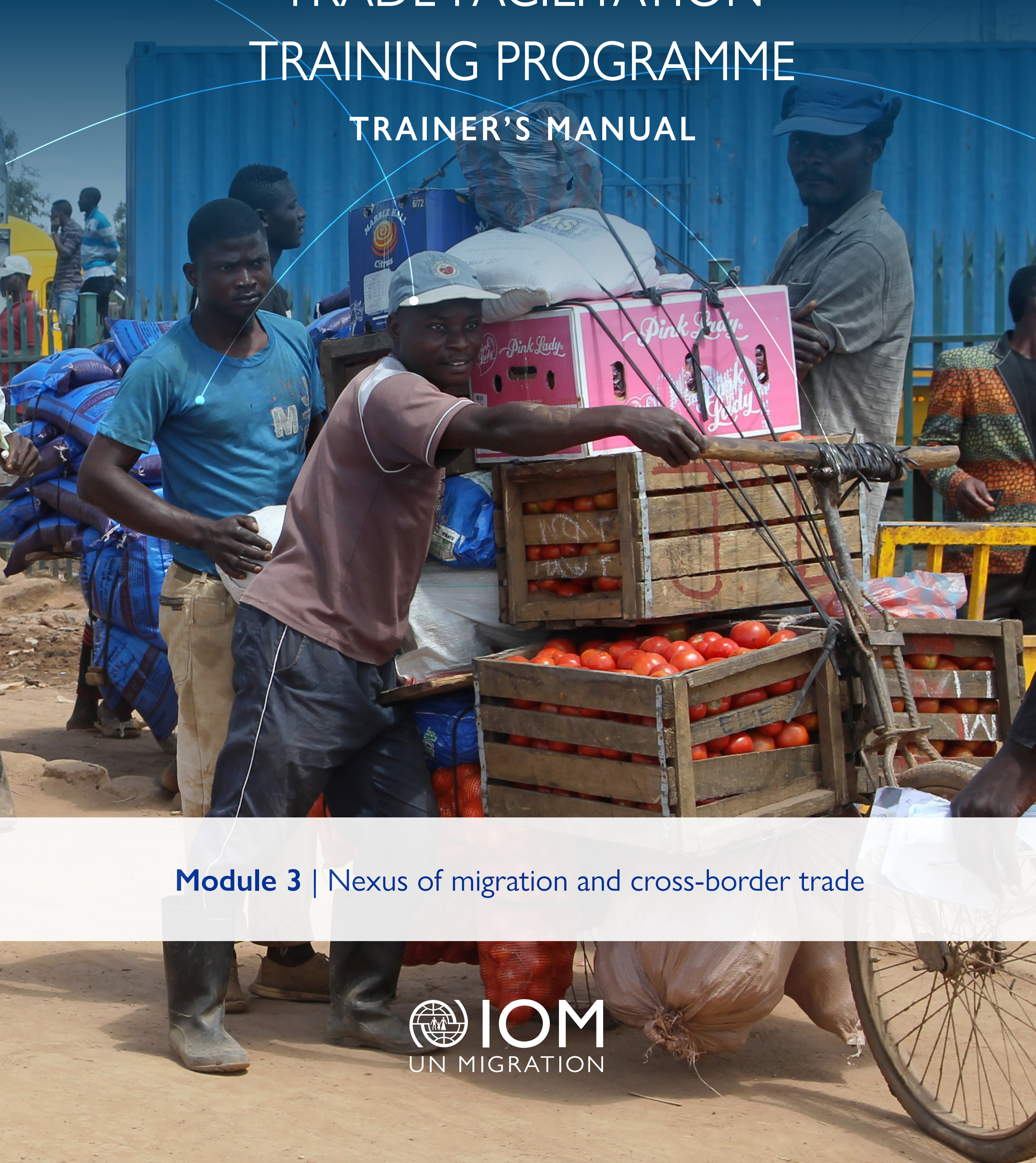
COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA TRADE FACILITATION TRAINING PROGRAMME

TRAINER'S MANUAL



Module 3 | Nexus of migration and cross-border trade

IOM
UN MIGRATION

IOM is committed to the principle that humane and orderly migration benefits migrants and society. As an intergovernmental organization, IOM acts with its partners in the international community to: assist in meeting the operational challenges of migration; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

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Cover photo: Cross-border traders push their merchandise into the Democratic Republic of the Congo at Kasumbalesa border post. © IOM Zambia 2017

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Module 3 | Nexus of migration and cross-border trade

COMESA

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Funded by the European Union

International Trade Centre

Common Market for Eastern and Southern Africa Trade Facilitation Training Programme

Trainer's Manual

MODULE 3

Nexus of migration and cross-border trade

CONTENTS

LIST OF TABLES AND TEXT BOXES

Module 3. Nexus of migration and cross-border trade

Module name	Nexus of migration and cross-border trade
Module overview	This module examines the inherent interrelationship between cross-border trade and human mobility across borders. It reiterates that without people, goods and services would be unable to cross borders and contribute to economic development. The module underscores the need for improved human mobility facilitation, among others, through harmonized immigration and border management standards and procedures to create trade efficiencies and prevent bottlenecks in the movement of people and goods across various borders. This module seeks to contribute to policy and operational responses that integrate human mobility and border management into trade facilitation responses from an immigration and border management perspective.
Module objectives	Upon completing this module, participants will be able to: (a) Appreciate the linkage between human mobility, regional integration, trade facilitation and Africa's transformation; (b) Understand that currently the discourse of trade facilitation has not fully integrated human mobility and that barriers to cross-border human mobility of traders should be conceived of as non-tariff barriers. (c) Underscore the importance of policy coherence and harmonization between trade and immigration at the Regional Economic Community and national levels. (d) Identify the different ways to integrate policy, practice and procedure to mainstream, facilitate and fully harness the migration and trade nexus within the context of small-scale cross-border trade.
Target audience	Government officials responsible for border management and trade facilitation agencies in the Common Market for Eastern and Southern Africa 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	270 minutes

PRE-MODULE WARM-UP

Note to the trainer: This is the third 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 below[1] only applies if this module is being delivered as a stand-alone module. If the module is being delivered as an additional session during a workshop in progress, this warm-up activity will not be necessary.

Suggested warm-up activity – Nexus of migration and cross-border trade

(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 suggestions that follow are designed to get participants thinking about the challenges that come with a lack of coordination or collaboration between decision makers. The trainer may choose between questions from set 1 or from set 2.

The first set of questions are deliberately generic to get participants to open up and also to help participants recognize what a lack of coordination leads to in areas of their lives outside work. These questions provide an opportunity for participants to find a way to empathize with the small-scale cross-border traders who regularly face disappointment by getting participants to relive their own past disappointments that resulted from poor collaboration.

The questions in set 2 target aspects of cross-border trade (CBT) and integrated border management (IBM).

Set 1

Invite participants to respond to the question that they can best relate to.

1. Think back to when you were growing up and still needed an adult's permission to visit a friend or to go on an outing. Can you remember any time when you actually obtained permission from one adult, but on the day of the exciting event, the adult who had given you permission was away from home (no mobile phones back then). Describe what happened. How did you feel when the adult left in charge would not let you attend the event? How did you react and what did you end up doing?
2. Were you ever in a situation (at work or at home), where you granted permission for an activity, but in your absence, the permission you granted was withdrawn by whoever you left in charge? Describe what happened. How did you feel when you heard about the incident? What did you do to ensure this did not happen again?

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

3. Have you ever been in a situation in which you reversed an approval that had already been granted? Describe the situation. Why did you reverse the approval? How did the recipient of the reversed decision respond? How did the initial approver react when they received the news? Could the situation have been handled differently?

As participants provide their responses, the trainer should emphasize the risks and disadvantages of uncoordinated actions and the benefits of communication and coordination.

Set 2

1. What has been done at your country's borders to support trade by small-scale cross-border traders?
2. If you had an unlimited budget and could ask for one improvement at the borders to make it easier for small-scale cross-border traders to engage in CBT, what one improvement would you make and why?
3. What would you say prevents countries within the Common Market for Eastern and Southern Africa (COMESA) region from providing 100 per cent free movement to all COMESA citizens across all COMESA shared borders without restriction?

The trainer should summarize the submissions and point out the disadvantages that small-scale cross-border traders continuously experience due to a lack of coordination among border agencies within a country and across borders.

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.

3.1. Background and context

Trade, migration and cross-border human mobility are inherently interconnected; without people, goods and services would be unable to cross borders and contribute to economic development. Small-scale cross-border trade (SSCBT) forms a significant part of intra sub-Saharan African trade and contributes income, provides jobs and empowers women in some of the most fragile and impoverished communities on the continent. It is estimated that SSCBT contributes to 30 to 40 per cent of total intraregional trade in the Southern African Development Community (SADC) region and 40 per cent in the COMESA region. Cross-border traders, which include migrant entrepreneurs travelling for business development purposes, are often perceived to have advantages in business skills, thus contributing to a positive relationship between migration, international trade and economic development.

At the same time, the majority of Africans migrate within Africa. The 80 per cent of South–South migration takes place between border countries. Additionally, sub-Saharan Africa displays 63 per cent of intraregional flows. The numbers are even higher when looking at subregions (Ratha and Shaw, 2007).

As cross-border human mobility and international trade continue growing within the context of globalization, regional integration migration and trade continue to be treated as separate and independent disciplines, although they are inherently connected.

Consequently, although each Regional Economic Communities (RECs) in the African Union have developed protocols and other mechanisms aimed at achieving regional free movement of persons, as well as the right of residence and establishment – and the East African Community (EAC) and the Economic Community of West African States (ECOWAS) have made notable progress – the free and regulated movement of people remains one of the least operationalized policy areas of regional integration.

Despite the growing evidence of the migration–trade nexus in the last decades, policymakers and governments have put much more emphasis on reducing and removing barriers that slow down the movement of goods across borders and along trade corridors, including on non-tariff barriers (NTBs) without proportionally lowering those to the movement of people.[2]

Accordingly, less focus has been placed on the interrelationship between cross-border human mobility and trade. The objective of this module is to raise awareness among policy and planning officials on the inherent linkage between human mobility and trade.

3.1.1. Module overview

This module examines the interrelationship between SSCBT and human mobility across borders. The migration and human mobility approach to trade is often a neglected angle.

This report is divided into five sections, each with corresponding recommendations for COMESA and its member States, as well as for other stakeholders including the private sector and local communities. The first section provides an overview of the regional integration context and explains how the free movement of persons and trade facilitation intersects. The second section looks at definitions of cross-border traders. The third section examines available data on traders. The fourth section examines regional and national policy coherence on trade, border management, IBM and coordinated border management (CBM) approaches. The fifth section provides an overview of the six elements (pillars) to address in integrating human mobility into CBT facilitation, including the following: (a) facilitation; (b) health; (c) protection; (d) capacitation; (e) humanitarian response; and (f) security. The final section also includes a brief conclusion.

