TERMS OF REFERENCE (TORs)
OF THE STUDY ON THE STATUS OF CROSS-BORDER TRADE
IN THE IGAD REGION

1.0 BACKGROUND INFORMATION

1.1 Beneficiary Region/Country

IGAD Region

1.2 Contracting Authority

IGAD Secretariat, Avenue Georges Clemenceau, P.O Box 2653 Djibouti, Republic of Djibouti, Tel: + 253-354050, Fax: 253-356996, Email: igad@igad.int.

1.3 Background

The underlying principle in promoting regional economic integration endeavours and pursuing policies harmonization programmes among the IGAD Member states is based on the need to promote and realize the objectives of the African Economic Community of the African Union Commission (AUC) as outlined in the Abuja Treaty (1991). Regional economic integration plays a major role in international trade. It enhances trade among member states of an agreed regional trading arrangement through the elimination of customs barriers and substantially improves allocation of resources while creating employment opportunities. Hence, economic integration is an essential strategy in addressing the effects of conflicts and political instability that may affect other regions, as in the case of the Horn of Africa region.

Under the aims and objectives, as well as areas of cooperation outlined in the Agreement Establishing IGAD, IGAD undertakes to tackle the present and the future challenges in promoting sustained economic growth among the member States more efficiently in order to:-

- Expand cooperation among IGAD Member States so that the region may play its proper role in regional and African integration; and
- Enable the region to interact and compete in the global economy on an equal footing.

The specific objectives that relate to trade and regional economic integration in relation to IGAD include the following:

- To promote joint development strategies and gradually harmonize macro-economic policies and programmes in the social, technological and scientific fields;
• To work towards the promotion of trade and gradual harmonization of trade policies and practices and the elimination of tariff and non-tariff barriers to trade so that it can lead to regional integration;
• To gradually harmonize transport and communications policies, and development of infrastructure and removal of physical and non-physical barriers to inter-state transport and communications;
• To cooperate in the gradual harmonization of fiscal and monetary policies;
• To create an enabling environment for cross-border investments and gradually harmonize the investment policies;
• To facilitate the free movement of people, goods, services and the right of residence of member states nationals within the region.

The above aims and objectives and areas of cooperation clearly elaborate IGAD Secretariat mandate in the sectors of regional economic cooperation and integration.

1.4 AN OVERVIEW OF THE IGAD REGION

Since 1996, when the mandate of IGAD was expanded, the profile of IGAD has continued to grow both in stature and scope in the region and beyond. Within the African Union Commission (AUC) framework of cooperation under the auspices of the African Economic Community of the Abuja Treaty, IGAD is one of the eight major Regional Economic Communities (RECs), recognized as the building blocks of the AUC. Other RECs includes COMESA, EAC, CEN-SAD, ECCAS, ECOWAS, SADC and UMA. Under the Abuja Treaty, RECs are mandated to implement the AUC action plans and projects and sectoral programmes, eg; the AUC led implementation of the Minimum Integration Plan (MIP).

In addition, IGAD, COMESA, EAC and IOC are implementing the joint ESA-IO Regional Strategy Paper and the Regional Indicative Programme (RSP/RIP) 2009-2013, encompassing the 10th EDF projects and programmes funded by the European Union (EU).

The IGAD region has the required natural and human resources that could be developed to propel the region into self-reliant development. The seven Eastern African states which make up the IGAD region covers an area of 5.2m square km, with a total population of well over 200.0 million people. The average population growth rate of 3.0% is among the highest population growth rates in the world. Nearly 50.0% of the population is below the 15 years. Similarly, 50.0% of the population in the IGAD region lives below the poverty line of one US dollar per day. The region’s population of well over 200.0 million people constitutes a viable critical mass for consumption, capable of stimulating trade and sustained economic development among the IGAD member states.

The region is prone to recurrent severe droughts which hamper crop and livestock production. Coupled with rampant insecurity and other natural and man made disasters, this has resulted in perennial food deficits which makes the IGAD region one of the most food insecure regions in the world. However, studies conducted between Uganda and Kenya have indicated that with open cross border trade, essential food surplus regions can feed other food deficient areas in the IGAD region. About 80% of the IGAD region is classified as Arid and Semi-Arid lands (ASALS), and
that more than 40% of the total area landmass is economically unproductive because of the severe environmental degradation resulting from both natural conditions and man made actions.

