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TERMS OF REFERENCE

Job Title:	National Consultant to support the Ministry of Transport and Road Infrastructure in the legal harmonization process
Duty station:	Chisinau, Moldova
Reference to the project:	'Transitional Capacity Support for the Public Administration of Moldova'
Contract type:	Individual Contract (IC)
Starting date:	November, 2012
Duration of assignment:	up to 7 months

Job content

I. Background:

The project "Transitional Capacity Support for the Public Administration of Moldova" was designed upon the request of the Government of Moldova to enhance capacities of the Moldovan Central Public Administration in order to accelerate the reform process and achieve Moldova's short- and medium term development goals. The project seeks to address urgent short-term capacity needs of the public administration, through provision of Capacity building consultants (CBC), at a time when Moldovan central government institutions face serious financial and human resources gaps. In addition to helping the Government pursue critical reform priorities, the intervention is designed to catalyze the on-going implementation of central public administration reform. It is coordinated and managed by the United Nations Development Program (UNDP) and State Chancellery of Moldova and will complement on-going work by other donors.

The Moldovan diaspora and non-governmental sector, including the private and civil society sectors, would be the main source for such consultants, who can be employed on an open competitive basis for a defined period. CBC would be engaged and their TORs defined in a way that would protect the integrity of the civil service work to strengthen its intrinsic capacity. The project needs to guard against subtracting capacity from the civil service. In most cases, the sub-projects will be composed of national consultants – professionals who provide advice, coaching, and skills that are not expected to be performed on a permanent basis by the civil service.

The Government Program "European Integration: Freedom, Democracy and Welfare" (2011-2014) envisages that the Infrastructure and Transport system of the country needs to be brought in line with the EU standards and requirements. Among several objectives the Program foresees liberalizing and developing the transport and communication markets by rehabilitating and upgrading the transport infrastructure, improving road safety and reducing the number of road accidents.

The Ministry of Transport and Road Infrastructure (MTRI) completed the Negotiations on the Transport Chapter of the Association Agreement with the EU and the Chapter has been provisionally closed. It has been agreed that more than 120 Directives and Regulations covering all transport sectors shall be incorporated into the national legal and regulatory framework in a period varying from 1 to 8 years. The aviation sector encompasses the largest number of legal documents to be harmonized with and EU has agreed to provide Technical Assistance in harmonizing the legal and regulatory framework according to the terms agreed in the recently signed Common Aviation Area Agreement (CAAA). Besides the aviation sector there are still more than 50 EU legal acts to be introduced into the national law. A multiannual plan for legal harmonization has been prepared based on the negotiated terms.

Taking into account the high number of legal documents to be drafted and consulted with other stakeholders before presenting them to the Government and Parliament for final approval, the capacity of the MTRI and its Foreign Relations and European Integration Department (FREID) in particular is not sufficient and requires assistance and capacity enhancement, in the areas of legal drafting and consultations on the legal acts with the stakeholders, as well as in coordinating the harmonization process with all involved parties.

The implementation of the reform in the transport area is in line with the best practices in the region and in the EU. It involves a series of complex legal issues, including harmonizing the legal and regulatory framework according to the terms agreed with the EU. Acknowledging the complexity of the involved work, as well as the shortage of resources in this area, the MTRI requests the support of an experienced legal expert to assist the Ministry in the process of legal harmonization of the national legislation in the transport sector to the EU legal and regulatory framework.

Objective of the assignment: The main objective of this consultancy assignment is to strengthen the capacities of the MTRI in the process of legal harmonization of the national legislation in the transport sector to the EU legal and regulatory framework.

Organizational setting: The National Consultant will work under the overall guidance and management of the Head of FREID of the MTRI and in coordination with the Department for Policy, Strategic Planning and External Assistance of the State Chancellery. The National Consultant will be under direct supervision of the UNDP Program Officer/Consultancy Coordinator for administrative and authorization aspects. The Consultant will report on his/her activities, progress and findings on a regular basis.

The Consultant will closely coordinate with the EU High Level Advisory Mission in the MTRI, with other UNDP and donor projects. Availability to work full time on the employer's premises will be considered an advantage.

II. Scope of work and expected outputs: The scope of the activity of the National Consultant is to provide professional support and assist the MTRI in ensuring the legal harmonization process in the transport sector, and provide advice and assistance to the sector Departments of the MTRI during the process of drafting of legal acts, as well as during the consultations with the stakeholders, according to the annual plan for legal harmonization and the terms agreed during the negotiations on the Transport chapter of the Association Agreement (AA) and the CAAA between the Republic of Moldova and the EU.

