

**Increasing Climate Change Resilience of Maldives
Through Adaptation in the Tourism Sector (TAP)**

**Consultancy to Identify Gaps and Disincentives that Exist in the Policies, Laws and Regulations
Which Act as Barriers to Investing in Climate Change Adaptation in the Tourism Sector**

Terms of Reference

September 25th, 2012

Ministry of Tourism, Arts and Culture
Government of Maldives,
5th Floor, Velaanaage, Henveyru,
Male', Republic of Maldives

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Terms of Reference (TOR)

Background

Apart from the significantly large contribution of the tourism sector to the annual Gross Domestic Product (GDP), the sector is also one of the most important providers of employment in the country. The tourism sector also maintains critical economic linkages with remote and highly dispersed inhabited islands, and is linked to a diverse range of value chains and opportunities related to agriculture, fisheries, manufacturing, construction, transport, communication, energy, water and waste management.

Tourism sector's vulnerability to climate change

The tourism sector's vulnerability to climate change lie in the fact climate change undermines the resilience, viability and profitability of the industry as well as its value-chains both directly and indirectly. Major climate hazards to which tourism resorts in the Maldives are exposed regularly include windstorms, heavy rainfall, extreme temperatures and draught, sea swells and storm surges. Of these, the risks associated with swell waves, heavy rainfall and windstorms are believed to be the most serious, due to their high frequency occurrence and great potential for physical destruction and erosion. The combined effect of storm surges and tides, or storm tides, are perceived as especially destructive to the tourist resorts. The rising ocean water temperature, acidification and coral bleaching is expected to have a serious impact on snorkeling and diving – the two main tourist activities in Maldives.

Basis for consultancy

The initial stakeholder consultations and the inception workshop identified the basis and justification for the consultancy which is summarized below. Detailed information is provided in the Project Document, the Inception Workshop Report and in the Inception Report, which can be accessed at www.tourism.gov.mv.

- a) Existing tourism policies, laws and regulations do not integrate climate risk information, and hence it is not required, enforced or mandatory for the private sector to investment in climate change adaptation measures.
- b) With the exception of limited examples of cooperation between tourist resorts and communities on joint risk management efforts, most tourism operators, in spite of their concerns over the increased vulnerability to climate change, do not draw on, or comply with consistent guidance issued by the government for effective, no-regrets adaptation measures aimed at increasing resilience to climate-related risks and extreme events.

- c) National policies and laws regulating tourism operations do not contain functional references to climate-proofing and fail to incentivize private sector investment in climate risk management.
- d) Economic losses in tourism-related value chains from climate-induced hazards and extreme events are quantified only after catastrophic events.

Goals and Objectives

The overall goal of the TAP is to support Maldives to become climate resilient by integrating adaptation measures in development policies, plans, programs, projects and actions, while the overall objective of the project is to increase the adaptive capacity of the tourism sector in Maldives to respond to the impacts of climate change and invest in appropriate, no-regrets adaptation measures.

Expected outcomes

The goals and objectives of the project would be achieved through the delivery of the following three Outcomes.

1. Strengthened adaptive capacity of the tourism sector to reduce risks to climate-induced economic losses.
2. Reduced vulnerability of at least 10 tourism operations and 10 tourism-associated communities to the adverse effects of climate change.
3. Transfer of climate risk financing solutions to public and private sector tourism institutions.

Specific goals, objectives and outcomes are described in the Project Document and in the Project Inception Report. These reports, and other project related information can be accessed at www.tourism.gov.mv.

Purpose of the Consultancy

This consultancy is in partial fulfillment of the Activity 1.2 of the Approved Annual Workplan for the year 2012 (Output 1.2 of the Project Document), which is provided in the Project Inception Report. The purpose of the consultancy is to identify gaps and disincentives that exist in the policies, laws and regulations which act as barriers to investing in climate change adaptation in the tourism sector and to make recommendations for changes in policies and legal instruments to enable and incentivize private sector investment for climate change adaptation in the tourism sector.

