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CLERK-AT  
THE TABLE:

Miriam Atrop

REPORT OF

THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS  
ON  
THE MEETING WITH MEMBER STATES & SECRETARIATS (ECOWAS & EAC) TO  
PROMOTE AND POPULARIZE THE RATIFICATION OF THE PROTOCOL ON THE  
FREE MOVEMENT OF PERSONS AND ITS IMPLEMENTATION ROADMAP

9<sup>TH</sup> TO 12<sup>TH</sup> OCTOBER, 2018  
DAKAR, SENEGAL

Directorate of Committee Services,  
Clerk's Chambers,  
Parliament Buildings,  
**NAIROBI.**

November, 2018

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## **ACRONYMS**

<b>AU</b>	African Union
<b>AUC</b>	African Union Commission
<b>CMP</b>	Common Market Protocol
<b>COMESA</b>	Common Market for Eastern and Southern Africa
<b>CSOs</b>	Civil Society Organizations
<b>EAC</b>	East African Community
<b>ECOWAS</b>	Economic Community of West African States
<b>IOM</b>	International Organization for Migration
<b>RECs</b>	Regional Economic Communities

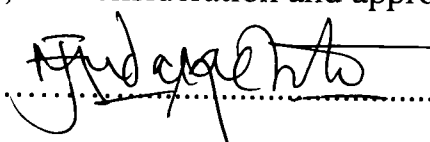
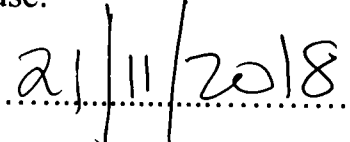
## CHAIR'S FOREWORD

In a letter dated 16<sup>th</sup> August, 2018, the African Union, through Ministry of Foreign Affairs, extended an invitation to the **Departmental Committee on Defence and Foreign Relations, the Ministry of Foreign Affairs Legal Department and the Office of the Attorney General** to attend a meeting with the East African Community (EAC) and the Economic Community of West African States (ECOWAS) Secretariat as well as the Member States from the two Regional Economic Communities (RECs) to popularize and promote the ratification of the Protocol on Free Movement of Persons in Africa and its implementation roadmap that was adopted by the African Union (AU) Assembly in January, 2018. Kenya signed the protocol on 21<sup>st</sup> March 2018.

The purpose of the consultation was to give an opportunity to Member States to discuss the best way to accelerate the ratification process and entry into force the Protocol relating to the free movement of persons in Africa by the end of 2020.

The Protocol builds on the efforts by AU Member States, at bilateral levels and in regional integration frameworks, to promote economic, social and cultural development, as well as the integration of African economies. For instance, within the EAC, citizens of Partner States can travel across borders using national identity cards instead of passports.

On behalf of the Committee, it is therefore my pleasant duty and privilege, to table this report on the meeting of persons and its implementation roadmap, for consideration and approval by the House.

Signed.......... Date..........

**THE HON. KATOO OLE METITO, EGH, MGH, M.P.**  
**CHAIRPERSON, DEPARTMENTAL COMMITTEE ON DEFENCE**  
**AND FOREIGN RELATIONS**

## **EXECUTIVE SUMMARY**

Free movement of persons is central to the integration of the Continent and cannot be separated from other regional integration initiatives such as economic integration and common policies on co-operation and security. The implementation of the African Integration Agenda in the areas of trade, goods and services has since advanced as a result of development of relevant policies in these areas which has not been the case for free movement of persons within the continent.

The Chairperson, Hon. Judah Katoo Metito and Hon. Ernest Ogesi Kivai of the Departmental Committee on Defence and Foreign Relations joined a delegation comprised of an officer from the Ministry of Foreign Affairs Legal Department and an officer from the Office of the Attorney General in order to comprise of the Kenyan delegation to the meeting.

The purpose of this report is to give an account of the proceedings of the sensitization meeting to popularize and promote the ratification of the Protocol on Free Movement of Persons in Africa and its implementation roadmap that took place from 9<sup>th</sup>- 12<sup>th</sup> October, 2018 in Dakar, Senegal.

## 1.0 PREFACE

### 1.1 Establishment and Mandate of the Committee

The Departmental Committee on Defence and Foreign Relations is established under Standing Order No. 216. Its mandate pursuant to SO 216 (5) with the following terms of reference: -

- i) investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and Departments;*
- ii) study the programme and policy objectives of the Ministries and Departments and the effectiveness of the implementation;*
- iii) study and review all legislation after First Reading subject to the exemptions under Standing Order 101 A (4);*
- iv) study and review all legislation referred to it;*
- v) study, assess and analyse the relative success of the Ministries and Departments as measured by the results obtained as compared with its stated objectives;*
- vi) investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to them by the House or a Minister; and*
- vii) make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.*

The Committee is mandated to consider the following subjects: -

- i. Defence
- ii. intelligence,
- iii. foreign relations
- iv. diplomatic and consular services,
- v. international boundaries,
- vi. international relations,
- vii. agreements,
- viii. treaties and
- ix. conventions.

## **1.2 Oversight**

In executing its mandate, the Committee oversees the following government Ministries, departments and or agencies, namely:

- i. Ministry of Defence
- ii. Ministry of Foreign Affairs
- iii. The National Intelligence Service
- iv. The State Department for East African Community Integration.

