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ETHIOPIA

## TERMS OF REFERENCE (TOR)

### GENERAL INFORMATION

**Services/Work Description:** International Consultant to Prepare a training manual for legal drafters training manual

**Project Title:** Accelerating the Ratification and Domestication of AU Treaties

**Duty Station:** Home-based

**Type of the Contract:** International Consultant

**Duration:** 60 working days

**Expected Start Date:** Immediately after the contract is signed

### PREFACE

Africa is facing complex challenges related to respect for human rights, the rule of law and governance that hinder the attainment of sustainable development. While these challenges may be of different nature, they are all interlinked, hence the need for regional approaches and solutions. The African Union (AU) intends to address the root causes of underdevelopment in the continent through its Agenda 2063. Implementation of normative frameworks is critical for the achievement of the Agenda 2063 aspirations and the United Nations (UN) Agenda 2030 for sustainable development.

### I. BACKGROUND

The UNDP Regional Service Centre for Africa, based in Addis Ababa, Ethiopia, serves UNDP's 45 Country Offices in sub-Saharan Africa, develops high quality knowledge and policy products and is the organization's main interface with regional and continental bodies such as the African Union and the Regional Economic Communities. It provides strategic policy and technical support to UNDP country offices in the region and implements UNDP's Regional Programme for Africa.

The joint AU-UNDP project, "Accelerating the Ratification and Domestication of African Union Treaties", is a 3-year multi-country and regional initiative. This project is part of and anchored in UNDP's Regional Programme for Africa; it will contribute directly to Outcome 1: African Union and RECs deliver on their mandate, especially cross-cutting issues related to resilience-building.

The project is designed to address the challenges and bottlenecks associated with ratification and domestication, and to help enhance the capacity of the AU over the medium to long-term to be able to manage the ratification process, and to provide tailored support to Member States with domestication-related challenges. It is anchored on a multi-dimensional approach to development, which draws upon the inherent link between peace, security and economic development; it is, furthermore, designed further the achievement of Agenda 2063, 2030 Agenda for Sustainable Development, and the Post-2015 SDGs.

A variety of challenges hinder ratification and domestication of AU treaties at the state level.

- First, capacity within government entities may be lacking as treaty domestication and implementation requires a combination of legal skills as well as sufficient understanding of regional institutions and the substantive area in question, which line ministries may simply not possess; lack of capacity is, furthermore, compounded by the absence of a strategic approach to treaty implementation, insufficient funding allocation, and poor or absent mainstreaming of regional integration across work-streams.

- Second, due to the lack of common standards for ratification and domestication – as a result of the varying constitutional, legislative, and legal methods as outlined above – the processes for ensuring national-level compliance can be difficult to disentangle; often laws may require adaptation, modification or harmonization in order for the country in question to be in conformity with the respective treaty, which can prove to be a complex task.
- Third, bureaucratic processes for translating treaties at the regional level into domestic laws and policies can be lengthy and cumbersome, leading to significant ‘red tape’<sup>1</sup> and unnecessary delays in implementation; additional challenges can arise when there is insufficient coordination between different branches of government.
- Fourth, the domestication of treaties requires cross-ministerial working methodologies, which many Member States simply do not currently engage in. Fifth, an additional challenge is often political will, not least given the competing and often pressing priorities that governments in the region must confront at any given time. And, lastly, AU treaties suffer due to a lack of champions for AU-related work at the national level.

UNDP is therefore seeking an International Consultant to develop a training manual for legal drafters for member states/RECs/AUC to ensure they have the skills and knowledge to be able to navigate the complexities of bureaucracy to support effective ratification and domestication of treaties.

## II. RATIONALE

The African Union (AU) provides an institutional framework for advancing the achievement of development-related goals across the continent. AU treaties, moreover, provide the normative and legal mechanism through which Member States can foster greater political and economic integration, while simultaneously catalyzing enhanced peace and security, poverty reduction and Sustainable Development Goals (SDGs).

Despite broad recognition of the benefits that can be accrued to the AU and its Member States through the implementation of these treaties, the average percentage of signature and ratification by Member States is 52% and 34%, respectively<sup>2</sup>. Furthermore, the general public’s awareness and understanding of the role of the AU in terms of creating norms, furthering development, promoting peace and security remains extremely low.

