

COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA TRADE FACILITATION TRAINING PROGRAMME TRAINER'S MANUAL

Module 2 | Common Market for Eastern and
Southern Africa policy framework on free movement

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Publisher: International Organization for Migration
17 route des Morillons
P.O. Box 17
1211 Geneva 19
Switzerland
Tel.: +41 22 717 9111
Fax: +41 22 798 6150
Email: hq@iom.int
Website: www.iom.int

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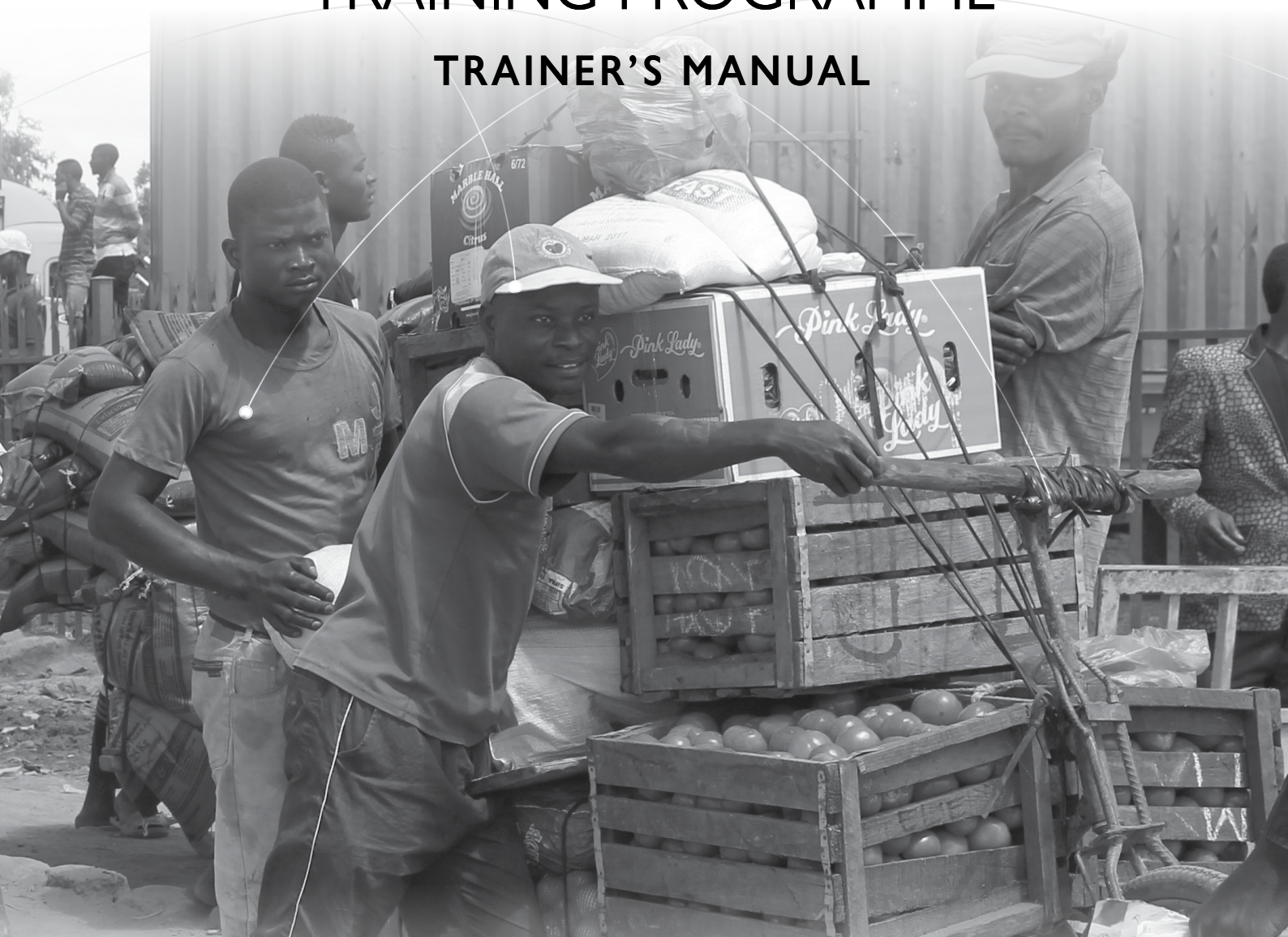
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COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA TRADE FACILITATION TRAINING PROGRAMME

TRAINER'S MANUAL



Module 2 | Common Market for Eastern and
Southern Africa policy framework on free movement



Funded by
the European Union



International
Trade
Centre



Common Market for Eastern and Southern Africa Trade Facilitation Training Programme

Trainer's Manual



MODULE 2

Common Market for Eastern and Southern Africa
policy framework on free movement



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Module 2. Common Market for Eastern and Southern Africa policy framework on free movement

Module name	Common Market for Eastern and Southern Africa policy framework on free movement
Module overview	This module presents the status of free movement in Common Market for Eastern and Southern Africa (COMESA) and the broader African context, identifies benefits and barriers to free movement and motivates participants to identify recommendations and action plans towards the promotion of the ratification of existing free movement protocols.
Module objectives	<p>Upon completing this module, participants will be able to:</p> <ul style="list-style-type: none"> (a) State the provisions and status of the COMESA Visa and Free Movement Protocols; (b) Describe the challenges and benefits of free movement in the African context and the implications for small-scale cross-border traders; (c) Appreciate the importance of fully implementing the COMESA Visa and Free Movement Protocols; (d) Identify potential solutions their border management/ trade facilitation agencies can recommend/support/provide towards the full entry into force of the COMESA Free Movement Protocol.
Target audience	Government officials in border management and trade facilitation agencies in the COMESA region
Training methods	Interactive, participatory exercises, group work, individual quizzes, experience-sharing, presentations
Equipment and materials	LCD projector for slide presentations, flip chart and markers
Estimated duration	240 minutes



PRE-MODULE WARM-UP

This is the second module in a five-module training package. Given the modular nature of the package, each module may be presented as a stand-alone module or as one of several modules at a multi-module workshop. The suggested warm-up activity that follows only applies if this module is being delivered as a stand-alone module.¹ If the module is being delivered as the second session on a workshop in progress, this warm-up activity will not be necessary because participants will have already participated in one.

