



Reference: **BC/OLC/27.2-1/1564.17**

The African Union Commission presents its compliments to the Ministries of Foreign Affairs/External Relations of all the African Union Member States and has the honour to forward the Draft Protocol to the Treaty establishing the African Economic Community relating to Free Movement of Persons, Right of Residence and Right of Establishment and its Implementation Roadmap following their adoption by the Second Ordinary Session of Specialized Technical Committee (STC) on Migration, Refugees and Internally Displaced Persons held in Kigali, Rwanda, from the 16 October to the 21 October 2017.

The African Union Commission avails itself to this opportunity to renew to the Ministries of Foreign Affairs/External Relations of all the African Union Member States the assurances of its highest consideration.

Addis Ababa, 27 October 2017

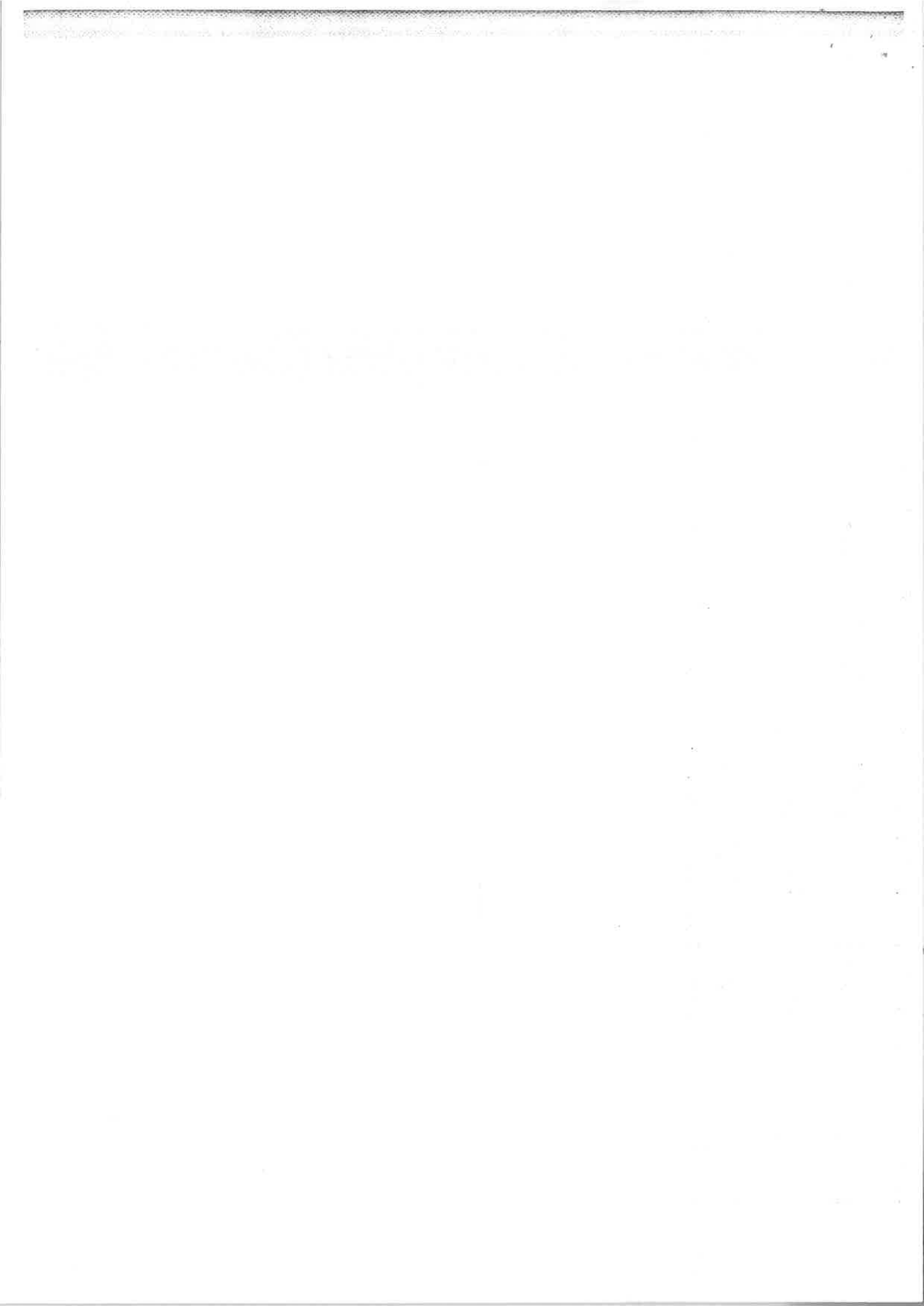


To: Ministries of Foreign Affairs/External Relations of all Member States

cc.: Ministries of Justice, Attorneys General or Ministers responsible for Human Rights, Constitutional Affairs and the Rule of Law of all Member States

**Permanent Mission of All Member States
Addis Ababa**





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**SPECIALISED TECHNICAL COMMITTEE (STC) ON
MIGRATION, REFUGEES AND INTERNALLY DISPLACED PERSONS**

Second Ordinary Session

16 -21 OCTOBER 2017

Kigali, Rwanda

AU/STC/MRIDP/3(II)

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

**DRAFT IMPLEMENTATION ROADMAP
FOR**

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



No.	Relevant Provisions of the Protocol	Main Activities	Role and Responsibilities	Indicative dates
1.	<p><u>Article 32</u></p>	<p><u>Signature/Ratification/Accession of Protocol</u> (a) <u>Implementation/initiation of ratification proceedings in the Member State</u> (b) <u>Deposit instruments of ratification with Chairperson of the Commission</u></p>	<p><u>Member States</u> <u>Member States</u> AUC to follow up on <u>ratification by Member States</u></p>	<p><u>January 2018</u> <u>December 2018</u> (in case of <u>ratification</u>)</p>
2.	<p>Article 5(3)(a) and (b)</p>	<p>Accelerated implementation</p> <ol style="list-style-type: none"> 1. Establish and provide more favourable mechanisms for realisation of free movement of persons, right of residence and right of establishment 2. Use of variable geometry in implementation of Protocol <ul style="list-style-type: none"> ✓ Implementation of any provision of the Protocol at different speed and time 3. Establish regional and bilateral arrangements for accelerated implementation 	<p>Member States and Regional Economic Communities Member States and Regional Economic Communities</p>	<p>Anytime upon coming into force of Protocol</p>

<p>3. Parts III, IV and V, Article 5 and 26</p>	<p>Common facilitators of effective implementation of free movement of persons, right of residence and right of establishment</p>	<p>Member States</p>	<p>Continuous starting 2018</p>
<p>1. Establish, upgrade and strengthen national civil registry systems</p>	<p>a. Use of biometric and other technology in registration systems b. Register nationals and non-nationals and capture data onto the civil register c. Put in place security measures to maintain the integrity of the national civil register d. Link national civil register with all official entry and exit points</p>	<p>Member States</p>	<p>Continuous starting 2018</p>
<p>2. Establish and strengthen movement control systems</p>	<p>a. Use technology for surveillance, communication, information collection and processing, and biometric identification of travellers b. Establish and strengthen alert, notice or warning mechanisms c. Link movement control system and alert or warning mechanism to regional and international alert, notice or warning systems (INTERPOL, AFRIPOL, Advanced Passenger Information Systems, etc.)</p>	<p>Member States</p>	<p>Continuous starting 2018</p>
		<p>Member States with assistance from Regional Economic Communities and Commission</p>	<p>Continuous starting 2018</p>

