Draft I

STATUTE

FOR

THE ESTABLISHMENT OF

CONTINENTAL OPERATIONAL CENTRE IN KHARTOUM
PREAMBLE

We, Member States of the African Union,

RECALLING the objectives and principles enshrined in the Constitutive Act of the African Union;

MOTIVATED by a common political will to strengthen our collective efforts to contribute to security and development in Africa, as well as to intensify cooperation among Member States, and integration of the Continent;

RECALLING the Solemn Declaration on a Common African Defence and Security Policy (CADSP) which recognizes that organized cross border crimes and human trafficking are factors that engender insecurity, and that security of one African country is inseparably linked to the security of other African countries, and the African continent as a whole, and calls for the integration and harmonization of Continental initiatives on defence and security issues;

CONCERNED about the growing scale of irregular migration on the Continent which is mainly facilitated through human trafficking and migrant smuggling;

COGNIZANT of the increasing sophistication of, and links between transnational organized criminal networks involved in human trafficking/migrant smuggling and other forms of criminal activities including arms and drug trafficking, terrorism, kidnapping-for-ransom, and money laundering;

GUIDED by the various instruments on the fight against transnational organised crime and human trafficking adopted by AU Member States;

RECALLING the Thirtieth AU Summit of January 2018 which endorsed the decision of the Thirty-Second Ordinary Session (25 – 26 January 2018) of the Executive Council requesting the AU Commission to expedite the establishment of the Continental Operational Centre in Khartoum (EX.CL/Dec.987(XXXII));

NOTING the Fourth EU-Africa Summit Joint Declaration adopted in April 2014 in Brussels, Belgium on Migration on Migration and Mobility to address trafficking in human beings, notably by strengthening partnership and cooperation on prevention, protection and prosecution;

RECOGNIZING the importance and need for greater cooperation of police and security agencies in combating transnational organized crime, including human trafficking and migrant smuggling through the exchange of information and intelligence between and among Member States;
NOTING the establishment of the Africa-Arab Technical and Coordination Committee on Migration (TCCM) through Resolution 4 of the 3rd Africa-Arab Heads of State Summit on Strengthening Africa-Arab Partnership (November 2013) which among others seeks to address migration between the Africa and the Arabian Peninsula on the eastern migratory route;

CONVINCED of the need to collaborate and create synergies between and among similar initiatives and programmes on the Continent to enhance the relevance of the outcome and benefits to all member countries;

DETERMINED to establish an operational centre as a Continental cooperation mechanism for the exchange of information among security agencies of Member States of the AU and between the Continental operational centre and other similar initiatives and processes on the continent and beyond (for example the AU-Horn of Africa Initiative, the Africa-Arab Technical Coordination Committee on Migration, the Khartoum Process, the Rabat Process, etc) in combating human trafficking and migrant smuggling;

HAVE AGREED as follows:

CHAPTER ONE
DEFINITION, OBJECTIVES AND CORE FUNCTIONS OF THE CENTRE

Article 1
Definitions
For the purpose of this Agreement, the following terms and expressions shall have the meaning assigned to them:

“Agreement” means the Host Agreement between the Government of the Republic of the Sudan and the African Union Commission on the hosting of the of the Continental Operational Centre in Khartoum (the Khartoum Centre);

“The Khartoum Centre” means the Continental Operational Centre in Khartoum;

“Archives” includes records, correspondence, documents, manuscripts, still and motion pictures, films and sound recordings, electronic records, belonging to or held by the Khartoum Centre in furtherance of its official functions;

“Assembly” means the Assembly of Heads of State and Government of the African Union;

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

“Constitutive Act” means the Constitutive Act of the African Union;
“Dependents” means the spouse and minor children of officials recognized as a dependent by the African Union and laws of the host country;

“Executive Council” means the Executive Council of Ministers of the African Union;

“Experts” mean individuals, other than officials, who owing to their special qualifications are recruited on a temporary basis to perform a specific assignment for the Khartoum Centre;


“Government” means the Government of the Republic of the Sudan;

“Member States” means Member States of the AU;

“The Parties” means the African Union Commission and the Government of the Republic of the Sudan

“Policy Organs” means the African Union policy Organs as defined in the Constitutive Act;

