



REQUEST FOR PROPOSAL

A Comparative Study aimed at an in-depth analysis of the main mechanisms for dispute resolution through arbitration and mediation in Mauritius, South Africa, Australia, India and Singapore, with a special focus on maritime trade and foreign investment and related to the 'Creation of an IORA Dispute Resolution Center (“IDReC”)' Project

11 March 2021

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1. INTRODUCTION

The Mauritius Chamber of Commerce and Industry (MCCI) has embarked on an ambitious project funded by the Indian Ocean Rim Association (IORA) through the IORA Special Fund. It involves 5 IORA Member State partners, namely Mauritius as Project Lead, Australia, India, Singapore and South Africa (hereinafter referred to as the Project Team").

The Project Team comprises one representative of each of the above-named IORA Member State.

The project called 'Creation of an IORA Dispute Resolution Center ("IDReC")' (thereafter referred to as the 'Project') aims at setting up a collaborative platform through which IORA member states can share best practices, pool resources and implement joint projects in the field of Alternative Dispute Resolution (especially concerning maritime and foreign investment matters), with the aim of facilitating trade and investment in the IORA Region.

The Project involves 6 main steps over a time period spanning from 2017 to 2022:

- (1) Creation of a Core Group of ADR experts/establishment of a network of ADR centers
- (2) Commissioning of Comparative Study aimed at an in-depth analysis of the main mechanisms for dispute resolution through ADR in at least 8 IORA countries.
- (3) Organisation of a Symposium
- (4) Organisation of training in ADR (Mediation and Arbitration)
- (5) Communication and dissemination of information
- (6) Day-to-Day administration of IDReC

In this context, the MCCI and the Project Team are inviting your best proposals for the research work described hereafter in this Call for Proposal, which has been drafted by the Project Team.

2. THE PROPOSAL

The bidders are expected to bid for the following research work:

2.1. Subject:

A Comparative Study aimed at an in-depth analysis of the main mechanisms for dispute resolution through arbitration and mediation in Mauritius, South Africa, Australia, India and Singapore, with a special focus on maritime trade and foreign investment.

2.2. Content:

1. To identify and enlist standards of highest level of efficiency and fairness in the conduct of arbitration and mediation, currently prevailing in Australia, India, Mauritius, Singapore and South Africa which can be used with or without modification as common best practices for the Indian Ocean Rim Association (IORA) Region, with a specific focus on the use of ADR mechanisms for resolving maritime trade and foreign investment disputes in the IORA region and propose ways to achieve synergy between existing mechanisms and making improvements to attract reference of maritime and foreign investment disputes to IORA, in particular.
2. These best practices must be evidence-based and include explanations as to why those practices should be followed by other members of IORA individually or collectively for IORA.
3. Wherever modifications in current practices have been identified as necessary, a guideline should be prepared to suggest for such modifications and adaptations.

4. Any limitations which may be faced for setting the best practices for IORA for the use of ADR mechanism for resolving disputes in the IORA Region, with a specific focus on maritime trade disputes in the IORA region, and any possible solution to such limitations.

5. To propose a common IORA dispute resolution framework based on the best practices including appropriate dispute resolution clauses and rules (for both arbitration and mediation) in general and/or particularly appropriate for maritime trade and foreign investment disputes.

6. To study the feasibility and make recommendations on the process for setting up this common IORA dispute resolution framework including rules and clauses by businesses to resolve their disputes in general, maritime trade and foreign investment in particular, through mediation and/or arbitration.

7. In addition, to identify 3 IORA Member States (excluding the participating Member States) in which Alternative Dispute Resolution is the least developed and make recommendations towards improving arbitration and mediation practice in these 3 countries, linking this improvement to the development of specific trade and investment opportunities in these 3 IORA Member States.

2.3. Quantity: 30,000 to 50,000 words

2.4. Objective:

2.4.1. This study is expected to achieve a better understanding of ADR mechanisms in each of the participating IORA nations, with a specific focus on the use of ADR mechanisms for resolving maritime trade disputes.

2.4.2. The comparative approach will enable comparison between existing models in view of making recommendations towards their harmonization and their alignment with international best practices.

2.4.3. The Comparative Study will also assist the Core Group and the Network of ADR Centers to identify the Common Principles for IDReC.

The final report should serve as a practical, user-friendly guide for stakeholders including business operators, legal practitioners, in house counsels, members of the judiciary and help in general towards building best practices in the field of ADR in the IORA region, with a special emphasis on the resolution of maritime trade disputes through arbitration and/or mediation.

2.5. Specific requirements:

2.5.1. The report should include as compulsory features the following: case studies, and updated information on current legal, institutional, and infrastructural framework for ADR in the 5 countries studied.