	<p>2. Improve the capacities of border governance mechanisms and personnel by optimizing new border governance technologies</p> <ol style="list-style-type: none"> a. improve the integrity and security of travel documents; b. equip all official entry and exit points with up to date border management information systems to fight against fraudulent documents; c. upgrade inspection, data collection (advanced passenger information systems (APIS) and communication systems; d. provide technical training for those involved in border management and migration policy. 	<p>Member States with assistance from Regional Economic Communities and Commission</p>	<p>Continuous starting 2018</p>
<p>PHASE ONE – RIGHT OF ENTRY AND ABOLITION OF VISA REQUIREMENTS</p>			
<p>4. Article 5 (1)a, 6 and 27</p>	<p>Right of entry</p> <p>(a) Implement a relaxed visa regime</p> <p>(Facilitate the issuance of visas for certain categories (students, researchers...etc)</p> <ul style="list-style-type: none"> ✓ issuing visas on arrival to citizens of African Union Member States ✓ use of simplified visa processing procedures and 	<p>Member States</p> <p>Member States</p>	<p>December, 2023 (gradual and continuous process)</p> <p>(a) By Dec, 2018</p>

	<p>mechanisms</p> <ul style="list-style-type: none"> ➤ e-visa ➤ online applications ➤ multiple entry and multi-year visas ✓ relax and revise visa fees <p>(b) Establish clear, consistent and transparent criteria or admission into Member State.</p> <p>(c) use travel documents recognized by host Member States (regional Passport, National ID, etc)</p> <p>(d) provide for granting up to 90 days stay from the date of arrival for nationals of African Union Member States</p> <p>(e) Total abolition of visa requirements for citizens of African Union Member States</p>	Member States	<p>(b) 2018</p> <p>(c) 2019</p> <p>(d) By Dec 2023</p> <p>(e) Dec 2023</p>
5. Article 7 (2)	<p>Other conditions for denying entry to nationals of Member States</p> <p>Publish any other conditions prescribed by a Member State which are not inconsistent with this Protocol according to which nationals of a Member State may be denied entry into a Member State</p>	Member States	2018 and every time the conditions are revised by a Member State
6. Article 8	<p>Share designated official points of entry and exit with other Member States</p> <p>(a) Publicise or share information on official points of</p>	Member States and the Commission	2018 Continuous

	entry and exit with other member states	
7. Article 26 and 28 (3)	<p>Harmonisation of national laws, policies and procedures</p> <p>(a) Immigration laws, policies and procedures:</p> <ul style="list-style-type: none"> (i) Review laws, policies and procedures for conformity with Protocol (ii) Establish policies and procedures which facilitate and promote free movement of persons in conformity with Protocol <p>(b) Laws policies and procedures relating to study and research:</p> <ul style="list-style-type: none"> (i) Identification of laws relating to study and research by non-nationals <ul style="list-style-type: none"> - Admission of non-nationals into education institutions (ii) Review of laws relating to study and research by non-nationals <p>(c) Labour laws, policies and procedures Review policies, laws and procedures on employment of non-nationals</p> <ul style="list-style-type: none"> (i) harmonising immigration policies with labour laws <p>(d) Laws, policies and procedures relating to social</p>	<p>(a) 2023</p> <p>(b) 2023</p> <p>(c) 2023</p> <p>(d) 2023</p>

	security		
<p>8. Article 9</p> <p>Travel documents</p> <p>(a) Use of ICAO standard travel documents Upgrade passports from Machine Readable Passports (MRP) to e-Passports</p> <p>(b) Use of travel documents other than Passports</p> <p>(c) mutual recognition and exchange of specimens of the valid travel documents issued by a Member State</p>		<p>Member States</p> <p>Member States RECs</p> <p>Member States</p>	<p>Continuous from 2017</p> <p>Continuous from 2017</p> <p>Continuous from 2017</p>
<p>9. Article 10</p> <p>African Passport</p> <p>(a) Establish the continental design and technical specifications of the African Passport:</p> <ul style="list-style-type: none"> ✓ Settle the Continental design of African Passport (biometrics) ✓ Provide Technical specifications of African Passport to Member States <p>(b) Issue the African Passport to citizens.</p> <ul style="list-style-type: none"> ✓ Harmonization of laws, policies and procedures to accommodate issue and use of African Passport ✓ Domestic design of African Passport 		<p>(a) Commission and Member States</p> <p>(b) Commission and Member States</p>	<p>June 2018</p> <p>Continuous from 2018</p>

10. Article 11	(c) Public awareness to promote and popularise the African Passport	(c) Member States, Commission and RECs	Continuous from July 2016
10. Article 11	<p>Use of vehicles</p> <p>(a) Share specimen of biometric drivers licences with other Member States</p> <p>(b) Harmonise systems and procedures for use of vehicles in different Regional Economic Communities</p> <p>(c) Recognise valid drivers licences of other Member States (harmonize systems)</p> <p>(d) establishment of a Continental Database on registration of vehicles</p> <p>(e) Link Member States vehicle registration systems to the Continental Database on registration of vehicles</p>	<p>Member States</p> <p>Member States</p> <p>Commission</p> <p>Member States with assistance from Commission</p>	<p>2018</p> <p>2018</p> <p>2018</p> <p>2019</p>
11. Article 12	<p>Free movement of residents of border communities</p> <p>1. Ratify and accelerate the implementation of the African Union Convention on Cross-border Cooperation (Niamey Convention)</p> <p>(a) Develop and implement programs aimed at cross border cooperation</p> <p>(b) establish coordinated border management</p>	Member States with assistance of Commission and Regional Economic Communities	Continuous

<p>systems to regulate migration flows</p> <p>(c) Coordination of cross-border programs to avoid duplication</p>	<p>2022</p> <p>Commission and Regional Economic Communities</p>	<p>2022</p> <p>Member States with assistance of Commission and RECs</p>
<p>2. Define, delimit and demarcate inter-state borders</p> <ul style="list-style-type: none"> ✓ Develop and implement a national policy on border matters ✓ Establish national bodies responsible for border matters ✓ Establish national or joint boundary commissions to define, demarcate and delimit undefined terrestrial and maritime inter-state borders in accordance with the AU policies and principles on borders ✓ Jointly submit the geographical coordinates and bilateral/trilateral boundary treaties to the Commission for inclusion in the African Union Border Information System 		
<p>3. Resolve all differences and disputes related to national boundary lines</p> <ul style="list-style-type: none"> (a) strengthen border dispute resolution mechanisms (b) refer border disputes to the attention of the African Union Panel of the Wise (c) use the competent regional or international bodies of preventive regional or international arbitration, and conflict resolution for the peaceful settlement of border-related disputes 		

