



International  
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## **Consultancy - Terms of Reference**

### ***“Video Production- High Level Tripartite Political Meeting on Labour Migration Governance”***

#### **1. Background and context**

The **Southern African Migration Management (SAMM) Project** is designed to improve migration management in the Southern African and Indian Ocean region guided by, and contributing to the realisation of, the 2030 Sustainable Development Agenda goal 8 on decent work and economic growth and goal 10 on reducing inequalities, and notably the following two targets:

- **SDG target 8.8** “Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment”;
- **SDG target 10.7** “Facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”.

The SAMM Project is a United Nations Multi-Agency programme composed of the International Labour Organization (ILO), the International Organisation for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Office on Drugs and Crime (UNODC). The European Union is supporting and funding the implementation of the project.

**SAMM's target countries** are all 16 SADC Member States: Angola, Botswana, Comoros, the Democratic Republic of the Congo (DRC), Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, the Seychelles, South Africa, Tanzania, Zambia and Zimbabwe.

The SAMM project is comprised of **two main project components**: 1. Labour Migration; and 2. Mixed Migration. The first component supports the implementation of the UN Global Compact on Safe, Orderly and Regular Migration (GCM) particularly the following objectives:

- **GCM Objective 1** “Collect and utilize accurate and disaggregated data as a basis for evidence-based policies”;
  - **GCM Objective 5** “Enhance availability and flexibility of pathways for regular migration”;
  - **GCM Objective 6** “Facilitating fair and ethical recruitment and safeguard conditions that ensure decent work”;
  - **GCM Objective 17** “Eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration”;
  - **GCM Objective 18** “Invest in skills development and facilitate mutual recognition of skills, qualifications and competences”;
  - **GCM Objective 22** “Establish mechanisms for the portability of social security entitlements and earned benefits”.
- At the same time, the SAMM project is contributing to the implementation of recommended labour migration strategies included in the **2018 African Union Revised Migration Policy Framework** and its **Plan of Action (2018-2030)**. Moreover, the project contributes to the priorities for action of the **2017 ILC Conclusions concerning Fair and Effective Labour Migration Governance**, and to the implementation of the **2019 Abidjan Declaration «Advancing Social Justice: Shaping the future of work in Africa, Realizing the potential for a future of work with social justice»**. The Abidjan Declaration is a testimony that ILO Member States in Africa consider labour migration governance to be one of the priority areas, and they are committed to «Strengthening the efficiency of the institutions of work to ensure adequate protection of all workers through promoting fair and effective labour migration governance».

**Regional Economic Communities (RECs)** are key partners and key stakeholders in SAMM's implementation: i) the Common Market for Eastern and Southern Africa (COMESA), ii) the Indian Ocean Commission (IOC), and iii) the Southern African Development Community (SADC). As such, a significant part of SAMM's key project priorities is to support the implementation of the 2014 **SADC Labour Migration Policy Framework (Annex 1)** and its **2020-2025 Action Plan (Annex 2)**.

At the same time, SAMM includes important work ensuring the realisation of labour migration components included in the following five RECs Policy Frameworks:

- **SADC Employment and Labour Policy Framework 2020-2030 (Annex 3);**
- **SADC Protocol on the Facilitation of Movement of Persons (Annex 4);**

- **SADC Code on Social Security (Annex 5) and SADC Guidelines on the Portability of Social Security Benefits (Annex 6);**
- **SADC Regional Qualifications Framework (Annex 7);**
- **COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence (Annex 8).**

At the same time, the SAMM project is also providing technical support to the SADC Secretariat in the establishment of the **SADC Labour Market Observatory (Annex 9)** that will enable evidence-base to transform labour migration governance policy-making since it will comprise an important section on labour migration statistics. SADC Member States' contribution to the SADC Labour Market Observatory will require rapid improvement on the collection and analysis of labour migration statistics and instituting labour market information systems at the national level.

Against this backdrop, a High Level Tripartite Political Meeting on Labour Migration Governance is essential and timely and as part of the High level meeting we would like to showcase videos relating to the key thematic areas on labour migration Governance. We therefore seek a consulting company to develop and produce a series of 7 short interactive videos.

## 2. Objectives and Outputs

The main objective of the assignment is to develop and produce 7 interactive animated videos highlighting the key areas that will be discussed in the High Level Tripartite Political Meeting on Labour Migration Governance.

