Terms of Reference

GENERAL INFORMATION

**Title:** Prosecutor Advisor for Designing and Delivery of Maritime Crime Simulated Trial and Maritime Law Training for Prosecutors

**Project Name:** Global Maritime Crime Programme (GMCP).

**Reports to:** Mr. Shanaka Jayasekara (Programme Coordinator for Southeast Asia and the Pacific) and UNODC Indonesia Country Manager.

**Duty Station:** Home based.

**Expected Places of Travel (if applicable):** Batam of Riau Province and Surabaya of East Java Province. However, due to Covid19 pandemic and travel restrictions policy, such travels will be conducted after written approval is granted by supervisors. UNODC will arrange and pay the travels of the consultant.

**Duration of Assignment:** 59 working days within 2 May to 31 October 2022

REQUIRED DOCUMENT FROM HIRING UNIT

<table>
<thead>
<tr>
<th>TERMS OF REFERENCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
</tr>
<tr>
<td>CONFIRMATION OF CATEGORY OF LOCAL CONSULTANT, please select:</td>
</tr>
<tr>
<td>(1) Junior Consultant</td>
</tr>
<tr>
<td>(2) Support Consultant</td>
</tr>
<tr>
<td>(3) Support Specialist</td>
</tr>
<tr>
<td>(4) Senior Specialist</td>
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<tr>
<td>(5) Expert/ Advisor</td>
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<tr>
<td>CATEGORY OF INTERNATIONAL CONSULTANT, please select:</td>
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<tr>
<td>(6) Junior Specialist</td>
</tr>
<tr>
<td>(7) Specialist</td>
</tr>
<tr>
<td>(8) Senior Specialist</td>
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</tbody>
</table>

APPROVED e-requisition

REQUIRED DOCUMENTATION FROM CONSULTANT

- CV / P11 with three referees
- Copy of education certificate
- Completed financial proposal
- Completed technical proposal

**Need for presence of IC consultant in office:**

- ☐ partial (explain): The contractor will be homebased during his/her consultancy. No requirement to attend daily to the office. However, to be available for any meetings requested by the supervisor.
- ☐ intermittent (explain):
- ☐ full time/office based (needs justification from the Requesting Unit)

**Provision of Support Services:**

- **Office space:** ☐Yes ☐No
- **Equipment (laptop etc.):** ☐Yes ☐No
- **Secretarial Services** ☐Yes ☐No

If yes has been checked, indicate here who will be responsible for providing the support services:
I. BACKGROUND

Armed robbery, drug trafficking, human trafficking, people smuggling, and other illegal acts committed at sea plague the Indonesian waters with dire economic consequences. The Indonesian waters maritime routes are exploited by perpetrators of maritime crimes who defiantly operate on porous borders, in light of jurisdictional limitations, weak law enforcement and lack of regional cooperation. The fight against maritime crimes therefore triggers innumerable challenges in the region owing to limited and/or absence of technical/enforcement ability and resources.

Consequently, criminal acts such as smuggling of drugs, weapons, and other illegal cargo, exploitation of people through trafficking, slavery, and kidnapping, depletion of the sea’s resources and armed robbery at sea, wildlife trafficking, smuggling of immigrants, IUU fishing etc. are carried out with impunity as these remain undetected, investigations do not lead to prosecutions and often, prosecutions do not culminate into convictions.

Furthermore, the Strait of Malacca which located in the western part of Indonesia closed to Sumatera Island contain maritime trade routes are fundamental to the economic development and prosperity. The lack of prosecution related to maritime criminality continues to undermine efforts to combat such crime. The reason why Indonesia are still not at prosecution stage is due to various factors such as limited national maritime capacities, absence of robust legal frameworks, insufficient domestic justice systems, and other factors inhibiting the legal finish of prosecution related to criminal activities at sea.

UNODC GMCP has been promoting legal reform and training maritime criminal justice practitioners on the Law of the Sea and transnational organised maritime crime matters in the region. The support has comprised of legal assessments conducted regarding maritime offences, establishing legal frameworks, and support in developing solid legislation in line with the UN Convention on Law of the Sea (UNCLOS) and other international maritime instruments. The GMCP in Indonesia is currently working to strengthen the capacity of maritime law enforcers including prosecutors to prosecute maritime crime under a US-funded project titled “Improving Inter-agency Coordination and Strengthening Criminal Justice Processes to Counter Maritime Crime.”

II. SCOPE OF WORK, ACTIVITIES, AND DELIVERABLES

Scope of Work

The purpose of the consultancy is to provide prosecutor advisory support before and during the simulated trials as well as design and deliver high-quality training for Indonesian prosecutors on international and national maritime legislation and maritime crime. This activity is to strengthen the rule of law and judicial reform activities by assisting the country to put in place the necessary criminal and jurisdictional laws to criminalise maritime crimes. The activity is also to improve prosecutorial skills to effectively prosecute maritime criminality cases.

