

AFRICAN UNION
الاتحاد الأفريقي



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**EXPERTS' MEETING ON
MIGRATION AND DEVELOPMENT
3 – 5 April, 2006
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**DRAFT AFRICAN COMMON POSITION ON MIGRATION
AND DEVELOPMENT**

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1. INTRODUCTION

Africa is experiencing an important development in migratory flows. These movements occur essentially within the Continent. They are also occurring towards Europe, North America and some Middle East countries and could be voluntary (as a result of pull factors in destination countries) or involuntary/forced (due to push factors in countries of origin). These movements could be legal or undocumented and encompass all social categories, including refugees, internally displaced persons, nomads migrating in search of pasturelands, young and women setting off from the country side in search of job opportunities in the city, employment seekers, and, increasingly, qualified persons, women and children under the age of 18.

Migratory flows are occurring, however, in an African context still marked by the inadequacy of institutional capacities of some African countries to address the problems individually and collectively.

Of the 150 million migrants in the world, more than 50 million are estimated to be Africans. Given that the number of migrants is rising and that this trend is likely to persist in the foreseeable future, the management of migration has necessarily become one of the critical challenges for States in the new millennium.

In recent years, migration has been making its way steadily towards the top of the continental and international affairs agenda and now calls for the urgent attention of governments, whatever the nature of their involvement or interest in the management of migratory processes. There is a need for a comprehensive and balanced approach to migration taking into account migration realities and trends as well as linkages between migration and other key economic, social, political and humanitarian issues.

Another contemporary aspect of migration in Africa is the growing number of women who have also started to migrate in search for greater employment/economic opportunities.

The root causes of migration are numerous and complex. The push-pull framework gives insight into the different forces at work to explain migration. In Africa, poor socio-economic conditions, such as low wages, high levels of unemployment, rural underdevelopment, poverty and lack of opportunity fuel out-migration. These factors are usually brought about by a mismatch between the rapid population growth and the available resources, low level of requisite

technology to exploit the available natural resources and capacity to create employment and jobs at the countries of origin.

In addition, various political and social factors induce migration. Among these, are poor governance, nepotism and corruption, human rights violations, political instability, environmental factors, conflict and civil strife, the real or perceived opportunity for a better life, high income, greater security, better quality of education and health care at the destinations influence decision to migrate. Lower costs of migration, improved communication, greater information availability and the need to join relatives, families and friends are among the factors, which amplify push-pull factors.

Whereas well-managed migration may have a substantial positive impact for the development of countries of origin and yield significant benefits to destinations States, mismanaged or unmanaged migration can have serious negative consequences for States' and migrants' welfare, including potential destabilizing effect on national and regional security.

In response to the challenge posed by migration, the Eighth Ordinary Session of the Executive Council of the African Union in KHARTOUM from 16 to 21 January 2006 adopted the decision EX.CL/DEC.264 (VIII). In this context, Council decided to convene an experts meeting on migration and development in Algiers, Algeria at the invitation of the Algerian government in order to prepare a common African position.

2. PREAMBLE

MINISTERS RESPONSIBLE FOR MIGRATION FROM MEMBER STATES OF THE AFRICAN UNION

RECOGNISING the uneven impact of globalization on international migration and Africa's role in migration management and development;

ACKNOWLEDGING that migratory movements occur essentially within the continent and also towards developed countries and that every country has become either a country of origin, transit or destination or a combination of the three;

AWARE that conflicts, poverty, poor governance, under development, lack of opportunities, environmental factors are some of the underlying causes of migration and that to effectively manage migration, the root causes of migration should be addressed;

RECOGNISING that illegal or irregular migration is currently taking serious dimensions and alarming proportions that threatens peace, stability and security and must be adequately addressed through a comprehensive approach on to

effective border management and within the context of strict observance of human rights and human dignity;

CONCERNED that the emphasis on addressing illegal or irregular migration has been only on security considerations rather than on broader development frameworks and on mainstreaming migration in development strategies;