### **1.3 Committee Membership**

- Chairperson** 1. The Hon. Katoo Ole Metito, M.P.
- Vice Chairperson** 2. The Hon. Richard Tongi, M.P.
3. The Hon. Yusuf Hassan Abdi, MP
  4. The Hon. Charles Kilonzo, MP
  5. The Hon. Patrick Makau, MP
  6. The Hon. Dido Ali Raso, MP
  7. The Hon. Peter Mungai Mwathi, MP
  8. The Hon. Beatrice Nkatha Nyagah, HSC, MP
  9. The Hon. Martha Wangari Wanjira, MP
  10. The Hon. Memusi Ole Kanchory, MP
  11. The Hon. Major (Rtd.) Bashir Sheikh Abdullah, MP
  12. The Hon. (Dr.) Lillian Gogo, MP
  13. The Hon. Nelson Koech, MP
  14. The Hon. Moses Nguchine Kirima, MP
  15. Hon. Vincent Kipkurui Tuwei, MP
  16. The Hon. John Lodepe Nakara, MP
  17. The Hon. Silvanus Osoro, MP
  18. The Hon. Ernest Ogesi Kivai, MP
  19. The Hon. Caleb Amisi, MP

### **1.4 Committee Secretariat**

- |   |                     |
|---|---------------------|
| 1. <b>Senior Clerk Assistant</b>        | Mr. Samuel Kalama   |
| 2. <b>Third Clerk Assistant</b>         | Mr. Abdiaziz Shobay |
| 3. <b>Senior Sergeant-At-Arms</b>       | Andrew Shangarai    |
| 4. <b>Legal Counsel</b>                 | Ms. Brigitta Mati   |
| 5. <b>Research &amp; Policy Analyst</b> | Ms. Grace Wahu      |
| 6. <b>Fiscal Analyst</b>                | Mr. Edison Odhiambo |
| 7. <b>Media Relations Officer</b>       | Mr. Yaqub Ahmed     |
| 8. <b>Audio Officer</b>                 | Rodgers Kilungya    |

## **2.0 INTRODUCTION**

Free movement of persons is central to the integration of the Continent and cannot be separated from other regional integration initiatives such as economic integration and common policies on co-operation and security. The implementation of the African Integration Agenda in the areas of trade, goods and services has since advanced as a result of development of relevant policies in these areas which has not been the case for free movement of persons within the continent.

### **2.1 The Protocol on the Free Movement of Persons**

The Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment in Africa, stems from 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. Under this Treaty, the Member States agreed to conclude a protocol on free movement of persons, right of residence and right of establishment.

The Protocol on Free Movement in Africa, its implementation roadmap and the development of the African Passport were adopted during the African Union Summit of the Heads of State and Government held in Addis Ababa, Ethiopia from 28<sup>th</sup> – 29<sup>th</sup> January 2018. The AU Commission was tasked with the responsibility of promoting the ratification of the protocol by member states.

The Protocol needs fifteen (15) ratifications to come into force. However, the protocol has attracted 32 signatures and only one ratification by Rwanda. Kenya signed the Protocol on 21<sup>st</sup> March 2018.

## **2.2 Salient Provisions of the Protocol**

### **2.2.1 Progressive Realization of free movement of persons, right of residence and right of establishment**

The Protocol provides for the realization of its aspirations in phases. In the first phase, Member States will be required to implement the provisions on right of entry and abolition of visa requirements, while the provisions on right of residence and the right of establishment will be implemented in the second and third phases respectively.

### **2.2.2 Right of Entry**

Under the Protocol, nationals of a Member State shall have the right to stay, move freely and exit the territory of another Member State for a maximum period of 90 days, in accordance with procedures of the host Member State. To facilitate this right, Member States are required to abolish the requirement of a visa as a precondition for entry into their territories.

Member States are also required to mutually recognize and exchange specimens of their valid travel documents. The Protocol further provides for the African Passport and requires states to work closely with the African Union Commission to facilitate the processes towards the issuance of the African Passport to their citizens.

The Protocol also provides for free movement of students and researchers and requires Member States to allow nationals of other Member States to take up education or research in their territories, in accordance with the policies and laws of the host Member State.

In terms of free movement of workers, nationals of Member States will have the right to seek and accept employment without discrimination, in any other Member State, in accordance with the host Member's laws.

### **2.2.3 Right of Residence**

The Protocol provides that nationals of a Member State will have the right of residence in the territory of any Member State, in accordance with the laws of the host Member State. Such a national may be accompanied by

his/her spouse and dependents. Member States will be required to gradually implement favorable policies and laws on residence for nationals of other Member States.

#### **2.2.4 Right of Establishment**

The Protocol envisages that nationals of a Member State will have the right of establishment within the territory of another Member State, in accordance with the laws of the host Member State. The right of establishment will include the right to set up a business, trade, profession, vocation or calling or an economic activity as a self-employed person, in the territory of the host Member State.

#### **2.2.5 Mutual Recognition of Qualifications**

The Protocol requires Member States, either individually or through bilateral, multilateral or regional arrangements, to mutually recognize academic, professional and technical qualifications of their nationals, so as to promote the movement of persons among the Member States. They will also be required to establish a continental qualifications framework to encourage and promote the free movement of persons.

