

Activity 1 of Output 3.3.1 (REV)

Review of policies and regulations in China and RO Korea dealing with pollution control and assess compliance with UNCLOS, the future WE Want, multi-lateral environmental agreements and programmes ratified by both countries, and prioritize legal and regulatory reforms in both countries

TERMS OF REFERENCE

Legal Expert to review country compliance with international ocean-related environmental agreements

Consultancy classification: Individual consultant

Budget line: 71200, Activity 1 of Output 3.3.1, Component 3. Budget: USD8,000;

Estimated start of work: late November 2017 until late June 2018

Background

Component 3 of UNDP/GEF YSLME Phase II Project aims at improving ecosystem carrying capacity with respect to regulating and cultural services. In Outcome 3.3 of Component 3 entitled “Strengthened legal and regulatory processes to control pollution”, the project will support several Activities leading to four project targets, to be concise, 1) regional guidelines for microplastics monitoring and assessment; 2) new incentives and measures adopted in coastal cities in support of recycling economy; 3) new provincial regulations to improve water quality; and 4) new profitable businesses developed from waste reuse and recycling.

As one of the proposed activities, Activity One may be further broken into three sub-activities which are as follows: 1) review of policies and regulations in China dealing with pollution control, 2) assess compliance with UNCLOS, the Future We Want, multi-lateral environmental agreements and programmes ratified by PR China, and 3) prioritize legal and regulatory reforms at domestic level. Satisfactory accomplishment of sub-activity one provides good reference for achieving the four project targets. Drafting new guidelines and regulations, adopting new incentives and measures, and developing new green profitable businesses should all be conducted based on the current legal and regulatory framework. On the other hand, ideas, norms, plans and/or techniques etc. arising from the other four Activities may provide valuable feedback to the process of conceiving legal and regulatory reforms. Review of current policies and regulations on pollution control can lead to not only a library for policy-makers for informed decisions but also to precisely find their inherent inconsistencies and gaps including those as described in SAP for YSLME and propose targeted solutions. Compliance assessment with applicable agreements/programmes establishes a two-way channel by which domestic regulations and policies can be analyzed and improved to be compliant with international or regional standards and best domestic practices may be identified and populated into related agreements/programmes in future negotiations. All in all, Activity One is indispensable for Outcome 3.3 and thus Component 3. In this context, the project plans a consultancy with the following terms of reference (TOR).

Objectives

The objective underlying the proposed consultancy is to enhance the regulating services of YSLME in particular by strengthening the legal and regulatory processes to control pollution through, inter alia,

improving pollution-concerned legal and policy system at domestic level by ontology analysis and international/regional compliant comparative assessment taking into account the principles and approaches of YSLME-based integrated coastal and marine management.

Expected Outputs

The consultant is expected to deliver the following results:

1. An inventory of domestic laws/regulations/policies dealing with pollution control in PR China
2. An inventory of international/regional environment agreements/programmes effective for PR China with respect to pollution control
3. An analysis report concerning inconsistencies and gaps of domestic laws/regulations/policies dealing with pollution control in PR China and compliance assessment with relevant environment agreements/programmes, together with recommendations on legal and regulatory reforms

Activities

The consultant under supervision of the Chief Technical Advisor and technical guidance of RWG-G and P in close collaboration with the local project team will conduct the following activities to achieve the three outputs:

Output 1: An inventory of domestic laws/regulations/policies dealing with pollution control

- With assistance from legal intern in PMO and National Coordinators from PR China and RO Korea, to conduct an inventory of domestic laws, regulations, policies of PR China and RO Korea in relation to pollution control, reduction and management;
- Review contents of above laws, regulations and policies;

Output 2: An inventory of international/regional environment agreements/programme effective both for China and ROK with respect to pollution control

- To conduct inventory of international and regional environment agreements and programs effective in both countries with respect to pollution control, reduction and management. (The inventory should be compiled with four essential parts – an overall introductory review, indexes of contents systematically structured within discretion of the consultant, summaries including simple analysis of important clauses or articles consistent with the index, and copies of the official documents related to pollution control);
- To identify sources of information and download for analysis. Copies and related information of the official documents may be obtained from libraries, reliable internet services, or domestic/international authorities such as local governments, State Oceanic Administration, Ministry of Transport, Ministry of Agriculture, Ministry of Foreign Affairs, and secretariat of relevant organizations, with assistance from legal intern in PMO;
- Provide guidance legal intern in PMO to upload these documents on project website to use the inventories as practical manual for domestic decision makers or executive staff regarding pollution control so that the inventory itself should be easy to understand and specific provisions need to be easily located when needed for reference;
- Incorporate comments and submit the final inventories electronically. The introduction, index, and summaries should be in English while copies of the main texts of the official documents will be in English and could be in Chinese and Korean if possible.

Output 3: An analysis report concerning inconsistencies and gaps of domestic laws, regulations and

policies dealing with pollution control in China and compliance assessment with relevant environment agreements/programmes, together with recommendations on legal and regulatory reforms

- Review Outputs 1 & 2 thoroughly by collecting and analyzing background and historical implementation information there of which could include contemporary social, economic and environmental contexts, meeting minutes and reports, guidelines, resolutions or declarations, administrative decisions, court or arbitration judgments, expert opinions, media reports, questionnaire answers, etc.;
- Identify inconsistencies or gaps of domestic laws/regulations/policies with same or different statutory level(s) including the implementation thereof;
- Conduct comparative assessment between Output 1 and Output 2 and identify potentially non-compliant clauses or issues;
- Determine YSLME-based integrated management principles and approaches for coastal and marine pollution taking into account domestic management realities, project targets, progress of the other Activities, YSLME Phase I Project achievements, outcomes of review of Output 2, and other well-acknowledged ideas, doctrines or techniques;
- Identify gaps existing between domestic laws/regulations/policies and outcomes of Step 4;
- Propose new regulations or amendments based on Steps 2, 3, and 5 as appropriate;
- Summarize the best domestic practices for pollution control which are not covered by but hopefully could contribute to the future international/regional regimes;
- Form the final analysis report by compiling the outcomes of the aforementioned Steps and recommend legal and regulatory reforms with clear priorities and goals.

Inputs

UNDP/GEF YSLME Phase II Project management Office (PMO) will assist to provide the background information and documents, and will be responsible for providing financial support and the logistics support to participation in designated workshops or meetings and spread of questionnaires.

Timing

The consultancy will begin in late-November 2017 and complete in June 20, 2018.

Reporting

The consultant will produce the following reports within the specified timeframe:

1. By December 20, 2017, submit the inventory of domestic laws/regulations/policies dealing with pollution control in PR China;
2. By January 31, 2018, submit the inventory of international/regional environment agreements/programmes effective both for China and ROK with respect to pollution control;
3. By April 30, 2018, submit the analysis report concerning inconsistencies and gaps of domestic laws/regulations/policies dealing with pollution control in China and compliance assessment with relevant environment agreements/programmes, together with recommendations on legal and regulatory reforms.

The consultant can submit reports electronically to Mr. Yinfeng Guo, CTA/Manager at email: yinfengg@unops.org. All reports should be submitted in English unless otherwise indicated in the present TOR.

Competencies

- Advanced university education at Master or Ph.D. level with expertise in area of law or policy of sea
- At least 5 years of professional experience in coastal and marine management and technical support
- Strong skills in analysis and evaluation, and ability to communicate and produce high-quality reports/publications in English
- Experience with international/regional marine environment treaties/initiatives/programmes/projects