RECOGNISING that the selective migration approaches adopted by developed countries including developed countries which targets African expertise constitutes an additional threat to African economies;

CONCERNED about the loss of heavy investments made by African Governments in training and human resource development in priority sectors and the negative impact of the brain drain on these sectors;

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

RECALLING the necessity to maintain skilled workers in the continent in order to contribute to the attainment of the Millennium Development Goals (MDGs);

CONSCIOUS of the huge economic developmental potential which exists on the continent particularly in the agricultural, industrial and service sectors;

UNDERSCORING the importance of various African development blueprints such as AU's NEPAD programme which contributes to the solution of many of the root causes of migration, in promoting socio-economic and political development (human resource development including reversing the brain drain), and the Ouagadougou Extra-ordinary Summit Declaration and Plan of Action on Employment and Poverty Alleviation;

RECALLING commitments made by development partners towards Africa's development in general and towards Africa's capacity to better manage migration for development in particular;

UNDERSCORING that African inter-state cooperation and dialogue can strengthen the capacity of States in migration management including the development of common approaches towards harmonization of policies, laws and strategies on migration;

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 programmes of the Union and **FURTHER RECALLING** the July 2003 Maputo Summit decision which amended the Constitutive Act to provide for the participation of the African Diaspora in the building of the AU;

RECALLING the AU Summit of Heads of State and Government in Khartoum, Sudan from 23-24 January 2006 expressed its concern over the magnitude and impact of migration on development and over the growing number of migrants in Africa and beyond, and the brain drain syndrome, particularly towards the developed countries; and requested for the preparation of a common African position on Migration and Development;

DESIROUS of adopting this African Common Position on Migration and Development to enable Africa to ensure that its concerns are properly reflected at the Africa/Europe dialogue and other international fora;

WELCOMES the Libyan Arab Jamahiriya for offering to host the Africa-EU Ministerial Conference on Migration in Tripoli;

CONSIDERING that migration is a factor of integration and development and **NOTING** the recommendation of the 23rd Assembly of Heads of State and Government of Africa and France in Bamako on 03 and 04 December 2005 inviting Member States to conclude agreements or conventions on border management, residence conditions and the granting of work permits;

FURTHER RECALLING the decision of the UN General Assembly to hold a High level Dialogue on migration and development during its regular session in 2006.

HAVE AGREED AS FOLLOWS:

3. PRIORITY POLICY ISSUES

3.1 Migration and Development

Migration can be an effective tool for development by enhancing income distribution, promoting productive work for growth in Africa, enhancing women empowerment and gender equality, combating HIV/AIDS, Malaria and Tuberculosis amongst migrant population and improving partnership amongst the developed and African countries and other stakeholders. However, poverty is one of the main causes of migration. Creating development opportunities in countries of origin would mitigate the main reasons for young people to engage in migration, thereby also dealing with the problem of brain drain.

3.2 Human resource and the brain drain

This issue is of great concern to African countries since essential skills for development in the region have been lost worsening the already inadequate capacity to meet development challenges. Many parts of the African continent are currently affected by a shortage of qualified human resources, created in part by the large-scale departure of professionals and university graduates.

Thousands of African professionals including medical doctors, nurses, accountants, engineers, managers and teachers leave their home country each year to pursue better prospects in other countries – both on and off the continent. While this movement may have some limited beneficial effects in certain locales, in developing countries this “brain drain” is a handicap for sustainable development.

3.3 Labour migration

Labour migration is a current and historical reality in Africa impacting directly the economies and societies of African countries in important ways. Establishing regular, transparent and comprehensive labour migration policies, legislation and structures at the national and regional levels can result in significant benefits for States of origin and destination. For countries of origin, for example, remittances, and skills and technology transfers can assist with overall development objectives. For countries of destination, labour migration may satisfy important labour market needs. Labour migration policies and legislation that incorporate appropriate labour standards also benefit labour migrants, members of their families, and can have a positive impact on society generally.

