



Terms of Reference for a Baseline Study on National Human Rights Institutions Involvement with the Africa Continental Free Trade Agreement

Background and Justification

The Network of African National Human Rights Institutions (NANHRI) is a regional¹ umbrella body that brings together 46 African National Human Rights Institutions. NANHRI, whose Secretariat is based in Nairobi, Kenya, is registered under Kenyan law as an independent legal entity and has been operational since 2007. The Network seeks to support and strengthen National Human Rights Institutions (NHRIs) in Africa as well as to facilitate coordination and cooperation between them and other key human rights actors at the regional and international level. As a membership organization, NANHRI provides practical assistance and support to its individual member institutions to enable them to more effectively undertake their mandate of human rights protection, monitoring, promotion and advocacy.

The AfCFTA is one of the flagship projects under the AU Agenda 2063. It is a framework agreement covering trade in goods and services, investment, intellectual property rights and competition policy. The AfCFTA envisages the creation of a single market with free movement of goods, services, capital and natural persons, as a way of promoting social and economic development in Africa. Implementation of the AfCFTA promises unique opportunity to improve on the livelihoods of millions of Africans, through the creation of jobs, alleviation of poverty and the subsequent promotion of equality.

There has been a growing concern that the AfCFTA design process and negotiations have so far been exclusive, opaque and shrouded in secrecy, with little or no space for the involvement of critical stakeholders and constituencies whose interests are implicated. More importantly, the discussions have paid minimal attention to the human rights implications of the AfCFTA, which are likely to be significant.

The role of human rights actors including NHRIs in the regional and national consultative processes related to negotiations and implementation of the AfCFTA cannot be overemphasized. NANHRI seeks to build capacity of regional and national human rights actors, including NHRIs to facilitate their effective and meaningful participation in the African Continental Free Trade Area (AfCFTA) processes to ensure equity, inclusivity and human rights compliance.

¹ For purposes of this Proposal, Regional connotes continental/Africa-wide

Drawing on inspiration from the Draft Strategic Framework of the AfCFTA (which emphasizes the importance of ensuring that the process is all-inclusive, participatory and consultative with all stakeholders, particularly civil society groups at the national, sub-regional and continental levels), NANHRI seeks to conduct a baseline study and stakeholder mapping on the status of NHRIs and CSO's engagement in the AfCFTA process.

Rationale for the Baseline Study

Whereas NHRIs are uniquely placed to advise States on their obligations to conform to regional and international human rights instruments, their knowledge and involvement in the AfCFTA has so far been very limited. The situation may be very similar when it comes CSOs and other important players in the continent.

The baseline study through its findings will also contribute to realizing the enhanced capacity of NHRIs to interact and engage with the AfCFTA and other AU organs, by actively monitoring and identifying potential human rights impacts/violations with a view to reinforcing compliance and adherence to human rights standards. Additionally, the information generated from this study and mapping will be useful in taking steps to ensure: continuous monitoring, evaluation and reporting on AfCFTA policies thereby creating awareness, and promoting greater accountability of the various actors.

Objectives

Overall, the objective of this baseline study and stakeholder mapping is to:

1. Gain the necessary knowledge and information on the inclusion of human rights (or the lack of it thereof) in the AfCFTA negotiation and implementation process. This information should elaborate on NHRIs and other stakeholders' level of knowledge, capacity, engagement and interaction with the ongoing AfCFTA negotiation and implementation processes.
2. Conduct a stakeholder analysis mapping detailing the key stakeholders involved in addressing the human rights concerns and implications in the AfCFTA negotiation and implementation process, whom NANHRI should engage with in its AfCFTA interventions.

NANHRI will specifically use the findings to design a programme that will address the need to have a human rights-based approach given the efforts around the AfCFTA negotiation and implementation thus far. This programme will create awareness about the AfCFTA and the potential human rights impacts and implications through a HRBA to development lens, strengthen the capacity of regional and national human rights actors to engage and contribute to an inclusive and equitable AfCFTA amongst other programme objectives

Methodology

It is intended the data and information gathered in this baseline study and stakeholder mapping process will be generated by a mixed method approach, utilizing both primary and secondary research assessment (consultant/s can also propose and justify a more

appropriate methodology which can be reviewed and accepted). It is expected that the form of this assessment will be both qualitative and quantitative.

The stakeholders NANHRI intend to target for these assessments include: the AfCFTA Secretariat, relevant AU Departments, Relevant Government Ministries, National Human Rights Commissions, Civil Society Organizations, Relevant Public Sector and Private Sector entities.

Note: This is a guide and not an exhaustive list

Expected Outputs

The expected outputs of the assignment are:

1. A baseline study (report) on the status of NHRIs/ CSOs engagement in the AfCFTA process.
2. A stakeholder mapping report on the status of NHRIs/CSOs engagement in the AfCFTA process.

Deliverables

The Consultant/s assume the responsibility of developing the following documents:

- I. Inception report outlining the research teams' understanding of the assignment and the approach to be employed, including details of key issues to be included in the baseline study and stakeholder mapping, and a list of any documentation, information and surveys required. The inception report will be discussed prior to the commencement of the assignment in an inception meeting.
- II. Questionnaire, interview questions and any other documents required to gather information from the stakeholder involved in the baseline study.
- III. Draft report of the findings of the baseline study, which will be subjected to a validation process.
- IV. The final findings of the baseline study and stakeholder mapping.

Proposal Evaluation Criteria

The consultants shall comply with AfCFTA particularly human rights protection standards, policies and principles. Where necessary the consultant will be required to undergo an ethical clearance. NANHRI is committed to ensuring that the rights of those participating in data collection or analysis are respected and protected. All applicants should include details in their proposal on how they will ensure ethics and protection in the data collection process. Specifically, the consultant(s) shall explain how appropriate, safe, non-discriminatory participation of all stakeholders will be ensured and how special attention will be paid to the

needs of vulnerable groups. The consultant(s) shall also explain how confidentiality and anonymity of participants will be guaranteed.

Required Professional qualification and Experience

- The consultant/s should have (an) advanced university degree(s) in law, human rights, international development, international trade, economics or related discipline.
- At least 10 years of traceable experience of working and/or conducting research, in human rights, international development, international trade, policy development with a focus on human rights, international trade, regional integration and development;
- Demonstrated experience in advising entities such as Governments, Regional Economic Communities, NHRIs and CSOs on trade, human rights and development related matters;
- Proven professional knowledge of the AfCFTA process and architecture would be highly desirable;
- First-hand knowledge and experience of the cultural, social, economic and political context of Africa
- Work experience in the AU, UN, and other international organizations is desirable;
- Excellent analytical skills, using both qualitative and quantitative methods;
- Excellent and proven report writing skills;
- Ability to deliver quality product(s) on time.
- Track record of successful completion of past assignments; and
- Willingness and flexibility specifically related to the probable effects of COVID-19 pandemic and work within the required deadline.

How to apply

Submission of Proposal

All applicants should submit technical and financial proposals to NANHRI email address info@nanhri.org copy to dnguti@nanhri.org on or before 14 January 2022 1700hrs EAT.