



## ASEAN-AUSTRALIA DEVELOPMENT COOPERATION PROGRAM (AADCP) PHASE II

### TERMS OF REFERENCE FOR

#### *Establishment of Multilateral Arrangement for the Mutual Recognition of Agri-food Standards and Conformity Assessment (MAMRASCA)*

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

#### **I. Background**

Through establishing product and process characteristics, standards can enhance competitiveness by offering proof that specific products adhere to requirements of governments or that of the marketplace. Used effectively, standards facilitate international trade, contribute to technology upgrading and absorption, and protect consumers and the environment. With tariffs of agri-food products declining to near-zero levels, the harmonization of standards and conformance measures are increasingly the focus of cooperation among ASEAN Member States (AMSs).

Regulatory cooperation between countries presents significant opportunity to reduce non-tariff barriers to trade (NTBs). It reduces transactions costs and information asymmetries. That is, they may help avoid unnecessary delays during customs inspections, reducing times and costs for cross-border trading. On the other hand, the underlying implementation requirements are likely to impose additional compliance costs on farmers or firms.

Harmonization, equivalence, and mutual recognition of standards and/or conformity assessment procedures between trade partners are forms of regulatory cooperation that can remove NTBs and facilitate increased flows of goods among AMSs and beyond. Whereas the practical application of each of these forms of cooperation may vary, the common intention is to streamline compliance requirements at the farm or firm level, and ports of trade while maintaining appropriate protections for human, animal, and environmental concerns.

As set forth in the ASEAN Framework Agreement on Mutual Recognition Arrangements (MRAs), its application is one of the instruments used by ASEAN to remove NTBs and facilitate the free flow of goods and services. The principle of mutual recognition involves an agreement/arrangement between countries to recognize/accept the differences in the standards and/or conformity assessment procedures employed by a trade partner.

Mutual recognition can involve a range of elements to ensure compliance with standards and/or procedures, which may or may not utilize an equivalence assessment.<sup>1</sup> The Codex Alimentarius Commission defines equivalence as the capability of different standards and conformity assessment procedures to meet the same regulatory objectives<sup>2</sup> including for example product quality, consumer health, animal welfare, worker safety, and environmental sustainability.

A number of potential benefits accruing from MRA for goods, include: i) positive impact on trade; ii) reduced costs of compliance for trading across borders by removing duplicative testing and certification processes; iii) increased efficiency and sharing of conformity assessment resources; and iv) increased uptake of minimum production standards at the farm level across ASEAN leading to greater consumer access to safe food.

<sup>1</sup> Veggeland, F., and Elvestad C. (2004) "Equivalence and Mutual Recognition in Trade Arrangements: Relevance for the WTO and the Codex Alimentarius Commission". Norwegian Agricultural Economics Research Institute.

<sup>2</sup> Codex Alimentarius Commission, CAC/GL 26-1997

Standards are integral to MRAs and part of national quality infrastructure (NQI), which refers to the institutional framework that establishes and implements standardization, including conformity assessment services, metrology and accreditation. Quality upgrading and standards compliance lead to improvements in products and services to meet increasing customer expectations as well as enhance opportunities for expansion into new markets.

In terms of conformity assessment bodies, four (4) AMSs have certification bodies (CB) independent of standard setting agencies, while five (5) AMSs have CBs not independent of the standard-setting agencies. Although the accreditation of CBs is carried out by all AMSs, the International Accreditation Forum to ISO 17021 accredits only four (4) of the AMSs' national accreditation bodies.

The family of ASEAN Standards on Agricultural Best Practices, which include Good Agricultural Practices (GAP) for fruits and vegetables, Good Animal Husbandry Practice for Layers and Broilers (GAHP), and Guidelines on Good Aquaculture Practices (GAqP) for food fish have already been developed and adopted by AMSs. Despite their adoption, implementation encountered structural bottlenecks. The low uptake of standards at the farm level had been attributed to the limited awareness among demand side market actors of the ASEAN standards. In addition, ASEAN GAPs are voluntary in nature and to the extent that produce grown under GAP regimes does not attract any price premiums in the market place, there is little or no incentive to conform to them. These indicate the need to find practical ways of implementing the ASEAN standards that will increase confidence and demand from buyers, promote uptake at the farm level, and foster appropriate levels of protection between trading partners.