Under simulated trials activity, the incumbent will analyse case scenarios, investigation report and other necessary case files submitted by Investigator Advisor which will be later submitted to Prosecution Team, comprised by prosecutors. In addition, the incumbent will support the prosecution team to provide a profound understanding on prosecution strategies utilised during the maritime crime trials. During the preparation of simulated trials, the incumbent will ensure close
coordination with the National Investigator Advisor, National Consultant, Prosecution Team, and other relevant national maritime law enforcement agencies and identified witnesses or individuals who will act as witnesses.

Furthermore, under training for Indonesian prosecutor activity, the incumbent will design training module and deliver three training events on international and national maritime legislation and maritime crime.

**Specific task to be performed by the national consultant:**

The assignment will be carried out under the direct supervision of the Programme Coordinator of Southeast Asia and the Pacific and overall supervision of the Country Manager of Indonesia. Furthermore, she/he will be also in close coordination with National Programme Officer of the GMCP Indonesian Team based in Jakarta. The consultant will be based at her/his place of residence while providing in person and remote support to Prosecution Team as required and travel as and when required to Batam and Surabaya– if deemed necessary and if possible (taking account of Covid and/or compulsory quarantine reasons). More specifically, the consultant will perform the following tasks:

- Analyse case scenarios, investigation reports (including evidence collected), forensic reports, statements, chain of custody documents and other case files submitted by Investigator Advisor which will be used in the simulated trials to plan the activities and identify the specific needs based on domestic legal framework. The specific national legal frameworks will be considered for analysing each scenario and other case files.

- Participate in meetings to provide legal advice to the prosecution Team on effective strategies to adopt using the scenarios for the simulated trial.

- Assign the roles and responsibilities to the Prosecution Team members (who will be selected among prosecution authorities in Indonesia) and guide the team on the prosecution strategy. During the simulated trial events, actively provide guidance and inputs to prosecution Team and witnesses as well as during evaluation or debrief session. Guidance and inputs should be delivered on-site. Otherwise, it will be delivered remotely if it is impossible to travel to the city where the training is delivered because of Covid and/or compulsory quarantine reasons.

- Prepare and submit a final report on simulated trial events highlighting the legislative and adjudicatory gaps to address the criminal justice systems for Indonesia.

- Development of a training module on maritime crime and maritime law in collaboration with national consultant. She/he will use the UNODC GMCP third edition manual “Maritime Crime: A Manual for Criminal Justice Practitioners” as the main reference when developing the training module. In addition, she/he will use other relevant national maritime laws and regulations. The draft module needs to be submitted and approved by the supervisor. The final training module in English and Bahasa Indonesia will be submitted incorporating the inputs from supervisor.

- As facilitator conduct three trainings to prosecutors on maritime crime and maritime law.

**Expected Outputs and Deliverables**

- Inputs provided to the Investigator Advisor on the case scenarios, investigation reports (including evidence collected), forensic reports, statements, chain of custody documents and other case files which will be used in the simulated trial. The specific national legal frameworks will be considered for analysing each scenario and other case files.

- Work plan and prosecution strategy to be used at simulated trial provided to prosecution
team.

- Legal advice and inputs to prosecution team especially on indictments provided prior to simulated trial.
- Assignment of roles to members of prosecution team conducted and provide guidance to prosecution strategy.
- Participate in simulated trial events to provide guidance and input to the prosecution team and witnesses or individual acted as witnesses as well as during evaluation and/or debrief sessions; and
- Training module on maritime crime and maritime law is developed.
- Act as facilitator, three training events for 60 prosecutors delivered.
- A final report in English and Bahasa (prosecution team section) that describes deficiencies, legislative gaps, and recommendations to improve prosecutorial responses to relevant types of crimes and on the delivery of training events for prosecutors submitted to UNODC.

### III. WORKING ARRANGEMENTS

#### Institutional Arrangement

The consultant will perform his/her work under the supervision of the Regional Programme Coordinator of Southeast Asia and the Pacific of the Global Maritime Crime Programme of UNODC. In addition, the UNODC Country Manager of Indonesia will provide overall guidance and supervision to the consultant. Additional support will be provided under the guidance of National Programme Officer for Global Maritime Crime Programme.

#### Duration of the Work

59 working days within 2 May to 31 October 2022.