The videos (**3- 5 minutes maximum**) will focus on the following:

- SADC Labour Migration Policy Framework and its 2020-2025 Action Plan and the labour migration component of the SADC Employment and Labour Policy Framework (2020-2030)
- The SADC Labour Market Observatory comprising labour migration statistics
- The SADC Code on Social Security and the SADC Guidelines on the Portability of Social Security Benefits
- The SADC Qualifications Framework and the recognition of migrant workers' qualifications
- The COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence
- The SADC Protocol on the Facilitation of Movement of Persons
- Combating xenophobia by promoting a positive image of migrant workers and recognizing their contribution to development in the SADC region

The target audience of the videos are Ministers of Employment and Labour, Home Affairs, , employers and workers' organisations, migrant workers themselves, Migrants Associations and Networks, the media, Human rights activists, gender networks, etc.

## **SCOPE OF WORK**

### i) Length/Duration of the videos

- 3 – 5 Minutes

### ii) Script writing

- The consultant will be provided with relevant documents to use as a guide to write the script for each video
- The script must be engaging, concise and capture what the SAMM project seeks to achieve in the next 4 years.
- Videos will include at least one short interview of key stakeholders and experts on the subject. The ILO will identify names of the stakeholders and experts to interview and will provide support in setting up the interviews.

### iii) Visuals

- Clear creative and interactive animations
- landscape framing, with a 16:9 aspect ratio. Make sure any background noise is not too high so the person's/narration voice can be clearly heard
- Translate the videos in French and Portuguese

## **3. Deliverables**

Video 1. SADC Labour Migration Policy Framework and its 2020-2025 Action Plan and the labour migration component of the SADC Employment and Labour Policy Framework (2020-2030)

Video. 2. The SADC Labour Market Observatory comprising labour migration statistics

Video 3. The SADC Code on Social Security and the SADC Guidelines on the Portability of Social Security Benefits

Video 4. The SADC Protocol on the Facilitation of Movement of Persons

Video 5. The SADC Qualifications Framework and the recognition of migrant workers' qualifications

Video 6. The COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence

Video 7. Combating xenophobia by promoting a positive image of migrant workers and recognizing their contribution to development in the SADC region

## 4. Terms of Contract for Consultant

The service provider will be responsible for all expected outputs mentioned in the terms of reference.

Daily fees represent **250 USD**

Fees will be determined depending on the qualifications, knowledge and experience of the consultant on developing and producing animated videos. The consultant must have Progressive professional experience in the development of Animated videos, from scripting to the final edit.

## 5. Timeline and payment breakdown

The consultant will work for a total of **42 Non-consecutive Working days**

**Starting date:** 5 December 2021

**End date:** 28 February 2022

Total agreed consultant(s)' fees represent \_ based on a daily fee of \_ 250 USD\_\$/day for **42** working days.

Payments will be disbursed as follows:

**3,000 US dollars** representing **12 working days** upon the submission and acceptance of an initial work plan and finalized scripts for all videos to the satisfaction of the ILO, no later than **17 December 2021. (Due to year end processes, payment will only be effected in January 2022)**

**6,000 US dollars** representing **24 working days** upon the completion of first draft of the videos for review by SAMM team and partners, to the satisfaction of the ILO, no later than **28 January 2022.**

**1.500\_ US dollars** representing **6 working days** upon the completion of upon the submission of finalized and approved videos by the SAMM team and partners satisfaction of the ILO, no later than **25 February 2022.**

## 6. Supervision and Reporting

The service provider will report to Ms Makungu Baloyi, Communications Officer of the Southern Africa Migration Management (SAMM) project who is supervised by Ms. Gloria Moreno-Fontes, Chief Technical Advisor of the SAMM project

The ILO will liaise with the IOM, UNHCR and UNODC (if pertinent) and be in charge of the overall supervision for incorporating inputs and comments and validation of the work.

## 7. Application

Applicants should send by Midnight SAST 28 November, 2021 to the International Labour Organization ([samm-project@ilo.org](mailto:samm-project@ilo.org)) and copying: [ngoveni@ilo.org](mailto:ngoveni@ilo.org) and [baloyi@ilo.org](mailto:baloyi@ilo.org) their CV/Company Profile, Proposal, including financial and three latest links to project videos (animated preferably) they have produced.

