AGENDA ITEM 4: THEMATIC DISCUSSION ON VIOLENCE AGAINST MIGRANTS, MIGRANT WORKERS AND THEIR FAMILIES

Madam Chair

Good afternoon, honourable delegates. It is my privilege to participate in the discussion on violence against migrant workers and their families and in particular the ways in which South Africa has sought possible responses to this phenomenon.

With regard to Implementation of legislative, including criminal law, and operational strategies to prevent and respond to violence against migrants and their families, South Africa is of the view that discrimination of foreign nationals and violence is the assault on the liberty and freedom of movement as well as the right their security. As a response to this problem, Government launched various initiatives in the fight against such attacks.

The government of SA has learnt lessons from the 2008 unfortunate incidents of attacks on foreign nationals. The criminal justice system played its pivotal role in addressing activities associated with the attacks. However the criminal justice system on its own was not adequate given the fact that these migrant communities still had to be re-integrated into society. Communities were therefore engaged and agreed to the process of re-integration. The Human Rights Commission also issued a report about the very same incidence with specific recommendations which government is implementing.

Due to further threats of attacks on foreign nationals including migrant workers and their families, government on 18 July 2010 outlined a multi-faceted plan to prevent any outbreak of violence against foreign nationals. This plan is managed by the Inter-Ministerial Committee (IMC) established specifically to deal with threats of violence against foreign nationals. The IMC is comprised of several Ministers, including those of Home Affairs, Social Development, State Security, Basic Education, Cooperative Governance and Traditional Affairs, Arts and
Culture as well as International Affairs and chaired by the Minister of Police. Government's strategy, in partnership with various organs of civil society in proactively curbing and averting these threats, is outlined in a multi-faceted and integrated plan.

In terms of the Justice Crime Prevention and Security Strategy (JCPS) whose objective is to ensure that "All People in SA are and Feel Safe" SA implements legal frameworks and strategies that allow measures to protect human rights of every SA citizen including foreign nationals. Some of the legislation are:

- Criminal Procedure Act, 51 of 1977 as amended
- Basic Administrative Laws such as the Promotion of Administrative Justice, Act 3 of 2000
- The Children's Act of 2005
- The Immigration Act, 13 of 2002
- The Refugee Act, 13 of 1998

The Immigration Act is a key enabler of human rights and the determination of the status of foreign nationals and the issuance of visas and permits are important in defining their legal status and thus in protecting their rights, which are guaranteed by the Constitution.

South Africa has institutionalized Victim Empowerment Programme which is delivered by different stakeholders such as: Departments of Social Development, Health, Justice and Constitutional Development, SAPS, and Correctional Services. The Programme provide amongst others the following:

- Victim support services
- Psychosocial support
- Sheltering/provision of temporary accommodation( women and Children)
- Court Support Programmes
- Health services ( basic health care services)
Child protection measures inclusive of International Social Services

Madam Chair

With regard to measures aimed at assisting and protecting migrants, migrant workers and their families, including the promotion and protection of their rights regardless of their migratory status my government continues to grapple with challenges relating in particular to the achievement of social cohesion, tolerance and embracing of diversity. In order to mitigate these challenges, government has embarked on various programmes in collaboration with communities, civil society organisations and other relevant social partners to address challenges impeding the achievement of social cohesion. These programmes take the form of, among others, grass-roots community dialogues, inter-cultural activities such as Africa Day, National Heritage Day, national campaigns and conferences on reclaiming positive values (Ubuntu), moral regeneration campaigns and inter-generational dialogues intended to address violence against foreign nationals.

The South African civil society organisations, in good standing and duly accredited in terms of relevant South African legislation, play an important part in advocacy for the promotion, protection and fulfillment of human rights and fundamental freedoms. These organisations operate freely and independently and government appreciates their complementary role, towards the achievement of the agenda for development and for defending the rights of migrants and their families.

The Government Communication and Information System (GCIS) plays a pivotal role in effecting aggressive communication strategy to counter and mitigate the risk posed by the unbalanced reports, which may have a potential of instilling fear of possible attacks.

Madam Chair
In relation to *international cooperation, extradition and mutual legal assistance, including legal assistance for cases involving labour migrants* the government of South Africa deals with all mutual legal assistance and extradition requests, including those involving labour migrants, through the International Cooperation in Criminal Matters Act 1996 (Act No. 75 of 1996) (ICCMA) and the Extradition Act 1962 (Act No. 67 of 1962). These requests are also dealt with in terms of bilateral agreements and International conventions. The Director-General of the Department of Justice and Constitutional Development is the central authority for all matters pertaining to mutual legal assistance and extradition within South Africa.

With respect to mutual legal assistance, South Africa adopts a flexible approach in dealing with requests, and is able to render a wide range of mutual legal assistance under the ICCMA. South Africa is able to render assistance regardless of a treaty or agreement (although South Africa has a number of agreements in place). There is also no requirement for dual criminality, and where the request is to obtain evidence, assistance is not only given where judicial proceedings have been instituted in the requesting state but also where there are reasonable grounds for believing that an offence has been committed in the requesting State or that it is necessary to determine whether an offence has been committed and that an investigation in respect thereof is being conducted in the requesting State.

With respect to South Africa’s extradition framework, the Extradition Act, 1962 (Act No. 67 of 1962) provides for extradition for dual criminality offences, punishable by a sentence of six months imprisonment or more. South Africa can also extradite its own nationals. All extraditions must be consistent with the South African Constitution, e.g. South Africa will not extradite if capital punishment were to be imposed.
Madam Chair

As member states we have an obligation to continue to interact and find innovative ways over and above legal frameworks of addressing issues of violence against migrant and their families.

In conclusion South Africa welcomes this discussion as it enhances and enriches our efforts towards the protection of migrants, migrant workers and their families and the realisation of their fundamental human rights as enshrined in our constitution.