



ALLIANCE FOR FOOD SOVEREIGNTY IN AFRICA

Terms of reference

TO ANALYSE AND DISSECT THE PROTOCOL TO THE AGREEMENT ESTABLISHING THE AFRICAN CONTINENTAL FREE TRADE AREA ON INTELLECTUAL PROPERTY RIGHTS RELATED TO GENETIC RESSOURCES

customer

Alliance for Food Sovereignty in Africa (AFSA)

CONTENTS

1. Context and justification.....	1
2. aim and objectives.....	3
2.1 PURPOSE	3
2.2 Objectives	3
3. EXPECTED RESULTS.....	3
4. Consultant's profile.....	4
5. SCHEDULE.....	4
6. SUBMISSION OF TENDERS.....	4
7. ownership of end products.....	4

I. CONTEXT AND JUSTIFICATION

Throughout the world, farmers play a major role in the production, selection, management and conservation of plant resources. In Africa, where small-scale farmers are still the vast majority, women on small farms in particular play a critical role in developing species neglected by development programmes, and in identifying and domesticating wild species to boost household food and nutritional security. Farmers and other African citizens uphold their traditional 'Farmer managed seed systems' (FMSS) and the role they play not only for food security, healthy soils, sustainable use of the land, climate resilience, but also for healthy,

diverse diets for people. Until recently, and still today, most sovereign African farms are characterised by the great diversity of the species they use. Over 90% of seeds are accessible through farmers' own systems, including farmers' stocks, social networks and local markets. These practices also have an important cultural, social and even spiritual value for many communities. This is why farmers' rights to freely save, replant and share their seeds are particularly important in Africa. Indeed, it is this system that has maintained food sovereignty on the continent for centuries. The ways in which African communities manage seeds and the biodiversity they grow - *farmer managed seed systems (FMSS)* - need to be promoted as a real solution to food sovereignty, but also to a fair redistribution of the economy.

Unfortunately, FMSS are rejected by policy-makers as outdated practices to be replaced by the industrial seed system that promotes uniformity through highly commercial hybrid and GMO seeds. Most seed policies on the continent are inspired by The International Union for the Protection of New Varieties of Plants (UPOV), which contradicts the farmers' rights mentioned above, by dealing with plant breeders' rights (individual) and not farmers' rights (collective/community). Plant breeders' rights grant a minimum of 20 years' exclusivity. One of the main focuses in the industrial seed system being trade (the market), seeds (and food) are seen as commodities and they should meet a certain number of visual standards before they are promoted in the market. This has certainly encouraged innovation in research and strengthened the specialisation of certain players. However, the vast majority of farmers who have always maintained and cultivated genetic diversity have found themselves excluded from the financial benefits of their cherished activity.

In 2018, the African Union launched the African Continental Free Trade Area agreement (AfCFTA), which will be signed by 47 countries from its 55 member states in March 2023, to allow free access to commodities, goods and services in Africa. In its general objectives a), b) et g) the AfCFTA aims to establish a unified market for goods and services in Africa, enhancing economic integration and aligning with Agenda 2063's vision of a prosperous continent. It advocates for liberalized trade and industrial growth through regional value chains, agricultural development, and food security measures to foster economic prosperity. While the AfCFTA could benefit from the diversification of products resulting from strong FMSS, it may also inadvertently threaten these systems due to its overarching goal to streamline and harmonize trade across the continent. Moreover, the draft protocol on intellectual property rights within the AfCFTA, which includes plant variety protection, raises concerns about the ability of African nations, especially the least developed ones, to maintain their sovereign seed systems. This protocol could impose restrictions on the use and exchange of seeds, which would impact the trade of agricultural products under the AfCFTA. If the protocol favors commercial and patented varieties, it could disadvantage small-scale farmers who rely on traditional seeds, altering the agricultural landscape and market dynamics across the continent. Such changes could challenge the essence of the AfCFTA, which is to increase African countries' participation in trade and to promote inclusive socio-economic development.

2. AIM AND OBJECTIVES

2.1 PURPOSE

Develop comprehensive understanding and analysis of the AfCFTA's seeds provision to empower African Civil Society Organizations (CSOs) advocating for seed sovereignty and agroecology, fostering informed advocacy, policy influence, and sustainable agricultural practices across the continent.

2.2 OBJECTIVES

The consultant recruited for this work must specifically

1. Highlight the broad advantages of the AfCFTA for African agriculture.
2. Highlight the broad threats or limits of the AfCFTA for African agriculture.
3. Produce a SWOT analysis of AfCFTA vis-à-vis the Transition to agroecology in Africa.
4. Produce an analysis of the relations between UPOV and AfCFTA IPR protocole on genetic resources.
5. Produce an analysis in a simple language of the meaning of the AfCFTA IPR protocole on genetic resources:
 - 5.1. To which extent it favours the development of FMSS, if any.
 - 5.2. To which extent it's a threat to FMSS and seed sovereignty, if any.
6. Provide recommendations to AFSA on:
 - 6.1. Advocacy entry points to make the AfCFTA protocol more seed sovereignty friendly.
 - 6.2. Changes to be made AfCFTA's IPR protocol on genetic resources to reflect farmer's rights on seeds.

3. EXPECTED RESULTS

- A full study report (with executive summary) covering the above objectives
- Full list of references, using the style of the full report.
- A power point presentation summarising the research findings
- Two fact sheets on AfCFTA's threats to seed sovereignty and sustainable food systems

4. CONSULTANT'S PROFILE

The consultant we are looking for should have the following profile:

- Environmental lawyer background or related competences
- Proven experience on biodiversity conservation issues
- Proven experience on seed rights
- Well steeped in the discourse of the agroecology and food sovereignty movements in Africa;
- Excellent writing and communication skills in French and/or English.

5. SCHEDULE

Date	Action
Day 0	Signing the contract and starting work
Day 07	Submission of the draft report outline
Day 10	Validation of the report outline
Day 30	Submission of the first draft of the study report
Day 35	Power point presentation of the report and AFSA feedback/comments
Day 45	Submission of the final report and all deliverables

6. SUBMISSION OF TENDERS

Eligible consultants are invited to submit a financial proposal and a technical proposal for the execution of the services to afsa@afsafrica.org, before 5th March 2024 at 12 noon GMT.

Each tender must contain the consultant's CV and relevant references of previous relevant experience.

7. OWNERSHIP OF END PRODUCTS

The final products and related intellectual property rights are the property of the sponsor, the Alliance for Food Sovereignty in Africa.