Terms of reference (ToR) for the appraisal of new projects, follow-on projects and brief assessments

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

Project title: Advisory Services on the Deliveries and Implementation of Selected ASEAN Strategic Action Plan on Consumer Protection (ASAPCP) 2025

Country: Indonesia

Services specified in the tender:

Project number/ cost centre:

21.2002.0-001.00

Transaction number:
83459960

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1. Context

Subject of the terms of reference

The subject of these terms of reference (ToR) is

Advisory Services on the Deliveries and Implementation of Selected ASEAN Strategic Action Plan on Consumer Protection (ASAPCP) 2025.

The performance of the appraisal in accordance with section 1 of these ToR shall be commissioned subject to the approval of the ultimate commissioning party for the performance of a project appraisal. There is thus no entitlement to use the full contract value.

Assignment objective

The objective of the assignment is the preparation of a brief assessment and/or a module proposal including all associated annexes and, if applicable, further documents in accordance with the specifications valid at the time of preparation (GIZ and BMZ manuals, guidelines and format templates).

Period and duration of assignment

Period of the full assignment: from 26 April 2024 until 31 December 2025 and to be performed in Jakarta, Indonesia, or remotely with close coordination with the project.

The assignment has a planned duration of 200 expert days in total.

- **Background of the project**

The regional project "Consumer Protection in ASEAN" (PROTECT II) is funded by the Federal Ministry for Economic Cooperation and Development (BMZ) and implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, with a current term until 01/2026. The project supports stakeholders in the ASEAN region in the implementation of consumer protection policies and actions, with a special focus on online and cross-border trade:

(1) At the regional level, the project works with the ASEAN Committee on Consumer Protection (ACCP) on the development of guidance documents and the preparation of selected deliverables under the ASEAN Strategic Action Plan on Consumer Protection (ASAPCP) 2016-2025.
(2) At the national level, individual ASEAN Member States (AMS) – notably Indonesia, Cambodia, Lao PDR and Vietnam – receive technical assistance to strengthen their respective consumer protection frameworks, notably to draft implementing regulations that address emerging issues in the digital economy, and to build capacities for effective consumer dispute resolution and access to redress.
(3) For wider awareness-raising and advocacy, the project furthermore facilitates the conceptualization and implementation of innovative pilot activities with consumer associations, think tanks and the private sector.

Building on the experiences and networks of the predecessor PROTECT project, the current project strives to carry forward results and deliverables from the previous phase while also replicating successful approaches within and across AMS. Regional and country-level

activities are closely interlinked in order to help bridge the so-called “implementation gap” between ASEAN commitments and their follow-up in national reform processes. In the spirit of the “Feminist Development Policy” of the German government, adverse effects on women and other vulnerable groups (e.g. consumers with disabilities) – for example as a result of (e.g. discriminatory online practices – are assessed in order to leave no one behind.

Moreover, it is necessary to ensure that effective policy measures are taken in the medium to long term that are attuned to major trends and economic developments in the region. As ASEAN moves to its new post-2025 vision, digitalization and cross-border trade take center stage on the agenda – also with respect to the new strategic action plan on consumer protection. With implementation records of more than 10 years, regulatory regimes in most ASEAN countries can no longer be considered “young”. However, existing frameworks may be outdated and thus insufficiently respond to new consumer risks, such as “dark patterns”, data misuse and manipulation, or influencer marketing. At the same time, gaps in consumer access to redress persist, particularly as consumers navigate e-commerce platforms.

- **Context of the activity**

The assignment caters to several on-demand activity packages that have been requested by project partners, particularly at the ASEAN level. Details are captured in below table and will be elaborated in ToR with specific timelines and milestones later. The activity packages under this assignment are largely derived from the current implementation schedule of the ASAPCP for the years 2021-2025. Nearing the end of its term, there is a need for the ACCP to complete outstanding key deliverables, assess the progress and implementation hurdles to date, as well as strategize on the direction of the post-2025 ASAPCP. The latter is set against the backdrop of a rapidly evolving business landscape in ASEAN which is characterized by increased cross-border and online trade, thereby posing new challenges for the implementation and enforcement of consumer protection policies and actions.

