



Ministry of Environment

Male', Republic of Maldives.

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Date: 4 August 2019

Preparing an analysis report and strategy for effective implementation of the Kigali Amendment and for drafting legal and policy instruments to integrate the Kigali Amendment for HFC Phase-down in the Maldives; and the development of biosafety and access and benefit sharing legal framework.

**Legal Expert
Terms of Reference**

BACKGROUND

Kigali Amendment:

Kigali Amendment to Montreal Protocol on Substances that Deplete the Ozone Layer (KA) was adopted by signatories to the Protocol at the 28th Meeting of Parties in 2016 in Kigali, Rwanda. After its national ratification by more than 20 countries, it has entered into force on 1 January 2019. KA proposes to phase down the production and usage of hydrofluorocarbons (HFCs) by mid-2040 and offers an opportunity to countries for flexibility in doing so according to the principle of common but differentiated responsibilities. HFCs are man-made chemicals that are widely used in air-conditioning, refrigeration and foam insulation and are powerful greenhouse gases, more potent than carbon dioxide. As such they contribute significantly to climate change. KA is therefore a significant milestone in the international environmental protection as its achievement could help to reduce the global temperature rise by 0.5 degree Celsius by the year 2100.

The provisions of KA include specific targets and timetables to replace HFCs with lower Global Warming Potential (GWP) alternatives, and restriction from trading in controlled substances with states that have not ratified it. KA also mentions the importance of energy efficiency of cooling technologies and proper management of chemicals throughout their life-cycle including at the end phase for safe disposal and destruction of refrigerant gases.

The Maldives is a party to the Montreal Protocol and has ratified the KA. It is important for the Maldives to consider and set the right policy conditions for its effective implementation. Understanding the current market situation is essential in view of the complexity of the Refrigeration and Air-conditioning sector with multiple refrigerants each suitable only for certain applications. Right policies and their mixes will help to guide the market and its key players for the smooth, safe and accelerated adoption of preferred alternatives and contribute to the sustainable development objectives.





HFCs are not ozone depleting substances (ODS) but greenhouse gases. This implies that some elements of KA may fall under the policy framework of climate change. In addition, given that significant climate gains can be achieved from improving energy performance and energy mix that supplies electricity during the use phase of the cooling technologies, KA is extremely relevant for energy and energy efficiency portfolio. Refrigerants are chemicals and new alternatives can be hazardous chemicals due to their toxicity and flammability and they are relevant for the policy framework concerning safety and chemical management as well. Therefore, it is important for the Maldives to carefully consider the implications of KA on the national policy context and market to reap the benefits of positive linkages and policy coordination to increase the cost-effectiveness and efficiency of the policy-making and implementation of KA.

The success of Montreal Proposal in phasing out 96% of ozone depleting substances rests on its effective implementation mechanism at the national level. Thus, it can offer great potential in addressing and reaching synergistically policy objectives in other interrelated areas under the umbrella of Sustainable Development Goals and Agenda 2030.

Cartagena Protol on Biosafety and Nagoya Protocol on Aaccess and Benefit Sharing:

On 29 January 2000, the Conference of the Parties to the Convention on Biological Diversity adopted a supplementary agreement to the Convention known as the Cartagena Protocol on Biosafety. The Protocol seeks to protect biological diversity from the potential risks posed by living modified organisms resulting from modern biotechnology. It establishes an advance informed agreement (AIA) procedure for ensuring that countries are provided with the information necessary to make informed decisions before agreeing to the import of such organisms into their territory. The Protocol also establishes a Biosafety Clearing-House to facilitate the exchange of information on living modified organisms and to assist countries in the implementation of the Protocol. The Maldives became a Party to this Protocol in 2002.

The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (ABS) to the Convention on Biological Diversity is a supplementary agreement to the Convention on Biological Diversity. It provides a transparent legal framework for the effective implementation of one of the three objectives of the CBD: the fair and equitable sharing of benefits arising out of the utilization of genetic resources.