## 8. Annexes

### Annex 1. The SADC Labour Migration Policy Framework

Progress has been made in fostering improved labour migration governance at the SADC level with the adoption in 2014 of **SADC's Labour Migration Policy Framework**. Its key principle is “to align with regional and international frameworks on labour migration, harmonise respective national, and bilateral policies, and work towards an inclusive labour migration regime balancing international frameworks with the specificities of Southern African economies and labour market dynamics.” Its overall objective is to “develop a harmonised regional policy framework to regulate labour migration within SADC that benefits sending and receiving countries, protects the rights of migrant workers, contributes to equitable and just development in the region, and builds on principles of mutual respect and cooperation.” Its specific objectives include:

- to achieve legal and policy convergence in the region in the area of labour migration;
- to establish, maintain, and disseminate a system of sub-regional data collection in key areas of labour migration including but not limited to migration stocks & flows; labour market data, legislations; comparative sector based qualitative research; impact assessments (discussed above in 3.3.1);
- to develop an integrated and evidence-based strategy aimed at retaining existing skills within the sub-region, improving and expanding the skills pool within SADC and attracting new skills from outside the region that will contribute to the development of the region's economy;
- to improve understanding of low-skilled migrant workers' mobility strategies; and to design pro-poor labour migration policies assisting and protecting this category of workers towards increased and more sustainable income generating activities;
- to ensure the mainstreaming of self-employed migrants in migration, labour, rural and urban development strategies;
- to ensure the full integration of migrant workers into national and sub-regional workers' organisations without discrimination based on their citizenship or length of residence;

- to create a harmonised social protection regime across SADC for migrant workers and nationals that takes into consideration a minimum floor of social security for migrant workers; and
- to create mechanisms for monitoring and evaluation of labour market integration.

The SADC Labour Migration Policy Framework provides an important sub-regional framework and mechanisms for cooperation between SADC Member States in the development of national labour migration policies and the management of labour migration. It was followed by three labour migration action plans designed to implement it:

- SADC Labour Migration Action Plan 2013- 2016<sup>1</sup>;
- SADC Labour Migration Action Plan 2016-2019
- SADC Labour Migration Action Plan 2020-2025.

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<sup>1</sup> The SADC Labour Migration Action Plan (2016-2019) called on all Member States to have a National Labour Migration Policy in place by 2020.

## Annex 2. The SADC Labour Migration Action Plan 2020-2025

The broad objective of the **SADC Labour Migration Action Plan 2020-2025** is to enhance the contribution of labour migration to regional cooperation and integration in SADC. The specific outcome is to improve labour migration management for regional socio-economic development. The Strategic objectives (SOs) of the Plan are the following:

- **Strategic Objective 1:** To strengthen labour migration policies and regulatory systems for better labour migration governance including the following outputs
  - Ratification and implementation of key global, continental and regional migration instruments promoted, including the SADC Protocol on Employment and Labour, 2014, and the SADC Protocol on Facilitation of Movement of Persons, 2005.
  - National policy frameworks that address labour migration, including in combination with other thematic areas, adopted and implemented in all SADC Member States.
  - Bilateral cooperation on labour migration strengthened.
  - Institutional mechanisms, including the Secretariat, strengthened
  
- **Strategic Objective 2:** To protect migrant workers' rights and improve advocacy and awareness of their contribution to development and regional integration comprising the following targeted outputs:
  - Core labour standards and those relating to labour migration ratified and implemented, through responsive legislation and practice
  - Fair and ethical recruitment initiatives implemented.
  - Labour migration knowledge products, including statistical reports and research papers, produced and disseminated.
  
- **Strategic Objective 3:** To enhance the participation of migrant workers in socio-economic development processes in countries of origin and destination that encompasses the following outputs
  - Mechanisms for remittance transfers improved.
  - Social protection for migrant workers is enhanced.
  - SADC Qualifications Framework promoted.