To address these concerns, the "Study on Mutual Recognition Models for the ASEAN Agricultural Best Practices" recommended the establishment of a Multilateral Arrangement for the Mutual Recognition of Agri-food Standards and Conformity Assessment (MAMRASCA) that would facilitate the establishment an effective mechanism for operationalizing and accepting these standards at both national and regional level.<sup>3</sup> Following the Special SOM-38th AMAF Meeting held on 14-15 August 2017 in Singapore, the ASEAN Agricultural Ministers supported the recommendation of the study, including the formation of a Task Force that will administer the preparation of the MRA.

The recommended MRA model, dubbed as MAMRASCA, will cover all three existing ASEAN agri-food standards/guidelines, with flexibility for adoption of further agri-food standards. The institutional mechanisms required to implement the MRA include: a Joint Sectoral Committee (JSC) responsible for overall management of MRA implementation; three sector-specific technical committees (TCs) and national level Designating Bodies (DBs) to identify and monitor national Conformity Assessment Bodies (CABs). Relevant private sector representatives may be invited to engage in the MRA as observers on TCs. All AMSs sign the arrangement and participate in its institutions from the outset. AMSs may increase participation in the MRA on a phased basis according to their ability to meet two technical milestones, namely:

- Existing national standards will be aligned with the ASEAN Standards according to an alignment assessment process; and,
- National CABs will meet relevant ISO standards.

This project was designed to support the establishment of mechanisms to facilitate the acceptance of trading partners' standards and conformance measures in the production of agri-food as well as address the issues identified in the earlier study and direct efforts that will contribute in better utilisation and sustainability of the ASEAN GAPs.

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<sup>3</sup> "Study on Mutual Recognition Models for the ASEAN Agricultural Best Practices", April 2017. Downloaded from <http://aadcp2.org/study-mutual-recognition-models-asean-agricultural-best-practices-2/>

## II. Needs and Objectives

In the long run, the project intends to facilitate trade and enhance the competitiveness of agri-food through mutual recognition of agri-food standards and conformity assessment among AMSs.

The expected outcomes of the proposed project are as follows:

- a) Establishment of a mutual recognition arrangement that would improve the acceptance of agricultural best practices standards and results of conformity assessment among AMSs; and,
- b) Improved knowledge of AMSs on the quality infrastructures and technical resources needed to meet their obligation under the MRA.

## III. Outputs

The outputs of this project includes the following:

- a) An **MRA Text** reflecting the framework for the establishment and implementation of MAMRASCA. It will set out the rights and obligations of the parties, including the technical and administrative/institutional mechanisms for the effective implementation of the MRA. The following documents detailing specific implementation arrangements to support the MRA will be developed as accompanying supplements:
  - i) Terms of Reference and Rules of Procedure of the Joint Committee and Technical Working Groups to be established to facilitate and manage the implementation of MRA; and,
  - ii) A guideline on the appointment of Designating Bodies that outlines the general requirements and conditions in the designation of conformity assessment bodies (CABs), system to determine the technical competence of CABs, and evaluation and monitoring of the designation system.

It is aptly recognised that the version of the MRA text that will be available upon project completion may not be the final version that the AMSs will eventually endorse and sign due to possibility of long and protracted negotiations.

- b) A **Needs Assessment Study** outlining how AMSs can fulfill their obligations under the MRA. The conduct of the Study will consider the requirements of the NQI Framework to cover the following activities:
  - Review of existing quality infrastructures (e.g., inspection and testing systems, accreditation and certification) for agri-foods in AMSs (GAP, GAHP, GAqP).
  - Identify gaps and constraints of the existing quality infrastructures of AMSs, in terms of the implementation of agri-food standards, competencies and capacities of conformity and accreditation bodies, and viable expertise and facilities to test or certify conformity with MRA requirements.
  - Explore ways to ensure that the MRA will be inclusive and that the benefits of increased agri-trade would be extended to small farm holders/fisher folks and women.
  - Develop action plan for improving quality infrastructures to address the gaps/constraints to meet the MRA requirements.
  - Identify the investment needed based on suggested recommendations and the absorption capacity of AMSs.

