



ASEAN AUSTRALIA DEVELOPMENT COOPERATION PROGRAM (AADCP) PHASE II

TERMS OF REFERENCE FOR THE

ASEAN CONSUMER PROTECTION SELF-ASSESSMENT TOOLKIT

The ASEAN Secretariat and the Australian Government, through AADCP II, invite applications from consultants for the above-referenced project.

I. Background

Concurrent with the launch of the ASEAN Economic Community (AEC) in 2015, a new Community Roadmap “ASEAN 2025: Forging Ahead Together” was adopted which included the ASEAN Economic Community (AEC) Blueprint 2025. Under the Blueprint, consumer protection is seen as an integral part of a modern, effective and fair market place. Noting that globalisation is leading to a wider variety of products and technological revolutions and transforming the traditional ways of conducting business in the market place, governments need to find innovative means to protect and promote the interest of the consumers without erecting unnecessary barriers to the exchange of goods and services. This will require comprehensive and well-functioning regional and national consumer protection mechanisms characterised by the presence of sufficient and implementable legislation, operative complaints and redress systems, strong consumer protection institutions with capable staff and effective consumer awareness programs.

The AEC Blueprint 2025 outlines a number of strategic measures to advance consumers’ well-being including fostering consumer empowerment through the creation and protection of knowledge; ensuring comprehensive and well-functioning national and regional consumer protection systems; and strengthening related regulatory frameworks. These measures are further detailed under the ASEAN Strategic Action Plan for Consumer Protection (ASAPCP) 2025. The ASAPCP 2025 sets out four goals and the various initiatives under these goals which will be implemented by the ASEAN Committee on Consumer Protection (ACCP). The four strategic goals are:

- I. A Common ASEAN Consumer Protection Framework is Established;
- II. A High Common Level of Consumer Empowerment and Protection is Ensured;
- III. High Consumer Confidence in the AEC and Cross-border Commercial Transactions is Instituted; and
- IV. Consumer Concerns in all ASEAN Policies are Integrated.

ASEAN Member States (AMS) are working towards the successful achievement of these goals. In particular, Strategic Goal 1 on the establishment of the ASEAN Consumer Protection Framework envisages an evolutionary approach towards effective consumer protection regimes for ASEAN. The approach begins with the development of a set of ASEAN High-Level Principles (AHLP) on consumer protection that are adaptable to changes in the AEC, and which forms the basis for the modernisation of consumer protection legislation in ASEAN that will strengthen the enforcement capacities of consumer agencies. On 7 September 2017, the ASEAN Economic Ministers (AEM) endorsed the ASEAN HLP thus paving the way for the next phase of implementing Goal 1 of the ASAPCP 2025.

As a next step, AMS are expected to refer to the AHLP to better understand how their national consumer protection framework and institutions correspond to the AHLP, and identify priority areas of improvement to focus on, between now until 2025. During this process of identification, there is a need to provide an assessment mechanism for AMS to better structure this process. Using a common approach such as a self-assessment toolkit, results can be used by AMS to jointly assess progress in building a consumer protection framework across the region.

This project will entail the development of an ASEAN Consumer Self-Assessment Toolkit that will set-out the main elements/criteria for the internal assessment of individual AMS' consumer protection regime. These elements should be based on the AHLP, which set benchmarks on key aspects of consumer protection and address legislative and information gaps as a basis for the modernization of consumer protection legislation as well as provide an agreed set of criteria for peer reviews and peer learning that enhances regional cooperation and convergence in policy.

The areas covered under the Toolkit should be comprehensive and include a wide range of areas as per the AHLP (i.e., enforcement of consumer protection laws, availability of information, product safety, redress mechanisms, consumer empowerment and advocacy initiatives, obligations of businesses and online protection for consumers) as well as take into account six (6) priority sectors (i.e., consumer credit and banking, environment, professional services, healthcare, e-commerce, product safety and labelling). The Toolkit should build upon and elaborate on the AHLP indicators. In addition, it should take into account regional and national perspectives particularly in the context of differences in the AMS' stages of development, approaches and national characteristics.

