

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone: 00 251 11 5517 700; Fax: +251 115 182 072
www.au.int

**SPECIALISED TECHNICAL COMMITTEE (STC) ON
MIGRATION, REFUGEES AND INTERNALLY DISPLACED PERSONS
Second Ordinary Session
16 -21 OCTOBER 2017
Kigali, Rwanda**

AU/STC/MRIDP/4(II)

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

**COMMON AFRICAN POSITION (CAP)
ON THE GLOBAL COMPACT FOR SAFE,
ORDERLY AND REGULAR MIGRATION**

One Africa, One Voice, One Message

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

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 and decent work 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. Furthermore, International migration features a strong regional dimension with most migration occurring within Africa.
- 1.2. The near narrowing of 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
- 1.3. The proposed Global Compact on Safe, Regular and Orderly Migration seeks to give meaning to the SDG 10.7 that aims to facilitate on orderly safe and regular 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 adoption of the Global Compact on Safe, Orderly and Regular Migration in 2018.
- 1.4. The Global Compact is to be guided by the 2030 Agenda for Sustainable Development (Resolution 70/1) and the Addis Ababa Action Agenda of the Third International Conference on Financing for Development (Resolution 69/313), and to be informed by the Declaration of the High-level Dialogue on International Migration and Development adopted in October 2013 (Resolution 68/4).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 at adopting 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 will serve as a guiding document for AU member states in the intergovernmental negotiations on the Global Compact on Migration to ensure that Africa has a common voice and its concerns and expectations from new global commitments 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.

2.0 PREAMBLE

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

Acknowledging the Modalities Resolution of the Global Compact that requests the regional economic commissions and their sub-regional offices, in collaboration with other relevant entities of the United Nations system, particularly IOM, to organize discussions among Member States and other relevant stakeholders to examine regional aspects of international migration and to provide inputs, in accordance with their respective mandates, to the preparatory process of the global compact;

Underscoring the need for sustainable financing mechanisms to support the implementation, follow-up and review of the Global Compact

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

Recognizing 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;

Recognizing 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 of creating a conducive environment for retaining and 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 Decision Assembly/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

Also Concerned that poorly governed labour migration can increase the incidence of irregular migration and raise risks and management challenges for countries of origin, transit and destination. For low-wage workers, these risks include being trapped into jobs with poor wages and working conditions, often in the informal economy, exposure to violations of labour and other human rights, dangerous workplace and health hazards, child labour, forced labour, debt bondage, trafficking in persons, and other decent work deficits.¹ Exploitive recruitment practices, including charging workers recruitment fees and other migration costs are particular challenges, as are mismatches of migrant skills to available jobs, family separation and absence of social protection.

Recalling the AU Assembly Declaration Assembly/AU/Decl.6(XXV) on Migration adopted in Johannesburg in June 2015 requesting the Commission to speed up the development of the Protocol on Free Movement of Persons and the implementation of continent-wide visa-free regime including issuance of visa at ports of entry for all Africans; and the AU Assembly Decision Assembly/AU/Dec.607 (XXVII) adopted in Kigali, Rwanda in 2016 on Free Movement of Persons and the African Passport that adopted the African Passport and requested the Commission to put in place an implementation roadmap for the development of a Protocol on Free Movement of Persons in Africa by January 2018 which should come into effect immediately in Member States upon its adoption;

¹ILO, *Conclusions concerning fair and effective labour migration governance*, International Labour Conference, 106th Session, Geneva, 16 June 2017, Para. 3.

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;

Also Recognizing 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;

Further Recognizing that when labour migration is well-governed, fair and effective it can deliver many benefits and opportunities for migrant workers and their families, and host communities. It can balance labour supply and demand, help develop and transfer skills at all skill levels, contribute to social protection systems, economic and human development, foster business innovation, and enrich communities both culturally and socially;

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.

Africa appreciates the importance of Migration in development towards the attainment of the 2030 SDGs and Agenda 2063. At the same time, Africa acknowledges that one in 10 Africans will live and work outside their country of origin by 2025, whilst making their contributions to both their sending and receiving countries. The management of migration has become a critical challenge to be addressed in order to harness the benefits of migration for development.