#### **2.2.6 Protection of Property acquired in the Host Member State**

Under the Protocol, a national of a Member State 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. Such property that is lawfully acquired shall not be nationalized, expropriated, confiscated or acquired by the host Member State except in accordance with the law, and after fair compensation being paid to that national. The host Member State will be expected to protect such property in the event of a dispute between the Member State where the national originates and the host Member State.

#### **2.2.7 Remittances**

The Protocol calls on Member States, through bilateral, regional, continental or international agreements to facilitate the transfer of earnings and savings of nationals of other Member States who are working, residing or established in their territory.

### **2.2.8 Harmonization of Laws**

Upon adoption of the Protocol, Member States will be required to harmonize and coordinate their laws, policies, systems and activities of the Regional Economic Communities (RECs) of which they are members, which relate to free movement of persons, with the laws, policies, systems and activities of the African Union, in accordance with the Implementation Plan.

### **2.3 Benefits of the Protocol to Kenya**

Kenya has made commendable efforts to facilitate foreigners' entry and stay in Kenya. Such efforts include the issuance of visa on arrival, abolition of visa requirements for nationals of some countries, such as Commonwealth countries; and through bilateral arrangements on exemption of visa requirements.

Kenya has also leveraged on technology to facilitate issuance of visa, notably the e-visa. With the already underway continental efforts to promote intra-African trade, such as the Tripartite Arrangement (COMESA-EAC-SADC) and the Continental Free Trade Agreement, facilitation of free movement of Africans within the continent should be encouraged.

It is worth noting that the Protocol is alive to the sovereignty of Member States and recognizes that its implementation shall be in accordance with national laws and procedures related to entry, residence and movement of foreign nationals. Reference to national laws is therefore a claw back clause that Member States may invoke to safeguard their interests. However, this also has the potential to undermine the implementation of the Protocol, as some Member States may invoke it to deliberately maintain the status quo.

## **3.0 POPULARIZATION MEETING OF THE PROTOCOL ON FREEMOVEMENT OF PERSONS BETWEEN MEMBER STATES OF ECOWAS AND EAC**

### **3.1 Introduction**

The African Union Commission's (AUC) department of Political Affairs convened a meeting of AU Member States from the EAC and ECOWAS region from 9<sup>th</sup> to 12<sup>th</sup> October, 2018 to popularize the Protocol on Free

Movement of Persons in Africa. The meeting was held in close collaboration with the EAC Secretariat and the ECOWAS Commission.

The purpose of the meeting was to bring together regions that have already established a progressive free movement regime in Africa in order to sensitize them of the AU Free Movement regime and find ways to work on accelerating signatures, ratification, domestication and implementation of the Protocol.

The countries that attended the meeting are Kenya, Senegal, Benin, Mali, Togo, Burkina Faso, Cote d'Ivoire, Gambia, Ghana, Sierra Leone, Nigeria, Niger, Liberia, Guinea, Uganda and Burundi. Representatives from the AUC, EAC, ECOWAS Commission and ECOWAS Parliament were also present. The International Organization for Migration (IOM) and the Civil Societies Organizations (CSOs) were present during the meeting as an AU partner on Free Movement programme as an observer.

### **3.2 Opening Remarks**

#### **3.2.1 Statement of Dr. Khabele Matlosa, Director, AUC Department of Political Affairs**

Dr. Matlosa welcomed the participants to the meeting and reminded them that the idea of free movement is based on the desire of African integration. He educated that the 1991 Abuja Treaty established the RECs and that the AU Free Movement Protocol derives from it due to its goal of integration.

EAC and ECOWAS have advanced the idea of free movement within their regions as the AU continues to gain from their experiences and lessons learnt in advancing free movement of persons in Africa. Therefore, the purpose of the meeting was to sensitize countries of the two regions on the Protocol and urge them to take appropriate steps to ratify the Protocol on Free Movement of Persons in Africa.

#### **3.2.2 Remarks by Dr. Tony Luka Elumelu, Head of Division of the Free Movement and Migration, Department of Free Movement and Tourism, ECOWAS Commission**

Dr. Elumelu highlighted that migration had become a global issue and therefore this presented Africa with an opportunity to define its own

migration with intra-migration policies. He further explained that ECOWAS had just completed developing a migration policy, to be unveiled soon, that had been developed since 2008 in Ouagadougou, when ECOWAS Member States adopted a common approach on migration that encouraged regular migration and addressed the issues surrounding asylums and refugees.

In addition, the presenter acknowledged that there were similarities of free movement agenda between the EAC and ECOWAS and challenges too in the implementation process bringing forward the importance of continuous sensitization of the Protocol on Free Movement of Persons.

### **3.2.3 Remarks by Ms. Mary Makoffu, Director of Social Sector, EAC Secretariat**

Ms. Makoffu informed the meeting that since the signing of the EAC Common Market Protocol by partner States in November 2009, major strides had been achieved in the facilitation of free movement of persons and the REC was the first in Africa to have achieved this. She further highlighted that despite the challenges encountered in the process, the EAC continuously aims at progressively facilitating the Free Movement of persons, labour, goods, services, capital and in ensuring the rights of establishment and residence to EAC nationals who choose to work or establish themselves in the Partner State of their choice.