Summary of key points

This report makes four key points. Firstly, barriers to the cross-border human mobility of traders could be conceived of as NTBs, which increase the cost of trade and result in inefficient CBT. Some of the points made here are hypotheses, to be researched in more detail.

[2] Non-tariff barriers (NTBs) are defined in the broadest sense. As defined in the Agreement Establishing a Tripartite Free Trade Agreement among the Common Market for Eastern and Southern Africa, the East African Community and the Southern African Development Community, NTBs are "any laws, regulations, administrative and technical requirements other than tariffs imposed by a partner state whose effect impedes trade" (COMESA-EAC-SADC Tripartite, last accessed 26/10/2022).

Secondly, the lack of formal CBT decreases revenue collection and limits the possibility of trade contributing to development. This is a commonly asserted statement, but one that is mainly restricted to examining barriers to customs and trade. Any such analysis requires corresponding analysis of immigration procedures and formalities.

Thirdly, there is a need for greater policy coherence and harmonization between trade and immigration at REC and national levels. Different approaches in relation to immigration and trade including over IBM/CBM and limited intra-, inter and international cooperation are limiting the potential for trade facilitation to be successfully achieved.

Finally, as the movement of people across borders is more complex than the movement of goods, it requires further attention in the trade context. Six elements, as previously outlined, need to be addressed, which are examined in more detail in this paper. Emphasis is placed on the measures that can facilitate cross-border human mobility.

Policy and implementation gaps

Although it is recognized that for true regional integration to take place, the free movement of goods, services, people, labour and capital must be realized in Africa's RECs, the pace at which the different freedoms are being realized is slow, disconnected and described as "patchy" at best.

In Module 2 (COMESA policy framework on free movement), it was noted that in the countries of 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.

Although African Union member States have been eager to embrace AfCFTA, they appear reluctant to embrace free movement at the same pace, as demonstrated by the slow speed of the signing and ratification of the African Union Free Movement Protocols.

Across Africa, steady progress is being made towards achieving the free movement of goods and some services however, the free movement of people, labour and capital lags far behind. Yet goods and services do not move independent of people and/or labour. This module seeks to contribute towards a better understanding of the nexus of migration and CBT and its implications for workshop participants representing COMESA border agencies.

The African Union recognizes the link between migration and trade as is evidenced by continental protocols, directives and policies including the 2020 African Union Strategy for Better Integrated Border Governance, in which two of the five strategy pillars link mobility, migration and trade facilitation. However, similar commitments are not documented in the RECs that form the African Union.

For the small-scale cross-border trader seeking diversified sources of income, CBT, mobility and migration are linked in the provision of important livelihood strategies. This is significant because SSCBT is estimated to contribute to the income of 43 per cent of Africans (International Labour Organization, 2018).

However the positive joint effect of human mobility and CBT is difficult to quantify and accurately document due to the following: (a) largely informal nature of SSCBT; and (b) collection of data on movement across borders in large categories that do not identify cross-border traders or specify the goods/services they trade in.

This training module focuses on the value of integrating policy and practice in migration and CBT, the benefits, the challenges, current and potential solutions.

By the end of this module, participants will be able to:

(a) Appreciate the linkage between human mobility, regional integration, trade facilitation and Africa's transformation;

(b) Understand that currently the discourse of trade facilitation has not fully integrated human mobility and that barriers to cross-border human mobility of traders should be conceived of as NTBs;

(c) Underscore the importance of policy coherence and harmonization between trade and immigration at REC and national levels;

(d) Identify the different ways to integrate policy, practice and procedure to mainstream, facilitate and fully harness the migration and trade nexus within the context of SSCBT.

3.2. An overview of the regional integration context

The interconnectedness of the free movement of goods, services, people, labour and capital is recognized as necessary for true regional integration to take place. Against this backdrop, a number of international and regional frameworks to facilitate this interconnectivity have been established. The international, continental and regional frameworks that follow support the link between trade and migration.

3.2.1. International frameworks

- **International Convention on the Simplification and Harmonization of Customs Procedures of 1973** (Kyoto Convention): Sought to create an international instrument to simplify and harmonize its signatories' customs procedures and thus to facilitate international trade (European Union (EUR-Lex), n.d.).
- **Revised Kyoto Convention of 2006** amends the convention and has become the basis for effective, predictable and efficient customs procedures. Its aims include, among others, the combining of the significant benefits of the facilitation of legitimate trade with appropriate levels of customs control, as well as the stimulation of economic growth by facilitating trade (ibid.).
- **World Trade Organization (WTO) Trade Facilitation Agreement of 2014** was the first multilateral trade agreement to be concluded since WTO was established and was expected to reduce total trade costs by more than 14 per cent for low-income countries and more than 13 per cent for upper middle-income countries by streamlining the flow of trade across borders (WTO, n.d.).

3.2.2. Continental frameworks

The African Union recognizes both the trade–migration link and the value of IBM, as demonstrated by various continental agreements and frameworks promoting coordination between and across borders. As far back as 1963 when the Organization of African Unity was launched as Africa's first post-independence continental institution, there was a recognition of the importance of unity and solidarity among African States, the need to coordinate and intensify cooperation for development while safeguarding the sovereignty and territorial integrity of member States.[3] Since then, there has been a slow but steady increase in regional cooperation and regional integration. Ultimately, the African Union, which replaced the Organization of African Unity in 2002, envisages a fully integrated continent with political unity, continental unity, seamless borders and African citizenship (Vision 2063). See Annex 1 for a list of key milestones.

3.2.3. Regional frameworks

Regional protocols supporting regional integration treaties have tended to take a silo approach, focusing specifically on a single freedom mentioned within a regional treaty. For example, although the COMESA Treaty of 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, the protocols supporting the free movement agenda do not link the free movement of people or labour to the free movement of goods or services.

Furthermore, the existing COMESA Free Movement Protocol targets individuals with formal qualifications who have already found jobs in the target COMESA country and thus excludes small-scale cross-border traders who, as seen in Module 1, tend to be low to unskilled.

A 2019 IOM study on the interrelationship between trade and mobility in the COMESA region found that COMESA has devoted a lot of its effort to trade facilitation and less to human mobility (IOM, 2019a). COMESA needs to invest more in innovative practical mechanisms for facilitating human mobility across national borders. This calls for stronger cooperation of COMESA with IOM to strengthen the development of pragmatic solutions to human mobility in the region, which in turn will enhance trade and development.

COMESA Visa and Free Movement Protocols

The free movement agenda of COMESA is comprised of two key components: (a) Visa Protocol; and (b) Free Movement Protocol. Article 164(3) of the COMESA Treaty 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.

The Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence **(Free Movement Protocol)** was adopted in 2001 but is still not in force. The 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.

[3] See https://au.int/en/overview.

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.

Free movement of services (Article 10): Open participation in the different types of services will be affected 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 then, 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, in line with the General Agreement on Trade in Services of WTO (Mode 4). Examples of service providers in this category include consultants, teachers, researchers and managers of regional/multinational corporations.

The right of establishment (Article 11): 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. Citizens must first become a legally registered self-employed person or a legally registered company in the target COMESA country.

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.

3.2.4. Continental visa access

The *Africa Visa Openness Report 2020* found that 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 by 28 per cent and 24 countries reported having e-visa platforms. Of the African countries, 44 per cent offered an eVisa.

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 (Africa Visa Openness, n.d.).

3.2.5. Regional Economic Communities' visa access

RECs with visa-free access for citizens of member States: Citizens of ECOWAS member States are able to easily enter and reside in other member States without a visa (ECOWAS, n.d.a and n.d.b).

Only three COMESA countries have no visa requirements for COMESA citizens: Mauritius, Rwanda and Seychelles. COMESA countries that have implemented the COMESA Visa

Protocol for at least 50 per cent of COMESA member States include Kenya, Madagascar, Malawi, Eswatini, Uganda, Zambia and Zimbabwe. Additionally, Zambia has waived visas and visa fees for all COMESA citizens on official business and for citizens of other COMESA member States on a reciprocal basis.

3.2.6. Common Market for Eastern and Southern Africa progressive trade facilitation processes

Traditionally, trade facilitation improvements have always focused on making it more efficient and cost-effective for goods to cross borders, without considering the human element. Indeed, all definitions of trade facilitation focus purely on goods, related procedures and documentation.

Historically, trade facilitation initiatives have focused primarily on large volume commercial traders, to the exclusion of small-scale cross-border traders who trade in much smaller volumes and are not likely to meet the participation criteria for commonly used trade facilitation solutions.

In Module 1 (Small-scale cross-border trade in COMESA) of this training package, it was noted that numerous initiatives have been implemented all over the world to make trade facilitation processes more efficient and cost-effective. However, the improvements rarely target the challenges faced by small-scale cross-border traders conducting legal trade. Secondly, the improvements do not consider the integration between human mobility and cross-border trader.

COMESA has developed several trade facilitation measures; however, their implementation is slowed down by the following: (a) slow instrument development processes; and (b) voluntary adoption and compliance.

(a) **COMESA customs document**: A common customs document recognized in all COMESA countries eliminates the need to complete new forms every time a particular consignment of goods crosses a COMESA border. This saves time.

(b) **COMESA Certificate of Origin**: Within each country, specific agencies are authorized to issue a Certificate of Origin to confirm that an item was produced within its borders. The rules of origin are used to determine the country in which a product was produced or manufactured. This is important because goods produced or manufactured within COMESA enjoy preferences over goods produced or manufactured outside COMESA.

(c) **Common licences, charges and seals**: The use of shared or common regulatory documents increases efficiency in trading because the shared documents are recognized as valid in all the participating member States.

    - COMESA Yellow Card insurance scheme: The Yellow Card provides regional third-party motor vehicle insurance and compensation for medical expenses in participating COMESA member States. It may be purchased from an insurance company and is not valid in the issuing country.

- COMESA carrier's licence: This single licence allows commercial trucks to legally operate in all participating member States. The holder may transport goods in both directions of a return journey say, from Zambia to Zimbabwe and back from Zimbabwe to Zambia.
- COMESA harmonized road transit charges: This specifies a uniform COMESA road transit charge for trucks.
- COMESA regional customs transit guarantee scheme: The scheme allows for the movement of transit goods under a single, unbroken custom seal within COMESA countries. This reduces customs delays when goods transit through more than one COMESA country.

