States to promote the collection, analysis and dissemination of sex- and age-disaggregated data in order to develop meaningful, evidence-based and forward looking Migration policies in Africa. Data collection should be targeted to help Member states achieve their commitments in the SDGs (in particular SDG target 10.7), as well as to assess, understand and address gaps in their migration policies.

B. Thematic area two: Addressing Human Rights of all Migrants including social inclusion, cohesion and all forms of discrimination, including racism, xenophobia, gender discrimination and intolerance.

The protection of all migrants (regular and irregular, documented and undocumented) has become an imperative issue for consideration by all stakeholders. Addressing the existing gaps in the protection of all migrants, in particular the vulnerable groups, requires comprehensive and complementing human rights frameworks as provided by the international and regional policy and legal frameworks.

As such, Member States recognize the following;

11. Develop protection mainstreamed Migration policy at both national and regional level that have the best interest of the African child and other vulnerable groups including women, the elderly and those living with disability due to their growing number of them on the move while providing protection sensitive reception and holding centers. The assistance should also take into consideration of their special gender- and age-specific needs in terms of adequate health care, education, shelter and protection from human rights violations.
12. Establish a mechanism to address protection of rights of migrants in transit especially in countries in crisis or conflict.
13. Establish the mechanism to address the negative media narrative that is biased against migrants and leading to negative treatment and criminalization of migrants.
14. Ensuring social inclusion, social cohesion and eliminating all forms of discrimination including racism and xenophobia through the following strategies:
 - a) Ensure that efforts to counteract irregular migration should not undermine the strict observance of human rights, human dignity and equal treatment before the law;
 - b) Commit to ensure that all migrants have adequate, appropriate and affordable access to health care and other social services including social security and access to legal services;
 - c) Commit to respect, protect and fulfill human rights as enshrined in the international human and labor rights conventions;
 - d) Commit to take actions to ratify and implement international human and labor rights conventions;
 - e) Develop policies to address racism and xenophobia in respective Member States countries;
 - f) Treat and assist all returnees and deportees with dignity and with full respect of their rights;
 - g) Promote bilateral and multilateral agreements within the continent to ensure the protection of migrant workers;
 - h) Develop specific policies targeting the protection of vulnerable groups in transit and destination countries and ensure their implementation;

- i) Ensure the inclusion of migrants in the host countries internal identification and documentation systems to increase their recognition and provide access to basic services
- j) Build the capacity of Judicial and Law Enforcement Officials including developing trainings programs on human rights and protection of migrants to identify victims of trafficking and put referral systems in place.

C. Thematic area three: Smuggling of Migrants, Trafficking in persons and contemporary forms of Slavery

Recognizing the widespread concerns of human rights abuses posed by human smuggling and trafficking on the continent as well as the specific vulnerability of women and children to traffickers and smugglers, Member States agree;

- 12. Take steps towards the creation and implementation of national, bilateral and multilateral policies and monitoring mechanisms to ensure that Private Employment Agencies operate within international standards and guidelines including the protection of human and labor rights.
- 13. Take appropriate measures to support victim protection and assistance by undertaking the following;
 - a. Identify victims of trafficking so as to provide them with appropriate assistance and protection, taking into full account of their special needs, vulnerabilities and rights.
 - b. Adopt appropriate measures for the protection of victims of trafficking and provide them with information on their legal and other rights in the countries of transit and destination, as well as the country of origin in case of return.
- 14. Take active efforts to support law enforcement, border control agencies and other relevant actors in terms of capacity building, intelligence and information sharing, coordination of operational activities in the investigation and prosecution efforts in order to tackle transnational organized crime in the continent.
- 15. Take steps towards the creation of national gender and age specific policies to address the trafficking of women and children.
- 16. Sign, ratify and fully implement the UN Convention against Transnational Organized Crime and the Protocol to Prevent, suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the Convention, the

Protocol against the Smuggling of migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, as well as other relevant regional and International legal instruments.

17. Support the cooperation and coordination at national, regional and continental levels on the prevention of trafficking and smuggling of Migrants especially women and children through.
 - a. Supporting the AU led initiatives that are aimed at addressing this problem in Africa; including the AU COMMIT, the AU-Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants and the implementation of the 2006 Ouagadougou Plan of Action in the Prevention of Smuggling and Trafficking of Persons, especially Women and Children in Africa.
 - b. Encourage the cooperation at bilateral, regional and sub regional levels on all aspects of trafficking in human beings, including prevention, investigation, prosecution and protection of and assistance to victims, fully reflecting the important role of intergovernmental organizations, NGOs and other members of the civil society.
 - c. Support initiatives addressing Human trafficking at the RECs levels including implementation of legal instruments such as Mutual Legal Assistance and its traditions in Criminal Matters aimed at addressing human smuggling and trafficking of persons.