The Toolkit should incorporate key indicators that could be of a binary yes or no or with multiple choices, while noting that a limited number of elements/criteria may comprise descriptive issues. However, it will be most useful to have a Toolkit that could also be quantitative in nature, such as a scoring system, that could be used for internal tracking purposes and provide a quantitative guide of the progress over time.

A draft Toolkit is expected to be validated with the ACCP members before final adoption by the ACCP and endorsement by the AEM. In this context, a pilot self-assessment will be carried out by an AMS before the Toolkit is finalised by the consultant. The consultant is expected to work closely with the pilot AMS so that the Toolkit can be further adapted and fit-for-purpose before the final version for validation by the ACCP.

The results from the Toolkit will also be used as a basis for conducting a planned ASEAN peer review of AMS consumer protection legislative regimes. The peer review process is envisaged to comprise three phases - the country reporting, the external reporting and the plenary session. Whereas the preparation of the Self-Assessment Toolkit is a separate project from the conduct of the peer review, the findings from self-assessment will feed into the latter. These findings may be used into respective country reports for the peer review.

II. Needs and Objectives

The Self-Assessment Toolkit will support AMS in moving towards a common consumer protection framework, by providing a common approach and tool for benchmarking the implementation of consumer protection in their countries to the AHLP and other international best practices. It will guide the AMS to: i) capture current activities and practices; ii) objectively assess their laws and regulations based on the AHLP; and eventually, iii) improve their practices, procedures and regulatory/administrative arrangements. This Toolkit also

has the added element of providing the framework for the country assessment during the peer review of AMS consumer protection regime.

III. Outputs

The project will produce the “ASEAN Consumer Protection Self-Assessment Toolkit”, which will contain:

- An introduction of the project, its objectives and underlying activities;
- A brief analysis of relevant trends and developments, in country reviews and self-assessments of consumer protection regimes and work on such issues in other fora and countries;
- The Toolkit itself, which:
 - contains a national-level indicator framework describing detailed requirements to allow an objective assessment on the consumer protection regime taking into account the AHLP;
 - allows both a qualitative and quantitative assessment of the consumer protection regime through elements and built-in indicators based on the ASEAN HLP;
 - includes additional thematic indicators pertaining to the 6 priority sectors, namely consumer credit and banking, environment, professional services, healthcare, e-commerce, product safety and labelling;
 - contains practical step-by-step guidance on undertaking the assessment, including: i) activity planning, ii) data collection, iii) analysis, iv) reporting, and v) review.

A compendium of terminologies and definitions used in consumer protection law and policy will also be included as part of the Toolkit, to ensure that countries use common terminologies and definitions when conducting the assessment. The compendium will be brief in length, with a maximum of five (5) pages.

The preparation of the Self-Assessment Toolkit will involve desktop research, consultations with AMS and various stakeholders. This Toolkit will be piloted in one AMS prior to finalisation and validation by the ACCP. The Consultant is required to make a maximum of four (4) revisions until the Toolkit is finalised.

In addition, the consultant will be required to produce the following reports:

- i) Project Inception Report
- ii) Consultation/Validation Workshop/Country Pilot Reports
- iii) Project Completion Report

IV. Tasks/Activities

The following activities will need to be undertaken to achieve the outputs presented above. The bidder should provide details on its approach to each activity in its bid and is free to recommend additional activities.