	<p>4. Identify communities in the border lands</p> <p>5. Identify and register residents of communities in the border lands ✓ Sensitize the populations living in border zones on prevailing laws and the role they can play in conflict mitigation and border governance regimes</p> <p>6. Adopt and provide specific border community identification documents</p> <p>7. Establish soft borders, easing restrictions for mobility and interaction between borderland communities ✓ Establish specific border community crossing points or mechanisms</p> <p>8. Establish and reinforce bilateral and national cross-border security regimes allowing for intelligence-sharing, joint military operations, joint patrols, and joint anti-cattle-rustling and anti-crime-units and conclude hot-pursuit agreements</p>	<p>Member States</p> <p>Member States</p> <p>Member States</p> <p>Member States</p>	<p>By December 2023</p> <p>By December, 2023</p> <p>By December, 2023</p> <p>By December, 2023</p>
<p>12. Article 13</p>	<p>Movement of students and researchers</p> <p>1. Harmonisation of higher education programmes in accordance with the AU Higher Education Harmonisation Strategy and the Continental Education Strategy for Africa (2016 -2025)</p>	<p>Member States and RECs</p>	<p>2025</p>

	<p>(a) foster cooperation in information exchange;</p> <p>(b) harmonise higher education procedures and policies;</p> <p>(c) standardise curricula.</p>	<p>Member States</p>	<p>2025</p>
	<p>2. Review national requirements and procedures for students from other African Union Member States taking up research and study</p>	<p>Member States, Pan African University</p>	<p>2025 2025</p>
	<p>3. Enhance the mobility of students and academic staff among African universities to improve on teaching and collaborative research</p> <p>(a) Establish Joint Curriculum Development and Student Mobility Schemes</p>	<p>Member States, Pan-African University</p>	<p>2025</p>
	<p>(b) develop, promote and implement programmes to facilitate exchange of students:</p>	<p>Member States, Commission, Pan African University</p>	<p>2025</p>
	<p>(c) establish and implement Continental Student Exchange Programmes</p> <p>➤ identify areas of study in which to promote student exchange</p> <p>➤ identify educational institutions within the Union to support and facilitate student exchange programmes</p>	<p>Member States, Commission, Pan African University</p>	<p>2025 2025 2025</p>

13. Article 14	<p>(d) Establish and coordinate regional student exchange programmes</p> <p>Free movement of workers</p> <ol style="list-style-type: none"> 1. Identify and assess existing categories of workers and skills within the African Union in accordance with the Migration Policy Framework for Africa 2. Classify the priority of skills (skills gaps) and workers required by individual Member States and RECs 3. Share information on the skills and workers required in each Member State <ol style="list-style-type: none"> (a) Establish and update Labour Market Information Systems (b) Harmonise standards and tools for data collection on international labour migration in Africa (c) Establish regional labour exchanges aimed at facilitating the employment of available human resources of one Member State in other Member States (d) Undertake skills forecasting to determine the skills that will be required in the short term, medium and long term. 4. Share and disseminate information relating to the 	<p>Member States, Regional Economic Communities (RECs)</p> <p>Member States with technical assistance of Commission</p> <p>Member States, Commission and RECs</p> <p>Member States, Commission and RECs</p>	<p>2025</p> <p>By 2023</p> <p>From June, 2018</p> <p>By December, 2019</p> <p>Continuous from June, 2019</p>
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<p>conditions and procedures for employment and work permits in each Member State.</p> <p>(a) Maintain open and continued contact between Member States of origin and Member States of destination to ensure fair working conditions for nationals working abroad.</p>	<p>Member States, Commission and RECs</p>	<p>From 2019</p>
<p>5. Establish transparent and accountable labour recruitment and admissions systems based on clear labour laws that are harmonised with immigration policies and procedures.</p> <p>(a) Monitor and enforce compliance with recruitment procedures to ensure transparency and fairness</p>	<p>Member States</p>	<p>2019</p>
<p>6. Promote respect for, and protection of, the rights of labour migrants including combating discrimination and xenophobia through civic education and awareness-raising activities:</p> <p>(a) abolish any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment</p>	<p>Member States</p>	<p>2019</p>
<p>7. operationalize the AU Labour Migration Advisory Committee</p>	<p>Commission</p>	<p></p>

PHASE TWO – RIGHT OF RESIDENCE

14. Article 16	Right of Residence	Member States	From 2023 Date determined by the Executive Council after review of implementation of Phase One and Phase Two by the Commission
(a)	<p>Adopt policies and procedures for granting residence permits to nationals of Member States:</p> <ul style="list-style-type: none"> ✓ Specify the conditions attached to each category of nationals of Member States seeking residence. ✓ Specify whether work or sufficient means of support (in the absence of work) are required for residence ✓ Specify the registration and administrative procedures required for nationals of Member States ✓ Specify the procedures relating to spouses and dependants of nationals seeking residence 		
(b)	<p>Gradually implement more favourable policies and laws on residence for nationals of other Member States</p> <ul style="list-style-type: none"> ✓ Adopt measures that give favourable treatment to nationals of Member States seeking residence 		

	<p>✓ Relax the conditions for seeking and taking up residence in the case of nationals of Member States based on region or agreement (uniform fees for residence permits)</p>		
<p>PHASE THREE- RIGHT OF ESTABLISHMENT</p>			
<p>15. Article 17</p>	<p>Right of establishment</p>	<p>Member States</p>	<p>Date determined by the Executive Council after review of implementation of Phase One and Phase Two by the Commission</p>
	<p>(a) Remove restrictions on nationals of Member States establishing businesses</p>		
<p>✓</p>	<p>Identify the restrictions on establishment of business, calling or profession</p>		
<p>✓</p>	<p>Review policies, laws and procedures providing restriction to nationals of Member States establishing business, trade, profession or calling</p>	<p>Member States with assistance of Commission and RECs</p>	
<p>(b)</p>	<p>simplify the processes and procedures for obtaining licenses, permits and other relevant documents for establishment of business, trade profession, vocation or calling</p>	<p>Member States</p>	
<p>✓</p>	<p>specify and harmonise conditions for obtaining licenses, permits and other authorisations</p>		
<p>(c)</p>	<p>harmonise fees payable for obtaining and processing necessary authorisations, licenses and permits</p>	<p>Member States</p>	
<p>(d)</p>	<p>provide for equality of nationals of Member</p>	<p>Member States</p>	

	<p>States setting up business, trade profession or vocation with nationals of Member State</p> <ul style="list-style-type: none"> ✓ guarantee right to join professional or trade organizations ✓ provide equal protection of the law ✓ provide equal working conditions ✓ Provide for protection of assets, capital and business of nationals of a Member State established in Member State 	
<p>16. Article 18</p>	<p>Mutual recognition of qualifications</p> <ol style="list-style-type: none"> 1. Ratify the African Union Revised Convention on the Recognition of Studies, Certificates, Diplomas, Degrees and Other Academic Qualifications in Higher Education in African States 2. Adopt a Continental and regional qualifications frameworks: <ol style="list-style-type: none"> (a) Develop and maintain a Continental Framework for Higher Education Qualifications. (b) Create Minimum Standards in Targeted Qualifications. 	<p>Member States</p> <p>2025</p> <p>Commission, Regional Economic Communities and Member States</p> <p>2025</p>
<p>17. Article 19</p>	<p>Portability of social security benefits</p>	