In order to achieve the stated objectives, the National Consultant will have the following **responsibilities**:

- Assisting FREID in the elaboration of the MTRI multiannual Plan for Legal Harmonization according to the terms agreed in the AA negotiations and recently signed CAAA;
- Elaborating a detailed description file for each legal document contained in the AA and the CAAA, included in the Plan, according to the harmonization practices used in EU. Prioritizing the documents according to their importance of implementation;
- Providing professional support in the drafting of legal acts according to the agreed Working Plans (the National Plan of Legal Harmonization and MTRI's multiannual plan);

- Elaborating a preliminary regulatory impact assessment for the transposition of certain EU legal and regulatory documents to be harmonized according to the agreed plan and priorities identified and agreed between the Consultant and the MTRI;
- Providing advice and support to the responsible sector (road, rail, aviation, water-born transport) officials during the consultation process with the stakeholders on the drafted legal acts;
- Providing advice on the streamlining of the reporting on the progress achieved by the transport sector in the implementation of the National Plan for Legal Harmonization;
- Coordinating activities with international short and long term consultants assisting the MTRI in legal harmonization tasks;
- Providing continuous transfer of experience and organizing capacity building sessions;
- Preparing monthly progress reports on the component activities;
- Providing any other related ad hoc assistance that may emerge during the assignment.

III. Deliverables

Nr.	Deliverables	Timetable/Deadlines
1.	Assisting in the elaboration of the MTRI multiannual Plan for Legal Harmonization according to the terms agreed in the AA negotiations and recently signed CAAA with elaboration of a detailed description file for each document according to the harmonization practices used in the EU;	November - December 2012
2.	Developing an Action Plan for the elaboration of the national legal framework based on the documents contained in the negotiations on the Transport Chapter of the Association Agreement with the EU which shall include: <ul style="list-style-type: none"> - <i>The national legal background which needs to be amended;</i> - <i>The domains which need new regulations;</i> - <i>The institutions responsible for different phases of implementation;</i> - <i>The national level transposition for each Regulation/Directive contained in the Chapter;</i> - <i>The deadlines for drafting, coordination, approval and implementation processes.</i> 	December 2012 – January 2013
3.	Providing professional support in drafting of legal acts according to the agreed plans (National Plan of Legal Harmonization and MTRI multiannual plan);	December 2012 – May 2013
4.	Drafting preliminary regulatory impact assessment for the transposition of certain EU legal and regulatory documents to be harmonized according to the agreed plan and priorities identified and agreed between the Consultant and the MTRI;	June 2013
5.	Drafting progress Reports on implementation of the National Plan for Legal Harmonization	According to the reporting schedule
6.	Monthly progress reports of the component activities	Monthly
7.	Final progress report	June, 2013

IV. Qualifications and skills required:

- University degree in law or related field. (Master degree in the legal field will constitute an advantage);
- Minimum 3 years of experience in legal advisory field;
- Relevant working experience in the area of legal harmonization with the EU legal and regulatory framework. (Experience in transport sector will be an asset);
- Experience in providing legal advice to Moldovan public institutions;
- Experience in drafting legal instruments (including bills, regulations etc.) and conducting multi-party stakeholder consultations;
- Strong knowledge of the Moldovan Government setup and good knowledge of legislation and legal regulations on government operations (constitution, government law, civil service act, public procedural law);
- Experience and knowledge of European best practice knowledge on legislation with specific focus on *acquis – communautaire* would be an advantage;
- Excellent communications, organizational and team working skills;
- Fluency in Romanian and English (Knowledge of Russian will be an asset);
- Computer proficiency, including knowledge of MS Office products (Word, Excel, Power Point).

V. 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 requirements (please provide brief information on each of the above qualifications, item by item);
2. Financial proposal;
3. Personal CV (or Personal History P11 Form) including past experience in similar projects and contact details (phone number and e-mail address) for at least 3 references;
4. Examples of written work (e.g. reports; documents; analysis etc).

Please notice that in line with TCS Project rules, which guard against subtracting capacity from the civil service, current civil servants are barred from applying for this position. The former civil servants are eligible to apply not earlier than in a year after the separation from civil service.