Suggested warm-up activity – Free movement

(Total discussion time in pairs: 5 minutes. Introduction: 30 minutes)

There are unlimited options on the question that participants may be asked to answer as part of the warm-up activity. The suggested questions that follow are all linked to the process of leaving one place and entering another, being accepted or being rejected. The idea is to get participants to start thinking about the following: (a) barriers they have personally faced in the past or have personally been responsible for creating; and (b) possible solutions.

- (a) Thinking of a recent travel experience that involved crossing a border, would you describe the experience as positive or negative? Where did you go and what improvements to the process would you recommend?
- (b) Think back to a time when you were denied entry to a building, entry into a club, entry to an office or entry into a room in a house. Why was entry prevented? How did that make you feel? What recommendations would you make to the people who prevented your entry?
- (c) Have you ever processed applications that were rejected, such as a job, a visa, a passport or a scholarship? Why were the applications rejected? What would you suggest the applicants do to improve their chances of acceptance?

Following the warm-up activity, distribute the pre-module quiz and give participants about 10 minutes to complete it. If there is no need for a warm-up activity, distribute the pre-module quiz as the first activity of the session.

2.1. Module overview

Although the positive impact of free movement is well documented, the path to completely free movement is full of obstacles. In the countries of the Common Market for Eastern and Southern Africa (COMESA) and the broader African Continental Free Trade Area (AfCFTA), there remains a large but gradually closing gap between regional treaties and protocols on the one hand and the actualization of the intent of those agreements on the ground.

¹ The trainer is free to create relevant warm-up activities.

This module presents the status of free movement in COMESA and the broader African context, identifies benefits and barriers to free movement and motivates participants to identify recommendations and action plans towards the promotion of the ratification of existing free movement protocols.

By the end of this module, participants will be able to state the provisions and status of the Protocol relating to the Gradual Relaxation and Eventual Elimination of Visa Requirements within COMESA (hereafter the Visa Protocol) and COMESA Protocol on the Free Movement of Persons, Labour, Services, the Right of Establishment and Residence (hereafter the COMESA Free Movement Protocol), describe the challenges and benefits of free movement in the African context, as well as the implications for small-scale cross-border traders. Additionally, participants will appreciate the importance of fully implementing the COMESA Visa and Free Movement Protocols and be able to identify potential solutions their border management/trade facilitation agencies can recommend/support/provide towards the full entry into force of the COMESA Free Movement Protocol.

2.2. What is free movement?

The Universal Declaration of Human Rights states that:

- Everyone has the right to freedom of movement and residence within the borders of each State.
- Everyone has the right to leave any country, including their own, and to return to their country.

Some organizations call for that freedom to include the freedom of movement between countries. Indeed, Regional Economic Communities (RECs) like COMESA are pushing towards the eventual free movement of people and labour across member States. It is also one of the ultimate goals of the African Union's Agenda 2063.

Text box 2.1. An example: Free movement in the European Union

In the European Union, every national of a European Union member State has European Union citizenship. That citizenship allows every European Union national the freedom to move, reside and work freely within any European Union member State. European Union citizens view freedom of movement as the bloc's biggest achievement, rating it higher than peace, a single currency and student exchanges. Specifically, the free movement of workers is a fundamental right guaranteed by the Treaty on the Functioning of the European Union. This right entitles every European Union citizen to:

- (a) Look for a job in another European Union country;
- (b) Work there without needing a work permit;
- (c) Reside there for that purpose;
- (d) Stay there even after the job ends;
- (e) Enjoy equal treatment with nationals in access to employment, working conditions and all other social and tax advantages.

Source: <https://ec.europa.eu/social/main.jsp?catId=457&langId=en>.

2.3. Free movement and regional integration

The right to be admitted and remain in another country is subject to the following: (a) laws of that particular country, or a law imposed on that country by a supranational organization (such as the European Union); and/or (b) any bilateral or multilateral (such as regional) agreement that a particular country may have concluded, and which allows for the free or liberalized movement (even if restricted) of the person concerned.

Free or liberalized movement of persons and workers, is therefore closely linked to regional integration models and processes. This makes it important to understand the free or liberalized movement regimes that make it possible for persons to move across borders.

The four recognized levels of integration are as follows:

- (a) **Free trade area** is characterized by the removal of trade barriers (such as import tariffs and import quotas), which allows for the free movement of goods and services such as AfCFTA of 2020.
- (b) **Customs union** includes a free trade area as well as the harmonized treatment of goods entering the customs union from non-member States, such as the Southern African Customs Union of 1910 and the Agreement Establishing a Tripartite Free Trade Area among the Common Market for Eastern and Southern Africa, the East African Community and the Southern African Development Community (hereafter the COMESA-EAC-SADC Tripartite Free Trade Area) of 2015.
- (c) **Common market** includes a customs union as well as the free flow of labour, capital and other resources. It eliminates non-tariff barriers to trade and requires policy harmonization at a larger scale than a customs union. It is believed that the increased mobility of labour and capital make it easier for the market to respond to market signals in a common market. This results in increasingly more efficient resource allocation. Examples include agreement on worker qualifications and certifications, access to and portability of social security benefits for citizens of a participating member State who migrate to another member State within the common market, such as the Protocol on the Establishment of the East African Community Common Market of 2009.
- (d) **Economic union** includes a common market as well as formally coordinated monetary and fiscal policies, a harmonized labour market, regional development, transportation and industrial policies. An economic union may include the use of a common currency. A supranational entity must regulate commerce within the Economic Union and ensure the uniform application of the rules such as the European Union.

2.4. Free movement in the African context

In keeping with the integration objectives of the Treaty establishing the African Economic Community (Abuja Treaty, 1991), formal trading in AfCFTA began in January 2021. AfCFTA seeks to deepen economic integration and thus promote development by creating a continent-wide market for goods and services alongside the free movement of people and investments.

Of the 55 African countries, 54 have signed the AfCFTA and to date, 26 member States have ratified it.²

Recognizing the link between regional integration, trade and the free mobility of persons and labour, the African Union Commission repeatedly invites member States to expedite their ratification and implementation of the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment (hereafter African Union Free Movement Protocol).³ The African Union Free Movement Protocol was to be rolled out in three phases, at a pace determined independently by each member State.