<p>(a) Make social security benefits available to workers from other Member States.</p> <ul style="list-style-type: none">✓ Classify and categorise social security benefits:<ul style="list-style-type: none">• Pension, unemployment benefits, health or medical benefits etc.✓ Establish social security schemes to which non-nationals working in a host Member State may contribute✓ Adopt social security measures that prevent abuse and exploitation of social security benefits by non-nationals working in host Member State✓ Categorise and classify workers and residents and the social security benefits attached to each category:<ul style="list-style-type: none">• Persons working or resident for less than 3 months• Persons working or resident for more than 3 months• Persons resident without working• Self-employed persons etc.	<p>Member States</p>	<p>2023</p>
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18. Article 21	<p>(b) Promote the regional integration and collaboration of social security schemes in Member States</p> <p>(c) Establish mechanisms for workers from other Member States to access their social security benefits in their own countries and in other Member States</p>	RECs and Member States	2023
18. Article 22	<p>Expulsion, Deportation and Repatriation</p> <ol style="list-style-type: none"> 1. Streamline laws, policies and procedures on expulsion, deportation and repatriation of nationals of African Union Member States 2. Conclude bilateral repatriation agreements (a) Reinforce cooperation between Member States in order to facilitate identification and repatriation of their nationals 3. Conclude extradition agreements in accordance with international and continental legal instruments 	Member States	2018
19. Article 22	<p>Protection of property acquired in host Member State</p> <p>(a) Provide by law for nationals of Member States to acquire property in host Member State</p> <ul style="list-style-type: none"> ✓ Review laws on ownership of property to provide for the possibility nationals of 	Member States	2023

<p>Member States to acquire property.</p> <p>(b) Protect by law, property acquired by non-nationals in Member State</p> <ul style="list-style-type: none"> ✓ Establish clear and transparent procedures for acquiring property of non-nationals. ✓ Provide for procedures for compensating non-nationals for acquisition of their property acquired in a host Member State 	<p>Member States</p>	<p>2023</p>
<p>Remittances</p> <p>(a) Establish mechanisms for persons working, residing or established in a host Member State to transfer earnings or savings to their countries of origin:</p>	<p>Member States</p>	<p>2019</p>
<p>(b) Coordinate the regional/ international mechanisms for transfer of earning or savings within the regions</p> <ul style="list-style-type: none"> ✓ Collect and disseminate data on the remittances within the region ✓ Provide guidelines on improving the policy on remittances within the region with specific focus on reducing transaction cost and encouraging more remittances through safe and secure financial system 	<p>Regional Economic Communities, African Commission, African Institute for Remittances (AIR)</p>	<p>2019</p>
<p>20. Article 23</p>		

<p>21. Article 24</p>	<p>Procedures for movement of specific groups</p>	<p>Member States</p>	<p>By 2023</p>
<p>(a) Establish measures for movement of refugees ✓ Establish measures and procedures for screening and examining applicants for refugee status ✓ Register and provide identification and travel documents to refugees ✓ Adopt other specific procedures for movement of refugees</p>			
<p>(b) Establish measures for movement of victims of human trafficking</p>			
<p>(c) Establish measures for movement of asylum seekers</p>			
<p>(d) Establish measures for movement of pastoralists</p>			
<p>22. Article 25</p>	<p>Cooperation by Member States</p>	<p>Member States</p>	<p>2023</p>
<p>(a) cross-border management ✓ Ratify the Convention on Cross-Border Cooperation ✓ Coordinate cross border management systems</p>			
<p>(b) sharing and exchange of information on free movement of persons ✓ record and document all forms of disaggregated migration data at the ports or points of entry or exit</p>			
<p>23. Article 28</p>	<p>Role of Regional Economic Communities (RECs)</p>	<p>RECs</p>	<p>2018</p>
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<p>(a) focal points for, promoting, monitoring and evaluating implementation of Protocol</p> <ul style="list-style-type: none"> ✓ promote implementation of Protocol <ul style="list-style-type: none"> • design and implement strategies for promoting the implementation of the Protocol in their respective regions ✓ develop regional mechanism for monitoring and evaluating implementation by Member States 	<p>Regional Economic Communities (RECs)</p>	<p>2018 2018</p>
<p>(b) reporting on the progress towards free movement of persons in their respective regions</p> <ul style="list-style-type: none"> ✓ collect data on the status of implementation of each the three Phases specified in Article 5 ✓ submit report to Commission on the status of implementation of each Phase within the region 	<p>RECs</p>	<p>2019</p>
<p>(c) Harmonization of RECs protocols, policies and procedures with the Protocol on the Free Movement of Persons</p>	<p>RECs</p>	<p>2020</p>
<p>(d) Where a Member State is currently not a member of a Regional Economic Community, it will submit its report directly to the Commission, in accordance with the obligations provided for in this Implementation Plan and the Protocol</p>		<p>2020</p>

24. Article 29	Role of AU Commission		
	<p>(a) assist Member States to strengthen their capacity to implement the Protocol</p> <p>(b) develop and apply a continental monitoring and coordinating mechanism for assessing the status of implementing the Protocol</p> <ul style="list-style-type: none"> ✓ Develop criteria for assessing implementation, nationally, regionally and on the continental level 	<p>Commission in collaboration with Member States</p> <p>Commission in collaboration with Member States</p>	<p>From 2018</p> <p>2018</p>
	<p>(c) monitor and evaluate the implementation of the Protocol by the Member States</p> <ul style="list-style-type: none"> ✓ Coordinate monitoring and evaluation with RECs 	<p>Commission</p>	<p>2020 and thereafter every 2 years</p>
	<p>(d) Submit periodic reports to the Executive Council through the relevant Specialised Technical Committees on the status of implementation of the Protocol.</p> <ul style="list-style-type: none"> ✓ Identify challenges to implementation ✓ Identify success stories and case study-Member States on implementation of the Protocol ✓ Make recommendations on the measures to improve implementation <p>(e) collect and analyze data nationally and regionally to assess the state of free movement of persons</p>	<p>Commission</p> <p>Commission</p>	