She further highlighted that the EAC has stepped up the implementation of the free movement of persons and the factors of production by developing regional Bi-Annual scorecards which assess the status on implementation by each Partner States as well as the commitments and undertakings made under the various provisions of the EAC-CMP. Also, the only recorded ratification to the Protocol was by the Republic of Rwanda which is an EAC Partner State. Some of the key benefits from ratifying the Protocol include:

- a) Boosting the intra-Africa trade, commerce and tourism
- b) Facilitating labour mobility, intra-trade knowledge and skills transfer
- c) Promoting a Pan-African identity, social integration and tourism
- d) Improving trans-border infrastructure and shared development
- e) Fostering a comprehensive approach to border management

- f) Promoting the rule of law, human rights and public health

She concluded her remarks by appreciating the efforts by the AUC in convening the meeting between the EAC and ECOWAS Member States to be ambassadors of the AU Protocol on the Free Movement of Persons, to get the required ratification and pioneer its implementation.

### **3.2.4 Welcome Remarks by Mr. Tamsir Gueye, Representative of the Minister of Foreign Affairs, Republic of Senegal**

Mr. Gueye welcomed the participants and thanked the AU for convening the meeting in Senegal. He was confident that both the EAC and ECOWAS would be able to achieve fifteen (15) ratifications required and enable the Protocol on Free Movement of Persons become a reality for all Africans. He wished the participants good deliberations during the meeting.

### **3.3 Presentation on the Protocol to the Treaty Establishing the Regional Economic Community Relating to Free Movement of Persons, Right of Entry, Right of Residence and Right of Establishment; and its Implementation Roadmap**

The presenter highlighted the contents of the Protocol including issues relating to right of entry, right of residence, right of establishment and the African passport. It also focused in on the role of Member States, the AUC and RECs as indicated in the implementation plan.

#### **3.3.1 Outcomes of the Discussions**

- a) There was need to take the discussions of the meeting to national level in order to identify the challenges and issues of concern to be addressed in order to accelerate the implementation of the Protocol at national level.
- b) It was agreed that the ratification process will be conducted at country level rather than at a collective/regional level
- c) Political goodwill from Member States will be the success factor for the implementation of the Protocol on Free Movement, therefore, more efforts should be directed to political levels alongside technical levels.
- d) The participants agreed there was need to popularize the AU as well as the RECs at local level within the Member States. It was felt that

ordinary citizens do not have adequate knowledge of the AUC and the RECs and suggested that Member States should invest in ensuring that the AU, RECs and their organs are known, including the benefits they bring to the citizens and Africa.

- e) Governments. RECs and AUC need to address the issues concerning mistreatment persons and mismanagement at border entry points.
- f) Security matters related to free movement of persons such as terrorism, human trafficking needed to be discussed for successful implementation of the Protocol.
- g) A study by the AU on the status of migration and free movement within the regions was requested by the participants as it will be useful in making decisions about the Protocol at the national level by Member States.

### **3.3.2 Recommendations from the discussions**

- a) An implementation schedule will be put in place as well as a monitoring and evaluation framework for the Protocol
- b) Each country should undertake concrete steps towards signature, ratification, domestication and implementation of the Protocol
- c) The AUC to partner with other stakeholders to engage in diplomatic efforts to advance the free movement agenda
- d) The Member States to put in efforts to inform and engage ordinary citizens on the benefits of the process of free movement in Africa
- e) The AU to send a Note Verbale to Member States including the Executive for the sensitization of the Protocol and finally its ratification
- f) There's need for a timeframe for the ratification of the Protocol and use timelines to lobby, advocate and sensitize on the Protocol and its ratification process.

### **3.4 Presentation on the Outcomes of the AUC/EAC/ECOWAS Commission Meeting**

A presentation on the outcomes from the meeting of the AU Commission and ECOWAS Commission and the EAC Secretariat was made to the participants.

### **3.4.1 Recommendations from the Meeting**

- a) The meeting requested the two RECs to work closely with the AU especially on the Early Warning program in order to get information when there are huge numbers of people migrating.
- b) Member States should establish official immigration border points in order to discourage the use of unregistered border points.
- c) The AUC needs to put pressure on Member States to allocate budgets for the implementation of the Protocol and introduce penalty fines for non-compliant countries.
- d) Member States to make arrangements of translating the text of the Protocol into local languages that are widely spoken in order for the local citizens to know their rights and responsibilities as indicated in the Protocol. This should also include the translation of frameworks related to education, health and trade among others.
- e) The AUC to invest in media sensitization for accelerated ratification of the Protocol
- f) AUC to work with relevant migration forums at regional level.

### **3.5 Presentation by IOM on Joint AU/IOM Study on Benefits and challenges of Free Movement of Persons in Africa**

The representative of the IOM made a presentation on the benefits and challenges of the Protocol on Free Movement in Africa. According to her presentation, it was noted that 82% of migration happens in Africa and that it is easier for non-Africans to travel easily in Africa than Africans.

Furthermore, the study explores the benefits and costs of the movement of persons in Africa and the role that free movement can play in achieving the border integration and development goals. It also provides essential data and analysis to inform the process of migration and in particular provided credible data in favour of free movement within the continent.