Background to scope of works

Like many developing countries, Maldives is also inhibited from accessing opportunities created by relevant international regimes due to barriers in its domestic, legal and institutional frameworks, which have not evolved with climate change in mind. Legal Preparedness for climate change offers a range of services to support in-transition economies and developing

countries overcome legal and institutional barriers to address climate change and to access the opportunities created by the relevant international regimes. Law reforms that have been identified in the Project Document, which are deemed as necessary to improve the efficiency of existing regulations in furtherance of better climate change adaptation policy include:

- a) Environment and tourism laws.
- b) Economic and development planning laws
- c) Physical planning and zoning laws.
- d) Regulations on production, storage and distribution of freshwater.
- e) Regulations on collection, storage, treatment and discharge of waste water.
- f) Regulations on collections, storage and disposal of solid waste.
- g) Risk financing and insurance.

a) Environment and tourism laws

The tourism industry of Maldives is firmly based on coastal tourism, and has acquired fame as a coastal tourism destination. The country's pristine environment, the atolls, coral reefs and lagoons form the very basis of the country's unique tourism product. The development of tourism in Maldives is also based on sustainable exploitation of natural resources. The Environmental Protection and Preservation Act (Law No. 4/93), for example, requires that the country's natural capital be managed responsibly so that a stock of natural resources, no less than that which was inherited from previous generations, is left for the benefit of future generations. The same principle applies to the intangible resources that are sold as part of the tourist product, viz; the peace and harmony of the society, local culture, arts and crafts, traditions and livelihood. It is imperative, therefore, that strict measures are taken to minimize the negative impacts of the environment in the development of tourism, and on the society as a whole, without compromising the economic goals of employment and income generation.

Likewise, the Regulation on the Protection and Conservation of Environment in the Tourism Industry which is being enforced pursuant to Law No. 2/99 (Maldives Tourism Act) stipulates the standards for the protection and conservation of the tourism industry. This regulation covers protection of the environment during construction, protected species, planting of trees, use of fertilizers, and living species; waste management; storage of water; sewage and wastewater treatment and penalties for non-compliance. Specific activities covered by regulation include, dredging lagoons and reefs; reclamation of land; construction on the beaches and lagoons; construction of breakwaters, sea walls, revetments and groynes.

b) Economic and development planning Laws

Environmental sustainability and economic development are highly interlinked, which means adaptation cannot be addressed in isolation with economic and development planning. There is compelling evidence that climate change is already exacerbating issues created by developmental activities – a situation which is likely to worsen in the future. The tourism industry which is firmly based on coastal tourism is believed to be the first to suffer the adverse impacts of climate change. To help developing countries cope with, and adapt

to climate change, the Parties to the United Nations Framework Convention on Climate Change (UNFCCC) have committed to assist developing countries by establishing mechanisms for mitigation, adaptation and finance. However, legal barriers within the scope of existing economic and development planning laws stand in the way of tapping these and other internationally available resources.

c) Physical planning and zoning laws

Physical planning and zoning laws, regulations and guidelines are meant to protect human life and property. Presently, there are no guidelines or manuals on coastal development which is enforced by law. There is also no integrated shore-line management plan which is adhered to by the industry. Physical planning law reforms that have been identified as necessary to improve the efficiency of existing regulations in furtherance of better climate change adaptation policy include a review of buffer zones, beachfront and foreshore areas, a review of land zoning including zoning restrictions placed by planning laws to incorporate increased climate change events, and a review of the existing Draft National Building Code.. Lack of, or poor implementation or enforcement of existing laws, regulations and guidelines relating to land use planning and non-essential development in vulnerable coastal areas have resulted in maladaptation measures and practices. Lack human and financial capacity of the relevant regulatory agencies in ensuring implementation and enforcement of existing regulations further aggravates the problems.

d) Regulations on production, storage and distribution of freshwater

Lack of an appropriate, efficient and effective regulatory regime, lack of effective and affordable technologies for water recycling, lack of coherent policies and political-will, absence of accurate weather forecast and climate data, and absence of facilities to store, treat and distribute water are key barriers in mainstreaming adaptation measures in water resources management. The same is true for collection, storage, treatment and discharge of waste water, and for collections, storage and disposal of solid waste.

e) Risk financing and insurance

Stakeholder consultations with tourist industry representatives during the project preparation phase have revealed that lack of incentives and funding is a limiting factor for private sector investments in addressing environmental and climate-related risks and challenges. In Maldives, where the insurance market is quite limited, growing concerns over climate risks and impacts has increased demand for comprehensive risk assessments and strategies. Hence, risk transfer approaches such as the 'index insurance' offers new opportunities for managing climate risks and could play a key role in mitigating climate risks for the country's tourism industry.