25. Article 30	Remedies Provide appropriate administrative and judicial remedies in national laws for persons affected by decisions of a Member State relating to the implementation of this Protocol <ul style="list-style-type: none">✓ adopt policies, laws and procedures that provide persons aggrieved by decisions of any administrative body relating to right of entry, right of residence, and right of establishment to have recourse to other administrative or judicial body✓ bring the available administrative or judicial mechanisms to the attention of persons affected by decisions relating to exercise of their rights under the Protocol	Member States	2018
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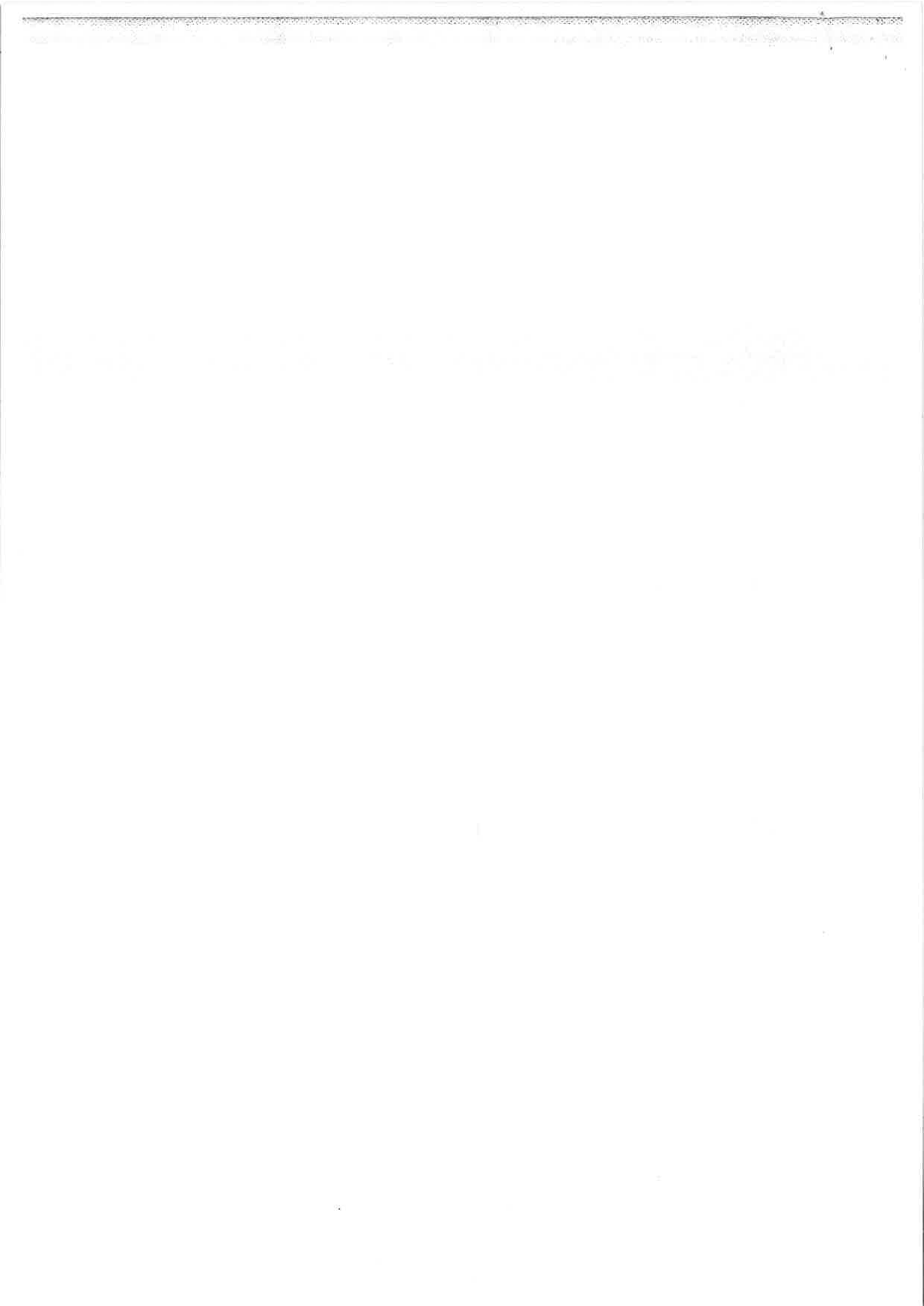
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**SPECIALISED TECHNICAL COMMITTEE (STC) ON
MIGRATION, REFUGEES AND INTERNALLY DISPLACED PERSONS
Second Ordinary Session
16 -21 OCTOBER 2017
Kigali, Rwanda**

AU/STC/MRIDP/2(II)Rev.1

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

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





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

ARRANGEMENT OF PROTOCOL

PREAMBLE

PART I – DEFINITIONS

Article 1 DEFINITIONS

PART II- OBJECTIVE AND PRINCIPLES OF THE PROTOCOL

Article 2 OBJECTIVE

Article 3 PRINCIPLES

Article 4 NON- DISCRIMINATION

Article 5 PROGRESSIVE REALIZATION

PART III- FREE MOVEMENT OF PERSONS

Article 6 RIGHT OF ENTRY

Article 7 ENTRY IN MEMBER STATE TERRITORY

Article 8 OFFICIAL POINT OF ENTRY AND EXIT

Article 9 TRAVEL DOCUMENTS

Article 10 AFRICAN PASSPORT

Article 11 USE OF VEHICLES

Article 12 FREE MOVEMENT OF RESIDENTS OF BORDER COMMUNITIES

Article 13 FREE MOVEMENT OF STUDENTS AND RESEARCHERS

Article 14 FREE MOVEMENT OF WORKERS

Article 15 PERMITS AND PASSES

PART IV - RIGHT OF ESTABLISHMENT AND RIGHT OF RESIDENCE

Article 16 RIGHT OF RESIDENCE

Article 17 RIGHT OF ESTABLISHMENT

PART V - GENERAL PROVISIONS

Article 18 MUTUAL RECOGNITION OF QUALIFICATIONS

Article 19 PORTABILITY OF SOCIAL SECURITY BENEFITS

Article 20 MASS EXPULSION

Article 21 EXPULSION, DEPORTATION AND REPATRIATION

Article 22 PROTECTION OF PROPERTY ACQUIRED IN HOST MEMBER STATE

Article 23 REMITTANCES

Article 24 PROCEDURES FOR MOVEMENT OF SPECIFIC GROUPS

PART VI – IMPLEMENTATION

Article 25 COOPERATION BETWEEN MEMBER STATES

Article 26 COORDINATION AND HARMONISATION

Article 27 ROLE OF MEMBER STATES

Article 28 ROLE OF REGIONAL ECONOMIC COMMUNITIES

Article 29 ROLE OF THE COMMISSION

Article 30 REMEDIES

PART VII- FINAL PROVISIONS

Article 31 SETTLEMENT OF DISPUTES

Article 32 SIGNATURE, RATIFICATION AND ACCESSION

Article 33 ENTRY INTO FORCE

Article 34 AMENDMENT AND REVISION

Article 35 DEPOSITORY

Article 36 SUSPENSION AND WITHDRAWAL

Article 37 RESERVATIONS

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

PREAMBLE

We, the Heads of State and Government of the Member States of the African Union;

RECALLING our commitment to conclude a Protocol on the free movement of persons, right of residence and right of establishment, under article 43(2) of the Treaty Establishing the African Economic Community, which was adopted in Abuja, Nigeria on 3rd June, 1991 and entered into force on 12th May, 1994;

MINDFUL of article 3(a) of the Constitutive Act of the African Union which promotes the achievement of greater unity and solidarity between the African countries and the people of Africa; and the Treaty Establishing the African Economic Community which promotes economic, social and cultural development and the integration of African economies;

