Review of Existing Schemes to Facilitate the Cross-border Movement of Traders in the COMESA Region

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Publisher: International Organization for Migration
4626 Mwaimwena Road
Rhodes Park
Lusaka
Zambia
Tel.: +260 1 25 67 01/02, +260 211 25 40 55
Fax: +260 211 25 38 56
Email: iomlusaka@iom.int
Website: https://ropretoria.iom.int/zambia

Cover photo: The Petite Barrière Point of Entry screening point is one of two border points connecting the densely populated city of Goma in the Democratic Republic of the Congo with Rwanda. More than 60,000 people cross the Rwanda–Democratic Republic of the Congo border at Petite Barriere each day, mainly for trade and economic activities. © IOM 2019/ Muse MOHAMMED

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EXECUTIVE SUMMARY

This report was commissioned to conduct a review of existing schemes in the Common Market for Eastern and Southern Africa (COMESA) region that facilitate the cross-border movement of traders, specifically those engaged in small-scale cross-border trade (SSCBT), and present recommendations for the greater facilitation of this type of mobility.

A literature review of international schemes and those from within the communities highlighted a selection of best practices and important considerations to be taken into account when making recommendations for the greater facilitation of movement of people and goods. These include the following:

- Any regional framework needs to provide enough flexibility to take into account local realities and unique geographic issues.
- The creation of mobility schemes for goods can lead to abuse when there are taxes, excise duties and levies that are applied differently in neighbouring States.
- Applicants for documents at the border are vulnerable to being taken advantage of by customs officials.
- The Jeton is a flexible document that can be used to facilitate a range of economic activities beyond SSCBT and can be designed for different purposes.
- The eJeton, the electronic border pass, provides greater security – with data capture among its features – than the paper border pass Jeton; however, the eJeton has a potential issue with delays caused by system failures.
- The laissez-passer is a document that can allow for greater mobility for small-scale traders that cannot obtain a passport and do not live in the border community (and therefore do not qualify for a Jeton pass).
- There is already a framework that exists for the integrated mobility of goods and traders, which incorporates freedom of establishment.

The mobility of people in the COMESA region operates under an existing framework. The overall scope of coordination for the region is set out in Article 164 of the Treaty Establishing the Common Market for Eastern and Southern Africa (COMESA Treaty), with a more complete framework set out in two protocols – the Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements and the Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence (hereinafter the COMESA Protocol on Free Movement) (which is not yet in force). COMESA member States have taken unilateral, bilateral and regional actions to implement greater mobility schemes; however, the fact that the more liberal Protocol on Free Movement is not yet in force is a serious impediment to regional mobility. In order to improve the harmonization of regional immigration law, the COMESA Model Law on Immigration was designed for member States to use as a base for their immigration law, thereby harmonizing immigration laws in the region.

Other regional African frameworks outside of COMESA offer benchmarks. Arguably, the most important of these are the ID card for travel schemes operating in the EAC and the ECOWAS. Although these schemes are limited due to the difficulty and expense of obtaining the necessary national ID card, allowing for travel on a biometric ID card alone provides COMESA with an example of improved mobility for people that can be aspired to.

The primary mobility schemes for individuals considered in this report are the passport, the Jeton, the eJeton and the laissez-passer. The passport is a document theoretically available to all; however, it is expensive and difficult to obtain and therefore not often used by small-scale cross-border traders. The Jeton is a paper document that allows those that live in the border areas to travel across the border without a passport; however, the paper format means it is not linked to electronic data capture systems and lacks any real security features. The eJeton is an electronically issued Jeton that largely corrects the identified deficiencies of the Jeton. The laissez-passer is a document that can be issued to any citizen and operates as a passport for entry to other countries that recognize it. It does not have the same cost or application requirements as a passport and can therefore be issued at regional centres rather than only in the capital, making it more accessible. This document provides an important alternative for traders who live outside of the border community (and therefore do not qualify for the Jeton) and struggle to obtain a passport due to the cost or administrative requirements.

The two schemes for the mobility of goods that were analysed in the report were the de minimis scheme and the simplified trade regime (STR). The de minimis scheme allows traders to carry goods up to a specified value across the border duty-free. Although not usually used as a trade facilitation scheme (in the majority of cases, the de minimis is a personal allowance scheme), there is some precedent, with South Africa implementing a de minimis scheme for small-scale Mozambican traders carrying homemade crafts. The STR, on the other hand, is a means for small-scale traders to access the benefits offered under free trade agreements (FTAs) by simplifying the administrative requirements needed to qualify for them. The STR faces significant challenges, such as lack of awareness and lack of transparency; however, where it has been implemented and used by traders, it has proven popular for its ease of use and for decreasing trader costs.

Various border visits were conducted during the project. These visits highlighted important issues on the ground, including the following:

- The Jeton is widely used and popular; however, traders often face long queues when applying for one and, at some borders, they have to pay bribes to obtain a Jeton pass quickly.
- Different border posts have different rules for the issuance of the Jeton, such as the cost, validity and the distance they allow for travel.
- The operation of the laissez-passer differs depending on the border.
- National passports are seldom used by small-scale traders due to their costs and the hassle of applying for one (which can often only be done in the capital).
- There is a lack of transparency with regard to the STR at most borders, with STR common lists not displayed and little information publicly available to traders. As a result, many traders do not know about the STR or what goods are covered under it.

Based on the field visits and the research conducted, the following primary recommendations were made:

- In the medium to long term, countries should aim to replace the paper Jeton with the eJeton, due to the latter's capacity to be linked with an electronic data storage system and provide strong biometric security features.
- The implementation of the eJeton needs to be accompanied by sufficient infrastructure to ensure its smooth operation, as well as education and awareness programmes for traders and customs officials.
- While the eJeton is processed online, countries should retain the paper-based Jeton. In order to create a more uniform regional policy, COMESA should consider issuing guidelines on the design and operation of the Jeton scheme.
- The COMESA Model Law on Immigration should be amended to include a laissez-passer provision, and a guideline should be issued to assist implementation, modelled on the existing Rwandan laissez-passer.
- The STR should be expanded throughout the COMESA region where possible and combined with policies for greater transparency and awareness programmes to improve uptake where the scheme has already been implemented. Member States will have to consider potential abuse (such as avoidance of excise duties) when creating any mobility scheme for goods.
- An integrated approach to facilitating small-scale trade, which incorporates mobility of traders, mobility of goods and freedom of temporary establishment, can be promoted using guidelines for the COMESA region.

Table 1 provides an overview of the individual mobility schemes discussed in the literature review and fieldwork sections.

Table 1. Overview of mobility documents

	Passport	Identity card for travel	Laissez-passer	eJeton	Jeton
Whose movement, in the context of cross-border trade (CBT), does it primarily facilitate?	Available to all; used by large traders, capital-to-capital traders and businesspeople	Anyone with access to an ID; country specific	Large and small traders travelling within the designated region	Small border community traders crossing the local borders	Small border community traders crossing the local borders
Requirements	Fee (USD 100 in Zambia, USD 300 in the Democratic Republic of the Congo, 75,000 Rwanda franc (RF) in Rwanda); national ID; passport photo; sometimes birth certificate or other documents; application made in the capital (or sometimes at regional hubs)	Fee (RF 5,000 in Rwanda); photograph(s); application form; other identity documents (such as a birth certificate)	Fee (RF 5000 in Rwanda, USD 5 in the Democratic Republic of the Congo); proof of identity; passport photo	Proof of identity (national ID or voter's card); proof of residence	Proof of identity (national ID or voter's card); proof of residence

	Passport	Identity card for travel	Laissez-passer	eJeton	Jeton
Validity	Several years	Several years	Depends on design (2 days in Rwanda or 20–30 minutes in the Democratic Republic of the Congo)	Depends on design	Usually a single day
Processing time	Days (Rwanda), weeks (Zambia), months (Democratic Republic of the Congo)	Days (Rwanda), weeks (Zambia)	3 working days (Rwanda)	3–30 minutes, depends on the design	3–5 minutes
Coverage	Universal	Universal	Universal	Border community	Border community
Security	Allows for advanced security features	Incorporates various security features to prevent counterfeiting and fraud	Can be similar to a passport (Rwanda) or have few security features (Democratic Republic of the Congo)	Incorporates various security features to prevent counterfeiting and fraud	No security features
Formalization	Usually used by formal traders	Can provide a pathway to formalization	Depending on design, can be a pathway to formalization (Rwanda design) or not (Democratic Republic of the Congo design)	Depending on design, can be a pathway to formalization	No real pathway to formalization

Table 2 summarizes the interactions between travel documents and the necessary mobility schemes that need to be kept in mind when considering any recommendations. Documents, such as a passport or a laissez-passer, do not guarantee mobility on their own and need to be paired with another scheme, while other documents require special recognition from partner countries in order to function.

Table 2. Interactions between mobility schemes and mobility documents

	Where you have a/an				
	Passport	**Identity card for travel**	**Laissez-passer**	**eJeton**	**Jeton**
You need	A visa or a visa-free agreement	A mutual agreement on an ID for travel	A mutual agreement recognizing the document, which can include removing the visa requirement for travel	Recognition of the border pass as a valid alternative travel document (no additional visa required)	Recognition of the border pass as a valid alternative travel document (no additional visa required)

1. INTRODUCTION

1.1. Cross-border trade in the Common Market for Eastern and Southern Africa

In many of the border communities in Common Market for Eastern and Southern Africa (COMESA), and more broadly in Africa, small-scale cross-border trade (SSCBT) provides business and employment opportunities and contributes to food security, allowing millions of people to have access to lower-cost goods and services unavailable domestically.[1] Small-scale trade is a survival mechanism and a means of employment for at least 45,000 traders in the Great Lakes region.[2] About 3 million metric tons of staple food commodities were traded informally in East Africa in 2013.[3]

1.2. Migration and trade facilitation

With informal cross-border trade (ICBT), the trader's movement and the trader's economic activities are inextricably linked to each other. Ultimately, full economic integration in regional economic communities (RECs) such as the COMESA will allow for the free movement of goods, services, traders and investment. However, realizing this ambition is still some way off. Currently, various measures ease the movement of traders, and the goods they carry, across borders. These include mechanisms that reduce the administrative burden for transporting goods across the border (as with the simplified trade regime (STR)) or ones that specifically allow for the visa-free and duty-free movement of traders and their goods (as with the "border market token" under the Jeton system in the Democratic Republic of the Congo and Rwanda).

1.3. Project objective

The key objective of the consultancy is to review existing mobility schemes and trade facilitation mechanisms to make expert recommendations, in the COMESA/tripartite context, with the aim of contributing to the enhanced design and effective implementation of trade-mobility facilitation instruments for small-scale cross-border traders in the COMESA region.

1 Dr. Nene Morisho Mwanabiningo, *Deriving Maximum Benefit from Small-scale Cross-border Trade between DRC and Rwanda* (London and Nairobi, International Alert and TradeMark East Africa, 2015).

2 Kristof Titeca and Célestin Kimanuka, *Walking in the Dark: Informal Cross-border Trade in the Great Lakes Region* (London, International Alert, 2012).

3 Food Security and Nutrition Working Group (FSNWG), Market Analysis Subgroup (MAS), "East Africa crossborder trade bulletin" (January 2014).

The requested services include:

- A comprehensive review of existing mobility schemes and trade facilitation mechanisms, primarily within the COMESA and the broader tripartite RECs and complemented with insights and findings from global examples;
- Remote and in-person interviews to collect primary data and first-hand insights from key stakeholders;
- Preparation of recommendations to complement the design and implementation of trade-mobility facilitation instruments for small-scale CBT across COMESA by the COMESA Secretariat, relevant departments and agencies, and IOM.

1.4. Structure of the report

Section 2 of this report sets out a literature review of international and regional experiences with mobility schemes and some of the lessons learned. Section 3 looks at the regulatory frameworks for the mobility of traders and discusses some of the most relevant mobility schemes in more depth. Section 4 similarly looks at the regulatory framework for the small-scale trade in goods, both within and beyond the COMESA region, and discusses two of the most relevant schemes in more depth. Section 5 contains a summary of relevant information gleaned from fieldwork undertaken during this project, with reports from Goma–Gisenyi, Kasumbalesa, Chirundu and Mwami–Mchinji included. Section 5 focuses on the mobility schemes in operation at these borders; however, additional research on access to markets and discussions with stakeholders is included. Lastly, section 6 provides recommendations for mobility schemes in the COMESA region, based on the information and insights set out in sections 2–5.

2. LITERATURE REVIEW

This section investigates the literature around mobility schemes for people and goods both in Africa and internationally. By looking at the legal structure and evidence from the actual operation of various schemes around the world, lessons can be drawn out for use in any future schemes. The successes and failures of these schemes are the basis of recommendations presented in this report, which are hoped to be more robust and insightful. Therefore, it is important to look closely at the biggest issues and most important outcomes of these schemes. Section 2.1 examines the two schemes operating on different continents (Europe and Asia), while section 2.2 looks at the evidence from schemes currently in operation on the African continent.

2.1. International experience and lessons

2.1.1. European Union

The European Union operates under a framework of almost complete freedom of movement for citizens of member States, and most European Union members have signed on to the common external visa policy known as the Schengen Agreement. These policies, however, represent a far greater level of integration that is feasible in the COMESA region, given that even the most ambitious proposals do not recommend getting rid of internal borders in the near future, nor would such a policy be feasible. As a result, these policies are beyond the scope of this report. However, the European Union does operate a border pass scheme with its non-European Union neighbours, which can provide a more relevant example for the mobility of persons.

The European Union border pass arrangements operate under a common framework set out by regulation that presents both the aims/objectives of the policy and the minimum requirements. However, the regulation does not present a fully operational border pass policy in and of itself. The operational requirements and specific details of a particular border pass are set forth in a bilateral treaty negotiated between a European Union border State that wishes to implement this policy and its neighbouring non-European Union partner State. This bilateral treaty sets forth the requirements for the border pass programme that will operate at the specific border in question. While individual border pass programmes may not violate the general requirements set out by the European Union regulation, there is considerable scope within the regulation for customization where it is deemed necessary. For example, States may set their fees (so long as these are no more than charged for a short-term, multiple-entry visa) or make the pass free and can vary the time that a pass is valid for (so long as it is not shorter than one year and not longer than five years). The form that the border pass takes can also vary, with some issued as a sperate card (the most common form), while others can take the form of a sticker in a valid passport.

Table 3. Summary of the European Union border pass regulation

Legislative source	General rules – Corrigendum to Regulation (EC) No. 1931/2006 Border-specific rules – Each European Union State with an external border can make specific rules and regulations in bilateral agreements with their neighbours so long as the general European Union rules are adhered to.
Area of validity	This is valid in the “border area”. The border area should be defined as an area no more than 30 kilometres from the border but can, in some circumstances, reach up to 50 kilometres.
Length of validity	The length of each border crossing may not exceed three continuous months. The permit will be valid for a minimum of one year and a maximum of five years.
Fee	The fee for the permit may not be more than the fees charged for short-term, multiple-entry visas.
Who can apply	Border residents who have been lawfully resident in a “border area” for at least a year can apply.
Documents required	It is necessary to present a local border traffic permit (issued under the relevant bilateral agreement in question) with an identifying photograph attached and a valid traffic document if that bilateral agreement requires it.

Lessons from Poland’s experience with the local border traffic

Poland has a local border traffic (LBT) agreement with the Russian Federation, negotiated under the European Union’s rules for LBT treaties. However, during negotiations between the Russian Federation and Poland, it became clear that the general rules set out for member States under the European Union’s regulations would not be appropriate to Poland. The Russian Federation area that borders Poland is the exclave of Kaliningrad, which is separated from the rest of the Russian Federation and bordered by only European Union member States (Poland and Lithuania) and the Baltic Sea. Under the European Union’s original rules, Poland could only offer to include citizens living up to 30 kilometres from the Polish border in the LBT scheme; however, this would create a relatively arbitrary border halfway through the city of Kaliningrad, which was deemed a less than ideal outcome for both sides. To allow for an exception to be made for Poland so that it can include a larger area of Kaliningrad under the LBT, Poland had to engage with the European Commission and negotiate a change to the European Union treaty governing LBT agreements, a cumbersome and time-consuming process.

Poland’s experience indicates that while regional framework agreements for mobility schemes are useful for influencing the implementation of these schemes and creating best practices, there needs to be some space for nations to change the rules to fit their own unique geographic and historical situations.

Local border traffic experience with tax avoidance

As one of the European Union’s external border States, Latvia shares borders with non-European Union member States – the Russian Federation and Belarus. Since 2013, Latvia has had operational LBT agreements with both of these countries, allowing Latvians who live in border areas to cross the borders relatively freely, while Russians and Belarusians living in the border areas have a corresponding entitlement to travel to Latvia visa free.

The LBT arrangements signed between Latvia and Belarus make frequent trips across the border cheaper and easier for residents that live in border areas. This, in turn, creates an issue for both governments with regard to the trade of certain goods that have higher taxes on one side of the border than the other, such as cigarettes, alcohol and automotive fuel. In order to combat this, legislative measures have been implemented with varying degrees of strictness and success. An example of this is the duty enacted via special legislation in Belarus, which imposes a levy on exported motor fuel on persons that travel abroad by a vehicle more than once per five days (soon changed to once in eight days). The measure has been implemented in all Belarusian border areas (covering those travelling under all mobility schemes); however, those living close to the Latvian border are able to bypass the duty by travelling to Latvia via the Russian Federation (the duty does not affect those travelling between Belarus and the Russian Federation, as the two nations are in a customs union).[4] In response to this loophole, Latvia has enacted a law on excise duties, which has changed the definition of "commercial activity" to include those travelling by motor vehicle across the border more often than once per seven days, requiring excise duties on goods transported in this manner. The new law only allows for a duty-exempted quota of 40 cigarettes, 1 litre of strong alcoholic beverage, and 90 litres of motor fuel (roughly a standard fuel tank plus a 10-litre reserve can) once per week and has provoked some protests in certain border area communities.

The European Union's experience with border passes has highlighted that:

- Regional frameworks must be flexible enough to deal with the unique geographic realities that are present at the national level;
- Border crossing regimes that allow for exemptions from tax can create space for the abuse of tax differentials that can occur between two countries on certain goods (such as petrol, alcohol and cigarettes).

2.1.2. Cambodia–Thailand

Thailand and Cambodia share important economic ties, and the borders between the two are extremely active. There is a strong pattern of labour migrants moving from Cambodia to Thailand, with an estimated 650,000 Cambodians working in Thailand. Research indicates that the driving force behind this migration is the lack of opportunities in Cambodia and higher wages on offer in Thailand.[5] These workers then send remittances back home to their families in Cambodia, which are important to the welfare of these families and an important part of the local Cambodian economy, especially in rural villages. There is also an important SSCBT component to the economic interaction between these nations, with small-scale cross-border traders in operation at border posts like Poipet. The Agreement between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on Border

[4] Andrei Yeliseyeu, "Latvian visa-free border zones with Russia and Belarus: what are they and why", Latvian Institute of International Affairs (LIIA) working paper (Riga, LIIA, 2013).

[5] IOM, *Assessing Potential Changes in the Migration Patterns of Cambodian Migrants and Their Impacts on Thailand and Cambodia* (Bangkok, IOM, 2019).

Crossing between the Two Countries sets out the parameters for the border pass programme between them and largely governs the cross-border migration.

Article 4 of the Agreement presents a list of reasons that a border pass may be issued for. This list includes visiting relatives, tourism, official duty, business, sports, daily or seasonal working, and attending seminars, meetings or conferences. Article 4(1)(g) provides space for the two States to add further reasons if they wish by mutual agreement. The list of valid purposes for obtaining a border pass does differentiate this agreement from those, such as between the Democratic Republic of the Congo and Rwanda (included in the fieldwork section in section 5 of this report), which does not require a reason to obtain a pass, but the list is extremely broad and thus most people should not have a problem obtaining a pass.

Like most other border pass programmes, only those "permanently residing in the border area may apply for a border pass" as specified under Article 4(2). Article 7 indicates that the border pass is valid for two years from the date of issue, with the potential for an extension of not more than two years according to each party's regulations. Article 7 also states the border pass will be valid for multiple entries and exits and allow for a standard period of seven days per visit in the border area of the other party (with a longer period of up to 15 days allowed by approval from the relevant authorities). Seasonal workers shall be permitted to stay in the border area for periods of 30 days at a time. These provisions allow for far longer stays and multiple entries/exits, which contrasts with COMESA border passes that usually expire after 24 hours. This provides greater certainty to traders and workers, who use the pass and open it up for easier use to those who work in the border area rather than simply trade across the border. This allows for deeper economic links across the border, for example by allowing businesses on the Thai side to hire Cambodian workers that live on the other side of the border. The fact that the pass is valid for two years means that these workers do not need to queue each time they cross, saving time and decreasing congestion. The special provisions for seasonal workers also give them greater flexibility with regard to the type of work they can do and the distance from the border they can work, as they will not have to return home every seven days but rather can stay across the border for up to 30 days at a time.

