1. Title: Migration vulnerability and access to social protection

2. Background and rationale: Of the 247 million people living outside their countries of birth, 34 million, or 14 per cent of all migrants worldwide, were born in Africa. The majority of these African migrants (52 per cent, or 18 million) live in another country of their particular area of origin. For SADC, the figure for intra-regional migration is 66 per cent (World Bank Migration and Remittances Factbook 2016 (third edition, 2016) v; UNDESA International Migration Report 2015: Highlights (ST/ESA/SER.A/375) (2016) 16; IOM World Migration Report Update: Migration and Migrants: Africa 92018)). There are indeed several pull and push factors, which typically enhance cross-border and also internal mobility: • Pull factors include labour market needs in destination countries/areas and demographical factors in high-income countries • Push factors include unemployment, jobless growth and a dearth of decent work opportunities and wage differentials in countries/areas of origin; poverty, climate change, food shortage, conflicts are other important drivers; and the lack of appropriate social protection coverage and social services in the country/area of origin helps to fuel migration – in 2006, Africa had a 4.3 million shortage of health workers (WHO), which might reach 12.9 million in 2035 (AUC-RECs-ILO-UNECA AUC/ILO/IOM/eca Labour Migration Governance for Development and Integration in Africa: Information Session for Development Partners (2015)).

While it is generally recognised that human mobility is a key factor for sustainable development, and that migration holds significant (economic and other) benefits for migrants and their families, countries/areas of destination and countries/areas of origin, migrants often experience abuse, maltreatment, discrimination and isolation. Coverage under social protection schemes and arrangements may be absent, coupled with exposure to abuse, harassment and xenophobia (https://www.doctorswithoutborders.org/news-stories/slideshow/vulnerable-existence-migrants-south-africa).

Migrants exposed to climate or environmental change has become a particular characteristic of in-country and cross-border mobility in Africa. A recent assessment report of the Intergovernmental Panel on Climate Change noted that climate change poses a significant threat to economic, social and environmental development in Africa. Warming in Africa has increased significantly over the past 50 to 100 years, with clear implications for the health, livelihoods and food security of people in Africa. This has created considerable health and economic challenges for the continent, including: increased food insecurity, increased water scarcity, spread of weather-sensitive diseases, and reduced crop yields and livestock productivity. As noted in the report, extreme weather events are expected to become more frequent and agricultural yield losses are projected to reach 22 % across sub-Saharan Africa, with increases in the frequency and prevalence of failed crop seasons. As a result, it has been predicted that by 2080, it is likely that 75% of the African population will be at risk of hunger (http://www.ohchr.org/EN/Issues/Migration/Pages/VulnerableSituations.aspx). The impact of climate change is severe for vulnerable families and household, and in particular women who have to face the dual burden of income generation and caring, those who are disabled, and the young. Due to the dramatic and often sudden onset of floods and other natural calamities, those who move across country borders do so irregularly.

The access of these migrants to social protection interventions in the country/area of destination is usually weakly developed, as is the case when they return to their countries/areas of origin. While
African countries have helped to adopt and subscribed to a range of international, continental and sub-regional instruments, these instruments make minimal provision for social protection interventions. For example, the 2015 Paris Agreement on Climate Change refers to the human rights obligations in respect of those affected by climate change, including the right to health and the rights of migrants, children, persons with disabilities and people in vulnerable situations, and stresses the importance of safeguarding food security, but stops short from providing any (other) concrete framework for extending social protection to those affected. In fact, Africa’s efforts in tackling climate change appear to focus on disaster risk management and humanitarian care, rather than on longer-term social protection support.

Access to adequate social protection is particularly problematic in the case of Africans who migrate in an informal capacity, or end up as part of the informal economy in the countries/areas of destination. The ILO noted: "As African economies are largely dominated by urban informal economy and agriculture, migrant workers in the continent are often found in settings characterized by low incomes and wages, lack of social protection, precarious jobs and workplaces, abysmal working conditions, and low skills portfolios. Many migrants are self-employed or employed in agriculture and informal activity, while significant numbers may be found in industry and services. There is also significant cross-border, ‘circular’ mobility of commercial tradespeople, accompanied by increased cross-border trade flows that promote local growth and employment." (ILO International Labour Migration: A rights-based approach (2010) 17). Informal employment constitutes as high as 90% of employment in several African, including some SADC countries (J Vanek et al Women and Men in the Informal Economy: A Statistical Picture (Geneva, Switzerland, ILO and WIEGO, 2012)). The gender dimension of informal employment in sub-Saharan Africa is evident from the fact that 84% of women non-agricultural workers are informally employed, as opposed to 63% of male non-agricultural workers (ILO Strategies to promote transition to formality in Africa (Contribution to the joint AU/ILO workshop on the informal economy in Africa, Dakar, 2008) 3-4). In fact, the migration experience often leaves affected women in SADC severely disadvantaged. For those who migrate, eligibility barriers to enter the host country may appear to be insurmountable. The lack of accessible and appropriate cross-border permits makes the significant number of cross-border traders, who are largely made up of women, subject to corruption and legalistic obstacles in their attempts to engage in informal sector and unskilled economic activity (FIDH (International Federation of Human Rights) Surplus People? Undocumented and other vulnerable migrants in South Africa (2008) 19). Their difficulties have caused several malpractices, such as marriages of convenience, and irregular entry (B Maharaj Immigration to post-apartheid South Africa (Global Migration Perspectives No. 1, 2004) 18).