In addition, IGAD region lacks developed infrastructure that is critical in facilitating trade and enhancing regional economic cooperation and integration. There is urgent need, therefore to develop all weather missing road networks, railways and telecommunications, to inter-link the seven countries to support intra- IGAD region member states trade, free movement of people, among other regional initiatives. Developed physical infrastructure will indeed foster information exchange that is essential in trade promotion in addition to providing new opportunities to further promote regional trade development, a key pillar in promoting regional economic integration.

1.5 CURRENT STATE OF TRADE FACILITATION IN AFRICA

In recent years, international trade has increased exponentially. The African trade benefited from this increase too, but the African share in world trade remains dismal. Africa’s export trade amounts to only about 3% of world trade exports. This poor trade performance partly relates to trade protectionist measures against African products, but also stems from policy constraints that inhibit trade within Africa. Protectionism has been on the increase globally, thus impacting adversely against Africa. Various inefficiencies also constrain trade in Africa. These inefficiencies include poor transport infrastructure, such as maintenance and connectivity, political instability and lack of security in many African countries in addition to intra-African trade barriers.

Africa’s share in world trade has been on the declining trend globally during the last 25 years from a previous high of 6% to 2%, and less than 1%, if South Africa is excluded. This points to the increased marginalization of the continent in international trade. The situation remains bleak in regard to intra-Africa trade stagnating at about 10% among the African countries. The low level of trade among the African Countries remains a challenge to Africa’s regional integration endeavours.

In addition, a critical reason for Africa’s relatively poor trade performance is the weak diversification of the African trade, both in terms of trade structure and destination. Most African economies depend on very few primary agricultural and mining commodities for their exports and mainly import manufactured goods from advanced countries. Africa needs therefore, to focus more in relation to trade engagement with the more dynamic markets of the emerging non-traditional regions of South-East Asian countries, the Gulf States as well as India and China.

On a brighter note trade liberalization schemes have been launched under the various RECs, including the IGAD region, it is foreseen that trade will continue to contribute to the development of many African countries and regions. The intra-RECs trade in the Eastern African region between COMESA, EAC and IGAD grew by 15% on average, while at each RECs level, the growth rates were higher. IGAD Member States trade with each other on average is US dollars 100.50 million as compared to COMESA members which is on average US dollars 176.50 million. For individual
member states, Ethiopia recorded the highest acceleration in real GDP growth rate at 11.3% in 2008, followed by Sudan and Uganda at 9.5% and 8.6% respectively. Kenya emerging from 2007 post-election conflict managed a real GDP growth rate of 8% in 2008.

1.6 SITUATION ANALYSIS OF CROSS-BORDER TRADE IN THE REGION

The informal sector constitutes an important part of developing country economies. In Africa it is estimated that the informal sector represent about 43% of the official Gross Domestic Product (GDP), this being almost equivalent to the formal sector. While it is difficult to get an accurate overview of the extent of informal cross-border trade in Sub-Saharan African countries, surveys conducted on regular basis suggest that informal trade represents a significant proportion of regional cross-border trade. The cross-border trade in the region involve both agricultural food commodities (e.g. maize, rice, sugar, livestock and livestock products) as well as manufactured low quality consumer goods (e.g., clothes and textiles, shoes and electronic appliances). The informal cross-border trade is mainly conducted by individuals (a large proportion being women) and comprises of micro, small and medium-sized enterprises and often consists of small consignments. While some of the cross-border traders are registered, a majority operate entirely outside the formal economy and fully escape trade related regulations and duty payments imposed by the government’s revenue collection agencies. Cross-border trade encompasses all merchandise entering or leaving a country from or to another country, with the exemption of transit goods.

IGAD region has vast international boundaries that span large and often poorly serviced and administered areas. As a result, much cross-border trade in this extensive region remains unofficial for the simple fact that customs posts entry points are very few. In the IGAD regional trade transactions between Kenya and Uganda are some of the most studied and documented cases of informal trade, indicating that informal cross-border trade activities between the two countries involve an exchange of substantial quantities of both agricultural and industrial goods.

