

**REQUEST FOR EXPRESSION OF INTEREST**

**SELECTION OF INDIVIDUAL CONSULTANTS**

**REFERENCE NUMBER:** **CS/PRO/TRADE/08.05.2023/02 EDF-SM/nc**

**REQUEST FOR SERVICES TITLE:** **SHORT TERM CONSULTANCY CONTRACT TO CONDUCT A STUDY ON EMERGING TRENDS ON IPR INFRINGEMENT AND ON ILLICIT TRADE IN COMESA REGION**

1. ***The COMESA Secretariat*** is inviting Individual Consultants to submit their CV and Financial Proposal for the following services:

**SHORT TERM CONSULTANCY CONTRACT TO CONDUCT A STUDY ON EMERGING TRENDS ON IPR INFRINGEMENT AND ON ILLICIT TRADE IN COMESA REGION**

The Terms of Reference defining the minimum technical requirements for these services are attached as Annex 1 to this Request for Expression of Interest.

1. **Only Individual Consultants are eligible for this assignment.**
2. The maximum budget for this contract is **Euro 15,000 *for expert service/consultants’ fees only.*** Proposals exceeding this budget will not be accepted.
3. Your Expression of Interest must be presented as per Expression of Interest Forms attached as Annex 2 to this Request for Expression of Interest, in the English language and be accompanied by copies of all the indicated supporting documents. If the supporting documents are not in English, these shall be accompanied by a certified translation into English.
4. Your application documents clearly marked and email bearing the subject **“****:** **CS/PRO/TRADE/08.05.2023/02 EDF-SM/nc - SHORT TERM CONSULTANCY CONTRACT TO STUDY ON EMERGING TRENDS ON IPR INFRINGEMENT AND ON ILLICIT TRADE IN COMESA REGION*”***, should be emailed to the following address:

***tenders@comesa.int*** ***or procurement@comesa.int***

1. The deadline for submission of your application, to the address indicated in Paragraph 5 above, is:

**29TH MAY 2023 *AT 15:00 hours***

1. ***Physical submission of applications is NOT allowed.***
2. Your CV will be evaluated against the following criteria.

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| --- | --- | --- |
|  | **Criteria**  | **Maximum points allocated**  |
| **1** | General qualifications | 20 |
| 2 | Adequacy for the assignment | 60 |
| 3 | Experience in the region | 20 |
|  | **Total** | **100** |

1. Your proposal should be submitted as per the following instructions:

(i) PRICES:

The financial proposal shall be inclusive of all expenses deemed necessary by the Individual Consultant for the performance of the contract.

(ii) EVALUATION AND AWARD OF THE CONTRACT:

Expressions of Interest determined to be formally compliant to the requirements will be further evaluated technically.

An Expression of Interest is considered compliant to the requirements if:

* It fulfils the formal requirements (see Paragraphs2,3,4,5,6 and 7 above),
* The financial proposal does not exceed the maximum available budget for the contract.

The award will be made to the applicant who obtains the highest technical score. Expressions of Interest not obtaining a minimum score of 70% will be rejected.

(iii) VALIDITY OF THE EXPRESSION OF INTEREST:

Your Expression of Interest should be valid for a period of 90 days from the date of deadline for submission indicated in Paragraph 6 above.

1. The assignment is expected to commence within two (2) weeks from the signature of the contract.
2. Additional requests for information and clarifications can be made until 7working days prior to deadline indicated in the paragraph 6 above, from:

The Procuring entity: **COMESA Secretariat**

 Contact person: **Niva K. Chokwe**

E-mail: ***NChokwe@comesa.int******;*** ***smwesigwa@comesa.int******;***

The answers on the questions received will be sent to the Consultant and all questions received as well as the answers to them will be posted on the COMESA Secretariat’s website at the latest 3 working days before the deadline for submission of applications.

