INDIAN OCEAN COMMISSION

REQUEST FOR EXPRESSIONS OF INTEREST

for the selection of Consultant (firm) for the elaboration of a manual on regional best practices for evidence gathering in the context of the IOTC and delivery of training to MCS officers.

1. The Indian Ocean Commission (IOC) is an intergovernmental regional cooperation organization which brings together the Union of the Comoros, France, on behalf of Réunion, Madagascar, Mauritius and Seychelles. Its mission is to strengthen the bonds of friendship and solidarity between peoples and to contribute through regional cooperation to the sustainable development of its member states. The IOC has received a grant from the World Bank to support the SWIOFish2 regional project. It intends to use part of this grant to make payments under the Consultant (firm) contract " for the elaboration of a manual on regional best practices for evidence gathering in the context of the IOTC and delivery of training to MCS officers.".
2. The Consultant's mission is to build the capacity of officers and inspectors from IOTC CPCs for gathering evidence to prosecute individuals/organisations that contravene existing national fisheries legislation including where there are provisions to implement IOTC conservation and management measures.
   It intends to build the capacity of officers/inspectors from IOTC CPCs for gathering, handling, preserving and using evidence with a view to tackling IUU fishing in the IOTC area while implementing port State measures (Resolutions 16/11) and to prepare IUU listing proposal for presentation at the Compliance Committee, in the context of the IOTC IUU Resolution.
3. The Indian Ocean Commission (IOC) now invites eligible consultants (consulting firms) for submission of expression of interest by consultants in order to perform such consulting services. Interested consultants must demonstrate that they are qualified to perform the services. The criteria for short-listing are: The Consultants must be legally constituted firms with experience in fisheries legislation and capacity building in fisheries. They must have carried out at least 2 missions in elaboration of manuals in the fisheries sector, demonstrate their experience in the SWIO region. The formation of consortiums is permitted for the purpose to reinforce the qualification to be informed.
4. A version of the terms of reference is available on the website of the Indian Ocean Commission https://www.commissionoceanindien.org/sw2-y3-c017/
5. Expressions of interest must be filed electronically in uncompressed format at the address below no later than Wednesday, July 10th, 2020 at 16:30 (Mauritius time UTC+4):

   e-mail: innocent.miada@coi-ioc.org and njiva.r@coi-ioc.org

   Reference: " (SW2/Y3-C017) *elaboration of a manual on regional best practices for evidence gathering in the context of the IOTC "*
6. The consultant will be selected in accordance with the provisions of clause 3.7 (CQS) of section III of the Guidelines Selection and Employment of Consultants under IBRD loans and IDA credits & Grants by World Bank Borrowers edition January 2011 Revised July 2014.
7. The consultants concerned may obtain further information from the Indian Ocean Commission (IOC) by sending e-mails to the addresses referred in paragraph 5.

AVIS DE MANIFESTATION D'INTÉRÊT

en vue de la sélection d'une firme ou d'un cabinet (service de consultants) pour l' « Élaboration d'un manuel sur les meilleures pratiques régionales pour la collecte de preuves dans le contexte de la CTOI et la formation des officiers de SCS.)»