To date (May 2021), only 33 of the 53 member States have signed the Protocol.⁴ The only five member States to ratify the Protocol are the Comoros, Djibouti, Mauritania, Mozambique and Somalia.⁵ There are 15 countries that must ratify the Protocol for it to enter into force. Although African Union member States have been eager to embrace AfCFTA, they appear reluctant to embrace free movement as demonstrated by the slow speed of the signing and ratification of the Protocol.

Table 2.1 provides an overview of key milestones on Africa's regional integration journey. To date, the available frameworks have not been fully embraced across the continent.

Implementation phases: African Union Free Movement Protocol

Phase 1: Parties shall implement the right of entry and abolition of visa requirements

Phase 2: Parties shall implement the right of residence

Phase 3: Parties shall implement the right of establishment

While the merits of free movement have long been recognized and promoted within pan-African and regional forums, it seems that the free movement of traded goods is viewed as independent of the free movement of the people who trade them.

² See <https://au.int/en/articles/operational-phase-african-continental-free-trade-area-launched>.

³ See https://au.int/sites/default/files/treaties/36403-treaty-protocol_on_free_movement_of_persons_in_africa_e.pdf.

⁴ Signatures to the Protocol remains at 33, including Angola, Burkina Faso, the Central African Republic, Chad, Côte d'Ivoire, the Comoros, the Congo, Djibouti, the Democratic Republic of the Congo, Equatorial Guinea, Gabon, the Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Mali, Malawi, Mozambique, the Niger, Rwanda, Senegal, Sierra Leone, Somalia, South Sudan, Sao Tome and Principe, the Sudan, Togo, Uganda, the United Republic of Tanzania and Zimbabwe (African Union, 2019).

⁵ See <https://integrate-africa.org/rankings/dimensions/free-movement-of-people/>.

Table 2.1. Key milestones on Africa's regional integration journey

Year	Milestone
May 1963	<p>Heads of State and Government of 30 of the 32 independent African nations establish the Organization of African Unity (OAU) to, among other objectives:</p> <ul style="list-style-type: none"> • Promote unity and solidarity among African States; • Organize and strengthen cooperation for development on the continent.
1980	<p>Lagos Plan of Action adopted at the OAU Extraordinary Summit. Among other initiatives, the plan called for the creation of an African Common Market and the improvement of domestic trade at both national and regional levels throughout Africa. Intra-African trade expansion was encouraged through the means of reduction of trade barriers, mechanisms for the development of trade, and the establishment of African multinational production corporations and joint ventures.</p>
June 1991	<p>Signing of the Abuja Treaty with a projected 34-year long integration process (1994–2028).</p> <ul style="list-style-type: none"> • Recognized the important role of RECs in regional integration and enjoined member States to adopt measures aimed at freedom of movement also at bilateral and regional levels. • Member States agreed to adopt, individually, at bilateral or regional levels, the necessary measures, in order to achieve progressively the free movement of persons, and ensure the enjoyment of the right of residence and the right of establishment by their nationals within the community.
1999	<p>Heads of State and government call for the establishment of an African Union (the Sirté Declaration) in conformity with the ultimate objectives of the OAU Charter and the provisions of the Abuja Treaty.</p>
July 2002	<p>Inaugural launch of the African Union.</p>
2006	<p>African Union Migration Policy Framework calls upon RECs and their member States to consider the adoption and implementation of appropriate protocols to progressively achieve the free movement of persons, and to ensure the enjoyment of the right of residence, the right of establishment and access to legal employment in host countries.</p>
2008	<p>COMESA, EAC and SADC agree to negotiate a Tripartite Free Trade Area as a building block to the Continental Free Trade Area.</p>
May 2009	<p>The Fourth Conference of African Ministers of Integration adopted the minimum integration programme to address lag in integration activities. The programme contains an action plan to accelerate coordination, convergence and collaboration among RECs to achieve the ultimate objective of the EAC . It also identifies financing and structural impediments hindering the implementation of the Abuja Treaty and offers a road map.</p>
2012	<p>Assembly of the African Union endorsed the Action Plan for Boosting Intra-African Trade and the fast-tracking of the Continental Free Trade Area.</p>

Year	Milestone
2015	African Union adopted Agenda 2063 , which includes the Declaration on Migration. The declaration reaffirms the African Union's commitment to accelerating mobility and integration in Africa and addressing migration. It targets, among other things, Africa-wide visa-free regimes, an African passport, full mobility and free movement for people and a harmonized higher education mechanism for the transfer of knowledge, skills and expertise.
2023	The free movement of people and the rights of residence and establishment comprises the fifth phase of the Abuja Treaty that is projected to be realized by 2023.
2063	An integrated continent – political unity, continental unity, seamless borders, African citizenship.

Source: Original tables are created and elaborated by the authors, unless otherwise indicated.

The African Union Free Movement Protocol (African Union, 2018) adopted in 2018 is a comprehensive document. However, it is to be realized progressively, and member States independently determine the speed at which they will implement the different provisions.

2.5. Free Movement Agenda of the Common Market for Eastern and Southern Africa

COMESA is one of the eight RECs that are recognized by the African Union. Its mandate is to make its 21 member States a viable and attractive investment destination for regional and international investors. To facilitate regional integration and regional trade, the Treaty Establishing the Common Market for Eastern and Southern Africa (COMESA Treaty, 1994) calls for the removal of obstacles to the free movement of persons, labour and services, right of establishment and right of residence within the common market.

COMESA's free movement agenda is comprised of two key components:

Component 1: The **Visa Protocol** was adopted under the Treaty for the Establishment of the Preferential Trade Area for the Eastern and Southern African States. Article 164(3) of the Treaty for the Establishment of the Preferential Trade Area for Eastern and Southern African States provides that the Visa Protocol shall remain in force until such time that a Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence enters into force.

Component 2: The **COMESA Free Movement Protocol** was adopted in 2001 but is still not in force. The COMESA Free Movement Protocol states that a common market can only be achieved when the citizens of the member States can move freely. The approach will, however, be gradual/progressive and determined by each member State.

2.5.1. Component 1 – Stage 1: The Visa Protocol

The Visa Protocol (Articles 3–8) identified three steps towards the eventual elimination of visa requirements among member States. In all cases, a travelling citizen of a COMESA member State must have a valid travel document. The three steps are as follows:

- (a) Visa upon arrival;
- (b) Visa-free entry for up to 90 days (within two years of the Protocol);
- (c) Removal of all restrictions (within six years of the Protocol).