Issue of abuse of small traders under the scheme

In recent years, several issues have been flagged regarding the use of border passes between Cambodia and Thailand. For years, small traders have complained about being charged "informal fees" by officials at the border, which has ended up increasing the actual price of the border pass to several times the actual price under Thai law. In 2018, Thailand changed how the border pass was issued at the Poipet border checkpoint in an attempt to cut out informal payments demanded by officials at the border. Instead of applying at the border where such informal payments were rampant, applicants would instead have to submit their applications at the provincial office for a fee of USD 5 and wait five days for their two-year border passes to be issued. Although sceptical of the change and inconvenienced by having to apply at the provincial office, local traders welcomed the reduction in informal payments that they faced.[6] By moving the application location away from the border (where oversight is more difficult) to the provincial office, it is hoped that small traders will not be forced to pay bribes to get their passes.

[6] *The Phnom Penh Post*, "No protest after Thai border policy changed" (9 January 2018).

Thailand's experience with the border pass Jeton shows that:

- It can facilitate a wide range of economic activities across different borders.
- It can be designed for longer-term economic activities and for multiple entries and exits.
- The longer-term border pass allows for greater economic integration, providing greater certainty to those crossing borders and broadening the range of economic activities they can engage in. This makes this form of best practice the goal that should be aspired to.
- The power of border officials to issue the Jeton can result in them abusing applicants, which undermines the smooth operation of the scheme.

2.2. Regional experience and lessons

2.2.1. Goma–Gisenyi (Democratic Republic of the Congo–Rwanda)

In 2015, a study was conducted on Rwandan and Congolese small-scale cross-border traders operating at the Goma–Gisenyi/Rubavu and Bukavu–Rusizi borders between the Democratic Republic of the Congo and Rwanda.[7] The report identified several features of small-scale trade at these borders. Only 31 per cent of small-scale traders knew of the existence of the trade information desk (TID) operation at the border, and of those who knew about it, only 15 per cent had used one of their services (with a very low level of service satisfaction). Traders complained of a lack of infrastructure, haphazard levying of formal taxation and complicated administration. There is no certainty regarding tax rates and tax-exempt goods as little information is provided at the border.

On the Democratic Republic of the Congo side of the border, it was observed that small-scale traders faced a challenge in obtaining a border pass for free, as is supposed to happen. Traders reported that officials at the border often demanded payments for Jeton passes and would work slowly to create long queues, making it more likely that traders would offer money to expedite their applications. It was reported that 52 per cent of traders surveyed on the Democratic Republic of the Congo side of the Goma–Gisenyi border had paid for a Jeton pass at least once. Furthermore, traders on the Democratic Republic of the Congo side reported harassment from the officials of the multiple government agencies operating at the borders (immigration, police and sanitation services were most often cited). Traders reported being charged several times by several different agencies, without being provided with any receipts. The lack of receipts also puts traders at risk of being forced to pay the same tariff a second time when they reach the market, like what happens to milk traders in Bukavu who are forced to pay sanitation services at both the border and the market. Fraud is also considered a major issue, with "informal agents" posing as customs officials demanding payments from traders at the border with impunity. It was found that the conduct of immigration officials on the Democratic Republic of the Congo side was likely to discourage women from continuing to trade across the border, with harassment and extortion of payments for a Jeton pass commonplace.[8]

On the Rwandan side of the border, in particular, at the Petite Barrière border post, where the issuance of the Jeton pass has been digitized, traders complain about the queues and delays that this system

[7] Mwanabiningo, 2015.

[8] Ibid.

imposes on them. It was observed that regular system failures and too few machines created significant delays for traders wishing to obtain an eJeton card. In interviews and focus group discussions organized in Rubavu, traders reported that they regularly would spend between 30 minutes and an hour (sometimes up to 30 minutes at the machine to issue a single card), and sometimes would wait longer, when collecting the eJeton cards from these machines, whereas it would take just a few minutes if provided by immigration officers manually. The issue of delays is compounded by the fact that each eJeton card is single-use, and therefore cross-border traders need to obtain a new one for each border crossing.

The eJeton card used at Goma–Gisenyi does provide benefits for border officials. The immigration data collected is linked to the immigration department's central data and national registration records. The system is secured in that traders holding the eJeton cards use their fingerprints for identification when crossing the gates at the border.

Goma–Gisenyi's experience with mobility schemes shows that:

- Traders can be forced by border officials to pay for eJeton cards, despite being free by law, and are in a vulnerable position when it comes to demands for informal or unreceipted payments.
- Issuance of eJeton cards can cause severe delays if there are infrastructure or system issues that delay or prevent the release of the cards.
- An eJeton card can allow for easier collection and storage of data on government systems, and the eJeton can be linked to traders' fingerprints.

2.2.2. Kasumbalesa (Democratic Republic of the Congo–Zambia)

Previous research conducted at the Kasumbalesa border has reported instances of de-bulking[9] activities.[10] It has been suggested that small individual transporters using specially reinforced bicycles are hired, sometimes even by large international traders, to carry goods across the border. If true, commercial traders are using the processes designed for small traders and transporters along the pedestrian corridor to transport their goods across the border. Goods crossing from Zambia into the Democratic Republic of the Congo via the pedestrian corridor are not captured on the Zambian authority's system. This is because these goods are treated as cross-border goods, and the value of each consignment is assumed to be less than 3,000 fee units (900 Zambian kwacha (ZMK)), the threshold; below this level, it is not necessary to submit a declaration to the Zambia Revenue Authority. As a result, it is possible that a significant amount of trade flowing from Zambia to the Democratic Republic of the Congo at Kasumbalesa is not formally exported through the Zambian authority's system. Trade statistics for small-scale trade were not generally compiled, except for a short interval between 2014 and 2017 when COMESA established TIDs, under the COMESA Trading for Peace Program, to provide trade information and monitor and record trade flows and performance. Discussions on this issue are currently ongoing.

[9] The practice of "de-bulking" involves large consignments being broken up into a number of smaller consignments, which are then taken across the border separately. An example of this can be a large truck arriving at the border where the consignment is unloaded, broken up and given to local transporters on bikes. These transporters take advantage of special routes/lanes and customs rules for smaller consignments, making it easier and/or cheaper to transport the goods as separate small consignments rather than one large consignment.

[10] James Musonda, "Final report of the business process analysis study of small-scale cross-border trade at and around Kasumbalesa Border Post", prepared for GIZ (2019).

Examples of de-bulking include using bicycles to move large consignments of goods across the border in smaller consignments, and unpacking trucks at the border to repackage goods in smaller consignments. © Imani Development International Ltd. 2017/Nicholas CHARALAMBIDES

Chemical products and other goods controlled by the Zambia Environmental Management Authority or goods controlled by the Ministry of Fisheries and Livestock that require export permits do not usually obtain export permits if they are exported along the pedestrian corridor, as these do not go through formal export channels because they are being exported by small-scale traders. Some other goods, such as sugar and alcohol, are not traded through the pedestrian corridor at all but rather through informal (smuggling) routes.

The relationship between the border control agencies and small-scale traders/transporters is challenging for both sides, fraught with suspicion and a winner–loser disposition, and driven more by distrust than cooperation. This was patently manifest at Kasumbalesa, though efforts are being made by players at the border to improve cooperation. These efforts are being led by the two cross-border traders associations (CBTAs) whose members stand to benefit the most from an improved trading environment and a more trusting atmosphere.

According to interviews with small-scale cross-border traders, several important products are exported from Zambia in large volumes but have not been included in any official statistics in recent years. These goods include maize grain and mealie meal, which have been subject to export bans. Export bans of maize and mealie meal were imposed in 2013–2014 and 2016–2017 and from October 2018 to March 2019. In March 2019, the Government of Zambia announced the lifting of the ban but replaced it with what is called a regulated export regime. Under the regime, all exports of maize and mealie meal must be accompanied by an export certificate. Small-scale cross-border traders at Kasumbalesa indicated that none of them had been able to obtain the certificate, as it appeared to be a preserve of selected exporting companies and individuals.

Kasumbalesa's experience with mobility schemes shows that:

- De-bulking activities may be used to circumvent rules at the border and take advantage of derogations meant for small traders.
- The relationship between traders and border officials is often poor, but CBTAs can play an important part in improving it.
- It appears that government officials do not prevent small-scale traders from trading in products that are subject to export bans.

2.2.3. General trends in the Common Market for Eastern and Southern Africa region

A previous Imani report on SSCBT in the COMESA region found issues that cut across many borders in the region.[11] The payment of bribes and unofficial payments is relatively common at many borders. For example, more than 75 per cent of Ugandan and Congolese traders at the Mpondwe border post report paying bribes.[12] The implementation of the COMESA STR to overcome these issues has had mixed results. Some of the challenges noted have been high processing fees, low awareness of the regime and its function, and corruption by officials. The lack of knowledge of border procedure, together with insufficient education and border management skills, often means traders are exploited at the border. This, along with harassment from border officials, encourages the use of informal routes to cross borders. Some borders, such as Mchinji, are very porous, with about 60 per cent of the traders admitting to having used informal *panya* (smuggling) routes. Throughout the region, delays at border posts are often caused by inconsistent electricity supply (and lack of generators), Internet outages, lack of staff and deliberate delays by border officials (in order to solicit bribes from frustrated border crossers), which drive traders to these informal routes. The perceived fear of seemingly sanctioned harassment and extortion by border officials and local council officials in community markets encourages the use of informal routes among cross-border traders, particularly for women. Although women traders know that *panya* routes are unsafe, some would rather take that risk than deal with real or perceived extortionist border officials and/or border delays. These small-scale traders' lack of knowledge about their rights and a lack of reporting mechanisms for abuse exacerbate these problems.

The report also found that, except for data on cross-border trade and traders from Rwanda and Uganda, data on CBT and cross-border traders from other COMESA member States is very limited, and what is available is of variable quality. This severely limits the governments' and partners' ability to guide support to ICBT and assess its impact appropriately and leaves policymakers without the requisite information for informed policymaking. A lack of information on goods traded at these borders could explain why common lists for the STR programme are considered out of date and irrelevant by many traders, as they do not contain many of the goods most often traded by small-scale traders. Lack of knowledge regarding the STR is also a cross-cutting finding at borders in the region.

The lack of market infrastructure near borders reduces the connection between traders and customers.[13] In addition, the poor quality or the lack of storage facilities at important border crossings often results in traders selling perishable stock at losses to prevent spoilage. Women cross-border traders who deal primarily in low-value, perishable primary products are particularly susceptible to this occurrence. Their fear of slow border procedures and the resulting product degradation is one of the reasons why women cross-border traders opt for the faster non-official routes.

[11] Imani Development International Ltd., "11th EDF – Design of a regional programme for COMESA on small-scale cross-border trade: Drawing on the lessons of the past" (2017).

[12] Caroline Shenaz Hossein and Jean-Baptiste Ntagom, *Risky Business: Poor Women Food Traders in the Borderlands of Congo, Uganda, Rwanda and Burundi* (2010).

[13] Jean-Guy K. Afrika and Gerald Ajumbo, "Informal cross border trade in Africa: Implications and policy recommendations", *Africa Economic Brief*, 3(10):1–13 (2012).

As mentioned previously, gender issues are a concern at COMESA borders. The exact gender breakdowns vary from border to border; however, previous research has indicated that there are many borders in the region (such as Mwami and Moyale) where women traders make up the majority of small-scale traders.[14] Despite this, few borders were recorded as having adequate facilities to accommodate these traders. Previous research at Kasumbalesa indicated that women were often extorted for bribes and harassed, and when they reported this behaviour they were largely ignored. The experience of women traders at the border indicates the need for targeted measures to improve their experience at the border, such as better sanitation facilities and adequate reporting mechanisms for extortion and harassment. The prevalence of women traders at many borders also indicates that general measures to improve and facilitate SSCBT will provide tangible benefits to this group.

2.2.4. Rwanda laissez-passer

The laissez-passer serves as an alternative to a passport, performing much the same function in countries where it is accepted. Compared with a passport, the laissez-passer is simpler to obtain, the processing time is much faster and the fees are considerably less. This makes the laissez-passer a preferred option for many in the border areas who wish to cross into neighbouring countries to conduct business but lack the resources or time to secure a passport. Because the laissez-passer serves as a passport, some countries may still require a visa along with the laissez-passer in order to allow entry (as is the case of a laissez-passer holder from the Democratic Republic of the Congo wishing to enter Zambia). Rwanda offers a laissez-passer to its citizens who wish to travel to the Democratic Republic of the Congo or any member country of the EAC. The policy was implemented under the broad ambit of Article 164 of the Treaty Establishing the Common Market for Eastern and Southern Africa (hereinafter the COMESA Treaty), which encourages States to adopt measures to achieve progressively the free movement of people. Applications are made online, and the application cost is considerably cheaper than the national passport cost (RF 10,000 versus RF 75,000). The laissez-passer also takes only three working days to process, which is faster than passport processing. Because it is simpler than the national passport, the laissez-passer does not need to be issued only at the capital, with regional immigration offices being allowed to issue the travel document. This allows for more traders to be able to access the scheme. Although the Rwandan laissez-passer is not the only one operational in the region (for example, it is possible for the citizens of the Democratic Republic of the Congo to obtain a laissez-passer at the Goma and Kasumbalesa borders), the efforts taken to include it in national immigration law, formalize the document to make it similar to a passport and allow for the process to be conducted largely online makes this particular version a good example of the potential of the laissez-passer.

[14] Imani Development, 2017.

2.2.5. Common Market for Eastern and Southern Africa Passenger and Cargo Manifest System

In July 2012, COMESA initiated the Passenger and Cargo Manifest System (PCMS) in Zambia and Zimbabwe to enhance data capture on SSCBT and facilitate faster border clearance for such traders.

The PCMS involves an agreement between government and bus operators to use a form that should be filled out by bus operators or agents of traders and/or government officials located at designated bus terminals. These forms contain details of all passengers using the particular bus, including the type and quantity of products being transported by the passengers/traders to the neighbouring country. Such information will then be transmitted in advance to the border station by the bus operators. In so doing, this system allows for advance capture of trade data, which enables border authorities as well as TID officers to perform initial risk assessments (e.g. checking for potential fraud, contraband or smuggling) and capture the data in the system awaiting final confirmation when the bus arrives at the border.

The specific objectives of the PCMS are:

- To allow for advance data capture on small-scale trade by customs officials and CBTAs' TID officers stationed at the border from the port of departure (bus terminal);
- To transmit the data from the port of departure to the border before the bus arrives at the border;
- To expedite clearance of traders and travellers at border stations;
- To enable border agents to conduct advance risk assessment activities on the cargo coming through the buses from inland ports before the arrival of the bus at the border.

The PCMS was not designed to be implemented in isolation of existing systems of data capture, such as the STR and other customs clearance procedures. It should rather be viewed as a complementary effort to help capture data and prevent smuggling. Interactions with stakeholders in this area have revealed that the PCMS has the following weaknesses: a lack of uniformity in filling out the necessary forms, a lack of awareness, a high need for manpower due to heavy traffic and therefore high costs for multiple salaries, and limited usefulness since it only includes those travelling by bus and therefore misses the large amount of traffic that uses other modes of transport.

2.2.6. Zambia cross-border permit and the Common Market for Eastern and Southern Africa market

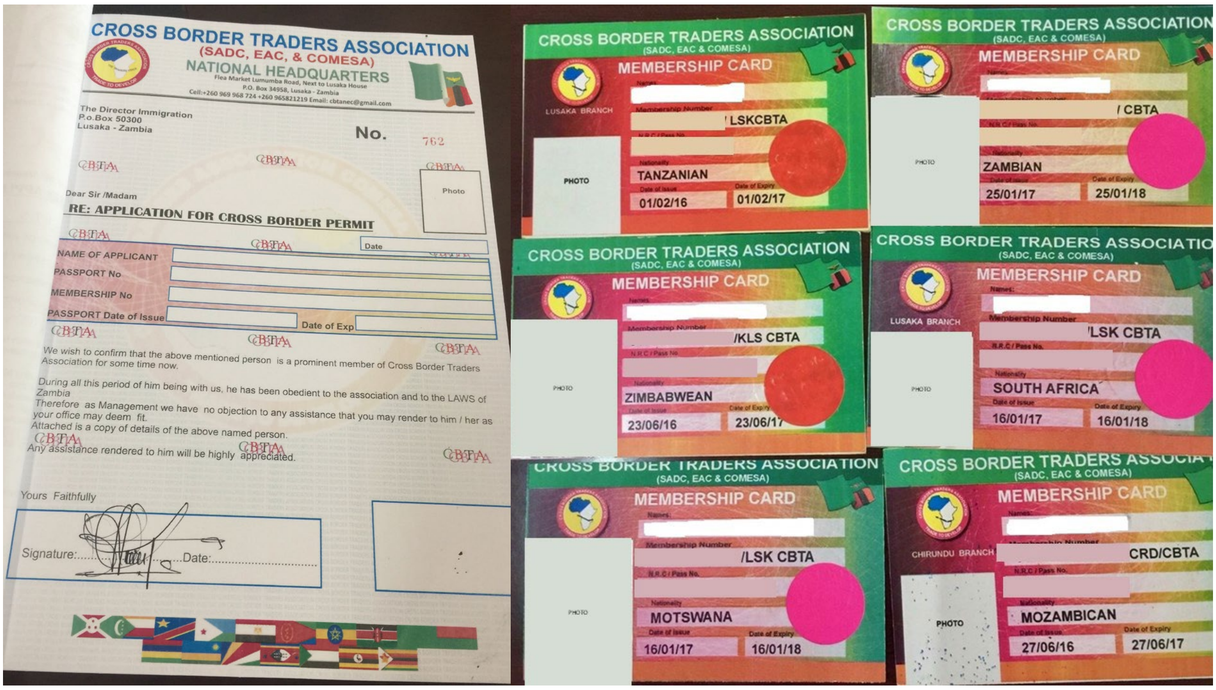
The Zambian Immigration and Deportation Act of 2010[15] provides the legislative basis for the Zambian cross-border permit. Section 30 allows for an immigration permit to be issued to a foreigner who is a citizen of a State in a regional grouping that Zambia is part of or who resides in a country that shares a border with Zambia. The requirements set out in Section 30 state that an applicant must not be a prohibited immigrant (defined in a latter part of the Act), must have a valid passport or travel document and must be a member of an association of persons engaged in "cross-border business". The cross-border permit is valid for an initial period of 90 days and may be reviewed for a further period;

[15] This is also known as Act 18 of 2010.

however, the said extension may not go beyond a total of six months from the date of first entry into Zambia. The permit allows multiple entries and exits.

The cross-border permit is different from the other mobility schemes identified in this report. It is not a pure travel document, like the Jeton pass, the eJeton or the laissez-passer. Instead, the cross-border permit is similar to a business or a work visa, as it requires the applicant to hold a separate travel document (usually a passport) and provides the holder with a legal right to conduct business on Zambian territory. Beyond allowing the holder to generally conduct cross-border business in Zambia, the permit also guarantees the holder permission to set up a business at the COMESA market in Lusaka. In this way, the permit provides important access to a market aspect that is often missing from facilitation schemes.

Access to markets is a real issue for small-scale cross-border traders. Restrictive laws and regulations put them in a very precarious position, not just with regard to local competitors who have an advantage in the face of fewer restrictions but also when it comes to their safety and a lack of protection from local authorities who can target them for not adhering to the strict rules. Temporary right of establishment and access to markets on an equal footing with local traders are extremely beneficial to foreign traders. The Zambian cross-border permit provides a good avenue for such access, and by requiring membership in a CBTA-like organization, it creates a situation where local authorities can partner with CBTAs to better formalize access to markets and coordinate on issues facing small-scale traders.



Cross-border permit and CBTA membership card. © Imani Development International Ltd. 2017

3. REGULATORY FRAMEWORKS FOR THE MOBILITY OF TRADERS

"Mobility schemes" is a term that covers a broad array of programmes and laws that allow for easier movement of people and goods across international borders. These schemes can take many different forms, often depending on the groups which they are targeted at. Schemes can be aimed at small-scale cross-border traders in border areas, traders that travel beyond the border regions, individual businesspeople or service workers, or another group that crosses borders for some purpose.

This section looks at the legal frameworks currently in operation that aim to provide avenues to facilitate greater movement of people. Section 3.1 examines specifically the frameworks in operation in the COMESA region, while section 3.2 takes a brief look at some of the other frameworks that have been developed to assist mobility in the African context. Section 3.3 provides an in-depth discussion of some of the most important individual mobility schemes.