(d) **Non-tariff barrier reporting, monitoring and elimination mechanisms** The COMESA member States agreed to create National Monitoring Committees to track and resolve NTBs reported in their respective countries; however, many of these committees are yet to be operationalized. In the meantime, members of the business community who wish to report NTBs they encounter may use the following web-based NTB reporting mechanism: https://tradebarriers.org/register_complaint.

3.2.7. Progressive trade facilitation solutions for cross-border traders

Simplified Trade Regime

The Simplified Trade Regime (STR) is an arrangement implemented by member States of COMESA to formalize and improve the performance of the small-scale cross-border traders and enable them to benefit from the regional preferential treatment when importing or exporting goods within the region (Regional Integration Implementation Programme, n.d.).

COMESA's STR targets small-scale traders importing and/or exporting goods on the Common List of Eligible Products between two neighbouring countries, worth 2,000 U.S. dollars (USD) or less in transaction value. STR provides simplified customs clearance procedures that make it easier for small-scale traders to cross the border using a simplified Certificate of Origin and a simplified customs document. Participating member States include Burundi, Kenya, Malawi, Rwanda, Uganda, Zambia and Zimbabwe (COMESA, n.d.).

Trade Information Desks

COMESA has established Trade Information Desks (TIDs) at some COMESA borders. Uniformed Trade Information Desk Officers (TIDOs) provide information and documents to traders. In some countries, TIDOs are authorized to issue simplified Certificates of Origin.

3.3. Definitions of cross-border traders

An IOM think piece (*Making the Case to Integrate Human Mobility into Cross-border Trade and Trade Facilitation*) states that CBT is an important source of livelihoods in the COMESA region and is driven by several factors including the following: (a) resource/income differentials between countries; (b) geographical contiguity; (c) established informal commercial links; (d) existing border markets; (e) high unemployment and lack of skills; (f) high unemployment rates in the region; and (g) commodity price differences between countries (IOM, 2020).

CBT is characteristically small scale and often dominated by women (up to 80%) and youth. It is often the trader's primary source of income and in many parts of Africa, is largely informal in nature.

While definitions of informal CBT vary, most of the definitions cast informal CBT (the activity) and informal cross-border traders (the operators) in an unfavourable light. For instance, "informal cross-border trade" is often taken to mean illegal CBT. Some of the negative tags associated with illegal trade include, but are not limited to, trade in illicit goods, and trade through ungazetted border crossings by individuals who do not have the proper travel documents. Yet informal trade does not actually mean illegal trade. Informal CBT may include illegal trade but that is not what it is limited to.

According to one definition,[4] "informal cross-border trade" refers to trade in legitimately produced goods and services that escape the regulatory framework established by the government, thereby avoiding certain tax and regulatory burdens. These goods and services may be traded through the following: (a) informal (unregistered) traders operating entirely outside the formal economy and passing through unofficial routes, without the necessary travel and entry/stay requirements; or (b) formal (registered) traders who fully or partially evade trade-related regulations and duties. With reference to the second category above, registered traders crossing through official or gazetted border posts on occasion may: (a) under-invoice (that is, report a lower quantity, weight or value of goods to pay lower import tariffs); (b) misclassify (that is, falsify the description of products so that they are misclassified as products subject to lower tariffs); (c) misreport the country of origin; or (d) bribe customs officials.

Cross-border traders may avoid the use of formal structures due to the challenges they encounter when attempting to use those structures. These challenges include but are not limited to the following: (a) difficulties in accessing trade- and immigration-related documentation; (b) long waiting times at the borders; (c) corruption and sexual harassment of women traders; and (d) inadequate knowledge of border immigration and customs formalities (IOM, 2020) (see Module 1: Small-scale cross-border trade in COMESA).

3.3.1. Traded goods

SSCBT is characterized by the purchase of goods in one country, to be resold in the trader's home country. Trade is dominated by trade in both processed and unprocessed agricultural produce. In Southern Africa, traded agricultural commodities include the following: (a) vegetables, sweet potatoes, cassava, plantains, groundnuts, cowpeas, sugar beans and green maize; (b) fruits, such as bananas and mangoes; and (c) sugarcane, wheat, livestock feeds and dried fish (Blumberg et al., 2016).

3.3.2. Food security

It is widely agreed that in 2005–2006 when the COMESA region experienced critical food shortages, foodstuffs traded informally greatly lessened the impact of the food crisis. Small-

[4] See https://imf.org/en/Data/Statistics/informal-economy-data/Reports/rwanda-measuring-informal-cross-border-trade.

scale cross-border traders continue to be recognized as main contributors to the food security of their host countries (ibid.).

3.3.3. Services provided

In terms of services provided by small-scale cross-border traders, a study conducted in Southern Africa found that women provide private domestic work and care work, hairdressing, and prostitution. Men provide vehicle mechanical repairs, construction services as carpenters and masons, and also serve as petrol station attendants (ibid.).

3.3.4. Categories of cross-border traders

Migrant cross-border traders may be labour migrants or economic migrants who are self-employed or employed. Other categories of cross-border traders may include large-scale commercial traders, medium-size traders, formal or informal traders and small-scale cross-border traders engaged in informal trade, formal trade or both.

3.3.5. Immigration perspective

Immigration data captured at a country's borders tracks the entry and exit of people through designated border points. The data collected does not include a provision for "traders", the nature of business they conduct or the types of goods they trade in. Instead, traders fall under the general category of "business visitors".

As a result, an opportunity to collect important data on the nature of trade conducted by cross-border traders who use designated border crossings is not currently being leveraged.

3.4. Available data on traders

The lack of data on small-scale cross-border traders results in the absence of evidence to support not only the CBT–migration link but also the value of the broader contribution of small-scale cross-border traders to their economies. Furthermore, due to border porosity in Africa, human mobility and trade occur largely outside the official designated border posts, where activity goes unrecorded (IOM, 2020). This results in their continued exclusion from evidence-backed policy decisions.

According to an IOM report, currently, migration data is typically obtained from two main sources: stock data and border data (ibid.). *Stock data* refers to the people living in a country at a specific point in time, including those who have migrated into the country. Stock data is obtained from administrative records such as the national census and does not provide information to inform the specific business activities of migrants.

Border data captured at a country's borders tracks the entry and exit of people through designated border points. Data collected at the COMESA borders includes time and location of entry/exit, nationality, gender, purpose of entry, visa classification and permit type if applicable. The information is useful for security purposes, but in its current format does not provide any evidence to inform trade-related policy. This is because the immigration data collected on all business visitors' groups them in generic business categories that do not provide information on the sector, nature or type of business activity to be conducted in the country.

Migrant cross-border traders may be labour migrants or economic migrants who are self-employed or employed. Other categories of cross-border traders may include large-scale commercial traders, medium-size traders, formal or informal traders and small-scale cross-border traders engaged in informal trade, formal trade or both. Additionally, middlepersons, “transporters” and other individuals involved in the movement of goods across the border all fit under the category of business visitors. Current data collection systems, however, do not provide this information.

This is a gap which, if addressed, would contribute towards a better understanding and more accurate quantifying of the number of cross-border traders crossing a border, the frequency with which they cross the border and the nature of their business; all data would support the existence of a link between trade and migration and also provide sound evidence to inform policy and the harmonization of policies and actions across the COMESA region. The collection of more detailed immigration information at designated borders would also eliminate the need for the occasional surveys that today are used to estimate the movements of cross-border traders in the COMESA region.

3.5. Regional and national policy coherence on trade and border management approaches

In the countries of COMESA and the broader 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.

- Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment (African Union Free Movement Protocol of 2018 (African Union, 2018): By May 2021, only 33 of 53 member States had signed the Protocol (African Union, 2019).[5] The only five member States to ratify the Protocol are the Comoros, Djibouti, Somalia, Mauretania and Mozambique (Africa Regional Integration Index, n.d.). The 15 countries must ratify the Protocol in order for it to enter into force.
- The 2020 launch of AfCFTA: In keeping with the integration objectives of the 1991 Treaty establishing the African Economic Community. Formal trading 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 African Continental Free Trade Agreement and to date, 26 member States have ratified it (AfCFTA, n.d.).

[5] 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).

Within the COMESA regional integration agenda, the removal of barriers to the movement of persons and those relating to goods are two sides of the same coin (IOM, 2020). However, a harmonized approach must be adopted in relation to policies, laws and procedures to facilitate cross-border migration and trade in the region.

In the COMESA-EAC-SADC Tripartite Free Trade Area, each REC has independent free movement and trade arrangements with different provisions that make the harmonization of arrangements across the tripartite area difficult (although not impossible) to achieve.[6] Progressive implementation of regional agreements, overlapping REC memberships and different levels of regional integration also contribute to harmonization challenges.

Of the Free Movement Protocols in Africa, only the EAC Protocol is in force (EAC, 2010). The COMESA Visa Protocol is in force and will remain so until the COMESA Free Market Protocol comes into force. However, the Visa Protocol has not yet been fully implemented. Implementation is progressive, and only three COMESA countries (Mauritius, Rwanda and Seychelles) offer visa-free entry to citizens of COMESA Partner States.

3.5.1. Considerations for traders (Inclusion) in the protocols

COMESA Visa Protocol

Visa requirements have not been eliminated across the region. In the member States where visas are required for entry, prohibitive visa costs may drive traders to cross into those countries through non-designated entry points. The repercussions for traders apprehended for crossing the border in this manner far exceed the cost of obtaining the visa. However, some traders are willing to take that risk.

COMESA Free Movement Protocol

The current COMESA Free Movement Protocol only addresses the free movement, right of establishment and residence of skilled labour (with recognized qualifications) and certified service providers. These two categories exclude the low to unskilled labour and unregistered businesses that dominate the informal sector in which the majority of small-scale cross-border traders are found.

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.

[6] The 2016 launch of the Tripartite Free Trade Area (TFTA) by the Heads of State and Government of COMESA, East African Community and SADC member States. TFTA sought to consolidate the trade arrangements of all three Regional Economic Communities into a single trade regime and coordinate regional joint project implementation.

In addition to the restrictive provisions therein, the current COMESA Free Movement Protocol is being implemented progressively, with each member State independently determining its rate of implementation. Member States are free to undertake individual, bilateral or multilateral arrangements outside the Free Movement Protocol that suit national objectives. The resulting lack of harmonization of travel requirements, provisions and privileges across COMESA member States poses challenges for travelling traders who may face different sets of costly travelling requirements as they attempt to travel across the region to trade.

Travelling traders who are found to be travelling without what are believed to be the required travel documents may face harassment at the hands of border immigration officials or other government security agencies within or beyond border communities.

3.5.2. Free movement intersection with migration policy

Limited to no policy guidance is available on managing the intersection between migration, human mobility and trade. National immigration legislation is often outdated and focuses primarily on border control rather than trade facilitation, with limited harmonization of procedures to facilitate CBT and migration (IOM, 2020).

