



Financed by the European Union

Terms of Reference: Development of a Policy Framework on Anti-Illicit Trade for the COMESA Region

Location	Home based with possible missions to selected COMESA member states
Coverage	Country/region
Reporting to	John Clifford, Team Leader – Africa RISE
Beneficiary/Client:	COMESA Business Council and business community

Background to Africa RISE

The European Union’s *Africa RISE* (Reform for Investment and Sustainable Economies) programme is a demand-driven regional technical assistance facility to promote business development and improve the investment climate in **Eastern Africa, Southern Africa** and the **Indian Ocean**. It supports the EU partnership with Africa on sustainable investments and jobs, inclusive green growth and decent work. Africa RISE operates in 25 countries in the EA-SA-IO region and provides technical assistance to improve the investment climate, strengthen access to finance and promote implementation of dedicated financial instruments. The facility can provide a range of services including research, analysis, strategy development, implementation and skills development. Africa RISE is financed by the European Union and implemented by Landell Mills International (LMI) in partnership with Adam Smith Europe, Imani Development and International Economics Consulting.

Assignment Rationale & Objective

The COMESA Business Council (CBC) is the recognized Business Member Organization, established as a private sector institution of COMESA. It represents the interests of business sectors at a regional level. The services provided go beyond advocacy, to actively promote business participation in regional integration, investment and global trade. This is done by facilitating the growth of strong business synergies, the development of business opportunities, business alliances, legislative and strategic advocacy. Its vision is, “Building Regional, Going Global”.

Illicit trade is a global menace that seriously affects both the public and private sectors within the COMESA region and all other parts of the world. It undermines the concept of a free and open marketplace, which is fundamental to improving competitiveness, increasing investment, generating jobs and ultimately contributing to economic growth of COMESA member states.

According to the World Trade Organization (WTO), illicit trade is any practice or conduct prohibited by law and which relates to production, shipment, receipt, possession, distribution, sale or purchase including any practice or conduct intended to facilitate such activity. Illicit trade is categorized under the following five broad areas – smuggling, counterfeiting, piracy and substandard goods, transit fraud and undeclared local production.

Illicit trade has long been at the centre of discussions on development in Africa, particularly due to the wide consensus on its negative impacts. It undermines the ability of governments to collect important sources of revenue that help ensure the key public services in the health, safety and security of its citizenry. According to AfDB reports, the wider economic impact of illicit trade is estimated at US\$120 billion per annum, which is 5% of Africa’s GDP. The loss in tax revenue is about US\$3.6 billion. An estimated 24 million jobs are lost, which is about 6% of overall employment in Africa. By curbing illicit activities such as these, Africa could potentially create 25 million more jobs.

In COMESA, there is prevalence of counterfeits and imports of sub-standard products; these pose high risks in losses of revenue in the local industry due to unfair competition, damage to human health and safety, loss of

government revenue, stifling of creativity and innovation, and loss of trade and investment competitiveness. Networks of counterfeit trade undermine creativity, innovation and competitiveness, and hamper investment in the research and development of new products and ideas. The adverse effects on industry competitiveness often leads to company shutdowns due to the influx of cheap substandard products. The illegal competition caused by illicit trade reduces sales and employment opportunities and disincentivizes investment.

A comprehensive review of the situation across COMESA is required to provide a baseline and determine what actions and additional measures and/or institutions will be needed in each COMESA member state. This will then form a basis for development of an Anti-Illicit Trade policy framework for the COMESA region.

Scope of work

The overall scope of the assignment is to develop a policy framework on Anti-Illicit Trade and an implementation plan for this framework across the COMESA region. This will involve four main stages:

- (a) Assess the current environment and determine the requirements for establishing an effective policy framework on Anti-Illicit Trade.
- (b) Develop an appropriate policy framework on Anti-Illicit Trade for COMESA region
- (c) Develop appropriate institutional arrangements to support the policy framework on Anti-Illicit Trade.
- (d) Develop an implementation plan for policy framework on Anti-Illicit Trade.