On-going processes of regional economic integration in Africa -through Regional Economic Communities (RECs)- are increasingly taking account of managed cross-border labour movements that lead to better labour allocation within larger labour markets. RECs constitute a key factor for facilitating co-operation in the area of labour mobility at the regional level and for promoting economic development.

3.4 Remittances

Remittances are one of the developmental effects of migration; and such effects are felt most distinctly at the individual or household level but also at the community or national levels. However, remittances are privately earned transfers and should not be confused with official development aid.

Today, it is widely acknowledged that remittances play a significant financial role in developing nations as they form part of income from services and contribute to the country's balance of payments. Official flows from developed and developing countries combined reach nearly \$100 billion annually and the actual figure (that is, including flows not channelled through formal financial systems) may be as high as twice that amount. Remittances are therefore more sizeable than foreign aid.

However, there are difficulties encountered particularly with respect to the high cost of effecting remittances.

3.5 African Diaspora

Strengthening and enhancing the involvement of the African Diaspora in the development process is a key aspect in fostering the migration-development nexus and has been identified in NEPAD as a sectoral priority within its Human Resource Development Initiative. Intervention on human resources development for priority sectors is a long-term challenge to most African countries.

Furthermore, the 2004-2007 Plan of Action of the African Union adopted by the Executive Council at its 4th Ordinary Session places the Diaspora at the centre of the priorities of the African Union and provides for a special programme titled "Citizens of Africa" with the following objectives:

- Establishment of a Diaspora expert database;
- Systematic inclusion of Diaspora expertise in AU programmes;
- Full involvement of the Diaspora in the Economic and Social Council of the African Union (ECOSOCC).

3.6 Migration and Peace, Security and Stability

Large spontaneous and unregulated migrant flows can have a significant impact on national and international stability and security, including by hindering States' ability to exercise effective control over their borders, and creating tensions between origin, transit and destination countries and within local host communities. Recent international terrorist activity, and the illicit circulation of small arms and light weapons amongst other factors, have turned the focus on individual migrants and the potential for public order to be compromised by individuals whose intent is to undermine the security and stability of States and societies. Combating irregular migration and establishing comprehensive migration management systems can contribute to enhancing national and international security and stability.

Conflict is a root cause of forced displacement. Displacement caused by conflict has destabilizing effects on national and regional security, with adverse consequences for the ability of host nations to provide protection to refugees and security to their own nationals. Since forced displacement is closely linked to conflict—both as a consequence and as a potential cause of further conflict—challenges posed by refugee and IDP movements must necessarily be addressed within the broader context of political and institutional efforts at the national, regional and Continent-wide levels aimed at strengthening political dialogue and institutions, and at preventing and managing conflict.

Conflicts prevention and resolution as well as good governance contribute to addressing the root causes of migration.

3.7 Migration and Human Rights

Ensuring the effective protection of economic, social and cultural rights of migrants, including the right to development, is a fundamental component of comprehensive and balanced migration management systems. Historically, migrants have often been deprived of their rights and subjected to discriminatory and racist actions and policies including exploitation, mass expulsion, persecution and other abuses in both transit and destination countries.

Safeguarding the human rights of migrants implies the effective application of norms enshrined in human rights instruments as well as the ratification and enforcement of instruments specifically relevant to the treatment of migrants.

Management of illegal or irregular migration should not jeopardize the human rights of refugees and the principle of non-discrimination should be adhered to. The fight against illegal or irregular migration must be waged within the context of strict observance of human rights and human dignity, of regional and international cooperation and shared responsibility among the countries of origin, transit and destination. This can be achieved, through among others, working together to secure the dignified return of their bona fide nationals who no longer have the right to remain or enter the territory of the other party (returnees) and whose in-country legal appeal rights have been exhausted.

3.8 Migration and Gender

The increasing number of migrant women is an important emerging trend in today's migration landscape. Many women are now moving independently of spouses or partners. It is estimated that women account for almost half of all international migrants. The increasing feminization of migration is a reflection of the changing demands for particular types of skills including the growing demands in the service industries especially for domestic workers, nurses, teachers and other typically female dominated professions. Migrant women's vulnerabilities to exploitation are highlighted by the frequently abusive conditions under which they work, especially in the context of domestic service and sex industries in which migrant trafficking is heavily implicated. It is therefore important to give particular attention to safeguarding the rights (labour, human rights, *inter alia*) of migrant women in the context of migration management.