**ANNEXES:**

ANNEX 1: **Terms of Reference**

ANNEX 2**: Expression of Interest Forms**

**Sincerely,**

**Name:** Silver Mwesigwa

**Title:** Head of Procurement

**Date:** 8th May 2023

**ANNEX 1: TERMS OF REFERENCE**

**COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA**

**TERMS OF REFERENCE (TOR)**



**RECRUITMANT OF A CONSULTANT TO UNDERTAKE A study on emerging trends on IPR infringement AND ON ILLICIT TRADE IN COMESA REGION UNDER edf11**

**Background**

The COMESA region is seized with the need to increase intraregional trade and to ensure that goods from within and from outside its boundaries conform to national and international patent laws and that they are safe for persons, flora and fauna kingdoms as well as the environment.

Articles 99 to 103 of the COMESA Treaty provide obligations for Member States cooperation in Intellectual Property (IP) matters.

In 2011 the Council of Ministers adopted the COMESA Policy On Intellectual Property Rights.

Paragraph 26 of the COMESA IPR policy gives obligations of the member states on the issue of IPRs chief among which are the following:

1. Adopt effective policy and legal frameworks to promote and protect cultural and creative industries and derive the maximum benefits from these industries.
2. Improve and strengthen Member States capacities for creating, producing, distributing, marketing, branding and exhibiting cultural industry goods or products as well as facilitating better access to foreign markets.
3. Reduce dependence on the copyright and cultural industries products and goods produced outside COMESA.
4. Ensure the competitiveness of COMESA Member States’ copyright and cultural industries in the global trade.

Currently, there is no uniformity of application of the IPR policy due to a perceived lack of a regional implementation strategy, procedures and limited capacity. With globalization and digitization, copycat goods are being manufactured and distributed at a faster rate than before, a requirement that needs a concerted effort by member states to protect local patents and also local citizens. Theft of patents may also lead to trade deflection and skewed statistics when non-originating goods maybe passed as originating. When it comes to foodstuffs, communities’ health may be adversely affected as substandard foods and may be imported and distributed in the region.

COMESA and the European Union signed a 48.3 million Euros COMESA Trade Facilitation Programme (CTFP) on 21 November 2018. The Trade facilitation programme aims at, among other things, development of an IPR Implementation plan, strategy, and capacity building, implementation of Coordinated Border Management (CBM), Creation and or enhancement/operationalization of One Stop Border Posts (OSBPs), Single Window (SW), and simplification/harmonization of procedures.

Under the project, the COMESA Secretariat convened an Intellectual Property Consultative workshop in Cairo, Egypt during the period 18-20 September 2022. The workshop produced a set of recommendations which were subsequently adopted by council.

Among others, the council thus directed the Secretariat to conduct a comprehensive study on emerging trends on IPR infringement including counterfeits and illicit trade in the region to guide:

1. In the development of a regional IPR model law and regional customs enforcement strategy
2. In the establishment of Customs database system on IPRs
3. In the provision of Anti-Counterfeiting Intelligence support tools and
4. In the development of track and trace system for illicit trade.

It is against this background that COMESA Secretariat is seeking the services of a professional and competent Individual Consultant to undertake a study to identify emerging trends on IPR infringement and on illicit trade in COMESA region.

The EU under EDF 11 is supporting will support all the proposed interventions for this assignment.

**OBJECTIVES OF THE ASSIGNMENT**

**Main Objective:**

To undertake a study to identify the emerging trends on IPR infringement and on illicit trade in the COMESA region.

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**Specific Objectives**

1. To examine emerging trends on infringements of copyrights, trademarks and patents and on illicit trade including cross border trade in COMESA region
2. To analyze the emerging trends on infringement of IPR and on illicit trade and their effects on COMESA region at both national and regional levels.
3. To propose policy, legal and regulatory measures to address adverse effects of the trends in COMESA region at both national and regional levels and also explore the option of applying technology.
4. To examine the role of customs in IPR enforcement and the feasibility of having customs enforcement strategy.

**Scope of Work**

In order to achieve the above objectives of the assignment, the Individual Consultant will undertake the following tasks:

1. Review the IPR regimes in the COMESA region at both national and regional levels and identify the emerging trends on infringements on copyrights, trademarks and patents in COMESA region.
2. Examine the emerging trends of illicit trade both at national and regional levels in COMESA region.
3. Analyze the emerging trends (a) and (b) to determine their effects on COMESA member states and the COMESA region.
4. Propose policy, legal and regulatory measures to address adverse effects of emerging trends in COMESA region at both national and regional levels.
5. Examine the option of applying technology to address adverse effects of emerging trends in COMESA region through establishment of Customs database, Anti counterfeit intelligence support tool and track and trace system for illicit trade.
6. Examine the role of customs in IPR enforcement and the feasibility having customs enforcement strategy.

