



TERMS OF REFERENCE

International Consultant on legal framework for inland transport of dangerous goods

Job title:	International Consultant
Duty station:	Chisinau, Moldova
Reference to the project:	Building Institutional Capacity of the Ministry of Foreign Affairs and European Integration
Contract type:	Individual Contract (IC)
Expected workload:	Up to 25 working days
Starting date:	October, 2013

BACKGROUND:

Relations between the Republic of Moldova (RM) and the European Union (EU) formally started with the signing of the Partnership and Cooperation Agreement (PCA) in 1994 that entered into force in 1998. The PCA established the basic principles of cooperation between RM and EU and was designed for a 10 year period. With the formal expiration of the term in 2008, the validity of the Agreement is being extended automatically provided none of the parties requests formal cancellation. PCA constitutes the framework of relations between RM and EU.

In 2005, in the context of the new European Neighborhood Policy, RM and EU signed an EU-Moldova Action Plan (EUMAP) for a period of 3 years, which included a series of actions aiming at deepening the cooperation between the two parties. In February 2008, upon the conclusion of the Action Plan implementation period, the European Council adopted a decision expressing the readiness to initiate new negotiations with the RM with the goal of signing a new agreement.

In parallel with the Action Plan, Moldova has signed with the EU a Visa Facilitation Agreement, and received a preferential trade regime (Autonomous Trade Preferences) with the EU for a majority of the goods produced in Moldova.

Since 2010, RM has been successfully carrying out negotiations with EU for an Association Agreement (AA) and has undertaken concrete steps towards a deeper relationship with the EU.

On 5 December 2011, EU decided to launch negotiations on a Deep and Comprehensive Free Trade Area (DCFTA) with Moldova, with the purpose of boosting economic growth and investment within its Eastern European partner. These negotiations tackled a broad range of trade and economic issues in order to ensure a closer economic integration with the EU for Moldova. DCFTA will be part of the AA, which strives,

also in line with the EU's Eastern Partnership objectives, to closely associate Moldova to the European Union in both economic and political dimensions.

The EU and the RM successfully held the final round of negotiations on a DCFTA in June 2013. The DCFTA consists of 14 chapters; it will provide for a significantly improved mutual access for European and Moldovan goods and services. It will ensure an open, stable and predictable legal environment for the benefit of Moldovan businesses and consumers. The DCFTA will improve the trade opportunities between EU and Moldova and enhance prosperity of both economies.

The Project "Building Institutional Capacity of the Ministry of Foreign Affairs and European Integration (MFAEI)" aims at strengthening the institutional capacity of the MFAEI as lead institution in the AA negotiation process. In the same context, the Project seeks to contribute to developing EU integration capacities of key line ministries, including the Moldovan Ministry of Transport and Road Infrastructure (MTRI). The immediate focus is currently the post-negotiation and implementation phases of the AA.

One of the priority issues agreed during the negotiations has been inland transport of dangerous goods. In the EU, the main objective of legislation covering inland transport of dangerous goods is to reduce the risk associated with this activity and take measures to ensure that such transport is carried out under the best possible conditions of safety. Regulating also is in line with international standards and obligations. Alignment to the EU standards in inland transport of dangerous goods is a priority for the MTRI. It aims at transposing and implementing relevant specific rules covering road, rail and inland waterways transport of dangerous goods and ensuring that the regulation which, according to the international Conventions and Agreements, is applied for international transport is also extended to national transport. This will ensure transportation and environmental safety conditions for the Moldovan citizens and businesses within the country and the EU.

The situation in concerned modes of transport is different. Until now most work has been done in the road transport sector. Moldova is a party to the "ADR" – European Agreement concerning International Carriage of Dangerous Goods by Road, concluded at Geneva on 30 September 1957, as amended. A Law on Ratification of the ADR Agreement has been passed on 04.06.1998 (No.44-XIV). Government "Regulations on the transportation of dangerous goods on the territory of the Republic of Moldova" were approved on 28.05.2002 (No.672). ADR requirements are applied to an extent possible, but still there is a need for elaborating and implementing of procedures for certain types of cargoes (radioactive materials, certain chemicals, etc.). It looks evident that certain derogations might be necessary to fully comply with the Directive.

The Republic of Moldova is not a party to Convention concerning International Carriage by Rail (COTIF) Convention and is not applying provisions of "RID"- Regulations concerning the International Carriage of Dangerous Goods by Rail, appearing as Appendix C to the COTIF concluded at Vilnius on 3 June 1999, as amended. Being a contracting party of OSJD, Moldova in transportation of dangerous goods is applying provisions of Annex II to the Agreement on International Goods Transport by Rail (SMGS). There are national OSJD rules in the Republic of Moldova and based on those Moldovan Railways have elaborated and apply internal procedures in its daily practice. There is certain difference between the procedures applied in transportation of goods in traffic between the CIS and Baltic countries and the Republic of Moldova and non-CIS countries and Moldova, as CIS countries have their procedures agreed in a separate set of rules. The experience of the Baltic countries could serve as some kind of a road-map in applying of the international rules in transportation of dangerous goods by rail in Moldova.

