

APPENDIX A: Terms of Reference for the Study

Rationale and Objectives:

The Government strategy and program for the reconstruction and development of the marine fisheries sector aims at *building back better*. They seek to rehabilitate the fishing communities beyond their pre-tsunami poor living conditions and to restore the fishing industry beyond their pre-tsunami levels of wealth generation. Whereas during the short-term tsunami rehabilitation phase (2005-2006) the Government decided to focus on awareness creation and the avoidance of inadvertently rebuilding an excessive fleet size, the medium and long-term activities (2006-2009) will focus on the strengthening of appropriate institutional structures and capacities for fisheries management that will include vessel registration, fishing operations licensing and establishment and implementation of community-based fisheries management systems.

A foremost requirement to achieve these objectives is to create the conditions that are conducive for the sustainable management of Sri Lanka's fisheries and the activities within the coastal zone. Towards this end the Government has requested the FAO to assist as soon as possible in carrying out a capacity assessment to review and analyse the existing government capacities relating to fisheries and institutional arrangements relating to fisheries and in particular ascertain to what extent they would be adequate and suitable to support Fisheries Management in Sri Lanka

The outputs of this institutional analysis will enable the MFAR in obtaining a baseline from which the capacities of its departments, agencies and institutions and corporations that are responsible for the provision of sustainable and responsible management of the fisheries sector can be elaborated and strengthened. It aims to promote the principles of the FAO Code of Conduct for Responsible Fisheries (CCRF) and international standards of behaviour for responsible fisheries management practices as a benchmark against which the Governments can measure the impacts of future longer-term fisheries and aquaculture development programs.

The capacity assessment has been identified and considered essential by the Government of Sri Lanka to achieve the longer-term objectives of the reconstruction and development program for the marine fisheries sector. The project is also closely connected with the government's priorities of the optimum utilization of the nation's resources and attaining food security.

The **objectives** of the capacity assessment study are:

- to conduct a strategic and operational review of Sri Lanka's Ministry of Fisheries and Aquatic Resources with particular reference to institutional arrangements and mechanisms that are concerned with implementation of the current fisheries legislation;
- to define the major consequences of the proposed legislation on regulatory frameworks for fisheries, aquaculture, and integrated coastal area management.
- to form a baseline from which the capacities of the departments and corporations to provide sustainable and responsible management of the fisheries sector in the future can be elaborated,
- to create and build awareness on the internationally accepted principles and practices concerned with responsible fisheries management, and
- to assist MFAR in developing a program to transform desired outcomes into the development of a particular set of institutional arrangements.

Background:

The government institution responsible for fisheries management and development is the Ministry of Fisheries and Aquatic Resources (MFAR) which is comprised of two departments, 3 agencies and 3 corporations as follows:

- Department of Fisheries and Aquatic Resources (DFAR);
- Coast Conservation Department (CCD);
- Ceylon Fisheries Corporation (CFC);
- Ceylon Fisheries Harbours Corporation (CFHC);
- National Aquatic Resources, Research and Development Agency (NARA);
- National Institute of Fisheries and Nautical Engineering (NIFNE);
- National Aquaculture Development Authority (NAQDA); and
- Ceynor Foundation.

All these agencies/institutions have some role to play in the fisheries management process in Sri Lanka and the extent and the significance of the respective roles vary with their mandates as well as their operations at the national and district levels and their involvement with fishing communities. Sri Lanka has prepared a new draft fisheries legislation (*Fisheries Management and Development Act*) which if approved by Parliament will replace the *Fisheries and Aquatic Resources Act No.2 of 1996* and the *Foreign Vessels Regulation act No. 59 of 1979*.

There is a growing concern regarding the non-effectiveness of current management arrangements as well as the capacity of the Ministry to manage the fisheries sector in a sustainable manner while providing maximum socio-economic benefits to stakeholders. Like any other management institution MFAR is dynamic by nature and it needs to be continuously monitored, evaluated and for adjustments to be made as necessary to ensure ongoing effectiveness and legitimacy in particular with regards to the emerging management needs. Since the different departments and agencies under MFAR differ in terms of their rules, procedures and mechanisms and the manner in which they are structured (both at national and district level) the overall effectiveness of MFAR is highly dependent upon the appropriateness of its separate components and the way in which these components interact. Also the perception of the legitimacy of the institutions will affect the extent to which the various agencies and departments under MFAR will be efficient in carrying out their fisheries management responsibilities.