Kenya’s informal exports to Uganda were more than US 47.0 million dollars in 1994/95, compared to Uganda’s exports of only US 5.4 million dollars, indicating that trade balance in industrial manufactures favoured Kenya. For food commodities, the exports from Kenya to Uganda was more than US dollars 37.0 million, while those from Uganda to Kenya was worth US dollars 57.0 million. The total unrecorded food trade was US dollars 94.0 million with total trade balance falling in favour of Uganda. The total value of trade in food commodities was significantly higher than trade in industrial goods, and the direction of trade conformed to the theory of comparative advantage. The total annual value of unofficial trade (both exports and imports of agricultural and industrial goods) was estimated at more than US 146.0 million dollars, with the overall balance trade favouring Kenya.

Another major cross-border trading activity in the IGAD region is the cross-border livestock trade. Cross-border livestock trade in the region represents one of the most
significant growth areas of regional trade in IGAD region and beyond. It is a dynamic trading activity that contributes to both local and regional food security and to poverty alleviation among the vulnerable populations, such as the pastoralists. The sector suffers from the effects of adverse environment that also affects the aforementioned agricultural and industrial cross-border trade in the region. Most intra-regional trade in livestock in the region is also unreported or under-reported, but it is estimated to be well over US 60.0 million dollars per year. Much of the cross-border livestock trade in the region is traded along these five border areas, eastern/Ethiopia/Somaliland, southern Somalia/north-eastern Kenya, western Ethiopia/eastern Sudan, Southern Somalia, western/Ethiopia/eastern Sudan, southern Ethiopia/northern Kenya, northern Tanzania/southern Kenya. This scenario cuts across the whole region, with other IGAD member states of Djibouti, Eritrea and Uganda.

Normally, individuals and firms escape trade-related regulations and duties when important price disparities arise between formally and informally traded goods in the importing country. High levels of import and export duties on selected commodities similarly leads to illicit trade. In addition, officially traded goods might be subjected to complex, non-transparent regulatory requirements (e.g., customs formalities, technical regulations and sanitary standards) that contribute to increasing trade transaction costs, thereby encouraging traders to escape formal procedures and payment of duties. Informal cross-border trade can also arise due to the obstructed entry or exit of certain commodities caused by import quotas or export bans, or foreign exchange controls. Furthermore, weak law enforcement at border points contributes to the conduct of informal trade, since generating arbitrary applications of trade laws and regulations may encourage payment of bribes or facilitation fees.

If not monitored, informal cross-border trade could create negative economic development effects. First, informal cross-border trade may create “unfair competition” vis-à-vis formal trade, reduce incentives to invest in the formal economy and lower business opportunities nationally and regionally. Second, informal trade could undermine safety and national standards while eroding government revenue collection. Moreover, unregistered trade flows lead to unreliable external trade statistics which complicates formulation of appropriate trade and macro-economic policies.

As alluded from the above analysis, the underlying general policy issue is that Kenya and Uganda are mutually interdependent economically and that there is need to create more appropriate policy instruments and institutional arrangements for trade. The same can be generalized at the regional level among the IGAD Member States, hence the need to come up with a regional simplified cross-border trade regime.

The logical argument by economists postulates that, where borders are open and there is no restriction on the movement of merchandise, people will always trade from areas of relative surplus (where local prices will be low) to areas of low production but high demand (where prices are higher). The price “gradient” will encourage traders to respond to market demand, buying from the surplus areas and selling in the deficit areas. Where trade is impended by high tariffs or export bans,
then smuggling will take place if the price incentive (or price gradient) is sufficiently rewarding.

1.7 REGIONAL SIMPLIFIED CROSS-BORDER TRADE FACILITATION PROGRAMME

The challenges facing trade in Eastern Africa and in particular the IGAD region are known. They include, most prominently; inadequate infrastructure, the need for reconciliation and harmonization of tariffs and border practices, persistent red-tape by the government agencies that are required to facilitate free movement of goods and people at the border points to mitigate the above challenges. A number of both regional and international facilitation measures have been put in place. At the international level, the Revised Kyoto Convention (RKC) has been adopted by many national customs administration bodies. The RKC establishes the key components of a modern customs law that offers an excellent basis on which to facilitate trade, ensure economic growth, and improve the security of the international trade system. The RKC is a practical blueprint for modern and efficient customs procedures.

Many of the Eastern African countries have multiple memberships belonging to the various Regional Economic Communities, namely IGAD, EAC and COMESA. These multiple memberships hamper regional trade facilitation and development.