We therefore call for the following:

1. That effective management of migration is dependent on the strengthening 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 globally, especially in the area of poverty reduction and migration data collection. Efforts must also be made to counteract the negative perception of migration at the global level and beyond; as well as emphasize and harness its benefits.
2. Maintenance of peace is a global responsibility. There is a need to stop all Political interference and Military engagements and interventions in Africa by outside forces that have resulted into a protracted conflict situation thereby triggering migration crisis in the continent.
3. As a way of preventing and minimizing crisis-induced migration, the reinforcement of UN collaboration with all regions in the area of conflict prevention, management and durable solutions are instrumental in promoting mechanisms for regional security and early warning systems.
4. Support the efforts of African countries towards achieving sustainable developments, including through industrialization and diversification of their economies to create more employment opportunities and address poverty alleviation. In this regards, it is essential for the international community to fulfill all commitments made in the Addis Ababa Action Agenda on Financing for the sustainable development as well as other international commitments for Africa's development.
5. Support the Improvement/enhancement of the capacity of relevant national institutions that deals with labor migration 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.
6. 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.
7. Strengthening of good governance, environmental protection, combating terrorism and peace-building strategies are areas that should be considered within the framework of the mobility and migration.
8. Effectively Implement the Paris Agreement of 2016 on Climate change in order to effectively address the impact of climate change on Migration.
9. Promote the collection, analysis and dissemination of sex- and age-disaggregated data in order to develop meaningful, evidence-based and forward looking Migration policies at the global level. 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.

We therefore call for the following;

10. Promote the development of protection mainstreamed Migration policy at national level that have the best interest of the child, women, older persons, and persons with disability due to their growing number among those on the move while providing them with protection based on their specific needs.
11. Establish a mechanism to address protection of rights of migrants in transit especially in countries in crisis or conflict.
12. Establish the mechanism to address the negative media narrative that is biased against migrants and leading to negative treatment and criminalization of migrants. Promote the role of the media to provide balance reporting on migration that will challenge to negative stigmatization and xenophobic patterns against migrants.
13. Protecting and ensure 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) Adopt common guidelines for voluntary return and reintegration incorporating financial and technical commitment between the sending and receiving countries.
- g) Stop mass expulsion or deportation of migrants as it is against the Universal Declaration on human rights and African Charter on Human and People's Rights.
- h) Stop repatriation of migrants to third countries.
- i) Legitimize irregular migrants who have stayed more than 5 years in a given country.
- j) Abolish holding of travel documents as a prerequisite to conclude labor contract and criminalize all forms of modern slavery. Introduce random field visit by officials of sending countries to monitor observance of rules to labor contract.
- k) Discourage and abolish (where they exist) the utilization "migrant holding camps" or "processing centers" (or whatever names they are called), as they are de facto detention centers and serious violation of human rights of migrants, regardless of their status.
- l) Promote access to justice and redress in both transit and receiving countries irrespective of the migrant status.
- m) Treat and assist all returnees and deportees with dignity and with full respect of their rights;
- n) Promote bilateral and multilateral agreements to ensure the protection of migrant workers;
- o) Develop specific policies targeting the protection of vulnerable groups in transit and destination countries and ensure their implementation;
- p) Ensure the inclusion of migrants in the host countries identification and documentation systems to increase their recognition and provide access to basic services;
- q) Build the capacity of Judicial and Law Enforcement Officials by developing training 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 caused by human smuggling and trafficking and the efforts of AU-led initiatives that are aimed at addressing this problem in Africa; including the AU COMMIT, the 2006 Ouagadougou Plan of Action in the Prevention of Smuggling and Trafficking of Persons, especially Women and Children in Africa and the AU-Horn of Africa Initiative on Human Trafficking and Smuggling of Migrants.

We therefore call for the following:

14. 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.
15. 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 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.
16. 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 countries of origin, transit and destination.
17. Take steps towards the creation of national gender and age specific policies to address the trafficking of women and children.
18. Ratify, accede and fully implement the UN Convention against Transnational Organized Crime and two of its supplementing Protocols- the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea and Air, as well as other relevant regional and International legal instruments.
19. Support bilateral and multilateral engagements and cooperation 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 inter-governmental organizations, NGOs and other members of the civil society.

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:

We therefore call for the following:

20. Ratify and implement the international Convention on the Rights of all Migrant Workers and their Families and adhere to the international and regional legal and policy instruments on Migration especially on the protections of migrants including implementation of all relevant ILO Conventions on the protections of migrants;
21. 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;
22. 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;
23. 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;
24. Recognizes 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;
25. Promote voluntary and dignified return and reintegration procedures;
26. 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 commit to finding a balance between national security concerns and their international obligations to protect migrants;
27. Help strengthen regional integration initiatives and support efforts that promote harmonized approaches to migration, trade and free movement of persons;

28. Encourage interconnection of border management systems in order to facilitate smooth movement and identification of false movement documents;
29. 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.

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.

We therefore call for the following:

30. 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;
31. 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;
32. 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:

We therefore call for the following;

33. Take specific measures to reduce the cost of remittances to less than 3%. And promote financial inclusiveness by improving access to financial system for both senders and recipients of remittances;

34. Promote the transfer of skills of migrants and Diaspora;
35. 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;
36. Further support the provision of 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;
37. 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;
38. Call for support to African Institute for Remittances (AIR) and financial institutions in their work towards reducing costs of remittances.