3.1. Common Market for Eastern and Southern Africa frameworks

3.1.1. Protocols

Article 164 of the COMESA Treaty sets out the scope of cooperation for COMESA member States with regard to the free movement of persons, labour and services, and the right of establishment and residence. It states that member States agree to adopt measures at the individual, bilateral or regional level for the free movement of persons, labour and services. Beyond this, Article 164 agrees to retain the Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements until the Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence (hereinafter the COMESA Protocol on Free Movement) enters into force. Article 164 provides a regional framework within which policies aimed at liberalizing the free movement of people can be developed and implemented, and it is in this context that efforts to improve the mobility of traders are undertaken in the region. The COMESA Treaty and the Protocol on Free Moement set not just the free movement of people as an objective but a broader liberalization of economic activities which include the movement of labour and services and the right of establishment. This underlines the importance of these three elements to the overall regional integration agenda, alongside the free movement of goods and people.

The COMESA Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements (hereinafter the Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements) (1984)[16] was one of the earliest efforts by COMESA to establish a regional framework for liberalizing mobility among its member countries. The Protocol sets forth the gradual relaxation of visa requirements, including provisions for visas to be granted on arrival – entry without a visa for a period not exceeding 90 days. The actual implementation of the policies of this protocol relies on either a unilateral member

[16] This was ratified by Burundi, the Comoros, the Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, the Sudan, Seychelles, Uganda, Zambia and Zimbabwe.

State action (e.g. countries waiving visas for all other COMESA members) or bilateral policies, such as reciprocal visa waivers between member States. Article 164 of the COMESA Treaty sets forth the intention of the COMESA region to replace this treaty with a new, more expansive protocol. However, few countries have ratified this replacing protocol, and, as a result, it is yet to enter into effect, meaning that the Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements is still COMESA's operating protocol on the movement of people.

The COMESA Protocol on Free Movement indicates the conviction of the member States that "a genuine Common Market shall be achieved only when the citizens of the member States can move freely within the Common Market", and therefore shows that member States should "adopt measures that shall gradually and on a step by step basis remove restrictions to the free movement of persons, labour, services, right of establishment and residence".[17] The COMESA Protocol on Free Movement essentially offers a three-step process for the liberalization of travel, whereby: under Article 3, visa requirements are relaxed immediately after the Protocol enters force (allowing for visa on arrival); then visa-free travel is introduced two years after entry into force, as stated in Article 4; and before visa requirements (and all restrictions on the movement of people) are eliminated within six years of entry into force, according to Article 6. These three steps are undoubtedly important undertakings to be taken by member States, and the fact that only Burundi, Kenya, Rwanda, and Zimbabwe have signed it (with Burundi being the only country to ratify it) indicates that member States feel that they still need to take further steps before they are in a position to implement the Protocol. This Protocol was meant to replace the Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements; however, the slow pace of ratification means that it is not in force and is unlikely to enter effect soon with only four signatures and one ratification at the time of writing.

The COMESA Protocol on Free Movement intends to provide a framework and general direction under which the COMESA Model Law on Immigration (hereinafter the COMESA Model Law) operates. The Protocol is the basis for the Model Law, which provides a pathway for member States to move towards the greater liberalization of immigration laws by providing important intermediary steps that can be implemented before the more wide-reaching reforms of the Protocol are attempted. Once fully implemented, the Protocol will allow for a far more liberalized system than in the Model Law, enabling free movement of labour (Article 9), free movement of services (Article 10), a pathway to a right of establishment (Article 11) and a pathway to a right of residence for Common Market citizens (Article 12).

Under the ambit of Article 164, Mauritius, Rwanda and Seychelles have waived visas to all COMESA citizens, while Zambia has issued circular waiving visas and visa fees for all COMESA nationals on official business. In order to meet national implementation challenges, the REC formulated the COMESA Model Law on Immigration to harmonize the national laws and practices of member States, yet domestication of the Model Law is still slow.

[17] Common Market for Eastern and Southern Africa (COMESA), Protocol on the Free Movement of Persons, Labour, Services, Right of Establishment and Residence (29 June 1998), opening paragraph.

Table 4. Overview of the Common Market for Eastern and Southern Africa visa schemes

Scheme	Providing countries
Waived visas for all COMESA citizens	Kenya, Mauritius, Rwanda and Seychelles
Waived visas and visa fees for all COMESA nationals on official business	Zambia
Ninety-day visa access and access to visa on arrival for at least half of the COMESA Member States on a bilateral basis (e.g. reciprocal treatment)	Eswatini, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Uganda, Zambia and Zimbabwe

3.1.2. Common Market for Eastern and Southern Africa Model Law on Immigration

The intention for free movement of people within COMESA is well stated in the COMESA Treaty and the two protocols described previously. However, despite this clear commitment, it was observed that the actual implementation of free movement policies was hampered by a lack of harmonization of immigration laws throughout the region. With this in mind, COMESA commissioned the COMESA Model Law on Immigration with the intention of having a baseline immigration law model that member States could use as a yardstick or point of reference. The Model Law stands as both suggested best practice for immigration law as well as a means for the States in the region to harmonize their national laws by adopting the Model Law (or an immigration law that uses the Model Law as a basis). This harmonization of national immigration laws could also assist States with getting to the position where they are better able to implement the COMESA Protocol on Free Movement, which currently has few signatories and ratifications. At the seventh meeting of the COMESA chief immigration officers held in March 2011, harmonization of national laws with the Model Law was identified as one of three priority areas.[18]

The arrangements for the movement of people set forth in the COMESA Model Law are presented in Table 5, providing a summary of people and communities that are covered by the schemes, the rights the schemes offer, the location that an application needs to be made under the scheme, the institutional structures that manage the scheme and the remedies available under the Model Law.

[18] The Africa–EU Partnership, "COMESA works towards free movement of persons" (2011).

Table 5. Summary of key Common Market for Eastern and Southern Africa Model Law on Immigration provisions

Scheme	Applicability	Right offered	Location of application	Institutional structure	Remedy
Business permit (Section 13)[19]	May be issued to a person intending to establish or invest in a business in the member State	Right of entry, right to work, members of immediate family allowed to enter if conditions are met	The law provides for permits to be issued by the relevant department dealing with immigration in each member State.	The COMESA Model Law is largely designed to fit in with existing institutional structures in the region. Permit applications are accepted and processed by the existing department for immigration in the member State in question. Decision-making power mostly vests in the director general (civil service head) of that department and the minister under whose portfolio immigration falls. Additional institutions that may be required for the proper implementation and functioning of the permits are not stated in the Model Law.	Under Section 6 of the Model Law, an adjudication and a review mechanism are set up to provide a remedy that covers all of the schemes covered here. This section states that a person who has a decision adversely affecting them may apply to the director general[20] for review, then to the minister, then to a domestic court (in that order) if they are still adversely affected by the decision or the director general/ minister did not make a decision.[21]
Work permit (Section 17)	May be issued to a potential employee if the employer can meet the given requirements	Right to live and work	The law provides for permits to be issued by the relevant department dealing with immigration in each member State.		
Cross-border pass (Section 22[22])	Frontier workers (people who live in one member State and work in another) and those who reside in border communities	Right to work throughout the territory of the other member State	The Model Law does not state whether an application for the permit must be made at the border post or at another location.		
Transit permit (Section 22)	Non-nationals travelling to a foreign country wishing to make use of the transit facilities at a port of entry	Right to transit across the member State's territory	The location of application is not stated, and, therefore, it is unclear if this is intended to require an application at the border or elsewhere.		

19 The section does not set out any criteria or frameworks for determining what type, value and means of investment are required in order to qualify for the permit.

20 The refers to the head of the Immigration Department (defined in the Definitions section of the Model Law).

21 A timeline by which these appeals may be made is provided in the Model Law. The exact minister and court that must be approached is not specified in the Model Law, but, assumedly, it would depend on the national structures that have competence over the matter in each member State.

22 Section 22(1) states that frontier workers and members of border communities are not required to present a residence permit. However, it does not elaborate what rights this statement gives to them, such as the right to cross the border, the right to work across the border and the right to establish residence, among others. The fact that Section 22(1) states that these people do not need a permit and Section 22(2) states "the Department may nevertheless issue the frontier worker with a special permit" creates both ambiguity about what rights these people actually have.

Table 6. Relevant articles from the Common Market for Eastern and Southern Africa Model Law on Immigration

Scheme	Legislation and section	Relevant article
COMESA Model Law business permit	COMESA Model Law Sections 13(1)–13(4)	Section 13(1): "A business permit may be issued by the department to a non-national intending to establish, or invest in, a business in the (Member State) in which he or she may be employed, and to members of such non-national's immediate family provided that (a) such non-national invests the prescribed financial or capital contribution in such business; (b) the contribution referred to in paragraph (a) be part of the intended book value of such a business." (*Note*: (c) and (d) deal with administrative and investment.) Section 13(2): "The holder of a business permit may conduct work."
COMESA Model Law work permit	COMESA Model Law Sections 17(1)–17(4)	Section 17(1): "A general work permit may be issued by the Department to a non-national if the prospective employer (a) satisfies ... he has been unable to employ a person in the member state with qualifications equivalent to those of the applicant; (b) produces certification from the relevant authority that the terms and conditions under which he or she intends to employ such non-national … are not inferior to those prevailing in the market …; (c) has committed to notify the department when such non-national is no longer employed or is employed in a different capacity or role; and (d) has submitted a certification from the relevant authority of the job description and that the position exists and is intended to be filed by such non-national."
COMESA Model Law cross-border pass	COMESA Model Law Sections 22(1)–22(3)	Section 22(1): "Frontier workers and members of border communities shall not require a residence permit." Section 22(2): "The Department may nevertheless issue the frontier worker with a special permit for a period of at least five years or for the duration of that person's employment where this is longer than three months and less than one year. It shall be extended for at least five years provided that the frontier worker furnishes proof that he or she is actually pursuing an economic activity." Section 22(3): "Special permits shall be valid throughout the territory of the issuing State."

3.1.3. Minimum standards for cross-border traders

SSCBT flourishes in situations where the costs of formality are high, where processes are not transparent, where delays are rampant and where traders consider themselves at risk of abuse at the border. Often, costs at the border are regressive, with small traders paying higher rates to move the same commodity across the same border than what formal traders pay. In many instances, this is because the costs of conforming to standards required to take advantage of formal agreements (e.g. FTAs) put their benefits out of reach for small-scale traders that simply cannot afford to comply with the standards. Small-scale traders are also less likely to know about these types of agreements or how to access them (due to their often opaque requirements) and cannot spare the time and transport costs required to travel to national or regional capitals to obtain the relevant paperwork.

The Charter on the Minimum Standards for the Treatment of Small-scale Cross-border Traders in the COMESA Region presents a basic set of rights and obligations for traders and officials and ultimately aims to improve the behaviour at borders and to promote the gradual formalization of CBT. Basic rights offered to traders under the regulations include freedom from harassment and abuse, efficient and non-discriminatory treatment at the border as well as receipts for all payments, transparency from border officials that are clearly identifiable, physical checks that are recorded with reasons and the right of women traders to be checked by women officials in a private environment, and the clear and public display of all information regarding duties, fees, and documentary requirements at the border. Beyond these rights, there is a call for governments to commit to improving border infrastructure, improve data collection, ensure disciplinary action for border officials that violate traders' rights and provide gender awareness training to officials.

The Charter is not meant to supersede and replace domestic codes of conduct in operation at the various borders, but, rather, build on them and provide further protections. The initiative is designed to provide traders with a safe, predictable environment to operate in while improving border efficiency and data collection.

3.1.4. Common Market for Eastern and Southern Africa, East African Community and Southern African Development Community Tripartite Free Trade Area

The Tripartite Free Trade Area (TFTA) brings together three of Africa's major RECs – the SADC, COMESA and the EAC. The TFTA, however, is considered by regional policymakers and some analysts to be a big deal and potentially a game changer for the African trading system. The deal was a launching pad for the establishment of the even more ambitious African Continental Free Trade Area (AfCFTA) that covers nearly all of Africa. In the process, the TFTA demonstrated the possibility of collective action among 26 very heterogeneous nations and shows the feasibility of harmonizing three very different preferential trade regimes into one unified scheme.[23] As of 15 January 2021, nine countries had ratified the TFTA, six short of the required 15 needed for the agreement to enter into force.[24]

Although the TFTA is likely to be an important part of Africa's trade once it enters into force, it has a limited focus on the movement of people. The current treaty omits any mention of free movement of people other than businesspeople (the free movement of businesspeople is recognized as an important area of cooperation in the treaty). However, the potential importance of the treaty for trade will lie in the potential tariff reductions it can offer to capital-to-capital traders and other traders of goods sourced from countries within the TFTA but outside of the COMESA FTA. The inclusion of South Africa, which is an important source of goods for cross-border traders, is an important factor. That being said, the TFTA is likely to create the same regulatory barriers that prevent small traders from being able to trade under most FTAs. A TFTA STR would allow small traders to access the benefits offered under the TFTA.

[23] Soamiely Andriamananjara, "Understanding the importance of the Tripartite Free Trade Area", Commentary section, Brookings Institution (17 June 2015).

[24] Muzinge Chibombia, "Zambia ratifies and deposits instruments of the Tripartite Free Trade Area (TFTA) Agreement" (15 January 2015).

3.2. Frameworks from other regions

3.2.1. Southern African Development Authority and African Union treaties

One of the key goals of the African Union is a fully integrated Africa, which includes dismantling the barriers which currently inhibit the movement of peoples across the borders of the continent. To this end, the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment was drafted (not yet in force; currently only ratified by Mali, the Niger, Rwanda, and Sao Tome and Principe) with the objective of providing for the "progressive implementation of free movement of persons, right of residence and right establishment in Africa".[25] The preamble of the Protocol explicitly highlights the 2006 Migration Policy Framework for Africa's encouragement for RECs to implement measures to ensure that free movement of people within their regions is achieved while also acknowledging the important steps that the RECs have already taken in this regard. The Protocol envisages a three-phase plan for the progressive realization of its objective. Phase 1 will see parties implement the right of entry and the abolition of visa requirements, phase 2 will call for the implementation of the right of residence and phase 3 will see parties implement a right of establishment.[26] Article 6 of the treaty provides the outline for the first phase and sets forth how nationals of member States "shall have the right to enter, stay, move freely and exit the territory of another Member State"; it also states that member States shall allow entry of such persons without the requirement of a visa.[27] Article 12 of the Protocol sets out the special treatment afforded to those living in border communities, calling for States to ensure that these people may move freely across borders by creating bilateral or regional agreements to establish the measures needed. Importantly, Article 28 of the Protocol states that RECs shall be the focal points for promoting, following up on and evaluating the implementation of the Protocol, and reporting on progress in their regions. Furthermore, Article 28 requires RECs to harmonize their protocols, policies and procedures on the free movement of persons with the Protocol, clearly highlighting the central role of RECs as the building blocks for the eventual achievement of continent-wide free movement of persons.

Article 5 of the Treaty of the Southern African Development Community states that in order to achieve the region's goals, the "SADC shall develop policies aimed at the progressive elimination of obstacles to the free movement of capital and labour, goods and services, and of the people of the Region generally, among Member States".[28] In order to fulfil this objective, the member States drafted the SADC Protocol on the Facilitation of Movement of Persons (which is not yet in effect) with the overall objective to "develop policies aimed at the progressive elimination of obstacles to the movement of persons of the Region generally into and within the territories of State Parties".[29] The Protocol carried three specific stated objectives for the citizens of member States, namely visa-free entry for up to 90 days, permanent and temporary residence, and establishment of oneself and working in the territory of a member State.[30] In order to better facilitate these three objectives in the region, Article 7 of the Protocol states that

25 African Union, Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment (29 January 2018), Article 2.

26 Ibid., Article 5.

27 Ibid., Articles 6(1) and 6(2).

28 Southern African Development Community (SADC), Treaty of the Southern African Development Community, Article 5(2)(d) (17 August 1992).

29 SADC, Protocol on the Facilitation of Movement of Persons (18 August 2005), Article 2.

30 Ibid., Article 3.

each member State needs to ensure that all relevant national laws and regulations are in harmony with and promotive of the objectives of the Protocol, calling on SADC to, from time to time, produce model laws in this area. Article 13 sets out more specific areas where harmonization needs to occur (such as the standardization of immigration forms and establishment of separate SADC desks at major ports of entry between States Party). Article 13 clearly calls for the creation and harmonization of laws around 90-day visa-free programmes, bilateral border pass agreements designed to facilitate the free movement of those living in the border territories (where the border includes two SADC member States) and the abolition of visa requirements (save for necessary visas that shall be issued gratis at the port of entry).

Similar to COMESA and the SADC, the EAC also considers the free movement of people between member States its key goal. Article 104 of the Treaty for the Establishment of the East African Community states that "[t]he Partner States agree to adopt measures to achieve the free movement of persons, labour and services and to ensure the enjoyment of the right of establishment and residence of their citizens within the Community" and will conclude a protocol on these issues.[31] The Protocol on the Establishment of the East African Community Common Market came into effect in 2010 and contained provisions designed to achieve the goal of free movement of people set out in the EAC treaty. Article 5 of the Protocol states that the member States agree to ease cross-border movement, remove restrictions on movement of labour, and remove restrictions on the establishment and residence of EAC citizens in all member States. Furthermore, Article 7 guarantees the free movement of persons for all citizens of a member State throughout the region.

3.2.2. East African Community identity card for travel

Three EAC partner States – Kenya, Rwanda and Uganda – had agreed to start using national identity cards as travel documents when travelling within their territories from January 2014. As previously mentioned, Article 164 of the COMESA Treaty obliges member States to adopt measures for the free movement of people at individual, bilateral and regional levels, and with most EAC members also being COMESA members, and East Africa representing an important region within the COMESA. A meeting between heads of States and high-level officials from the three States took place in Kigali in July–August 2013, where it was decided to prioritize the introduction of e-identity cards to facilitate the programme (the cards had been introduced in Kenya and Rwanda, but not yet in Uganda) falling under the larger framework for the progressive realization of free movement set out under Article 164. It also enables citizens of the three countries to spend up to six months in any of the three countries without requiring any other documentation.

The treaty establishing the EAC lists the free movement of persons as one of the operational principles of the Community. The protocol on the establishment of the EAC customs union then expanded on this via the addition of the East African Community Common Market (Free Movement of Persons) Regulations to the annex of the Protocol. Regulation 5(2)(a) states that a citizen of a partner State shall present at the border a "valid standard travel document or, national identity card, where a Partner State has agreed to use machine-readable and electronic national identity card as a travel document". The Northern Corridor project, of which all three aforementioned States are members, has similar goals

[31] East African Community (EAC), The Treaty for the Establishment of the East African Community (30 November 1999), Articles 104(1) and 104(2).

for the free movement of people, and it was under the auspices of this agreement that the original negotiations for the ID card for travel scheme took place. Kenya has incorporated the EAC ID card for travel into its immigration law. This was done via a declaration from the Cabinet Secretary for the Interior that the national ID cards issued under Kenyan law are valid documents for travelling to Rwanda and Uganda.

Both the original scope for travel ID in the annex of the Protocol and the subsequent negotiations between the three countries stress the need for ID cards to be machine-readable electronic cards. The security and monitoring potential of these cards is a major factor in the ability of these cards to be used as a replacement for a travel document. They allow individuals to be securely linked to their cards, limiting the potential for fraud and abuse. This provides implementing States with certainty and security, allowing them to move forward with the project.

3.2.3. Economic Community of West African States treaties and initiatives

One of the stated objectives in the Economic Community of West African States (ECOWAS) Revised Treaty is the removal of obstacles to the free movement of people.[32] Article 55 of the Revised Treaty sets out the goal of the creation of an economic and monetary union that will include the total elimination of all obstacles to the free movement of people (as well as goods, capital and services, and the right of entry, residence and establishment). In order to proactively pursue these objectives, in May 1979, ECOWAS member States adopted their first protocol relating to the free movement of persons and right of residence and establishment.[33] The protocol stipulates the right of ECOWAS citizens to enter, reside and establish economic activities in the territory of other member States and offers a three-step road map of five years each to achieve freedom of movement of persons after 15 years. The first phase deals with the right of visa-free entry, the second deals with the right of residency and the third phase concerns the right of establishment in another member State. The first phase has been fully implemented, with ECOWAS citizens legally allowed to enter each member State and stay visa-free for up to 90 days.[34]

Actual free movement under the ambit of the protocols on free movement has been restricted due to many of the same challenges discussed elsewhere in this report. Visa-free entry is only available to those who have a valid formal national ID card, which many citizens do not have, and this, combined with corruption and abuse of migrants, has led to the concept of free movement in ECOWAS being described as "largely limited to an ideal".[35] However, despite these issues, the innovative policies being implemented in the region represent a valuable resource to draw on, even if the implementation has been challenging. The introduction of the ECOWAS Nation Biometric Identity Card, which allows for travel on a secure document that contains strong security features, highlights the impressive steps the

32 Economic Community of West African States (ECOWAS), Revised Treaty of the Economic Community of West African States (ECOWAS) (1993), Article 3.