REITERATING our shared values which promote the protection of human and people's rights as provided in the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples Rights which guarantees the right of an individual to freedom of movement and residence;

GUIDED by our common vision for an integrated, people-centered and politically united continent and our commitment to free movement of people, goods and services amongst the Member States as an enduring dedication to Pan Africanism and African integration as reflected in Aspiration 2 of the African Union Agenda 2063;

RECALLING our commitment under article 4 (2)(i) of the Treaty Establishing the African Economic Community, to gradually remove obstacles to the free movement of persons, goods, services and capital and the right of residence and establishment among Member States;

BEARING IN MIND the strategies of the Migration Policy Framework for Africa adopted in Banjul, in The Gambia in 2006 which encourage Regional Economic Communities and their Member States to consider the adoption and implementation of appropriate protocols in order to progressively achieve the free movement of persons and to ensure the enjoyment of the right of residence, establishment and access to gainful employment in the host countries;

RECOGNIZING the contribution and building on the achievements of the Regional Economic Communities and other intergovernmental organizations towards progressively achieving the free movement of persons and ensuring the enjoyment of the right of residence and the right of establishment by citizens of Member States;

AWARE of the challenges of implementing the free movement of persons in the regional economic communities which are at different levels of implementing the frameworks providing for free movement of persons;

ENVISAGING that the free movement of persons, capital, goods and services will promote integration, Pan-Africanism, enhance science, technology, education, research and foster tourism, facilitate intra-Africa trade and investment, increase remittances within Africa, promote mobility of labour, create employment, improve the standards of living of the people of Africa and facilitate the mobilization and utilization of the human and material resources of Africa in order to achieve self-reliance and development;

AWARE of the need to ensure that effective measures are put in place in order to prevent situations whereby upholding the freedom of movement of people will not lead to situations whereby the arrival and settlement of migrants in a given host country will create or exacerbate inequalities or will constitute challenges to peace and security;

NOTING that the free movement of persons in Africa will facilitate the establishment of the Continental Free Trade Area endorsed by the African Union 18th Ordinary Session of the Assembly of Heads of State and Government;

NOTING FURTHER the decision of the Peace and Security Council adopted at its 661st meeting (PSC/PR/COMM.1 (DCLXI) held on 23rd February 2017, in Addis Ababa, Ethiopia, where the Council acknowledged that the benefits of free movement of people, goods and services far outweigh the real and potential security and economic challenges that may be perceived or generated;

RECALLING FURTHER the decision of the Peace and Security Council adopted at the 661st meeting of the Peace and Security Council (PSC/PR/COMM.1 (DCLXI) held on 23rd February 2017 in Addis Ababa, Ethiopia, in which the Peace and Security Council underlined the need to ensure a phased approach in implementing AU policy decisions on free movement of people and goods, mindful of the variances in the legitimate security concerns of Member States;

REAFFIRMING our belief in our common destiny, shared values and the affirmation of the African identity, the celebration of unity in diversity and the institution of the African citizenship as expressed in the Solemn Declaration of the 50th Anniversary adopted by the 21st Ordinary Session of the Assembly of Heads of State and Government in Addis Ababa on 23rd May, 2013;

DETERMINED to enhance the economic development of Member States through a prosperous and integrated continent;

MINDFUL of the decision of the Assembly adopted in July, 2016 in Kigali, Rwanda (**Assembly/AU/ Dec.607(XXVII)**) welcoming the launch of the African Passport and urging Member States to adopt the African Passport and to work closely with the African

Union Commission to facilitate the processes towards its issuance at the citizen level based on international, continental and citizen policy provisions and continental design and specifications:

HAVE AGREED as follows:

PART I – DEFINITIONS

Article 1 DEFINITIONS

For the purpose of this Protocol:

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

“Commission” means the Commission of the African Union;

“dependant” means a child or other person who, a national of a Member State is required to support and maintain as defined by the laws of the host Member State;

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

“Free movement of persons” means the right of nationals of a Member State to enter move freely and, reside in another Member State in accordance with the laws of the host Member State and to exit the host Member State in accordance with the laws and procedures for exiting that Member State;

“Member State” means a Member State of the African Union ;

“regional arrangement” means agreements, measures or mechanisms on free movement of persons developed and implemented by regional economic communities;

“right of entry” means the right of a national of a Member State to enter and move freely in another Member State;

“right of establishment” means the right of a national of a Member State to take up and pursue the economic activities specified in Article 14 (2), in the territory of another Member State;

“right of residence” means the right of a national of one Member State to reside and seek employment in another Member State other than their Member State of origin; *in accordance with the national law of the host Member State*”.

“territory” means the land, airspace and waters belonging to or under the jurisdiction of a Member State;

"travel document" means a passport which complies with the International Civil Aviation Organization standards for travel documents, or any other travel document identifying a person issued by or on behalf of a Member State or by the Commission which is recognized by the host Member State;

"Treaty" means the Treaty Establishing the African Economic Community adopted in Abuja, Nigeria on 3rd June, 1991 and entered into force on 12th May, 1994;

"Union" means the African Union established by the Constitutive Act of the African Union;

"vehicle" means any means in or by which a person travels, is carried or conveyed into, by land, the territory of a Member State;

"Visa" means the authority granted to a national of a Member State to enter into the territory of the host Member State.

PART II- OBJECTIVE AND PRINCIPLES OF THE PROTOCOL

Article 2 OBJECTIVE

The objective of this Protocol is to facilitate the implementation of the Treaty Establishing the African Economic Community by providing for the progressive implementation of free movement of persons, right of residence and right of establishment in Africa.

Article 3 PRINCIPLES

1. The free movement of persons, right of residence and right of establishment in Member States shall be guided by the principles guiding the African Union provided in article 4 of the Constitutive Act.
2. In addition to the principles in paragraph 1, the implementation of this Protocol shall be guided by:
 - (a) non-discrimination;
 - (b) respect for laws and policies on the protection of national security, public order, public health, the environment, and any other factors that would be detrimental to the host State; and
 - (c) transparency.

Article 4
NON- DISCRIMINATION

1. Member States shall not discriminate against nationals of another Member State entering, residing or established in their territory, on the basis of their nationality, race, ethnic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status as provided by Article 2 of the African Charter on Human and Peoples Rights.
2. It shall not be discrimination for a Member State, as a result of reciprocity or deeper integration, to give more favourable treatment to nationals of another Member State or region, in addition to the rights provided for in this Protocol.
3. A citizen of another Member State entering, residing or established in a Member State in accordance with the provisions of this Protocol, shall enjoy the protection of the law of the host Member State, in accordance with the relevant national policies and laws of the host Member State.

Article 5
PROGRESSIVE REALIZATION

1. The free movement of persons, right of residence and right of establishment shall be achieved progressively through the following phases:
 - (a) phase one, during which Member States shall implement the right of entry and abolition of visa requirements;
 - (b) phase two, during which Member States shall implement the right of residence;
 - (c) phase three, during which Member States shall implement the right of establishment.
2. The above phases shall be implemented in accordance with the Implementation Roadmap annexed to this Protocol.
3. Nothing in this Protocol shall:
 - (a) affect more favourable provisions for the realisation of the free movement of persons, right of residence and right of establishment contained in national legislation, regional or continental instruments; or
 - (b) prevent the accelerated implementation of any phase of free movement of persons, right of residence and right of establishment by a regional economic community, sub-region or Member State before the time set by this Protocol or the Assembly for the implementation of that phase.

