TERMS OF REFERENCE FOR THE ENGAGEMENT OF A CONSULTANT FOR THE IMPLEMENTATION PLAN FOR PHASE TWO OF HARMONIZATION OF POLICIES, LAWS & REGULATIONS TO ENHANCE INVESTMENT IN TRANSBOUNDARY INFRASTRUCTURE IN AFRICA (PROJECT 16-16-16)
ABOUT IDEP

The African Institute for Economic Development and Planning (IDEP) is a pan-African institution created in 1962 by the General Assembly of the United Nations. It began its operations in 1963 with the express purpose of accompanying and supporting newly independent African countries in their quest to build their human resource capacities as a necessary prerequisite for sustaining independence and promoting socio-economic development. Its main activities, derived from its mandate, are organized around a portfolio of capacity development and training programmes as well as a set of policy research and dialogue initiatives. It also offers on-demand advisory services as a forum for the exploration of alternative thinking in Africa.

The institute functions as a subsidiary of the United Nations Economic Commission for Africa (UNECA), and is responsible for sub-programme 8 of the Commission that pertains to development planning and administration. It is headquartered in Dakar (Senegal) and its membership comprises all the 54 African States. IDEP is the pioneer pan-African institution established on the African continent for the building, upgrading and / or updating of the technical aptitudes and proficiencies of mid-career and senior government officials in economic management and development planning.

BACKGROUND TO THE ASSIGNMENT

In 2013, African heads of state requested for a comprehensive study of the available domestic resources that could be used to fund Africa's development. The study, Mobilizing Domestic Resources for Implementing NEPAD projects and programmes: Africa Looks Within (2014), shows that Africa has a good potential to raise enormous domestic resources and identifies nine instruments through which African countries can do this. The report served as a background document to the Dakar Financing Summit (DFS), where 16 transboundary infrastructure projects (identified at an experts’ meeting in Lusaka) were endorsed by African heads of state and the Dakar Agenda for Action (DAA) was approved to accelerate private sector financing of these projects.

Earlier, as a technical input into DFS, ECA had commissioned a study into the various policy, legal and regulatory frameworks pertaining to infrastructure financing in Africa. That study gave an in-depth look into cases in four countries: South Africa, Nigeria, Côte d'Ivoire and Egypt and, among others, outlined the different regimes which affect private sector investment in transboundary infrastructure. These differences reflect, in some cases, colonial experiences, national priorities/orientations, political configuration, management and leadership communication, language/customs, etc. But in all cases they
are practical infrastructure projects which connect several countries and, ipso facto, are subject to multiple legal, administrative and regulatory regimes.

About 25 global experts (including lawyers, regulators, investors, fund managers, management and leadership communication experts etc.) were later convened by ECA to review the technical study and to make concrete recommendations on how to respond to issues, including the discordance and disharmony in policies, laws and regulations affecting infrastructure financing in Africa, relative to the 51 priority projects of PIDA and with particular attention to the 16 DFS projects. Among others, the experts recommended that a common framework be designed to enhance private sector financing of transboundary infrastructure projects in Africa.

Later, in January 2015, the 24th Ordinary Session of the Assembly of the African Union, meeting in Addis Ababa, took a decision (Assembly/AU/Dec.563 (XXIV) calling on ECA and NEPAD Agency to propose a regional framework to harmonize policies, laws and regulations pertaining to private sector investment in transboundary infrastructure projects.

The decision recalls an earlier one (Assembly AU/Dec 540 (XXIII) in which the heads of state validated the findings of the study by ECA and NEPAD Agency on domestic resource mobilization in Africa. While this was a regional project, it was implemented on a subregional basis, beginning with a comprehensive mapping of all the laws, policies and regulations pertaining to private sector investment in transboundary infrastructure in ECOWAS and SADC and evolving a regional framework that would enhance private sector investment.

The exercise yielded a continental framework (model law) which consists of sections on project regulators, anti-corruption and transparency standards, free movement of entities, personnel, goods and services; immigration, procurement, settlement of disputes, and so on. In January 2018, the Model Law was submitted to African Heads of State at the AU Summit. In adopting it, the Heads of State. Indeed, the Assembly of Heads of State:

“WELCOMES and ENDORSES the final version of the Model Law for Trans-boundary Infrastructure Projects in Africa (PIDA Model Law) developed by UNECA in response to the Decision Assembly/AU/Dec. 563 (XXIV) and calls on Member States to consider the PIDA Model Law as part of the tools for enhancing private sector investment in transboundary infrastructure in Africa and REQUESTS NEPAD Agency, United Nations Economic Commission for Africa (UNECA) and the Regional Economic Communities to assist Member States in domesticating the Model Law within their respective national legislative bodies.”
In this regard, ECA and partners are required to assist member States in domesticating the Model Law.