D. Thematic area four: International Cooperation and Governance in Migration

Recognizing the need to improve on building synergy among the Member States on Migration and Mobility Governance as well as strengthen and harmonize border management systems and data collection, Member States make the following submissions and commitments:

18. Adhere to the international and regional legal and policy instruments on Migration especially on the protections of migrants. This will ensure the protection of human rights of all migrants within Member States jurisdictions is guaranteed.
19. Undertake regular national, regional, interregional and intercontinental engagement on Migration in a comprehensive, balanced and well informed political and operational dialogue to identify issues of common concern and adopt appropriate responses, strategies and/or effective mechanisms that is beneficial to all stakeholders.

20. Urge the international community to implement their commitments to support the development efforts of countries of origin and transit and to contribute to the achievement of the Sustainable Development Goals (SDGs) and the 2015 Addis Action Agenda on Finance for Development and the Istanbul Plan of Action recognizing that such development will contribute to legal, voluntary and orderly migration
21. Recognises the need for capacity building on migration governance including gender- responsive, protection-sensitive, and human rights based practices, in accordance with international legal obligations and national laws.
22. Promote a sustainable return and reintegration strategies among Member States with the aim of establishing an effective and sustainable return and re-admission procedure of irregular migrants that requires co-operation and mutual understanding between States of origin, transit and destination.
23. While acknowledging the security concerns of Member States call for proper recognition of the potential benefits of migration and legitimate migratory flows. Member States also commits to find a balance between national security concerns and their international obligations to protect migrants.
24. Help strengthen regional integration initiatives and supporting regional efforts that promote harmonized approaches to migration, trade and free movement of persons in Africa.
25. Encourage interconnection of border management systems in order to facilitate smooth movement and identification of false movement documents.
26. Create national and regional coordination mechanism on migration while at the same time encouraging existing dialogue processes in order to promote synergies and sharing of best practices in the continent.

E. Thematic area five: Irregular Migration and Regular Pathways

With due recognition to the challenge of irregular migration on the Continent and the missed opportunities emanating from lack of regularization of migration, the importance of creating measures, which ensure that labour migration takes place in a safe, orderly and regular manner while protecting the human and labour rights of all migrant workers, cannot be understated.

As such, Member States commit to undertake the following:

27. Support and promote the Joint Labour Migration Program (JLMP) as adopted by Member States in 2015 by ensuring adequate resources are available for its implementation.
28. Commit to the ratification and implementation of the Protocol on Free Movement of Persons and related continental policies on migration.
29. Create a platform for encouraging balanced inter and intra-regional dialogue in order ensure that migration systems and recruitment corridors are fair and respectful of human and labour rights and prevent human trafficking and forced labour, and furthermore to ensure the portability of social security entitlements.
30. Invest in data collection and knowledge building on labour migration data and statistics to further comprehend the implications of migration for labour markets, sustainable development, and the protection of migrant workers, in order to ensure the construction of appropriate policy responses
31. Create policies to address the root causes of Migration such as lack of decent work opportunities in countries of origin, in order to ensure that migration becomes a genuine choice and not an obligation.
32. Develop vocational training and skills development and skill transfer programs and guidelines to facilitate the easier movement of labor migrants.
33. Develop a pool of talent to identify skills needed in the continent and further seek to negotiate with the rest of the world on their recognition.
34. Provide necessary funding to promote research in our continent on the skills required and how to get them.
35. Develop and ensure that migrants have access to timely and affordable complaints mechanisms, such as through formal mediation, independent and fair tribunals, including for cases of sexual harassment regardless of nationality, migration or residence status.

F. Thematic area six: Contributions of Migrants and Diasporas, including Women and Youth to Sending, Hosting and Receiving Countries

Member states recognize the significant contribution of migrants and Diasporas to the continent both at the micro-level through remittances and entrepreneurial ventures as well as at the macro-level by helping build the foreign currency reserves

of their countries of origin. In order to further harness and assist Diaspora contribution to the continent, Member States make the following submissions:

36. Create policies aimed at reducing the high cost of remittances as well as enable Africans in the Diaspora, especially those in highly technical fields and high demand, to carry out some of their professional activities in their home countries without necessarily needing to give up their employment abroad;
37. Further support data on Diaspora and mapping of skills in close cooperation between countries of origin and host countries in order to ensure matching of Diaspora skills and labor market needs in countries of origin.
38. Foster stronger coordination between Ministries of Foreign Affairs and other agencies working in the field of migration in compiling information and data on Diaspora to foster their engagement.
39. Support recognition of external standardized academic qualifications and ensure the portability of skills and earned benefits in Member States and RECs.
40. Call for support to African Institute for Remittances (AIR) and financial institutions in their work towards reducing costs of remittances.