“Premises” means the areas designated as offices of the Khartoum Centre or any space, buildings, structures, equipment and other installations and facilities as well as surrounding ground occupied temporarily or permanently by the Khartoum Centre and recognized as such by the Government;

“Khartoum Centre” means the Continental Operational Center in Khartoum;

“Secretariat” means the Permanent Technical and Operational Office of the Khartoum Centre;

“Statute” means the present Statute establishing the Khartoum Centre;

“STC” means the Specialized Technical Committee on Migration, Refugees and Internally Displaced Persons or its successor;

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

Article 2
Establishment of the Centre
1. The Centre is hereby established as a Specialized Technical Office of the Commission.
2. The objective, structure, mandate and functions of the Centre shall be as defined herein.

Article 3
Legal Status of the Centre
The Centre shall possess full juridical personality and, in particular, full capacity:
   a. To enter into agreements with Member States, non-Member States and international organizations;
   b. To enter into contracts;
   c. To acquire and dispose of immovable and movable property; and
   d. To enter and to respond to legal proceedings.

Article 4
Purpose and Objectives

Purpose
To improve the overall migration governance regime in Africa, specifically the management of irregular migration;

Objectives
The objectives of the Khartoum Centre are to:

1. Establish and provide a platform for cooperation and sharing of information on human trafficking and migrant smuggling among law enforcement agencies of Member States of the AU in accordance with national laws of the Member States;
2. Enhance coordination with similar initiatives on the Continent and beyond in sharing information on transnational organized crime, in particular human trafficking and migrant smuggling;
3. Facilitate the prevention, detection and investigation of human trafficking and migrant smuggling in collaboration with national, regional, continental and international law enforcement agencies;
4. Develop and facilitate mutual legal assistance, extradition arrangements and harmonised continental strategies between and among Member States to fight transnational organised crime, in particular human trafficking and migrant smuggling within the framework of relevant international and African Union policies;
5. Assist Member States of the AU to develop or improve good practices in the collection, analysis and dissemination of information on transnational organized crime, in particular human trafficking and migrant smuggling;
6. Commission studies on trends in transnational organized crime, in particular human trafficking and migrant smuggling among Member States of the AU;
7. Carry out any other functions as requested by the relevant AU Policy Organs.

**Article 5**  
**Principles**  
The Khartoum Centre 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 Khartoum Centre.

**CHAPTER TWO**  
**GOVERNANCE AND STRUCTURE OF THE CENTRE**

**Article 6**  
**Governance of the Centre**  
1. The Centre shall comprise the following bodies:  
   b. The Board;  
   c. The Secretariat.

**Article 7**  
**Functions of the Board**  
1. Reporting to the Executive Council, the Board shall be the highest governance body of the Centre, and shall have overall oversight of the Centre;  
2. The functions of the Board shall be to:  
   a. Oversee the overall governance of the Centre;  
   b. Provide strategic guidance to the Secretariat;  
   c. Consider and approve the Centre’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 Centre;  
   f. Assist the Secretariat in mobilizing resources to ensure that the Centre fulfills its mandate;  
   g. Submit annual reports to the AU Policy Organs on implemented activities and achievements of the Centre,
BoarD Composition and Tenure of Office

1. The Board shall be composed of sixteen (16) members appointed by the Executive Council, as follows:
   a. Eight (8) representatives (one each nominated by the eight Regional Economic Communities that are recognized by the AU). The criteria for nomination of the REC representatives will include the following:
      i) Individuals with qualifications in security studies, and experience in the field of migration and/or security spanning for not less than 10 years serving in an international/inter-governmental organization, government ministry or agency, academic institution, or migration/statistics think-tank;
      ii) Individuals with qualifications and experience in both migration and security would be preferred;
      iii) The REC representatives shall be citizens of a Member State of REC as defined in Article 8, (1) (a), and residing on the Continent or in the Diaspora;
      iv) Should any REC fail to nominate a representative, they (the representative) shall be nominated by the Specialized Technical Committee on Migration, Refugees and IDPs in consultation with the Commissioner for Social Affairs;
   b. One (1) representative of the Commission (Department of Social Affairs);
   c. The Executive Secretary of the Continental Operational Centre in Khartoum (1) who shall act as the Secretary of the Board (non-voting ex-officio);
   d. The Executive Secretary of African Observatory on Migration (non-voting ex-officio) (1);
   e. The Executive Director of the African Union Institute for Statistics - StatAfric(1) (non-voting ex-officio);
   f. The Executive Secretary of African Centre for the Study and Research on Migration (1) (non-voting ex-officio);
   g. One (1) representative of AFRIPOL;
   h. One (1) representative of the Host country;
   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. Where applicable, the term of office of members of the Board shall be for a non-renewable period of five (5) years;