African Union

The 2015 African Union launch of Agenda 2063: The Declaration on Migration in Agenda 2063 is Africa's blueprint and master plan for transforming Africa into a global powerhouse in the future.

Agenda 2063 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. Subsequently, the Migration Policy Framework for Africa and Plan of Action (2018–2030) provided guidance for countries wishing to formulate migration policies.

The framework includes mention of trade and migration, strictly in relation to the contribution of migrants. The contribution of non-migrants such as cross-border traders is not addressed. The framework also includes provisions related to the harmonization of border management. However, different African Union documents provide different definitions of key border management concepts, specifically IBM and CBM concepts.

Common Market for Eastern and Southern Africa

The COMESA Treaty provides guidance on free movement under Article 164. However, the Treaty does not provide member States any guidance on regional migration policy (IOM, 2020). Although member States may have national immigration policies, the policies are independent of each other, focus on border control versus trade facilitation and may also be outdated such as the Malawi Immigration Act of 1964.

In Southern Africa, Malawi, Zambia and Zimbabwe are developing national migration policies, in line with the African Union Migration Policy Framework.

3.5.3. Trade-related legislation

Trade-related legislation tends to omit provisions that relate to the movement of people (ibid.). For example, the COMESA Model Law on Immigration of 2004 that was provided to guide member States serves to "regulate the entry into and the remaining within (member State) of immigrants and visitors to provide for the removal from (member States) of criminals and other specified persons" (Model Immigration Act). Although it includes important immigration provisions, the law does not address trade facilitation. This presents a missed opportunity to acknowledge the intersection of migration and trade.

To illustrate further, Zambia's Border Management and Trade Facilitation Act of 2018 (National Assembly of Zambia, 2018) was important for trade facilitation; like the COMESA Model Law on Immigration, it omits reference to mobility of persons in connection to trade or human rights principles (IOM, 2020).

The adoption of common frameworks related to IBM/CBM are a mandatory requirement if harmonized approaches and policy coherence are to be achieved across COMESA and the broader AfCFTA.

3.6. Integrating human mobility and cross-border trade facilitation – six pillars

(Section 3.6 is largely summarized from IOM, 2020.)

3.6.1. Pillar 1: Facilitation of the movement of persons across the border through effective border management

This pillar expands the scope of facilitation of movement of persons in order to decrease the time and cost for travellers across borders. The pillar goes beyond the removal of barriers to trade to include the liberalization of excessive immigration control measures through visa liberalization, access to travel documentation, increased cooperation and coordination at borders and other measures including border residency arrangements.

Free movement of persons: Visa liberalization

Visas are used to control the entry and stay of foreign nationals in a country. Although there is no internationally recognized definition of a visa, broadly speaking, a visa is a "conditional authorization granted by a country before arrival to a foreign national, allowing the traveller to enter and remain (often for a limited duration) in the country".

The cost and time for an individual to obtain a visa can increase the cost of CBT. According to the COMESA Business Council, several COMESA countries charge visa fees. These fees can vary between USD 80 and EUR 80 respectively. Related obstacles can include delays and lack of uniformity in the application of visa and immigration procedures and passenger checks.

Visa liberalization and the eventual removal of visa requirements is the most direct link between trade and cross-border human mobility within a regional integration context. In the COMESA context, visa liberalization and the eventual removal of visas, as outlined in the COMESA Visa Protocol, is also the first stage of the COMESA Free Movement Protocol.

The COMESA Visa Protocol includes a policy on border residence passes/cards, which calls for the voluntary issuance of **laissez-passer** to residents of border communities to facilitate their movement. However, a harmonized definition of: (a) the distance past the border that is considered to be part of a border community; and (b) border residents and the privileges they are entitled to does not exist.

Therefore, there is a lack of consistency by COMESA member States on what a visa is and how it is applied (Veerassamy and Watts, 2016). Several COMESA member States have introduced the "visa on arrival" concept to facilitate movement and yet retain an important source of revenue for immigration authorities. The loss of revenue from visas is regarded as an important barrier to the full implementation of the COMESA Visa Protocol (Watts, 2017).

Visa-free travel does not necessarily give the right to trade; some countries specify that an individual is not able to enter the country for economic purposes without a corresponding permit. In addition, individuals may still be required to comply with additional immigration formalities, such as proof of return, funding for duration of stay and proof of address while in the country.

Moreover, even where visa liberalization is practiced, some States do not have visa policies or complete/updated immigration legislation and regulations in place that would include, inter alia, prerequisites for entry and the conditions upon which permission is granted.

It remains the prerogative of the immigration officer at the border to determine whether or not an individual can enter the territory. With or without a visa, immigration officials can also refuse entry on grounds, including national security, law and order, public health or morality. A number of countries include provisions in their legislation to refuse entry for "prohibited persons". In accordance with national legislation and international law provisions, law enforcement officers have the right to detain individuals who do not meet immigration requirements, or to remove them from the territory.

Solutions under development

COMESA has encouraged its member States to take a gradual implementation approach to visa liberalization and removal of visas, which can include individual and bilateral initiatives, as permitted under Article 164 of the COMESA Treaty.

- A COMESA business visa is under development by the COMESA Business Council. The concept behind the visa is the creation of a common multiple entry visa applicable for businesspersons in the region. Discussions are ongoing to examine ways of introducing free movement of businesspersons within the context of the Tripartite Free Trade Area. The provisions of the COMESA business visa focus on big business with branches in the countries of origin and destination. Therefore, even if eligible, the corresponding costs for small-scale cross-border traders will likely be too high.

- Five COMESA member States, including Malawi and Zambia, are pushing for the implementation of a memorandum of understanding (MOU) on the Accelerated Programme on Economic Integration among themselves. The purpose of the MOU is to facilitate regional integration based on the principle of variable geometry. The MOU includes measures such as those that facilitate the movement of businesspersons and professionals within the Accelerated Programme on Economic Integration countries. It proposes temporary employment permits and long-term employment permits in government priority areas.

Current solutions

- In the COMESA region, Mauritius, Rwanda and Seychelles have eliminated visa requirements for citizens from COMESA countries.
- EAC countries provide a free visitor's visa stamp with limited validity (up to six months) to citizens of EAC.
- 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.
- For most countries in Southern Africa, there is no visa requirement in place for nationals of countries within the region. This means that individuals who wish to enter (a neighbouring country) for trade purposes can do so for periods ranging from between 30 and 90 days without a visa.
  - In 2015, Malawi adopted a new visa regime that reciprocated to all countries that did not require visas for Malawian nationals to enter their territories.
  - Zambia has amended its Immigration and Deportation Act to provide for the issuance of a cross-border permit. The permit is valid for a period of six months and can be obtained by an individual who is a member of a COMESA/SADC State and/or shares a border with Zambia. The permit costs 1,500 kwacha (ZMK) (approximately USD 76)[7] to attain and ZMK 2,250 (approximately USD 185) to renew.
  - Zimbabwe has relaxed visa requirements for all COMESA countries except for Djibouti, Eritrea and the Sudan.
  - The Democratic Republic of the Congo has slightly relaxed its visa system for some African countries; however, visas are required for several African States, including within the COMESA region.
- The Democratic Republic of the Congo and Malawi have reciprocal visa arrangements, as does Zambia. In the case of the Democratic Republic of the Congo and Zambia, visas cost USD 50 and are valid for 90 days. For an individual from the Democratic Republic of the Congo (who is not a border resident) who wishes to engage in trade in Zambia, he or she can obtain a Zambian business visa, which is valid for 30 days. After 30 days, if the traveller still wishes to do business, he/she

[7] Currency conversion from mconvert.net as of 24 February 2023.

will need to obtain a cross-border permit, which is valid for up to 6 months. This permits the traveller to cross the border for up to 6 months within a 12-month period. It is specifically intended to provide possibilities for trade and requires the applicant to specify where to trade and is for use by COMESA and SADC nationals. Once the 30 days of visa-free travel have expired, the traveller may be required to obtain a visa or some form of permit, which comes at an additional cost, increasing the associated cost of CBT. In Zambia, a traveller wishing to trade outside of the 30 days of visa-free travel must obtain a business or cross-border visa.

Travel documentation

Requiring that all travellers, including traders, must have a travel document to cross international borders, can increase the cost of trade due to the costs involved in obtaining and using travel documentation.

The COMESA Visa Protocol defines a travel document as: "a passport or any other valid travel document establishing the identity of the holder and containing his photograph, issued to him … by the Government of the Member State of which he is a national and on which endorsement by immigration authorities may be made".

In Zimbabwe, an IOM study found that individuals often use emergency travel documents rather than a passport to cross the border at Chirundu OSBP (IOM, 2020). When asked, traders confirmed that this was due to the cost of obtaining a passport. Reliance on an emergency travel document is also likely due to the lack of a cross-border permit in Zimbabwe.

Lack of access to travel documentation may also have important ramifications for women traders with small children. During the study, it was identified that at Mchinji border control post (BCP), women small-scale cross-border traders who are breastfeeding leave their children at home in the absence of travel documentation.

Traders who cross the border frequently with a passport as their legal travel document quickly accumulate stamps and require costly document renewal. Passport costs vary and are approximately USD 67 in Malawi and USD 100 in Zambia. Passports are only issued in the capital city and require various supporting documents, including birth certificates.

Current solutions

Once in force, the African Union Free Movement Protocol requires member States to cooperate in the process of identification and issuance of travel documents (Article 9). Furthermore, the introduction of an African Union passport is intended to provide a unified travel document for African nationals to travel within the continent. To date, however, the African Union passport has only been introduced to high-level diplomats.

In the ECOWAS region, individuals can travel within the region with only their identity cards. 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. No such arrangements exist in Southern Africa.

Border infrastructure and border management information systems

The facilitation of the movement of goods and people can be hampered by a lack of infrastructure and immigration information technology (IT) systems, including border management information systems (BMIS), as well as insufficient information and data-sharing between authorities operating at the border, which can slow down cross-border checks.

Border infrastructure rarely caters for the needs of small-scale traders, often forcing them to share the clearance area with trucks and other vehicles, which increases insecurity and slows down procedures. Border infrastructure is also rarely designed principally with the movement of people in mind or to respond to potential mass movement in case of a human-induced or natural disaster; this is the case both for traditional border posts, as well as OSBPs.

Border and migration management assessment (BMMA) provides a useful tool for the undertaking of a comprehensive analysis of the major elements of national migration control systems including legislation, policy, procedures, passport/travel documents, visa issuance, entry/exit controls, monitoring and reporting.

BMMA also serves to provide guidance on border infrastructure, as well as IT solutions. IOM-supported BMMAs have been undertaken at key BCPs in Zimbabwe and select BCPs in Zambia, including Kasumbalesa.