33 The 1979 Protocol A/P.1/5/79 relating to Free Movement of Persons, Right of Residence and Right of Establishment together with the 1985 Supplementary Protocol A/SP.1/7/85; the 1986 Supplementary Protocol A/SP.1/7/86; the 1989 Supplementary Protocol A/SP 1/6/89 and the 1990 Supplementary Protocol A/SP 2/5/90 are known as the free movement protocols. Note also that the West African Economic and Monetary Union (WAEMU), consisting of the eight States that share a common currency – the CFA (Communauté franco-africaine) franc – has its own rules, with border controls between WAEMU States even less strict.

34 Franzisca Zanker, Kwaku Arhin-Sam, Leonie Jegen and Amanda Bisong, "Free movement in West Africa: Juxtapositions and divergent interests", Mercator Dialogue on Migration and Asylum (MEDAM), *Policy Brief*, 2020/1:1–20 (June 2020).

35 Ibid., p. 5.

region has taken towards a high-tech, secure, common mobility scheme, and this could provide a good example of best practice for the COMESA region.[36]

3.3. Individual mobility schemes

3.3.1. Passport

Passports are the primary travel document of choice due to the entrenched formal system that underpins them and the security features they can be designed with. They provide certainty for holders and they alleviate fears of customs and immigration officials who can track entries/exits and link individuals to their travel documents with certainty (especially those with biometric features). Combining passports with mobility measures, such as business visas, visas on arrival and, eventually, visa-free measures allow for greater facilitation of the movement of people. As such, COMESA's goal of eventual visa-free travel will undoubtedly facilitate greater trade and business linkages across the region.

However, the cost, time and difficulty involved in applying for a passport mean that few small-scale cross-border traders are able to access the document. As a result, any improvements made in facilitating the movement of people with passports will be unlikely to influence these groups. It is therefore essential that other forms of mobility documents be central in plans to facilitate the movement of small-scale cross-border traders.

A passport is advantageous to CBT, as it:

- Is linked to existing formal systems;
- Has strong security features and allows border officials to monitor border crossings and to capture data on these crossings into border management information systems;
- Is recognized internationally and can be used at any border.

However, using a passport for CBT also has challenges, such as:

- It is expensive and difficult to obtain, as it is issued by a central authority;
- A passport fills up quickly with entry/exit stamps and, where relevant, visas.

3.3.2. Jeton

The Jeton is a widely used travel document among traders from border communities that often cannot obtain a national passport. Not only are these traders constrained by the often high passport application fees (up to USD 300 in the Democratic Republic of the Congo), but they are also at a geographical disadvantage, as their location on the border usually means they are far away from the capital where passports must usually be applied for and collected. This project's field research and prior studies alike have found that passport usage among small-scale cross-border traders at selected borders (including Goma–Gisenyi and Kasumbalesa) is low or basically non-existent for these reasons. The Jeton's low cost (often issued free but sometimes requires relatively small official or unofficial payments), combined with its convenient location of issue at the border and fast processing time (averaging three to five minutes to process according to the researchers' fieldwork), makes it an accessible and expedient alternative to the passport for small-scale cross-border traders.

[36] Chris Burt, "Nigeria moves to implement biometric ECOWAS card with $41M MoU", *BiomtericUpdate.com* (25 April 2019).

The Jeton is relatively well established in the COMESA region, and the legal framework for the scheme has been incorporated into the immigration laws of countries such as Rwanda and Zambia. The Jeton is not exclusive to Africa, however, with Thailand and Cambodia running a programme between themselves that operates under a bilateral memorandum of understanding (MoU), and the European Union creating an internal legal framework that allows its member States the leeway to negotiate Jeton schemes with their non-European Union neighbours, so long as the prescribed rules are adhered to. Given the variation of the countries that operate the Jeton scheme, there is no single formula for it; however, most share common features. The most important features are that the cost of using it is low, it is accessible, it allows for travel within a defined distance of the border of the admitting country and it is only available to individuals that live within a defined area close to the border.

The paper-based Jeton, which is the standard at the borders surveyed, is an easy and cost-effective system to run and does not need large amounts of formal infrastructure. It is also flexible, allowing it to be modified according to the realities faced on the ground. An example of this can be seen at the Goma–Gisenyi border, where Congolese applicants can use a voter's card rather than a national ID, due to the fact that national IDs are rare and difficult to obtain. Since the Jeton is targeted at small-scale cross-border traders, it facilitates the movement of a group that is traditionally locked out of traditional facilitation measures. It must be noted, however, that there was no uniformity observed between the different Jeton schemes studied in the COMESA region. The requirements for application, the process of obtaining a Jeton pass, the distance allowed to travel with a Jeton pass and the validity period of the document could all vary from border to border.

Interviews with border officials at Kasumbalesa also indicate that no record of Congolese traders using the Jeton is kept, as the Jeton is in paper form and must be returned by the trader to the Congolese immigration upon their return. As a result, it is not possible to count how often a single trader crosses the border over a given period. The paper-based design of the Jeton essentially precludes it from being used with any electronic system to store data and, as such, it is unable to function with national systems that would track individuals for security or tax purposes. This means that officials have no way of knowing if immigration or customs laws are being adhered to. As the Jeton is paper based, it can easily be exchanged or used by non-traders, posing a potential security risk if abused. Finally, field visits and other existing research have shown that paper Jeton systems can be abused by border officials, who can demand informal payments to issue them to traders when they should be issued free of charge.

Following are advantages of the Jeton scheme:

- It is inexpensive to institute and operate.
- It is a simple programme for both border officials and those using it to cross the border.
- It fills a gap for communities that cannot obtain other documents that would allow them to cross the border.
- It can be issued in minutes at the border post.
- There is institutional experience in adopting the Jeton at borders throughout the COMESA region.
- The parameters of the Jeton scheme can be modified to suit the needs of the locality it operates in.

However, the Jeton also has disadvantages:

- It cannot be reliably linked to any electronic system.
- It does not allow customs officials to link traders with their goods for tax and monitoring.
- It makes it difficult to capture reliable information at the border.
- It lacks security features that would allow immigration departments to monitor traffic at their borders.
- It can be abused by border officials.

3.3.3. eJeton

The eJeton operates in a manner similar to the standard Jeton but is backed by more complex infrastructure that provides the opportunity to create better data capture and security features. It is still provided at the border, should be free or low cost, and available only to those living in border communities. The exact features of the eJeton would depend on the design of the system and the hard and soft infrastructure implemented to underpin it.

The eJeton that is able to link identifying trader information to computer systems would allow immigration officials to monitor the flow of people across their borders, enable customs officials to capture information on goods and link them to individual traders for tax and duties payable, and give policymakers access to more accurate data to inform their decision-making. A key advantage of the eJeton is that it has additional security features, such as biometrics, providing States with a greater ability to monitor who is crossing their borders. Regardless of the exact design chosen, as long as the eJeton is linked to a computer system that monitors entries and exits, it would be able to flag suspicious border activity, limit the possibility of document substitution and improve security. Such a system could be used by border officials to combat human trafficking and migrant smuggling, especially trafficking in women from vulnerable communities, by alerting officials of particular border posts where more people are recorded entering than leaving and providing them with biometric data that could be used to track and identify potential victims of trafficking.

The eJeton could be linked to a trader's tax identification number as an opt-in system, which could then expedite the payment/claiming of value-added tax (VAT) and other taxes/duties payable at the border. It provides an avenue for the formalization of traders, with its potential to link not just to tax and duties but also to goods mobility schemes. The ability to link goods to traders and record that information makes the eJeton perfect for customs officers to ensure that traders remain within their de minimis. This could then allow for more generous de minimis arrangements. As both are designed to facilitate trade, the eJeton and the STR complement each other by simplifying processes for traders and their goods. The eJeton could be linked to the STR data; however, this is not necessary so long as both the trader's tax identification number and the STR data are captured independently for data collection purposes. The combination of these two could be a step towards formalization for traders, with the benefits of turning traders away from using informal routes and towards formalization.

Consultations with stakeholders at Kasumbalesa also indicated relatively strong support for the eJeton from traders and border officials alike. The current Jeton system was seen as outdated and time consuming, and the prospect of replacing it with the eJeton was well received. The eJeton design that allows for a single application to receive a card that is reusable for a period would save traders and customs officials from filling out the same forms every day as is current practice, and one linked to a fingerprint would allow for faster processing times at the border once the trader has the eJeton card (i.e. they would just have to present themselves and their card to the relevant border official, get their fingerprints taken and be admitted, with no paperwork required after the card has been issued).

A recurring theme of research conducted at borders in the COMESA region was the vulnerability of women traders to harassment and extortion from border officials. For example (as also discussed below), border officials at Goma intentionally create long queues for the Jeton in order to solicit payments from traders, the majority of whom are women. An automated system would reduce the amount of interaction between women traders and border officials, thereby reducing the potential for harassment. A system that enables traders to apply for a card through a machine and then have themselves scanned through a gate (potentially via a fingerprint) would also reduce the opportunities for border officials to solicit bribes.

The benefits of the eJeton are as follows:

- It can be used by customs and immigration officials to monitor the movement of people and goods and flag potential abuse.
- It can be used by customs officials and traders to streamline the payment and reclamation of taxes including VAT, duties and other fees.
- It can decrease unnecessary form filling and administration if re-usable cards are used.
- It can link traders to their goods.
- It can be implemented alongside security features such as biometrics.
- It can work in tandem with mobility schemes for goods.

The eJeton system is far more infrastructure intensive than the paper-based Jeton. As a result, the scheme comes with far greater requirements (and therefore costs) in terms of infrastructure and training. Furthermore, reliance on the technology of the eJeton means it is at risk of failures due to inconsistent infrastructure (e.g. due to power cuts, system outages, slow connectivity). System failures can result in long delays at the border, meaning that it could be faster to get a Jeton pass than to apply for an eJeton card, as is often the case with the eJeton at Goma–Gisenyi. Should the eJeton system be implemented, it is advised that a manual system be run in parallel as a backup, due to the potential for system failures. Should customs be forced to use the backup, certain goods mobility schemes linked to the eJeton (e.g. de minimis) would no longer be usable, as there would be no way to link the trader and goods on the customs system.

eJeton systems are more complicated than the paper-based Jeton, and thus there will be a learning curve for traders and customs officials to adapt to. Designing a system that is easy to use for border communities and officials should be one of the key goals. Lack of awareness and understanding of mobility schemes can be a major factor in their overall effectiveness, and the importance of this issue is well illustrated by the fact that years after the launch of the STR at many COMESA borders, fieldwork indicates that many traders still do not use the STR for the exact reason mentioned.

Any eJeton system must be implemented with the necessary physical infrastructure (i.e. electricity, Internet, physical channels, number of machines) and soft infrastructure (i.e. computer systems that are adequate to manage the demands of the system with regard to storage and processing of data and address the security concerns of customs officials regarding false use of documents). Similarly, any eJeton system implemented must be partnered with training for both customs officials and cross-border traders to ensure that both groups understand how the system works, who it is designed for and what benefits it can offer.

Finally, the eJeton system must have sufficient security features to address the concerns of immigration and customs regarding fraud and evasion of duties/taxes. This will likely include electronic systems that link traders and their goods, allowing officials to monitor both. The system must also be designed in such a way that it would allow only the owner of the card to cross the border with the card. This could be done via biometric data. A secure eJeton would allow border officials to improve tax and data collection at the border. If member States wish to implement a system where information is shared across the border, then data protection agreements would be required, and this will be especially pertinent if a biometric system is used.

While the eJeton is beneficial, it also has disadvantages, such as following:

- It would require investment in infrastructure to implement correctly.
- System failures can create significant delays at the border.
- The more complicated system requires training for customs officials and traders before they can use it properly.

3.3.4. Laissez-passer versus identity card for travel

Not all small-scale cross-border traders live in border areas and, therefore, some cannot obtain a Jeton pass. Traders who do business across multiple borders will not qualify for a Jeton pass for the border of the area where they are not a resident of. There are many traders who fall between not being able to access Jeton schemes and not being able to obtain a formal passport easily (especially given the cost of the latter). Few programmes aim to facilitate the movement of people who fall into this gap, and neither the Model Law nor the COMESA Protocol on the Free Movement of Persons makes provision for or facilitate such programmes.

Rwanda's experience with the laissez-passer could play a guiding role for the development of a mobility scheme. Rwandan immigration was able to implement a laissez-passer which was cheaper, easier to obtain and processed faster that essentially replaced the passport for travel to countries where it was accepted. Article 19 of Rwandan Law No. 57/2018 of 13/08/2018 mandates that Rwandans travelling to the EAC States or the Democratic Republic of the Congo be issued with a laissez-passer. As stipulated in the law, an Order of the Minister may determine any other country where the laissez-passer may be used, allowing for further extension of the scheme via international agreements without the need to pass a new law. It also defines a laissez-passer as a travel document issued in lieu of a passport to a Rwandan travelling to countries in the region in accordance with existing agreements among such countries and Rwanda.

A major advantage of the laissez-passer is that it can be issued by regional immigration offices, and, therefore, travelling to the capital to receive it is not required. The scheme does not necessarily facilitate visa-free travel (although this can be negotiated by the countries involved), as it is intended to replace the passport, not the visa. Therefore, its primary use will be to assist those that cannot afford a passport to take advantage of the visa-free scheme rather than to serve as a visa itself. The laissez-passer is only used in countries where partnership agreements have been signed to recognize it.

The laissez-passer scheme already operates at several borders, and evidence shows that it is flexible, cheap, easy to acquire and quick to process. The laissez-passer mobility scheme can furthermore be linked to the STR (see section 4.1) and other schemes that enhance the facilitation of movement across borders, such as the PCMS, which would allow capital-to-capital traders to pre-clear their goods via the manifest and move them across the border duty-free under the STR (assuming their goods qualify), facilitating far greater ease of travel across the border for these individuals. It should be noted that while beneficial, the PCMS is limited to those who travel across the border on buses with pre-approved companies and does not cover those taking other means of transport.

The laissez-passer provides synergy with the STR, which allows for expedited movement of goods, and the PCMS (which allows for clearance of goods before the trader reaches the border). The laissez-passer would not have the same ability to link data as the eJeton (unless a system was designed for this); however, this does not matter for the STR, as there is no monthly limit.

The laissez-passer can:

- Be used as a travel document by those who struggle to obtain a passport;
- Be obtained at a lower cost than a passport;
- Include security features, such as biometrics;
- Provide many of the same benefits as a passport;
- Be instituted alongside visa-free programmes in the same MoU.

An alternative travel measure for traders that fall between the passport and the Jeton is the identification card used as a travel document, an example of which is used between Kenya, Rwanda and Uganda. The use of an ID card for travel would fall under the COMESA Protocol on Free Movement (when it enters force) under specific articles. Article 2 of the Protocol states that member States agree to gradually remove all restrictions on free movement of persons, while Articles 4 and 5 allow for, first, the implementation of visa-free travel for 90 days and, then, the elimination of all visa requirements. Such a free movement regime would facilitate the implementation of an ID card for travel, as it is not possible to obtain a visa with an ID card, and therefore an ID card for travel is only possible within the context of a free movement regime. Although the ID card scheme removes a significant bureaucratic step (applying for a passport) and the expenses that come with it, when used as a travel document, it is constrained in its use for these types of small traders for several reasons. The first is that the scheme only works with electronic machine-readable electronic ID cards, which can provide the requisite security features that countries require to monitor immigration flows and prevent irregular movement. This increases the resources required to issue these cards, which could in turn increase the price charged, removing one of the major benefits. The expense of providing machine-readable ID cards to the entire population far outweighs the costs of providing laissez-passers to the relatively small segment of the population that would apply for them. Furthermore, the ID card for travel scheme can only operate where there is a high degree of trust between participants as to the security of the system that produces IDs, which is not guaranteed across all COMESA member States.

ID cards have the following benefits:

- They remove the requirement of applying for an additional travel document.
- They can have all the security features that passports have (including biometrics).
- They allow customs and immigration officials to track information on border crossings via electronic systems.

3.4. Cross-cutting considerations: Incorporating space for local realities in any framework

The COMESA region includes many different countries and geographies, meaning that factors in play at one border are not necessarily the same at another border. As a result, designing a strict one-size-fits-all framework is unlikely to provide the desired results, as different conditions can render schemes inoperable. An example of the problems that a strict framework can cause can be seen in Poland's experience with the European Union LBT permit (see subsection 2.1.2). The geography of the Polish border with the Russian Federation is relatively unique, and, as a result, the framework provided by the European Union did not account for the local reality. Because this framework was strict, Poland had to enter protracted negotiations with the European Union structures to secure the policy space to implement a border pass programme in a manner that would suit their needs. This example shows why any framework developed by COMESA needs to provide countries with enough room to take local conditions into account and adjust accordingly. As an example, making national ID a requirement for a COMESA Jeton/eJeton scheme would shut out small-scale cross-border traders in the Democratic Republic of the Congo from being able to obtain the Jeton/eJeton pass/card, as national IDs are difficult to obtain and voter's cards are used instead. While uniformity provides certain benefits, enough room must be left in any framework to allow countries to adapt these schemes where necessary. The research fieldwork shows why such room is needed particularly in the context of COMESA, due to the variation in how similar schemes are designed and operated in different countries.

It must also be noted that visas represent a barrier to CBT in the COMESA region for many traders who rely on passports to travel. Visas are expensive, difficult to obtain (usually requiring traders to apply at consulates in big cities) and often only allow travel for a limited period of time (usually 90 days). This is a major barrier, and a well-known one, which is why the COMESA Protocol on Free Movement contains multiple articles aimed at first removing the need for a visa for COMESA citizens travelling to other member States (Article 4) for less than 90 days, and then removing all visa requirements completely (Article 5).

3.5. Conditions of entry and stay for cross-border traders

Cross-border traders are mobile populations, and much of the focus with regard to improving their ability to operate has been on removing barriers to their mobility across borders (both for their goods and the traders themselves). However, another important aspect to consider with this group is their requirements and conditions of stay. While immigration and trade-related laws usually cover the movement of people and goods across borders in the region, they seldom reference conditions that the traders operate under and have few references to human rights principles.

A recent IOM and COMESA report states that the movement of people, which is more complex than the movement of goods, requires a more comprehensive approach. Policies and laws on the mobility of people should take into account six elements that need to be addressed: facilitation, health, protection, capacitation, humanitarian response and security. The report goes on to state that a common principle for all the pillars is the need for States to respect obligations under international law and international humanitarian law, particularly refugee law and human rights law.

The first pillar of facilitation requires effective border management, decreasing the time and cost of crossing borders. This includes measures, such as visa liberalization, cross-border cooperation, border residency agreements and other issues dealt with in this report. Visa liberalization is a major issue, which is why there are two COMESA protocols (one in force and one not) that aim to reduce and eventually remove the need for visas in the region. However, 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 the duration of stay and proof of address while in the country. It also 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. National police and border security forces also have the power to detain and deport people who do not meet formal immigration requirements. This puts small-scale cross-border traders in a precarious position, as they are conducting economic activity but often lack the resources to procure the necessary business visa or permit, without which they are at risk of falling afoul of local security forces who might detain them.

Pillar 2 centres around health practices that can significantly disrupt the cross-border flow of people and goods if not effectively managed. The disastrous effects of pandemics, such as the Ebola, yellow fever and COVID-19, show the need for these practices; however, implementation is still an issue. Most trade-related health measures focus on sanitary and phytosanitary (SPS) issues, aimed at protecting food safety and plant/animal health, rather than the health of travellers, transporters and traders crossing the borders. The COVID-19 pandemic has seen new measures focused on preventing the spread of a virus through humans at the border (by, for example, requiring masks and doing temperature checks for border crossings), and the mobile nature of traders has brought into sharp contrast the need for greater public health considerations in the mobility process. This is especially true given the busy market areas that travellers operate in, which increases their risk of catching communicable diseases, such as cholera and tuberculosis. Evaluations conducted under the World Health Organization's International Health Regulations scored most COMESA member States at a suboptimal level (1 or 2 out of 5), indicating that the region has a lack of readiness and capacity at border posts to adequately deal with public health disasters, such as epidemics. The failure of points of entry to respond to public health threats can jeopardize the health of cross-border traders, local communities and national economies. Separately, an IOM study in 2013 showed that infectious diseases were not the only public health issue facing border-crossing points, with shortages of safe water and unhygienic sanitary conditions a major concern throughout the region.

The protection of vulnerable groups falls under pillar 3. Women who make up a large percentage of small-scale cross-border traders are among the most vulnerable groups at border crossings and find themselves exposed to disproportionate levels of harassment, extortion, gender-based violence and physical assault. This is exacerbated by the fact that border staff are mostly men. The Eleventh European Development Fund project envisions specific interventions to address the abuse, mistreatment and marginalization that traders face. These are addressed through measures, such as training, sensitization and information activities, strengthening reporting instruments, infrastructure development, and promotion of good practices at the borders from a gender perspective. The project also envisions building the capacity of CBTAs (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.