In broad terms, the assigned consulting firm or team of researchers/experts shall be responsible for the following scope of work, to be carried out in the period <u>from 26 April 2024 until December 2025</u>:

- Providing technical advice on selected issues related to consumer protection policy, law and enforcement, with special emphasis on the context and frameworks of ASEAN Member States;
- Analyzing regional and international experiences in the area of consumer protection, to feed good practices and recommendations into the regional dialogue of the ASEAN Committee on Consumer Protection (ACCP) as well as other relevant ASEAN bodies;
- Preparing background studies; summary reports; strategic and guidance documents etc. as reference for project activities to be implemented at the regional and country levels;
- Actively contributing to conferences, workshops, seminars and other events as a resource person, on behalf of GIZ;
- Delivering country-specific advice and comparative reviews of case studies on consumer protection systems, enforcement approaches and actions in selected ASEAN Member States, for example Cambodia, Lao PDR and/or Vietnam;
- General backstopping, as necessary for the project implementation, in particular to address the interfaces with other policy areas, such as competition and intellectual property rights.

Specifically, the assigned consulting firm or team of researchers/experts shall deliver technical advice and backstopping services to the following activity packages:

Description of the activity packages
1. ASEAN Consumer Empowerment Index (ACEI) The ACEI constitutes one of the first and few comprehensive regional indices worldwide to capture the degree of consumer empowerment across countries. Results of country-level surveys will feed into a composite index aimed at tracking consumer empowerment over time, among others factoring in consumers' knowledge about the consumer protection agency and law in their country, or their propensity to seek compensation in case they have been misled or harmed by businesses. In 2024, the ACCP plans to run the country surveys so that results can be published at the latest in 2025, which could then also feed into deliberations for the post-2025 ASAPCP. To that end, refresher trainings and/or individual workshops need to be conducted with ACCP members, using the agreed methodology as described in the updated ACEI guidance document of 2022. Technical and editing advice is further foreseen in case ACCP members require assistance in drafting the narrative of their country reports. Finally, the analysis of the data from all country surveys will be synthesized into a regional report and presented to the ACCP and public at large. The ACEI implementation builds on the pilot exercise of 2020. See the report on results, lessons learnt and recommendations here: https://aseanconsumer.org/file/The%20Report%20of%20ACEI%202020%20-%204Nov20.pdf
2. Consumer Impact Assessment (CIA) As consumer protection cuts across different sectors, potentially adverse impacts on consumers stemming from sectoral policies, laws and regulations are not always fully or systematically considered at the drafting or review stage. The CIA aims to provide a toolkit for consumer protection agencies, consumer associations and consumer advocates to assess policies, laws and regulations and help sensitize policymakers about the need to ensure consumer rights protection. The methodology references the Competition Impact Assessment developed by the OECD, and the CIA exercise may be embedded in broader Regulatory Impact Assessments (RIA). To test the CIA in practice, 1-2 ACCP Members will volunteer to apply the methodology in 2024 and 2025, with guidance by the assigned consulting firm or team of researchers/experts. Results will be reported back to the ACCP with a view to encouraging application or replication by further Member States.

The CIA dates from 2022 can be found here: https://aseanconsumer.org/file/ASEAN%20CIA%20Guideline/ASEAN%20Guidelines%20on%20Consumer%20Impact%20Assessment%20(CIA)_2023_V3.pdf

3. End-Term Review (ETR) of the ASAPCP 2025

The current terms of the three ASEAN Community Blueprints as well as accompanying sectoral workplans is ending in 2025, and work is now starting to assess the progress and effectiveness thus far. Building on the proven methodology of the Mid-Term Reviews (MTR) as well as insights and recommendations, GIZ is supporting the ASEAN Secretariat with the background research, implementation monitoring and drawing up suggestions for improvement in the upcoming post-2025 agenda and ASAPCP. This will feed into the wider ETR of the ASEAN Economic Community (AEC) Blueprint and form the basis for drawing up new commitments for the first 5-year implementation schedules.

The timeframe for the ETR is most critical as it would also, to a certain extent, need to be synced with the ETR for the overall AEC Blueprint so that findings from the ETR for the ASAPCP 2025 can be shared more widely and to ensure consistency with respect to broader recommendations. The assigned consulting firm or team of researchers/experts is expected to critically review the existing documents and deliverables, including the MTR for both the AEC Blueprint and ASAPCP, providing an outlook and policy recommendations that take into account an examination according to the evaluation criteria of relevance, effectiveness, efficiency, and sustainability. The MTR of the AEC Blueprint can be viewed here: https://asean.org/book/mid-term-review-report-of-the-aec-blueprint-2025

4. Study on institutional models for the enforcement of competition law and consumer protection in ASEAN

Most consumer protection agencies in ASEAN are situated within or under the ministries of trade, with several recently following the growing international trend of combining the mandates for consumer protection and competition enforcement. For example, in some AMS, overlaps exist with respect to unfair competition, which can fall under the purview of either competition or consumer protection agencies. Vietnam has always had a dual mandate, while Singapore only in recent year placed the mandate for consumer protection also under the purview of the more independent competition commission.