Workers in the informal economy, including migrant workers in the informal economy, are effectively excluded from social protection coverage. National social protection systems often cover those in the formal economy, who work within the framework of an identifiable employment relationship, or who could otherwise contribute. Also, they may be excluded from coverage because a public scheme covering a particular benefit, such as pensions, does not exist, while participating in private or occupational scheme alternatives may not be affordable for or otherwise attractive to them (M Olivier "Work at the margins of social security: Expanding the boundaries of social protection in the developing world" in Invisible Social Security Revisited: Essays in Honour of Jos Berghman (eds: W van Oorschot et al, Lannoo Publishers, 2014, 219).

Several innovative attempts have been made, especially in recent years, to improve social protection for informal economy workers. These include new conceptual approaches, a range of institutional initiatives, strengthened voice and representation modalities (Olivier, 2014: 215-230. Nevertheless, a
consistent and systematic approach to ensure appropriate social protection coverage is still generally lacking in Africa, including southern Africa.

Also, **skilled professionals, business persons, investors, intra-corporate transferees and the like** are left with limited social protection coverage, and uncertain, weak and complex access to social security benefits and portability arrangements. Supported by Mode 4 of the WTO's General Agreement on Trade in Services (GATS), tradeable services are inseparably linked to the free movement of people across national borders. Naturally, this brings into question issues such as immigration law, currency controls, national security, foreign policy and cultural issues (M Rafiqul Islam “Pressing issues of global free trade in services” Law Context: A Socio-Legal Journal 21 (2003) 258). In fact, there is a dichotomy between trade, on the one hand and, on the other hand, labour relations and social protection regulatory regimes. This dichotomy to some extent overlaps with the "agreed" WTO/ILO jurisdictional divide”. Also, many of those who migrate in the context of trade and trade in services do so on a short-term basis and are not classified as “workers / employees” and are therefore not covered by the mainline international and regional labour and social protection instruments. In addition, migrant workers frequently pay into social security systems (in the destination country), but generally do not receive any of the benefits that may have accrued (S Bach "International migration of health workers: Labour and social issues" ILO (Geneva) (2003) 16.). In fact, the social protection position of skilled professionals (and even that of their family members) varies depending on whether the professional is in the country of origin, in transition, in the country of destination, has returned to the country of origin or has commenced a(nother) cycle of re-migration / repeated migration.

Africa has begun to respond to some of these challenges, through the creation of the Continental Free Trade Area (AfCFTA), and the recommended AU Protocol on Trade in Services, which aims to create a single services market through progressive liberalisation. The recently adopted AU Protocol on Free Movement of Persons also aims to provide for the progressive implementation of free movement of persons, right of residence and right of establishment in Africa as well as the right to conduct economic activity as a self-employed person. Of particular importance are the arrangements made for access to (portable) social protection benefits, but not other social protection interventions. Four of the Regional Economic Communities (RECs) in Africa, i.e. COMESA, EAC, ECOWAS and SADC, have likewise developed specific frameworks for free trade and trade in services, and have linked this to the liberalisation of human movement. To some extent, specifically in ECOWAS, this has further been linked to social protection access, in particular with reference to contributory social security benefits.

The uncertain and complicated social protection position of this migrant category may impede their cross-country mobility and impact directly on skills transfers to and economic development in countries of destination. It needs to be noted that in Africa, shortages of high skilled professionals in particular are a serious problem. For example, the recent White Paper on International Migration for South Africa (2017: 30) indicates that South Africa has not been successful in attracting and retaining sought-after international migrants, such as skilled and business persons.