The fourth pillar deals with empowering and capacitating cross-border traders. Increasing their capacity and expertise is an important means of ensuring that traders are able to use the tools provided to ensure a safer, stable income for themselves and their dependants while also allowing them to contribute to formal economic development in the regions where they operate. Pillar 5 focuses on facilitating CBT during times of migration crisis, stressing the need for appropriate border management responses at times of humanitarian crisis to ensure that border management practices can adapt to the needs of specific groups, including CBTAs. The COVID-19 pandemic has brought this issue to the fore, with closed borders all but ending the flow of small-scale traders across many borders in the region. Government agencies operating at the borders need to be capacitated to implement the rapid responses required during a time of crisis.

The sixth and final pillar concentrates on security at borders. However, this does not mean security in a narrow sense, with a focus on more restrictive controls. Rather, it emphasizes the need for a security regime that allows for the safe and legal movement of people and goods under harmonized and liberalized mobility laws. States face challenges to ensure harmonized procedures, information mechanisms, and cross-border cooperation and coordination that can facilitate CBT and human mobility while ensuring human rights standards are upheld and effectively addressing transnational crimes and security risks. Border security measures also require States to ensure the integrity and security of travel documentation used by traders; prevent such documents from being forged, counterfeited or fraudulently obtained; and ensure that the document belongs to the person presenting it. States must also examine document issuance processes, to address the issue of fraudulently obtained genuine travel documents as a means of combating transborder crime.

4. REGULATORY FRAMEWORKS FOR SMALL-SCALE TRADE IN GOODS

Facilitating the mobility of small-scale traders would not be complete without a way to facilitate the movement of the goods that they carry. There are several goods mobility schemes in operation across the continent, but many are focused on facilitating the movement of large consignments carried by large formal traders. This section looks at the goods mobility schemes targeted at small-scale cross-border traders, setting out the legal framework under which they operate. Section 4.1 introduces and explores the STR. Section 4.2 examines the COMESA STR programme, while section 4.3 focuses on the similar EAC STR, and section 4.4 looks at the concept of de minimis and how it can be used as a mobility scheme for goods.

4.1. Simplified trade regime

The STR operates on a bilateral basis between two neighbouring countries that share a common border. The scheme allows the entry of goods that meet the rules of origin and originate from either of the two countries to be traded on simplified terms. A 2019 decision of the COMESA Council of Ministers extended this, allowing the entry of all goods meeting the rules of origin from a COMESA FTA member State to enjoy preferences under the STR, as long as they are on the importing country's common list. These terms are intended to facilitate small-scale trade by enhancing the use of agreed rules of origin, simplifying verification of origin and simplifying procedures for customs clearance at the border. The STR requires traders to keep the value of goods traded per crossing under a defined limit. The COMESA STR operates based on bilaterally negotiated common product lists, whereby the two countries wishing to implement the STR at their borders negotiate the list of products that will be covered by the STR. Goods on these lists can then be traded duty-free as long as they are accompanied by the correct documentation (the Simplified Certificate of Origin is no longer required after a 2011 decision of the Council of Ministers, so only the simplified customs document is required). The implementation of the COMESA STR, alongside its supporting interventions, has helped reduce border delays and long queues facing small cross-border traders.

The COMESA STR is not the only one in the region, as the EAC also runs an STR, too, with the primary differences being that there is one central common list rather than many bilaterally negotiated ones, and the original value limit was set at USD 2,000. STR measures implemented by COMESA member States have proved extremely popular with traders.[37]

Previous studies at the border have indicated that the cost traders face when exporting the same goods is inversely proportional to their size, with large formal exporters carrying the lowest costs and small-scale traders carrying the highest. The STR can help small-scale traders access the same benefits and preferences that large formal traders take advantage of, drastically lowering the costs of goods crossing the border.

[37] Daniel Njiwa, *Informal Cross-border Trade: Challenges and Opportunities – a Case of COMESA and its STR Implementing Borders* (2012).

By extending the provision of existing benefits to small-scale cross-border traders, the STR gives traders certainty that is often lacking. Small-scale traders at some borders have complained about customs officials changing duties and classifications from day to day, meaning that traders do not have certainty with regard to what they will pay on any given day. The STR changes this, providing a strong legal and formal option that will deliver consistent results, thereby providing an incentive for traders to take formal routes rather than more risky informal ones.

The STR can operate independently if there are sufficient systems to capture data in place, as there are no cumulative minimums. Goods consignments simply need to be on the common list, comply with certification requirements and the per-consignment value threshold. This means that it can operate in parallel with several different schemes (such as the laissez-passer and the paper-based Jeton pass).

An STR database linked to a mobility scheme, and more importantly to the individual tax numbers of the traders using it, could provide a valuable pathway to formalization. The STR would allow small-scale traders to obtain the tariff benefits of regional FTAs, while the link to a unique tax number would allow border officials to monitor traders and ensure that there is no abuse. The scheme would have to be offered alongside other fundamental changes to make it clear that small traders receive more benefits from using it than they do when they use informal routes (such as programmes against harassment by border officials and programmes to educate traders and officials about all of the processes and schemes active at the border). Once this is achieved, a system that links traders to their tax information through a tax number allows traders to claim the VAT back at one side of the border and pay it at the other while allowing border officials to reduce tax fraud and avoidance by ensuring that all of the taxes applicable at the various borders are collected correctly from traders. The STR also links well to other programmes, such as the eJeton and the PCMS, which facilitate movement of traders themselves and the pre-capturing of relevant customs information.

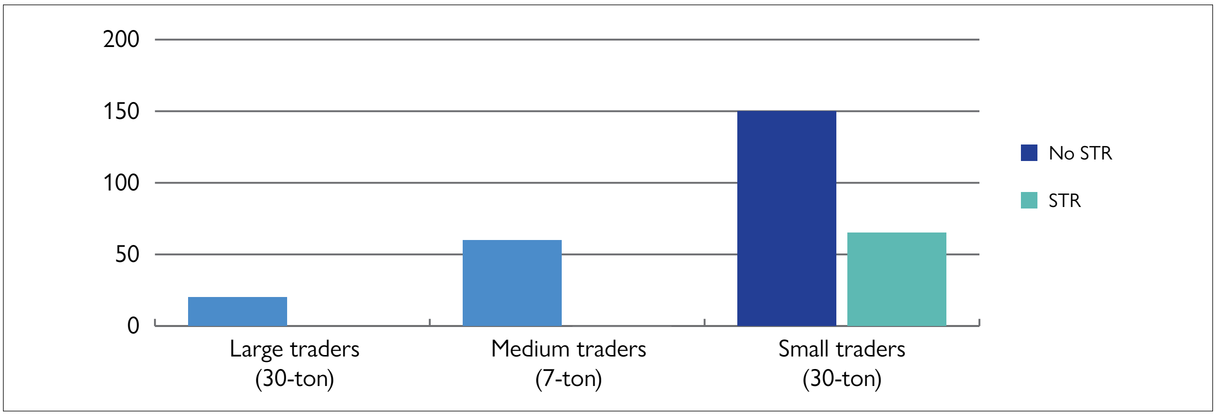
Under the COMESA and the EAC broader economic development and integration agenda, the STR is seen as a key to unlock the potential for small-scale trade to contribute to inclusive growth, promotion of gender equality and enhancement of regional mobility.[38] The STR was considered a priority for the COMESA in part because of the considerable portion of trade between the COMESA States that is carried out by small-scale traders. These traders, who are often women and from the poorer sections of the community, are often forced to pay the highest costs when crossing the border. As Figure 1[39] and Figure 2[40] show, there is an inverse relationship between traders' levels of formality and the costs that they pay to cross the border, even when the same goods are being traded. Figure 2 shows the intention of the STR to move small-scale cross-border traders more in line with the costs paid by medium-sized traders, eliminating a large proportion of the significant gap between large formal and small informal traders.

38 Sally Peberdy et al., *Calibrating Informal Cross-Border Trade in Southern Africa* (J. Crush, ed.), Migration Policy Series No. 69 (Cape Town, Southern African Migration Programme, 2015).

39 World Bank, *Republic of Malawi Diagnostics Trade Integration Study (DTIS): Reducing Trade Costs to Promote Competitiveness and Inclusive Growth* (Washington, D.C., World Bank, 2013).

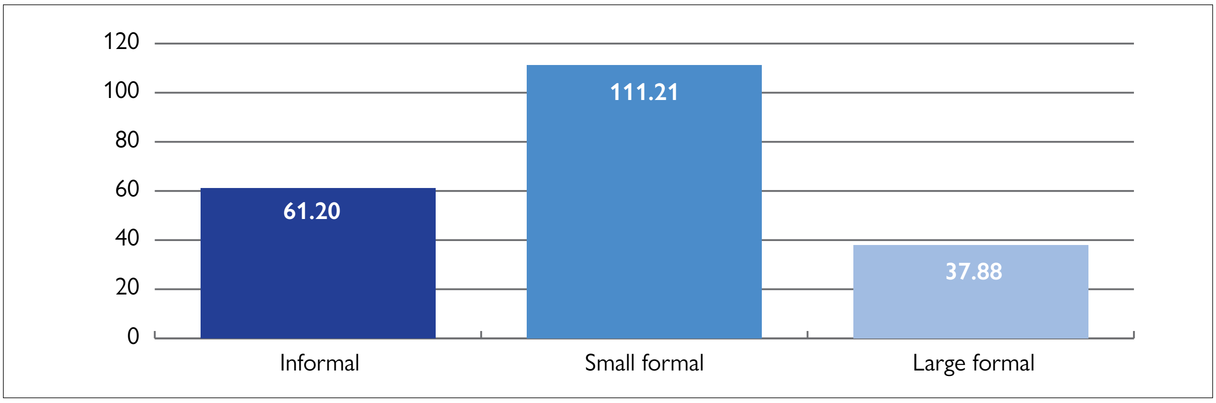
40 World Bank, *Zambia Diagnostics Trade Integration Study (DTIS)* (Washington, D.C., World Bank, 2013).

Figure 1. Total costs of exporting rice from Malawi into Zambia per size of trader (USD/ton)



Source: World Bank, *Republic of Malawi Diagnostics Trade Integration Study (DTIS): Reducing Trade Costs to Promote Competitiveness and Inclusive Growth* (Washington, D.C., World Bank, 2013).

Figure 2. Border costs at Kasumbalesa (USD/ton maize)



Source: World Bank, *Zambia Diagnostics Trade Integration Study (DTIS)* (Washington, D.C., World Bank, 2013).

As these figures illustrate, medium-sized traders and small formal traders who fail to qualify for the STR will continue to pay higher costs than what large traders pay. The STR does not only offer tariff preferences but also simplifies the customs process, which makes it easier and cheaper to, for example, obtain a certificate of origin or to avoid having to use a clearing agent. In the Malawi/Zambia example above, small traders trading 2 tons of rice would have a consignment value of USD 1,000, while medium traders carrying 7 tons of rice would have a consignment value of USD 3,500. This illustrates the importance of the threshold value to the STR. Medium traders that fall between being able to access the STR while also being unable to reach the scale required to offset the formal costs of certificates of origin and other processes find themselves at a disadvantage. Increasing the threshold value would allow more of these traders to access the STR and bring their costs closer in line with what large formal traders pay. Raising the value threshold also provides a way to prevent small-scale traders from being trapped under the threshold without room to grow for fear that they will no longer be able to access the scheme. An increase would allow them to switch to higher volumes, higher-value goods or diversified consignments that combine high- and low-value goods.

While the expansion of the COMESA STR is likely to be the short-term focus, it cannot be ignored that a significant part of SSCBT is conducted at the borders of COMESA members and non-COMESA members, which is not covered by the COMESA STR. There are also examples of traders carrying goods that originate from the SADC or other regions. The TFTA and the African Continental Free Trade Area (AfCFTA) are being implemented to improve the facilitation of trade on the continent. This could once again create a situation where large formal traders are able to take advantage of trader preferences at COMESA to non-COMESA borders while small-scale traders are left out. The STR has the potential to work with both of these FTAs, and the operational STRs in the COMESA and the EAC provide good examples on which a future scheme can be based. Implementing such a programme with the TFTA and the AfCFTA would ensure that small traders are not locked out of the benefits that these megaregional trading agreements can bring.

The advantages of the STR are as follows:

- It already exists.
- It has support from traders.
- It seeks to achieve the important goal of allowing traders to access the benefits of FTAs.
- It lowers the costs for small traders when crossing the border.
- It can reduce the complexity of traders crossing the border with their goods.
- It encourages formalization.
- It can be used with larger trade agreements, such as the TFTA and the AfCFTA, if negotiations allow.

There are challenges to the effective adoption and use of the STR. At the borders surveyed during the field visits with functioning STR programmes, along with earlier research, traders often reported that they were not aware of the STR, were not sure about how to use it, and did not fully understand what benefits it provided. Furthermore, common lists are often out of date, and the negotiation of new lists can take significant time and, as a result, some STR programmes are in limbo for years. The STR reduces the tariff revenue collected at the border, which can be an issue for certain countries or regions that are reliant on this revenue. For example, fieldwork at Kasumbalesa found that customs on the Democratic Republic of the Congo side were concerned that implementing the STR would cost them up to USD 250,000 per day, which is one of the reasons why implementing the COMESA FTA and the STR is opposed. This is because it was alleged that over 1,000 consignments worth more than USD 1,000 crossed the border daily, with duties and other taxes averaging about 25 per cent per consignment and no STR or tariff preference in operation at the border crossing.

There is still a gap between how the STR currently operates and its potential, due to:

- Incomplete application at certain borders;
- Lack of education among traders regarding its use;
- Incorrect application of the programme by customs officials;
- Abuse by customs officials who need to meet revenue targets.

4.2. Common Market for Eastern and Southern Africa Simplified Trade Regime

4.2.1. Aims of the Common Market for Eastern and Southern Africa Simplified Trade Regime

The COMESA STR was implemented in 2010 following a three-year pilot. The scheme was designed to help small-scale traders gain access to benefits negotiated under FTAs, such as the COMESA FTA. These traders were unable to comply with formal trade rules that FTAs usually require in order to be allowed to trade under them, and as such, small-scale traders were still paying tariffs and duties that large formal traders were paying when moving duty-free across the same borders. One of the major barriers for small-scale traders to legally access the same opportunities available to formal traders was the requirement for the certificate of origin, which was only issued at capitals and therefore out of reach of border community traders. The STR was designed to simplify the requirements for trading under trade agreements, to improve the experience at the border for small-scale cross-border traders by simplifying and speeding up trade and customs processes; transform and mainstream informal CBT into formal and legitimate CBT; and improve intraregional trade data through more accurately and efficiently capturing informal trade.[41]

In summary, the COMESA STR is premised on the need to reduce barriers to intra-COMESA trade experienced by small-scale traders. They are, in the first instance, founded on the simplification of customs and border procedures. They further help to improve intraregional trade data through more accurate and efficient capturing of small-scale trade, which suffers from significant underreporting. It was also hoped that providing greater certainty for small-scale traders, with regard to taxes and duties payable, could help reduce issues, such as corruption and bribery at the border. The STR was seen as an important tool to help COMESA move forward on its goal of greater trade facilitation, with a focus on a segment of traders that often are not included in facilitation measures.

4.2.2. Legal basis and development of the Common Market for Eastern and Southern Africa Simplified Trade Regime

The COMESA STR was implemented as a council directive,[42] which then became an administrative tool. As it is considered a method to trade within existing preferences, rather than a scheme creating new preferences, there was no need for formal World Trade Organization (WTO) notification, as the scheme was WTO compliant.

The original limit for qualifying consignments under the COMESA STR was USD 500, but this was subsequently raised to USD 2,000. It is important to note that this is a limit per crossing, meaning that traders may cross multiple times a day with consignments up to USD 2,000 in value. In order to qualify for the STR, a consignment must be under this threshold value and must also consist of goods that are eligible for the STR under the common list applied at the appropriate border. These common lists of qualifying goods are negotiated bilaterally between the two relevant countries that share the border where the STR is being implemented. The trader must also provide a simplified customs document.

[41] Solomon Muqayi, "The relevance of the simplified trade regime in addressing trade protectionism: Small scale cross border traders at Chirundu one stop border post", *Pakistan Journal of Social Sciences*, 12(3–4):10–17 (2015).

[42] COMESA, *Official Gazette of the Common Market For Eastern And Southern Africa*, vol. 15, no. 4 (9 June 2009).

TIDs at various borders were equipped to assist traders with this programme. The COMESA STR was initially designed to facilitate the movement of goods traded under the COMESA STR, subject to them being included on mutually negotiated common lists between the two countries involved. For small-scale COMESA members that are not part of the COMESA STR, eligibility for the STR is dependent solely on bilateral common lists negotiated with partner countries. A decision of the COMESA Council in 2019 expanded access to goods that qualify under the STR, and, as a result, all goods that originate from a COMESA FTA member State and are also on the common list of the relevant countries should enjoy preferences under the STR.

Since its conception, the Simplified Certificate of Origin has been removed from the required documentation list to reduce compliance barriers in several COMESA countries.[43] The simplified customs documents are now the only documents required for the STR in the COMESA. Not requiring a Simplified Certificate of Origin has been shown to greatly simplify the trade and increase STR uptake.[44]

4.2.3. Implementation of the Common Market for Eastern and Southern Africa Simplified Trade Regime

In order to implement the STR, COMESA member States must:

- Negotiate and agree on common lists of qualifying products;
- Apply these lists and other STR instruments through formal gazette publication;
- Ensure the availability of STR documentation and information at border crossings;
- Determine threshold values to be applied on consignments eligible for the STR;
- Determine the application of other taxation and processing fees on STR clearances.

4.2.4. Achievements of the Common Market for Eastern and Southern Africa Simplified Trade Regime

In a previous study, Njiwa found that three quarters of traders who used the STR praised it for providing quicker clearance times for their goods, while 70 per cent said that it offered an attractive tax regime and 60 per cent thought that it better protected them from abuse.[45] A second study by Chirwa largely confirmed these results.[46] Overall, these results seem to show that the COMESA STR is extremely popular among the traders that use it, and that these small-scale traders are seeing concrete results in the areas of processing times, tax/duty relief and protection from abuse, thanks to the COMESA STR programme.

4.2.5. Gender and the Common Market for Eastern and Southern Africa Simplified Trade Regime

Much of the research conducted at borders in the COMESA region has indicated that women make up the majority of small-scale traders. For example, at Chirundu, it was found that 73 per cent of small-scale traders were women.[47] Therefore, any action taken to facilitate and benefit small-scale traders is often

[43] COMESA, "Cross-border trade and the simplified trade regime" (2017).

[44] COMESA, Annual Report 2014: Inclusive and Sustainable Industrialization (Lusaka, COMESA, 2014).

[45] Daniel Njiwa, "Tackling informal cross-border trade in Southern Africa", *Bridges Africa*, 2(1):9–11 (2013).

[46] Innocent Chirwa, *The Impact of the Simplified Trade Regime (STR) on Trade Growth and Poverty Reduction in COMESA Region: The Case of STR Implementing Member States* (2013).

[47] Muqayi, 2015.

going to have disproportionate benefits for women. As indicated in the previous subsection, one of the most important benefits that traders have reported back about the STR is that it better protects them from abuse and extortion. Although the STR on its own is not sufficient to protect women traders, it is an important step. The formalization offered by the STR helps reduce traders' reliance on informal routes, which can be extremely dangerous, especially for women. Previous research has also indicated that women tend to trade lower-value items compared with what men trade at borders, which would therefore mean that they would be more likely to qualify for the STR under its threshold value.[48] The certainty provided by the scheme with regard to documentation and duties payable also decreases the extent to which border officials can use their knowledge disparity to take advantage of women traders.

4.2.6. Challenges facing the simplified trade scheme

The STR is not without its issues. Small-scale traders have complained about the usefulness of the common lists, the processing fees that are still charged by some countries, continued abuse by customs officials and a lack of information.

The common lists negotiated by countries setting out eligibility for the STR are often considered to be out of date by traders at the border. This is due to the fact that many have not been reviewed since their creation (with Malawi, Zambia and Zimbabwe being exceptions). However, it is also likely that policymakers negotiating the common lists did not have access to accurate data on what goods are traded by small-scale cross-border traders, given the fact that this data is rarely recorded.

While the STR provides the framework for a common programme, it is not implemented completely uniformly across the region. Part of the variation is down to the charging of processing fees, with some countries abolishing these, while others charge a flat rate of USD 10 for every transaction captured in the Automated System for Customs Data.[49] This means that traders in the region enjoy different benefits, and, given the small margin nature of CBT, these differences can have a significant effect on traders.

Administrative barriers are also significant, ranging from abuse of power to extortion, to a lack of checks and balances and accountability.[50] Part of the problem lies in the skewed incentives for customs officials when it comes to the STR. Performance targets of border clearance agencies are often based on total revenue collected. If agencies are at risk of not meeting targets, customs officers have been reported to introducing unofficial tariffs and/or charging duties on products that are exempt.