3.9 Children and Youth

The changing age composition of migrant flows is reflected in the increasing number of children, adolescent and youth who are migrating independently of parents. Whether migration is forced, as reflected in the very high percentage of children in refugee camps, or voluntary, the special needs of children, adolescent and youth in terms of providing adequate health care, education, shelter and

protection from rights violations, involvement in armed conflicts present special challenges to States. In many parts of the world, including certain regions in Africa, child trafficking is a critical challenge that must be addressed from different angles including targeted prevention campaigns, protection and assistance to victims of trafficking, training of relevant authorities on how to address trafficking challenges and prosecution of traffickers and their accomplices. Children born migrants should receive special attention.

3.10 Elderly

The stereotype that older people are immobile no longer holds true. People migrate at old age for different reasons. Though non-economic factors dominate elderly migration, economic factors could also prompt elderly migration like their non-elderly counterparts. The determinants and consequences of elderly migration need to be understood properly in order to cater for their needs and aspirations. Generally, older people are negatively affected by their uprooting from their environment. As a result their physical, health, and economic well being are compromised.

3.11 Regional Initiatives

There is need to ensure coordination in the development of common regional policies for the management of migration within the RECs taking into account national and regional specificities and facilitate ownership of migration processes by African countries through the promotion of capacity building initiatives at national, regional and continental level. A concerted effort that should sustain regional programmes and assistance that would enable transit/destination countries cope with the problem of migration management should be developed.

Bilateral and multilateral efforts aimed at strengthened co-operation on labour migration assist in ensuring systematised and regular movements of labourers; responding to the supply and demand needs of domestic and foreign labour markets; promoting labour standards; and reducing recourse to illegal and irregular movements. The need for all parties to work together for the success of the new understanding contained in the common position is also emphasized.

4. OTHER CROSSCUTTING ISSUES

4.1 Health

The linkages between migration and health concerns have recently been brought to the forefront in the international discourse on migration, notably in the context of the spread of communicable diseases such as, *inter alia*, HIV/AIDS. Migrants are especially susceptible to health risks because of their pronounced conditions of vulnerability, including their restricted access to health services, both during and after periods of mobility. Because of the complex nature of the relationship

between migration and health, the elaboration of comprehensive strategies addressing health matters will necessarily require further research on the underlying health problems and vulnerabilities of migrant populations, and considerations of access and entitlement to basic health services.

4.2 Environment

Environmental factors play a role in causing population movements, and conversely, migration has an impact on the environment. For instance, internal migration, such as the process of urbanization is sometimes linked to environmental degradation and environmental disasters which force farmers and other rural populations off their land. Also, the presence of large numbers of displaced persons in refugee camps and IDP hosting areas can have negative effects on local environments. Environmental considerations are therefore playing an increasingly important role in the formulation of policies on migration and forced displacement.

4.3 Trade

Countering poverty through economic development works towards alleviating an important migration pressure since nationals are no longer compelled to go abroad in search of economic opportunities. The relationship between economic development, trade and migration is an important one. In addition, due to multilateral negotiations taking place within the framework of the World Trade Organization (WTO), the issue of the movement of persons for trade in services is becoming a subject of increasing relevance within international trade agreements.

The growth of the services sector should be given priority and promoted as one of the key strategic areas for inclusion in national and regional programmes for poverty eradication and generally for social economic development. To ensure sustainable growth of the services sector, capacity building in key sectors is required as well as market information and facilitation of utilisation of market access opportunities.

A major obstacle is access to market of developed countries by Africa's service providers. The access should be facilitated and made easier.

Measures to address the related issues of trade distorting agricultural subsidies of certain developed countries as well as the issue of market access for the products of developing countries, should form part of strategies to deal with the push factors of migration.