<table>
<thead>
<tr>
<th>Deliverable</th>
<th>Description of task (deliverable)</th>
<th>Working days</th>
<th>To be accomplished by (date)</th>
<th>Reviewed and Monitored By</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Inputs provided to the Investigator Advisor on case scenarios, investigation reports (including evidence collected), forensic reports, statements, chain of custody documents and other case files which will be used in the simulated trial. Specific national legal frameworks will be considered in analysing each scenario and other case files.</td>
<td>5</td>
<td>09 May 2022</td>
<td>NPO and Regional Programme Coordinator GMCP.</td>
</tr>
<tr>
<td>2</td>
<td>Work plan and prosecution strategy to be used at the simulated trials provided to prosecution team.</td>
<td>5</td>
<td>16 May 2022</td>
<td>NPO and Regional Programme Coordinator GMCP.</td>
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<tr>
<td></td>
<td>Task Description</td>
<td>Time</td>
<td>Other Information</td>
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<td>3</td>
<td>Legal advice and input to prosecution team especially on indictments provided prior to the simulated trial. A report in English and Bahasa on the legal advice and input provided will be submitted.</td>
<td>10</td>
<td>30 May 2022</td>
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<td>NPO and Regional Programme Coordinator GMCP.</td>
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<tr>
<td>4</td>
<td>Participated in the simulated trial events to provide guidance and input to prosecution team and witnesses as well as during evaluation and/or debrief sessions. A report in English and Bahasa on the guidance and input provided will be submitted.</td>
<td>10</td>
<td>First Simulated Trial: 5-9 September 2022. Second Simulated Trial: 19-23 September 2022.</td>
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<td>NPO and Regional Programme Coordinator GMCP.</td>
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<tr>
<td>5</td>
<td>Develop and finalize training module on maritime crime and maritime law.</td>
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<td>21 June 2022</td>
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<td>NPO and Regional Programme Coordinator GMCP.</td>
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<td>NPO and Regional Programme Coordinator GMCP.</td>
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<tr>
<td>7</td>
<td>A final report in English and Bahasa provided on a. deficiencies, legislative gaps, and recommendations to improve prosecutorial responses to relevant types of crimes. b. Delivery of trainings for prosecutors on maritime law and maritime crime.</td>
<td>5</td>
<td>3 September 2022.</td>
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<td></td>
<td></td>
<td></td>
<td>NPO and Regional Programme Coordinator GMCP.</td>
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</tbody>
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**Duty Station**

The consultant will be home based during this consultancy with periodic meetings in UNODC offices or virtually as requested. There will be some travel involved to cities where training events will be delivered. However, these travels will be conducted only if it is permitted by supervisor or when travel restrictions due to Covid19 pandemic have been lifted. UNODC will arrange and pay the travel of the consultant.
IV. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS

Qualifications:
Bachelor’s degree in law.

Working Experience:
- Minimum 15 years of work experience in the field of criminal justice system. Experience as a former prosecutor will be a plus.
- Experience in prosecuting transnational organized crime case.
- Experience in dealing with counterparts from various backgrounds.

Competencies and special skills requirement:
- Demonstrated ability to work with person of different ethnicity and cultural backgrounds.
- Ability to work under pressure and ability to multi-task.
- Excellent oral and written English and Bahasa Indonesia and
- Highly motivated and a good team player.

V. EVALUATION METHOD AND CRITERIA

Individual consultant will be evaluated based on the following methodology:

Cumulative analysis

When using this weighted scoring method, the award of the contract should be made to the individual consultant whose offer has been evaluated and determined as:

a) responsive/compliant/acceptable, and

b) Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

* Technical Criteria weight; [70%]

* Financial Criteria weight; [30%]

Only candidates obtaining a minimum of 70 point would be considered for the Financial Evaluation

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Weight</th>
<th>Maximum Point</th>
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<tbody>
<tr>
<td><strong>Technical</strong></td>
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<tr>
<td><strong>Criteria A: qualification requirements as per TOR:</strong></td>
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<tr>
<td>1. Bachelor’s degree in law.</td>
<td>25%</td>
<td>25</td>
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<tr>
<td>2. Minimum 15 years of work experience in the field of criminal justice system. Experience as a former prosecutor will be a plus.</td>
<td>20%</td>
<td>20</td>
</tr>
<tr>
<td>3. Experience in prosecuting transnational organized crime case.</td>
<td>20%</td>
<td>20</td>
</tr>
<tr>
<td>4. Experience in dealing with counterparts from</td>
<td></td>
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</table>
Criteria B: Brief Description of Approach to Assignment.

- Understand the task and applies a methodology appropriate to the task as well as strategy in a coherent manner.
- Important aspects of the task addressed clearly and detailed.
- Logical, realistic planning for efficient project implementation.

Criteria C: Further Assessment by Interview (if any)

Prepared by

Fatinma Agustinanto
National Programme Officer

Reviewed by

Shanaka Jayasekara
Regional Programme Coordinator

Approved by

Collie Brown
Country Manager

Southeast Asia and the Pacific