One of the most consistently reported issues from fieldwork regarding the STR is that traders do not know about the processes and potential benefits of the STR. The issue of traders having low levels of formal education has also been flagged as important, given the potential challenges in interpreting tariff handbooks, and completing the formal documentation required for the STR. Traders that are unaware of the STR are unlikely to be assisted by customs officials, as they are not always adequately trained

48 Titeca and Kimanuka, 2012.

49 Chirwa, 2013.

50 Muqayi, 2015.

or briefed on the scheme and, thus, do not always apply it correctly. However, where TID officers are placed, this helps traders with such information.

4.3. East African Community Simplified Trade Regime

4.3.1. What is the East African Community Simplified Trade Regime

Like COMESA, the EAC has launched an STR for selected commodities, allowing small-scale traders to benefit from trade facilitation measures. Both programmes are designed to give certain goods originating from a member country duty-free access to other member countries so long as the procedural requirements are met and the value of the consignment is below the set threshold. The two STRs are extremely similar in design and operation.

4.3.2. Small-scale differences between the Common Market for Eastern and Southern Africa Simplified Trade Regime and the East African Community Simplified Trade Regime

The primary difference between the COMESA STR and the EAC STR is the manner in which the lists of qualifying goods are drawn up. As mentioned, the COMESA STR allows member States to negotiate bilaterally when implementing an STR programme at a common border point. This means that traders in the region operate under differing lists providing different coverage for traded goods, and, as a result, there is no uniformity. Exporters of the same goods into the same country may find their products treated differently, depending on the bilateral negotiations between their country and the country the goods are being exported to. By contrast, the EAC has negotiated a single common list of products that are covered by the STR programme and therefore will receive duty-free access in every country implementing the programme. Goods eligible for clearance through the STR are set out in the EAC List of Originating Goods Commonly Traded by Small-scale Cross-border Traders. In total, 370 products currently qualify, which include agricultural commodities like maize and beans, fish products, textiles, cosmetics, office supplies and household goods. The other difference is that in further simplifying the STR, COMESA has dropped the requirement of the Simplified Certificate of Origin, while the EAC has dropped the requirement of a simplified customs document. In other words, for COMESA, only the simplified customs document is required, whereas for the EAC, only the Simplified Certificate of Origin is necessary.

4.4. De minimis

De minimis is the valuation ceiling for goods below which no duty or tax is charged and clearance procedures, including data requirements, are minimal. The de minimis scheme generally provides for a “duty-free allowance”, enabling individuals to import goods up to a certain value, duty-free, generally in accompanying luggage. Because the goods are not linked to any FTA (as the STRs usually are), the origin of the goods does not matter, and no certificates of origin are necessary. The allowance is not related to tariff preferences offered under an FTA, but rather an exception to standard tariff rules for small quantities of goods. A form of de minimis is in place at most borders across the region, although very few are used by small traders and the threshold values differ widely.

The de minimis scheme is generally not necessarily trade mobility schemes for goods in its intention. It is used to clear small amounts of goods carried by people across the border, often in quantities that amount to no more than personal use. By increasing the value limit for the scheme, de minimis can become a de facto trade mobility scheme for goods, as traders are able to move their consignments across under this limit. As a result, the most important factor for this to be a goods mobility scheme is the value limit and the frequency limit. Borders that have a value limit set high enough for small-scale cross-border traders' consignments to regularly fall under it will then allow traders to use de minimis to move their goods across the border duty-free, even if there is an STR at that border. An example of such a situation can be seen in the Chirundu fieldwork discussed in section 5. As de minimis allows for duty-free trade (as the STR does) and has little formal requirements, it is even simpler than the STR, so when given an option of the two, traders will likely favour the former. Because de minimis is simpler to use than other schemes, when it is available to traders, it is likely that they will use the scheme. Therefore, where a de minimis with a high-enough-value limit exists for small traders to use, it is likely to be used as an alternative goods mobility scheme to the STR or standard customs procedures.

Case study: Mozambique–South Africa

Small-scale cross-border traders from Mozambique can carry up to 5,000 South African rand (ZAR) per month worth of certain products for commercial use across the border into South Africa and be classified as informal traders. Anyone who falls under this ZAR 5,000 threshold, who are also classified as informal traders, do not need any documentation for their goods, with the exception of agricultural goods. These require permits to be issued by the Department of Agriculture, Fisheries and Forestry officials at the border that simply list the number of bags being transported. There is no formal customs declaration, but an assessment is always undertaken. ICBT goes to the customs counter and is keyed into the passenger processing system (PPS). The system is used for the declaration of non-commercial goods. The traveller's ID, electronic signature and passport details are captured, and a verbal declaration of goods is made and captured on the system. For agricultural goods, rules of origin do not apply and therefore they do not affect ICBT. The PPS is not linked to rules of origin and does not allow for entry of manufactured goods.

Traders of home-made articles of leather, wood, plastic or glass are able to take advantage of a separate scheme provided by South African customs at the border, which allows them to bring up to 25 kilograms of goods per month into South Africa without the payment of any duties and taxes, with this scheme operating separately from the standard ZAR 5,000 threshold.

For any product other than the aforementioned home-made products, traders pay a flat fee of 20 per cent of the value of goods for trading when entering South Africa. As there is no operating STR, traders are unable to benefit from the SADC FTA, as the SADC certificates of origin are too costly for them to acquire. Authorities and traders interviewed at the border both believed that the STR would be beneficial if applied at the border, with traders hoping for a reduction or an elimination of the tariffs they face and border authorities believing that an STR could help make the monitoring of SSCBT more effective by improving their control. Monitoring and control is important, given the fact that the majority of SSCBT is not captured and smuggling is rampant.

The operation of de minimis schemes often has no record of trade/tax data, unless a system has been specifically designed for that purpose and is linked to an identifiable trader/tax number. Without such a system, goods are usually just evaluated to ensure that they are under the threshold value and then waived through with little, if any, record taken. This makes it extremely difficult to track who is crossing the border and what goods they are carrying where the de minimis scheme is used. Furthermore, any de minimis system that does not link traders to their goods in a way that is easily monitorable will not be able to enforce daily/monthly/yearly value thresholds in order to prevent abuse from traders making multiple trips. There is potential to link de minimis to the eJeton card and/or customs system at the border which would be able to record the information of traders (or link to the information stored on a central network) in order to ensure that traders do business within their daily/monthly/yearly limits under the de minimis programme. This would provide more structure to the scheme and allow border officials to better monitor the flow of goods. However, this would only work with computerized schemes and the regular Jeton would not be able to do this, meaning that, in cases where the paper-based Jeton is used in parallel with the eJeton, any de minimis scheme should only be available to travellers using the eJeton.

The de minimis programme can be implemented unilaterally by a country and does not require negotiations with neighbours. Unilateral application would allow for faster implementation at the border as opposed to requiring negotiations for a common list. The de minimis scheme requires less paperwork, as it operates as an abrogation of an existing customs law for consignments under a certain value (depending on the nature of the scheme). The de minimis programme is flexible and can be implemented on a small section of goods to facilitate certain types of trade that is most common at a particular border, as done by South Africa at the Mozambique border.

Some of the benefits of the de minimis programme are as follows:

- It is simple to use for both customs officials and traders.
- It is easy for countries to implement and would not need negotiations.
- It encourages trade of all goods from any region.
- Little/no additional paperwork is required.
- It allows countries to customize a system that works for their needs.

The potential for abuse of the de minimis scheme means that it needs to be linked to individual traders to ensure that they do not exceed their monthly limit. Furthermore, de minimis programmes with high thresholds can create incentives for large exporters to engage in de-bulking, whereby large consignments are split up into several small consignments that fall under the value threshold and therefore can avoid all duties payable. By and large, these schemes are simple to implement because they do not differentiate between different goods. As a result, such schemes could facilitate the trade of goods that originated from outside the region, while the lack of checks could result in a difficulty for customs officials to apply SPS standards or other similar controls on agricultural goods (which could hamper containment of outbreaks of disease among livestock). The addition of a separate process for those transporting agricultural goods (which would involve SPS checks) is possible but would require resources and might make the scheme more difficult to use. As a result, at borders where these two issues are considered paramount, the de minimis scheme might not be sufficient.

De minimis can be abused by traders to take advantage of differences in taxes on certain goods on either side of the border or avoid tariffs on re-exports. Duty-free allowances can create issues for certain products where neighbouring countries have significant tax differentials, thus creating a large incentive to travel with these goods under duty-free allowance rules in order to avoid these taxes, undercutting local prices. Examples of such goods are petrol, alcohol and tobacco. The experience of the Latvia–Belarus LBT agreement showed that for these types of goods, different rules had to be implemented, with the Government of Latvia implementing a new law that allowed for a duty-exempted quota of 40 cigarettes, 1 litre of strong alcoholic beverage and 90 litres of motor fuel (roughly a standard fuel tank plus a 10-litre reserve can) once per week to prevent traders from taking advantage of the differences in taxes on these goods on either side of the border.

The disadvantages of the de minimis programme are as follows:

- It can be abused by traders carrying foreign goods.
- Traders can use it to take advantage of tax differentials.
- It is difficult to track data on goods traded.
- It can be used to get around necessary regulations (e.g. SPS).
- It incentivizes the use of de-bulking.

5. LESSONS FROM FIELDWORK

This section provides feedback and analysis from the border visits conducted under the scope of this project. Border visits were undertaken at Kasumbalesa, Goma–Gisenyi, Chirundu, Tunduma–Nakonde and Mwami–Mchinji. Section 5.1 focuses on the immigration processes for traders when crossing a border, while section 5.2 looks at the processes required for goods. Section 5.3 discusses access to markets.

5.1. Schemes and processes for facilitating the movement of traders

Mobility schemes are used by traders at all of the borders visited to facilitate crossing. A range of different schemes were used by traders, and similar schemes were used differently depending on the border involved. This subsection assesses the different mobility schemes used at the various borders, looking at their primary characteristics and what they can offer traders.

The primary mobility document used at the surveyed borders was the Jeton. An electronic version, the eJeton, was also available at Goma, but this was unique among the borders. Other mobility schemes observed included the laissez-passer, the CEPGL[51] special card and the standard national passport, which can be used at all borders.

5.1.1. Jeton

The Jeton was issued at all five of the borders surveyed during fieldwork. It is the most popular of the mobility schemes available to small-scale cross-border traders wherever it is available. A representative process map for a trader using the Jeton pass to cross a border is presented in Table 7, including the steps, time and costs observed during fieldwork. Although the times taken for each step can vary dramatically from border to border, the information in the table shows averages observed during field visits to construct a representative process flow. The primary variation is often seen in the initial queueing at the border, which happens before the trader even gets to see a border official. This can vary, and while some borders with little traffic often have no wait times, busier borders, such as Kasumbalesa, can have queues of several hours at peak times on busier days.

[51] CEPGL – La Communauté Economique des Pays des Grands Lacs (Economic Community of the Great Lakes Countries).

Table 7. Processes for cross-border movement of traders based on observations from fieldwork

Step	Process	Cost	Time
1	Applicant submits a national identity card and a proof of residence at the Immigration counter.	Free	1–5 minutes during times with no queue; 30 minutes to 1 hour during peak times
2	The immigration officer verifies the identity card details and proof of residence. If both are okay, the officer hands the applicant a blank border pass form to complete.	Free	1 minute
3	Applicant completes the border pass form, then submits it.	Free	3–5 minutes
4	The immigration officer checks the details on the completed form, countersigns it and stamps the reverse of the border pass with an exit stamp then hands back the identity card, the proof of residence and the form with the border pass to the applicant.	Free	1–2 minutes
5	The border pass holder proceeds across the border and submits the border pass to the Immigration desk, where the officer stamps it with an entry stamp.	Free	1–3 minute
6	The border pass holder enters the country they are travelling to.	Free	–

At most of the borders there was no charge for a Jeton pass, with the exception of the ZMK 3 fee charged by Zambian immigration at Chirundu. Even though the Jeton is supposed to be free, some border officials on the Democratic Republic of the Congo side at Goma ask for money before delivering Jeton passes to small traders, especially to those crossing the border earlier in the morning. A study has shown that about 52 per cent of traders from Goma and 46 per cent from Bukavu have paid at least once to get a Jeton pass from the Congolese immigration office.[52] The fact that so many traders have paid for this free service indicates the vulnerable position they are in and the need for checks and balances (such as adequate reporting mechanisms) that should be instituted in tandem with mobility schemes. Research has also shown that delays at the border are sometimes created by officials in order to frustrate traders and induce them to pay a bribe to obtain a Jeton pass and be allowed to cross. Without oversight it will be difficult to tell what degree delays are caused by congestion versus intentional delays, or a combination of the two. The lack of recourse available to traders when border officials create delays and demand money from them indicates just why reporting mechanisms are so necessary.

[52] Mwanabiningo, 2015.

The Jeton is an instrument designed for border communities, and this intention was adhered to at every border. The exact length that the Jeton allowed for travel into the country and the distance from the border a trader could reside and still be eligible varied depending on the border, with most regulations taking into account the distance of major population centres from the border. For example, at Kasumbalesa, a Jeton pass is available for anyone who resides within a 50-kilometre radius of the border, while at Mwami, the distance is only 10 kilometres. Customs officials do not always adhere to these rules, however, as it was observed that the Democratic Republic of the Congo officials at the Kasumbalesa border would grant Jeton passes not only to those from Kasumbalesa but also from other provinces and towns. These include Lubumbashi, Likasi, Minga (Haut Katanga province), Kolwezi (Lualaba province) and as far as Kamina (Haut Lomami province, about 600 kilometres from the Kasumbalesa border). The Democratic Republic of the Congo immigration issues Jeton passes to these traders to cross into Zambia just like the residents of Kasumbalesa. The variance in qualifying distance is, at least in part, a reaction to the distance of local markets from the border; however, the actual implementation of the policy is dependent on the customs officials issuing the Jeton and, if there is no oversight, then a situation such as the one in Kasumbalesa could arise where officials do not bother to distinguish between traders from the border community and those from outside. Laxness of border officials was not confined to Kasumbalesa, and in Nakonde, it was found that small-scale traders from the border community could bypass almost all formal structures at the border (including health, immigration and customs processes). This is especially problematic during the COVID-19 pandemic, with traders simply bypassing the COVID-19-related processes at the border despite the obvious community health risks of doing so. The border community in this region has traditionally been given a large degree of freedom, and this has resulted in them traversing the border unfettered without any form of identification documentation and remaining in the respective countries indefinitely, provided they do not travel beyond 70 kilometres. In interviews, officials conceded that the processes that are meant to be followed are very different from what occurs in practice.

In order to prove their identity, applicants for a Jeton pass have to produce some form of identification. The standard national ID card was used by traders at all borders with the exception of traders from the Democratic Republic of the Congo at the Goma–Gisenyi border. Here, traders used their voter's cards, as many people in the Democratic Republic of the Congo do not have access to a standard national ID. The Jeton once again shows its flexibility in being able to compensate for local realities, such as the lack of a national ID among applicants. Some Jeton applicants are required to produce an additional document to prove that they are from the border community. This can take the form of a letter from a local official or, in the case of the Chirundu border, a letter from the local CBTA (this letter costs ZMK 100).

Another common regulation among Jeton schemes at various borders is that officially they are only available to traders that do not have a passport. This is likely due to the fact that the Jeton is meant to be a special document to facilitate the movement of those that cannot obtain a passport. However, it was observed at Kasumbalesa that this was not enforced, due to the fact that there was no way for officials to tell if an applicant was in possession of a valid passport. Since the Jeton is not linked to an electronic system, this requirement is essentially unenforceable by border officials.

The format of the Jeton varies depending on the border. On the Democratic Republic of the Congo side, at Kasumbalesa, the Jeton pass is a piece of paper with a stamp on it, while on the Zambia side, it is a more formal-looking document. By and large, Jetons do not require a photograph to be attached, which further illustrates how few security features this system offers. In reality, there is little way for a border official to tell whether a Jeton is being used by the person it has been issued to, or if it has been given to someone else. Regardless of the format of the paper Jeton, they are relatively quick to issue once the traders get to the front of the queue. The issue of congestion at the border is prevalent, especially at peak times at the busier borders when many traders are trying to cross at once. This can extend the time taken to obtain a Jeton from a few minutes to an hour or more. This factor highlights the potential of a reusable, automated system, which could create a faster flowing queue during peak times. A reusable, swipeable card and an automated gate would end the hassle of traders from having to apply for a Jeton pass every time they cross the border, reducing congestion at the border.

Most Jeton passes are only valid for 24 hours, meaning that traders must cross back across the border before the end of the day. This, however, creates an issue that was present across many of the observed border posts. Most borders are not open 24/7, and, as a result, queues at peak times tend to become substantial, causing delays for traders. Peak times tend to occur in the mornings, when traders first cross the border, and then an hour or two before the closure of the border when traders rush back across before they overstay. Since this situation is known, traders often face the prospect of having to sell off their remaining goods at a discount (or even a loss) later in the day, because it is not viable to take them back across the border with them (this is especially true for spoilable goods such as foodstuff). The one exception to the pattern of border passes being valid for 24 hours is the Jeton issued by Zambian immigration at Kasumbalesa, which is valid for 30 days and allows for multiple entries and exits. Although this cuts down on some form filling, it would appear from other interviews that immigration officials do not see the point of a Jeton pass being available for 30 days, and they seem to consider it a 24-hour-only document. Given the lack of security features on a Jeton pass, it makes sense to limit it to a short period, as this should increase the chance that the Jeton is issued to the one using it, and this prevents the possibility of a single Jeton, valid for 30 days, being used by multiple people after its issuing. There would likely be a high demand for reusable Jeton passes among traders from outside the border area in regions where the residency requirements were strictly adhered to, and traders that only cross the border once or twice a week would be able to lend their Jeton passes (for a fee) to other traders who are not eligible for one.

The eJeton was only observed at one border, being issued on the Rwanda side of the Goma–Gisenyi border. Currently, Rwandans use the Jeton that is issued manually or issued by the machine. This depends upon the decision of the immigration officer and whether the machines are functioning. Very often, these machines are not operational and the Jeton is issued manually. It is important to mention that the experience of the eJeton at the Petite Barrière in Gisenyi is not an improvement for small traders. Despite being introduced to ease congestion at the border crossing, it has instead increased the delay for small cross-border traders using the Jeton. While the collection of a manually issued Jeton pass can take only a few minutes, the use of the machine has increased the waiting time by up to one hour.

Points to note on the Jeton

- The Jeton's simplicity and the fact that it is free (or, in the case of the Zambian Jeton, the negligible fee of ZMK 3 or USD 0.17) make the scheme popular among small-scale traders.
- Issuing a Jeton pass is relatively quick, with most being issued in only a few minutes after the trader gets to the desk of the immigration official. Congestion at the border can, however, be an issue, especially where lots of traders try and cross at the same time at peak times.
- Most Jeton passes are only available to people living in the border community and are only valid for travel within a short distance from the border. However, the exact parameters of both limitations vary from border to border, often depending on the distance of towns and markets from the border to ensure that an arbitrary distance requirement does not reduce the viability of the Jeton for traders (for example by placing the local market town out of the range of the Jeton).
- Most Jetons require a form of national ID card and a proof of residence in the border areas from applying traders. However, this rule is subject to local realities; for example, in the Democratic Republic of the Congo (where national IDs are not widespread), a voter's card is used by traders instead.
- The implementation of the Jeton is subject to local conditions and enforcement by local officials. The experience at Nakonde shows that, regardless of the official rules and regulations that are in place, the lack of enforcement of these rules will undermine any programme, and there needs to be a form of oversight.
- The Jeton lacks any real security features. Information is not stored on any immigration system, and there is no way to prevent a Jeton pass issued to one trader being transferred illegally to another.
- Jeton passes are usually valid for 24 hours, but as border closing times often allow travelling into a neighbouring country for between 10 and 12 hours, traders with a Jeton pass must return to their home countries before the border closes. One of the reasons that Jeton passes are only available for 24 hours is likely the lack of security features.
- An eJeton card is issued by Rwandan officials at the Goma–Gisenyi border. However, the system is often down, and, as a result, it often takes far longer to obtain an eJeton card than a standard paper-based Jeton pass.

5.1.2. Laissez-passer

The laissez-passer is a more formal document that has a higher cost than the Jeton. It takes the place of a passport and is available to all traders, not only those from the border community. Since it operates more like a passport, a passport photo is usually required from applicants. In some cases, the laissez-passer application can be submitted (and the document issued) at the border, as is the case of applications made to the Democratic Republic of the Congo immigration at Goma–Gisenyi. Alternatively, applications can be done at regional immigration offices away from the border, as is the case of the Rwandan laissez-passer.

The cost of the laissez-passer can vary; however, the price seems to average out at around USD 5. Although a laissez-passer holder often does not need an additional visa to enter a neighbouring country, it was observed that traders from the Democratic Republic of the Congo holding laissez-passers at Kasumbalesa needed to apply for an additional visa when crossing into Zambia.