Insurance plays a critical role in providing financial resilience to catastrophic weather events. Yet, Maldives do not have an act on insurance against climate related risks. Legal barriers to effective climate change adaptation in relation to insurance include; a) clarity on the coverage of the insurance, b) the clarity of the collateral benefits of insurance policies, and c) the clarity of the precautionary clauses attached to insurance coverage. These

clauses operate to exclude the liability of insurers such as a requirement to keep all reasonable precautions for the safety and protection of the building or site.

Scope of work

The scope of work for the consultancy will include, but not necessarily be limited to, the following activities:

- Review the TAP document and other relevant reports and studies conducted in Maldives that has relevance to the goals and objectives of the TAP.
- Review the Environmental Protection and Preservation Act (Law No. 4/93), the Maldives Tourism Act (Law No. 2/99), and all regulations and guidelines stipulated under these two acts which act as disincentives to effective climate change adaptation, or which limits the sector's capacity to invest in appropriate, no-regrets adaptation measures.
- Review policy, legal and institutional frameworks pertaining to economic and development planning, and identify key issues in the relevant legal instruments which increase the vulnerability of the tourism sector and its value chains to climate change.
- Review policy, legal and institutional frameworks pertaining to buffer zones, beachfront and foreshore areas, including zoning restrictions placed by planning and zoning laws, regulations and guidelines. In consideration of the types of developments in the buffer zones, and along the beachfronts and foreshore areas in resort islands, propose amendments to these legal instruments which could broaden zoning restrictions, which are necessary to protect the infrastructure from increased climate change events.
- Review the fiscal and monetary policies, laws and regulations in force in the country. Assess the barriers placed by these legal instruments in inhibiting private investment in mitigation and adaptation, their weaknesses and limitations in finding an appropriate solution to financing climate risks and climate insurance. Based on the reviews and assessments, provide recommendations to overcome legal and institutional barriers to adaptation and mitigation through participation in international mitigation schemes, get access to international climate funding, and opportunities available for developing countries to access new finance and capacity building support for low-carbon and climate resilient pathways that have co-benefits for socio-economic growth.
- Identify and assess coordination gaps and key barriers in mainstreaming adaptation measures in adaptation planning. Based on the reviews and assessments, propose necessary amendments to the economic and development planning laws and regulations which would facilitate mainstreaming climate change into economic and development planning, facilitate better climate change adaptation, facilitate climate smart planning in the tourism sector and help in alleviating existing vulnerabilities.
- Propose ways and means of enhancing the legal and institutional capacity of national and local climate change actors to implement adaptation and mitigation action plans.

Outputs

The consultant shall provide the following outputs:

- a) Conduct an initial review of the existing policies, legal instruments and institutional frameworks.
- b) Prepare and submit an Inception note.
- c) Prepare and submit a detailed review report.
- d) Prepare and submit a final report.

The reports should be presented in English, and in a concise style (rather than as an academic report) that could be used by the policy makers as well as the resort owners, investors and managers. The structure and the overall organization of the reports should be consistent with similar reports. The consultant may also submit a format for the structure and organization of the reports to the Project Management Unit (PMU) for approval.

The Initial Review

The initial review shall identify policies, legal instruments and institutional frameworks which have relevance to the issues identified under the headings a) project description, b) purpose of consultancy, c) background to scope of works, and d) scope of works of this TOR.

Following the initial review, the consultant shall prepare a provisional list of policies, laws, regulations, directives, decisions and other institutional issues, the priority policies, laws, regulations, directives, decisions and institutional issues which would be reviewed and studied in detail would be finalized in consultation with the National Project Director (NPD) and the National Project Manager (NPM). For each document reviewed, the consultant shall identify specific references to the text, and construct a brief summary record according to a template agreed with the NPD and the NPM. Where possible, links should be added to relevant policy websites.