Given that “comparable levels of technical infrastructure between parties primarily influence the success of an MRA,”<sup>4</sup> disparities on infrastructure and institutional capacity across trading partners would necessitate the upgrading of certification, accreditation, laboratory testing system, and inspection capacity to comparable levels before trade partners’ accept/recognize their conformity assessment procedures. Hence, the results of the needs assessment will guide subsequent national and/or regional level initiatives to support the operationalization of the MRA.

The initial steps have been undertaken in aligning the food safety component of the national GAP against ASEAN GAP standards and in assessing the accreditation and certification systems of AMSs for ASEAN GAP. Thus, assessing AMSs’ quality infrastructure for GAHP and GAqP will be given particular attention in the conduct of the needs assessment study.

The previous MRA study included a survey of buy-side companies and strategic private sector representatives across the region, which suggests low buyer awareness of the ASEAN Standards, and unfamiliarity with the level of protection provided relative to international standards. The private sector viewed an ASEAN MRA for agri-food standards as a positive development for local producers and food industries as it may facilitate production level upgrading, and availability of safe food for consumers. So while the needs assessment study will primarily be looking at the institutional requirements to effectively operationalize MAMRASCA, looking at the industry needs to get maximum buy-in the system may be explored.

In addition to the above outputs, the consultant is required to submit activity/progress reports as described in Section V: Reporting

#### **IV. Tasks/Activities**

Given the exploratory nature of the study, multiple methods may be used to obtain the needed information from AMSs (e.g., questionnaire survey, focus group discussion, and conduct of interviews during workshops). Baseline information coming from surveys and consultations conducted from the earlier projects would have to be reviewed to determine if there is a need to do further data collection from AMSs. Should in-depth assessments of AMSs be deemed necessary, clear criteria for selecting which AMSs will be the focus will have to be determined.

It is envisioned that a maximum of three consultative workshops for the duration of the project will be conducted which will be facilitated by the selected experts/bidders.

Bidders are expected to design their own work plans ensuring delivery of the desired outputs. The bidder should provide details on its approach, specific activities, corresponding number of working days, expected completion dates and person(s) responsible.

The eventual project implementation design will be determined in consultation between FAFD, AADCP II and the winning bidder during the inception stage.

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<sup>4</sup> Veggeland, F., and Elvestad C (2004). “Equivalence and Mutual Recognition in Trade Arrangements: Relevance for the WTO and the Codex Alimentarius Commission”. Norwegian Agricultural Economics Research Institute.

## 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	<b>Inception Report</b> This would detail the consultant's approach to the project and provide a detailed work plan.	Month 1 after contract signing
2	<b>Workshop Reports</b> In line with the various outputs which would be presented in consultative workshops, corresponding workshop reports would be prepared.	2 weeks after the conduct of the workshops
3	<b>Project Completion Report</b> 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.	Within two weeks of completion of each team's final outputs

All reports will be submitted based on AADCP II Guidelines for Contractors in draft format to the ASEAN Secretariat, FAFD (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 (monthly or as agreed with ASEC) summation of activities undertaken and issues that have arisen. These will be submitted to FAFD 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 Food, Agriculture, and Forestry Division (FAFD) of the ASEAN Secretariat with oversight support from AADCP II will be responsible for the overall management of the project. The FAFD will work closely with AADCP II in the selection of external consultant(s) for the project, in ensuring the timely delivery of planned activities and key deliverables of the project, and in ensuring efficient reporting and disbursement of funds.

The project will be funded by the ASEAN-Australia Development Cooperation Program II and managed by the FAFD of the ASEAN Secretariat. Contractor(s) will report directly to FAFD.

FAFD will act as the ASEC key focal point for the project. It will:

- manage project implementation and together with AADCP II monitor progress of the consultancy work;
- provide technical supervision to the project;
- assist/facilitate introductory consultation meetings with key Member States focal points; and
- provide over-all guidance on the organization and conduct of the workshops and meetings

The consultant should be responsible for organising and conducting the scheduled activities in collaboration with the host countries and the ASEAN Secretariat. The preparation of the project outputs will be the main responsibility of a contractor selected via open tender with inputs from AMS.

AADCP II will monitor progress from the perspective of the use of AADCP II resources, and provide advice to the FAFD accordingly.

## VII. Scope of Services

The consultancy will be undertaken over a maximum **period of 110 person days** of professional services. Work will commence immediately after contract signing.