The consultant is expected to explain the approach and methodology that (s)he will use to undertake the assignment including the workplan.

The proposed approach and methodology should include, among others, the following:

Kick-off meeting: This meeting entails discussing the ToR for common understanding and agreeing on administrative issues, choice of focus countries and target sectors, among other issues.

Desk review: The consultant is expected to undertake a review of relevant documents, literature and reports related to illicit trade at national, regional and international levels. The consultant will review the earlier study¹ commissioned by CBC. CBC, its network and member associations, will support the consultant through the identification of relevant regulation and legislation, and the sharing of documentation in their possession.

Based on the desk review, the consultant will select a representative group of five or six countries in which to conduct the fieldwork, based on factors such as the prevalence of illicit trade, existing institutional arrangements and level of engagement of the country.

Virtual Field missions and stakeholder engagements: The consultant will undertake consultations with stakeholders in the selected countries and sectors, which will inform the design of the policy framework on Anti Illicit Trade for COMESA region. The CBC network and member associations will support this work through the provision of contact details and, where required, introductions.

Report writing. The consultant will draft reports including a policy framework on Anti-Illicit Trade and implementation plan for the COMESA region.

Presentation of the reports for validation: The consultant will present the draft report, draft policy framework and implementation plan to stakeholders at a validation workshop. This workshop will, of necessity, be mainly virtual but, if conditions allow, the presentation may take place at the CBC offices in Lusaka, Zambia.

Following the workshop, stakeholders will provide feedback on the draft documents, which the consultant will incorporate into the final versions.

¹ Promoting manufacturing competitiveness in COMESA – Towards the establishment of a framework for combating illicit trade in COMESA

Activities and tasks to be performed by the Technical Assistant

The Consultant will undertake the following tasks:

1. Assessment and development of policy framework on Anti-Illicit Trade

- (a) Assess the current environment and determine the requirements for establishing an effective policy framework on Anti-Illicit Trade by:
- Reviewing the existing legislative, policy and regulatory frameworks in all COMESA member states;
 - Selecting (in agreement with CBC) a representative group of five countries², comparing their frameworks against international best practices and identifying gaps;
 - Examining the enforcement and coordinating mechanism for illicit trade in the selected member states and determining the gaps;
 - Analysing the effects of illicit trade on selected sectors, namely food and beverages, electronic and electrical goods, seeds, tobacco and possibly pharmaceuticals in the selected member states;
 - Examining the regional and national dimension of illicit trade and the integration of the two dimensions.

Based on the review and examination above, identify the key elements for consideration in the policy framework on anti-illicit trade for the COMESA region.

- (b) Develop a policy framework on anti-illicit trade based on the key elements identified that will address the issues of illicit trade in COMESA region.

2. Institutional arrangement

- (a) Assess and determine an appropriate institutional arrangement to support the proposed policy framework on Anti-Illicit Trade for COMESA region;
- (b) Develop institutional arrangements to support implementation of policy framework on Anti Illicit Trade for COMESA region;
- (c) Describe the role of the key stakeholders in the institutional arrangement and relationships between the stakeholders.

3. Develop an implementation plan

Develop an implementation plan (action plan) to guide the implementation of the policy framework on Anti-Illicit Trade for the COMESA region.

Consultant Profile

The required consultant profile is as follows.

Senior Trade Expert

- A university degree in law, international trade policy, international business, economics, public policy or a related field; a post-graduate degree is an advantage.
- Excellent knowledge and in-depth understanding of trade in Africa with good experience in trade policy, legal and regulatory issues.
- Demonstrated working experience in trade policy, legal and regulatory issues.
- Good knowledge of key private and public stakeholders within the COMESA sub-region.
- At least 7 years of relevant working experience at national, regional or international level.
- Proven analytical and research skills.
- Proficiency in written and spoken English; French and/or Arabic is an added advantage.

