

# HORN OF AFRICA BULLETIN

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# HORN OF AFRICA

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## The African Continental Free Trade Area (AfCFTA)

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Informal Cross Border Trade – the Pivot for  
the Success of the African Continental Free  
Trade Area

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# Informal Cross Border Trade – the Pivot for the Success of the African Continental Free Trade Area

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## Introduction

Informal Cross Border Trade (ICBT) plays a crucial role in the Horn of Africa (HoA) by enhancing the livelihood and food security of the borderlands' communities. The HoA region is endowed with an abundance of natural resources that, if well utilized, have a high potential to yield inclusive growth and reduce poverty in the region, amidst climate change and increased population growth. Likewise, it is also an area prone to communal conflicts and civil wars. This article aims to look at ICBT in the HoA region, addressing the following questions: What are the factors that influence community participation in ICBT? Why is ICBT very crucial in the HoA region? What role does the Intergovernmental Authority on Development (IGAD) play with regard to ICBT? How does the ICBT contribute to the goals of the African Continental Free Trade Area (AfCFTA).

ICBT is not a new phenomenon. Indeed, the activities carried out in the ICBT sector have existed even before colonialism. During the pre-colonial period, Africans used to exchange goods and services (barter trade) as well as trading in hides and ivory among other precious commodities, in what was popularly known as Long Distance Trade or Trans Saharan Trade. Following the artificial demarcation of Africa and after the independence of most of the countries in the Horn region, the term informal versus formal was coined as countries around the region sought to formalize and /or modernize their economies. The focus then (and indeed to some degree today) was rapid industrialization. The informal sector along with the formal sector is an important pillar of economic growth for much of the region. ICBT is a critical component of intra-African trade and a source of income for approximately 43 percent of Africa's population.<sup>1</sup> Thus, how the Member States of the IGAD treat the informal sector has a profound impact on employment, growth, equity, and sustainability.

ICBT is the daily reality of HoA borders. Stand at most HoA border posts and watch who crosses the border to or from neighboring states. Women with their heads and arms laden, bicycles, trucks, buses, and cars overloaded with goods. These vehicles carry informal cross-border traders across the borders, generally described as small traders in import and export, or the trading business. In the HoA region, the persistence of ICBT is mainly attributed to limited economic opportunities in the formal sector and the absence of other means of livelihood.

The informal economy in the HoA borders is

vast and fast expanding. It supports some of the poorest and most vulnerable families by providing livelihoods and food security. The informality mainly relates to the natural resource base on which local people rely for their living, i.e., agricultural production, fishing, and livestock trade, to mention but a few. Although at times equated with illegality and thus facing intense pressure from the Member States' governments to formalize, informal sector activities have generated significant employment opportunities. In addition, the returns yielded from ICBT are often employed to sustain families, providing for their healthcare and education.

The HoA border areas constitute one of the most dynamic challenges that IGAD Member States' governments encounter while carrying out their responsibilities. Achieving a balance between competing and conflicting priorities along these borders, especially when mobility and security interests intersect, is very tricky. On the one hand, the flow of people and goods offers high potential to promote economic growth and social development/integration, while on the other hand, states have a legitimate mandate to safeguard national security and combat transnational crimes such as human trafficking, smuggling of small arms and light weapons and terrorism. By and large, the African Regional Economic Communities (RECs) have been very critical in advancing peacebuilding initiatives that have created an enabling environment for inter and intra-trade relations. Nevertheless, the IGAD region remains fragile and much more investment and harmonized policies are needed to strengthen political stability, civil liberties, and openness.

The primary objective of the AfCFTA is the creation of one continental market for goods and services, with free movement of people and goods, as well as the expansion of intra-African trade through better harmonization and coordination across the RECs and the continent in general. Without mobility of people and goods, achieving the AfCFTA goal will remain an elusive dream. In the vicinity of the Horn region, good progress has been made where East Africa Community (EAC) Member States allow national identity cards as an alternative travel document. The IGAD Member States in their part formalized ICBT which can boost intra-regional trade. Recognizing the centrality of the informal sector contributes to advancing the goals of AfCFTA. ICBT, which is usually not registered in official statistics, can boost the intra-Africa trade that AfCFTA aims to realize. The expanding ICBT in

the Horn region has massive potential with regards to creating job opportunities for women and youth, reducing poverty, and integrating the region as espoused by the dream of the African Union's (AU) Agenda 2063.