The SADC Labour Migration Action Plan (2020-2025) re-emphasizes the call for all Member States to develop comprehensive national labour migration policies and while no specific timeline is attached, it is assumed that it has to be done within the framework of the LMAP and 2025 would be the target year. Indeed, the most recent LMAP calls to 1.2.1 "Undertake a scoping study of existing labour migration policies and laws within SADC Member States to assess their compatibility with regional efforts on migration governance"; and "1.2.3. "Develop rights based, gender sensitive national labour migration policies / instruments in at least 10 Member States.



### **Annex 3. The SADC Employment and Labour Policy Framework (2020-2030)**

The **SADC Employment and Labour Policy Framework (2020-2030)** was adopted in April, 2021. It was developed to guide Member States on key priorities for addressing decent work deficits. Labour Migration is one of its five Key intervention areas. Labour migration is reflected in **Strategic objective 5**: To enhance labour migration governance for safe, orderly and regular labour migration. Strategic objective 5 seeks to improve labour migration governance for safe, orderly and regular migration, through a whole of government/whole of society approach to effectively leverage labour mobility as a development enabler.

The SADC Employment and Labour Policy Framework (2020-2030) recalls that the expedited removal of obstacles to the free movement of goods and services, and of people in general, will be a key milestone in the process of regional integration in SADC and that the SADC Labour Migration Action Plan (2020-2025) has been adopted to enhance the contribution of labour migration to regional cooperation and integration in the region. To achieve its objectives, it prioritises the following:

1. Promoting and monitoring the ratification and domestication of key global and regional migration instruments, including core ILO conventions, through responsive legislation and practice;
2. Developing national policy frameworks that address labour migration, taking into consideration the need to leverage migration as a development enabler and thus requiring a whole of government/societal approach to achieve and maximize the gains from well managed gender-responsive labour mobility.;
3. Strengthening bilateral and multilateral cooperation on labour migration to leverage the development potential of labour migrants throughout the mobility continuum, while preventing and mitigating exploitative migrant labour practices, including through fair and ethical recruitment initiatives;
4. Producing and disseminating labour migration knowledge products, utilising digital technologies, to enhance broad understanding of labour migration's role in development, including aspects of social cohesion and integration/reintegration; and
5. Implementing the SADC Guidelines on Portability of Social Security Benefits, including enhancing mechanisms for remittance transfers in cooperation with finance sector, together with other state and non-state actors.

#### **Annex 4. The SADC Protocol on the Facilitation of Movement of Persons**

The **SADC Protocol on the Facilitation of Movement of Persons** was signed in August 2005, but is not in force, yet. Currently only six of the 16 SADC Member States have ratified it: Botswana, Eswatini, Lesotho, Mozambique, South Africa and Zambia. This falls short of the two thirds of Member States required for the Protocol to enter into force.

Its **overall Objective** is the progressive elimination of obstacles to the free movement of capital and labour, goods and services. Its three specific objectives are to facilitate:

- a) entry, for a lawful purpose and without a visa into the territory of another State Party for a maximum period of 90 days per year for bona fide vide visit and in accordance with the laws of the State party concerned;
- b) permanent and temporary residence in the territory of another state; and,
- c) establishing oneself and working in the territory of another State.

The most relevant Articles to labour migration are Nos. 18, 19 and 20. They state the following:

##### **Article 18- Meaning of establishment**

Establishment shall mean permission or authority granted by a State Party in terms of its national laws, to a citizen of another State Party for:

- (a) exercise of economic activity and profession either as an employee or a self-employed person;
- (b) establishing and managing a profession, trade, business or calling.

##### **Article 19- Granting of Establishment**

Each State Party shall, in terms of its national laws, grant permission for the establishment to citizens of other State Parties.

##### **Article 20. Rights and Obligations for the Citizens of State Parties granted Residence or Establishment in a host State**

A citizen of a State Party who acquires residence or establishment in the territory of another State Party shall enjoy those rights and privileges as determined by the laws of a host State and shall also fulfil his or her obligations, accordingly.

## **Annex 5. The Code on Social Security in the Southern African Development Community**

The **Code on Social Security in the Southern African Development Community** was approved by the Integrated Committee of Ministers in June 2007<sup>2</sup>. Its most relevant Articles are mentioned below:

### **Article 3 Purposes**

- 3.1 To provide Member States with strategic direction and guidelines in the development and improvement of social security schemes, in order to enhance the welfare of the people of the SADC region.
- 3.2 To provide SADC and Member States with a set of general principles and minimum standards of social protection, as well as a framework for monitoring at national and regional levels.
- 3.3 To provide SADC and Member States with an effective instrument for the coordination, convergence and harmonisation of social security systems in the region.