Since December 2007 Republic of Moldova is a party to the "ADN"- European Agreement concerning the International carriage of dangerous Goods by Inland Waterways, concluded at Geneva on 26 May 2000, as amended. A Law on Ratification of the ADN Agreement has been passed on 21 December 2007 (No.296-XVI). There are no specific Government regulations and the Agreement is applied for international shipping directly. The ships flying under Moldovan flag are subject to inspections according ADN and these inspections are carried out by recognized Classification societies. The list of the respective Classification societies has been approved by the Government decree.

Objectives

The Project will contract an International Consultant to consult the Ministry of Transport and Road Infrastructure in the area of approximation of EU legislation and procedures on inland transport of dangerous goods.

This objective should be met through the following activities:

Key activities:

- Assess current national procedures and documentation in the area of inland transport of dangerous goods, based on EU requirements and best international practice;
- Undertake a gap analysis and needs assessment for the harmonization of the current relevant legislation and procedures in the area with the EU Directive 2008/68/EC and relevant international legal framework, in particular "ADR", "RID" and "ADN"; Review the gap analysis and needs assessment findings with the Beneficiary and key stakeholders;
- Draft a report on the actions needed to align Moldovan legislation and procedures with the requirements of the Directive 2008/68/EC of the European Parliament and of the Council of 24 September 2008 on the inland transport of dangerous goods;
- Prepare drafts of key legislation for transposition of the Directive and procedural documents as identified and agreed with the Beneficiary;
- Draft a presentation on the specific procedures in the field of inland transport of dangerous goods, submit it to the Beneficiary for approval, and deliver the presentation during a one-day workshop with representatives of key stakeholders (including representatives of the Centre for Legal Approximation).

Mission Schedule:

Deliverables, activities, and milestones follow this tentative schedule:

Deliverable/milestone	Indicative timeframe
Preparatory Work. - Inception study of available information; - Preparation of a detailed work plan to be applied for the respective assignment, submitted to and agreed with the Beneficiary;	2 days,
One report on gap analysis and needs assessment for harmonization of current national procedures and documentation in the sphere of transport of dangerous goods, based on EU requirements and best international practice prepared and submitted for approval;	4 days,
Review of the findings of the gap analysis and needs assessment with the Beneficiary and key stakeholders;	2 days
One draft report on the steps and actions (including timeline) needed to align Moldovan legislation with the requirements of the Directive prepared and submitted for approval;	4 days
Draft normative acts and procedural documents on how to apply the provisions of the Directive prepared and submitted for approval;	10 days
One presentation on the specific requirements and procedures in the field of inland transport of dangerous goods and a plan for harmonization of the national legislation with the EU Directive 2008/68/EC drafted, submitted for approval, and delivered during a one-day workshop with representatives of key stakeholders;	2 days
One final report with mission findings and final recommendations drafted, submitted for approval and discussed with key stakeholders.	1 day

Total	25
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All deliverables should be agreed with the UNDP and MTRI, and be provided in English, in hard and electronic copy.

Institutional arrangements:

The International Consultant will work in close collaboration with the UNDP and MTRI – for substantive aspects of the assignment, and under the direct supervision of the Project Manager – for administrative aspects.

The International Consultant will be located in the premises of the Ministry and will work closely with the Ministry's staff. The Ministry will provide the Consultant with working space, access to Internet, printer and telephone line.

Qualifications Required:

Academic Qualification

- Master's degree in Law, EU Law or other relevant field. Bachelor and at least 10 years of experience would also be acceptable;

Experience

- Minimum 5 years of work experience in the area associated with implementing of procedures for the transport of dangerous goods; Specific experience in all three sectors (road, rail, inland waterways) would be an advantage;
- Experience in transposing of EU and international requirements in the area of transport of dangerous goods into national procedures;
- Knowledge of and experience in the region of Central and Eastern Europe (experience in countries with economies in transition and countries which are part of the OSJD Railway Agreement would be an asset);
- Similar experience in assisting government institutions within projects funded by international organizations (experience in implementing EU legislation on inland transport of dangerous goods would be an asset);

Competencies

- Qualification and/or proven skills in project coordination, credibility in dealings with governmental officials, excellent analytical and communication skills;

Language requirements

- Fluency in written and spoken English, knowledge of Romanian or Russian would be an asset.

Documents to be included when submitting the proposals:

Interested individual consultants must submit the following documents/information to demonstrate their qualifications:

1. Proposal: explaining why they are the most suitable for the work;
2. Financial proposal specifying a total lump sum amount;
3. Personal CV including past experience in similar projects and **at least 3 references.**