The several success stories of comparable countries and regions offered a guide for practical actions to be undertaken by all stakeholders to activate the policies, infrastructure, operations and political will that can enable freedom of movement in Africa.

### **3.5.1 Outcome of the presentation**

- a) Member States appreciated the study and indicated that it will be useful in the implementation of the Protocol on Free Movement of Persons in Africa.

### **3.6 Presentation on the Outcomes of the CSOs meeting**

H.E General (Retired) Salou Djib0, Former Head of State of Niger and Chairman of ECOWAS Task Force on Trade and Liberalization Scheme and Free Movement addressed the meeting in his official capacity as the Chair of ECOWAS Task Force and expressed his appreciation for involving the CSOs in the consultations aimed at sensitizing free movement of persons in Africa. He indicated that the CSO meeting took place in Dakar, Senegal from 10<sup>th</sup> to 12<sup>th</sup> October, 2018, with members of the CSO, media, private sector and academia in attendance committed to undertake the following:

- a) Continue to engage at the national and regional level in order to get a deeper understanding of the Protocol on Free Movement
- b) Engage with the AUC so as to enable the CSOs develop better understanding in order to engage regional parliaments at ECOWAS and EAC level
- c) Identify strong personalities at regional level to embody the role of champions for the cause of free movement
- d) Document best practices in countries as well as challenges in order to share a status report at national and regional level periodically
- e) Develop a monitoring and evaluation strategy in order to measure Member States compliance on the implementation
- f) Collaborate with IOM, EAC, ECOWAS and AUC to conduct studies and research regularly in order to sustain the advocacy work on free movement that is informed based on realities on the ground.
- g) Create working groups at national and regional levels to keep track of the progress on the Protocol on Free Movement of Persons
- h) The AU and the RECs to work with responsible, registered and known CSOs that will add value to the process.

## **4.0 PRIORITY ACTION AREAS IN THE SENSITIZATION OF THE PROTOCOL ON FREE MOVEMENT OF PERSONS IN AFRICA**

<b>Priorities</b>	<b>Responsible</b>	<b>Timeframe</b>
Sensitization and advocacy on the Protocol to Member States and key stakeholders	AUC	Long term
Develop a communication strategy including the use of knowledge management	AUC	Long term
Resource mobilization	AUC/RECs/Member States	Long term
Identification of focal points (Member States and RECs, Border Management, etc)	AUC/RECs/Member States	Short term
Capacity building on the Protocol	AUC	Short term
Involving the African diaspora in the implementation of the Protocol on Free Movement of Persons	AUC	Long term

## **5.0 COMMITEE OBSERVATIONS**

The delegation from Kenya observed the following: -

- a) The sensitization program of the Protocol should consider countries with peculiar issues. Countries have different processes in ratification of treaties, agreements and conventions. For example, Kenya faces terrorism, therefore there is need to foresee the challenges in order to advocate for the Protocol. In this regard, political will is prudent in the signing of the Protocol.

- b) Opening of borders is good development. The Post-Cotonou Agreement is coming to an end in 2020 therefore the opening of borders will help increasing the 15% trade in Africa;
- c) The protocol is ratifiable, for example, Rwanda, who has already signed the Protocol, has 21 exit and entry points and has inter-border management systems which integrate all exit and entry points. Rwanda is a pace-setter for the EAC on exit and entry points because it's possible to combine migration with good border management;
- d) Competing issues such as poverty, offers challenges for the free movement of people because countries protect their local economies;
- e) There is need to support leaders to ensure that the roadmap for the Protocol is achieved and it should have timelines. The process of ratification starts with the executive. The AU should write to the Executive for sensitization of the protocol;
- f) In regards to the adoption of the AU passport, there will be financial implications on the change owing to the fact that Kenya has recently adopted the EAC passport. The Kenyan passport has been adopted as the best model for the AU passport in facilitating movement within the AU Member States.
- g) The EAC seems to be far ahead on the free movement of people and thus recommends other RECs, such as the Arab Maghreb Union, to follow the EAC as an example.

## **6.0 COMMITTEE RECOMMENDATIONS**

The sensitization conference recommended the following:

- a) **The AU, the RECs and Member States to synergize activities and programmes relating to the African Continental Free Trade Agreement (AfCFTA) in tandem with the implementation of the AU Free Movement Protocol**
- b) **The AU, the RECs and Member States to utilize the Regional Consultative Process (RCPs) for the promotion of the Protocol on Free Movement of Persons among AU Member States.**
- c) **The AU, RECs and Member States to involve regional/national parliaments, private sector and civil society in the dissemination of information on the AU Protocol on Free Movement of Persons**

- d) The AU, respective RECs and Member States to coordinate the process for exchange of data on mobility of persons in the regions**
- e) The AU and respective RECs to assist Member States in strengthening their civil registries**
- f) The AU, respective RECs and Member States to promote the establishment of joint border patrols among Member States**
- g) The AU and respective RECs to assist Member States to enhance the interconnectivity of border information management systems.**
- h) RECs should emulate the EAC in offering free movement of persons and the adoption of the AU passports.**