What are the advantages of such a dual mandate, and what implications does it have for the internal structures, resources and capabilities of agencies? What lessons can be drawn both from ASEAN (e.g. Singapore, Vietnam) as well as other countries, such as Australia, the Netherlands, the UK, USA or Germany? This planned study is set against the backdrop of assessing the agency effectiveness in selected AMS, such as Lao PDR, and the need for recommended actions to pursue institutional reforms in order to increase the scope of action and strength of existing agencies.

5. Study on gender-disaggregated consumer complaints data

As part of a pilot activity with the ASEAN Consumer Associations Network (ACAN), it is foreseen to work with selected consumer associations in the ASEAN region to devise a framework for the collection of gender-disaggregated complaints data in order to gain a better understanding about differences in complaints behaviors and barriers. The framework could also cover additional parameters. A small survey will accompany this activity to directly capture views from consumers regarding the ease of seeking redress.

Building on this, the assigned consulting firm or team of researchers/experts is expected to provide guidance on other gender-related activities that could be undertaken by consumer associations, for example to assess whether the so-called "pink tax" is an issue that consumer protection agencies and/or consumer associations should look into.

The planned activities are intended to provide additional case studies to be potentially included in the ASEAN Guidelines on Consumer Associations that were published in 2022: https://aseanconsumer.org/file/Consumer%20Associations/ASEAN%20Guidelines%20on%20Consumer%20Associations%20-%20FINAL.pdf

6. General backstopping, including co-designing, co-editing, co-publishing and co-branding a series of "Policy Points" with GIZ

The assigned consulting firm or team of researchers/experts shall work closely with the GIZ team in re-writing available studies, reports or other reference documents into the "Policy Points" format. Topics slated for publication, based on prior research (e.g. in Vietnam and Indonesia) include, but are not limited to:

I. Data protection and privacy
II. Influencer marketing
III. AI and algorithmic decision-making
IV. Dark patterns
V. Institutional models
VI. Consumer access to redress
VII. Vulnerable consumers
VIII. Fair business conduct
IX. Role of consumer associations
X. Digital finance
XI. Unfair contract terms

An example of the "Policy Points" is available here:
https://www.facebook.com/photo/?fbid=3506362569395723&set=pcb.3506364426062204

For the completion of the aforementioned activity packages, the deliverables and indicative schedule is feature in below table (note some activities need to be initiated and implemented in parallel):

No.	Activity Package and Deliverables	Indicative Schedule	Payment
1	**ASEAN Consumer Empowerment Index (ACEI)** 1. Refresher trainings (remote) with ACCP members, either as a group or individually per AMS, as advised by ACCP. 2. On-demand guidance for ACCP members on data analysis and report-writing related to the country surveys. 3. Synthesis of country results into a regional composite index, with accompanying regional report that contains an executive summary, key findings and recommendations. 4. Participation in dissemination activities, as a resource person.	By May 2024 By July 2024 By November 2024 By May 2025	First interim payment (30%) against reports on the ACEI and implementation of CIA pilot activity by 30 November 2024
2	**Consumer Impact Assessment (CIA)** 1. Technical workshop (remote) with country teams/taskforces for the pilot implementation in selected AMS. 2. On-demand guidance for the analysis and report-writing by the country teams/taskforces of the participating AMS. 3. Participation in dissemination activities, as a resource person.	By September 2024 By December 2024 By March 2025	
3	**End-Term Review (ETR) of the ASAPCP 2025** 1. Drafting of a background paper with major trends and developments on consumer protection in ASEAN and worldwide, with a concept that	By May 2024	Second interim payment (30%) against reports of ETR and the study on