### **Article 4: The Right to Social Security**

- 4.1 Everyone in SADC has the right to social security.
- 4.2 Every Member State should establish and maintain a system of social security in accordance with the provisions of this Code and Article 10 of the Charter of Fundamental Social Rights in SADC.
- 4.3 Every Member State should maintain its social security system at a satisfactory level at least equal to that required for ratification of International Labour Organisation (ILO) Convention Concerning Minimum Standards of Social Security No. 102 of 1952<sup>3</sup>.
- 4.4 Every Member State should progressively raise its system of social security to a higher level, which should include achieving the meaningful coverage of everyone under the system, bearing in mind the realities and level of development in the particular Member State.

### **Article 17: Migrants, Foreign Workers and Refugees**

- 17.1 Member States should work towards the free movement of persons. Immigration controls should be progressively reduced.
- 17.2 Member States should ensure that all lawfully employed immigrants are protected through the promotion of the following core principles. These principles should be

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<sup>2</sup> However, its most important challenges comprise the following : a) The Code is not legally binding and does not count with an Action Plan to advocate for its adoption; b) Social security systems in the SADC region are largely undeveloped and, in some instances, underdeveloped"; c) The ratification and implementation record of SADC member states of the most relevant conventions in the field of social security is unsatisfactory; d) Social security coordination which is an integral part of regional integration and the free movement of labour and persons is very weak in the SADC region.

<sup>3</sup> Work is guided in particular by the ILO Social Security (Minimum Standard) Convention, No. 102, but other relevant Conventions and Recommendations include: the ILO Social Protection Floor Recommendation (No. 202) and by specific migrant workers' social security standards such as the Equality of Treatment (Social Security) Convention, 1962 (No. 118), and the Maintenance of Social Security Rights Convention, 1982 (No. 157). Conventions Nos. 118 and 157 establish a system based on a number of basic principles, and primarily equality of treatment, the maintenance of acquired rights and the maintenance of rights in the course of acquisition.

contained in both the national laws of Member States and in bi- or multilateral arrangements between Member States:

(a) Migrant workers should be able to participate in the social security schemes of the host country.

(b) Migrant workers should enjoy equal treatment alongside citizens within the social security system of the host country.

(c) There should be an aggregation of insurance periods and the maintenance of acquired rights and benefits between similar schemes in different Member States.

(d) Member States should ensure the facilitation of exportability of benefits, including the payment of benefits in the host country. 10

(e) Member States should identify the applicable law for purposes of the implementation of the above principles.

(f) Member States should ensure coverage of self-employed migrant workers on the same basis as employed migrants.

17.3 Illegal residents and undocumented migrants should be provided with basic minimum protection and should enjoy coverage according to the laws of the host country.

17.4 The social protection extended to refugees should be in accordance with the provisions of international and regional instruments.

## **Annex 6. The SADC Guidelines on the Portability of Social Security Benefits**

The SADC Ministers of Employment and Labour and Social Partners adopted in March 2020 the **SADC Guidelines on the Portability of Social Security Benefits**. The SADC Guidelines aim to support the creation of a favourable system across the SADC region that enables workers to accumulate and access social security benefits, regardless of which country they are in. Institutions responsible for social security across the SADC region have the primary responsibility for implementing the Guidelines through appropriate policy measures.

The guidelines are based on the principle of non-discrimination and equal treatment of nationals and non-nationals. Thus, Member States guarantee migrant workers and their survivors the same social security rights and benefits as those accorded to citizens. The Guidelines are further inspired by ILO Conventions, in particular: Social Security (minimum standards) Convention, 1952 (n° 102); Equality of Treatment (social security) Convention, 1962 (n° 118); and Maintenance of Social Security Rights Convention, 1982 (n° 157). The Guidelines cover all workers, who are nationals of a SADC Member State, as well as members of their family and their survivors. They are applicable to migrants in an irregular status as well as workers in informal employment. The Guidelines apply to the 9 key branches of social security:

1. Retirement benefits
2. Unemployment benefits
3. Survivors benefits
4. Occupational injury and disease benefits
5. Health insurance
6. Maternity benefits
7. Invalidity
8. Sickness benefits
9. Family benefits

The Guidelines only affect benefits that Member States assure under their laws. For the guidelines to become effective countries have to sign bilateral/multilateral agreements.