The capacity assessment will also include an institutional analysis of the national fisheries policy and its institutional arrangements for implementation and is expected to contribute to a clearer understanding and definition of the scope and content of a single fisheries management framework as backbone to the new fisheries legislation; it will provide the Government with a diagnostic study, planning tools, recommendations and an action plan to carry forward fisheries management. The project will assist in advising the Ministry on ways to *build back better* to benefit all parties, some one million directly and indirectly dependent upon the sector.

Outputs:

The aforementioned objectives shall be achieved by the following **outputs**:

An assessment report which:

1. Summarizes MFAR institutional set-up and the responsibilities and capacities of its agencies with regard to fisheries management;
2. Makes recommendations for improvements (including capacity building and reforms)
3. Reviews and defines the major consequences of the proposed legislation on co-management in regard to fisheries, aquaculture, and integrated coastal area management.
4. Needs Identified for building capacities in the Department of Fisheries and Aquatic Resources (DFAR) on all levels (national and district) as well as among support agencies like National Aquatic Resources Research and Development Agency (NARA), National Institute of Fisheries

and Nautical Engineering (NIFNE), Coast Conservation Department (CCD) and Ceylon Fishery Harbour Corporation (CFHC) identified.

5. Costs identified in respect of the various administrative actions and any human resource capacity needs in support of new fisheries management.

The activities will comprise:

An Inception Workshop (to explain the objectives and plan of the assessment and to introduce the team) and a final workshop held to present the findings of the Assessment.

Fishers groups participating in analyzing and defining MFAR roles and making recommendations for enhancement, e.g. public administration of fisheries, linkages and “good practice” management practices to ensure consistency, transparency and responsibility in sustainable management of the fisheries sector and the role of the fishers groups in this process.

A Work Plan prepared and formulated for promoting fisheries management based on internationally accepted principles of fisheries management and co-management concepts.

Duration – 4 months

Consultancy/Team Composition:

The Assessment will be conducted by an Assessment Team under the general guidance of the FAO Fisheries Department in Rome and the ICEIDA Country Office in Colombo and in close collaboration with FAO and ICEIDA staff and consultants in Sri Lanka. The **Assessment Team** will be comprised of the **International Team Leader, an International Fisheries Management Specialist, a Capacity Development/HRD Specialist and a Senior Government Official**. This Team will provide assistance to the Sri Lankan Government, in particular to the Ministry of Fisheries and Aquatic Resources (MFAR), in carrying out the institutional analysis and capacity assessment for responsible fisheries management.

2. TOR of the Team Leader

An internationally recruited Team Leader will liaise with the MFAR ahead of the mission to clarify the terms of reference and obtain advance material. The Team Leader will be responsible for the:

- 1) overall coordination of the mission and its team;
- 2) finalization of the end of mission report;
- 3) liaising with MFAR and reporting major results of the mission back to MFAR officials; and
- 4) achieving the outputs of the mission.

More specifically the Consultant shall:

- Discuss with MFAR its expectations from the capacity assessment and build consensus among MFAR departments and agencies regarding the expected results and how they may be used to improve existing arrangements in support of fisheries management;
- On the basis of existing legislation governing fisheries management and consultations with MFAR institutions and agencies document the outcomes the Government wishes to see for fisheries management and sustainable use of the fishery resources;
- Review and define the major consequences of the proposed legislation on existing legal and regulatory frameworks for fisheries, aquaculture, sanitary requirements and relevant MCS, marine and environmental and tourism laws on existing regulations
- Review and define the major consequences of the proposed legislation on the role of MFAR and DFAR in promoting community participation in fisheries management and identify measures towards this end;

- Make recommendations to MFAR for improving and/or changing its operational structure in support of effective and responsible fisheries management;
- Define where in the future interactions between existing institutions may or should develop, and assess what changes are needed in existing institutions and procedures to facilitate such interaction;
- Document main fisheries management strategies and programs in the fisheries sector (e.g. new fisheries development plan and post-tsunami strategy for reconstruction of the marine fisheries sector) and identify financial resources required to support their implementation, including human resources and training needs;
- Identify needs for building capacities at the Department of Fisheries and Aquatic Resources (DFAR) on all levels (national and district) as well as among support agencies like National Aquatic Resources Research and Development Agency (NARA), National Institute of Fisheries and Nautical Engineering (NIFNE), Coast Conservation Department (CCD) and Ceylon Fishery Harbour Corporation (CFHC).
- Review and define in which areas future consultation and interaction between the public and private sectors would be desirable or necessary, such as fishing vessel record system and/or registry, collection and analysis of fish catch data, fishing zone demarcations, foreign vessel licensing conditionality, export strategies, planning and construction of local infrastructure, fish collection procedures, quality control and implementation of HACCP procedures, MCS implementation etc.