### **The Gravity of ICBT**

ICBT is a critical component of regional integration and livelihood sustenance within the HoA borders. However, ICBT remains largely invisible, and in government circles, it is more often associated with smuggling, tax evasion, and illegality than with innovation, enterprise, and job creation. In the circles of borderland communities, it is considered a “survivalist economy” involving small entrepreneurs who mainly trade with legal small subsistence goods. Most traders hardly access preferential trade agreements; they may buy, or more often sell, in informal markets; and they may not always pass through the formal crossing point with all or part of their goods. Informal cross-border traders are perpetually progressing what others have come to regard as the ‘real’ but ‘invisible’ integration of Africa’s economies when formal integration efforts are still fraught with many constraints. A significant portion of informal cross-border traders are women for whom ICBT is often their sole source of income and economic empowerment. Since ICBT occurs outside the purview of the state, policymakers struggle to closely gauge the needs and challenges as well as the magnitude of the trade.

Despite being a source of immediate livelihood for millions of people living in the borderlands, ICBT has remained marginalized because it is regarded as illegal commercialization of cross-border activities, especially by the Member State organs.<sup>2</sup> ICBT encourages entrepreneurship and regional trade integration between neighboring countries and creates a substantial income for many borderland citizens. Furthermore, ICBT provides employment opportunities, expands market access, and enables product availability and diversity. ICBT expands outlets for goods produced and manufactured within and outside the African continent and, provides access to goods unavailable domestically to meet domestic demand.

Although the AfCFTA agreement does not explicitly expound on ICBT and gender, the preface of the policy document vividly notes the importance of gender equality. It specifies that the AfCFTA aims to promote and attain sustainable and inclusive socio-economic development, gender equality and structural transformation”. Likewise, Article 27(d) of the AfCFTA Protocol on Trade in Services makes

explicit reference to improving the export capacity of formal and informal traders, with particular attention to micro, small and medium-sized operators.<sup>3</sup> The inclusion of an ICBT chapter in AfCFTA would have helped address some of the key concerns in the ICBT sector. Key among them are provisions that would support informal cross-border traders, especially women, who are the majority in ICBT,<sup>4</sup> by promoting their participation in entrepreneurship; improvement of their business environment and free movement across the border; minimization if not total removal of cumbersome rules and procedures popularly known as Non-Tariff Barriers (NTBs), reduction of tariffs; and finally, supporting the formalization of their business enterprises.<sup>5</sup>

### **Advancing Regional Integration**

Regional integration is a crucial mechanism for development and intra-regional trade in Africa. Regional integration is expected to contribute towards overcoming the setbacks that Africa faces as a result of many small national economies, fragmented local markets, and landlocked countries. Since the ratification of the Abuja Treaty in 1991, the agreement established a roadmap towards an African Economic Community (AEC), which would pursue the integration agenda in Africa.<sup>6</sup> African governments have been creating and fostering RECs to facilitate trade and eliminate bottlenecks, and optimistically, a number of RECs have made significant progress, while others are far from achieving their visions and goals, as enshrined in their founding treaties.<sup>7</sup> All the eight RECs which are intended to serve as the building blocks of the AU are at different levels of integration. For example, EAC has advanced into a common market, IGAD has adopted the cross-border security governance (CBSG), while Common Market for Eastern and Southern Africa (COMESA) and Southern African Development Community (SADC) have free trade areas in operation. Additionally, all the eight RECs have also adopted the free movement of person protocol and the Economic Community of West African States (ECOWAS) stands as best practice in this arena since all its member countries have adopted the agreement on the free movement of persons, rights of residence and adoption of a common passport.<sup>8</sup> The EAC and IGAD-led initiatives have created an enabling environment for free movement of goods and people, thus progressing in integrating the region.