1. La Commission de l'Océan Indien (COI) est une organisation intergouvernementale de coopération régionale qui regroupe l'Union des Comores, La France/Réunion, Madagascar, Maurice et les Seychelles. Elle a pour mission de resserrer les liens d'amitié et de solidarité entre les peuples et de contribuer à travers la coopération régionale au développement durable de ses Etats membres. La COI a obtenu un don de la Banque mondiale pour financer le projet SWIOFish 2 Regional (Second South West Indian Ocean Fisheries Governance and Shared Growth Project). Elle se propose d'utiliser une partie de ce don pour effectuer des paiements autorisés au titre du contrat de Consultant (firme) qui assurera l'« Élaboration d'un manuel sur les meilleures pratiques régionales pour la collecte de preuves dans le contexte de la CTOI et la formation des officiers de "Suivi, Contrôle et Surveillance (SCS)" »
2. La mission du consultant est de renforcer la capacité des officiers et inspecteurs des "Parties contractantes et Parties coopérantes non contractantes (CPC)" de la CTOI à recueillir des preuves pour poursuivre les individus / organisations qui contreviennent à la législation nationale en vigueur sur les pêches, y compris lorsqu'il existe des dispositions pour mettre en œuvre les mesures de conservation et de gestion de la CTOI. Il devra également renforcer les capacités des officiers / inspecteurs des CPC de la CTOI pour la collecte, la manipulation, la conservation et l'utilisation des preuves en vue de lutter contre la pêche "Illicites Non déclarées et Non réglementées (INN)" dans la zone CTOI tout en mettant en œuvre les mesures de l'État du port (Résolutions 16/11) et de préparer une proposition d'inscription INN pour la présenter au Comité d'application, dans le contexte de la résolution CTOI INN.
3. La Commission de l'océan Indien (COI) invite les consultants (firmes ou cabinets) éligibles à manifester leur intérêt afin de fournir les services décrits ci-dessus. Les Consultants intéressés doivent fournir les informations démontrant qu'ils possèdent les qualifications requises et une expérience pertinente pour l'exécution des Services. Les critères pour l'établissement de la liste restreinte sont : les Consultants doivent être des firmes légalement constituées ayant d'expérience dans la législation de pêche et le renforcement des capacités dans le secteur pêche. Ils doivent avoir exécuté au moins 2 missions d'élaboration de manuel dans le domaine de la pêche, et doivent démontrer leur expérience dans la région du sud - ouest de l ' océan Indien.
4. Une version des termes de référence est disponible sur le site web de la Commission de l'océan Indien https://www.commissionoceanindien.org/sw2-y3-c017/
5. Les manifestations d'intérêt doivent être envoyées en version électronique sous format non compressé aux adresses ci-après au plus tard le vendredi 10 juillet 2020 à 16 heures 30 minutes (heures de Maurice GMT+4) :

   e-mail : innocent.miada@coi-ioc.org et : njiva.r@coi-ioc.org

   Référence : «" (SW2/Y3-C017) *elaboration of a manual on regional best practices for evidence gathering in the context of the IOTC "»*
6. Le consultant sera sélectionné en accord avec les dispositions de la clause 3.7 (QC) de la section III des Directives sur la Sélection et l'Emploi des Consultants par les emprunteurs de la Banque mondiale dans le cadre des prêts de la BIRD, des crédits et don de l'AID, édition janvier 2011 révisée en juillet 2014.
7. Les consultants intéressés peuvent obtenir de plus amples informations auprès de la Commission de l'océan Indien (COI) en envoyant un courriel aux adresses visées au paragraphe 5.

Food and Agriculture Organization of the United Nations

INDIAN OCEAN COMMISSION

ndian Ocean Tuna Commission
Commission des Thons de l'Ocean Indien

South West Indian Ocean Fisheries Governance and Shared Growth Program (SWIOFish Regional)
Second South West Indian Ocean Fisheries Governance and Shared Growth Project (SWIOFish2)
Terms of Reference for the elaboration of a manual on regional best practices for evidence gathering in the context of the IOTC and delivery of training to MCS officers.

Assignment title	**Elaboration of a manual on regional best practices for evidence gathering in the context of the IOTC and delivery of training to MCS officers.**
Contract duration	**125 working days under a contract starting at signing in 2020, for a duration of two years (Renewable on year).**
Assignment location	**Home/office based and in-country visit (assessment, manual, regional and national training).**
Financed by	**International Development Association (IDA) - Grant Number D1720.**

Seychelles, May 2020

1. Background

1.1. SWIOFISH 2

World Bank has been supporting various fisheries projects in the Africa Region. At the regional level, the most relevant of these is the South West Indian Ocean Fisheries Project (SWIOFP), which closed on March 31, 2013. The SWIOFP, which brought together all countries in the South West Indian Ocean (SWIO), including Kenya, Mozambique, South Africa, Seychelles, Comoros, Madagascar, Mauritius, France (non-beneficiary participant), Somalia (observer) and Tanzania, was successful in building regional capacity for fisheries management, including through establishing a network of fisheries researchers and managers, and developing a regional management framework.

Given the important achievements of SWIOFP, SWIOFC Member Countries have requested a follow-on program namely – ***the South West Indian Ocean Fisheries Governance and Shared Growth Program*** **(SWIOFish Program)**.

It comprises a regional umbrella and a combined approach targeting both regional and national fisheries priorities. It supports regional integration of fisheries management, while expanding the approach beyond research and sound fisheries management to strengthen sector governance and harness the value of coastal and marine fisheries to national economies. ***Given the importance of sound fisheries management to livelihoods and economic growth, the SWIO coastal countries have decided to all participate in the SWIOFish Program through a regional platform hosted by the SWIOFC and supported by the Indian Ocean Commission (IOC)***.