2.5.2. The selected consultant must reach out, to the extent possible, to ADR centers in all IORA member states for adherence to a network of ADR Centers and for collecting information and achieving a consensus as far as possible on common principles for an IORA Dispute Resolution Center.

2.6. Available time for completion of work: 12 months

The selected consultant will be required to commit to complete the research work within 12 months of the signature of an agreement - hereinafter referred to as the 'Consultancy Agreement - with the MCCI, as well as to the following interim submissions:

- Submission of a detailed project plan including a tentative table of content after one month following signature of the Consultancy Agreement

- Submission of a 1st interim report after four months following signature of the Consultancy Agreement

- Submission of a 2nd interim report after 7 (seven) months following signature of the Consultancy Agreement

- Submission of a 3rd interim report after 10 (ten) months following signature of the Consultancy Agreement

- Submission of the final report after 12 (twelve) months following signature of the Consultancy Agreement

The MCCI and the Project Team reserve the right to make comments on each submission and request amendments and modifications deemed necessary.

Failure to comply with the above deadline shall result in the immediate termination of the Consultancy Agreement. Duties and obligations of each party shall be further detailed in the Consultancy Agreement.

2.7. Finance:

The total budget available for payment of the selected Consultant is USD 7500 (Seven Thousand Five Hundred United States Dollars), payable by the MCCI upon satisfactory completion of the Comparative Study. An appropriate advance may be paid on submission of the list of contents by the end of one month from the signing of the agreement upon the request of the consultant. The maximum advance payable shall not be more than USD 5000 (Five Thousand United States Dollars).

The budget must be used for all tasks necessary for completion of the Comparative Study and includes payment for research assistance if required by the consultant and any incidental expenses relating to the research. For the job of a research assistant on this project, it is preferable to use students, to be identified by the consultant, interested in this field.

The selected consultant shall pledge to spend the budget prudently to maximise the usage thereof. The above-mentioned budget represents the total amount payable to the selected consultant, and no request for additional disbursements shall be accepted on any ground whatsoever.

2.8. Qualifications:

The selected consultant shall have minimum of 10 (ten) years of experience in the relevant field of Alternative Dispute Resolution, as a professional or academia, and must demonstrate adequate international exposure and network. Specialist knowledge in the field of maritime trade and investment disputes and in trade in the IORA region will also be considered.

While working on the Comparative Study, the consultant will also work in close co-operation with the Project Team and the MCCI.

2.9. Intellectual Property (IP) Rights:

All intellectual property rights related to the Comparative Study shall belong to the MCCI and the IORA Secretariat.

3. EVALUATION PROCEDURE

Proposals will be awarded marks based on the following criteria:

- a. Expertise and past experience of consultancy in the field of Alternative Dispute Resolution with a specific emphasis on use of ADR for resolving maritime trade and investment disputes
- b. Relevance and quality of proposed outline and methodology
- c. Experience of having worked with any IORA country in the capacity of consultant, trainer, arbitrator or professional memberships
- d. Any other academic participation in the field of ADR for maritime trade and investment disputes.

The overall cost of the proposal will be the sum of the cost of research work and any other cost involved.

An evaluation panel shall be constituted by representatives invited from the Project Team and the MCCI.

4. CLARIFICATIONS/QUERIES

All clarifications sought by the bidder in respect of the Project shall be addressed, at least 5 (five) working days before the deadline for submission of tender in writing to:

The Secretary General
Mauritius Chamber of Commerce and Industry
6, Adolphe de Plevitz Street, Port-Louis

5. CLOSING DATE

Tenders should be posted to the Mauritius Chamber of Commerce and Industry in sealed envelope at the following address:

The Secretary General
Mauritius Chamber of Commerce and Industry
6, Adolphe de Plevitz Street, Port-Louis

Please mark clearly on the top left corner of the envelope the following words: IORA
Project - Comparative Study.

Tenders may also be sent by email: info@marc.mu / secretariat@marc.mu and addressed to:

The Secretary General
Mauritius Chamber of Commerce and Industry
6, Adolphe de Plevitz Street, Port-Louis

The closing date for submission of tenders is **30 April 2021 at 1600** (Mauritius time) at latest.

The MCCI reserves the right:

- a) to accept or reject any bid
- b) to annul the bidding process and reject all bids at any time prior to award of contract, without thereby incurring
 - i. any liability towards any bidder, or*
 - ii. any obligation to inform any bidder of the grounds for the client's action.*

6. OPENING OF BID DATE

The opening of Bid Date is scheduled for **1 May 2021** at the Mauritius Chamber of Commerce and Industry.

General Notes

- i. The MCCI reserves the right not to place any order as a result of this tendering
- ii. The validity quotation should be 60 days from deadline for submission of offers. The payment will be made within 30 days after satisfactory delivery of the comparative study or as per the agreed terms.