



## TERMS OF REFERENCE

### **International Consultant on EU approximating Moldovan legal framework for the security of ships and port facilities and safety management**

<b>Job title:</b>	International Consultant on legal framework for the security of ships and port facilities and safety management
<b>Duty station:</b>	Chisinau, Moldova
<b>Reference to the project:</b>	Building Institutional Capacity of the Ministry of Foreign Affairs and European Integration
<b>Contract type:</b>	Individual Contract (IC)
<b>Expected workload:</b>	Up to 30 working days
<b>Starting date:</b>	July 2014

## **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.

The Partnership and Cooperation Agreement will soon be replaced by an Association Agreement which includes a Deep and Comprehensive Free Trade Area (DCFTA). The documents provide for political association and economic integration and have been initialed in Vilnius in November 2013.

For the Republic of Moldova the AA represents a reform agenda which is based on a comprehensive program of legal harmonization with EU norms.

Exceeding the classical arrangements of free trade, DCFTA provides not only a mutual opening of markets for most goods and services but requires a gradual rapprochement of norms and standards such as

quality standards and rules, sanitary rules, intellectual property rights, trade facilitation, public procurement and competition, energy trade and other.

Except for European Economic Area and EU candidate states, never before has the EU opened its internal market to such an extent to a third country. This reality is possible due to the commitment of the Republic of Moldova to take over the *acquis communautaire*.

In exchange to effective implementation of EU legislation Moldova will gradually become part of the EU internal market.

A deeper economic integration through DCFTA will boost the country's economic growth, will create business opportunities and promote real economic modernization and integration into the EU. The direct result of establishing free trade area with EU is that citizens will benefit from higher quality and safer goods and services while manufacturers will be supported to access international markets.

UNDP and its international partners are committed to assist Moldova, through technical and financial assistance, in promoting costly legal and institutional reforms that DCFTA entails.

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 through aligning relevant policies, administrative and institutional arrangements, legislation, procedures and best practices to EU standards and requirements.

Republic of Moldova does not have direct access to the sea although 430 meters long stretch of the River Danube has been developed into the port of Giurgiulesti to provide a strategic asset for the country.

The Moldovan registered merchant fleet (~300 ships) is continuously in the black list of the Paris Memorandum of Understanding on Port State Control as a result of insufficient flag state control under the IMO conventions to which it is a party.

Though there are certain legal acts that may assist the implementation of the requirements of international conventions to which Moldova is a party, most deficiencies are caused by failure to implement and enforce existing commitments. A full scale, in depth review of working practice is urgently needed.

Moldovan authorities plan to reorganize the public institution - Giurgiulesti Harbor Master Service (GHMS) - and set up a Governmental Agency which will perform the port State control and the Flag state control functions. In this context, there is a need to establishment well documented processes for the reorganized institutions and draft a sound legislative framework necessary for the implementation and enforcement of relevant EU Directives and Regulations on security of ships and port facilities (such as Regulation (CE) 725/2004 and Directive 2005/65/CE) as well as on the implementation of the International Safety Management Code (ISM Code and Regulation (EC) No 336/2006).

## **Objective**

The project will contract an International Consultant to consult the Ministry of Transport and Road Infrastructure (MTRI) in the area of approximation of EU legislation and procedures on security of ships and port facilities and safety management.

This objective should be met through the following activities:

### Key activities

- Assess and report on current situation – legislation, draft amendments to legislative acts, institutional arrangements, national procedures and documentation in the area of security of ships and port facilities and safety management;
- Develop, jointly with the MTRI and GHMS (hereinafter - the Beneficiaries), a mission action plan for remedying gaps;
- Draft legislation/legislative amendments (including regulating institutional arrangements) and supporting documentation (e.g. legislative impact analysis) jointly with the Beneficiaries;
- Draft a package of operational documentation, internal regulations, guidelines and manuals in compliance with EU requirements and EU best practices in the area of security of ships and port facilities and safety management and implementation of the International Ship and Port Facility Security and International Safety Management Codes;
- Present the final mission report during at least one workshop with Beneficiaries and other relevant stakeholders.

### Deliverables

- Report on the current situation of the legislation in force
- Mission Action Plan for removing deficiencies
- Draft legislative amendments, operational and supporting documentation (internal regulations, guidelines and manuals)
- Workshop with Beneficiaries including presentation of final mission report.

### Result

Moldovan legal framework for the security of ships and port facilities and safety management is approximated to relevant EU and International norms, standards and practices.

### Resources

30 working days (a minimum 20 of which in Moldova) within maximum two missions.

### Mission Schedule:

The mission shall be undertaken, tentatively, in the period July-September 2014 with detailed timetable to be agreed with the Beneficiaries.

The 30 working days allocated for this task should be used approximately as follows:

Deliverables, activities and milestones follow this tentative schedule:

Deliverable/milestone	Indicative timeframe
1. Preparatory Work: <ul style="list-style-type: none"><li>- Inception study of available information;</li><li>- Preparation of a detailed work plan to be applied for the respective assignment, submitted to and agreed with the Beneficiary;</li></ul>	3 days
2. Report on gap analysis and needs assessment for harmonization of current	5 days

national procedures and documentation in the sphere of security of ships and port facilities and safety management, based on EU requirements and best international practice prepared and submitted for approval;	
3. Review the findings of the gap analysis and needs assessment with the Beneficiary and key stakeholders;	2 days
4. Draft report on the possible options, steps and actions (including timeline) needed to align Moldovan legislation with the EU requirements prepared and submitted for approval;	5 days
5. Based on agreement reached, draft legislative acts and procedural documents, internal regulations, guidelines and manuals on how to apply the provisions of the EU requirements	8 days
6. Submit draft of legislative acts to the Beneficiaries, discussions and agreement on the final version to be implemented;	4 days
7. Final version of drafts of legislative acts and procedural documents, internal regulations, guidelines and manuals submitted and approved;	2 days
8. Final report with mission findings and final recommendations drafted, submitted for approval and discussed with key stakeholders.	1 day
9. Total	30

All deliverables should be agreed with the UNDP and the Beneficiaries, and be provided in English or Romanian, in hard and electronic copy.

### **Institutional arrangements:**

The International Consultant will work in close collaboration with the UNDP and the Beneficiaries – 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 of Transport and will work closely with the Ministry's staff. The Ministry will provide the Consultant working space, access to Internet, printer and telephone line.

### **Qualifications Required:**

#### Academic Qualification

- Bachelor's degree in the field of shipping or other relevant field. Bachelor's degree or Master's degree in Law would be an advantage;

#### Experience

- Minimum 5 years of work experience in the area of shipping and port operations;
- Experience in transposing EU requirements in the area of shipping and port operations;
- Minimum 3 years specific experience in developing, reviewing, or approving security plans for port facilities and vessels and safety management systems;
- Knowledge of and experience in assisting government institutions (in implementing EU legislation on shipping and port operations) within projects funded by international organizations in the region, candidate or EU member states would be an asset;

#### Competencies

- Strong analytical and drafting skills.
- Ability to analyse, plan, communicate effectively with stakeholders and present ideas clearly and effectively.
- Demonstrated interpersonal and diplomatic skills.
- Ability to enter new environments, adapt quickly and produce immediate results.
- Computer literacy - competent user of Microsoft Office programs.

#### 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.**