**Approach and Methodology**

**Geographical scope.**

The study is to be done within the COMESA Member States and any sampling of the study populations is to be agreed upon with the Secretariat.

**Conceptual Scope**

The study shall cover all aspects of IPR/counterfeit/illicit goods for both locally manufactured and imported goods. It will also look at the legal frameworks available to regulate the trends and as well as the systems in place to sanction IPR offences and identify weak areas that need strengthening and, should also propose the best practices for regulating IPR.

**Considerations**

In undertaking the assignment, the consultant is expected to take into account the initiatives already put in place by COMESA Secretariat and or by the Member States, the COMESA IPR policy, best practices, WCO IPR instruments and Revised Kyoto Convention (RKC) recommendations. All suggested instruments and developments should conform to already existing structures and tenets of Trade Facilitation and other best practices in operation within the region.

Under the direct supervision of the Team Leader Trade Facilitation Program and overall guidance of the Director of Trade and Customs the consultants shall:

1. Conduct study as detailed in the objectives above.
2. Conduct a Validation workshop of the COMESA IPR Technical Working Group for the Study
3. Receive and incorporate comments from the TWG into the final report.
4. Submit final study report.

**Expert Required**

COMESAnow invites eligible and qualified consultants to provide the required services. Interested consultants must provide information indicating that they are qualified to perform the services giving a description of similar assignments undertaken within the region or elsewhere preferably in Africa.

The successful consultant will have the following qualifications and experience:

1. A master’s degree in IPR, Law or related field.
2. A PhD in the above will be an added advantage.
3. Proven and traceable experience in IPR policy work.
4. Experience of working in the COMESA or similar region(s)
5. Ability to communicate orally and in writing in English. Ability to communicate in French and or Arabic will be an added advantage.
6. Knowledge of border procedures

**Place of Assignment:**

Flexible, to be agreed on at Inception. There may be need for travel to some of the Member States for assessment of prevailing conditions and at least three travel missions to Lusaka, Zambia (Inception meeting, presentation of draft report, and validation workshop). If the Validation workshop venue is changed, the consultant will be advised accordingly. All travel arrangements will be done by the Secretariat.

Given the still uncertain health outlook brought about by the outbreak of Covid-19, all assessments and meetings may be conducted virtually.

**Supervision and Reporting:**

It is expected that the Consultant will work in very close coordination with the COMESA Secretariat, providing regular, unsolicited updates, and responding promptly and flexibly to the needs and demands of COMESA Structures and the corresponding timelines. It is expected that the consultant be available at short notice for this assignment and is able to accommodate short notice changes to either timelines, report or travel needs. Overall reporting will be to Director of Trade and Customs with Technical support from the Legal Officer and Team Leader of the Trade Facilitation Program.

 **Deliverables**

The consultant is expected to carry out the following activities in order to deliver the expected results of the assignment:

1. Compile and submit an Inception report within two weeks of taking up the offerTo conduct a study on emerging trends on IPR infringement including counterfeits and illicit trade in the region.
2. Conduct the study as prescribed above.
3. Write and submit a final study report to the secretariat.
4. Present final report to a TWG on IPR for validation.
5. Amend study report to take into consideration the comments from the validation workshop.
6. Present final report to the Secretariat within the tenure of the contract.

The development of the deliverables should be finalized within three (3) calendar months from 1 May to 31 July 2023 with an effort of 45-man days.

All documents are to be submitted in English unless agreed upon differently with the COMESA Secretariat. Deliverables have to be submitted as soft copies, in both PDF and MS- Word formats.

**Remuneration**

1. The fee budget available for the assignment is EUR 15,000.00.
2. 30% of the consultancy fee paid upon submission and finalization of the Inception Report
3. 70% upon completing the assignment and submission of final report.
4. The COMESA Secretariat will cover the costs of tickets and subsistence allowances for approved travel in the region.

