

Minimum Standards for the Treatment of Small Scale Cross-Border Traders in the COMESA Region

Introduction

For contiguous COMESA Member States there is a lot of trade that is conducted by small scale cross-border traders. By some estimates, this trade accounts for 35% of total trade. This trade, although looked at with scorn from some quarters, is very important trade because essential products are usually involved and the proceeds from this trade serve as incomes to some families. In general women and the youth are the major participants in this kind of trade.

Complying with border formalities is usually a nightmare for the small scale traders rendering them vulnerable to abuse or violation of their rights. This situation comes about either because the traders are not aware of their rights or because someone intentionally takes advantage and abuses them. This situation calls for the region to come up with some regulations on the minimum standards for the treatment of small scale traders.

Informal Trade and Small Scale Trade

It is however important to distinguish between informal trade and small scale trade. Informal trade is usually taken to refer to a form of cross border trade which is unrecorded in official statistics and is carried out by registered or unregistered enterprises within the COMESA region through avoidance of border stations, concealing of goods, under declaration, misclassification and under invoicing among other means. This form of activity prevails through evasion of taxes or fees imposed by governments and sometimes in an attempt to avoid formalities (health, agriculture, security, immigration etc) which are assumed complex and time consuming.

On the other hand, small scale cross border trade is categorized as legitimate cross border trade carried out by commercial players albeit in small quantities. In COMESA, this segment of traders is catered for under the Simplified Trade Regime (STR). Under this system, traders carrying consignments of goods that are on a common list between the two contiguous countries valued at or below US\$1000, are accorded special facilitation measures which seek to expedite clearance and reduce cost of crossing the border, in addition to the preferential tariff treatment . This is expected to contribute to improved profits by small scale traders contributing to poverty reduction and economic development of the region.

Regulations on the Minimum Standards for the Treatment of Small Cross-Border Traders

Basic rights and obligations for traders and officials at the border:

1. All individuals shall be able to cross the border without verbal or physical abuse or harassment, including but not limited to sexual and gender-based violence.
2. Documents for traders shall be processed at the border in an efficient and timely manner without discrimination. A receipt must be provided to the trader for any payment made and the payment properly recorded.
3. Only officials of the approved agencies should be present at the border and all border officials should wear uniforms or ID badges that allow the identification of their respective agency.
4. Physical checks of traders must be recorded with the reason and outcome provided. Female traders have the right to receive a physical check by female officials in a private but regulated and accountable environment.

5. All duties, fees and taxes and the basis for their calculation must be publicly available at the border.
 - 5.1. Any change to duties, fees and taxes must be publicly announced at the border, with reasonable time for traders to prepare, before their application.
 - 5.2. No unpublished fees or charges should be demanded at the border.
6. Documentary requirements should be clearly stated and publicly available at the border.
 - 6.1. Any change in documents required must be publicly announced at the border with reasonable time for traders to prepare before implementation.
 - 6.2. Simplified procedures should be applied to small traders.
7. Traders should be aware of their rights and obligations when crossing the border.
 - 7.1. Traders must present required documentation and pay appropriate duties at the border and obtain a receipt for any payments made to an official.
 - 7.2. Traders shall not attempt to bribe any official to avoid payment of duties or obtain preferential treatment in any way, including avoiding queues.

With the support of the International Community, Governments commit to:

1. Ensuring that by December 2015 the basic rights and obligations governing cross-border movement of goods and people are clearly stated in the local language and visibly apparent at all border crossings.
2. Ensuring that by December 2015 at every border post there is at least one agent that has received gender awareness training. All senior officials at the border have received gender based awareness training by December 2015.
3. Ensuring that 50% of officials at any border post have received gender based awareness training by December 2015.
4. Ensuring that at all border posts traders have recourse to an independent and confidential mechanism to register violation of any of these basic rights. Female traders must be able to register the violation of any basic rights with a female staff.
5. Ensuring the strict application of disciplinary measures against officials found to have violated the rights of a trader.
6. Supporting organizations of informal cross-border traders in disseminating information on these rights and obligations and in delivering advice and information to enhance the capacities of the traders.
7. Continuing to improve the quality of infrastructure at all border crossings to provide an open and safe environment for traders, with attention to the specific needs of women traders, and appropriate facilities for officials to undertake their work.
8. Improving the quality of data collected at all border posts on small traders, including the number passing through the border each day and the nature of the goods traded.