To enhance social security for migrant workers and their families in the SADC region, the SADC Secretariat and its 16 Member States are working with partners, notably the ILO, to increase awareness and knowledge of the Guidelines and support their implementation. Five SADC countries (**Eswatini, Lesotho, Malawi, South Africa and Zimbabwe**) decided to pilot the SADC Guidelines on the portability of social security benefits in March 2020. Additional SADC Member States have recently showed interest in piloting them.

## Annex 7. The SADC Qualifications Framework

**The SADC Qualifications Framework (SADCQF)** is a comprehensive Regional Qualifications Framework (RQF) for schooling, Technical and Vocational Education and Training (TVET) and higher education. It was established in 2011 by the SADC Ministers of Education. Its purpose is to enable easier movement of learners and workers across the SADC region and internationally. The SADCQF is a 10-level RQF underpinned by learning outcomes and quality assurance (QA) principles that will provide a regional reference for qualifications and QA mechanisms in SADC. Member States agreed to align their qualifications and QA mechanisms to the SADCQF.

The vision is that, in the SADC region, all new qualification certificates, diplomas and other qualification credentials issued by competent authorities will contain the relevant level on the SADCQF. Alignment will enable this recognition of achievement at a regional level. The resulting transparency and information about the qualifications and QA of aligned Member States will further assist in embedding mutual trust in and between SADC countries. Regional alignment would also enable institutions and individuals to compare their learning and competence levels, and would reduce unnecessary duplication of learning and effort when moving through SADC for study or work purposes.

To give effect to this decision by the Ministers, a Technical Committee on Certification and Accreditation (TCCA<sup>4</sup>) was given the task of overseeing implementation of the SADCQF. The TCCA is a group of experts from the SADC Member States and is supported by the SADC Secretariat. In order to provide support and centrally drive co-ordination of implementation, a TCCA Executive Committee (EXCO) was established, based on the SADC Troika principles. To ensure the sustainability of the SADCQF, funding mechanisms for a SADCQF implementation unit have been developed. In the meantime, Member States volunteer to support the SADC Secretariat with the implementation efforts.

The main purpose of the SADCQF is to promote mobility, and as such, it plays a key role in setting the regional reference point for comparing qualifications obtained in SADC. Currently the SADCQF is a reference framework only with the prospect of later developing into a framework that has qualifications registered onto it. Eight SADC countries are piloting alignment of their National Qualifications Frameworks (NQFs) or National Qualifications Systems (NQS) with the SADCQF. The pilot countries are Botswana, Eswatini, Lesotho, Mauritius, Namibia, the Seychelles, South Africa and Zambia. An alignment plan and roadmap, as well as alignment timelines were developed to assist the eight pilot countries<sup>5</sup>.

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<sup>4</sup> The TCCA decided on an implementation model which comprises the following programmes namely (1) development and alignment; (2) quality assurance; (3) verification; (4) Communication and advocacy; (5) Recognition of Prior Learning (RPL), Credit Accumulation and Transfer (CAT) and articulation, and (6) Governance.

<sup>5</sup> Quote from: **“Building trust for better movement across SADC: An update on the SADC Qualifications Framework (SADCQF)”** by Coleen Jaftha and Joe Samuels, 10 December 2017.

## **Annex 8. The COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence**

The **COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence** was adopted in 2001, but only four countries have signed it (Burundi, Kenya, Rwanda and Zimbabwe), and only one country, Burundi, has ratified it. It was developed with the vision towards the operationalization of the COMESA Common Market and its objective is to remove all restrictions to the free movement of persons, labour, and services and provide for the right of establishment and right of residence.

According to article 9(1) of the Protocol, Member States agree to progressively remove, within six years after its ratification, all restrictions to the movement of labour within the Common Market. The removal of the restrictions are meant to entail the abolition of any discrimination based on the nationality between workers of the Member States as regards employment, remuneration and other conditions of work or employment. This implies that foreign workers from other COMESA Member States have to receive equal treatment with national workers in the Member State to which they have migrated.