4. The Board shall elect from among its members, one of the eight (8) REC representatives as its Chairperson and Deputy Chairperson on a regional rotational basis every year;

1 The Arab Maghreb Union (AMU); the Community of Sahel-Saharan States (CEN-SAD); the Common Market for Eastern & Southern Africa (COMESA); the East African Community (EAC); the Economic Community of Central African States (ECCAS); the Economic Commission of West African States (ECOWAS); Inter-governmental Authority on Development (IGAD); and the Southern African Development Community (SADC).
5. In the event of the Chairperson vacating his/her position before the expiration of
his/her tenure of office for whatever reason, the Deputy Chairperson shall assume
the position of interim chair until the Board elects a new Chair.

Article 9
Meetings, Quorum and Decision-Making Procedures of the Board
1. The Board shall meet in an ordinary session once every year;
2. The Board may also be convened in an extraordinary session, in conformity with its
rules of procedure, subject to availability of funds at the request of:
   i) One half of its members;
   ii) The policy organs of the Union; or
   iii) The Secretariat, in the event of a situation that necessitates the holding of a Board
       meeting.
3. The quorum for Board meetings shall be two thirds of the total membership of the
   Board;
4. The Board shall adopt its own Rules of Procedure.

Article 10
Meetings, Quorum and Decision-Making Procedures of the Board
1. The Board shall meet in an ordinary session once every year;
2. The Board may also be convened in an extraordinary session, in conformity with its
   rules of procedure, subject to availability of funds at the request of:
   iv) One half of its members;
   v) The policy organs of the Union; or
   vi) The Secretariat, in the event of a situation that necessitates holding of the Board
       meeting.
3. The quorum for Board meetings shall be two thirds of the total membership of the
   Board;
4. The Board shall adopt its own Rules of Procedure.

Article 11
The Secretariat
1. The Secretariat shall be headed by an Executive Secretary.
2. The Executive Secretary shall be appointed by the Commission on the approval of
   the Board and shall be a regular staff member of the AU;

Article 12
The Executive Secretary
1. The Executive Secretary is the chief executive officer of the Centre.
2. Under the supervision of the Director for Social Affairs of the Commission, the
   functions of the Executive Secretary shall be to, inter-alia:
   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;
c. Act as authorizing officer of the Centre while ensuring efficiency and cost effectiveness;
d. Provide strategic planning, overall management and institutional representation of the Centre in fulfillment of its mission, goals, and strategic objectives.
e. Oversee the recruitment of staff in line with the Staff Regulations and Rules of the Commission;
f. Prepare and submit to the Board and the Commission strategic and operational plans, budgets, financial statements and operational reports of the Centre;
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;
i. Mobilize resources for programmes of the Centre;
j. Serve as the spokesperson and official representative of the Centre in continental and international partnerships and gatherings;
k. Oversee the execution of the Host Agreement;
l. Oversee all legal agreements and seek guidance, in this regard, from the Board when necessary;
m. Ensure compliance with all legal and regulatory requirements emanating from Host Government and other bodies;
n. Perform any other functions as may be assigned by the Board in line with the mandate of the Centre.

3. The Centre will have other staff members in charge of information exchange, finance and administration who shall be hired by the Centre in accordance with the AU rules and regulations.

   Article 13
   Budget

1. The budget of Centre shall be within the budget of the African Union;

2. In addition to the regular budget of the African Union, other sources of funding the Centre may include;
   a. Voluntary contributions from AU Member States and partners;
   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. Contributions from the AU Science, Technology and Innovation Fund when established; and
   f. Any other source of funding in accordance with AU Rules and Regulations.