The Protocol included provisions for the following:

- (a) Bilateral/multilateral arrangements that may be more beneficial to citizens between two or more member States or with non-COMESA member States;
- (b) Entry refusal and expulsion if entry/presence was deemed detrimental to a country's national security or public health.

2.5.2. Component 2 – Stages 2 to 5: The Free Movement Protocol

Stage 2: Enhanced movement of skilled labour (Article 9)

The Protocol permits citizens of COMESA member States who: (a) possess skills that are not available in the COMESA destination member State; and (b) have accepted a job offer, to accept the offer and work under conditions that guarantee equality of treatment with nationals. Employment in public service was excluded from the Protocol.

Stage 3: Free movement of services (Article 10)

Open participation in the different types of services will be effected gradually, following the adoption of a programme defining the conditions to be met and the stages of implementation for each type of service that will be liberalized. Until that is provided, the Protocol permits a person providing services to temporarily pursue their activity in the member State under the same conditions provided by host country citizens. This accommodation for the temporary physical movement of natural persons to provide a service in another State is known as Mode 4 of trade in services and is provided for under the General Agreement on Trade in Services of the World Trade Organization. Examples of service providers in this category include consultants, teachers, researchers and managers of regional/multinational corporations.

Stage 4: The right of establishment (Article 11)

All restrictions on the freedom of establishment of citizens of a member State in another member State were to be abolished in progressive stages, within a defined time frame and in accordance with directives from the Council of Ministers. The right of establishment provides citizens of COMESA member States the right to legally conduct commercial activities either as a self-employed individual or as a company in another COMESA member State. In order to enjoy the right, the citizen would first need to become a legally registered self-employed person or a legally registered company in the target COMESA country.

Stage 5: The right of residence (Article 12)

The Protocol permits member States to take action to harmonize their national laws, rules and regulations with other member States in order to grant the right of residence to COMESA citizens. Typically, the right will only be available to persons who are legally registered **self-employed persons** or **workers** with **work permits**.

2.6. Implications of the Protocol on the Free Movement of Persons, Services, Labour and the Right of Establishment and Residence for small-scale cross-border traders

Table 2.2. Implications of the COMESA Free Movement Protocol on small-scale traders

Protocol stage	Implications for small-scale cross-border traders
Stage 1: Gradual relaxation and eventual elimination of visa requirements	Depending on the visa cost, small-scale cross-border traders may still find it to be prohibitive. A costly visa will motivate small-scale cross-border traders to enter neighbouring countries through routes where they will not have to incur this cost. The repercussions if apprehended will be much higher than the cost of the visa that was being avoided.
Stage 2: Free movement of labour	<p>The Free Movement Protocol is restricted to skilled labour, provided there is no local expertise to occupy the position. Furthermore, skilled labour may only move provided that the skilled individual has a confirmed job offer. The skilled unemployed COMESA citizen does not have the right to enter another COMESA member State to seek employment.</p> <p>The Free Movement Protocol does not have a provision for low-skilled or unskilled labour. The majority of small-scale cross-border traders fall into these excluded categories.</p> <p>This presents an opportunity for RECs and their member State national governments to work towards the inclusion of consideration for unskilled but monitored labour. Member States may have cause to restrict the free movement of unskilled and unemployed labour into their national territories such as national security.</p> <p>However, citizens of COMESA countries should not be denied free movement in search of work simply because they have poor to no skills or are not currently employed. A means of accommodating the movement of lower-skilled and unskilled labour within the common market area must be found because certain sectors do have a need for this type of labour, even if only on a temporary basis, such as in agriculture and construction.</p>

Protocol stage	Implications for small-scale cross-border traders
Stage 3: Free movement of services	<p>The Free Movement Protocol calls for service providers to meet the same requirements as citizens. This implies that service providers from another COMESA country will need to meet the same licensing requirements as the local service providers within the target COMESA country. Similar to stage 2 (free movement of labour), stage 3 therefore calls for the accommodation of service providers with formal qualifications. This too will exclude the majority of small-scale cross-border traders who typically are not formally registered and therefore belong to the informal sector.</p> <p>RECs and their member State national governments must find a way to include the services provided by the unskilled and low-skilled community currently operating in the informal sector.</p>
Stage 4: The right of establishment	<p>This right can only be exercised by self-employed persons or companies that are legally registered in the destination COMESA member State. Effectively, unregistered businesses are excluded unless they register legally by meeting all the requirements and thus enter the formal sector.</p>
Stage 5: Right of residence	<p>Unlike EAC, under COMESA, the right of residence only applies to the individual who applies to exercise this right. The right is not extended to family members and/or dependants unless they apply in their own individual right.</p>

2.6.1. Factors contributing to the exclusion of small-scale cross-border traders

Cost

Free movement is not free of cost. There is a cost involved in obtaining travel documents including passport, visa, residence and work permits if required. Costs and other prerequisites may be outside the reach of the low-to-unskilled labour that dominates the ranks of small-scale cross-border traders. Furthermore, the authorities issuing the necessary documents might not be located in close proximity to the borders where small-scale cross-border traders live and operate. They would have to travel to the capital city to obtain the necessary documents. This is yet another costly and time-consuming delay that many are not able to afford.

Permit requirements

In order to obtain a work permit, one must either have a confirmed job offer or a legally registered business in the destination country. Low capital resources limit the ability of small-scale cross-border traders to formally register a business. Low skills and education levels limit their ability to apply for jobs that require certificates of formal qualifications for the issuance of work permits. Furthermore, the competition for low-skilled jobs will be high in the destination countries because the nationals of the destination countries will be competing for them too.

Lack of awareness

A sheer lack of awareness of the legally available channels for the free movement of persons and labour limits small-scale cross-border traders' interest in and ability to pursue potential employment opportunities.

There is an opportunity for RECs and their member State national governments to find a way to make it possible for members of the informal sector such as small-scale cross-border traders to be included in the different provisions of the COMESA Free Movement Protocol. However, members of the informal sector may have to meet national governments halfway by upskilling, obtaining a level of formal qualifications and being willing to enter the formal sector as legally registered and recognized persons and/or businesses.

2.7. Implementation of Africa's free movement protocols

2.7.1. Visa openness

Visa openness examines the point in a journey at which travellers to a country are required to obtain an entry visa. The points at which visas are issued include the following:

- (a) No visa required or visa-less entry;
- (b) Visa obtained on arrival;
- (c) Visa obtained prior to travel.