Aid is a topical issue that has not been adequately addressed or resolved between the developed and the developing countries. Commitments made by the former to increase aid flow to developing countries to 0.7% of GNP has not been honoured. What has come in falls far short of the minimum amounts required for achieving the MDGs.

If all countries had honoured the target over the last 30 years, an additional US\$ 2.5 trillion would have been channeled into developing countries for development programmes.

4.4 Access to social services

Immigrants experience greater difficulties than other social groups in accessing services and hence in exercising their rights. The reasons for this are numerous including cultural problems “on both sides of the barrier” as well as discriminatory policies and practices in host countries. Often immigrants are unaware of their rights or are afraid to claim them; they do not understand the local language or are unfamiliar with the ins and outs of social services. Particularly in countries experiencing recent migratory waves, the social services are often not in a position – and sometimes are not willing – to reach out to immigrants, who much too often are not considered citizens with full rights. It is therefore necessary to improve information on the services available as well as on how to access them.

5. RECOMMENDATIONS FOR ACTION

To ensure that the challenges posed by the issue of migration to African and developed countries are effectively addressed, it is necessary to establish a common strategy for the management of migration which associates countries of origin, transit and destination, in order to find balanced solutions that take into account the interests of the countries concerned.

It would be indeed illusory to try to treat the problems of migration by recourse only to security measures; hence the need for a comprehensive, integrated, concerted and balanced solution, whose objectives, policies and measures will be long-lasting.

This approach should involve the treatment of problems of the movement of persons (legal, illegal and irregular migration), the protection of the rights of communities that are legally established, as well as the linkage between migration and development.

It should also be based on actions to be taken at national, continental and international levels.

5.1 At national level:

- (a) invite African States which have not yet done so, to adhere to the African Peer Review Mechanism as proof of their willingness to significantly promote good governance, especially by the active involvement of all segments of the society in the management of public affairs;
- (b) adopt a policy on migration;
- (c) carry out preventive awareness and sensitization campaigns, on all aspects of migration;
- (d) Collect all relevant information on the extent of the migration problem;
- (e) strengthen the mechanisms to combat smuggling and trafficking in human beings including the elaboration of legal instruments;
- (f) Improve border management and control;
- (g) Effective implementation of the Ouagadougou Plan of Action on Employment and Poverty Alleviation and the MDGs and mainstream migration in development plans;
- (h) improve conditions for youth employment as well as by paying greater attention to cultural and sporting activities as well as associations;
- (i) strengthen national educational institutions and adapt them to the needs of respective African countries ;
- (j) create a favourable climate to facilitate and encourage the return or at least significant participation of African migrants in development including their contributing to some strategic sectors in their respective countries;
- (k) create mechanisms for the strengthening of links between the countries of origin and African communities in the Diaspora;
- (l) Improve inter-sectoral or inter-ministerial coordination and dialogue on migration by establishing a central body to manage migration;
- (m) create data banks on the nature, scope and techniques of illegal migration;

- (n) develop mechanisms, services and effective financial products to facilitate the transfer of the funds of emigrants and reduce the costs of these transfers;
- (o) establish a data bank on the scope of the brain drain phenomenon and qualified human resources;
- (p) Work towards the elaboration and implementation of policies that facilitate the Diaspora participation in the development of African countries.

5.2 At continental level:

- a) Continue to concentrate efforts, especially through the AU Peace and Security Council, on conflict prevention, management and on the search for lasting solutions to armed conflicts on the continent and to mobilize effective support of the international community for these efforts;
- b) Finalize the Strategic Framework for Migration Policies to provide guidelines on the effective management of migration;
- c) Introduce due process measures including legal frameworks to fight illegal migration and punish those guilty of smuggling or trafficking;
- d) encourage the conclusion of cooperation agreements by African States to manage migrations;
- e) Improve the management of migration flows by finding a balance between effective security for legal immigrants, freedom of the legal movement of persons and the humanitarian obligation towards those who need protection;
- f) establish appropriate mechanisms that would bring together national focal points in charge of migration for regular information exchange that would enrich the development of a common vision based on partnership, solidarity and friendship;
- g) Develop bilateral and regional legal instruments, especially within the framework of Regional Economic Communities, to ensure a better management of the movement of persons as well as protecting migrants (combine with d);