3. The budget calendar of the Centre shall be that of the African Union.

   Article 14
   Headquarters of Centre

1. The headquarters of the Centre shall be in Khartoum, the Republic of the Sudan;
2. The Secretariat may authorize the convening of meetings and conferences in the territory of any Member State at the invitation of that Member State.

**Article 15**

**Code of Conduct**

1. In the performance of their duties, the Executive Secretary and other staff of the Centre shall not accept nor receive instructions from any government or any authority other than the Centre;

2. Each Member State shall undertake to respect the exclusive nature of the responsibilities of the Executive Secretary and any other staff member of the Centre, and shall not influence or seek to influence them in the performance of their duties;

3. The Executive Secretary and the other staff of the Centre 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 Executive Secretary of the Centre 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;

6. The Executive Secretary and other staff of Centre may accept, on behalf of the Commission, gifts, bequests and other donations made to the Centre, provided that such donations are consistent with the objectives and principles of the Centre and shall remain the property of the Centre.

**Article 16**

**Relation with Member States, Development Partners and Other Stakeholders**

1. In carrying out its functions, the Centre shall dedicate necessary resources to building partnerships aimed at improving the effectiveness of its operations

2. Within the African Continent, the Centre shall maintain working ties with development partners and stakeholders, particularly with think tanks, RECs, civil society organizations and other relevant organs of the Union (especially the African Migration Observatory, the African Union Institute for Statistics - StatAfric, and the African Centre for the Study and Research on Migration) in pursuit of its mandate;

3. The Centre shall develop partnerships with Member States and regional/continental police organizations, and shall also coordinate its operations with regional and continental institutions that combat irregular migration (especially human trafficking and migrant smuggling) across the continent, and such cooperation shall strive to ensure synergy and partnership;
4. The Centre 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 17**

**Privileges and Immunities**

**CHAPTER THREE**

**FINAL PROVISIONS**

**Article 18**

**General Provision**
1. To enable it fulfil its purposes and the functions with which it is entrusted, the Centre shall possess full legal personality. To these ends, it may enter into agreements with Member States, non-members and other international organizations.

**Article 19**

**Rules of Procedure**
1. The Centre shall adopt its own Rules of Procedure for carrying out its functions.
2. The Rules of Procedure of the Centre shall be approved by the Board and the Commission in conformity with AU rules and procedures.

**Article 20**

**Budget and Contributions**
1. Staff remuneration, administrative expenses and related budgets of the Centre shall be covered by the Union;
2. Programmes of the Centre shall be funded by resources from the Host country, voluntary contributions by other Member States, or funding from development partners.

**Article 21**

**Budget Period**
1. The budget period of the Centre shall be the budgeting period of the Commission;
2. The budget of the Centre shall be drawn and adopted in accordance with the relevant rules and regulations of the Commission.

**Article 22**

**Amendment**
1. The present Statute may be amended by the Assembly upon the recommendation of the STC;
2. The amendments shall enter into force upon their adoption by the Assembly.
Article 23
Working Languages
The working languages of the Centre shall be those of the AU.

CHAPTER FOUR
OPERATIONS OF THE CENTRE

Article 24
Role of Department of Social Affairs
The Department of Social Affairs as the policy department on the subject matter shall ensure synergy between the Centre and the Commission.

Article 25
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.

Annex 1: AU Assembly Decision: Assembly/AU/Dec.728(XXXII)

DECISION ON THE ESTABLISHMENT OF CONTINENTAL OPERATIONAL CENTRE IN KHARTOUM FOR COMBATING IRREGULAR MIGRATION - Doc. EX.CL/1122(XXXIV)
The Assembly,

1) RECALLS Declaration Assembly/AU/Decl.6 (XXV) adopted at the 25th Ordinary Session of the Assembly held in Johannesburg, South Africa, in June 2015, endorsing the initiative on migration on the Continent, especially combating human trafficking and migrant smuggling;

2) ENDORSES the Executive Council’s proposal on the establishment of the Continental Operational Centre in Sudan, for combating irregular migration, as a specialized technical office of the Union, with particular focus on human trafficking and migrant smuggling on the Continent;

3) REQUESTS the Commission to expedite the elaboration of the structural, financial and legal implications, as well as, the Statute Establishing the Continental Operational Centre in Sudan for combating irregular migration for consideration by the relevant Policy Organs of the Union.