**3. Overall research question:** The key matter to be addressed by the project concerns the availability, adequacy and access to social protection of three selected vulnerable migrant categories, i.e.: (i) migrants exposed to climate or environmental change; (ii) migrants in the informal economy, with specific reference to migrants who move in an informal work capacity (e.g., informal cross-border traders) and migrant workers who become part of the informal economy in the country/area of destination; and (iii) high-skilled professionals, including business persons and investors, and intra-corporate transferees. Social protection in this sense is conceptually derived from African Union and SADC instruments and documents, and refers to social security measures and other measures to enhance human welfare and further income security. Embedded in this concept is the need to ensure
a minimum essential level of social protection to all individuals and families that "will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education consistent with human life, security and dignity" (African Commission on Human and Peoples' Rights Principles and guidelines on the implementation of economic, social and cultural rights in the African Charter on Human and Peoples’ Rights (2010); AU Social Policy Framework for Africa (2009); SADC Code on Social Security in the SADC (2007)).

It is important that the analysis to be undertaken should address the research question from the perspective of the holistic migration experience of vulnerability. This necessitates a focus on both cross-cutting migration determinants and the extent of the migration cycle. The core determinants relate to the gender and disability dimensions, but also the broader family (including vulnerable children and young people) contexts, and the regularity/irregularity of mobility. The migration cycle refers to the stages of migration experience or journey of the different migrant categories. It is closely related to the drivers of migration, and includes consideration of the social protection status of these migrant categories at different stages – in their country/area of origin prior to migration; during their journey/transition to the country/area of destination; in the country/area of destination; upon return to and in the country/area of origin; and in relation to remigration/repeated migration. Spatially, the enquiry is not restricted to international cross-country mobility, but also includes, to the extent relevant for each of the indicated categories, internal migration.

The approach to the research question indicated above links to several of the STIAS research themes, in particular: being human today; crossing borders; understanding complexity; and health in transition.

4. Research design: A phased approach towards addressing the research question and achieving the envisaged research outcomes is indicated. The suggested four year project period is for practical reasons divided into two two-year periods. An incremental unpacking of the research to be undertaken is foreseen, as discussed below. The first phase will focus on analysing the holistic context of the selected migrant categories in South and Southern Africa, from different multi-disciplinary angles, and with a view to: (i) achieving an integrated understanding of the areas reflected on, in relation to the selected migrant categories; (ii) enriching the research findings; and (iii) strengthening high quality proposals and recommendations. However, the focus on the South and Southern African framework will not be divested from broader African dimensions. In fact, the initial more limited "geographical" focus will be informed by comparative approaches and experiences, in particular in Africa and elsewhere in the developing world, and bearing in mind continental but also international normative and policy developments. During the second phase, and with the assistance of an expanding network of researchers, the research question will be addressed also in relation to other African regions and, importantly, with a view to consider and evaluate the appropriateness of interventions adopted at the continental level as measures to address the social protection context of the selected migrant categories.

The research will in the first place be spearheaded by the team of core researchers, who will take joint and overall responsibility for: the research so undertaken, in its full holistic context (i.e. also with reference to the cross-cutting migration determinants and the extent of the migration cycle), the achievement of the project outcomes, and generally the successful execution of the project. Their combined experience covers many years of in-depth research/scientific and high-level policy engagement, and straddles several disciplinary strands, despite the formally legal background of several of the core researchers. In particular, they have over many years been closely involved in policy and regulatory advice and development, and in expanding the boundaries of the application of meaningful social protection in South Africa, Southern Africa, the African continent and also other
parts of the developing world – as is evidenced by the attached supporting documentation compiled in relation to each of them. Given his extensive experience in leading research teams, Professor Marius Olivier will be the coordinator of the project and the core and broader research team. He will also take primary and overall responsibility for the research in relation to migrants exposed to climate or environmental change and, in addition, concentrate on the policy and regulatory context, including the cross-cutting theme relating to the regularity/irregularity of the mobility determinant of vulnerability. The specialised focus of Professor Evance Kalula will be on migrants in the informal economy (with specific reference to migrants who move in an informal work capacity and migrant workers who become part of the informal economy in the country/area of destination). Professor Avinash Govindjee will in particular be engaged with the social protection context of high-skilled professionals, including business persons and investors, and intra-corporate transferees, and with investigating the disability context of migration, as far as the selected migrant categories are concerned. Dr Ngeyi Kanyongolo will be directly involved in reflecting on the gender determinant of vulnerability, as far as this relates to the migration experience of the selected migrant categories, while Dr Gift Dafuleya will primarily address the family context and dimensions of mobility in relation to the selected migrant categories (inclusive of focusing on vulnerable children and young people).