According to the *2020 Africa Visa Openness Report*, 50 African countries improved or maintained their visa openness score versus 2019 (African Development Bank, 2020). In 2020, visa-free travel was offered by 26 per cent of African countries, visa on arrival was offered by 28 per cent of African countries and 24 countries reported having e-visa platforms. Of the African countries, 44 per cent offered an eVisa.

Africa

Nations with visa-free access for all Africans: In addition to subregional agreements, some individual countries have slowly liberalized their border requirements unilaterally. Benin, the Gambia and Seychelles are the continent's most open countries and the only ones to allow visa-free access for all Africans (ibid.).

Africa's Regional Economic Communities

RECs with visa-free access for citizens of member States: Citizens of Economic Community of West African States (ECOWAS) member States are able to easily enter and reside in other member States without a visa.⁶

Only three COMESA countries have no visa requirements for COMESA citizens.

⁶ See <https://unhcr.org/49e479c811.pdf>.

Table 2.3. Member States engaging with the COMESA Visa Protocol

Description	Countries
COMESA countries with no visa requirements for COMESA citizens	Ethiopia, Mauritius, Rwanda, Seychelles
COMESA countries that have implemented the COMESA Visa Protocol for at least 50% of COMESA member States	Eswatini, Kenya, Madagascar, Malawi, Uganda, Zambia and Zimbabwe. (Additionally, Zambia has waived visas and visa fees for all COMESA citizens on official business and to citizens of other COMESA member States on a reciprocal basis.)

Note: Most COMESA member States require proof of yellow fever vaccination.

Examples of bilateral visa arrangements

- The bilateral free mobility arrangement between Kenya and Ethiopia has been in operation for over 50 years. The two nations extend visa-free travel to each other.
- Three of the six EAC member States (Kenya, Rwanda and Uganda) permit nationals to travel between the three East African countries using just their government-issued national identity card for identification. A passport is not required.

2.7.2. Free movement, rights of establishment and residence

Mobility arrangements tend to either: (a) provide a right or entitlement; or (b) support or facilitate movement. The protocols in the ECOWAS and EAC regions guarantee the right to move freely, provided certain defined conditions are met. By revising the administrative procedures for work permits and entry visas to make them more accessible, Kenya, Rwanda and Uganda increased their shared cross-border trade by 50 per cent (African Development Bank, 2016).

The SADC Protocol on the Facilitation of Movement of Persons allows member States to determine residence and establishment requirements and procedures in line with the national legal framework in the destination SADC member State. It therefore falls in the second category (b) mentioned above and focuses strictly on the facilitation or support of people who migrate. It excludes non-migrants such as cross-border traders.

In addition to the protocols, several programmes have been created to accelerate labour mobility across the continent, including but not limited to the IOM/International Labour Organization (ILO) supported Intra-Africa Talent Mobility Partnership Programme for sub-Saharan Africa, through which labour market information systems and joint programmes on labour migration, development and regional integration are currently being implemented by the African Union in partnership with ILO, IOM and the United Nations Economic Commission for Africa.

An example from SADC is its regional labour migration policy framework, which provides harmonized mechanisms for compatibility and comparability of higher education in Africa. SADC also launched a regional qualifications framework that facilitates the cross-border mobility of qualifications, as well as a labour market information system that monitors and

provides analyses of the labour market in the region to inform employment and labour policies.

Bilateral arrangements between countries also exist. For example, a 2020 COMESA/ILO study found that Zambia has an arrangement with all its neighbouring countries in which Zambian nationals who reside in border communities are able to travel to the neighbouring country by using a simple border pass as a travel document (IOM, 2020). The documents are not harmonized and vary in format and validity terms. However, they do provide an affordable means for border residents to cross the border to trade.

2.8. Barriers to free movement in the African context

Africa's regional integration has not been as fast as one would expect, given the enthusiasm for this as well as the clear benefits that integration promises. With the progressive implementation of the continental, regional and subregional free movement protocols left to the discretion of individual member States, travel barriers have only been eliminated at the rate that each implementing State finds comfortable. Consequently, Africa is a continent of multiple overlapping subregions that allow varying degrees of free movement.

Barriers to free movement include but are not limited to the following:

Weak political will

Weak political will may be driven by among other reasons, an under-appreciation of the benefits of free movement, concerns over national sovereignty, political instability and perceived security threats. In the countries where there is strong political will in favour of free movement, unilateral and bilateral arrangements have been made. Countries like Ethiopia, Mauritius, Rwanda and Seychelles have granted visa-free entry to all citizens of Africa. Interestingly, no country in the SADC region has ratified the African Union's free movement protocol, and only Botswana, Eswatini, Mozambique and South Africa (25% of member States) have ratified the 2005 SADC Free Movement of Persons Protocol. Within the SADC region, however, some countries have bilateral agreements that allow for the smooth movement of citizens.

Lack of resources

The African Union and RECs it relies on to promote and facilitate the implementation of the African Union Free Movement Protocol at the subregional level all face a lack of resources (human and financial) that makes it difficult for them to effectively act on subregional and continental obligations.

Limited resources delay the implementation of mandatory regional integration initiatives for example, the harmonization of migration and other related policies, laws and regulations within their subregions and nations respectively. Additionally, some countries belong to more than one REC (for example, Zambia belongs to COMESA and SADC). This may cause conflicts of interest that stall the policy harmonization process.