REPUBLIC OF KENYA


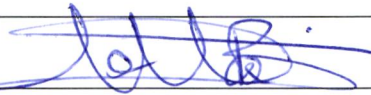
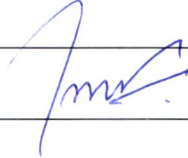



**DEPARTMENTAL COMMITTEE ON DEFENCE & FOREIGN RELATIONS.**

**REPORT OF THE DEPARTMENTAL COMMITTEE ON DEFENCE AND FOREIGN RELATIONS ON THE MEETINGS WITH MEMBER STATES AND SECRETARIAT (ECOWAS & EAC) TO PROMOTE AND POPULARISE THE PARTICIPATION OF THE PROTOCOL ON FREE MOVEMENT OF PERSONS AND THE IMPLEMENTATION ROAD MAP**

We, the undersigned Hon. Members of the Departmental Committee on Defence & Foreign Relations, today 17<sup>th</sup> November, 2018 do hereby affix our signatures to this REPORT ON THE Meetings with member states and Secretariat (ECOWAS & EAC) to promote and popularize the participation of the protocol on free movement of persons and implementation road map to affirm our approval and confirm its accuracy, validity and authenticity:-

NO.	NAME	SIGNATURE
1.	The Hon. Katoo Ole Metito, EGH, MGH, M.P - <b>Chairperson</b>	
2.	The Hon. Richard Tong'i, M.P - <b>Vice Chairperson</b>	
3.	The Hon. Yusuf Hassan Abdi, M.P	
4.	The Hon. Charles Mutavi Kilonzo, M.P	
5.	The Hon. Patrick Makau, M.P	
6.	The Hon. Dido Ali Raso, M.P	
7.	The Hon. Peter Mungai Mwathi, M.P	
8.	The Hon. Martha Wangari Wanjira, M.P	

9.	The Hon. Major (Rtd.) Bashir Abdullahi, M.P	
10.	The Hon. Memusi Ole Kanchory, M.P	
11.	The Hon. Beatrice Nkatha Nyagah, HSC, M.P	
12.	The Hon. John Lodepe Nakara, M.P	
13.	The Hon. Nelson Koech, M.P	
14.	The Hon. (Dr.) Lilian Gogo, M.P	
15.	The Hon. Vincent Kipkurui Tuwei, M.P	
16.	The Hon. Asha Mohamed, M.P	
17.	The Hon. Moses Nguchine Kirima, M.P	
18.	The Hon. Ernest Ogesi Kivai, M.P	
19.	The Hon. Caleb Amisi, MP	

**MINUTES OF THE 65<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE & FOREIGN RELATIONS & COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES HELD ON FRIDAY, 16<sup>TH</sup> NOVEMBER, 2018 IN MEETING ROOM , TRADE MARK, HOTEL AT 10.00AM**

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**PRESENT**

1. The Hon. Katoo Ole Metito, EGH, MGH, MP(**Chairperson**)
2. The Hon. Yusuf Hassan Abdi, MP
3. The Hon. Charles Kilonzo, MP
4. The Hon. Dido Ali Raso, MP
5. The Hon. Patrick Makau King'ola, MP
6. The Hon. Beatrice Nkatha Nyagah, HSC, MP
7. The Hon. Major (Rtd.) Bashir Sheikh Abdullah, MP
8. The Hon. Ernest Ogesi Kivai, MP
9. The Hon. Asha Mohammed, MP

**APOLOGY**

The Hon. Richard Tongi, MP - **Vice Chairperson**

The Hon. Peter Mungai Mwathi, MP

The Hon. Martha Wangari Wanjira, MP

The Hon. Memusi Ole Kanchory, MP

The Hon. (Dr.) Lilian Gogo, MP

The Hon. Vincent Kipkurui Tuwei, MP

The Hon. Moses Nguchine Kirima, MP

The Hon. Nelson Koech, MP

The Hon. Caleb Amisi, MP

The Hon. John Lodepe Nakara, MP

**National Assembly Secretariat**

- |                       |   |                        |
|-----------------------|---|------------------------|
| 1. Samuel Kalama      | - | Senior Clerk Assistant |
| 2. Ms. Brigitta Matti | - | Legal Counsel          |
| 3. Ms. Grace Karanja  | - | Research Officer III   |

**AGENDA**

1. Preliminaries
  - (i) Prayers
  - (ii) Introductions
  - (iii) Communication from the Chair
  - (iv) Adoption of the Agenda

(v) Confirmation of Minutes from the previous sittings

(vi) Matters Arising

**2. Consideration of reports**

- i. Inquiry into the status, Viability and Efficacy in implementation of the Kenya- Border Securitization project
- ii. On the Meeting With Member States & Secretariats (ECOWAS & EAC) To Promote and Popularize the Ratification of the Protocol on the Free Movement of Persons And its Implementation Roadmap

**3. Any Other Business**

**MIN.NO.DC.DFR/2018/300: PRELIMINARIES**

The Chairperson called the meeting to order at 10:30am. Prayer was read by Hon Patrick Makau MP.

**MIN.NO.DC.DFR/2018/301:**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Hon. Dido Rasso, MP, and seconded by the Hon. the Hon. Ernest Ogesi Kivai, MP respectively.