- h) promote the adherence of States to Regional and International instruments protecting migrants and encourage cooperation between security services, especially for more effective border controls;
- i) encourage inputs from the Diaspora for the development of their countries of origin, in the form of trade and investment activities, transfer of funds, competencies, technologies and by permanent or temporary participation in development projects;
- j) urge AU MS to ensure their appropriate representation and participation at the UNGASS on migration in September 2006;
- k) explore the possibility of coordinating studies and research on migration and development by existing institutions with a view to placing at the disposal of States, sub-regional organizations and other users, current and reliable information on migration.

C. At international level:

- a) implementation, by the European Union, of commitments such as those announced in the plan of action adopted at the Africa-Europe Summit held in Cairo on 3 and 4 April 2000, namely:
 - support, as need be, African countries to ensure intra-African freedom of movement of manpower and migratory flows in the spirit of the Abuja Treaty;
 - cooperate in addressing the fundamental causes of migration and asylum seeking in countries of origin, transit and destination;
 - deepen cooperation in issues of the reciprocal integration of migrants and the protection of their rights;
 - recognize the usefulness of the measures to fight against racism and xenophobia and the need to ensure the respect of the dignity and the protection of the rights to which migrants are entitled under the applicable international law, especially the right to equal treatment based on the principle against discrimination;
- b) the collective effort to address the fundamental causes of this phenomenon, which are the disparity in development, conflicts and political instability;

- c) the strengthening of African Union efforts in peacekeeping operations and the peaceful resolution of conflicts, and especially in post-conflict stabilisation and reconstruction programmes;
- d) take all necessary measures to implement Africa's development programmes such as those proposed by NEPAD;
- e) strengthen educational systems and adapt them to the needs of each African country ; improve the working conditions of researchers (and other teachers) and encourage the use of local consultants for different development projects;
- f) 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 as well in the entire continent without necessarily needing to give up their employment abroad;
- g) the easing of the movement of persons through more flexible visa procedures; in order to reduce illegal and irregular migration, and thereby also the role of syndicates dealing in the trafficking of human beings;
- h) ratification and implementation of international instruments such as the United Nations Convention on the Protection of the rights of migrant workers and their family members (1990) and all other relevant instruments;
- i) the reduction, by developed countries, of the costs of transferring the funds of migrants;
- j) the encouragement of the movement of skilled African labour between the host countries and the countries of origin by providing support for the creation of centres of excellence in Africa;
- k) the allocation of employment quota which should be channeled through governments;
- l) create an environment conducive to circular migration (brain circulation);
- m) attention should be paid to (a) relaxing entry requirements for service providers, ensuring non-discriminatory treatment in the terms and conditions of service, as well as elimination of the economic needs tests in recruitment, and (b) to recognition of academic and professional qualifications obtained and awarded in Africa's training institutions. In this regard, appropriate legally binding regimes are required at bilateral levels and in the framework of AU-EU relations;

- n) elaborate a framework for social and economic offsets from host countries to mitigate the effects of large scale departures of highly skilled African professionals in critical sectors;
- o) Encourage and promote FDI in order to generate employment and reduce migration outflow;
- p) promote equal treatment and assistance in the creation and registration of associations by migrant communities in host countries;
- q) implementation of the commitments made by developed countries to allocate 0.7% of the GNP to Official Development Aid;
- r) implement the commitments made by the developed countries particularly the European Union to support the development efforts of countries of origin or transit and to contribute to the achievement of the Millennium Development Goals (MDGs);
- s) support joint research on migration and development;
- t) support institutional capacity building in African countries on the management of migration;
- u) the identification by the African Union--European Union Troika, of a mechanism to carry out these actions, and also explore ways of taking up the same with other partners.