The Nagoya Protocol on ABS was adopted on 29 October 2010 in Nagoya, Japan and entered into force on 12 October 2014, 90 days after the deposit of the fiftieth instrument of ratification. Its objective is the fair and equitable sharing of benefits arising from the utilization of genetic resources, thereby contributing to the conservation and sustainable use of biodiversity.

By helping to ensure benefit-sharing, the Nagoya Protocol creates incentives to conserve and sustainably use genetic resources, and therefore enhances the contribution of biodiversity to development and human well-being.

The government of the Republic of Maldives through the Ministry of Environment (ME) has received financial assistance from donor agencies towards:





- Preparation of an analysis report and strategy for effective implementation of the Kigali Amendment and for drafting legal and policy instruments to integrate the Kigali Amendment for HFC Phase-down in the Maldives;
- Development of the Biosafety and Access and Benefit Sharing (ABS) legal framework

SCOPE OF WORK

Preparation of an analysis report and strategy for effective implementation of the Kigali Amendment and for drafting legal and policy instruments to integrate the Kigali Amendment for HFC Phase-down in the Maldives

Scope of work under the contract includes developing a policy overview to analyse the readiness, draw the practical linkages with policy areas to identify the gaps, and provide recommendations for better policy linkages and coordination for the implementation of Kigali Amendment in the Maldives with the key components including, but not limited to:

- develop a policy overview to analyse the readiness, draw the practical linkages with policy areas to identify the gaps, and provide recommendations for better policy linkages and coordination for the implementation of Kigali Amendment in the Maldives,
- develop a complete and stakeholders endorsed draft of the required policy instruments in relation to the Kigali Amendment implementation and
- develop the Amended Ozone Layer Protection Act in the Maldives.

The consultant will collaborate with the other local consultants working on the different components of the Enabling Activities project and will ensure that his or her final outputs reflect the assessments from the other components of the Enabling Activity and that the reports are coherent.

The final report should be acceptable to National Ozone Unit (NOU) and UNEP Compliance Assistance Programme (CAP).

The methodology for the assignment will involve desk research of current relevant policies and strategies and initiatives, interviews with selected key stakeholders in the government (interviews questions to be jointly elaborated with regional consultant and CAP team) and private sector, making links with the servicing sector needs assessment and stakeholder consultation.

Development of the Biosafety and Access and Benefit Sharing (ABS) legal framework

The legal expert will provide the service of preparation of the legislative framework and capacity needs assessment with stakeholder consultations under the guidance of Environment Department. Scope of work includes but is not limited to:



- (iv) Literature Review on Biosafety and critical analysis of the present legislations related to Biosafety
- (v) Literature Review on Access and Benefit Sharing (ABS) and critical analysis of the present legislations related to ABS
- (vi) Carrying out a Capacity Needs Assessment for the relevant organizations and analysis on strengthening institutional capacity regarding biosafety and ABS
- (vii) Preparation of the draft legislation for Biosafety and ABS
- (viii) Conduct consultation workshops to discuss the draft legislations and bilateral stakeholder meetings
- (ix) Preparation of revised draft legislations and organization of a consultative workshops to review it.
- (x) Finalization of the draft National Biosafety Framework
- (xi) Finalizing the draft legislation on Biosafety
- (xii) Finalizing the draft legislation on ABS
- (xiii) Translate the draft legislations to English

KEY DELIVERABLES

All deliverables and reports must be in English language except for the legal frameworks that should be produces in both English and Dhivehi in all stages.