**MIN.NO.DC.DFR/2018/302:**

**CONSIDERATION OF THE REPORT ON INQUIRY INTO THE STATUS, VIABILITY AND EFFICACY IN IMPLEMENTATION OF THE KENYA- BORDER SECURITIZATION PROJECT**

The Committee considered the report and made the following observations and recommendations

Having considered the evidence adduced, the Committee made the following observations—

**THAT,**

1. The pace in the execution of the Kenya-Somali Securitization project is slow.
2. It is imperative for the Government to open the Kenya-Somalia Border. This will lead to improvement in revenue collection when movement of persons and services is regulated.
3. There is a significant improvement in the works currently undertaken by the contractor.
4. The impact of the project is evident since its commencement. Since construction of the fence, Mandera town has enjoyed relative peace with no incidences of terror attacks.

5. The project has been largely embraced by the local leadership in Mandera County.
6. The security border wall will enhance security by ensuring that only the desirable persons and goods are allowed into the country through gazetted entry points.
7. There is need for the Government to open the Kenya- Somalia Border. This will lead to an improvement in revenue collection when movement of persons, goods and services is regulated.
8. The National Youth Service upon handing over the project to the Ministry of Defence they abandoned equipment related to the construction works in Mandera town.
9. Insecurity in Mandera has adversely the economic activities in Mandera County.

### **Committee recommendations**

The Committee recommends that:-

1. The Government should fast track the completion of the Kenya- Somalia Border project. The Ministry of Defence should come up with a comprehensive budget plan and a realistic timeline for the completion of the project.
2. The Government should open the border and the Customs offices so as to allow legal trade and enable it to collect taxes.
3. The concept of Border Security Management (BSM) should be strengthened to adopt a multi-agency approach to bring on board as many relevant agencies as possible for an effective Border Management and control.
4. On completion of the project, the Government should establish a Border Patrol Force to enhance rapid response capability.
5. The Government should provide adequate security in Mandera County to enable residents carrying on with their economic activities such as quarrying
6. The National Youth Service should make arrangements to ensure that all the abandoned equipment that was to be used in the construction of the project in Mandera town should be carted away as soon as possible.

**MIN.NO.DC.DFR/2018/303: CONSIDERATION OF THE REPORT ON THE MEETING  
WITH MEMBER STATES & SECRETARIATS (ECOWAS  
& EAC) TO PROMOTE AND POPULARIZE THE  
RATIFICATION OF THE PROTOCOL ON THE FREE  
MOVEMENT OF PERSONS AND ITS IMPLEMENTATION  
ROADMAP**

The Committee considered the report and made the following observations and recommendations

**Committee observations: -**

**THAT**

1. The sensitization program of the Protocol should consider countries with peculiar issues. Countries have different processes in ratification of treaties, agreements and conventions. For example, Kenya faces terrorism, therefore there is need to foresee the challenges in order to advocate for the Protocol. In this regard, political will is prudent in the signing of the Protocol.
2. Opening of borders is good development. The Post-Cotonou Agreement is coming to an end in 2020 therefore the opening of borders will help increasing the 15% trade in Africa;
3. The protocol is ratifiable, for example, Rwanda, who has already signed the Protocol, has 21 exit and entry points and has inter-border management systems which integrate all exit and entry points. Rwanda is a pace-setter for the EAC on exit and entry points because it's possible to combine migration with good border management;
4. Competing issues such as poverty, offers challenges for the free movement of people because countries protect their local economies;
5. There is need to support leaders to ensure that the roadmap for the Protocol is achieved and it should have timelines. The process of ratification starts with the executive. The AU should write to the Executive for sensitization of the protocol;
6. In regards to the adoption of the AU passport, there will be financial implications on the change owing to the fact that Kenya has recently adopted the EAC passport. The Kenyan passport has been adopted as the best model for the AU passport in facilitating movement within the AU Member States.
7. The EAC seems to be far ahead on the free movement of people and thus recommends other RECs, such as the Arab Maghreb Union, to follow the EAC as an example.


**Committee Recommendations**

The Committee recommended the following:

1. The AU, the RECs and Member States to synergize activities and programmes relating to the African Continental Free Trade Agreement (AfCFTA) in tandem with the implementation of the AU Free Movement Protocol
2. The AU, the RECs and Member States to utilize the Regional Consultative Process (RCPs) for the promotion of the Protocol on Free Movement of Persons among AU Member States.
3. The AU, RECs and Member States to involve regional/national parliaments, private sector and civil society in the dissemination of information on the AU Protocol on Free Movement of Persons
4. The AU, respective RECs and Member States to coordinate the process for exchange of data on mobility of persons in the regions
5. The AU and respective RECs to assist Member States in strengthening their civil registries
6. The AU, respective RECs and Member States to promote the establishment of joint border patrols among Member States
7. The AU and respective RECs to assist Member States to enhance the interconnectivity of border information management systems.
8. RECs should emulate the EAC in offering free movement of persons and the adoption of the AU passports.

**MIN.NO.DC.DFR/2018/304: ADJOURNMENT AND DATE OF NEXT MEETING**

And the time being 1.10pm the Chairperson adjourned the meeting and to reconvened on Friday, 16<sup>th</sup> November, 2018 at 2.30PM.

Signed.....  