Lack of mutual recognition and harmonization

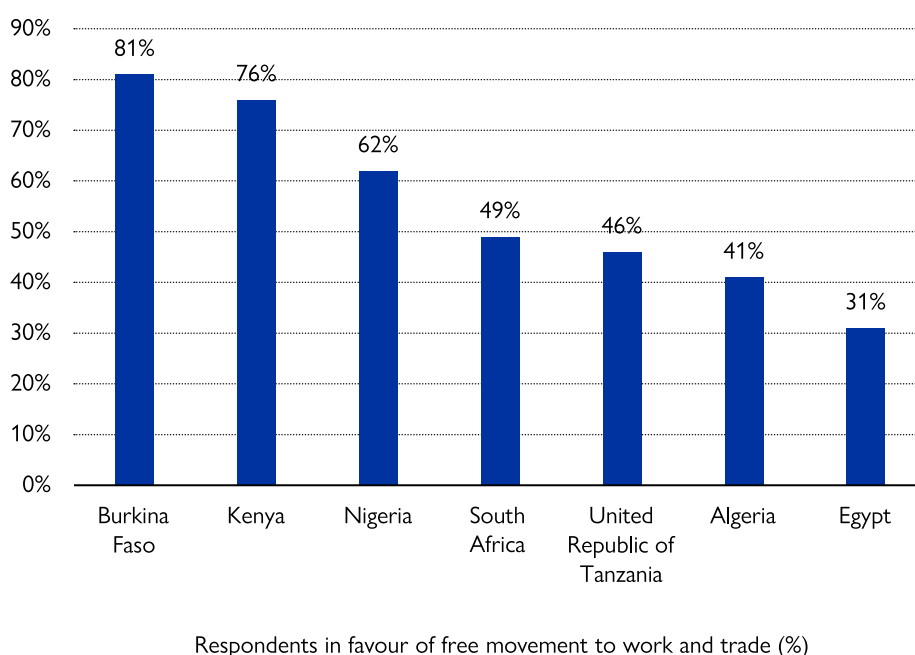
The absence of mutual recognition agreements, as well as the lack of harmonization of recognized qualifications for different occupations, also makes it difficult for labour to move freely across the region. In some cases, this situation is upheld in order to protect jobs for nationals. Mutual recognition agreements typically govern professional occupations. However, there is room to introduce a form of recognition and qualification harmonization for individuals who are more of tradespersons than qualified professionals, such as hair stylists, seamstresses and masons.

Xenophobia

Webster's Dictionary defines xenophobia as "fear and hatred of strangers or foreigners or of anything that is strange or foreign".⁷ This translates into hostility towards foreigners. In some places, the fear of migrants is tied to the real or imagined threat that migrants willing to work for lower wages will take up jobs that should have been reserved for citizens, or that migrants will compete unfairly for other limited domestic resources such as land.

A 2016 Afrobarometer survey found that 56 per cent of respondents from Africa agreed that people should be able to freely cross borders to work and trade (Afrobarometer, 2016). Support was strongest in West and East Africa (Figure 2.1), which also have the continent's strongest subregional movement frameworks under ECOWAS and EAC, respectively.

Figure 2.1. Afrobarometer 2016 survey on attitudes towards free movement



Source: Afrobarometer, 2016.

⁷ See <https://merriam-webster.com/dictionary/xenophobia>.

Public health threats

During health pandemics such as Ebola and more recently COVID-19, migrants are often viewed as virus carriers, so their entry is banned. Migrants are often made scapegoats for disease or virus outbreaks and other public health concerns. The recent COVID-19 pandemic demonstrated how human mobility is often the first activity to be curtailed in a crisis or any sort of instability. Certain borders in the region have been closed for over two years on account of the COVID-19 pandemic, with officials only allowing commercial traffic to pass through the border.

Perceived security threats

The continued emergence of extremist groups causes countries to close down their borders to non-nationals. Recent sources of security risks include the following: (a) Nigeria's Boko Haram, which has expanded its reach across the Lake Chad basin; (b) Somalia's al-Shabaab, which has spread to East Africa and the Horn of Africa; and (c) Mozambique's Ahlu Sunnah Wal Jama'a, which is a threat to security in Southern Africa. To protect their borders from the entry of these insurgents, countries respond by tightening security and entry requirements along their borders. This makes movement difficult for all citizens and especially for small-scale cross-border traders who rely heavily on being able to cross the nearby borders for trade at will.

During the training session, the trainer should encourage participants to share their thoughts on the benefits of free movement before presenting the benefits that follow.

2.9. Benefits of free movement

The value attached to free movement of persons and labour is well documented. Mobile workforces accelerate innovation, lower costs of production and attract foreign investment. Foreign investment in turn increases production and causes the development of infrastructure within a region to become a development priority.

The benefits of free movement include but are not limited to the following:

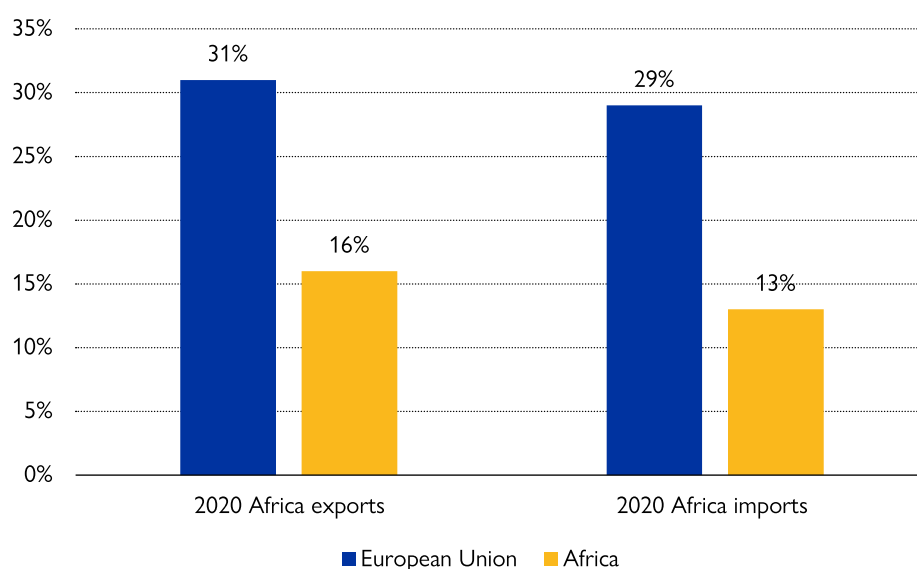
2.9.1. Boosting regional trade, commerce and tourism

Free movement will lead to a growth in intra-Africa trade, commerce and tourism. According to the United Nations Conference on Trade and Development, in 2019, Africa's lead trade partner was the European Union.