PART III- FREE MOVEMENT OF PERSONS**Article 6
RIGHT OF ENTRY**

1. In accordance with this Protocol, nationals of a Member State shall have the right to enter, stay, move freely and exit the territory of another Member State in accordance with the laws, regulations and procedures of the host Member State.
2. Member States shall implement the right of entry by permitting nationals of Member States to enter into their territory without the requirement of a visa.
3. The right to enter the territory of a Member State shall be enjoyed in accordance with articles 7.
4. A Member State permitting a national of another Member State to enter into their territory shall permit that national to move freely or stay for a maximum period of ninety (90) days from the date of entry or such further period determined by Member States or through bilateral or regional arrangements.
5. A national of a Member State who wishes to stay in the host Member State beyond the period provided in paragraph 4 shall seek an extension of stay in accordance with the procedures established by the host Member State.

**Article 7
ENTRY IN MEMBER STATE**

1. Entry into the territory of a Member State shall be permitted for a person:
 - (a) entering the Member State through a designated point or official port of entry;
 - (b) with a recognized and valid travel document as defined in Article 1; and
 - (c) who is not prohibited from entering the Member State by the laws of that Member State for the protection of national security, public order or public health.
2. A host Member State may impose other conditions, which are not inconsistent with this Protocol, according to which a national of a Member State may be refused entry into the territory of the host Member State.

Article 8
DESIGNATED OR OFFICIAL POINTS OF ENTRY AND EXIT

1. Member States shall designate and share with other Member States information relating to their official entry and exit points or ports.
2. Member States shall in line with national or regional procedures keep the designated official entry and exit points open to facilitate the free movement of persons, subject to reciprocity and the protection measures a Member State may take.

Article 9
TRAVEL DOCUMENTS

1. Member States shall issue to their nationals valid travel documents to facilitate free movement.
2. Member States shall mutually recognise and exchange specimens of the valid travel documents issued by the Member State.
3. Member States shall cooperate in the process of identification and issuance of travel documents.

Article 10
AFRICAN PASSPORT

1. Member States shall adopt a travel document called "African Passport" and shall work closely with the Commission to facilitate the processes towards the issuance of this Passport to their citizens.
2. The Commission shall provide technical support to Member States to enable them to produce and issue the African Passport to their citizens.
3. The African Passport shall be based on international, continental and national policy provisions and standards and on a continental design and specifications.

Article 11
USE OF VEHICLES

1. Member States shall permit nationals of another Member State using vehicles to enter, by land, into their territory and move freely for a maximum period of 90 (ninety) days from the date of entry, upon presentation of the following valid documents to the competent authorities in the host Member State:
 - (a) a driver's license;

- (b) evidence of ownership or registration of the vehicle;
 - (c) certificate of road worthiness;
 - (d) certificate of axle load limit;
 - (e) an insurance policy in respect of the vehicle by the host Member State.
2. The use of vehicles by persons in the territory of a host Member State shall be subject to the laws of the host Member State.
 3. Member States shall establish and contribute to a continental database on registration of vehicles to facilitate the use of vehicles in the free movement of persons.

Article 12

FREE MOVEMENT OF RESIDENTS OF BORDER COMMUNITIES

1. Member States shall through bilateral or regional agreements establish measures, to identify and facilitate the free movement of residents of border communities without compromising the security or public health of host Member States.
2. Member States shall endeavour to amicably resolve any legal, administrative, security, cultural or technical impediment likely to hamper the free movement of border communities.

Article 13

FREE MOVEMENT OF STUDENTS AND RESEARCHERS

1. Member States shall permit nationals of another Member State who are holders of registration or pre-registration documents, to take up education or research in their territory in accordance with the policies and laws of the host Member State.
2. A host Member State shall in accordance with national or regional policies issue student permits or passes to nationals of other Member States who are admitted to pursue studies in the host Member State.
3. Member States shall develop, promote and implement programmes to facilitate exchange of students and researchers among Member States.

Article 14

FREE MOVEMENT OF WORKERS

1. Nationals of a Member State shall have the right to seek and accept employment without discrimination in any other Member State in accordance with the laws and policies of the host Member State.

2. A national of a Member State accepting and taking up employment in another Member State may be accompanied by a spouse and dependants.

Article 15
PERMITS OR PASSES

1. A host Member State shall issue residence permits, work permits, or other appropriate permits or passes to nationals of other Member State seeking and taking up residence or work in the host Member State.
2. Permits and passes shall be issued in accordance with the immigration procedures applicable to persons seeking or taking up residence or work in the host Member State.
3. The procedures referred to in paragraph 2 shall include the right of a national of another Member State to appeal against a decision denying them a permit or pass.

PART IV - RIGHT OF RESIDENCE AND RIGHT OF ESTABLISHMENT

Article 16
RIGHT OF RESIDENCE

1. Nationals of a Member State shall have the right of residence in the territory of any Member State in accordance with the laws of the host Member State.
2. A national of a Member State taking up residence in another Member State may be accompanied by a spouse and dependants.
3. Member States shall gradually implement favourable policies and laws on residence for nationals of other Member States.

Article 17
RIGHT OF ESTABLISHMENT

1. Nationals of a Member State shall have the right of establishment within the territory of another Member State in accordance with the laws and policies of the host Member State.
2. The right of establishment shall include the right to set up in the territory of the host Member State:

- (a) a business, trade, profession, vocation; or
- (b) an economic activity as a self-employed person.

PART V - GENERAL PROVISIONS

Article 18 MUTUAL RECOGNITION OF QUALIFICATIONS

1. Member States shall individually or through bilateral, multilateral or regional arrangements, mutually recognize academic, professional and technical qualifications of their nationals to promote the movement of persons among the Member States.
2. Member States shall establish a continental qualifications framework to encourage and promote the free movement of persons.

Article 19 PORTABILITY OF SOCIAL SECURITY BENEFITS

Member States shall, through bilateral, regional or continental arrangements, facilitate the portability of social security benefits to nationals of another Member State residing or established in that Member State.

Article 20 MASS EXPULSION

1. The mass expulsion of non-nationals shall be prohibited.
2. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

Article 21 EXPULSION, DEPORTATION AND REPATRIATION

1. A national of a Member State lawfully admitted into the territory of a host Member State may only be expelled, deported or repatriated from the host Member State by virtue of a decision taken in accordance with the law in force in the host Member State.
2. A host Member State shall notify the national of a Member State and the Government of that national of the decision to expel, deport or repatriate that citizen from the territory of the host Member State.