**ANNEX 2: Expression of Interest Forms**

[A. COVER LETTER FOR THE EXPESSION OF INTEREST FOR THE PROJECT](#_Toc267927845) 10

[B. CURRICULUM VITAE 11](#_Toc267927846)

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# A. COVER LETTER FOR THE EXPRESSION OF INTEREST FOR THE PROJECT

REFERENCE NUMBER: CS/PRO/TRADE/08.05.2023/02 EDF-SM/nc

**REQUEST FOR SERVICES TITLE:** **- REQUEST FOR SERVICES TITLE:** **SHORT TERM CONSULTANCY CONTRACT TO CONDUCT A STUDY ON EMERGING TRENDS ON IPR INFRINGEMENT AND ON ILLICIT TRADE IN COMESA REGION**

*Country, Date*

To: COMESA Secretariat

Dear Sirs:

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_the undersigned, offer to provide the consulting services for the **SHORT TERM CONSULTANCY CONTRACT TO CONDUCT A STUDY ON EMERGING TRENDS ON IPR INFRINGEMENT AND ON ILLICIT TRADE IN COMESA REGION** in accordance with your Request for Expression of Interests number *CS/PRO/TRADE/08.05.2023/01 SMT,* dated 8th May, 2023 for the sum of Euro 15,000. This amount is inclusive of all expenses deemed necessary for the performance of the contract in accordance with the Terms of Reference requirements.

I hereby declare that all the information and statements made in my CV are true and accept that any misinterpretation contained in it may lead to my disqualification.

My proposal is binding upon me for the period indicated in Paragraph 9(iii) of this Request for Expression of Interest.

I undertake, if my Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Paragraph 10 of the Request for Expression of Interest, and to be available for the entire duration of the contract as specified in the Terms of Reference.

I understand you are not bound to accept any Proposal you receive.

Yours sincerely,

 Signature [*In full and initials*]:

Name and Title of Signatory:

B. CURRICULUM VITAE

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| 1. **Family name:**
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| 1. **First names:**
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| 1. **Date of birth:**
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| 1. **Nationality:**
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| 1. **Physical address:**
2. **Postal address**
3. **Phone:**
4. **E-mail:**
5. **Education:**
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|  |  |
| **Institution:****[Date from – Date to]** | **Degree(s) or Diploma(s) obtained:** |
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**10. Language skills:** (Indicate competence on a scale of 1 to 5) (1 – excellent; 5 – basic)

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| **Language** | **Reading** | **Speaking** | **Writing** |
| English |  |  |  |
| Arabic |  |  |  |
| French |  |  |  |

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| --- | --- |
| **11. Membership of professional bodies:**  |  |
| **12. Other skills:** |  |
| **13. Present position:** |  |
| **14. Years of experience:** |  |
| **15. Key qualifications:**  |

**16. Specific experience in the region:**

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| --- | --- |
| **Country** | **Date from - Date to** |
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**17. Professional experience:**

| **Date from – Date to** | **Location of the assignment** | **Company& reference person (name & contact details)** | **Position** | **Description** |
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1. **Other relevant information:**

***19. Statement:***

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

I hereby declare that at any point in time, at the COMESA Secretariat’s request, I will provide certified copies of all documents to prove that I have the qualifications and the professional experience as indicated in points 8 and 14 above**[[1]](#footnote-1),** documents which are attached to this CV as photocopies.

By signing this statement, I also authorize the COMESA Secretariat to contact my previous or current employers indicated at point 14 above, to obtain directly reference about my professional conduct and achievements.

|  |  |  |
| --- | --- | --- |
|  | Date: |  |

**ATTACHMENTS:** ***1) Proof of qualifications indicated at point 9***
 ***2) Proof of working experience indicated at point***

1. ***The proof of stated qualifications shall be in the form of the copies of the degrees and diploma obtained, while for the professional experience the proof shall be either acknowledgement letters from the previous employers or copies of the Purchase Order/ Contract signed with them.***  [↑](#footnote-ref-1)