² The five countries covered by the earlier study, on which this work builds, were Ethiopia, Kenya, Mauritius, Sudan and Zambia

Working experience on illicit trade issues and good understanding of intellectual property issues will be an advantage.

Junior expert(s) (for possible deployment to support the field work)

- A Bachelor's degree in any science, social science or humanities discipline;
- Experience working in the country of deployment;
- Experience in trade issues.

Reporting, deliverables

1. Inception report on the development of policy framework on Anti Illicit Trade for COMESA region which should include:
 - a. Background – Objective and description of the consultant's understanding of the tasks;
 - b. Approach and Methodology – Explain approach and methodology, data collection and interview questions. Provide a list of stakeholders to be interviewed etc.;
 - c. Work plan – Sequencing of the activities with timelines including meeting schedules and field visits;
 - d. Survey instrument;
 - e. Report format/structure.
2. Draft Report which should include:
 - a. Assessment of the current environment and the requirements for establishing an effective policy framework on Anti-Illicit Trade
 - b. Policy framework on Anti-Illicit Trade for COMESA region that will address the issues of illicit Trade in COMESA region
 - c. Institutional arrangement to support implementation of policy framework on Anti-Illicit Trade for COMESA region and description of the role of the key stakeholders in the institutional arrangement and relationships between these various stakeholders
 - d. Implementation plan (Action plan) to guide implementation of policy framework on Anti Illicit Trade for COMESA region.
3. Final Report which should include:
 - a. Assessment of the current environment and the requirements for establishing an effective policy framework on Anti-Illicit Trade
 - b. Policy framework on Anti-Illicit Trade for COMESA region that will address the issues of illicit Trade in the COMESA region
 - c. Institutional arrangement to support implementation of policy framework on Anti-Illicit Trade for the COMESA region and description of the role of the key stakeholders in the institutional arrangement and relationships between these various stakeholders
 - d. Implementation plan (Action plan) to guide implementation of policy framework on Anti Illicit Trade for the COMESA region.

Schedule of outputs, assuming a start date of 1st December 2021. Dates will be adjusted to reflect the actual start date.

Output	Description	Deadline
Kick-off meeting	Start-up meeting with CBC and Africa RISE	04/01/2022
Inception report	Submission of inception report	21/01/2022
Draft report	Submission of draft report to CBC	08/04/2022
Presentation of Draft report	Presentation of draft report stated above to stakeholders at a workshop and capturing inputs of stakeholders on them	15/04/2022
Final report	Final report submitted	29/04/2022

Inputs

- Senior Trade Expert: **70 working days**.
- Pool of junior expert days to be deployed for specific tasks: **up to 30 working days**.

International flights: One flight to Lusaka for the validation workshop.

Per Diem allowances: as required for the validation workshop.

Duration and Budget

The assignment is from the date of contract signature (early January 2022) for eighteen weeks (to the end of April 2022 – exact date dependent on start date).

Support to be provided by the beneficiary

The COMESA Business Council, both directly and through its network of focal points and member associations, will support the consultant in his/her work through:

- Assistance in identifying and sourcing relevant documents;
- Identifying and providing contact details (and, where necessary, introductions) for stakeholders.

Post-assignment follow-up

Post-assignment, CBC will provide periodic updates to Africa RISE on activities and progress related to implementation of the anti-illicit trade framework.

COMESA Member States

Note: countries covered by the earlier study are highlighted in red. Countries not included in the Africa RISE target area (but still eligible for selection within the framework of this study) are shown in italics.

	Burundi		Malawi
	Comoros		Mauritius
	Democratic Republic of the Congo		Rwanda
	Djibouti		Seychelles
	<i>Egypt</i>		Somalia
	Eritrea		Sudan
	Eswatini		<i>Tunisia</i>
	Ethiopia		Uganda
	Kenya		Zambia
	<i>Libya</i>		Zimbabwe
	Madagascar		