	Output/Report	Activity	Person working days	Completion Date	Person(s) responsible
1.	Inception Report	Preparation of Inception Report including: <ul style="list-style-type: none"> development of the over-all approach for the delivery of the expected outputs proposed structure and format of the Self-Assessment Toolkit 	2	2 weeks after signing of SSA (Week 3)	Consultants with inputs from ASEC and AADCP II
		Circulation and revision of the Inception Report based on feedback, if any			
<i>Approval of Output 1: Inception Report by ACCP/ASEC (2 working weeks)</i>					
2.	Analysis of Consumer Protection developments/ practices in other fora/ countries in undertaking self-assessments and review of consumer protection regimes	Drafting of the report including: <ul style="list-style-type: none"> desk review of existing materials analysis of relevant developments/practices in ASEAN with regard to the undertaking of self-assessments and review of consumer protection regimes 	3	Week 5	Consultants
		Circulation and revision of the Report based on feedback, if any		Week 7	Consultants, ACCP, ASEC
3.	Draft Self-Assessment Toolkit and Consultation Workshop 1 Report	Drafting of the Self-Assessment Toolkit including the guidelines for its use and the compendium of terminologies	15	Week 11	Consultants
		Circulation of the draft Toolkit and presentation in a Consultation Workshop		Week 13	Consultants, ACCP, ASEC
		Preparation and submission of the Workshop Report		Week 14	Consultants

		Revision of the Workshop Report based on feedback, if any		Week 15	Consultants, ACCP, ASEC, AADCP II
<i>Approval of Outputs 2 and 3: Analysis of Consumer Protection Trends, Workshop Report and Self-Assessment Toolkit by ACCP/ASEC (2 working weeks)</i>					
4.	Revised Draft Self-Assessment Toolkit, Pilot Testing Report and Consultation Workshop 2 Report	Revision of the Toolkit based on feedback received	15	Week 17	Consultants
		Pilot testing of the Toolkit in 1 AMS		Week 18	Consultants, Pilot AMS
		Submission of Pilot Testing Report		Week 19	Consultants
		Circulation of the revised Toolkit and presentation in a Consultation Workshop		Week 21	Consultants, ACCP, ASEC, AADCP II
		Preparation and submission of the Workshop Report		Week 22	Consultants
		Revision of the Workshop Report based on feedback, if any		Week 23	Consultants, ACCP, ASEC, AADCP II
5	Final Draft and Final Self- Assessment Toolkit	Preparation of the final draft of the Toolkit based on feedback received	4	Week 24	Consultants
		Presentation to ACCP, as needed		Week 26	Consultants
		Finalisation of the Toolkit based on final feedback received, if any		Week 26	Consultants
6.	Project Completion Report	Preparation and submission of the Project Completion Report	1	Week 27	Consultants with inputs from ASEC and AADCP II
		Revision of the Project Completion Report based on feedback, if any			
<i>Approval of Outputs 4,5 and 6: Revised and Final Self-Assessment Toolkit, and Project Completion Report by the ACCP/ASEC (2 working weeks)</i>					

V. Reporting

The consultant is expected to produce reports in accordance with Section III and IV above. The timing of delivery is indicative and can be adjusted when the consultant's work plan is developed, subject to mutual agreement.

No.	Reports	Target Delivery Date
1	Inception Report This would detail the consultant's approach to the project and provide a detailed work plan.	2 weeks after contract signing
2	Consultation/Validation Workshop Report/Pilot Testing Report In line with the various outputs, which would be presented in a validation, a corresponding workshop report would be prepared.	1 week after the conduct of the event
3	Project Completion Report The Project Completion Report will establish a record of the project achievements against the project's original intended purpose and outputs. It is intended to assist in assessing impact, draw out conclusions and lessons learned that may be valuable in designing new related initiatives.	1 week after delivery of all outputs

All reports will be submitted based on AADCP II Guidelines for Contractors in draft format to the ASEAN Secretariat, Competition, Consumer Protection and IPR Division (with a copy to AADCP II) and, following ASEC approval, in final form. All outputs and reports must be suitable for publication, although the decision on publication lies with the ASEAN.

The contractor will also provide regular (weekly, bi-monthly or as agreed with ASEC) summation of activities undertaken and issues that have arisen. These will be submitted to Competition, Consumer Protection and IPR Division (CCPID) and AADCP II via email.

Financial reports will be submitted at invoicing in line with a payment schedule to be specified in the Special Services Agreement (SSA).