BMIS are government immigration systems that capture exit and entry data on people crossing the border. They are important data capture tools that improve efficiency, allowing for real-time data capture, and effectively collecting, processing, storing and analysing information to identify travellers, data collection and analysis. This allows countries to better track the movement of people across borders that can be useful for trade-related purposes.

BMIS can determine potential blockages and pinpoint where CBT and transport costs accrue to enact corrective policy measures. Data captured from BMIS can also serve to support operational policymaking, including ascertaining staffing allocations required at borders. While strides are being made in the introduction of customs systems, with most countries having an automated customs data system such as ASYCUDA or ASYCUDA World in place, no global BMIS exists.

Border management information systems limitations

BMIS limitations have implications on understanding the cross-border mobility of persons as well as the interface with trade.

- Countries usually have a national BMIS, sometimes more than one, which creates challenges of interoperability and data exchange between systems. There are also significant challenges in terms of BMIS coverage.

- In an IOM study, it was found that approximately 70 per cent of all borders in the COMESA region capture data manually at the BCPs/ports of entry (IOM, 2020).
- Where BMIS exist, border passes may not be machine-readable travel document compliant, therefore most BMIS cannot easily capture biodata unless an officer enters it manually. This takes time and slows down movement. Furthermore, many borders are subject to power cuts and shortages. Data therefore cannot be sent to immigration headquarters in real time to generate statistical reports. Data is not systematically captured and analysed for planning purposes.
- Additionally, immigration offices at the BCPs may not have the capacity to carry out detailed analyses of the BMIS data and produce information on frequency of crossings, and location of crossing while avoiding the double counting of persons crossing the border.

Integrated/Coordinated border management

Experts agree that effectively linking trade facilitation and migration calls for cooperation within border management agencies and across different border management agencies in order to provide trade facilitation solutions, migration solutions and security solutions that make it easier, faster and more cost-effective for cross-border traders to trade. In return, streamlined border management systems and practices will allow for more secure border environments, as well as the tracking and capture of accurate data on the cross-border movements of cross-border traders, their activities and the value of the goods and services they trade in must be tracked in order to inform policy and decision-making.

On the other hand, inadequate and uncoordinated border management, both within and between countries, is a possible barrier to trade facilitation, as it can increase delays and lengthen border processing times. Inefficient border management impacts not only on large-scale trade at borders but also on small-scale and informal cross-border traders, in particular women and young girls who cross borders daily. Regional and national policy and operational coherence is central for IBM/CBM approaches to work.

African Union

The previous position has been embraced by the African Union as first demonstrated in the draft African Union Strategy for Enhancing Border Management in Africa of 2012, which referenced cooperative border management (African Union, 2012). The Strategy refers to cooperative border management as a cohesive government response to the challenges of border management, through the cooperation of public authorities across sectoral and international boundaries towards a shared goal: "to balance the easy and legal movement of humans and goods and the prevention of illegal activities, human and national insecurity through effective and efficient joint arrangements".

Subsequently, the 2020 African Union Strategy for a Better Integrated Border Governance was adopted by the Thirty-Third Ordinary Session of the Assembly of Heads of States and Governments. The Strategy offers recommendations to African policymakers that enable them to align border governance with the objectives, values and principles of the African

Union. It proposes guidelines for the development of national and regional border policies (African Union, 2017a).

While the Strategy does not specifically mention IBM by name, the document points to a cooperative, integrated and capability-led approach to not only border management but also engagement with and the development of the surrounding border community. As previously mentioned, IBM seeks to provide open yet well-controlled, secure borders through efficient and coordinated border management.

The principles illustrated in the Strategy align with the principles of IBM. However, there is currently no detailed guidance for States on how to operationalize an IBM approach within the relevant pillars and principles envisioned for this new paradigm of border management (IOM, 2020). Furthermore, as previously mentioned, different African Union documents provide different definitions of IBM and CBM concepts, which makes harmonization and/or the adoption of a single approach difficult.

Customs agencies frequently favour a CBM approach, which focuses on the following: (a) trade facilitation mechanisms; (b) WTO provisions on border cooperation, which include the streamlining of the number of border agencies operating at the border; (c) standardization of border operating hours; and (d) nomination of customs agencies as the lead border agency.

While there are subtle differences between IBM and CBM approaches, both focus on a three-pillared coordination approach to increase border efficiency and effectiveness, which includes the following:

(a) intra-agency cooperation, which refers to internal cooperation within a border agency;

(b) inter-agency cooperation, which refers to cooperation among national border agencies;

(c) cross-border/international cooperation, which includes bilateral cooperation and international cooperation. Both approaches also place emphasis on risk identification and risk management approaches.

From an immigration and human mobility perspective, both CBM and IBM approaches need to be pursued at the national and BCP levels. Whereas CBM focuses on customs coordination, emphasis is also required in coordinating immigration and human mobility issues, including the six pillars reviewed in this training module: facilitation, health, protection, capacitation, humanitarian responses and security (IOM, 2020).

Key to an IBM approach includes addressing irregular migration, as well as putting into place border control measures comprising of border checks and surveillance, cooperation with neighbouring countries, bilateral agreements, establishing working mechanisms, exchange of information and putting into place measures with a broader range of international stakeholders that include border security measures.

Malawi, Zambia and Zimbabwe are developing national approaches on IBM/CBM. It is currently to be determined whether development of national migration policies will include details of the IBM approach being developed. The Government of Malawi has issued a cabinet directive to reduce the number of agencies at the border to five.

The implementation of IBM/CBM approaches present the following challenges that call for harmonization:

- In the absence of regional guidance, each State is pursuing its own IBM/CBM approach. In some countries, IBM and CBM approaches are being pursued concurrently.
- Customs is usually the lead agency at the border, and most commonly where CBM approaches are being pursued. Immigration agencies, while consulted on CBM approaches, do not always sufficiently articulate their needs or challenges. Customs agencies tend to be better equipped than immigration in terms of resources, infrastructure, equipment and automation.
- There is also an assumption that there are no changes required to immigration practices with the introduction of streamlined CBM processes at BCPs; while in reality, issues to address may include outdated or incomplete immigration legislation and regulations, lack of BMIS coverage and specific migration-related procedures required at OSBP, which are not necessarily considered in the analysis of CBM requirements.
- There is frequently a lack of understanding by border agencies, at all levels, as to what IBM/CBM implies with insufficient awareness-raising undertaken. In some contexts, there is a mistaken belief held by some officials that immigration agencies are no longer required at the borders, with other agencies taking up their functions. Yet, even where streamlining and restructuring of border cooperation occurs, in the longer term, much greater level of trust between border agencies is required to ensure effective coordination and cooperation.

One-stop border posts

The OSBP concept promotes a coordinated and integrated border management approach to facilitating trade, the movement of people and improvement of security. The concept eliminates the need for travellers and goods to stop twice to undertake border crossing formalities, calling for the application of joint controls to minimize routine activities and duplications. It therefore reduces the journey time for transporters and travellers and shortens the clearance time at border crossing points.

OSBPs must tackle human mobility challenges that are common to traditional national border controls that also require much deeper bilateral coordination and engagement, including the standardization and compatibility of the legal/regulatory framework, institutional structures, procedures and processes, infrastructure and equipment, information and communications technology (ICT) and capacity strengthening.

The *One-Stop Border Post Sourcebook* (African Union Development Agency-New Partnership for Africa's Development, 2016) was launched, with contributions from IOM, and provides guidance on how to design and operationalize the OSBP concept, including legal and institutional frameworks, simplification and harmonization of procedures, as well as ICT and data exchange and hard infrastructure. While focusing predominantly on trade and customs related procedures, it also includes some basic provisions regarding immigration formalities, including IT requirements.

OSBPs require both hard and soft infrastructure components. As with other BCP, the OSBP design – including roads, bridges and other supporting infrastructure – is often designed to speed up the flow of goods rather than of people. Donor support is frequently aimed at hard infrastructure measures but may not integrate issues that are relevant in the cross-border movement of people.

The design and layout are crucial to the success of OSBP, as a badly designed OSBP will lead to bottlenecks and delays. A human rights approach to the design of OSBP (and BCP) considers border communities as integral to their operations. The process of developing OSBP (and BCP) operations, therefore, should also include consultations with border communities through their representatives at the community level.

IOM is currently implementing a project, funded by the European Union under the Eleventh European Development Fund (EDF) in the Great Lakes region, to increase CBT and reduce intercommunity tensions between Rwanda and the Democratic Republic of the Congo through the construction and capacity-building of an OSBP between Rusizi II (Rwanda) and Bukavu (Democratic Republic of the Congo).

Focus is placed on human mobility elements including health into the OSBP design and operations. IOM works closely with TradeMark East Africa, with the latter providing the hard infrastructure and IOM the soft infrastructure components.

Soft infrastructure, including bilateral agreements, national legislation and operational coordination guidance, are critical but are more frequently overlooked or only temporarily sustained, including by the donor community.

The legal and regulatory framework is the most important aspect of an OSBP, as it involves the extraterritorial application of laws. An OSBP requires a bilateral agreement between the two countries that are operating it. The bilateral agreement should set out how to operate the OSBP and the controls to be exercised within the common control zone. The agreement also: (a) defines the sequencing of controls and the powers of officers in the host State; (b) defines the immunities of foreign officers; (c) establishes the handling of offences in the common control zone; and (d) sets out the management and maintenance of the OSBP facilities. National legislation is also required, which is accompanied by States' obligations in international law, set out procedures to be followed, inter alia, in most immigration situations.

A successful OSBP requires close inter-agency and cross-border collaboration and cooperation, with comprehensive institutional structures in place that address issues or problems quickly to ensure the smooth running of the border. Such institutional structures are required at various levels, including ministerial committees and joint steering committees, which include top government officials, as well as technical-level committees.

Operational and procedural guidance is required on a range of issues, including the following: (a) sequencing of the controls; and (b) handling of irregular migrants, including victims of trafficking and smuggled migrants, as well as OSBP-specific policy, such as in the detention of migrants. Operational guidance is also necessary in relation to defining where foreign officers can exercise their powers, legal protections afforded to officers operating on foreign soil, officers' responsibilities within the OSBP, codes of conduct and any limitations in the functions of the border officer role on foreign soil, as well as OSBP facility maintenance. Routine training and capacity-building is required on all legislative and operational matters for border officials to effectively implement their duties.

A rapid BMMA conducted to inform the OSBP development process at the Chirundu OSBP (Zambia–Zimbabwe) and the Mwami–Mchinji OSBP (Zambia–Malawi) found that while national legislative provisions apply in the majority of immigration scenarios, there is a need for specific and different provisions at OSBP where in-country rights of appeal apply, applications for asylum and potentially regarding the detention of migrants on foreign soil.