The validity of a laissez-passer also varies. At Kasumbalesa, it was found that traders from the Democratic Republic of the Congo with a laissez-passer and a visa could enter Zambia multiple times within 30 calendar days from issue. In contrast, Democratic Republic of the Congo traders holding a laissez-passer at the Goma–Gisenyi border could only enter Rwanda for a maximum of three days (however, they do not need to apply for an additional visa). The laissez-passer is not nearly as well used as the Jeton, and as a result at some borders, such as Chirundu, there was no evidence of widespread use of the document. The laissez-passer is available to everyone, not just residents of the border communities, which broadens its scope of use to include capital to capital traders. However, at borders where the residency requirement of the Jeton is not strictly adhered to (such as Kasumbalesa), it is likely that traders from outside the border community would rather obtain a Jeton as it is quick, cheap and does not require an additional visa.

5.1.3. Other documents used at border points

National passports

National passports are difficult to obtain and expensive and therefore were not widely used by small-scale cross-border traders at many of the borders. It was observed that the passport was mostly used by capital-to-capital traders who did not make use of special pathways for small-scale traders that use the Jeton, but rather used the formal processes.

An example of the reasons that passports are not widely used by small-scale traders can be seen at Kasumbalesa. Zambian small-scale cross-border traders very rarely enter the Democratic Republic of the Congo at Kasumbalesa using a passport due to the visa requirement (which is issued from the Embassy in Lusaka or the Consulate General in Ndola for a fee of USD 25 and is single entry and valid for 30 days). Instead, they generally trade from the Zambian side of the border and goods are transported into the Democratic Republic of the Congo by Congolese small-scale transporters. On the Democratic Republic of the Congo side, small-scale cross-border traders and transporters can also, but never, use the national passport to cross into Zambia because very few have them and find the procedure cumbersome, especially since the cost of a passport is supposed to be between USD 100 and USD 180, but often invariably individuals end up having to pay USD 300 or more.

La communauté économique des pays des Grands Lacs special card

The CEPGL special card is another option for traders at the Goma–Gisenyi border. This document costs about USD 12 (while the official price is USD 10) and is issued after 24 hours for a validity of one year. This document is not issued at the border but rather at the Direction Générale des Migrations (DGM, General Directorate of Migration)[53] office. It allows people who do not have a passport to cross the border and circulate in the CEPGL areas (Democratic Republic of the Congo, Rwanda and Burundi) for one month without paying for the visa.

[53] The Direction Generale des Migrations (DGM, General Directorate of Migration) is under the Ministry of the Interior and Security of the Democratic Republic of the Congo.

Cross-border permit

A cross-border permit is offered by Zambia to small-scale cross-border traders who wish to enter its territory to do business. During the field visits, it was found that this document is provided for under Section 30 of the Zambian Immigration and Deportation Act 2010.

A cross-border permit can be issued to an applicant who meets the following conditions:

- Must be a non-Zambian from Zambia's neighbouring country or from a country that belongs to a regional grouping to which Zambia is a party (e.g. COMESA, SADC);
- Must be a member of an association of persons engaged in cross-border business (e.g. CBTAs);
- Must not be a prohibited immigrant and must have entered Zambia legally;
- Must have a valid national passport or travel document.

A cross-border permit, when first issued, has a validity of 90 days. It can be renewed for a further period, provided that the total period of validity does not exceed six months. A cross-border permit costs ZMK 1,500 at first issue. An extension costs ZMK 2,250. Although this was not the case at all the borders, at some (such as Tunduma–Nakonde) it was observed that traders had to pay ZMK 350 for a letter of introduction from the TID officers if they wished to apply for a cross-border permit.

5.2. Schemes and processes for facilitating the movement of goods

Movement of traders themselves across borders is only half of the story. Movement of the traders' goods is another vital component when it comes to actual facilitation of SSCBT. This section looks at the methods observed to facilitate the movement of goods for small-scale cross-border traders at the monitored borders. An example of a typical process flow of goods is presented in Table 8.

Table 8. Processes for facilitating cross-border movement of goods based on observations from fieldwork

Step	Process	Cost	Time
1	Goods arrive at the border and are unpacked from the carrier vehicle by transporters in advance to prepare for physical inspection by a customs official. (It is at this time that some traders tend to hide some goods they do not wish to pay duty for.) While some goods remain packed in the carrier vehicle, others are unpacked at the directive of a customs official.	Border-crossing-related transport costs are borne by the trader; costs vary from border to border.	5 minutes

Step	Process	Cost	Time
2	The trader choses either of the following: (a) Directly declare goods at a designated customs window/office, if the goods are worth more than USD 2,000, or if the goods are not on the STR list of eligible commodities. i. Failure to pay means goods are withheld at the border and stored at the trader's cost for a period of time (usually two weeks) then forfeited to the State. (b) Go through a COMESA-supported CBTA TID, where the form is filled in for the STR, if goods qualify under the initiative and are valued at less than USD 2,000, implying customs duty exemption.	Customs duty and other border taxes are applicable in line with the tariff book. The STR form is approximately USD 1.	10–20 minutes 10–20 minutes
3	(Pursuant to 2(b) above) Goods are then formally cleared with customs and recorded at both a COMESA-supported CBTA TID and the Automated System for Customs Data as aggregates under HS Code 9902.[54] This is a recent development.	Free	–
4	Certain goods may be subject to random/routine physical inspections, especially agricultural raw materials and primary commodities. This is at the discretion of the border authorities (e.g. upon suspicion of SPS problems, public health problems, contraband, national security prohibitions). • Livestock/Live animals (eligible on the STR list) may require additional permits from authorities, which will be verified upon inspection. • Sensitive goods for food security (mainly maize, which is a staple food) may require import/export permits. • Confiscated goods are irretrievable and not compensated.	Free	10–20 minutes where applicable
5	Goods enter the country they are being exported to.	–	–

5.2.1. Simplified trade regime

The primary small-scale trade scheme at borders such as Chirundu and Mwami–Mchinji is the COMESA STR, which enables small-scale cross-border and city-to-city traders with specified products on the STR eligibility list and with a maximum threshold value of USD 2,000 or kwacha equivalent, to benefit from duty-free tariff preferences available under COMESA at the border. During a field visit, the consultant was informed that there was only one copy of the list of goods covered under the STR at the border, and this copy was only available at the examination office and only available on request. No information on which goods qualify for the STR was publicly displayed. It was not clear why there was restricted

[54] HS Code 9902 refers to a category of temporary, special tariff classifications within the United States Harmonized Tariff Schedule (HTS). The Code is used to provide temporary reductions or suspensions of duties on certain imports. Each specific HS Code 9902 is tied to a unique product and is usually enacted by Congress as part of trade legislation, offering preferential treatment for that product for a limited time.

access to the list. Interviews conducted at the border with customs officials confirmed that the form for the STR was only issued to traders engaged in trade between COMESA countries.

The STR is available to all traders, regardless of whether they are members of a CBTA or not. The requirements for use are that the consignment must be valued at under USD 2,000, the goods traded must be on the common list of eligible goods and the trade must be between participating COMESA countries. Visits to both Chirundu and Mwami–Mchinji borders indicated that traders wishing to use the scheme had to pay a ZMK 20 administration fee to the local TID officer that would administer the scheme and would assist traders in filling out the STR form. Because the scheme is not administered by local customs officials, these officials do not inform traders about it. Instead, officials will charge qualifying traders full duties, which highlights the need for further engagement with and education of traders with regard to the benefits that they can derive from the STR. It was observed that having knowledge of the STR and any changes to it was a significant advantage of the CBTA membership, with CBTA members more likely to know of and use the STR. This indicates how useful these organizations are for engagement with and disseminating information to small-scale traders.

It takes 15–20 minutes and no more than 30 minutes for a trader to get STR clearance through the TID officer, including any inspection requirements. During the field visits to Mwami–Mchinji and Chirundu, neither border post had a list of the STR commodities displayed anywhere publicly; however, the CBTA confirmed that it was aware there was a list, although they noted that many products that were cleared through the STR were not on the list. This lack of transparency is a major issue for newer traders who are not members of the CBTA and who do not know which items are included on the common list. There is also no particular reason for the list not to be displayed publicly. This is an oversight that could be swiftly remedied and could have a positive impact on the usage of the STR by traders. The STR is a revolutionary programme that extends benefits available to large traders under FTAs to small traders who are ineligible under existing structures and face far higher unit costs, despite being from much lower-income segments of society. It is likely that there is a lack of awareness with regard to the STR among traders and officials. Training and awareness-raising could improve the use of the STR among traders, while publishing more information (in the form of posters at the border) would also be of use to small-scale traders who struggle to obtain information about the programme.

5.2.2. No mobility schemes

Not all of the borders observed had a functioning mobility scheme in operation. For example, with regard to Kasumbalesa, the Democratic Republic of the Congo is not part of the COMESA or the SADC FTAs and does not yet implement the STR at the Kasumbalesa border. Furthermore, the Democratic Republic of the Congo does not have a bilateral trade agreement with Zambia. Interviews with Zambian officials indicated that while the Democratic Republic of the Congo had passed the legislation to implement the STR, and that a bilateral trade agreement between the Democratic Republic of the Congo and Zambia had long been proposed, neither has been able to come to fruition. These officials indicated that the potential loss of revenue that each would create was a major factor in these schemes not being fully pursued. Hence, trade between the two countries is conducted on a full most favoured nation (MFN)[55] basis. All goods imported from Zambia into the Democratic Republic of the Congo are invariably subject to the full MFN customs duties charged by the Direction Générale des Douanes et Accises (DGDA, General Directorate of Customs and Excise),[56] as no preferential trade terms currently exist between the two countries. The simplified declaration under the STR law has, nevertheless, simplified documentation and eased the clearing process. Furthermore, it has saved time for the small-scale trader/transporter and DGDA staff.

This situation is detrimental to small-scale cross-border traders, as their small volumes mean that fixed costs have a higher impact on them than on larger traders. For example, all livestock traded at Kasumbalesa require a stock movement permit with a flat fee of ZMK 50 per consignment, irrespective of the number of animals from the Zambian Ministry of Livestock and Fisheries, and a Zambia Police Stock Anti-Theft Movement Permit of ZMK 20 per consignment obtained at the point of origin. Research has generally shown that smaller traders are hit worse by costs at the border,[57] and this factor is a major reason for the introduction of the STR (although the STR would not currently have an impact at Kasumbalesa, as there is no preferential trade agreement for it to be linked to).

5.3. Access to markets

5.3.1. Goma–Gisenyi

According to the Constitution of the Democratic Republic of the Congo, small trade on national territory is reserved for nationals. If foreigners, being a small trader or not, want to settle in the Democratic Republic of the Congo to do business, they must comply with the law since they automatically lose the status as small traders and must therefore be subject to Congolese commercial law. The conditions for foreign traders to access markets in Goma by opening a shop or starting a business are numerous. They must open a company and hold the Trade and Personal Property Credit Register (RCCM, Registre du Commerce et du Crédit Mobilier) (commercial register number), a national identification number and a tax number, among others. These conditions are not easy for foreign small traders to meet.

However, given that these conditions are difficult to fulfil, we noted during our discussions with key informants that most Rwandans with commercial activities in the Democratic Republic of the Congo have a Congolese ID and act as Congolese. This is particularly the case for Rwandan sellers in the markets of Virunga, Kahembe and Alanine.

Two categories of foreign traders can be distinguished: the first category consists of traders who do not have sufficient financial capacity and sell basic goods and are assimilated to small traders. The second category of traders are those who have significant financial means who can be qualified as ordinary traders.

55 In the context of international trade, the "most favoured nation" principle means a country agrees to treat another country in the same manner that it treats its most favoured trading partner.

56 The Direction Générale des Douanes et Accises (DGDA, General Directorate of Customs and Excise) of the Democratic Republic of the Congo is responsible for collecting customs duties and taxes.

57 Paul Brenton et al., "Improving behaviour at borders to promote trade formalization: The charter for cross-border traders", Policy Note No. 41 (2014).

The first category buys a licence that allows them to sell their goods in Goma or to open a shop. This licence costs USD 20, issued by the provincial agency in charge of small and medium enterprises, and is valid for a period of one year. The document is delivered to the applicant within 48 hours, of course after having fulfilled the conditions of the DGM. This licence allows traders to go to Goma to sell their goods and return to their countries; therefore, they do not set up their business in the Democratic Republic of the Congo.

The second category concerns ordinary traders who must comply with the following conditions to access the market or open a commercial activity in Goma:

- Have an ID card or another official document proving their belonging of their country of origin;
- Fulfil all the conditions required by the DGM, in particular the possession of the residence permit and visa for traders permanently settled with residence;
- Have a trade registration number (RCCM) which officially costs USD 50;
- Obtain national identification issued by the Provincial Agency in charge of economic affairs;
- Obtain an import and export number issued by the Ministry of Foreign Trade;
- Obtain a tax number.

To reduce the time necessary to create a company, and reduce the number of documents to be supplied, the Guichet Unique was created in 2012. The elements of the file required by the Guichet Unique to create a business are as follows:

- **For an individual company:** A letter of request is addressed to the Director General of the Guichet Unique for business creation with a file containing:
  - Declaration on honour (in lieu of the extract from the Criminal Record);
  - Name of the company;
  - Address of the company headquarters;
  - Nature of activities;
  - Photocopy of a valid identity document,
- **For a multi-owner company:** A letter of request addressed to the Director General of the Guichet Unique for business creation with a file containing:
  - Statutes of the company in four copies;
  - Proof of release of the capital or extract from the bank account;
  - Specimen signature of the manager;
  - Photocopy of valid identity documents of the manager and all stakeholders.

Several reform measures have been initiated to improve the business climate and facilitate the creation of businesses, including:

- Removal of the requirement of providing a criminal record extract;
- Removal of the requirement of providing a certificate of residence;
- Removal of the distinction between Congolese companies and foreign companies, all of which are now subject to the same regime;
- Removal of the requirement for residence confirmation;
- Reduction of the deadline for the registration in the New Commercial Register (from 15 to 5 days maximum);

- Reduction of the cost of registration in the New Commercial Register (from USD 850 to USD 160 for companies, and from USD 175 to USD 40 for individuals);
- Reduction of the deadline for publication of the statutes of companies in the official journal (publication is now done on the website of the Official Journal) within 48 hours (the cost is 150 Congolese francs (CDF) per line, for a total of USD 150);
- Reduction of the deadline for obtaining a national identification number;
- Reduction of the cost of obtaining a national identification number (from USD 200 to USD 50 for companies and from USD 100 to USD 25 for individuals);
- Reduction of the cost of obtaining the Import-Export Number (from USD 500 to USD 125 for companies, and from USD 250 to USD 75 for individuals).

With USD 635, a multi-owner company can be regularly created, and with only USD 140, an individual company is regularly created.

We should note that, according to the Democratic Republic of the Congo laws, it is normally not possible for a foreign small trader to have a selling place at a public market in Goma. The statutes that organize markets in the Democratic Republic of the Congo do not recognize the right of a foreigner to have a stall in these markets. Foreigners who wish to exercise their commercial activities in the Democratic Republic of the Congo must comply with the laws relating to the investment of the country which give them access to the establishment of a shop or a company as described above.

However, it is not uncommon to find foreigners in the markets of Goma, especially those from Rwanda who have easy access to them because they are all holders of the Congolese ID and, thus, benefit from the same advantages as Congolese small traders.

For the itinerant small foreign traders who sell their commodities in the streets of Goma, they are managed by the municipality office that requests the payment of tax, which costs CDF 200. But market administrators never agreed with this practice because it favours parallel markets. This constitutes a source of conflict between Rwandan and Congolese traders. In fact, about 46 per cent of Rwandan traders from Rusizi and 38 per cent from Rubavu sell their goods respectively on streets of Bukavu and Goma, exposing them to different types of harassment by police officers and street children (Maibobo).[58]

However, it should be noted that the regrouping of small traders in associations has made it possible to put a minimum of order in the management of small traders between the two cities, although efforts remain to be made in this direction.

5.3.2. Kasumbalesa

Access to the market is not restrictive. Any trader (buyer or seller) is free to conduct business at the market provided they comply with immigration procedures if they are not Zambian. Access to the market is the responsibility of the local authority (Chililabombwe Municipal Council), while immigration status is the preserve of the Ministry of Home Affairs through the Immigration Department.

[58] Mwanabiningo, 2015.

6. RECOMMENDATIONS

This section provides recommendations for future mobility schemes based on the research included in this report, the literature review and fieldwork. Section 6.1 presents recommendations for individual mobility schemes, while section 6.2 offers recommendations for goods mobility schemes.

6.1. Individual mobility schemes

6.1.1. Jeton

As described previously, the Jeton is already widely used in the COMESA region, with it being present at all the borders visited during fieldwork. The scheme has low set-up and operating costs and provides a simple method to facilitate the movement of small-scale cross-border traders. The Jeton does have issues, especially the fact that the paper-based system provides for very little in terms of security measures, tracking movement of goods and people, and data capture. However, its widespread use at many border posts, such as Goma and Kasumbalesa, is a clear indicator of the success of this scheme and the trade that it facilitates is extremely beneficial to the border communities that use it. In the medium to long term, countries should, however, consider implementing the eJeton scheme due to the advantages that such a scheme offers compared to its paper counterpart. As a short-term solution to facilitate cross-border trade, existing Jeton schemes should be retained and borders that do not operate this system should consider implementing it.

However, it must be recognized that the Jeton will continue to exist as the eJeton is being rolled out. At the moment the Jeton's implementation is very ad hoc, with different borders having different requirements and processes, and different Jetons offering different benefits in terms of distances allowed to travel and time the Jeton is valid for. While this is acceptable to a point for local conditions, it is opaque and is clearly in contrast to the objective of harmonizing immigration laws that the Model Law and the Protocol on Free Movement champion. In recognizing that the Jeton will remain operational in the foreseeable future, at least to some degree, a sensible approach would be for COMESA to develop guidelines for the design and implementation of a Jeton or a border pass, which could be linked to the Model Law as an explanatory tool to help with the implementation of the provisions of the Model Law (Section 22 of which serves as an enabling provision for a border pass). While these guidelines could emphasize that local considerations must be taken into account (especially with regard to deciding who should qualify as a border resident and how far holders should be able to travel into the country they are entering, both of which are questions mainly of geography), they could provide a means to standardize the general requirements and operation of the Jeton to make it a more uniform travel document in the COMESA region.

6.1.2. eJeton

The eJeton is more expensive to initiate and operate than the Jeton, but, if designed properly, it can incorporate most of the Jeton's strengths while eliminating many weaknesses. As mentioned previously, the ability to link the eJeton to a biometric security system and an electronic network that allows customs and immigration officials to track the movement of people and link traders to their goods would remedy many of the complaints that come from the use of the Jeton. A reusable card could also reduce paperwork and queues at the border if an easy-to-use system is adopted. An automated system would create additional benefits for women, as it would reduce the interaction that women traders have with border officials, thereby reducing the potential for harassment. The ability of border officials to identify potential trafficking via eJeton systems is another benefit. The electronic nature of the eJeton does, however, render it particularly vulnerable to system outages (especially with regard to electricity and the Internet), as seen in the fieldwork report from Goma.

The adoption of the eJeton system at priority borders where such a system would be most effective to enhance security and facilitate and formalize trade is recommended. Appropriate borders would be those with high volumes of small-scale cross-border trader traffic and appropriate infrastructure (or plan to invest in such infrastructure). Countries considering adopting the Jeton scheme where none currently exists should consider adopting the eJeton scheme instead.

Adoption of the eJeton needs to be carefully managed. This will include only implementing the system at borders where enough resources are allocated for infrastructure, training and change management. Due to the potential for systems to fail for a variety of reasons, it is recommended that parallel paper Jeton systems be maintained for use as a backup.

6.1.3. Laissez-passer

This paper highlights the issue that some small-scale traders fall between being able to obtain a passport and qualifying for a Jeton. Provision should be made for these traders, and the laissez-passer serves this role. Able to reconcile the link to formal systems and security features of the passport to traders' need for a low-cost and accessible document, the laissez-passer has significant advantages. Rwanda's experience with the scheme shows that it can be issued quickly and effectively and can essentially replace the passport for individuals who travel to countries that recognize the laissez-passer's validity.

Given the current variation in member States' implementation of the laissez-passer scheme, it is recommended that the amendment of the Model Law be accompanied by a guideline to help States draft the actual implementing regulations that will govern their laissez-passer schemes and ensure some form of regional standardization. The Rwandan laissez-passer could be used as a baseline to develop these guidelines. The Rwandan laissez-passer, as opposed to other less formal versions, offers a formal document similar to a passport (rather than a paper document) that is valid for up to two years. Furthermore, it is relatively cheap (around USD 10), can be applied online, takes three days to process and can be processed from regional immigration centres rather than only at headquarters in the capital. The Rwandan laissez-passer offers an example of a formal document, with the security features that come from such a document, that is nonetheless cheap and easy to access, making it a good example of the type of "in between" travel document that is needed for traders who cannot afford a passport but do not qualify for a Jeton pass. It is therefore a good basis from which a guideline should be developed.