The slow pace of ratification is also a concern for the AU leadership, which continues to urge Member States to make greater efforts towards increasing ratification of all its treaties. At the Experts Meetings on the ‘Review of the OAU/AU Treaties in 2004, the Chairperson of the AU Commission (AUC) stated that “the slow pace of signature and ratification of these treaties by Member States is worrisome, bearing in mind the process of integration that the Member States had embarked on.” Effective ratification and implementation of AU treaties is critical if they are to have an impact on national policymaking; they are also essential for the AU to achieve its vision of a peaceful, prosperous and integrated continent as articulated in the AU’s Agenda 2063.

## III. OBJECTIVES

The overall objective of this consultancy is to deliver on Output 1.4 (Training programme for Member States on legal drafting developed and implemented) and Output 3.4 (National legal staff engage in extensive training programmes) of the project by developing training materials for enhancing the capacity of legal drafters in member states as well as RECs and AUC.

<sup>1</sup> <http://www.au.int/en/newsevents/13144/regional-workshop-ratification-and-domestication-oauau-treaties-direct-relevance>

<sup>2</sup> Calculation excludes treaties that do not require signature or ratification. Three treaties do not require signature; Phyto-Sanitary Convention for Africa (0002), Cultural Charter for Africa (0008), Additional Protocol to The OAU General Convention on Privileges and Immunities (0010). The Statute of The African Union Commission on International Law (AUCIL) (0036) does not require signature or ratification and came into effect upon adoption.

#### **IV. SCOPE OF THE SERVICE / WORK**

The International Consultant will be responsible for preparing a training manual for legal drafters (considering steps in the treaty making process – including domestication) which could be used in the future to train legal drafters drawn from the 6 countries of the project, RECs and OLC.

#### **V. EXPECTED OUTPUTS /DELIVERABLES**

The IC is expected to deliver a high quality but simple to use training manual for legal drafters useful to member states, RECs and the AU in accelerating ratification and domestication of AU Treaties.

#### **VI. METHODOLOGY / APPROACH OF THE SERVICE (WORK)**

The IC will work together in close communication with the team at the UNDP RSCA as well as the OLC, RECs and member states to prepare the manual.

#### **VII. LOCATION, DURATION AND TIMEFRAME OF THE WORK /DELIVERABLES/OUTPUT**

This consultancy assignment will be home-based for a total of 60 working days.

No.	Deliverables	Implementing Partners (IP)	Location and Action to be Undertaken	Duration (approx.)
1	Training manual for legal drafters	UNDP	Home-based	60
Total Working Days				60 working days

#### **VIII. INSTITUTIONAL ARRANGEMENT /REPORTING RELATIONSHIPS**

The IC will report directly to the Programme Manager but will work closely with the project team at the RSCA and AU-OLC. The IC will update and get feedback from the Programme Manager on a regular basis and will also be required to report with expected agreed upon outputs.

#### **IX. PAYMENT MILESTONES AND AUTHORITY**

Prospective consultant will indicate the cost of services for each deliverable in US dollars when applying for this consultancy. The Proposer will be paid based on the effective UN exchange rate (in case of other currency denomination), and only after approving authority confirms the successful completion of each deliverable as stipulated hereunder. In accordance with UNDP rules, the lump sum contract amount to be offered should consider the professional fee inclusive of travel, living allowances, communications, taxes, out of pocket expenses, and other ancillary costs.

A winning proposer shall then be paid the lump sum contract amount upon certification of the completed tasks satisfactorily, as per the following payment schedule:

Installment of Payment/ Period	Deliverables or Documents to be Delivered	Approval should be obtained from:	Percentage of Payment
1st Installment	Presentation of methodology/Inception plan	Project Manager	20%
2nd Installment	Submission and endorsement of draft manual by project team, OLC and RECs.	Project Manager	30%
3 <sup>rd</sup> Installment	Submission of final version of training manual	Project Manager	50%

## X. MINIMUM CONSULTANCY TASK FORCE REQUIREMENTS

The IC is expected to meet the following minimum requirements:

## XI. QUALIFICATIONS OF THE SUCCESSFUL INDIVIDUAL CONTRACTOR (IC)

### a. Education:

Advanced University Degree in Social or Human Sciences (Law, International Relations / Affairs, Development Management, African Studies, Community Development, Public Administration, or a Knowledge Management discipline) is required.