A maximum of two teams/individual contractors will be hired to implement the project. Interested contractors can bid on one work area or a combination of the two. We require, at the minimum, the following expertise:

- **International Trade Law Expert** (for a maximum of 50 person days). This person/team will be responsible for the preparation of the MRA Text and its accompanying supplements.
- **Agricultural Policy and Institutional Development Expert** (for a maximum of 60 person days). This person/team will be responsible for the preparation of the Needs Assessment Study.

The two teams/individual contractors will be expected to collaborate and provide inputs on the various reports, as needed.

## VIII. Qualifications

The scope of work within this TOR covers two specific types of work: international trade law and economics; and, agricultural policy, institutional development and governance. The bidder must be able to demonstrate the required qualifications for at least one of the work areas or all types of work.

For the **Trade Law Expert**, the bidder must demonstrate the following qualifications:

- Post graduate degree in Law, International Trade, Economics, Public Policy, Development Studies, or any related field;
- Proven expertise and substantial work experience in drafting MRAs and other trade agreements;
- Knowledge and experience in trade and investment negotiations, preferably in ASEAN;
- Adequate knowledge of FTAs in ASEAN;
- Proven good track record in relevant consultancy work in the AMSs or ASEAN, particularly in the areas of agriculture, trade and investment;
- Familiarity with the ASEAN agri-food standards and regional as well global trade requirements;
- Capacity and experience to deliver training preferred;
- Understanding of ASEAN and its work on economic community building;
- Proven experience in dealing with senior government officials, parliamentarians and other identified stakeholders;
- Good computer skills with adequate knowledge of multi-media presentation and dissemination of outputs and documentation;
- Proven ability for accuracy under pressure and adherence to deadlines; and
- Proven skills in writing and conversing in English.

For the **Agricultural Policy and Institutional Development Expert**, the bidder must demonstrate the following qualifications:

- Post graduate degree in Agriculture, Agricultural Economics, Agricultural Engineering, Public Management, Organisational Development, Development Management, or any related field;
- Proven track record in policy research, survey, activity design and delivering technical assistance, including needs assessment, and effective capacity-building, related to institutional development preferably with agriculture agencies in AMSs;
- Knowledge of the ASEAN agri-food standards and regional as well as global trade requirements;
- Involvement in developing national quality infrastructure systems and its requirements;
- Proven good track record in relevant consultancy work in the AMSs or ASEAN, particularly in the areas of agriculture and trade;
- Expertise in institutional building and development;
- Experienced in policy making and providing policy advice to governments and having considerable exposure and network with agriculture agencies particularly in AMSs;
- Understanding of ASEAN and its work on economic community building;
- Proven experience in dealing with senior government officials, parliamentarians and other identified stakeholders;
- Good computer skills with adequate knowledge of multi-media presentation and dissemination of outputs and documentation;
- Proven ability for accuracy under pressure and adherence to deadlines; 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 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**, submitted in separate files/envelopes.

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.

The Financial component should specify:

- 1) Professional fees of expert(s);
- 2) Management and/or operational fees (if any), which include all costs incurred by the person/entity/company for internal coordination, communication, travels and any other associated project management cost;
- 3) Applicable taxes such as VAT, GST, PPN, etc. See Section XI point 3 for an additional note on tax liability.

Activity 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 do not need to be included in the Financial Component. These items 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 their application with a cover letter, materials specified in Section IX above and other supporting documents with “**Establishment of Multilateral Arrangement for the Mutual Recognition of Agri-food Standards and Conformity Assessment (MAMRASCA)**” as the subject via email to [tender@aadcp2.org](mailto:tender@aadcp2.org), no later than **29 January 2019 at 05:00pm Jakarta time**. Applicants should also mail/courier 3 (three) copies of the above mentioned documents to ASEAN-Australia Development Cooperation Program Phase II, ASEAN Secretariat 2<sup>nd</sup> floor, Jl. Sisingamangaraja 70A, Jakarta 12110, Indonesia, within 5 (five) working days of the submission deadline. Please note that only short-listed candidates will be notified.

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

Any queries on the TOR should be sent to [contact@aadcp2.org](mailto:contact@aadcp2.org) with the subject line: “**Query: Establishment of Multilateral Arrangement for the Mutual Recognition of Agri-food Standards and Conformity Assessment (MAMRASCA)**”.

## **XI. 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 ASEAN 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.