Increased intraregional trade

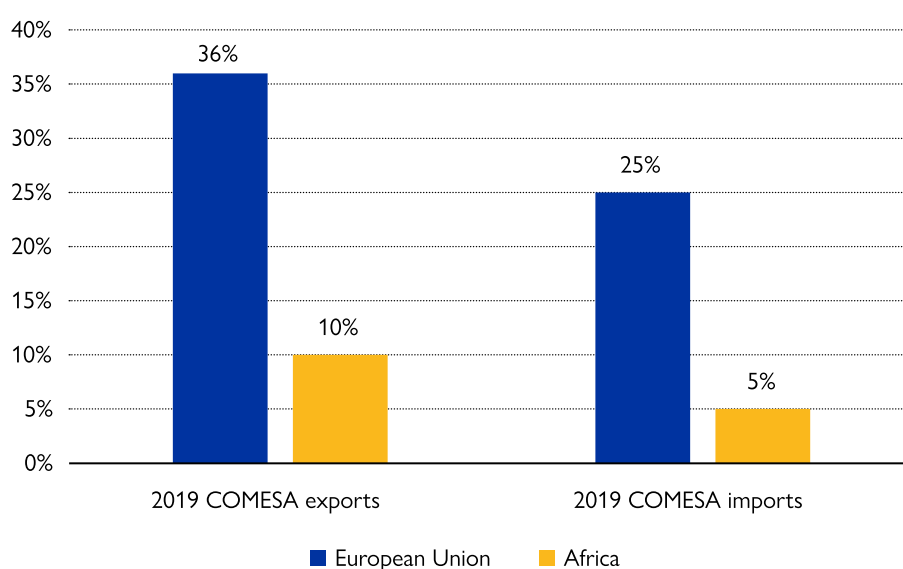
In 2020, the European Union accounted for 31 per cent of Africa's exports and 29 per cent of imports. Africa's exports within Africa accounted for 16 per cent of exports and 13 per cent of imports (Figure 2.2). On the other hand, trade within the European Union accounted for 60 per cent of European Union trade. There is clearly an opportunity for more trade to take place across Africa. This could be fueled by the free movement of the continent's citizens.

Figure 2.2. Africa trade with the European Union versus within Africa



Source: Based on Eurostat (n.d.) updated from 2019 to 2020 information.

Figure 2.3. COMESA trade with the European Union versus within COMESA



Source: COMESA, 2021.

Zeroing in on intra-COMESA trade, in 2019, exports within COMESA countries amounted to 10 per cent of total COMESA exports, while imports amounted to 5 per cent. COMESA exports to and imports from the European Union were valued at 36 and 25 per cent respectively (Figure 2.3). This data also points to the untapped potential to increase intra-COMESA trade. Notably, Africa's intraregional trade figures would be higher if the value of the legal but informally traded goods and services traded by small-scale cross-border traders were included.

Creation of new markets and jobs

While skilled expatriates who belong to large corporations are easily able to obtain travel visas and work permits, the same is not true for small-scale cross-border traders. The community that cannot afford to obtain travel visas and does not qualify for work permits, or finds them difficult to obtain will greatly benefit from the actualization of free movement. Small-scale traders, low- and semi-skilled jobseekers, as well as entrepreneurs with micro and small businesses will thrive once they are able to freely cross into other markets beyond their national borders to pursue new opportunities. Jobseekers will find employment, learn and transfer new skills. Traders and entrepreneurs will find new suppliers and new buyers.

Reduced harassment

Once properly actualized, free movement will make it easier for tens of millions of traders across Africa to legally trade across borders without the fear of unnecessary harassment by border agencies. This could motivate more traders to trade formally. The contribution of these traders will thus be recorded, and the world will finally have a clearer understanding of the true volume and value of small-scale cross-border trade.

Increased tourism

If people are able to freely enter a country that is quite different from their own, the travelling and curious types will take advantage of the opportunity. Africa's efforts on free movement would go a long way in encouraging regional and continental tourism. People will travel for many reasons, including but not limited to job searches, for trade, out of curiosity, to visit friends and family and simply because they can. Visa-free, affordable, comfortable and safe travel will be a strong motivator. Countries will no longer rely on tourists from other continents to boost their tourism earnings, but will earn from intra-African tourists too. This will inevitably lead to the creation of jobs and provide employment for a fast-growing youthful population.

An example may be seen in Seychelles, which after the development of strong tourist infrastructure fully opened its borders.

Text box 2.2. Seychelles – An example of the link between free movement of persons and tourism performance

- First country on the continent to embrace and adopt visa-free access for all Africans
- 7 per cent increase in year growth of international tourist arrivals between 2009 and 2014
- Ranked eighth in the world among countries that have prioritized travel and tourism (2015 World Economic Forum)
- First in Africa on tourist service infrastructure
- Promoted from the upper middle-income category to the high-income category

Source: African Union Commission and IOM, 2018.

2.9.2. Facilitating labour mobility, intra-African knowledge and skills transfer

Free movement of labour is important for the bridging of gaps between countries with a skills surplus and those with a skills deficit. It simultaneously lowers unemployment numbers while causing the sharing of innovation and new ideas.

Approaches focused on formal qualifications are not inclusive

Similar to what was noted in Module 1 (Small-scale cross-border trade in COMESA), the majority of solutions provided to support regional integration in accommodating the needs of the formal sector. Solutions to promote free movement accommodate the needs of citizens with formal qualifications of one kind or another and leave out those without. This approach excludes the largest percentage of the population and needs to be re-examined.

Free movement of persons and labour in a manner that is similar to the model embraced by the European Union would allow labour to freely flow to areas where there is demand for it. Such persons would enjoy every benefit that the citizens of the host country would be entitled to. Service providers would be able to traverse different member States providing their services, such as event planning, hairdressing, tailoring and barber services.

Traders too, would be at liberty to traverse the member States and offer their goods to customers offering the best price for them. Ideally, these traders would be able to travel back to their countries of origin with goods from the countries they travel to for which there is a demand in their countries of origin. Traders would have many more degrees of freedom in terms of the suppliers, customers and markets they interact with.

The free market would operate in its true form, with supply of labour moving to places where there is demand backed by the means to pay.

2.9.3. Improving transborder infrastructure and shared development

The limited availability of shared cross-border infrastructure is one of the factors that drive up the cost of intraregional trade. A 2015 World Bank report found that the costs of intraregional trade in Africa are the highest in the world and 50 per cent higher than in Eastern Asia (Gonzalez, 2015).

Coupled with tedious regulatory procedures, the resulting delays drive up production and transportation cost for traders across Africa. The establishment of shared cross-border and transport infrastructure to accommodate free movement will increase efficiencies and lower the cost of doing business.

One-stop border posts (OSBPs) provide an example of the efficiencies that result from shared cross-border infrastructure.

- Following the opening of the Chirundu OSPB between Zambia and Zimbabwe, border crossing time went down from two to three days to two hours. The number of trucks cleared each day increased from 260 to 600 (*The Herald*, 2016).