1.2. IOTC

The IOTC is an intergovernmental organization established under Article XIV of the FAO Constitution. The IOTC agreement was concluded in 1993 and entered in force in March 1996. The IOTC is mandated to manage tuna and tuna-like species in the Indian Ocean and adjacent seas with primary objective the conservation and optimum utilization of the stocks for long term sustainability.

Since 1998, the members of the IOTC have dedicated most of their effort to the scientific component of fisheries management, to manage the tuna and tuna-like resources. Since the mid 2000's, more emphasis has been placed on the compliance component of this tuna RFMO. A Compliance Section has been created to assist the Compliance Committee in the task of assessing and reviewing all aspects related to the compliance with IOTC conservation and management measures and to provide support to Contracting and Cooperating non-Contracting Parties (CPCs) in the implementation of Monitoring, Control and Surveillance (MCS) tools adopted by the IOTC Members (e.g. IUU vessel lists, authorized & active vessels lists, documents on board, marking of fishing vessels and gears, Vessel Monitoring System, fishing logbooks, regional observers scheme, transhipments programme, catch certification/trade documentation schemes). In 2010, aware of the powerful and cost effective compliance tool of Port States measures to combat IUU fishing activities in the Indian Ocean, the IOTC adopted a resolution on Port State measures to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing (IOTC Resolution 16/11 on PSMR). The resolution, which entered into force on 1 March 2011 (as Resolution 10/11), is inspired by the 2009 FAO Agreement on

Port State Measures but placed in the context of the IOTC mandate. The fisheries administrations of the Coastal CPCs of the IOTC, where foreign fishing vessels offload tuna and tuna like species, are responsible for the implementation of the resolution.
The effective implementation of the IOTC Conservation and Managements Measures (CMMs; including the port State measures and the IUU resolutions) by developing CPCs requires a variety of aspects to be considered, developed and/or strengthened, to improve the capacity of the concerned CPCs for the implementation of these CMMs.

The objective of the proposed IOTC capacity building activities is to strengthen the implementation of active IOTC CMMs, thus increasing the level of compliance and enhancing contribution of the developing States - coastal CPCs of the IOTC to the work of the IOTC.
The frim/expert review and take into consideration similar initiatives undertaken in the region or in other regions (e.g. ACP FishII, IOC-MCS project, SADC MCS project, Fish-I Africa) to avoid duplication.

2. Assignment Title:

Elaboration of a manual on regional best practices for evidence gathering in the context of the IOTC and delivery of training to MCS officers on regional best practices for evidence gathering.

3. Purpose of the assignment:

The purpose of this component is to build the capacity of officers and inspectors from IOTC CPCs for gathering evidence to prosecute individuals/organisations that contravene existing national fisheries legislation including where there is provisions to implement IOTC conservation and management measures.
It intends to build the capacity of officers/inspectors from IOTC CPCs for gathering, handling, preserving and using evidence with a view to tackling IUU fishing in the IOTC area while implementing port State measures (Resolutions 16/11) and to prepare IUU listing proposal for presentation at the Compliance Committee, in the context of the IOTC IUU Resolution. The activity will be conducted in four phases.

Phase 1 – Briefing meeting with the IOTC Secretariat (2 working days)

The objective of the briefing meeting is to discuss and review the technical component of this ToR, define and agree on the methodology of the analytical review, the work plan and implementation calendar for the assignment, the structure and content of the manual, the structure and content of the regional training course and its modules, and the national training course.

A briefing meeting report will be produced by the consultant(s).

Phase 2 - Analytical review and assessment of the current MCS operations focusing on (port/at sea) inspection procedures and evidence gathering, handling and preservation at national and regional levels in IOTC and drafting of the Manual.

The objective of the phase 2 is to analyse the strengths, weaknesses/gaps, opportunities and threats in respect of MCS. The focus will be the inspection/investigation and prosecution processes and the effectiveness of the evidence gathering procedures and will include detailed description of the steps required in preparing a proposal for IUU listing and a case for the courts. The analysis component will include the development of recommendations as to how

each national system can be improved in terms of revision of related legislation(s) and standard operating procedures to be adopted, and will aim to identify common "improved" practices to be implemented.