While providing detailed recommendations, one of the most important findings of the rapid BMMA is related to the limited functioning of the relevant committees that are in place to ensure smooth operations, as well as the lack of procedural implementation including outdated and underutilized or non-existent standard operating procedures (SOP).

At Chirundu, it was identified that SOPs, which were drafted in 2010, have not been implemented. It was also identified that there is a considerable need for joint operations and joint training at both inter-agency and cross-border level. For Mwami–Mchinji, which has yet to become an OSBP, the need for increased cross-border cooperation and joint meetings was identified.

Operational one-stop border posts

By 2020, EAC had fully operationalized and trained personnel at several OSBPs. This has reduced the time taken by travellers (including small-scale cross-border traders) and trucks at the borders from several days to an average of 1.5 minutes and 30 minutes respectively (EAC, 2018). OSBPs provide an example of the efficiencies that result from shared cross-border infrastructure.

Within the COMESA countries, there are a total of 12 functioning OSBPs at the following borders:

(a) Busia (Kenya–Uganda)

(b) Chirundu (Zambia–Zimbabwe)

(c) Elegu–Nimule (Uganda–South Sudan)

(d) Malaba (Kenya–Uganda)

(e) Moyale (Ethiopia–Kenya)

(f) Mutukula (United Republic of Tanzania–Uganda)

(g) Tunduma–Nakonde (United Republic of Tanzania–Zambia)

(h) Taveta–Holili (Kenya–United Republic of Tanzania)

Positive results reported

- 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.

Border residency arrangements and provisions for cross-border traders

The creation of border residency arrangements, including the issuance of cross-border permits, is one measure States have used to facilitate the mobility of border residents and decrease the cost of cross-border travel by providing low-cost travel documentation for cross-border traders that can be used for multiple crossings over borders.

Border residency arrangements are generally put in place between two countries for whom a visa is required, or in cases where a border residency card can be recognized as a valid travel document, instead of a passport or ID card.

However, there is no COMESA standard in border residency arrangements or their application. There is a lack of bilateral agreements and where national level arrangements are in place, they do not necessarily include traders. Additionally, border residency travel documents are not always recognized by immigration authorities. Consequently, there are several challenges with border residency arrangements in CBT.

Border residency arrangement challenges

- The following are the challenges at BCPs: (a) lack of standardized/incomplete legal arrangements; (b) limited cross-border cooperation; (c) differences in the border pass (including type of border pass, categories included, different validities and costs); (d) lack of data capture mechanisms; (e) lack of security mechanisms; and (f) disparities in policies; for example, at the Chirundu border posts, one country issues border passes while another does not (the difference mainly being that on the

Zimbabwean side, there is a national park next to the border, while on the Zambian side, the case is different). Cross-border traders may not fall within the definition of a border resident or be entitled to the specific provisions set out within a border residency arrangement. In many cases, border residents are defined as those who cross the border for social, cultural or family ties, rather than individuals who cross the border for economic purposes and income generation.

- Some countries lack specific provisions within their national legislation or a MOU/ agreement with a neighbouring State that details the border residency arrangement and how it is applied. Where agreements do exist, there is inconsistency of and discretion at the border regarding application.
- A lack of regional standardization in the definition of a border resident, and the definition of a border resident/distance from the border may vary from border to border and country to country. Countries with border residency arrangements often put into place border residency passes (also known as cards or permits) to enable mobility of border residents according to the conditions set out in the border agreement. Countries in COMESA region have several types of passes, permits and cards in use with different durations, validity and costs.
- Differences in the geographical scope (the width of the border area) of the border pass. The border passes are usually valid for a radius of at most 20 km. from the BCP, although this is frequently loosely defined.
- A lack of accurate and up-to-date information regarding the number of community members/traders who cross the border. Data regarding cross-border traders is generally not entered into BMIS. For most countries in the COMESA region (where border residency arrangements exist), border passes are frequently paper based and (when) registered, are manually in book ledgers. As the movement is not registered within BMIS, there is often no record of the nature or frequency of cross-border trader movements. Additionally, paper-based border cards rarely include security features and may be subject to fraud or falsification, and there can be abuse of the system; individuals crossing the border may not use the pass for the purposes that it is intended. Enrolment and issuance procedures can be problematic in contexts where travellers lack basic identity documents (either a birth certificate or a national ID).
- Authorities also lack the capacity to electronically verify identity and determine eligibility of the person presenting a border pass.

Examples from Southern Africa

Bilateral arrangements between countries also exist. For example, a COMESA/International Labour Organization 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, are not electronic and vary in format, cost and validity terms. Information from the documents is not entered into a BMIS and therefore, information on the document holders is not captured.

Zambia and Malawi: Zambian local community members can travel on border passes for which they pay an equivalent of USD 1. At Mwami, they pay ZMK 3 for the border pass, which is generated by the new Zambia Immigration Management System BMIS. The validity of the border pass is different for each border; along the Zambia–Zimbabwe border, a border pass is valid for three months. Along the Malawi–Zambia border, it is valid for one round trip and is surrendered at the BCP on return. Along the Zambia–Zimbabwe border (Chirundu, Kariba and Victoria Falls border posts), the border passes are handwritten and not machine readable. At Mwami, the border pass is system-generated from the Zambia Immigration Management System.

Zambia and the Democratic Republic of the Congo: At Kasumbulesa, on the Democratic Republic of the Congo side, immigration authorities issue a *jeton*, which is valid for one day. There are limited inspections of those presenting their border pass; lack of pass (Kasumbulesa) means individuals can be arrested, detained and sent back across the border. The Kasumbulesa BCP is a special case in point as one of the busiest BCPs for SSCBT in the COMESA region; it is said that more than 6,000 small-scale cross-border traders cross the border each day, although exact figures are unknown as data is not captured by the BMIS on respective sides of the border.

Zambian border residents who wish to trade in the Democratic Republic of the Congo can access a daily border pass, which is free of charge. Middlepersons and touts sell *jetons* (a paper-based pass) on the Democratic Republic of the Congo side. Cross-border traders include individuals from the local community to as far as Lubumbashi in the Democratic Republic of the Congo. A border pass can be obtained by a small cross-border trader taking one's national registration card and a document that proves residency (usually a utility bill) and presenting it to immigration authorities. The Zambian border pass has a validity of 30 days.

As part of the COMESA-managed Eleventh EDF project, IOM is supporting the development of an *e-jeton* system to be piloted at Kasumbalesa BCP to capture data on exit/entry movements of small scale cross-border traders at the Kasumbalesa BCP. The pilot project is expected to put in place an electronic travel document (currently being described as an *e-jeton*) for local border trader communities to formulate a system for the issuance of the travel document that is robust and not open to abuse, which includes the use of biometrics, as well as facilitate movement of local traders through Kasumbalesa BCP.

Increasing cross-border trader knowledge and information provision regarding immigration procedures and formalities and health requirements

Several tools, instruments and platforms have been designed to address gaps in knowledge on trade formalities and procedures that can lead to trade informality and irregularity, which increases the cost of trade.

Module 1 identified information asymmetry as one of the challenges that make it difficult for small-scale cross-border traders to trade. Traders and border officials often have different information on immigration, trade requirements, rules and regulations. Even within a border agency, the officers may have access to different levels of information. This sometimes leads to the unnecessary harassment of traders by border officials who have not received training or information on the prevailing regional trade and movement rules and regulations. Traders are particularly vulnerable to law enforcement agents sometimes taking advantage of their lack of knowledge.

A 2019 IOM case study on CBT and border management in COMESA region noted that women cross-border traders are especially vulnerable to abuses from officials when crossing borders, including bribes, sexual and physical abuse, as well as extortion and the confiscation of goods (IOM, 2020).

Arguably, the lack of knowledge and available information regarding immigration formalities, including travel documentation and visa requirements, as well as health formalities (such as the requirement for a yellow card) could also hamper the cross-border movement of people and the goods that they move with, in particular in times where there are cross-border disruptions. In the absence of studies, information obtained from entities such as cross-border traders' associations indicates that a lack of knowledge regarding formalities encourages the movement of persons outside of gazetted border posts. Information can serve not only to inform cross-border traders but also to empower and protect them.

Current solutions

In some COMESA countries, existing trade tools platforms and portals do not include information on immigration and health-related formalities and procedures. In EAC, on the other hand, simplified guides on EAC trade rules and regulations include immigration and health-related formalities and procedures.

National trade information portals have been established in the EAC countries as well as in Malawi and in Zimbabwe. Traders are able to access all relevant trade rules, regulations, procedures, fee schedules and forms from all border management agencies through a single user-friendly website. However, the online information portals only address formal trading procedures and do not include the simplified trade procedures extended to traders operating under the COMESA and EAC STRs for transactions that are equal to or less than USD 2,000.

At the regional level, COMESA has also established a trade portal that mainly focuses on providing data on trade (exports and imports) including intra- and extra-COMESA trade.

For small-scale cross-border traders who are unlikely to have access to information provided on websites or other electronic portals, TIDs, as well as TIDOs have been deployed at some COMESA borders to provide information on the relevant formalities, including the STR. The capacity of TIDs as well as the extent to which they receive resources varies widely across the different BCPs.

Cross-border traders' associations (and similar organizations such as women in business associations) exist in all COMESA countries. These are non-governmental bodies that represent and defend the interests of small-scale cross-border traders by informing and advising traders about their rights and obligations. However, these associations tend to be weak, poorly equipped, have low membership, are not formally registered and face human and financial resource constraints.

A Small-Scale Cross-Border Traders' Charter has been formulated with World Bank support. The Charter enshrines a basic set of rights and obligations for traders and officials to address lack of awareness, the mutual distrust and the inaccurate information that induce the traders to choose informality. At present, COMESA has piloted the use of the charter at the Mwami–Mchinji BCP. The Charter has also been launched in Rwanda and Uganda.

3.6.2. Pillar 2: Health, trade and cross-border population mobility

There is room for increased collaboration across border agencies managing/handling trade facilitation, public health and security.

Current border health management practices may cause the disruption of transborder flows of people and goods during public health emergencies. The recent COVID-19 global pandemic and recent outbreaks in the COMESA region of Ebola, cholera, yellow fever and hepatitis have demonstrated this.

Delays in border crossing due to inefficient health screening, refusal of passage due to inadequate health documentation (vaccination, "yellow" card or a negative COVID-19 test) and cumbersome data recording methods, as well border closures to control the spread of epidemics all have the potential to disrupt trade and affect the economic well-being of cross-border traders and national economies.