Timing:

It is anticipated that 4 person month of professional work will be required from the Team Leader. The contract would begin in2007 with the duty station being Colombo, Sri Lanka and travel within the country as required.

Qualifications:

The International Team Leader will be a senior sector development specialist with extensive experience in the planning, managing, and assessing fisheries and/or agriculture programs in developing countries. He/she should have demonstrated experience (+ ten years) in providing advice in management and development of similar programs. In addition he/she should have background experience in drafting and implementing fisheries legislation and regulations.

Reporting

- 1) Prepare an inception report at the commencement of the capacity assessment including a detailed work plan with milestones and performance indicators
- 2) Prepare and present an End-of –mission Report setting out the achievements, difficulties encountered and the recommendations for follow-up-activities. A draft report to be submitted to the ICEIDA Country Office and to the FAO Coordinating and Technical Support to Tsunami Rehabilitation (CTSU) in Rome before leaving the field. The Final report should be submitted to CTSU for technical clearance not later than one month after completion of field work.

3. TOR of the Fisheries Management / Coastal zone specialist

The Fisheries Management Specialist (FMS) will work under the supervision and the coordination of the FAO Team Leader (as described in the Terms of Reference of Team Leader for FAO supported Capacity Assessment) and report to him and the CTSU at FAO Headquarters. He will provide the Team with the expertise on internationally accepted fishery management principles and practices and the possibility and the feasibility of their application in Sri Lanka.

More specifically the FMS shall:

- provide an analytical review of the provisions relating to fisheries and coastal zone management in the existing laws and regulations;
- evaluate fisheries management and coastal initiatives undertaken under the existing laws and regulations
- identify the weaknesses in the existing legislation and the extent to which such weaknesses have been rectified in the proposed legislation or what further issues needs/weaknesses to be addressed;
- check to what extent the objectives and provision of the draft Bills and existing legislation supports the results, activities and indicators of the MFAR log frame.
- analyse the nature and the effectiveness of the current enforcement mechanisms and their impact on fisheries management and measures required for its strengthening;
- identify tools (other than legislative measures) which have been successfully used in other countries/situations to promote fisheries management and which could be effectively be applied in Sri Lanka;
- make recommendations for upgrading fisheries and coastal zone management systems based on co-management principles and using the identified management tools;
- set out in clear terms the responsibilities/obligations of the agencies/institutions involved and their interactive roles in relation to fisheries management;
- provide an assessment of the proposed fleet and fisheries development proposals outlined in the Log Frame against the background of the proposed recommendations for fisheries management
- contribute as required to the final workshop; and
- supervise and provide guidance to the national consultants supporting the HR and Legal assessment and government counterparts.

Reporting:

- workshop outputs as required by the Team Leader;
- a report covering the items in the terms of reference to be submitted to the Team Leader with copy to the CTSU at the end of the assignment; and
- the section on fisheries management for the final assessment report as required by the IA Team Leader.

Qualifications:

Higher University degree in Fisheries or Natural Resources Management with 10 years working experience in fisheries management preferably with at least 5 years in a developing country.

Duration of the assignment: One person months (30 days) with the possibility for extension

Duty Station: Colombo, Sri Lanka and within the country as required and in connection with the assessments, studies, training, monitoring etc.

4. TOR of the Capacity Development/HRD Specialist

Under the general guidance of the FAO Fisheries Department in Rome and the ICEIDA Country Office in Colombo and the direct supervision of the Team Leader and in close collaboration with FAO and ICEIDA staff and consultants in Sri Lanka, the capacity building and institutional development specialist shall provide assistance to the Sri Lankan Government (MFAR, DFAR) in analyzing and reviewing institutional and human resource capacity in relation to institutions involved in fisheries management in Sri Lanka.