	includes the proposed or refined research and evaluation methodology, indicative list of stakeholder interviews and other considerations for the ETR – in due consideration of the MTR approach, results and recommendations.	By June 2024	institutional model by 31 May 2025.
	2. Presentation of the main tenets of the background paper, evaluation framework and general implementation approach for the ETR, in a kick-off workshop (remote) with the ACCP.	By July 2024	
	3. Supporting the tracking of deliverables under the current implementation schedule of the ASAPCP, with respect to the degree of completion and a nuanced assessment of possible reasons for shifting priorities, any gaps or delays etc.	By September 2024	
	4. Participation in a series of stakeholder interviews, together with GIZ and the ASEAN Secretariat, to collect inputs, notably from ACCP and ACAN members, international and regional organizations, development partners, academics or researchers based in the ASEAN region.	By November 2024 By January 2025	
	5. Synthesizing all observations from the implementation monitoring, stakeholder interviews and expert insights into the (draft) final ETR report.		
	6. Participation in the consultation and/or validation meetings with the ACCP to advance the finalization and endorsement of the ETR, if necessary supporting responses to queries from other sectoral bodies.		

4	**Study on institutional models for the enforcement of competition law and consumer protection in ASEAN** 1. Comprehensive desk study and review of international and regional trends and good practices, supplemented by interviews with key informants from selected agencies or academia, where possible. 2. Transposition of key findings from the research into a shorter brief ("Policy Points"). 3. Participation in dissemination activities, as a resource person.	By May 2025 By July 2025 By August 2025	
5	**Study on gender-disaggregated consumer complaints data** 1. Brainstorming workshop(s) with a core group of ACAN members (remote). 2. Study and framework on gender data for consumer protection, with recommendations on concrete actions for consumer protection agencies and/or consumer associations. 3. Participation in dissemination activities, as a resource person.	By December 2024 By April 2025 By June 2025	Final payment (40%) against the paper on the study on complaints data and policy points by 15 November 2025.
6	**General insights, including co-designing, co-editing, co-publishing and co-branding a series of "Policy Points" with GIZ** 1. Substantive inputs (e.g. in the form of case studies, contextual analysis) for 5 "Policy Points", selected from the pipeline list, as deemed most relevant by GIZ and external partners.	Continuous By December 2025	

	2. Participation in dissemination activities at the national or cross-country levels, as a resource person.		

All activity packages shall be closely coordinated with GIZ and the respective partners, for example the ACCP and/or ASEAN Secretariat. Where appropriate and needed, specific national institutions (e.g. the ACCP focal points) and/or additional experts will be engaged. The assigned consulting firm or team of researchers/experts shall guarantee confidentiality and refrain from disclosing details, unless approved or endorsed on the ASEAN side. As is common practice with ASEAN and ASEAN-German cooperation projects, final deliverables will be published with ASEAN logo and credit to GIZ support in the imprint, without author's mention.

2. Personnel concept

In the tender, the tenderer is required to demonstrate how the deliverables defined above are to be achieved, if applicable under consideration of further method-related requirements (technical-methodological concept). In addition, the tenderer must describe the project management system for service provision.

Note: The numbers in parentheses correspond to the lines of the technical assessment grid.

Technical-methodological concept

Strategy (1.1): The tenderer is required to consider the tasks to be performed with reference to the objectives of the services put out to tender (see Chapter 1 Context) (1.1.1). Following this, the tenderer presents and justifies the explicit strategy with which it intends to provide the services for which it is responsible (see Chapter Tasks to be performed) (1.1.2).

The tenderer is required to present the actors relevant for the services for which it is responsible and describe the **cooperation (1.2)** with them.

The tenderer is required to present and explain its approach to **steering** the measures with the project partners (1.3.1) and its contribution to the **results-based monitoring system** (1.3.2).

The tenderer is required to describe the key **processes** for the services for which it is responsible and create an **operational plan** or schedule (1.4.1) that describes how the services according to Chapter (Tasks to be performed by the contractor) are to be provided. In particular, the tenderer is required to describe the necessary work steps and, if applicable, take account of the milestones and **contributions** of other actors (partner contributions) in accordance with Chapter 2 (Tasks to be performed) (1.4.2).

The tenderer is required to describe its contribution to knowledge management for the partner (1.5.1) and GIZ and to promote scaling-up effects (1.5.2) under **learning and innovation**.

Project management of the contractor (1.6)

The tenderer is required to explain its approach for coordination with the GIZ project. In particular, the project management requirements specified in Chapter 2 (Tasks to be performed by the contractor) must be explained in detail.