Trade facilitation perspective

Trade facilitation measures generally focus on sanitary and phytosanitary measures related to food safety and animal and plant health measures to the exclusion of the health and safety of travellers and the capacity of border officials in managing efficiently the risks of human-to-human disease transmission.

Public health and global health security perspective

The significant increase in population mobility through BCPs and congregation of visiting traders at populated major border trading areas such as markets has the risk of increasing the transmission of communicable disease, including diseases such as cholera, HIV, tuberculosis, Ebola and malaria. In conducting regional trade, traders may travel long distances, interacting with local communities and traders along the way, often with interrupted or limited access to essential health services that help to prevent and treat infections in a timely manner. This contributes to public health risks.

Provisions in international standards

The World Health Organization's (WHO) International Health Regulations (IHR, 2005) is a binding legal instrument to which all COMESA member States are signatory. IHR aims to "prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade" (WHO, 2014).

IHR requires member States to develop a core set of surveillance, detection and outbreak response capabilities, with specific provisions of requirements at designated BCPs including public health management measures that protect the right and dignity of travellers and minimize disruption of travel and trade, including avoidance of border closures. Included are requirements for the following:

(a) Access to appropriate medical services (with diagnostic facilities);

(b) Services for the transport of ill persons;

(c) Trained personnel to inspect transport vehicles;

(d) Maintenance of a safe environment;

(e) A programme and trained personnel for the control of vectors and reservoirs;

(f) A public health emergency contingency plan;

(g) Capacities for responding to events that may constitute a public health emergency of international concern, including disease screening and facilities for the quarantine of suspected cases.

A recent series of IHR compliance assessments of COMESA member States showed sub-optimal average scores of between 1 and 2 out of 5 (IOM, 2020). International airports received good scores. However, ground crossings and water ports lacked capacities to routinely apply standardized procedures and demonstrated limited to no readiness in responding to public health threats such as epidemics. This poses a risk to the health of cross-border traders, local communities and national economies.

The 2013 IOM report *A Rapid Assessment of Access to Healthcare at Selected One Stop Border Posts in East Africa* found that health and social problems at OSBPs extend beyond infectious and non-infectious diseases (IOM, 2013). Shortage of safe water, unhygienic sanitary conditions and poor housing settlements exacerbate the already precarious socioeconomic status of communities at the borders. Barriers encountered while accessing health services at the borders include the following:

(a) Long distances to health facilities and the inability to afford the cost of basic health care;

(b) Inadequate medicines, health supplies and human resources at the existing health facilities;

(c) Poor availability of health services at some border posts;

(d) Stigma and fear to access health services;

(e) Limited knowledge on how to access health care;

(f) Policy variations among countries affecting access to health, particularly access to antiretroviral therapy for HIV.

Other studies examining trader health in the region have highlighted the lack of sanitation facilities and unhygienic conditions at BCPs as being a particular public health risk particularly detrimental to women traders (United Nations Conference on Trade and Development, 2019).

Minimal cooperation between port health authorities and other border agencies

Port health authorities (generally mandated by ministries of health) tend not to routinely share information with other border agencies. Collection of data is generally conducted separately, and to an extent in parallel; for example, in some instances, place of intended stay, origin and basic biodata are collected by both port health (using traveller health declaration cards) and immigration authorities.

At ground crossings, where traveller health declaration cards are used less frequently, port health may have even less access to traveller population data that could be useful in understanding flows and related risks that support public health planning and threat preparedness.

Ongoing solutions to the challenges

In partnership with the immigration and health authorities of Burundi, the Democratic Republic of the Congo, Madagascar, South Sudan and Uganda, IOM has initiated a series of projects for the development of national SOPs for designated points of entry, the development of infrastructure and the training of port health and border authorities to meet both national and international standards.

At borders where BCPs are exploring the use of electronic cards for passage, similar IT infrastructure could shorten screening processing times for travellers while increasing analytic capabilities for all border agencies and authorities.

3.6.3. Pillar 3: Mainstreaming gender and protecting vulnerable groups including cross-border traders

Harassment, corruption, bribery, gender-based violence and physical assault are regular features of CBT, particularly for women. Traders may also be requested to provide sexual favours that may increase the possibility of STDs and spread of HIV (IOM, 2020).

Women traders are among the most vulnerable groups, and compared to their male counterparts, suffer disproportionately from the various constraints, challenges and risks related to CBT. Women experience trade barriers differently from men due notably to established social norms and differences in domestic and professional responsibilities. Moreover, border agency staff, including immigration officers, are mainly men. A 2019 IOM case study on CBT and border management in the COMESA region noted that women are also more vulnerable to abuses from officials when crossing borders, including bribes, sexual and physical abuse, as well as extortion and the confiscation of goods (ibid.).

Text box 3.1. Women cross-border trader challenges in Southern Africa

One of the main challenges is that sometimes security personnel do not respect the rights of border pass holders. At the Chirundu Zimbabwe BCP, it is a common sight to see Zambian women with baskets on their heads and children strapped on their backs being chased away and denied exit from the border control zone by the security personnel, despite having passed through all the border control procedures. Likewise, respondents in Mchinji reported that holders of valid border passes from Malawi can be arrested and detained by immigration officials in Chipata for no apparent reason.

Source: IOM, 2019b.

The Eleventh EDF project by COMESA envisions the following:

- Designing specific interventions to address the abuse, mistreatment and marginalization that traders face through measures like training, sensitization and information-sharing activities, strengthening reporting instruments, infrastructure development and the promotion of good practices at the borders from a gender perspective.
- Building the capacity of cross-border trader associations (and similar associations such as women in business associations) to sensitize and increase their female membership, strengthen monitoring concerning gender disaggregation of data and research/analysis and knowledge on the challenges and needs faced specifically by women traders.

From a migration and human mobility related perspective, BCPs need to both address abuse and harassment faced by cross-border traders and also provide protection for other groups of vulnerable migrants and mobile populations including refugees, prima facie refugees, trafficked persons and unaccompanied children. Additionally, other groups of individuals need to be correctly identified and referred to the relevant authorities, such as victims of gender-based violence, persons with disability and other vulnerable groups.

Text box 3.2. Examples of cross-border cooperation from Malawi, Zambia and Zimbabwe

IOM provides support through the following:

- Address protection concerns, including assistance and referral to relevant authorities, the development of legislation and regulations, operational guidance, as well as capacity-building for border officials on issues such as protection of victims of trafficking and unaccompanied migrant children.
- Establish cross-border migration management stakeholder forums for increased bilateral coordination.

Malawi, Zambia and Zimbabwe have implemented the following:

- A national referral mechanism and SOPs for the identification, referral, protection and safe return of victims of trafficking.
- Sustainable border forums at various BCPs including Chirundu OSBP. The Chirundu Cross-Border Migration Management Stakeholder Forum has provided opportunities to discuss protection of unaccompanied migrant children, stranded children and vulnerable migrants.

In 2017, Malawi put into place the first Cross-Border Migration Forum with Mozambique.

Source: IOM, 2019b.

3.6.4. Pillar 4: Empowering and capacitating cross-border traders

With CBT being an important source of livelihood in the COMESA region, yet largely informal in nature, the provision of traders with the skills, knowledge and information for increasing their income-earning capacity and encouraging them to trade formally could yield several positive results in terms of their contribution to the formal economy while also indirectly reducing the NTBs they face.

The example in Text box 3.3 demonstrates the impact of equipping cross-border traders with skills, knowledge and information. The traders now trade formally through their cooperatives and have expanded their activities into other productive sectors.

Text box 3.3. Pro-Femmes Twese Hamwe, Rwanda

This is an umbrella association of 53 women's economic empowerment associations representing over 45,000 individual members. Between 2012 and 2018, with support from TradeMark East Africa, Pro-Femmes organized over 3,000 women cross-border traders into 63 cooperatives with over 3,000 members. The women cross-border traders received training on regional trade rules and regulations and access to markets and finance. Today, those cooperatives are thriving, with the cooperatives expanding into other productive sectors (such as agroprocessing and tailoring) and providing affordable loans to members.

Source: https://profemmes.org/.

3.6.5. Pillar 5: Humanitarian response – Facilitating cross-border trade in times of migration crisis

Natural and human-induced disasters in the past have helped magnify the link between health mobility and trade and also exposed gaps in border management policy and procedures.

Recent global pandemics – such as severe acute respiratory syndrome (SARS), Ebola and COVID-19 – have all been spread around the world by human travel. The movement of large, unexpected numbers of people across a border as they seek safety has a disruptive effect on border functions. Furthermore, measures put in place to manage the movement of persons in these situations and also protect the countries being entered into may have negative consequences for those seeking safety and was seen during the COVID-19 pandemic on economies as well.

These situations and the measures to contain them have underscored the importance of cooperation and integration within and across borders in the systems supporting health care, mobility and trade.

It is clear therefore, that border management processes while maintaining national safety and security, must also accommodate the needs of persons who may seek to enter a country in the process of escaping from natural or human-induced disasters in their country of origin.

Contrary to the positions held by some regarding the possibility of managing mass cross-border migration with dignity while ensuring national sovereignty, security and health for all affected, there are approaches by which all these objectives may be met.

Conceptualized and developed by IOM, humanitarian border management (HBM) provides a means of addressing the above challenges in an integrated manner, while taking into account the different needs of different categories of persons crossing a border.

Text box 3.4. Humanitarian border management

Also referred to as "crisis border management", "emergency border management" or "emergency preparedness", HBM denotes border operations before, during and after humanitarian crises, which arise from both natural human-induced disasters and which trigger mass cross-border migration. The goal of HBM is to manage borders in a way that protects crisis-affected migrants and guarantees their human rights and interests, while respecting national sovereignty and security.

Source: IOM, 2020.

HBM advocates for the equipping of all border agencies with rapid operational mechanisms that are able to effectively respond to humanitarian crises at their borders while continuing to perform their mandated functions and ensuring the dignity of all involved, all at the same time.

It is notable that no guidance on HBM policies is offered to member States in either the African Union Migration Policy or the COMESA Model Law on Immigration.

3.6.6. Pillar 6: Security at borders – Ensuring the bona fide movement of goods and persons

Contrary to a popularly held belief, both border security measures to ensure the legal and safe movement of people and goods and trade facilitation measures to make it easier and cheaper to trade across borders can exist in the same environment.

This misconception – coupled with the challenges faced in implementing free movement protocols across Africa's partner States (see Module 2: COMESA policy framework on free movement) – Africa's RECs find it difficult to harmonize procedures, information mechanisms and cross-border cooperation in order to facilitate CBT and human mobility while upholding human rights standards and effectively addressing transnational crimes and security risks (IOM, 2020).