Firstly, the notion of employment includes a business, calling, craft, art, employ, job, line, occupation, profession, pursuit, services, trade, vocation or work. This means that migrant workers involved in such diverse contexts as professional work, business enterprises, trade-related work or craft work are meant to benefit from the free movement of labour provision.

Secondly, it is not every migrant worker that has the permission to move freely to another COMESA Member State for purposes of employment. The definition of “labour” in article 1 of the Protocol is significant, as it restricts this to skilled labour of persons, whose specialized skills are needed in the Member State where the person concerned is or wants to be employed.

The Protocol describes the extent or implications of the freedom of movement of labour principles. These are said to include the following (Article 9(2)):

- To accept offers of employment actually made;
- To move freely within a Member State for this purpose; and
- To stay in a Member State for the purpose of such employment of nationals, in accordance with the provisions governing the employment of nationals of such Member State laid down by law, regulations or administrative action.

Thirdly, the Protocol also contains certain other limitations on and exceptions to the right to free movement of labour:

- Limitations can be imposed by the relevant Member State on grounds of public policy, public security or public health; and
- Freedom of movement of labour does not apply to employment in the public service. •

Finally, but importantly, the Protocol enjoins the COMESA Council of Ministers to adopt certain measures in the fields of social security and labour law within one year after the entry into force of the Protocol. According to article 9(4) of the Protocol, these measures:

- Are required to provide for the freedom of movement of labour;
- Need to be implemented progressively and in stages; and
- Cover the fields of social security, labour laws (including laws on collective bargaining), pensions and other working conditions

The implementation of the Protocol is in the following five stages:

Stage I: Free movement of persons through the gradual removal of visa requirements and cooperation in the prevention and fight against crime. Being implemented effectively;

Stage II: Free movement of labour by enhancing movement of skilled labour. Progressively implemented since 2004.

Stage III: Free Movement of services – No information available

Stage IV: Right of Establishment – No information available

Stage V: Right of Residence- No information available.



## Annex 9. The SADC Labour Market Observatory

The **SADC Labour Market Observatory** (LMO). The LMO will integrate and harmonize critical information on labour markets, skills, and labour migration - including statistical and non-statistical information - to inform the development and implementation of regional policies and strategies.

One of SADC's aspirations is to harmonize labour market regulatory regimes across Member States and to ensure a progressive improvement of labour standards. For progress in these areas to be realized data, and hence a functional Labour Market Information System (LMIS), is an essential pre-requisite. To date, however, the region has not been able to produce high quality labour market information to track trends and inform policymaking in support of regional integration.

The African Union Plan of Action on Employment Creation, Poverty Eradication and Inclusive Development (2015), includes a Key Priority Area on well-functioning and inclusive labour market institutions, and requires RECs to support or facilitate the establishment of national LMIS. While many Member States have prioritized the development of national data structures, most countries continue to be constrained by data availability limitations, both in terms of complex information such as informality, as well as infrequent data collection. Critical information on such issues as minimum wages, vacancies and skills needs, labour migration and labour market institutions is not easily obtainable nor is it comparable across the region, constraining policy makers from developing, implementing and monitoring responsive labour market policies. Moreover, labour migrants' decision-making is impaired, as they have no signals about where and how to best integrate into the regional labour market; and the business sector is disadvantaged due to the absence of efficient matching of labour demand and labour supply.

The SADC LMO means to address this gap. It is on the one hand a mechanism for the collection, consolidation, storage and management of regional labour market information from Member States through a regional repository and web portal; while on the other hand it forms a central node for a nascent network of national LMIS. The ultimate purpose of the proposed LMO will be to ensure the aggregation and availability of up-to-date and comparable labour market, skills, and labour migration information generated by tracking selected labour market indicators across Member States.

The SADC LMO is currently being developed by a project team consisting of technical experts from SADC and ILO, focusing on:

- setting up governance structures, identifying relevant national stakeholders (i.e. governments, workers' and employers' organizations, academia, civil society organizations, etc.);
- developing a user-friendly web portal which provides access to data as well as other interactivity functionality;
- assessing national data availability, as well as capacity building needs at regional and national levels; and
- developing a data repository (hardware infrastructure as well as implementing ILO's .Stat software suite);
- promoting awareness and visibility of the LMO (through regional publicity and media events).