1. A report which includes an analysis of the existing legislative framework related to ozone, climate change and other relevant policy areas to draw the linkages and identify gaps needed for the HFC phase-down and policy coordination. The final analysis report should include recommendations for better policy linkages and coordination. A consultation workshop and an endorsement workshop should be held to gather inputs on the above analyses from various stakeholders in the Maldives and seek their endorsement to the final draft
2. A report on recommendations from the above stakeholder consultation workshops
3. A draft appropriate legal and other policy instruments to integrate the Kigali Amendment, including the Amended Ozone Layer Protection Act in the Maldives
4. Literature Review on Biosafety and ABS and critical analysis of the present legislations related to Biosafety and ABS



5. Capacity Needs Assessment Report for Biosafety and ABS
6. Initial Draft of Biosafety legal framework and ABS legal framework
7. Stakeholder consultation workshops to discuss the draft legislations and bilateral stakeholder meetings
8. Final Draft of Biosafety legal framework and ABS legal framework in Dhivehi and English

QUALIFICATIONS:

- University degree in environmental law and policy or another related field;
- A minimum of 5 years professional experience specifically in law and policy making with proven understanding of environment and related sector policies, laws and regulations;
- Good understanding and knowledge of environmental sustainability and sustainable industrial and economic development, preferably exposure to the Climate Change or Montreal Protocol issues;
- Excellent understanding of the Convention on Biological Diversity, the Cartagena Protocol on Biosafety, Nagoya Protocol on Access and Benefit Sharing and other biodiversity relevant Multilateral Environment Agreements (MEAs);
- Work experience on projects financed by multilateral donor agencies;
- Be able to network and engage with stakeholders;
- Experience in Social, cultural and gender sensitive engagement;
- Excellent research and drafting skills in both English and Dhivehi language;
- Proven ability to write and present complex policy-related issues for a non-technical audience.

DURATION OF THE ASSIGNMENT

- The consultant is required to complete all the tasks of the project within 12 months from the date of signing the contract. The consultant is required to give 180 days of input over a period of 12 months from the date of commencement of the consultancy.

REMUNERATION

The selected consultant will be provided a total of 288,000 Maldivian Rufiyaa for 12 months. The payment will be based on deliverables and as follows.



PAYMENT STRUCTURE

It is suggested that the activity follows the work plan below:

Activity	Output/Deliverable	Timeline	Payment
1) Agree on the report annotated outline, questionnaires for interviews	Outline of the report and questionnaires for interviews agreed among all parties	by the end of the 1 st week of the contract	16%
2) Collect data through desk research of relevant policies, strategies and initiatives in the area of Air quality and Ozone layer protection, Climate Change, Energy and Energy efficiency, Chemical management and other relevant as identified. Interviews conducted with key stakeholders	Stock taking for the report preparation completed with market figures, policy overview and interviews records	by the end of the 1 st month of the contract	
3) Prepare the first draft of the report. Prepare the first draft of the policy and legal instruments	Draft report and draft policy available for review by National Ozone Unit (NOU), regional consultant and UN Environment Programme (UNEP)	by the end of the 1 st month of the contract	
4) Review the draft report based on the comments received	Second draft report and draft policy for stakeholder review and consultation (to be sent to meeting participants 5 days in advance)	by the end of the 10 th week of the contract	18%
5) Conduct the first stakeholder consultation to review the preliminary findings of the report and the draft policy and to identify actionable recommendations for national strategy	First Stakeholder Consultation Workshop Meeting report with the summary of comments with recommendations	by the end of the 12 th week of the contract by the end of the 13 th week of the contract	
6) Revise the draft report and the draft policy based on the stakeholders' comments	Third draft of the report and policy for review by NOU and UNEP	by the end of the 14 th	