Without the right risk management procedures and practices in security, customs and immigration, individuals who are not a threat may be targeted for additional security procedures while individuals who are actually a threat escape detection. Similarly, informal CBT may be a cover for illicit trade including trade in contraband and counterfeit goods, as well as the smuggling and trafficking of persons, criminals and terrorists. Security measures need to be tailored to the severity of the risks and threats posed, while upholding human rights standards (ibid.).

In providing free movement guidelines, COMESA Article 8.2 states that the COMESA Council shall adopt guidelines for the exchange of information on suspected criminals and extraction arrangements. Furthermore, Article 11 of both the Trafficking in Persons Protocol and the Smuggling Protocol states that States parties are required to strengthen border controls to the extent possible and, in addition to measures pursuant to Article 27 of the Organized Crime Convention, to consider strengthening cooperation between border control agencies, including the establishment of direct channels of communication.

In practice however, while many COMESA partner States have legislation and mechanisms to counter the trafficking of persons, most do not have national provisions to address migrant smuggling. In spite of the existence of joint border security committees, State border security measures are largely treated as confidential.

Thus, more must be done to meet the dual objectives of strong cross-border security alongside the free movement of persons and goods.

An IBM/CBM approach provides a means of achieving safe and effective cross-border collaboration and cooperation. These approaches both require and facilitate collaboration among the different border agencies including law enforcement, immigration, customs, police and other specialized law enforcement agencies (IOM, 2020).

Examples of collaboration include but are not limited to the following:

- Cross-border and inter-agency cooperation on security measures, such as surveillance, joint controls, operations and patrols.
- Engagement with border communities through control and policing.
- Border management operations grounded in intelligence risk profiling and risk analysis to use resources for targeted actions.
- Partner States:
  - Ensuring the integrity and security of travel documentation used by traders, preventing such documents being forged, counterfeited or fraudulently obtained, and ensuring that the document belongs to the person presenting it.
  - Examining document issuance processes to address the issue of fraudulently obtained genuine travel documents as a means of combating transborder crime.

3.7. Recommendations to improve mobility across Africa

3.7.1. Short-term recommendations

The governments of trading blocs should implement the following measures to improve mobility across Africa:

(a) Scale up visa on arrival programmes;

(b) Simplify the visa application process (offer e-visas);

(c) Offer long-dated visas (such as 10 years);

(d) Ensure positive reciprocity between countries;

(e) Encourage more visa-free regional blocs.

3.7.2. Long-term recommendations

Some measures will require planning and large resource allocations by policymakers but will greatly support improved mobility across Africa in the long term.

(a) Address restrictions to the mobility of various groups including migrants, professional service providers, seasonal workers and cross-border traders such as restrictive immigration laws;

(b) Address the systemic disadvantages that migrants face due to irregular status, such as lack of access to basic services, especially education, health, housing and formal financial services;

(c) Create environments that attract and welcome innovative entrepreneurial forces for economic transformation in emerging industries, such as banking, extractive industries and ICT.

3.7.3. Adopt good practices – Rwanda case study

Rwanda may be said to have Africa's most liberal migration policy. In an attempt to consolidate regional integration and trade as well as boost business and tourism since 1 January 2013, Rwanda has extended visas-on-arrival to all African citizens. Today, Rwanda offers online visa applications and biometric border management through the registration of facial images and fingerprints.

Consequently, Rwanda has enjoyed a 24 per cent-increase in tourism from African countries, a 50 per cent-increase in trade with neighbouring countries. At the Rwanda–Democratic Republic of the Congo border points of La Corniche and Poids Lourds, approximately 25,000 people cross the borders each day, some crossing more than four times a day. Both foreigners and citizens are able to cross the border points in 15 to 30 seconds.

3.8. Barriers to linking migration and trade

Africa's regional integration has not been as fast as one would expect, given the enthusiasm of Africa's pan-Africanists, as well 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.

3.8.1. Perceived security threats

The continued emergence of extremist groups causes countries to close down their borders to non-nationals. To protect their borders from the entry of these insurgents, countries respond by tightening security and entry requirements along their borders.

3.8.2. Lack of resources

Like other countries across Africa, the COMESA countries face a lack of resources (human and financial). This makes it difficult for them to effectively act on mandatory and voluntary regional obligations and/or harmonize policies, practices and procedures across the region.

3.9. Participant recommendations for linking migration and trade

In this section, participants will identify three to four barriers that will make it difficult for their particular agency to link migration and trade in policy, procedure and practice. The participants will develop recommendations to address the identified barriers.

Table 3.1. Barriers and recommendations

	Barrier identified	Recommendation
1.		
2.		
3.		
4.		

3.10. 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 the table that follows.

Table 3.2. Action plan template

	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?

3.11. 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) The solutions 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.

3.12. Module conclusion

Upon completion of this module, participants are able to:

(a) Appreciate the linkage between human mobility, regional integration, trade facilitation and Africa's transformation.

(b) Understand that currently the discourse of trade facilitation has not fully integrated human mobility and that barriers to cross-border human mobility of traders should be conceived of as NTBs.

(c) Underscore the importance of policy coherence and harmonization between trade and immigration at REC and national levels.

(d) Identify the different ways to integrate policy, practice and procedure to mainstream, facilitate and fully harness the migration and trade nexus within the context of SSCBT.

MODULE 3: PRE- AND POST-MODULE QUIZ

1. Which of the following may be used to address the abuse, mistreatment and marginalization that traders (especially women) face at borders?
   - A. Training, sensitization, information-sharing and development of good practices
   - B. Strengthening reporting instruments
   - C. Infrastructure development
   - D. All the above

2. The COMESA Simplified Trade Regime:
   - A. Makes it easier for large companies to trade across the COMESA region
   - B. Permits goods from outside the COMESA region to enter the COMESA trading bloc with zero import tariffs
   - C. Makes it easier for traders with transactions worth USD 2,000 or less to trade within the COMESA region
   - D. Permits all traders in the COMESA region to travel without the use of documents

3. Small-scale cross-border traders may be defined as:
   - A. Both registered and unregistered traders
   - B. Traders engaged in the legal purchase and sale of goods valued under USD 2,000
   - C. Traders who may depend on CBT as their primary income source
   - D. All the above

4. Migration data is typically obtained from which two sources below:
   - A. Ministry of Health and Ministry of Trade
   - B. International Office of Migration and the World Health Organization
   - C. Stock data and border data
   - D. National census and immunization records

5. The migration and human mobility approach to trade has been well addressed in border management policies and processes and procedures.

   True False

6. All COMESA countries provide visa-free access to all citizens of COMESA countries.

   True False

7. Border infrastructure design does not need to take small-scale traders into consideration.

   True False

8. Inadequate and uncoordinated border management, both within and between countries, is a possible barrier to trade facilitation, increases delays and lengthens border processing times.

   True False

9. The African Union migration policy framework does not recognize the contribution of non-migrants (such as cross-border traders).
   True False

10. The EAC Free Movement Protocol is the only free movement protocol fully in force in Africa.
   True False

Quiz answers

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

Annex 1. Continental frameworks and milestones on regional integration

- The African Union's adoption of the Migration Policy Framework for Africa of 2006 (African Union Commission, 2018).
- **The African Union Border Programme** (AUBP) of 2007 (African Union, 2007) adopted by the First Conference of African Ministers in Charge of Border Issues and related Ministerial Declarations in 2010, 2012 and 2016. AUBP seeks to complete the delimitation and demarcation of African borders, to encourage and facilitate cross-border cooperation through joint planning and development of shared cross-border areas and to build the border management capacity of member States in support of pragmatic border management and regional integration activities (African Union, n.d.). The agreement noted the need for AUBP to build partnerships and mobilize the resources required to support the above-mentioned activities. The agreement also directed RECs to provide the legal framework necessary for cross-border cooperation formalization and the establishment of regional funds for financing such cooperation.
    - 2010 Ministerial Declaration: Encouraged RECs to conduct comprehensive inventories of existing border initiatives and agreements in the various regions "in order to popularize them, assess their state of implementation and make recommendations on how they could contribute further to the achievements of the objectives of the AUBP".
    - 2012 Ministerial Declaration: Emphasized the need for collaboration between the continental and regional bodies in border-related policies and initiatives and the application of the principles of subsidiarity, complementarity and comparative advantage.
    - 2016 Ministerial Declaration: Requested effective coordination between the African Union Commission and RECs regarding the implementation of activities together with member States and partners and encouraged the full respect for the principles of subsidiarity and complementarity.

- African Union endorsement of the Action Plan for Boosting Intra-African Trade of 2012 and the fast-tracking of the Continental Free Trade Area.
- **23rd Ordinary Session of the Assembly of the African Union** in 2014: Adoption of the African Union Convention on Cross Border Cooperation (Niamey Convention) (African Union, 2014). The Convention is now open for signature and ratification by the member States and endorsement by RECs. It aims to promote cross-border cooperation, ensure the peaceful resolution of border disputes, facilitate the development of borderlands and ease free movements of persons and goods (African Union, 2017b).
- **The African Union launch of Agenda 2063 i**n 2015: The Declaration on Migration in Agenda 2063 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.
- **The launch of the Tripartite Free Trade Area** in 2016 by the Heads of State and Government of COMESA, EAC and SADC member States. The Tripartite Free Trade Area sought to consolidate the trade arrangements of all three RECS into a single trade regime and coordinate regional joint project implementation.
- **The launch of the updated Migration Policy Framework for Africa** in 2016: The Migration Policy Framework for Africa and Plan of Action (2018–2030) by the African Union and participating RECs. The updated framework provides policy guidelines on managing Africa's current migration dynamics based on eight pillars:
  - Migration governance
  - Diaspora engagement
  - Irregular migration
  - Internal migration
  - Labour migration and education
  - Border governance
  - Forced displacement
  - Migration and trade
- The Protocol to the Treaty Establishing the African Economic Community Relating to the Free Movement of Persons, Right of Residence and Right of Establishment (African Union Free Movement Protocol of 2018) (African Union, 2018): By May 2021, only 33 of 53 member States[8] had signed the Protocol. The only 5 member States to ratify the Protocol are the Comoros, Djibouti, Somalia, Mauretania and Mozambique (Africa Regional Integration Index, n.d.). The 15 countries must ratify the Protocol in order for it to enter into force.
- The launch of the African Continental Free Trade Area (AfCFTA) in 2020: In keeping with the integration objectives of the Treaty establishing the African Economic Community in 1991. Formal trading began in January 2021. AfCFTA

8 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).

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. Out of 55 African countries, 54 have signed the AfCFTA and to date, 26 member States have ratified it (African Continental Free Trade Area, n.d.).

- **The AUBP Continental Strategy for Better Integrated Border Governance** of 2021 (African Union, 2021) seeks to enhance peace and security initiatives, bilateral cooperation, as well as borderland development between and among neighbouring countries.

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