THE CONCEPT OF DOMESTICATION

Generally, a model law is expected to be domesticated by member states based on there peculiar needs, limitations, aspirations and laws. One of the most potent ways of domestication is to secure buy-in of the general population and targeted institutions in the affected countries. Apart from this sphere, the project will also focus on building necessary skills to sustain interest, desired action and results.

ACTIVITIES

The following key activities are envisaged:

1. Propose a methodology for a framework for national ownership of model law on investment in transboundary infrastructure.

2. Propose viable PPP models unique to specific transboundary infrastructure projects in Africa.

3. Engagement with state and non-state actors to enhance understanding and familiarity with decisions of heads of state on transboundary infrastructure projects and model law that governs investment in transboundary infrastructure in collaboration with IDEP.

4. Access relevant structures within government, private sector and civil society for collaboration on utilization of model laws on transboundary infrastructure.

5. Align strengths of government agencies and private sector towards a useable grid for national model law development and utilization for transboundary infrastructure.

6. Organize skills enhancement sessions for state and non-state actors on conception and utilization of model law on transboundary infrastructure projects.

MODALITIES OF WORK

The assignment will be organized around projects, readiness or country leadership. Where necessary, ECA and NEPAD Agency shall provide support especially with regards to country facilitation. The skills development, High Level Policy Dialogue in regards to an aspect of domestication, risks, understanding will be organized in partnership with IDEP.
IDEP, guided by the Capacity Development Division of the ECA, shall engage consultants or consulting firms with adequate language, management, and leadership credentials, including familiarity with project countries, for these assignments.

QUALIFICATION AND EXPERIENCE
This project can be handled by individual consultants or consultancy firms led by duly qualified personnel. The following are the minimum requirements:

1. Ability to provide a coherent project proposal that outlines ways to achieve set objectives and accomplishments.

2. Familiarity with decisions of heads of state, and relevant organizations and institutions of the African Union and UNECA, especially related to transboundary infrastructure.

3. Deep knowledge of African countries especially the project countries which are most directly concerned with transboundary infrastructure projects.

4. Knowledge and understanding of contexts of state and non-state actors in African countries, especially private sector bodies.

5. At least two working languages, English and French, are required.

6. Minimum of 10 years of work experience in the relevant field with substantial stakeholder engagement experience.

7. Strong analytical skills with emphasis on assessments and data collation.

8. Knowledge of African institutions working in the development field is highly desirable especially the African Union, NEPAD and the United Nations.

9. Ability to work independently and creative, with delegated authority.

TIME FRAME AND DURATION OF THE ASSIGNMENTS
The project is expected to begin ASAP, but not later than June 2018.

The assignment will be expected to be completed within three months of signing contract.
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<tr>
<th>Target Countries</th>
<th>Cote d’Voire, Ghana, Senegal and Kenya</th>
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<tr>
<td>Targeted projects</td>
<td>Abidjan-Ougadougou Road/Rail project; Abuja-Lagos Coastal Corridor; Sabangalou Hydopower project and Modernization of Dakar-Bamako Rail Line.</td>
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COUNTRY LEADERSHIP

In the implementation of this project, the beneficiary countries shall be fully involved in the process and consultation. Countries shall provide leadership and their guidance will animate the work and implementation.

OBJECTIVES OF THE CONSULTANCY

The overall objective is to enhance private sector participation in transboundary infrastructure in Africa. This will be done with two vehicles: de-risking of targeted projects and mobilization of domestic resources. Specifically, the project will be aimed at the following objectives:

1. Make the recommendations of "16" known/accessible to targeted private sector actors in 16 African countries.
2. Assist interested private sector entities in domesticaing the model law on enhancing private investment in transboundary infrastructure in Africa.
3. Design an engagement mechanism with national infrastructure entities and RECs to secure appropriate incentives for investment in transboundary infrastructure

TRAVEL

All consultancy travels for the project shall be guided by UN regulations. Tickets and DSA shall be made available by IDEP upon CDD’s advice.

OPERATIONAL COLLABORATION

Although, the Capacity Development Division is leading the implementation, the work shall be done in collaboration with NEPAD Agency, IDEP, RITD and other partners dedicated to the issue of transboundary infrastructure for enhancing regional integration.
HOW TO APPLY

Interested persons are requested to forward their technical proposals including a delivery schedule, methodology, references of similar work done previously, and a financial proposal in a separate envelope to the address below:

IDEP
Rue de 18 juin
BP3186, CP 18524
Dakar, Senegal;
Attn: Ms. Amsatou Ndiaye

Technical and Financial proposals sent by email should be in pdf format and addressed to the following address amndiaye@unidep.org

In evaluating proposals, 70% shall be attributed to the technical proposals whilst 30% shall be attributed to the financial proposal.

All proposals should be sent not later than 24th April 2018.

CONTACTS:

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