The experts will undertake a Training Needs Assessment (TNA) related to inspection procedures and evidence gathering, and develop MCS training modules in evidence gathering for use by fisheries officers/inspectors. The analysis of current national systems and the TNA will be conducted through country visits and consultations. The manual and the module of the training course may cover the following tentative topics with the consultant(s) expected to refine the list as appropriate, noting that the focus will be on basic inspection procedures and investigation techniques and not just getting and handling exhibits:

- **Legal:** The powers of fisheries inspectors to gather evidence and do inspections/investigations; law governing the admissibility, validity and weight of evidence**;**
- **Inspection/investigation:** Planning of search and seizure operations/investigations, assembling a team and the advantages of multi-agency teams; equipment required for gathering/preserving evidence and conducting inspections/investigations; using informants, basic surveillance with the focus on observation posts; securing the scene of fisheries infringements and basic crime scene management; handling of suspects and the public at crime scenes; arrests; interviewing and interrogation of suspects witnesses; taking statements of witnesses; gathering of evidence and securing the chain of evidence (including real objects, samples, photographic evidence, documentary evidence and electronically or computer generated evidence); completion of inspection report and use of notebooks;
- **IUU listing:** analysis/identification/testing of seized evidence against Resolution 18/03; conducting follow-up investigations including basic search and seizure; preparation of IUU listing proposal, completing the IUU reporting form; preparation of case files/dockets; preparing for the Compliance Committee and presenting the IUU listing proposal,
- **Prosecution:** analysis/identification/testing of seized evidence; conducting follow-up investigations including basic search and seizure; preparation of case files/dockets; liaising with the prosecuting authority; preparing for court and presenting evidence in court, including testifying in court.

The drafting of the Manual will take into consideration international best practices and principles, IOTC standards as defined in IOTC MCS Resolutions, the results of the review and assessment, and adapted to the particular environment that fisheries inspectors in the region have to deal with in the context of IOTC fishery. The manual shall cover, where appropriate, the infringements as detailed in the IUU reporting form of the Resolution 18/03 (section B - Details of IOTC Resolution Elements Contravened). The manual will serve as a guide for fisheries officers and inspectors to use in the context of conducting inspection, investigation and prosecution and to prepare proposal for IUU listing in the IOTC context. It will be equally valuable for other MCS practitioners involved in the detection and investigation of fisheries offences, such as members of the police, coastguard and navy.

The manual should be structured, developed and designed in order to be an operational working document of reference to be used by fisheries officers/inspectors in their daily duties. The development of complementary working tools like implementation/operational sheets shall be considered.

The assessment shall be conducted, if relevant, for the following countries, Comoros, Kenya, Madagascar, Maldives, Mozambique, Mauritius, Seychelles, Tanzania, South Africa and Yemen, and in-country visit shall be conducted in 5 IOTC CPCs (Kenya, Mauritius, Seychelles, South Africa and Thailand).
Note: Translation in French, design and printing of the manual shall be conducted before implementation of Phase 3 and outside of this assignment and ToR.

Phase 3 – Prepare and conduct of regional training course on evidence gathering in the context of the IOTC.

The third phase will involve preparation, organisation, conduct and facilitation of a regional training course for nominated fisheries officers/inspectors from the IOTC CPCs.

In order to maximise learning, the consultant(s) will be required to use adult learning techniques and to lay as much emphasis as possible on practical training, including:

- Curriculum and training programme, lectures (power points, video, etc..), practical exercises on actual information, incidents and exhibits collected from the field as concerns MCS basic investigation techniques and port inspections, participants assessment form and training quality assessment form,
- Additional high quality training and reference materials, guidance for trainers and power points presentations, handouts, case studies and guides.

Phase 4 – Prepare and conduct of national training courses on evidence gathering in the context of the IOTC.

The fourth phase will involve preparation, organisation, conduct and facilitation of national practical training courses in the beneficiary countries with the objective to put into practice the best practices and elements learned during the regional training course.

The expert will be required to participate in port inspection and work with the inspecting authority to review the inspection process and evidence gathering process or use previous national case(s) (as provided by the inspecting authority) that could lead to prosecution or proposal for IUU listing.

The countries that will benefit from the national training course shall be IOTC port State CPCs.