		week of the contract	
7) Revise the draft report and the draft policy based on the comments received	Final draft of the report and policy ready for validation and national strategy launch	by the end of the 16 th week of the contract	
8) Conduct a validation and dissemination of the report and the policy and launch of the national strategy and the Amended Ozone Layer Protection Act in the Maldives	Report and policy validated, disseminated, and national strategy accepted and launched	by the end of the 4 th month of the contract	
9) Literature Review on Biosafety and ABS	Final reports on Biosafety and ABS	By the end of 22 nd week of the contract	16%
10) Critical analysis of the present legislations related to Biosafety and ABS	Final reports on Biosafety and ABS	By the end of 5 th month of the contract	
11) Preparation of the capacity Needs Assessment Report on Biosafety	Capacity Needs Assessment Report on Biosafety	By the end of 6 th month of the contract	
12) Capacity Needs Assessment Report on ABS	Capacity Needs Assessment Report on ABS	By the end of 6 th month of the contract	
13) Initial Draft of Biosafety Law	Draft Biosafety Law	By the end of 7 th month of the contract	
14) Stakeholder consultation workshop to discuss the draft legislation and bilateral stakeholder meetings on Biosafety	Stakeholder consultation meetings and workshop	By the end of 8 th month of the contract	16%
15) Initial Draft of ABS Law	Draft ABS Law	By the end of 9 th month of the contract	16%





16) Stakeholder consultation workshop to discuss the draft legislation and bilateral stakeholder meetings on ABS	Stakeholder consultation meetings and workshop	By the end of 10 th month of the contract	
17) Preparation of the Final Draft of Biosafety Legislative Framework in Dhivehi and English	Final Draft of Biosafety Legislative Framework in Dhivehi and English	By the end of 11 th month of the contract	18%
18) Preparation of the Final Draft of ABS Legislative Framework in Dhivehi and English	Final Draft of ABS Legislative Framework in Dhivehi and English	By the end of 12 th month of the contract	





SELECTION CRITERIA

Criterion	Weightage
University degree in environmental law and policy or another related field (<i>Max 20 points</i>)	
- <i>Master's degree</i>	20
- <i>Undergraduate degree</i>	10
Experience - should have at least 5 years professional experience specifically in law and policy making (<i>Max 62 points</i>)	
- <i>Professional experience in producing comprehensive policy/legal related documents in the Maldives (4 points for each document)</i>	20
- <i>Experience in literature review and analysis in policy and related fields (4 points for each project with all components)</i>	12
- <i>Experience in Stakeholder Consultation and engagement within the Maldives(2 points for each)</i>	8
- <i>Report/Review Writing Experience (4 points each)</i>	12
- <i>Proof of familiarity with the Montreal Protocol and the Kigali Amendment, the Convention on Biological Diversity, the Cartagena Protocol on Biosafety, Nagoya Protocol on ABS and other biodiversity relevant Multilateral Environment Agreements (MEAs).</i>	10
Skills (<i>Max 18 Points</i>)	
- <i>Proof of proficiency in English and Dhivehi Language</i>	8
- <i>Proof of research and drafting skills in both English and Dhivehi</i>	10

INTELLECTUAL PROPERTY

The Ministry of Environment will have copyrights of all data collected and information collected for the purpose of this project. The Ministry of Environment will have the full rights to all products, drafts and final deliverables of the project. The consultant will not have any right to the use of any component of this project including the raw data outside the scope of this project without prior consent from the Ministry of Environment.



ADDITIONAL INFORMATION

Environment Department of the Ministry of Environment has the overall responsibility of the management of the project. The consultant is expected to work closely with the Ministry during the course of the assignment.

The consultant will be working independently using his/her own space and resources, however, logistics required from the ministry for the workshops, field visits and data collection will be facilitated by the Ministry. Traveling and logistical costs if required for workshops will be provided by the Ministry.

APPLICATION

The applicants shall submit their applications along with the following documents

- Detailed Curriculum Vita including information on qualifications to perform the assignment, experience and appropriate skills
- Proof of similar assignments, experience, skills and qualifications
- Copies of Accredited certificates
- Copy of National ID card/Passport
- Letter of no objection from the supervisor (if the applicant is a current civil servant)

SUBMISSION

Applications must be submitted to the Ministry of Environment no later than 1200hrs on August 19, 2019 to the following address

*Ministry of Environment
Green Building, Handhuvaree Hingun,
Maafannu, Male', 20392,
Republic of Maldives*