The tenderer is required to describe its backstopping concept. The following services are part of the standard backstopping package, which (like ancillary personnel costs) must be factored into the fee schedules of the staff listed in the tender in accordance with Section 3.3.1 of the GIZ AVB:

- Service-delivery control
- Managing adaptations to changing conditions
- Ensuring the flow of information between the tenderer and GIZ
- Assuming personnel responsibility for the contractor's experts
- Process-oriented steering for implementation of the commission
- Securing the administrative conclusion of the project

Company Profile

The assigned contractor shall be available to perform the required tasks with the following specifications:

- A research institution/think tank/legal company/consulting firm/relevant entity with a high recognition and credibility record in the legal and policy sector, and at least 3 years of experience;
- Focus of work specifically on providing capacity building or alike for public officials and consumer protection agencies;
- Previous engagement with the ASEAN Secretariat is an added value;
- Extensive networks with national policymakers, high-level government officials, private sectors, and civil society;

The bidder is required to provide personnel who are suited to filling the positions described, on the basis of their CVs, the range of tasks involved and the required qualifications. The below specified qualifications represent the requirements to reach the maximum number of points.

Team leader (Senior Expert)

<u>Tasks of the team leader</u>

- Overall responsibility for the advisory packages of the contractor (quality and deadlines)
- Coordinating and ensuring communication with GIZ, partners and others involved in the project
- Personnel management, in particular identifying the need for short-term assignments within the available budget, as well as planning and steering assignments and supporting local and international short-term experts
- Regular reporting in accordance with deadlines

<u>Qualifications of the team leader</u>

- Education/training (2.1.1): University qualification: Master's degree in political

science, law, or related field
- Language (2.1.2): Good business language skills in English and a national language of ASEAN
- General professional experience (2.1.3): 15 years of professional experience in the political economy sector
- Specific professional experience (2.1.4): 10 years in competition and consumer protection sector
- Leadership/management experience (2.1.5): 6 years of management/leadership experience as project team leader or manager in a company
- Regional experience (2.1.6): 5 years of experience in projects in ASEAN region, of which 2 years in projects in selected ASEAN countries
- Development Cooperation (DC) experience (2.1.7): 6 years of experience in DC projects
- Other (2.1.8): Sound understanding of the political and economic context in ASEAN, as well as policy issues related to consumer protection and trade

Expert 1 (Junior Expert)

Tasks of expert 1
- Technical and administrative support to all activities, in close coordination with the team leader and GIZ

Qualifications of expert 1
- Education/training (2.2.1): bachelor or master's degree in political science or other relevant fields
- Language (2.2.2): Fluency in English (written and oral) and a national language of ASEAN
- General professional experience (2.2.3): 2-5 years of professional experience in the political economy sector
- Specific professional experience (2.2.4): 2 years in competition and consumer protection sector
- Leadership/management experience (2.2.5): N/A
- Regional experience (2.2.6): 2 years of experience in projects in ASEAN region, of which 1 year in projects in selected ASEAN countries
- Development Cooperation (DC) experience (2.2.7): 2 years of experience in DC projects
- Other (2.2.8): Ability to self-organize and follow up on processes and administrative issues

Soft skills of team members
In addition to their specialist qualifications, the following qualifications are required of team members:
- Team skills
- Initiative
- Communication skills
- Sociocultural competence
- Efficient, partner- and client-focused working methods
- Interdisciplinary thinking

3. Costing requirements

The contract shall be assigned as a lump sum package for the deliverables as outlined above.

In addition to the lump sum package upon approval from the commission manager of the project, and whenever deemed necessary to organise travel i.e. for the preparation and/or implementation of the assignment, any potential or incurring costs will be allocated under the flexible renumeration item.

Flexible remuneration item

Item	(EUR)
Flexible cost (for any anticipated travels, etc)	Lump sum

4. Prescribed tender format

The structure of the tender must correspond to the structure of the ToRs. In particular, the detailed structure should be organised in accordance with the positively weighted criteria in the assessment grid (not with zero). The tender must be legible (font size 11 or larger) and clearly formulated. It must be drawn up in English.

The complete tender must not exceed 10 pages (excluding CVs). If one of the maximum page lengths is exceeded, the content appearing after the cut-off point will not be included in the assessment. External content (e.g. links to websites) will also not be considered.

The CVs of the personnel proposed in accordance with Section 2 of the ToRs must be submitted using the format specified in the terms and conditions for application. The CVs shall not exceed 4 pages each. They must clearly show the position and job the proposed person held in the reference project and for how long. The CVs can also be submitted in English.

As the contract to be concluded is a contract for works, please offer a fixed lump sum price that covers all relevant costs (fees, travel expenses, etc.). The price bid will be evaluated on the basis of the specified lump sum price.