In the second instance, a broader and expanding team of experienced researchers will assist with undertaking the research, at appropriate stages and for targeted research interventions. This will enhance the multidisciplinary experience and expertise that will be brought to the project in order to maximize the project outcomes. The group of researchers who have been so identified, and their respective disciplinary areas are indicated in an Annex to this proposal. It suffices to indicate that they would bring to the project, both individually and collectively, invaluable expertise based on their experience as academics, policy makers and professionals in focal areas of the project. The current composition of the team of core and other researchers therefore reflects experience and expertise in the following areas of specialisation: social protection; social development and livelihoods; social policy analysis and development; sociology; developmental studies; development and environmental economics; social work; social protection financing; monitoring and evaluation, including policy monitoring and impact assessment; gender; regulatory frameworks.

5. **Methodology:** Conducting the research and undertaking the associated analytical work will essentially be a documentary- and literature-based activity. The documents and literature to be so consulted include in the first place relevant primary documents (e.g., household and other surveys; available data compilations; and policy and legal instruments, at the national, sub-regional, continental and international levels). In the second instance, reliance will be placed on secondary documents/literature, with specific reference to unpublished and published scientific discourse, analyses and write-ups. If and to the extent that additional funding may become available, among others from interested stakeholders (see also below), empirical data gathering will be considered for certain elements of the project, at one or more appropriate stages.

A concrete division of labour and the systematic engagement with the various research themes/areas indicated above, will be arranged by the team of core researchers via the project coordinator, and in consultation with participating core and other team members. Research results will be considered by the core research team and thereafter shared with the whole team and relevant stakeholders, also and in particular at the workshops indicated below, which will be attended by the broader research team and interested invited stakeholders. These workshops will also serve as validation opportunities as regards the research findings arrived at. Researchers will continuously be encouraged to publish their research results, preferably in peer-reviewed publications and to share these results at appropriate fora, including research and policy workshops, conferences, congresses and symposia.
A constant effort will be made to ensure that in writing up and disseminating research findings for publication and/or presentation, project researchers strive towards multi-disciplinary and integrated reflection, which satisfies the requirements of both rigorous scientific discourse and concrete policy implications. Ideally these contributions should also reflect on the research findings in relation to the role and/or impact of the core vulnerability determinants and the key migration cycle dimensions indicated above. The core team and the expanded team of researchers will in fact be so advised.

A final peer-reviewed book publication, to be edited by the core team of researchers and containing project findings in relation to the different aspects investigated under this project, will be disseminated at and inform the agenda of the second (i.e. final) multi-stakeholder workshop. Finally, given the extensive network of key stakeholder institutions and interested individuals to which the core team of researchers in particular have access, deliberate efforts will be made by these researchers to engage with such institutions and individuals, on a formal and informal basis, regarding the research findings. It needs to be mentioned that both the IOM (Mauritius) and the UNDP (regional office in Addis Ababa) have expressed their interest in elements of the project which are relevant for their contexts.

6. Research plan: • The core team of researchers will meet annually in Stellenbosch for one week, preferably in November, to drive the project and its deliverables, and to monitor project execution • Project guidance, execution and monitoring will continue on a remote basis, via virtual liaison of the core team members and with other research team members • At least one of the core team members will be a fellow in residence at STIAS every year, for a minimum period of one month, preferably around November • In accordance with the gradual, incremental unfolding of the research project as indicated in the Research Design above, two multi-stakeholder workshops are foreseen – one after the first two years of the project duration, and one at the end of the four year period; these workshops will coincide with the period of residence of the fellow(s) and the annual meeting of the core team of researchers, and will be attended by the broader research team also, as well as by other invited stakeholders and interested individuals • While the above exposition foresees five residential visits and annual meetings (i.e. from November 2019, the starting date, until November 2023, the closing date), STIAS is requested to consider supporting a first/inception consultative meeting of the core team of researchers later in 2018, to ensure an earlier commencement date for the project than 18 months from the time of this application – in this case the need for five periods of residency by one or more fellows and five annual consultative core team meetings will fall away, as only four such periods/opportunities would be needed. • The final peer-reviewed book containing project findings in relation to the different aspects investigated under this project will be finalised for publication in the final year of the project, in order to be available at the second multi-stakeholder workshop • The indicative division of labour and systematic engagement with the various research themes/areas will be undertaken not later than at the first consultative meeting of the core team of researchers • Ongoing liaison with institutions and individuals, on a formal and informal basis, regarding the research findings

7. Envisaged outcomes: • The gradual/phased unfolding and incremental expansion of the project, to some extent conceptually, but also geographically, in terms of the research team, and otherwise – as explained in the Research Design part above • Research outputs in the form of publication and presentation contributions, on an ongoing basis • A final, peer-reviewed project-based published book • Two multi-stakeholder workshops, as described above • Ongoing liaison with and support of the broader research team • Ongoing liaison with interested institutions and individuals

Marius Olivier, Evance Kalula, Avinash Govindjee, Ngeyi Kanyongolo and Gift Dafuleya, May 2018