3. The Expenses relating to:
 - (a) the expulsion or deportation shall be borne by the Member State expelling or deporting a person;
 - (b) repatriation shall be borne by the person being repatriated or by the state of origin.
4. Where entry into a territory of a Member State is refused, the person responsible for transportation, shall at the request of competent border authorities re-route the persons denied entry back to the point of embarkment, or where this is not possible, to the Member State that issued the citizen's travel documents or any other place where the admission of the citizen will be accepted.

Article 22
PROTECTION OF PROPERTY ACQUIRED IN HOST MEMBER STATE

1. A national of a Member State entering, residing or established in the territory of another Member State, may acquire property in the host Member State in accordance with the laws, policies and procedures of the host Member State.
2. Property lawfully acquired by a national of a Member State in the host Member State, shall not be nationalised, expropriated, confiscated or acquired by the host Member State except in accordance with the law and after fair compensation being paid to that national.
3. Property lawfully acquired by a national of a Member State shall be protected by the host Member State in the event of a dispute between the Member State where the national originates and the host Member State.
4. A host Member State shall not deprive a national of another Member State who is expelled, deported or repatriated by the host Member State, of his/her property lawfully acquired by that national in the host Member State except in accordance with the laws and procedures of the host Member State.

Article 23
REMITTANCES

Member States shall through, bilateral, regional, continental or international agreements facilitate the transfer of earnings and savings of nationals of other Member States working, residing or established in their territory.

Article 24
PROCEDURES FOR MOVEMENT OF SPECIFIC GROUPS

1. A Member State may in addition to the measures provided for by international, regional and continental instruments, establish specific procedures for the movement of specific vulnerable groups including refugees, victims of human trafficking and smuggled migrants, asylum seekers and pastoralists.
2. Procedures established by a Member State under this article shall be consistent with the obligations of that Member State under the international, regional and continental instruments relating to the protection of each group of persons referred to in paragraph 1.

PART VI – IMPLEMENTATION

Article 25
COOPERATION BETWEEN MEMBER STATES

1. Member States shall in accordance with the African Union Convention on Cross-Border Cooperation coordinate their border management systems in order to facilitate the free and orderly movement of persons.
2. Member States shall record, document, and upon request, make available all forms of aggregated migration data at the ports or points of entry or exit from their territory.
3. Member States shall through bilateral or regional arrangements-cooperate with each other by exchanging information related to the free movement of persons and the implementation of this Protocol.

Article 26
COORDINATION AND HARMONISATION

1. In accordance with article 88 of the Abuja Treaty, Member States shall harmonise and coordinate the laws, policies, systems and activities of the regional economic communities of which they are members which relate to free movement of persons with the laws, policies, systems and activities of the Union in accordance with the Implementation Roadmap annexed to this Protocol.
2. Member States shall harmonise their national policies, laws and systems with this Protocol in accordance with the Implementation Roadmap annexed to this Protocol.

Article 27
ROLE OF MEMBER STATES

1. Member States shall be responsible for implementing this Protocol.
2. Member States shall adopt necessary legislative and administrative measures to implement and give effect to this Protocol.
3. Member States shall harmonize all laws, policies, agreements and immigration procedures and other procedures to ensure compliance with this Protocol.

ARTICLE 28
ROLE OF REGIONAL ECONOMIC COMMUNITIES

1. Regional Economic Communities shall be the focal points for promoting, following up and evaluating implementation of this Protocol and reporting the progress towards free movement of persons in their respective regions.
2. Each Regional Economic Community shall submit periodic reports to the Commission on the progress of implementation of this Protocol within their respective region.
3. Regional Economic Communities shall harmonise their Protocols, policies and procedures on free movement of persons with this Protocol.

Article 29
ROLE OF THE COMMISSION

1. The Commission shall follow up and evaluate the implementation of this Protocol by the Member States and shall through the relevant Specialised Technical Committees submit periodic reports to the Executive Council on the status of implementation of this protocol.
2. The Commission shall in coordination with Member States develop and apply a continental follow up and coordinating mechanism for assessing the status of implementing this Protocol.
3. The follow up and coordinating mechanism shall include the collection and analysis of data nationally and regionally in order to assess the state of the free movement of persons.

**Article 30
REMEDIES**

1. Member States shall provide appropriate administrative and judicial remedies in their national laws for nationals of other Member States affected by decisions of a Member State relating to the implementation of this Protocol.
2. A National of a Member State who is denied the enjoyment of the right of entry, residence, establishment or other related rights provided in this Protocol, having exhausted all legal remedies in the host Member State, may refer the matter to the African Commission on Human and Peoples Rights.

PART VII- FINAL PROVISIONS

**Article 31
SETTLEMENT OF DISPUTES**

1. Any dispute regarding the interpretation or the application of the provisions of this Protocol shall be amicably settled through direct engagement by the parties to the dispute.
2. If the parties concerned fail to settle a dispute, either party may, within a period of twelve (12) months, refer the matter to the African Court of Justice and Human Rights.
3. A Member State may seize the African Court of Justice and Human Rights with matters of interpretation or implementation of this Protocol.

**(Article 32)
SIGNATURE, RATIFICATION AND ACCESSION**

1. This Protocol shall be open for signature, ratification or accession by the Member States of the Union in accordance with their respective constitutional procedures.

**(Article 33)
ENTRY INTO FORCE**

1. This Protocol shall enter into force on the date of its adoption by the Assembly.

OR

This Protocol shall enter into force thirty (30) days after the date of the receipt by the Chairperson of the Commission of the fifteenth (15th) instrument of ratification.

OR

The Protocol shall enter into force provisionally upon signature and adoption by the Assembly and definitively after ratification by 15 Member States.

2. The Chairperson of the Commission shall inform all Members States of the Union of the entry into force of this Protocol.)

Article 34 AMENDMENT AND REVISION

1. This Protocol may be amended or revised by the Assembly by consensus or failing which, by a two-thirds majority of the Member States of the Union.
2. Any Member State may submit proposals for the amendment or revision of this Protocol to the Chairperson of the Commission.
3. The Chairperson of the Commission shall within thirty (30) days after receipt of a proposal, transmit the proposal to all Member States.
4. The Assembly shall, upon the advice of the Executive Council, examine the proposals for amendment or revision within one year from the transmission of the proposals to Member States.
5. (The amendment or revision shall come into force thirty (30) days after adoption by the Assembly.)

OR

(The amendment or revision shall come into force thirty (30) days after the submission of the fifteenth (15th) instrument of ratification.)

Article 35 DEPOSITORY

1. This Protocol shall be drafted in all languages of the African Union and deposited with the President of the Commission, who shall transmit a certified copy of the Protocol to each Member State.
2. The instruments of ratification shall be deposited with the Chairperson of the Commission.)

(Article 36)
SUSPENSION AND WITHDRAWAL

1. Each Member State may suspend, temporarily, the implementation of the provisions of the present Protocol in case of grave threats to national security, public order and public health.
2. At any time from the date of entry into force of the present Protocol, a Member State may withdraw from the present Protocol through sending a written notification to the Depository.

(Article 37)
RESERVATIONS

Any Member State may formulate reservations to the present Protocol.

ADOPTED BY THE EXTRA/ORDINARY SESSION OF THE
ASSEMBLY, HELD IN