<u>Activities of the experts:</u>

The experts will:

- Legal consultant meet (virtually or physically) with the IOTC Secretariat during the briefing meeting,
- Conduct an analytical review and assessment of the current MCS operations focusing on (port/at sea) inspection procedures and evidence gathering, handling and preservation, and draft the Manual,
- Prepare and conduct the regional training course on regional best practices for evidence gathering in the context of the IOTC,

- Prepare and conduct national training courses on best practices for evidence gathering in the context of the IOTC and provide tailored assistance as needed to the beneficiary countries in the field of the assignment.

Expected outputs/delivery:

- Briefing meeting report,
- Final report on the review and assessment of the current MCS operations focusing on (port/at sea) inspection procedures and evidence gathering, handling and preservation at national and regional levels in IOTC,
- Manual on regional best practices for evidence gathering in the context of the IOTC, and any complementary working tools as agreed during the briefing meeting,
- Report of the regional training course upon completion of the regional training,
- Training course materials and documents (curriculum and training programme, power points, practical exercise, documents, publications, etc.),
- Report of the national training course for each country upon completion of the national training courses.

Qualifications and experience of the firm/expert:

The implementation of this activity requires the recruitment of firm with a legal expert and a fisheries training expert. The selected firm should be able to demonstrate a successful history of fisheries Monitoring, Control and Surveillance activities and/or legal/prosecution, consultancy/experience engagements in the field of fisheries law enforcement and solid training background in the field fisheries.

The expert(s) should meet the following requirements:

Legal expert

Essential Requirements:

- A degree (LLB or equivalent) or in lieu 15 years of professional experience in the implementation of international law, environmental law, law of the sea or fisheries enforcement or fisheries management,
- Minimum 15 years of professional experience in international law or areas of law closely related to fisheries/renewable resources management;
- Previous experience in the preparation and conduct of law enforcement training course,
- Excellent communication, report-writing and project management skills,
- High level of proficiency in written and spoken English.

Desirable:

- Previous experience in working with fisheries management framework of RFMOs,
- Experience in the region or some countries of the IOTC;
- Ability to work under pressure and meet tight deadlines.

Training expert

Essential Requirements:

- A degree (BSc or equivalent) or in lieu 15 years of professional experience in the conduct of MCS training and/or law enforcement, inspection and investigation methodology,
- Minimum 15 years of professional experience in the area of law enforcement, training and transfer of skills, inspection and investigation methodology, closely related to fisheries;
- Previous experience in the preparation and conduct of MCS training course,
- Excellent communication, report-writing and training skills,
- High level of proficiency in written and spoken English.

Desirable:

- Experience in the region or some countries of the IOTC,
- Ability to work under pressure and meet tight deadlines.

Beneficiary Countries:

All beneficiary countries of the SWIOFISH2 are involved in this component and includes all the SWIOFC developing country Members of the Indian Ocean Tuna Commission i.e. Comoros, Kenya, Madagascar, Maldives, Mozambique, Mauritius, Seychelles, Tanzania, South Africa and Yemen.

Technical Supervisor:

The technical supervisor of the firm/experts will be the Secretariat of the Indian Ocean Tuna Commission.

Location, travel, and expected starting date:

The activities shall start in 2020 and shall be completed by September 2023. The implementation calendar shall be defined following consultation between the IOTC Secretariat, the concerned IOTC Members and the consultants.

A total of 125 working days is foreseen for the completion of this assignment inclusive of travel related to this assignment.

Indicative activities	**No of working days**
Phase 1: Briefing meeting at the IOTC Secretariat **Legal expert**	4
Phase 2: Analytical review and assessment of the current MCS operations focusing on (port/at sea) inspection procedures and evidence gathering, handling and preservation (including 5 in-country visits) Drafting of the Manual **Legal expert** **Training expert**	40 10
Phase 3: Prepare and conduct a regional training course on regional best practices for evidence gathering in the context of the IOTC (4 days training course). **Legal expert**	

Training expert	8 8
Phase 4: Prepare and conduct of national training course on best practices for evidence gathering in the context of the IOTC (IOTC port State CPCs: Kenya, Madagascar, Maldives, Mozambique, Mauritius, Seychelles, Tanzania and South Africa). **Legal expert** **Training expert**	 5 50
Total working days	125

Note: Translation in French, design and printing of the manual shall be conducted before implementation of Phase 3 and are not part of this assignment and ToR.

Payment schedule

As defined in the contract with IOC.

Risks

No risk identified.

Other information

The firm/experts may also liaise with other projects involved in the review of the national legislation, training of inspectors to avoid duplication of work and work in synergy with those projects, where appropriate and feasible.