Notably, Ethiopia, one of the regional powerhouses, is not a member of EAC but a

member of IGAD and COMESA. This is a common constraint that continues to hamper the level of compatibility and alignment between individual countries and REC strategies and policies and the stated objective of regional integration through common markets. It is believed that the Tripartite Free Trade Area (TFTA) agreement,<sup>9</sup> will go some way towards addressing overlapping membership issues by bringing together three of Africa's major regional economic communities, the Southern African Development Community (SADC), the EAC, and the COMESA.

### **Catalytic Drivers of AfCFTA**

The coming into force of the AfCFTA in January 2021, presented enormous opportunities for traders, both in large and small companies and medium-sized enterprises (SMEs), to trade across Africa through a liberalized market for goods and services. We should be aware that one of the general objectives of AfCFTA is to create a single market for goods and services aided by the free movement of persons as stated under Article 3(a) of the Agreement.<sup>10</sup> Consequently, this aspect places the free movement of persons at the heart of free trade. The HoA region has recognized the importance of ICBT, and Member States have adopted policies

such as Informal Cross Border Trade-Cross Border Security Governance (ICBT-CBSG)<sup>11</sup> and decisions that promote the informal sector within their jurisdictions.

The ICBT-CBSG Policy Framework seeks to leverage policy shifts on ICBT to improve CBSG by recognizing the contributions of subsistence-oriented ICBT, to the livelihoods and resilience of borderland communities, and by extension the human security needs. It also emphasizes the convergence and harmonization of trade policies at regional and continental levels among other benefits. For instance, since January 2014, EAC began to accept national identity cards as an alternative travel document to international passports.<sup>12</sup> This action has led to a significant uptick in cross-border traders traveling across these countries. Women cross-border traders now travel more confidently, as their national identity cards allow them to cross borders legally and avoid the harassment that often surrounds previously considered illegal border crossing. Additionally, EAC and COMESA have simplified the trading rules for ICBT.<sup>13</sup> All such initiatives that advance mobility and ICBT are catalytic elements that will promote the achievement of AfCFTA goals.



## Conclusion

The African integration process has recorded undeniable achievements, as witnessed through the work of some of the RECs and in compliance with the Abuja Treaty.<sup>14</sup> The free movement of people is now a reality in some of the RECs. More importantly, the landmark signing of the AfCFTA, by the AU Heads of State and Government, is a good move in the right direction. Precisely, according to the Trade Law Centre NPC (tralac), an independent capacity-building think tank organization based in South Africa, as at May 2022, 43 of the 54 signatories (80%) have deposited their instruments of AfCFTA ratification.<sup>15</sup>

However, the deficit of political goodwill from Member State governments reduces the level of implementation of numerous decisions taken at the national, regional, and continental levels and slows the signing, ratification, popularisation and domestication of policy instruments. Furthermore, unless there is harmonization of norms and procedures under the multiple memberships in different RECs, the full dividends of more profound regional integration may not be realized. Amidst this, as described in the above sections, sustainable livelihood, food security, and economic benefits of ICBT are of critical importance to borderland communities. ICBT has been an existential necessity and an adaptive and creative response to ecological and socio-economic challenges for millions of people in the African borderlands. Furthermore, the adoption of the IGAD policy framework on ICBT-CBSG in the HoA region, which is now under the implementation phase, is very encouraging. It is a lesson for RECs, especially on convergence and harmonization of policies on cross-border trade and cross-border human security needs.

More specifically, the policies and decisions that address the needs of informal cross-border traders can also contribute to the primary objective of the AfCFTA in the horn region. Given the unique African social, economic, and political position, the regional integration agenda will further be advanced through the harmonization of existing policies. As such, building off the exemplary adoption of the ICBT-CBSG Policy Framework, the formalization of Informal Cross Border Trade (ICBT) through removing constraining/restricting tariff and non-tariff barriers and implementing trade facilitation, which will include the investment in regional policy harmonization, as well as by establishing the needful awareness vis a vis the provisions of such policies among communities, would lay the strong foundation for the realization of an integrated and prosperous Africa which is the core essence of the AfCFTA.

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