TERMS OF REFERENCE

Recruitment of a consultant to conduct a study on the implications of the AfCFTA Annex on Plant Variety Protection for African countries

1. Background and rationale

The African Continental Free Trade Area (AfCFTA) seeks to promote continental economic integration through a common market for goods and services. Its Protocol on Intellectual Property Rights (IP Protocol), including the Annex on Plant Varieties Protection (PVP Annex), establishes a framework for the protection of new plant varieties across African countries.

The PVP Annex seeks to harmonise rules governing plant variety protection while promoting breeders' rights, agricultural productivity, food security, benefit-sharing **and farmers' rights**. It establishes conditions for granting breeders' rights, defines the scope and duration of protection, provides for exceptions and limitations, and sets out provisions on the recognition of farmers' rights, access to genetic resources, enforcement and cooperation.

However, implementing the Annex raises important legal and policy questions for African countries, particularly those with existing national or regional plant variety protection legislation. Its implications also need to be assessed in relation to farmers' seed systems, traditional knowledge, agricultural biodiversity and the protection of farmers' rights. Comparisons with other frameworks, including the UPOV 1991 Convention, the ARIPO Arusha Protocol, the OAPI Bangui Agreement and the African Union Model Law for the Protection of the Rights of Local Communities, Farmers and Breeders, are therefore essential.

The Alliance for Food Sovereignty in Africa (AFSA) and APBREBES seek to commission a research study that clarifies the legal implications of the PVP Annex and provides evidence-based recommendations for African governments and civil society organisations.

2. Purpose of the assignment

The purpose of the assignment is to produce an accessible, rigorous and policy-oriented study explaining the legal architecture of the AfCFTA, the IP Protocol and the PVP Annex, assessing their implications for African countries and identifying implementation approaches that safeguard farmers' rights, biodiversity and farmer-managed seed systems while recognising the objectives of plant variety protection.

3. Objectives and scope of work

The consultant will undertake the following tasks:

- Analyse the AfCFTA legal and institutional framework. Examine the relationship between the AfCFTA Agreement, its protocols and annexes, with particular attention to the IP Protocol and PVP Annex. Clarify the relevant procedures for ratification, entry into force, national implementation and compliance, including implications for states with different levels of participation. Analyze the interaction between the AfCFTA framework and existing regional instruments, including the implications of potential inconsistencies.
- Examine the legal implications of the IP Protocol and PVP Annex. Assess the obligations arising from participation in the IP Protocol and PVP Annex, including their relationship with national legislation and existing regional PVP frameworks. Identify implementation requirements, relevant compliance and dispute settlement mechanisms, and the potential consequences of inconsistencies between national laws and continental obligations.

- Assess the substantive provisions of the PVP Annex. Analyze the Annex's provisions on eligibility for protection, breeders' rights, farmers' rights, exceptions and limitations, compulsory licensing, disclosure of genetic resources and traditional knowledge, benefit-sharing, enforcement and sanctions. Assess the strengths, limitations and potential implications of these provisions for smallholder farmers, women, Indigenous Peoples, local farming communities and farmer-managed seed systems, taking account of Africa's diverse agricultural contexts.
- Compare existing plant variety protection frameworks. Undertake a comparative legal analysis of the AfCFTA PVP Annex, UPOV 1991, the ARIPO Arusha Protocol, the OAPI Bangui Agreement and relevant national sui generis systems and the African Union Model Law. Present the principal differences in a comparative table, highlighting implications for farmers' rights, seed saving and exchange, traditional knowledge, access and benefit-sharing, disclosure requirements and the conservation of agricultural biodiversity.
- Develop policy recommendations. Formulate practical, evidence-based recommendations for African governments on ratification, legislative review, implementation and stakeholder consultation. Identify options for aligning PVP frameworks with national agricultural priorities, international commitments and the protection of farmers' rights, while strengthening farmer-managed seed systems.

4. Methodology

The consultant will adopt a predominantly desk-based legal and policy research methodology, including a review of the AfCFTA Agreement, relevant protocols and annexes, national and regional PVP legislation, international treaties, policy documents and relevant academic literature. Comparative analysis will be complemented by selected country examples representing different legal and institutional arrangements. Where necessary and feasible, the consultant will consult relevant legal experts, government officials, farmer organisations, civil society organisations and other stakeholders to validate findings and capture practical implementation concerns.
All legal interpretations must be supported by relevant provisions and authoritative sources. The study should distinguish clearly between binding obligations, discretionary provisions and policy recommendations, and identify areas where legal interpretation remains uncertain.

5. Expected deliverables

The consultant will submit:

1. An inception report outlining the methodology, analytical framework, work plan and proposed structure.
2. A draft research study of approximately 20–30 pages, including an executive summary, comparative table, key findings and recommendations.
3. A presentation of preliminary findings to AFSA/APBREBES for review and feedback.
4. A final, revised and publication-ready study incorporating AFSA's comments, with complete references and citations.

The final study will serve as the basis for developing a concise two-page policy fact sheet.

6. Duration and reporting

The assignment is expected to be completed within six to eight (6-8) weeks of contract signature. The consultant will report to AFSA and work closely with the designated AFSA focal person. The proposed work plan and submission schedule will be agreed upon during inception.

7. Required qualifications and experience

The consultant should possess:

- An advanced degree in law, intellectual property, agricultural policy, international trade or a related discipline.
- Demonstrated expertise in intellectual property law, plant variety protection, seed governance or farmers' rights.
- Strong knowledge of the AfCFTA framework and relevant African regional and international legal instruments.
- Proven experience conducting comparative legal research and producing high-quality policy studies.
- Excellent analytical, writing and communication skills, with the ability to translate complex legal issues into accessible policy recommendations.
- Familiarity with agroecology, farmer-managed seed systems and African agricultural contexts is a strong advantage.

8. Application requirements and selection

Interested consultants should submit a technical proposal outlining their understanding of the assignment, proposed methodology, work plan and relevant experience; an updated CV; samples of comparable research; and a separate financial proposal.
AFSA/APBREBES will assess applications based on relevant qualifications and experience, methodological quality, understanding of the assignment, feasibility of the work plan and value for money. The selected consultant will be contracted by AFSA in accordance with its procurement procedures.

Submit by: 30 November 2026

Send to: afsa@afsafrica.org with the subject line: Proposal for implications of AfCFTA annex on PVP for African countries

Questions welcome before you submit.