The Inception Note

Following the initial review, the consultant shall;

- a) Study and review relevant background materials and hold initial discussions with project stakeholders;
- b) Write-up an Inception Note comprising:
 - i. the Consultant's understanding of the consultancy and prescribed tasks;
 - ii. the proposed detailed technical approach;
 - iii. the proposed detailed work plan/timeline;
 - iv. identification of issues crucial to the viability of the consultancy; and

- v. detailed comments on this TOR. Subsequently, if required and approved by the project team, the TOR can be adjusted in response to the Inception Note.
- c) Submit Inception Note to project team for approval or revision. The Inception Note should include short synthetic commentaries highlighting significant points and themes for each section.

Detailed review report

The Inception Note shall be followed by a Detailed Review Report, which will contain an assessment of the current gaps and barriers in the relevant legal instruments, which makes the tourism industry and dependent communities more vulnerable and less resilient; the current gaps and barriers in the relevant legal instruments, which limits the sector's capacity to invest in appropriate, no-regrets adaptation measures; the existing vulnerabilities, potential climate risks and climate-induced economic losses the tourism industry and the dependent communities are exposed to/ have to take/ or may incur as a result of not acting upon the recommendations of the report; recommendations for areas of future policy development; and amendments to the respective laws and regulations which are necessary to protect and sustain the tourism industry from the adverse impacts of climate change.

Final Report

The Detailed Review Report shall be followed by a Final Report which will provide an evidence base for subsequent evaluation of policy areas where future sectoral policy development could be achieved. The report shall also contain specific recommendations for policy changes, and amendments to the existing legal instruments.

Qualifications/Experience

a. Qualification and Technical Competencies.

- A Master's degree in law, or related field with bias in tourism and Environment.
- Knowledgeable and experience in climate change adaptation measures and economic costs of climate change.
- At least 5 years of experience at progressively senior levels in the formulating/ or drafting laws, regulation, guidelines related to tourism and environmental protection and management.
- Excellent communication skills (written & oral English) are an essential requirement.
- Sound analytic and technical competence in analyzing and proffering solutions to environmental problems.
- Knowledge of the tourism industry particularly the resorts and tourism dependent communities in small island states.

Deliverables

1. Draft Inception Note containing literature review & outcomes of stakeholder consultations.
2. Final Inception Note
3. Detailed Review Report
4. Final Report

	Deliverable	Deadline	Payment milestones
1	Draft Inception Note containing literature review & outcomes of stakeholder consultations.		
2	Final Inception Note		
3	Draft Review Report		
4	Final Report (including videos and audios of stakeholder consultations, discussions and interviews, etc.)		

Reporting & Payments

- The structure/format of the reports must be in line with internationally recognised standards. Suggested draft structure/format to be approved by project team;
- All draft documents should be in Microsoft Word and all final documents in Adobe Acrobat format; and
- All documents should be free from access restrictions.
- The payments shall be contingent upon the successful completion of the deliverables/milestones proposed by the consultant and agreed to by the National Project Director. The payment shall be made in Maldivian Rufiyaa (MVR).

Inputs

- a) UNDP Maldives
 - i) Provide relevant background information including copies of relevant documents;

- ii) Participate in the field visits;
 - iii) Provide input on draft documents:
- b) Government of Maldives
- i. Provide relevant background information including copies of relevant documents;
 - ii. Participate in the field visits;
 - iii. Provide input on draft documents:
 - iv. If required, make travel arrangements

Evaluation Criteria

The applications received will be evaluated using the following criteria and other relevant criteria as may be considered appropriate by evaluation / review committee:

- Relevant qualifications and years of experience.
- Relevant work experience (At least 8 years of experience in related work or profession.
- Depth of proposal in addressing the subject matter.
- Research and Analytic ability.
- Legal expertise, including knowledge of environment and climate change, livelihoods, and project management.

Duration and Location

The assignment lasts 60 days commencing from the date of the contract. The Consultant will be expected to travel to selected tourist resorts, safari boats and tourism dependent communities (inhabited islands) in Maldives in the course of the baseline survey.

Application Procedure

Interested consultants should submit a detailed proposal detailing the problem, methodology, work plan, and staff profile amongst others to the PMU, Planning Section. Ministry of Tourism, Arts and Culture on 27th September 2012 to:

Mr. Moosa Zameer Hassan,
National Project Director,
Planning Section,
Ministry of Tourism, Arts and Culture,
5th Floor, Velaanaage,
Male', Republic of Maldives.

Email: zameer@tourism.gov.mv or Farooq@tourism.gov.mv

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