6.1.4. Advantages and disadvantages of individual mobility schemes

Scheme	Advantage	Disadvantage	Gender consideration
Jeton	• It is inexpensive to institute and operate. • It is a simple programme both for border officials and those using it to cross the border. • It fills a gap for communities that cannot access other documents that would allow them to cross the border. • It can be issued in minutes at the border post. • There is institutional experience in operating Jeton passes at borders throughout the COMESA region. • The parameters of the Jeton scheme can be modified to suit the needs of the locality where it operates.	• It cannot be reliably linked to any electronic system. • It does not allow customs officials to link traders with their goods for tax and monitoring. • It makes it difficult to capture reliable information at the border. • It lacks security features that would allow immigration departments to monitor traffic at their borders. • It can be abused by border officials. • It cannot be reliably linked to the holder by identifying information. • The lack of security features means it usually has very limited validity (usually one day).	A lack of any safeguards and the discretion of customs officials at the border put women traders that use this scheme in a vulnerable position.
eJeton	• It can be used by customs and immigration officials to monitor the movement of people and goods and flag potential abuse. • It can be used by customs officials and traders to streamline the payment and reclamation of taxes, duties, VAT and others. • It can decrease unnecessary form-filling and administration if reusable cards are used. • It can link traders with their goods. • It can be implemented alongside security features, such as biometrics. • It can work in tandem with mobility schemes for goods. • A more secure eJeton system can allow for longer validity and multiple entry/exits.	• It could require investment in infrastructure to be implemented correctly. • System failures can create significant delays at the border. • The more complicated system will require training for customs officials and traders before they can use it properly.	• The potential for an automated system reduces the ability of border officials to harass and extort women traders who use this scheme. • An electronic system that captures biometrics, the eJeton can help officials combat human trafficking, which disproportionately affects vulnerable women.

Scheme	Advantage	Disadvantage	Gender consideration
Laissez-passer	• It provides a travel document for those that struggle to obtain a passport. • It is provided at a lower cost compared with a passport. • It can include security features, such as biometrics. • It provides many of the same benefits as the passport. • It can be instituted alongside visa-free programmes in the same MoU.	• It is only valid for a certain number of countries. • It requires an MoU to be signed with participating partner States. • Those with better security features can only be issued from regional government ministries, not at the border. • It does not guarantee visa-free travel to partner States.	It could reduce the costs faced by women traders who do not live in the border community and who cannot obtain a passport.
ID card	• It removes the requirement of applying for an additional travel document. • It can have all of the security features that passports have (including biometrics). • It allows for customs and immigration to track information on border crossing via electronic systems.	• It would require significant investment in providing electronic IDs to all citizens. • It only allows for travel to partner countries that have signed an MoU, as it is only possible in the context of a free movement regime.	It would be gender neutral if issued to all citizens.

While the eJeton would be ideal for border communities, this covers only a small segment of the population. As a result, another programme that is not restricted with regard to who qualifies needs to be implemented to cover those that cannot get an eJeton but also find it difficult to obtain a passport. We recommend that the COMESA Model Law on Immigration be amended to include the laissez-passer and that countries implement the programme. In the short term, the laissez-passer could be based on bilateral and multilateral agreements. In the longer term, the amendment of the COMESA Model Law to include the scheme and coordination from blocs inside the region could provide for a larger mutual recognition of laissez-passers in the region.

6.2. Goods mobility schemes

Facilitation of trade requires getting both the trader and their goods across the border. The Jeton, the laissez-passer and similar systems focus on the trader, and therefore in order to facilitate trade these will have to be partnered with a trading scheme that allows for the movement of goods across the border. Many countries in COMESA have not yet implemented the STR. In some cases, trade between COMESA neighbours is still conducted on a full MFN basis because one of the countries, such as the Democratic Republic of the Congo, has not ratified or implemented the COMESA FTA. This is not ideal, and schemes to facilitate the movement of goods across these borders should be prioritized.

The two schemes that have been identified as candidates for such facilitation are the STR and the de minimis/personal allowance approach.

6.2.1. Goods mobility scheme recommendations

The STR issues have been made clear by research at the border, and therefore while it is a useful scheme, there is scope for other options. De minimis can be beneficial to small-scale traders, as they remove issues, such as certification, adhering to common lists and expensive taxes/duties. However, the de minimis programme has significant issues as well, as it encourages abuse via de-bulking, and prevents formalization rather than encourage it. In contrast, the STR acts as a pathway to formalization, allowing small traders to take advantage of the same trade agreements that large exporters can, lowering the costs that small traders face. The additional certification documents that accompany the STR also help reduce paperwork faced by small-scale traders at the border, reducing complexity and potentially streamlining border crossing. The STR should be expanded throughout the COMESA region where possible and combined with policies for greater transparency and awareness programmes to improve uptake where the scheme has already been implemented.

6.2.2. Advantages and disadvantages of goods mobility schemes

Scheme	Advantage	Disadvantage	Gender consideration
STR	• It already exists. • It has support from traders. • It seeks to achieve the important goal of allowing traders to access the benefits of FTAs. • It lowers the costs for small traders when crossing the border. • It can reduce the complexity of traders crossing the border with their goods. • It encourages formalization. • It can be used with larger trade agreements, such as the TFTA or the AfCFTA if negotiations allow.	• Application of this scheme at certain borders is incomplete. • Traders lack education regarding the use of this scheme. • Customs officials adopt the scheme incorrectly. • Customs officials who need to meet revenue targets abuse this scheme.	• Traders (majority of whom are women) report that the STR better protects them from abuse and extortion. • Formalization reduces women traders' reliance on dangerous informal routes. • Women tend to trade lower-value items than what men offer when conducting SSCBT, which would therefore mean that they would be more likely to qualify for the STR. • The STR decreases the extent to which border officials can use their knowledge disparity to take advantage of women traders.

Scheme	Advantage	Disadvantage	Gender consideration
De minimis	• It is simple to use for both customs officials and traders. • It is easy for countries to implement and would not need negotiations. • Little or no additional paperwork is required.	• It can be abused by traders carrying foreign goods. • Traders can use the scheme to take advantage of tax differentials. • With de minimis, it is difficult to track data on goods traded. • It can be used to get around necessary regulations (e.g. SPS). • It incentivizes the use of de-bulking. • De minimis is a derogation of existing trade laws and not a pathway to formalization.	This scheme would benefit women at borders where they make up a large portion of small traders that would fall under the de minimis value, which would likely be most borders according to previous research.

In the short term, the STR should be preferred, with the programme expanded to all COMESA borders. The STR remains the dominant scheme, especially due to its role as an avenue to formalization, but the introduction of the eJeton could allow for the expansion of an appropriate de minis scheme. The eJeton could allow officials at the border to capture information about traders and their goods. This would then enable greater monitoring of a de minimis scheme to ensure that traders are not abusing the system by exceeding their monthly threshold. As the de minimis is a derogation from existing trade rules, it is not a pathway to formalization. It is also advised that COMESA member States be encouraged to prioritize the implementation of the STR as well as prioritize increasing the value threshold of their STR, to allow more traders to operate under the scheme and allow those currently using it to grow.

6.2.3. Taking local realities into account

This research has shown that each border has unique features that need to be accounted for with regard to the schemes it implements. Therefore, the importance of taking into account local dynamics that are not shared across borders must be considered when implementing a mobility scheme. Policies must be flexible to local dynamics when they are considered and when they are implemented if the desired effect of facilitating the mobility of small-scale traders and their goods is targeted.

6.2.4. Market access recommendations

Market access and temporary rights of establishment are also vital for non-border-area traders. Some countries, such as the Democratic Republic of the Congo, have onerous laws that make it difficult for foreign small-scale traders to do business on their side of the border, requiring such traders to create a company and comply with formal business laws or buy expensive licences. Other countries, such as Zambia, do not have any restrictions on market space beyond the standard immigration laws that must be adhered to. Furthermore, Zambia offers a cross-border permit to qualifying small-scale traders that allows them to stay in Zambia for up to 90 days with the option of renewal. Temporary rights of establishment and access to markets on equal footing with local traders would benefit small traders at borders where they currently struggle to sell their goods due to adverse regulations. Unequal footing can also cause tensions between local and foreign traders, as seen at the border markets in Goma. There is undoubtedly space for officials to engage with traders, through CBTAs, to better formalize access to markets and provide foreign traders with the avenues they require to do business. This could be done via recognition of traders who are members of such associations, allowing officials and the CBTAs to work together to implement practical, location-specific interventions to improve access in this area.

It is recommended that guidelines for an integrated approach to CBT be created, building on Zambia's experience with the cross-border permit and the COMESA market. This would include both provisions for the movement of people and the free movement of goods, as well as a commitment to transparency when it comes to the regulations in operation. As noted previously, immigration rules and rules for the movement of goods are often created separately, sometimes in a very siloed manner. The Zambian experience provides an example of how these rules can be integrated into a single scheme that encompasses multiple different areas of law. The Zambian cross-border permit is facilitated by Zambia's national immigration law, which is to be commended and should be replicated. However, it is difficult to provide further detail with regard to the enabling regulations, as the researchers of this study were unable to obtain those regulations.

7. CONCLUSION

One of the key threads that this report has identified is that, at a minimum, facilitating CBT must consider both mobility of goods and mobility of people. While it is possible to take a holistic approach, traditionally, these two aspects are dealt with in separate areas of law and under separate departments (departments of immigration and departments of trade). As a result, to facilitate CBT, policies for the mobility of goods and people must be implemented in a coordinated and cohesive manner. It is also not possible for a one-size-fits-all approach to be undertaken, given the variety of traders that operate at the border.

The COMESA region already includes a framework of policies and proposals that can allow for better facilitation of traders. For large traders with access to a passport, the implementation of the COMESA Protocol on Free Movement would address many of the current issues on a defined timescale, allowing for eventual visa-free travel and paving the way for the implementation of COMESA-wide ID card for travel once the articles on visa elimination and rights of residence/establishment kick in. For small traders from border communities who cannot obtain a passport or a biometric ID, the COMESA Model Law on Immigration (which intends to help member States harmonize their respective immigration laws in preparation for the implementation of the Protocol on Free Movement) offers the border pass Jeton. This policy, which is already in operation at many border posts in the region, provides an important alternative for border community traders who would otherwise not be able to present travel documents. The current paper border pass Jeton in operation at many borders offers important mobility to qualifying small-scale cross-border traders; however, it has serious deficiencies with regard to security features and capturing of data. The eJeton has the potential to rectify these issues, and its implementation offers an important next step for the formalization of SSCBT. As this report notes, the implementation of these two policies still creates the issue of traders that fall between being able to acquire a passport/biometric ID and being able to secure a border pass for border communities. A solution to this is to amend the COMESA Model Law on Immigration to include a laissez-passer that can provide a cheaper, easier-to-obtain travel document for these traders.

In conjunction with the aforementioned policies on free movement of people, simultaneous facilitation of the movement of goods must be also implemented. The STR is an innovative solution to the serious issue of small traders being locked out of the benefits of FTAs. The scheme has already shown some success, and together with policies for greater transparency and programmes for better awareness of the STR among traders, the rollout of the STR to all borders in the region could allow for significant facilitation of the movement of goods of small-scale traders.

8. ANNEX

Contact list of ministry officials, cross-border traders associations, trade information desk officers and other stakeholders

Project name	Country	Contact person	Designation and ministry	Email address	Outcome
Coordinating ministries					
Small-scale cross-border trade initiative	Zambia	Allen N. Ngwira	Director, Domestic Trade and Commerce, Ministry of Commerce, Trade and Industry	Allen.Ngwira@mcti.gov.zm	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020
		Margaret M. Chikuba	Chief Economist, Domestic Trade and Commerce, Ministry of Commerce, Trade and Industry	Margaret.moonga@mcti.gov.zm; margmoonga@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Zimbabwe	Mavis Sibanda, PhD	Permanent Secretary, Ministry of Commerce, Trade and Industry	mavbsib@yahoo.com	Mail delivery failed
		David Nyakonda	Director for SME Development, Ministry of Commerce, Trade and Industry	dnyakonda@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Malawi	Mufwa Munthali	Ministry of Industry, Trade and Tourism	Mufwa98@hotmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
		Kelphas Mvula	Ministry of Industry, Trade and Tourism	Kelphas.m@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Kenya	Boniface M. Makau	Assistant Director, Ministry of Trade, Investments and Industry	b_makau@yahoo.co.uk	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
		Bramar Kaleve	Assistant Director, Ministry of Trade, Investments and Industry	kenanihelen@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 18 December 2020

Project name	Country	Contact person	Designation and ministry	Email address	Outcome
Trade facilitation programme	Zambia	Bessie Chelemu	Director, Foreign Trade, Ministry of Commerce, Trade and Industry	bessie.chelemu@mcti.gov.zm	Questionnaire sent: 4 December 2020
	Zimbabwe	Mavis Sibanda, PhD	Permanent Secretary, Ministry of Commerce, Trade and Industry	mavbsib@yahoo.com	Questionnaire sent: 4 December 2020
		Beatrice Mutetwa	Director, International Trade, Ministry of Commerce, Trade and Industry	Bmutetwa1@yahoo.om.co.uk	Mail delivery failed
		Helen Kenani	Assistant Director, Ministry of Commerce, Trade and Industry	kenanihelen@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 18 December 2020 Received reply of "no relevant information to share"
Cross-border traders associations					
Small-scale cross-border trade initiative project	Zambia (central)	Julius Mugode	Programme Officer	cbtanec@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
		Christine P. Sikombe	Secretary General	cbtanec@gmail.com	Questionnaire sent: 4 December 2020
		Goodson Mbewe	Chairman General	cbtanec@gmail.com	Questionnaire sent: 4 December 2020
		Raphael Chingeleshi	Chairperson	raphealchingeleshi@gmail.com	Mail delivery failed
	Malawi	Steven Yohane	Secretary General	steveyohane@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Zimbabwe	Augustine Tawanda	Secretary General	zimcross@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
		Rudo Mutasa	President	Rudomutasa02@gmail.com	Mail delivery failed
		Eric Chikukwa	Programme Manager	chikukwaeric@gmail.com	Questionnaire sent: 4 December 2020 Received completed questionnaire: 10 December 2020
	Democratic Republic of the Congo	Louis Nyembo	Trade Information Desk Officer	louisnyembo@gmail.com	Questionnaire sent: 4 December 2020 Received a brief summary

Project name	Country	Contact person	Designation and ministry	Email address	Outcome
National statistics offices					
Small-scale cross-border trade initiative project	Zambia	Joseph Tembo	Acting Assistant Director, Central Statistics Office	jtchikali@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Zimbabwe	Ronald Mhlanga	Manager, Balance of Payments and External Trade Statistics, Zimbabwe National Statistics Agency	rmhlanga@zimstat.co.zw	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Democratic Republic of the Congo	Mariano Lukeso	Direction Générale des Douanes et Accises	marianopitta@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Received completed questionnaire: 18 December 2020
	Malawi	Twikaleghe Mwalwanda	Statistician, External Trade Statistics, National Statistics Office	twikamwalwanda@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Ethiopia	Zelealem Hilegiorgis	Director for Business Statistics, Central Statistical Agency	zelealemh@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Kenya	Collins Omondi	Director, Macro Economics Statistics, Kenya National Bureau of Statistics	momondi@knbs.or.ke	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	United Republic of Tanzania	Valerian Tesha	Manager, Trade, Transport and Tourism Statistics, National Bureau of Statistics	Vtesha40@hotmail.com; valerian.tesha@nbs.go.tz	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020

Project name	Country	Contact person	Designation and ministry	Email address	Outcome
Immigration focal points					
Small-scale cross-border trade initiative	Zambia	Mubanda Chansa Chileshe	Head, Research and Planning Unit, Department of Immigration	Mcchileshe111@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Zimbabwe	Bunya Nyatwa	Assistant Regional Immigration Officer	bnyatwa@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Democratic Republic of the Congo	Didier Iwondo Nkeno Iwenge	Regional Immigration Officer, Haut-Katanga province	didierhermani@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Malawi	Stanlake Mabvuto Kalimanjira	Deputy Regional Immigration Officer	skalimanjira@yahoo.com; mkalimanjira@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Kenya	Samuel Mbuthia	Immigration Station Manager	Mbusam66@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
Trade information desk officers					
Small-scale cross-border trade initiative	Zambia (Kasumbalesa)	Prudence Kalyalya	Trade Information Desk Officer	Prudencekalyalya@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Zambia (Chirundu)	Rappsom Tembo	Trade Information Desk Officer	rabbtembo@yahoo.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Received answers to questions the respondent was familiar with: 18 December 2020
	Zambia (Nakonde)	Precious Nachona	Trade Information Desk Officer	Tidonknd@gmail.com	Questionnaire sent: 4 December 2020
	Zambia (Mwami)	Elizabeth Mwanza	Trade Information Desk Officer	Elizabethmanza2013@gmail.com	Mail delivery failed

Project name	Country	Contact person	Designation and ministry	Email address	Outcome
Small-scale cross-border trade initiative	Zimbabwe (Chirundu)	Shelter Mutizwa	Trade Information Desk Officer	sheltermutizwa@hotmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Democratic Republic of the Congo	Louis Nyembo	Trade Information Desk Officer	louisnyembo@gmail.com	Questionnaire sent: 4 December 2020
Border revenue officials (Station Managers)					
Small-scale cross-border trade initiative	Zambia (Kasumbalesa)	Kennedy Kangwa	Station Manager/ Assistant Commissioner, Copperbelt	kangwa@zra.org.zm	Left company
	Zambia (Chirundu)	Amon Soko	Customs collector, Customs Services Division	SOKOAM@zra.org.zm	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Zambia (Mwami)	Vincent Ngulube	Station Manager, Mwami Customs, Zambia Revenue Authority	nguluwev@zra.org.zm	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Zambia (Nakonde)	Joe M. Simwanza	Assistant Commissioner	simwanzaj@zra.org.zm	Questionnaire sent: 4 December 2020
	Democratic Republic of the Congo (Kasumbalesa)	Didier Mukanda Badibanga	Principal Inspector, Customs	didiermukanda@yahoo.fr	Mail deliveries failed
		Berly Badibanga Beya	Division Chief, General Directorate of Customs and Excise	berlybadibangabeya@gmail.com	
	Malawi	Elisa Nyasulu	Customs Officer, Malawi Revenue Authority, Mchinji border	enyasulu@gmail.com; enyasulu@mra.mw	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Kenya (Moyale)	Ferdinand Amaumo	Head of Enforcement, Moyale one-stop border post (Assistant Customs Station Manager)	Ferdinand.amaumo@kra.gv.ke	Mail deliveries failed
	Ethiopia (Moyale)	Abraha Hluf	Assistant Customs Station Manager	Ahihluf61@gmail.com	Mail deliveries failed

Project name	Country	Contact person	Designation and ministry	Email address	Outcome
Others					
Small-scale cross-border trade initiative	Zambia	Kalungu Zulu	District Commissioner, Chipata District	kalungazulu@yahoo.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Zimbabwe	Siaka Coulibaly, PhD	Senior Programme Officer, Chirundu border	s.coulibaly@acdf-pact.org	Questionnaire sent: 4 December 2020
		Jean Providence Nzabonimpa, PhD	Monitoring and Evaluation Expert, Chirundu	j.nzabonimpa@acbf-pact.org	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Received response of "no relevant information to share": 18 December 2020
	Democratic Republic of the Congo	Bernard Bosele Pilipili	Interim Provincial Director, DEDA Area/Katanga	bernardbosel@yahoo.fr; bbiseke@yahoo.fr	Mail deliveries failed
		John Bandela Nswalu	Division Chief, DGDA, Katanga	john_bandela@yahoo.fr	
	Malawi	Tawonga Chata Munthali	Trade-Related Facility Project Officer – Rules of Origin	tcmunthali@yahoo.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
		Leman Jussa	Project Manager, Malawi Enterprise Productivity Enhancement Project	jussaleman@gmail.com	Questionnaire sent: 4 December 2020 Follow-up sent: 10 December 2020 Follow-up sent: 18 December 2020
	Kenya	Dida Ali Ibrahim	Executive Director, Strategies for Northern Development	d.ibrahim@sndkenya.org	Mail delivery failed
	Ethiopia	Immaculada Guixe Ancho	Programme Officer, in charge of Migration at the European Union, Addis Ababa	Immaculada.guixe-ancho@eeas.eu	Mail delivery failed

International Organization for Migration
4626 Mwaimwena Road, Rhodes Park, Lusaka, Zambia
Tel.: +260 1 25 67 01/02, +260 211 25 40 55 • Fax: +260 211 25 38 56
Email: iomlusaka@iom.int • Website: https://ropretoria.iom.int/zambia