- Similar successes are reported at the Busia OSBP between Kenya and Uganda. The time it took for a truck to cross the border from Kenya to Uganda has gone down from over 14 hours in 2011 to just under 3 hours (TradeMark East Africa, 2018).
- Interviews with small-scale cross-border traders indicate that they appreciate the increased efficiencies in clearing border formalities gained from only having to stop in the destination country and not both the country of origin and the destination country, as was the case before the introduction of OSBPs.

2.9.4. Fostering a comprehensive approach to border management

The concept of integrated border management (IBM) resulted from European Union member States recognizing their need to cooperate with agencies beyond their borders if they were to combat the cross-border effects of technology and organized crime. IBM requires States to collaborate with internal and external competent authorities. The Draft Strategy for Enhancing Border Management in Africa (African Union, 2012) names cooperation and coordination through IBM as one of its pillars.

Through IBM, COMESA member States will be better able to collaborate and combat the illegal and criminal activities that currently cause countries to tighten or close their borders in the interests of security.

2.9.5. Promoting the rule of law, human rights and public health

Rule of law

Improved identity management and assuring a legal identity for all in order to facilitate free movement will yield many positive results. Legal identification makes it easier to promote the rule of law and ensure access to justice for all, reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat organized crime. A legal identity also makes it easier for the holder to gain access to health services, legal redress, financial services and other rights and services.

Human rights

The combination of secure identity documents and improved border systems and standards for promoting free movement will lead to improved border management. In turn, this will result in the increased protection of the human rights of migrants during the migration process. It will also make it easier to track missing persons, suspected traffickers and their victims, as well as other criminals.

Coordinated health inspection services and data capture

Improved border management systems would allow for joint coordination of health inspections where routine health documents (such as international vaccination documents) are currently undertaken by immigration officers and special health situations (such as pandemic outbreaks) are carried out separately by dedicated health inspectors. The resulting data can be captured in one database for centralized tracking and analysis.

Public health

By increasing the coverage of border public health management control to include formal and informal pathways, nations will be in a better position to detect and address health threats around their borders when these threats arise and to better understand mobility patterns and transmission.

2.10. Participant recommendations to facilitate free movement

In this section, participants will identify three to four barriers to the ratification of free movement protocols that their particular agency is able to influence or address. The participants will develop recommendations to address the identified barriers.

Table 2.3. Barriers to small-scale cross-border trade and recommendations to address them

	Barrier identified	Recommendation
1.		
2.		
3.		
4.		

2.11. Participant action plan

If this training is to contribute to improved free movement for all citizens within the COMESA region, it will be important for training participants to gain an appreciation of the challenges, develop, obtain resources for and implement action plans to alleviate them. Each training module therefore includes a section in which training participants are given time to create action plans with estimated budgets, timelines as well as name the department or officers responsible. Participants will provide their information in Table 2.4.

Table 2.4. Sample action plan

	Barrier	Recommendation	Activity	Timing	Responsible	Budget
1.						
2.						
3.						
4.						

In addition to developing an action plan, participants will also identify the hurdles they might face in attempting to implement the above recommendations and provide suggested solutions.



What challenges will you face as you implement the above recommendations?

How will you address those challenges?

2.12. Module wrap-up

The trainer will wrap up the session through the following:

- (a) Reviewing a list of the topics covered within the module.
- (b) Highlighting the information participants provided in their action plan, specifically the following:
 - (i) Key barriers identified;
 - (ii) Solutions that participants suggested their agencies could provide.
- (c) Two or three challenges participants will face in implementing the recommendations and proposed solutions.
- (d) Distributing the post-module quiz.
- (e) Reviewing the module objectives and confirming with participants that the objectives have been met.

2.13. Module conclusion

Upon completion of this module, participants are able to:

- (a) State the provisions and status of the COMESA Visa and Free Movement Protocols;
- (b) Describe the challenges and benefits of free movement in the African context and the implications for small-scale cross-border traders;
- (c) Appreciate the importance of fully implementing the COMESA Visa and Free Movement Protocols;
- (d) Identify potential solutions their border management/trade facilitation agencies can recommend/support/provide towards the full entry into force of the COMESA Free Movement Protocol.

MODULE 2: PRE- AND POST-MODULE QUIZ

1. The benefits for free movement include but are not limited to:
 - A. Boosting regional trade, commerce and tourism.
 - B. Creation of new markets and jobs.
 - C. Reduced harassment of traders.
 - D. All the above.
2. The COMESA Free Movement Protocol currently:
 - A. Allows small-scale traders to obtain a work permit and a residence permit in all COMESA countries.
 - B. Permits individuals to conduct commercial activities without being legally registered in the host country.
 - C. Mandates permit-free employment for all citizens of COMESA in any partner State of their choice.
 - D. Permits citizens of partner States who are professionals and have accepted a job offer to accept the offer and receive the same treatment as nationals.
3. During health pandemics such as Ebola and more recently COVID-19, migrants are often:
 - A. Warmly welcomed and treated with dignity and respect.
 - B. Viewed as public health threats in the form of virus carriers, so their entry is banned.
 - C. Given access to the same social and health services as nationals.
 - D. None of the above.
4. A key barrier to free movement in Africa is:
 - A. Xenophobia – fear and hatred of strangers or foreigners.
 - B. Absence of mutual recognition and harmonization of requirements.
 - C. Perceived security threats.
 - D. All the above.
5. The Universal Declaration of Human Rights states that everyone has the right to leave any country, including their own, and to return to their country.
True False
6. The SADC Protocol on the Facilitation of Movement of Persons allows member States to determine residence and establishment requirements and procedures in line with their national legal frameworks.
True False
7. The COMESA Visa Protocol requires that citizens of COMESA states travel with a valid travel document.
True False

8. The COMESA Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence is in full force.
True False
9. All COMESA countries now provide visa-free access to all citizens of all COMESA countries.
True False
10. All African countries have signed the African Continental Free Trade Agreement.
True False

Quiz answers

1 – D; 2 – D; 3 – B; 4 – D; 5 – True; 6 – True; 7 – True; 8 – False; 9 – False; 10 – False



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International Organization for Migration (IOM)
17 route des Morillons, P.O. Box 17, 1211 Geneva 19, Switzerland
Tel.: +41 22 717 9111 • Fax: +41 22 798 6150 • Email: hq@iom.int • Website: www.iom.int