VI. Project Management

The project will be funded by the ASEAN-Australia Development Cooperation Program II and managed by the Competition, Consumer Protection and IPR Division of the ASEAN Secretariat. The consultant should be responsible for organising and conducting the scheduled activities in collaboration with the host countries and the ASEAN Secretariat.

VII. Scope of Services

The consultancy will be undertaken over a **continuous effective period of seven (7) calendar months** with approximately **40 person days** of professional services. Work will commence immediately after contract signing.

VIII. Qualifications

In its proposal the bidder/bidding team should demonstrate :

- In-depth knowledge of consumer protection policies/legislations, regulatory environment and programs, especially within ASEAN;
- Experience in policy making and providing policy advice to governments, preferably on consumer protection in a developing country context;
- Familiarity with consumer rights, enforcement of consumer laws, and consumer demands for safe and sustainable consumption practices as well as current and emerging consumer concerns and related issues;
- Skills and involvement in the development of practical and user-friendly toolkits and training material;
- Experience in the conduct of monitoring and evaluation including the development of indicators;
- Previous involvement in the design and delivery of strategic action plans and work programs;
- Understanding of ASEAN and its work on economic community building;
- Proven experience in dealing with senior government officials, parliamentarians and other identified stakeholders; and
- Proven skills in writing and conversing in English.

A thorough understanding of ASEAN, ASEC and AACDPII procedures will be considered added value.

IX. Bidding

Interested individuals or consulting firms are invited to submit a proposal in response to these Terms of Reference. This proposal should be in two parts: **Technical** and **Financial components**.

The Technical component should present the following information:

- A brief discussion indicating the bidder's understanding of the needs of the project;
- A brief analysis of key issues;
- A methodological discussion of how the bidder proposes to address those needs including assessment of key issues, analytical strategies that will underlie the project, specific techniques to be utilised, and practical discussion of possible limitations in carrying out the project;
- A detailed work plan that specifies activities to be undertaken, expected outputs and deliverables, resources to be utilised and timing;
- Staffing and management plan;
- A discussion on how measures to ensure the future sustainability of the outcomes of the project will be addressed;
- CVs of all proposed experts;
- Brief discussion of firm's past experience in undertaking similar work and brief summaries of all projects undertaken;

- Examples of previous work as Annex to the proposal.

The Financial component should specify professional fees of experts.

Other costs for experts and participants such as reimbursable expenses for airfare, other travel costs and daily subsistence allowance for workshops, meetings, and all other agreed activities will be discussed with the preferred contractor during the finalisation of the scope of services. Costs will be based on prevailing ASEC rates.

X. Submission of Application

Applicants should send via email **tender@aadcp2.org** and mail/courier 4 (four) printed copies of their application with a cover letter, materials specified in **Section IX** above and other supporting documents to ASEAN Australia Development Cooperation Program II, ASEAN Secretariat 2nd Floor, Jl. Sisingamangaraja 70A, Jakarta 12110, Indonesia, indicating “**ASEAN Consumer Protection Self-Assessment Toolkit**” as the subject no later than **30 October 2017**. Please note that only short-listed applicants will be notified.

For Frequently Asked Questions (FAQ), please visit <http://aadcp2.org/aadcp-ii-tender-frequency-asked-questions/>

Any queries on the TOR should be sent to contact@aadcp2.org with the subject line: **Query “ASEAN Consumer Protection Self-Assessment Toolkit”**.

IX. Additional Notes on Terms and Conditions of the Project

1. Any future studies/reports/analysis in any form of intellectual property rights (including but not limited to patents, copyright and any related rights) submitted by the Contractor to ASEAN arising out of or in connection to the services performed by the Consultant to ASEAN shall belong to ASEC under the name of **ASEAN** only;
2. Successful bidder shall agree to be bound and sign the Special Services Agreement (SSA) with all requirements under the terms and conditions provided therein, including but not limited to the AADCP II Guidelines for the Contractors attached to the SSA.
3. As an intergovernmental organisation, ASEAN shall not be responsible for any tax(es), levy, tax claim or any tax liability which may be imposed by any law in relation to any amount payable by the ASEAN Secretariat.