### b. Experience:

- Proven experience in law and legislative matters, political and social sciences, governance, human rights in Africa is necessary, with at least 15 years of proven research, policy or teaching on key areas of political, governance, conflict, social, human rights and peace building issues.
- An excellent track record of publications in the area of political and socio-economic development, governance, human rights, peace and security and related issues on Africa is required

**c. Competencies:** Highly developed communication skills, including ability to draft/edit texts and to articulate ideas in a clear, concise style to a variety of audiences, as well as facilitation skills.

**d. Languages:** Knowledge in one of the working languages of the UN Secretariat is required. For this position fluency in oral and written English is required and knowledge of French and Portuguese would be an advantage.

- Good team-building and organizational skills
- Good computer skills: full command of Microsoft applications (word, excel, PowerPoint)
- Demonstrates integrity by modelling the UN's values and ethical standards
- Treats all people fairly without favouritism
- Fulfils all obligations to gender sensitivity and zero tolerance for sexual harassment.

## XII. CRITERIA FOR SELECTING THE BEST OFFER

Upon the advertisement of the Procurement Notice, qualified Individual Consultant is expected to submit both the Technical and Financial Proposals. Accordingly; Individual Consultants will be evaluated based on Cumulative Analysis as per the following scenario:

Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation. In this regard, the respective weight of the proposals are:

a. Technical Criteria weight is 70%

b. Financial Criteria weight is 30%

Criteria	Weight	Max. Point
<b>Technical Competence (based on CV)</b>	<b>70%</b>	100
<b>Criteria a:</b> Proven experience in law and legislative matters, political and social sciences, governance, human rights in Africa is necessary, with at least 15 years of proven research, policy or teaching on key areas of political, governance, conflict, social, human rights and peace building issues.	<b>30</b>	70
<b>Criteria b:</b> Proposed Methodology, Approach and Implementation Plan	<b>40</b>	
<b>Financial (Lower Offer/Offer*100)</b>	<b>30%</b>	30
<b>Total Score</b>	<b>Technical competences * 70% + Financial Score * 30%</b>	

## XIII. LOGISTICAL SUPPORT

The IC is responsible for any logistical support required for the assignment.

## **XV. RECOMMENDED PRESENTATION OF TECHNICAL PROPOSAL**

For purposes of generating quotations whose contents are uniformly presented and to facilitate their comparative review, a prospect Individual Contractor (IC) is given a proposed **Table of Contents**. Therefore, prospective Consultant Proposal Submission must have at least the preferred contents which are outlined in the IC Proposal Submission Form incorporated hereto.

### **TECHNICAL PROPOSAL COVER PAGES**

Cover Page

Cover Letter

### **SECTION I. TECHNICAL PROPOSAL SUBMISSION FORM**

1.1 Letter of Motivation

1.2 Proposed Methodology

1.3 Past Experience in Similar Consultancy and/or Projects

1.4 Implementation Timelines

1.5 List of Personal Referees

1.6 Bank Reference

### **SECTION II. ANNEXES**

Annex a. Duly Signed Offeror's Letter to UNDP Confirming Interest and Availability (use the template hereto)

Annex b. Duly Signed Personal CV's

## **XVI. CONFIDENTIALITY AND PROPRIETARY INTERESTS**

The consultants shall not either during the term or after termination of the assignment, disclose any proprietary or confidential information related to the consultancy or the Government without prior written consent. Proprietary interests on all materials and documents prepared by the consultants under the assignment shall become and remain properties of UNDP. This assignment will be administrated by UNDP, and all relevant UNDP rules, policies and procedures will apply.

## **XVI. ANNEXES TO THE TOR**

ANNEX 1 –Financial Proposal submission Form

ANNEX 2-P11 Form