Currently, under the Agreement Establishing IGAD, IGAD member States are required to promote and realize the objectives of COMESA and the African Economic Community of the AUC under the Abuja Treaty. By implication this involves implementation of the COMESA trade regime with its various trade facilitation projects and programmes. It is imperative that this study reviews the COMESA Simplified Trade Regime. The simplified regime is designed to make it easier for the small trader to take goods across the border and enjoy the benefits of free trade conferred by the COMESA Free Trade Agreement (FTA). Evaluation for the adoption and implementation of the COMESA/EAC FTA programmes will greatly assist during the implementation of the IGAD Region MIP/FTA programmes. Currently the ESA-IO region REFORM is under implementation by the RECs in the region, i.e. COMESA, EAC and IGAD. COMESA is implementing the Cross-Border Traders Association (CBTA) component of the REFORM programme, that will be of regional relevance to the study on cross-border trade in the IGAD region.

It is in consideration of the above that IGAD Secretariat intends to undertake the Study with the view to Establishing the Status of Cross-Border Trade in the IGAD Region. The study will be required to elaborate Trade Facilitation mechanisms, looking into how procedures and controls governing the movement of goods across national borders can be improved to reduce associated cost burdens and maximize efficiency while safeguarding legitimate regulatory requirements and objectives.

1.8 THE OVERALL OBJECTIVE AND PURPOSE

1.8.1 The Overall objective of Study on the Status of the Cross-Border Trade in the IGAD Region.
The overall objective is to establish the status of the informal cross-border trade with a view to establishing a regional trade policy in the IGAD Region.

The purpose of the Study on the Status of the Cross-Border Trade in the IGAD Region is to establish an efficient and effective trade facilitation framework with the view to contribute to the region’s economic integration agenda among the IGAD Member States.

1.9 PROJECT MANAGEMENT

Responsible Body:

- The Executive Secretary, IGAD Secretariat, Avenue Georges Clemenceau, P.O Box 2653, Djibouti.
- The Project Manager is: Mr. Joseph Rwanshote, Project Manager Trade, Industry and Tourism under the Economic Cooperation and Social Development and supported by LT Consultant will manage and oversee the undertaking of the consultancy study on the status of the Cross- Border Trade in the IGAD Region. This will involve regular meetings between the PM/IGAD Team and the consultant.
- IGAD Secretariat will provide the required financial and logistical support and as well facilitate the recruitment of the consultant.
- IGAD Secretariat will ensure that the study is conducted within the set time frame.

1.10 APPROACH AND METHODOLOGY

The methodology for the study will include the IGAD region cross-border trade literature review, primary and secondary data collection from the member states using well recognized analytical tools. The consultant will be required to outline the indicative approach and methodology that shall be followed by providing a clearly elaborate outline of the study of the status of the cross-border during the initial proposal submission in response to the TORs.

The study outcome will be required to ensure the development of an elaborate status of the cross-border trade in the IGAD region, aiming at establishing an efficient cross-border trade regime that is adaptive and specific to the developmental conditions and needs of the region. This is necessary in order to enable IGAD member states to adopt the requisite cross-border trade facilitation measures with the view to contributing effectively to the implementation of IGAD region economic integration and development agenda.

The consultant will be required to prepare an inception report, detailing the scope, methodology and work plan required to achieve the study results. In addition, the study outcome must clearly outline specific objectives, outputs, benefits and detailed Cross- Border Trade situation analysis in the IGAD region. Furthermore, the consultant must develop the Action Plan required to implement the findings and recommendations of
**the study of the status of Cross-Border Trade in the IGAD region. The above activities must be cleared by IGAD Secretariat.**

### 1.11 SPECIFIC OBJECTIVES OF THE CONTRACT

The consultant will be expected to produce a well researched Report on the Status of the Cross-Border Trade in the IGAD region and identify policies, strategies and programmes aimed at facilitating Cross- Border trade in the region, as well as contributing effectively to the member states’ economic integration and development agenda. Moreover, the report should determine and specify the role that IGAD member states will play in implementing the recommendations of the Cross- Border Trade study. The consultant will be required to undertake the following specific activities:

- Review the existing trade policies in the IGAD region with the view to harmonizing regional trade policies among the IGAD Member States.
- Identify strategies and trade facilitation instruments required to promote intra-regional cross-border trade among the IGAD member states.
- Identify measures aimed at creating an enabling regulatory environment for cross-border trade development among the IGAD member states.
- Identify joint projects and programmes aimed at cross-border trade related infrastructure development in the IGAD region.
- Identify measures to strengthen both customs administration procedures and institutional capacity building for cross-border trade facilitation among the IGAD member states.
- Identify policy measures and programmes aimed at gradual elimination of both Tariff Barriers (TB) and Non-Tariff- Barriers (NTB) to cross-border trade facilitation among the IGAD member states.
- Identify and recommend policy measures aimed at facilitating free movement of goods, services and persons with the view to facilitating cross-border trade among the IGAD member states.
- Identify and recommend policy measures aimed at harmonizing both cross-border business and investment laws in the IGAD region.
- Outline the benefits and advantages to be accrued by the IGAD member states implementing cross-border trade facilitation programmes in the IGAD region.
- Develop an Action Plan and Timeframe for implementation of the agreed upon policy measures and programmes among the IGAD member states.

### 1.12 RESULTS AND DELIVERABLES

The consultant will be required to:

1. Visit all the IGAD member states and conduct extensive consultations with all the relevant institutions, Focal Points and trade sector stakeholders with a view to gathering the necessary data and information
2. Review IGAD member states existing trade policies and programmes with the view to establishing the achievements so far attained by the member states.
3. Present the Cross-Border Trade status study Report and recommendations to an IGAD regional workshop for validation by member states and other stakeholders.

1.13 THE STUDY OUTPUTS

The main outputs of the Study on the Status of the Cross-Border Trade in the IGAD region will be:

- A comprehensive draft Report on the Status of the Cross-Border Trade study in the IGAD Region.
- An elaborate Action Plan for implementation by the IGAD member states and the IGAD Secretariat.
- Arrange a stakeholders` workshop to validate the report
- A Final Report on the Status of Cross-Border Trade Study in the IGAD region after the validation workshop.

(The Report and Documents to be submitted shall both in English and French languages).

1.14 ASSUMPTIONS AND RISKS

- That the required data and information will be available from the IGAD member states and other stakeholders.
- That political goodwill and commitment by the IGAD member states will be secured.
- That both human and financial resources will be available from the IGAD Secretariat and the donors.
- All IGAD member states and stakeholders will cooperate.

1.15 THE CONSULTANCY TIMEFRAME

The consultant will be required to undertake the study within 70 days and produce the above outcomes and outputs as outlined above.

The consultant may wish to distribute the workload and time available in all the activities stipulated in the TORs of the study between the IGAD Secretariat Headquarters, the member states, meetings/workshops, and report writing as deemed necessary but with consultations with the IGAD Secretariat.

1.16 THE CONSULTANCY COST

The indicative cost for the consultancy study will be approximately US$ 20,000, The secretariat will also pay a per diem of 200 USD per night and issue an economy class ticket during travels to the secretariat and member states.

1.17 CONSULTANT(S) QUALIFICATIONS
The consultant(s) should possess working experience in the IGAD region and having worked with the regional integration organizations. Preference will be given to individuals or organizations with proven relevant experience in undertaking a task of similar magnitude, and shall preferably among others, have the following qualifications and experience:

1. Should preferably be a national of one of the IGAD member states.
2. Possess at least an MBA or M.A. (degree in Economics or International Trade, with specialization in Trade development or regional economic integration
3. At least 10 years of professional work experience at national or regional levels in Trade sector development. Adequate knowledge and exposure to Regional Economic Communities (RECs), and regional cooperation initiatives will be required.
4. Fluency in English or French will be required.
5. Strong computer skills and analytical skills with ability to write and review technical reports will be required.
6. Proven track record to work in a multi-cultural and multi-disciplinary environment will be required.

1.18 LOCATION

The consultancy will be coordinated from the IGAD Secretariat Headquarters in Djibouti and will entail movements to member states to gather data.

1.19 COMMENCEMENT DATE AND PERIOD OF IMPLEMENTATION

The intended commencement date is July 12\textsuperscript{th}, 2010 and the period of implementation of the contract will be 70 days from the date of the contract signature.

1.20 SUBMISSION OF APPLICATIONS

Applications should be submitted to:

THE PROGRAM MANAGER TRADE, INDUSTRY AND TOURISM
IGAD SECRETARIAT
AVENUE GEORGES CLEMENCEAU
P.O BOX 2653
DJIBOUTI, REPUBLIC OF DJIBOUTI.
Tel: 253 354050/ Fax: 253 356994,
E-mail: igad@igad.int