More specifically the Consultant shall:

- along with the team members, contribute to the comprehensive identification of institutions and stakeholders involved in fisheries and aquaculture governance and management (with a specific focus on those agencies and departments under MFAR mandated to provide training and capacity building in the sector);
- review current HR management capacity in its current cultural and historical context in key institutions (MFAR, DFAR). This should include (but not be restricted to) areas such as policy/strategy linkages, HR planning, job analysis, recruitment and selection, performance management, appraisal, career development, pay management and training and development;
- review recent initiatives for capacity development of key agencies
- with regard to the latter, assess remaining gaps in post-tsunami rehabilitation and development in fisheries and aquaculture and the implementation of Fisheries and Aquatic Resources Act;
- carry out a comprehensive TNA with personnel of the key agencies (DFAR, NARA, NIFNE, NAQDA, CCD, CFHC, CFC) and stakeholders responsible for providing capacity building and training in the fisheries and aquaculture sectors (at central and at least 3 District level), using workshop, focus group and interview approaches as appropriate;
- prepare a case study on HR management in its current and historical context and how it applies to community level in at least three districts;
- design and implement a short (2 day) training course in training management and training needs assessment for 30 government and 10 private sector counterparts who will be involved in supporting the Training Needs Assessments (TNA)
- prepare a draft capacity building and training development plan (as a discussion document) for the key stakeholders in fisheries and aquaculture governance and management institutions covering curriculum timing and estimated costs;
- contribute as required to the final workshop; and
- supervise the work of national consultants supporting the HR assessment and government counterparts.

Reporting:

- A brief report for each workshop or training event carried out (including participants, agenda, trainers/facilitators and outputs); and
- a section on capacity building, HR and training needs for the final assessment report as required by the IA Team Leader.

Qualifications: University degree in HR training and development/management or equivalent experience, and a minimum of ten years of working experience in capacity building.

Duration of the assignment: 90 days.

Duty Station: Colombo, Sri Lanka and within the country as required and in connection with the assessments, studies, training, monitoring etc.

5. TOR of the Legal specialist

Under the general guidance of the FAO Fisheries Department Tsunami Task Force Focal Point and the Coordination and Technical Support Unit to Tsunami Rehabilitation and Development in Fisheries and Aquaculture (CTSU), in collaboration with FAO staff and consultants in Sri Lanka, the Consultant will provide assistance to the Ministry of Fisheries and Aquatic Resources (MFAR) in carrying out a capacity assessment of the MFAR. The Legal Specialist (FMS) will work under the supervision and the coordination of the Team Leader (as described in the Terms of Reference of Team Leader for FAO supported Capacity Assessment) and report to him in the country office in Sri Lanka to which he will belong administratively. He will provide the Team with the legal expertise on fisheries legislation and will work with the team to ensure that key recommendations can be initiated through existing laws, or will alternatively identify areas where the legislation requires amendment.

More specifically the Legal Specialist shall:

- review draft legislation to identify possible impacts, obtaining and absorbing existing laws/regulations for fisheries, aquaculture and identify major changes, to legislation to the current regulatory frameworks for fisheries management and aquaculture;
- through consultation with the legal draftsmen, identify any specific bottlenecks and how these can be resolved with technical assistance by FAO;
- make recommendations for change in the event that the existing legislation has some shortcomings, in consultation with MFAR and draft the appropriate insertions;
- make recommendations for change in the event that the consultants recommendations can be implemented;
- prioritize the regulatory, institutional and funding actions needed to fully implement the new legislation; and
- in collaboration with the other consultants draft a 1-2 year implementation schedule of the new legislation, linked to estimates of the budgetary and staffing consequences of such implementation.

Reporting:

- workshop outputs as required by the Team Leader;
- a report covering the items in the terms of reference to be submitted to the Team Leader with copy to the CTSU at the end of the assignment; and

- the section on legal issues for the final assessment report as required by the IA Team Leader.

Qualifications: University degree in Law or equivalent experience, and a minimum of ten years of working experience in capacity building.

Duration of the assignment: 30 days.

Duty Station: Colombo, Sri Lanka and within the country as required and in connection with the assessments, studies, training, monitoring etc.

5. TOR of the Senior Government Official

The Senior Fisheries Ministry Official will be nominated by the Secretary and will function on a full-time basis during the duration of the Assessment and will provide the Team with the Ministry perspectives in regard to Fisheries Management.

More specifically he will:

- 1) Represent the Ministry on the Assessment Team
- 2) Act as the liaison/link between the Ministry and the Team
- 3) Facilitate the inflow of information from the MFAR and the agencies
- 4) Organize meetings/discussions for the team with MFAR and other agencies and stakeholders