**Hon. Katoo Ole Metito, EGH, MGH, M.P  
 (CHAIRPERSON)**

Date.....  
 20/11/2018

**MINUTES OF THE 67<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE & FOREIGN RELATIONS & COMMITTEE ON TRADE, INDUSTRY & COOPERATIVES HELD ON SATURDAY, 17<sup>TH</sup> NOVEMBER, 2018 IN THE 1<sup>ST</sup> BOARDROOM , THE TRIBE, HOTEL AT 10.00AM**

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**PRESENT**

1. The Hon. Katoo Ole Metito, EGH, MGH, MP(**Chairperson**)
2. The Hon. Yusuf Hassan Abdi, MP
3. The Hon. Charles Kilonzo, MP
4. The Hon. Dido Ali Raso, MP
5. The Hon. Patrick Makau King'ola, MP
6. The Hon. Beatrice Nkatha Nyagah, HSC, MP
7. The Hon. Major (Rtd.) Bashir Sheikh Abdullah, MP
8. The Hon. Ernest Ogesi Kivai, MP
9. The Hon. Nelson Koech, MP
10. The Hon. Asha Mohammed, MP

**APOLOGY**

1. The Hon. Richard Tongi, MP - **Vice Chairperson**
2. The Hon. Peter Mungai Mwathi, MP
3. The Hon. Martha Wangari Wanjira, MP
4. The Hon. Memusi Ole Kanchory, MP
5. The Hon. (Dr.) Lilian Gogo, MP
6. The Hon. Vincent Kipkurui Tuwei, MP
7. The Hon. Moses Nguchine Kirima, MP
8. The Hon. Caleb Amisi, MP
9. The Hon. John Lodepe Nakara, MP

**National Assembly Secretariat**

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|-------------------------|---|-------------------------|
| 1. Samuel Kalama        | - | Senior Clerk Assistant  |
| 2. Ms. Brigitta Matti   | - | Legal Counsel           |
| 3. Ms. Grace Karanja    | - | Research Officer III    |
| 4. Mr. Rodgers Kilungya | - | Audio Recording Officer |

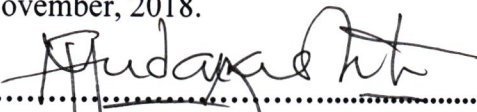
**AGENDA**

1. Preliminaries
  - (i) Prayers
  - (ii) Introductions

4. On the Meeting With Member States & Secretariats (ECOWAS & EAC) To Promote and Popularize the Ratification of the Protocol on the Free Movement of Persons and its Implementation Roadmap. The adoption of the report was proposed by Hon. Ernest Ogesi Kivai, MP and seconded by and seconded by the Hon. Katoo Ole Metito, EGH, MGH, MP

**MIN.NO.DC.DFR/2018/313: ADJOURNMENT AND DATE OF NEXT OF MEETING**

And the time being 1.30pm the Chairperson adjourned the meeting and to be reconvened on Tuesday, 20<sup>th</sup> November, 2018.

Signed.....  
  
**Hon. Katoo Ole Metito, EGH, MGH, M.P**  
**(CHAIRPERSON)**

Date.....  
20/11/2018

- (iii) Communication from the Chair
- (iv) Adoption of the Agenda
- (v) Confirmation of Minutes from the previous sittings
- (vi) Matters Arising

## **2. Adoption of reports**

- a. On The Consideration of a Petition By Mr. Dan Okemwa and Ms. Lyn Kemboi, on the arrest and Detention of Mr. Don Bosco Gichana Ooga
- b. The Official Visit to the Republic of Romania from October 1<sup>st</sup> -5<sup>th</sup> ,2018
- c. Inquiry into the status, Viability and Efficacy in implementation of the Kenya- Border Securitization project
- d. On the Meeting With Member States & Secretariats (ECOWAS & EAC) To Promote and Popularize the Ratification of the Protocol on the Free Movement of Persons And its Implementation Roadmap

## **3. Any Other Business**

### **MIN.NO.DC.DFR/2018/310: PRELIMINARIES**

The Chairperson called the meeting to order at 1.30am. Prayer was read by Hon Ernest Ogesi Kivai MP.

### **MIN.NO.DC.DFR/2018/311: ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Hon. Yusuf Hassan, MP, and seconded by the Hon. the Hon. Nelson Koech, MP respectively.

### **MIN.NO.DC.DFR/2018/312: ADOPTION OF THE REPORT**

**The following reports were unanimously adopted by the Committee as follows**

- 1. The Consideration of a Petition by Mr. Dan Okemwa and Ms. Lyn Kemboi, on the arrest and Detention of Mr. Don Bosco Gichana Ooga. Proposed by Hon. Nelson Koech and seconded by Hon. Yusuf Hassan
- 2. The Official Visit to the Chamber of Deputies, Republic of Romania from October 1<sup>st</sup> - 5<sup>th</sup> ,2018. Proposed by Hon. Major (Rtd.) Bashir Sheikh Abdullah MP and seconded by Hon. The Hon. Dido Ali Raso, MP
- 3. Inquiry into the status, Viability and Efficacy in implementation of the Kenya- Border Securitization project. The adoption was proposed by Hon. The Hon. Yusuf Hassan Abdi, MP and seconded by Hon. Maj. Bashir Abdullahi, MP