



BORDERLESS ALLIANCE EXECUTIVE SECRETARIAT

FOOD ACROSS BORDERS (PROFAB) PROGRAMME IN WEST AFRICA

**PRODUCTION OF A COLLECTION OF MAJOR
REGULATIONS GOVERNING REGIONAL TRADE IN WEST
AFRICA**

TERMS OF REFERENCE

June 2016

I. Background and justification

Since its creation in 1975, ECOWAS has made the free movement of goods and persons within the community one of its cardinal policy instruments of regional integration. The Protocol on Free Movement of Persons and Goods adopted in 1979 confers on the citizens of the Community the right to entrance, residence and establishment in any member state. The principle of free movement of persons represents an inalienable right within the Community.

The trade liberalization scheme (TLS), adopted in 2003, set the condition for free movement of goods as key to trade transactions. If raw materials in the animal and plant kingdom, as well as artisanal products, are allowed to enjoy free movement, manufactured agro-allied products must likewise be subjected to specific requirements.

The challenges facing free movement could, therefore, not be solely blamed on a lack of political will, but surely due to other two factors that we need to critically examine:

- The non-fulfillment of regulatory laws, coupled with the superficial knowledge of these laws by stakeholders of regional trade.
- The myriads of difficulties that States face in enforcing the commitments made at the regional body.

Despite the knowledge that regional trade actors have about the existence and operations of a trade liberalization scheme, many people have a vague understanding of the content of the different existing laws. This is true for business operators, middlemen, as well as enforcement agencies (Customs, police, gendarmes, as well as phytosanitary and veterinary services). In some cases, archaic laws continue to be enforced. Ignorance of the rights and obligations contained in these laws remains one of the greatest culprits of the unwholesome practices witnessed at the borders and along the corridors.

This situation calls for three major actions:(i) sensitize actors on the content of existing laws for ownership; (ii) document all obstacles to free movement of food products; and (iii) embark on advocacy to make adjustments where necessary, and to enforce the rules adopted at the regional level under a trade liberalization and customs union.

Established in 2011, Borderless Alliance is a private sector regional advocacy organization aimed at promoting and facilitating trans-border trade and reducing trade-related procedural inefficiencies. Today, Borderless Alliance boasts of over eighty members who are key private sector business operators working hand in hand with government agencies, Civil Society Organizations (CSOs) and the media to increase trade in West Africa. Also, Borderless Alliance has created platform of dialogue as an interface between the private and public sector, while working in

synergy with partners to ensure the regular collection and dissemination of credible data on the true situation of intra-regional trade. It equally contributes to ensuring a better understanding, by key players in trade and transport, of community laws and the benefits thereof.

This was how Borderless Alliance came to be named as the organization charged with implementing Objective 2 of the Food Across Border (ProFAB) Programme, which is aimed at “**ensuring a strategic monitoring of free movement of agricultural products in West Africa**”. ProFAB, therefore, represents an opportunity for Borderless Alliance to embark on advocacy in support of the free movement of agricultural products, which represent a huge share of intra-regional trade in West Africa.

In this regard, Borderless Alliance is working to produce a compendium of the major regulatory laws governing regional trade in agricultural products in West Africa.

Indeed, from the numerous studies carried out, it has been established that ignorance of, and limited access to the regulatory laws on regional trade by both public officials and the private sector actors, hamper the implementation of the principal instruments of regional integration, especially those related to the free movement of persons and goods.

It is, therefore, of utmost necessity to compile a list of the major regulatory laws on regional trade as enacted by ECOWAS and the WAEMU, with a view to facilitating their ownership by the various stake holders. There will be need to work closely with these twin Regional Economic Communities in order to formulate, in an understandable language, a collection that sums up these major laws (protocols, regulations, decisions, directives, etc) on trade in general, and agro-allied trade in particular. This collection, which will be available in the three official languages of the sub region – English, French and Portuguese – will address the absence of a dedicated document on trade regulation of agricultural products in West Africa.

II. Objective:

The overriding objective of this collection is to facilitate understanding among trans-border trade actors, of the regulations governing trade exchange within the West African sub region.

Specific Objectives:

- identify key documents: regulations, protocols, guidelines governing regional trade in agro-pastoral products
- do an analysis of documents and extract from them crucial items to be exploited for commercial activities
- translate the necessary documents into the designated languages
- transcribe documents into formats suitable for multiple use.

III. Expected Outcome:

Trans-border trade actors (officials of both the public and private sector, including those operating at the borders), have access to information that is easy to understand, relating to laws governing the trade and transportation of agro-pastoral products in West Africa.

IV. Expected product:

By the end of this exercise, a document that sums up all relevant laws (protocols, decisions, regulations, directives, etc.) of ECOWAS and WAEMU, governing trade and transport of agro pastoral products, including manufactured agro allied products, is produced.

V. Methodology and Consultant's TOR

The working methodology will essentially be based on:

1. 1- A literature review and reading of minutes of meetings with teams from Borderless Alliance, CILSS, Enda CACID and the Rural Hub.
 - a. The Literature review will focus on laws (protocols, decisions, regulations, directives etc) of ECOWAS and WAEMU governing trade and transportation of agro pastoral products, including manufactured agro allied products. So it will be up to the consultant to identify articles that are the most relevant to this exercise, and to provide, where necessary, simple and comprehensible explanations to the public.
2. A field visit to the technical directorates of the Regional Communities (in Ouagadougou and Abuja) to verify certain information drawn from literature review.
3. Submit to the Executive Secretary of Borderless Alliance, a simplified draft, written in the consultant's working language (English or French), of the various community laws.

VI. Profile of the Consultant

The consultant must have more than ten years' experience in the area of regional trade and trade in agricultural products in West Africa. He must show in particular:

- a. A vast knowledge of the trade policy instruments of ECOWAS and WAEMU;

- b. A vast knowledge of the regional market's operations of agricultural products within the ECOWAS;
- c. A vast knowledge of ECOWAS and WAEMU laws on agriculture, trade, transport, customs, industry, free movement of goods and persons) in West Africa.

VII. Period of Assignment and submission of report

This assignment will last for fifteen days and must be completed latest by 15st August 2016.

VIII. Submission of bids

Interested candidates must submit:

- a. Their CVs and annexes showing proof of similar projects or equivalents undertaken;
- b. A detailed technical proposal;
- c. A detailed financial proposal showing the fees to be paid the consultant, and other charges arising from the consultancy.

Applications must reach the Executive Secretariat of Borderless Alliance in Accra latest by 19th July at 17hrs GMT. Applications may be sent online to these email addresses: jbayili@borderlesswa.com and kdiallo@borderlesswa.com

The consultant will work under the supervision of the Executive Secretary of Borderless Alliance.