

# PARTNERSHIP FOR MARKET READINESS- Thailand

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(Ref. No. CS-6) Terms of Reference (ToR) for

## A legal study to support the readiness preparation for the Energy Performance Certificate (EPC) scheme in Thailand

### 1. Background of the Partnership for Market Readiness (PMR) Programme

The Government of Thailand, through Thailand Greenhouse Gas Management Organization (Public Organization) or TGO, with support from the World Bank, is currently exploring potential new domestic market-based instruments to support cost-effective greenhouse gas emission reduction in Thailand, with the aim to contribute to the achievement of Thailand's national climate change policies and plans, as well as to assist in the implementation of its nationally determined contribution (NDC) under the Paris Agreement.

In this connection, TGO, in collaboration with the Department of Alternative Energy Development and Efficiency (DEDE), the Ministry of Energy, is conducting preparatory study, development and assessment of key components of the voluntary Energy Performance Certificate (EPC) scheme, which is planned to be a "voluntary target-and-reward scheme" targeting at designated factories and buildings (DF&Bs) of intensive energy consumption sectors, which contribute to substantive GHG emissions in Thailand.

The preparatory work on the EPC scheme covers six activities as follows:

- Activity 1* Reviewing and analyzing policies, laws, regulations and institutional arrangements required in order to implement the EPC;
- Activity 2* Developing the MRV system for the EPC in Thailand;
- Activity 3* Assessing the DF&Bs energy management system and updating Specific Energy Consumption (SEC) for 11 sectors<sup>1</sup>;
- Activity 4* Verifying energy data of participating DF&Bs and setting up the baseline;
- Activity 5* Analyzing target setting methods for different industrial sectors and buildings; and
- Activity 6* Analyzing potential performance-based incentive and pricing mechanism for EPC.

This Terms of Reference (TOR) aims to fulfill the review and analysis of policies, laws, regulations, and institutional arrangements for the EPC scheme, as indicated in *Activity 1*, in order to provide legal recommendations to support the establishment and implementation of the scheme in Thailand. (The work under *Activity 2 to 6* is covered in separated TORs and is not within the scope of this TOR)

Based on the above, Thailand Greenhouse Gas Management Organization (Public Organization), as the Implementing Country Participant for the World Bank's Partnership for Market Readiness (PMR) Programme<sup>2</sup>, is seeking a consultancy to undertake the assignment as defined herein.

### 2. Objective of Consultancy

The objective of this Assignment is to support the Government's effort in its consideration for the establishment and implementation of the EPC scheme in Thailand, in order to support national mitigation actions, as well as to assist in the implementation of the NDC. The Assignment shall aim:

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<sup>1</sup> (i) Cement (ii) Ceramic (iii) Iron & Steel (iv) Petro-chemical (v) Paper (vi) Food & Beverage (vii) Thermal power plant (viii) Department store (iv) Office (x) Hotel and (xi) Hospital.

<sup>2</sup> More information on the PMR is online available at: <http://www.thepmr.org>.

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- (a) To support and enable the Government to undertake necessary and appropriate legal preparation required for the establishment of the EPC scheme in Thailand; and
- (b) To support and enable the Government to make practical formulation of appropriate policies, laws, regulations and institutional arrangements for the effective implementation of the EPC scheme, in line with national circumstances.

### 3. Scope of Work

The Assignment has the following components:

- 3.1 Review of existing policies, laws, regulations and institutional arrangements in four selected countries relating to the EPC or similar energy efficiency schemes
- 3.2 Legal assessment of existing policies, laws, regulations and institutional arrangements in Thailand which can be of relevance to the EPC scheme
- 3.3 Proposed legal and institutional frameworks for the EPC scheme
- 3.4 Proposed draft laws and regulations for the EPC scheme

### 4. Specific Tasks to be Carried Out

#### 4.1 Defining scope and boundary

- The Consultant shall work actively with TGO, DEDE, and other relevant stakeholders to establish mutual understandings and synergies among them, specifically in the context of the preparatory processes for the implementation of the EPC scheme.
- The Consultant shall work under the supervision of the EPC Working Group and the Greenhouse Gas Legal Framework Working Group, established by the TGO Board of Directors.
- In the undertaking of its assignment, the consultant shall prepare necessary documents and materials for the consultation meetings and coordinate for discussions in the meetings, in order to gain information, views and opinions from focused public and private stakeholders.

#### 4.2 Review existing policies, laws, regulations and institutional arrangements in selected countries relating to the EPC or similar energy efficiency schemes

The consultant shall conduct literature reviews and compile, review, and comparatively analyze existing policies, laws, regulations and institutional arrangements in relation to the EPC or similar energy efficiency scheme in selected countries, which shall include:

- (a) The Perform Achieve and Trade (PAT) scheme, applied in India;
- (b) Target Management System (TMS), applied in the Republic of Korea; and
- (c) Two other relevant schemes, selected by the Consultant, and approved by TGO

The analysis shall cover, *inter alia*, legal aspects of the following components of the scheme:

- (a) Reporting requirements;
- (b) Target setting;
- (c) Allowance allocation;
- (d) MRV system;
- (e) Registry; and

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- (f) Incentive/supplementary measures for the effective implementation of the EPC scheme

The analysis shall assess how existing policies, laws, regulations and institutional arrangements in selected countries facilitate or impede the implementation of the schemes, as well as comparing the advantages, disadvantages, key success factors and lessons learnt from the application of existing policies, laws, regulations and institutional arrangements in these countries

## **4.3 Conduct legal assessment of existing policies, laws, regulations and institutional arrangements in Thailand which can be of relevance to the EPC scheme**

Building on the review and analysis from 4.2, The Consultant shall identify and conduct legal review and assessment of existing policies, laws, regulations and institutional arrangements in Thailand, including those that are being currently under consideration for revision or reform, which can be of relevance to the EPC scheme, and identify gaps, barriers, challenges and opportunities to accommodate the establishment and implement the scheme.

The assessment shall cover, *inter alia*, legal aspects of the components as indicated previously in 4.2, and shall draw technical information/inputs/recommendations from existing and ongoing technical studies of the EPC scheme conducted by TGO and DEDE.

## **4.4 Propose legal and institutional frameworks for the EPC scheme**

Based on the findings from 4.3, the Consultant shall propose recommendations on the formulation of comprehensive legal and institutional frameworks for the EPC scheme, including:

- (a) Whether there is a need for amendments to existing legal instruments;
- (b) The process required for such amendments;
- (c) Whether there is a need to develop new legal instruments, if appropriate;
- (d) The process required for enacting such legal instruments; and
- (e) Structural options for the institutional arrangements for the EPC scheme

The recommendations shall covers, *inter alia*, the components indicated in 4.3. The legal instruments to be considered include Acts, Royal Decrees, Ministerial regulations, rules and notifications. The Consultant shall provide rationales behind its recommendations on each aforementioned issue, and make reference to how national circumstances are taken into account.

The Consultant shall provide the recommendations to TGO for review and comment, and present the reviewed recommendations at the first consultation meeting organized by TGO.

## **4.5 Propose draft laws and regulations for the EPC scheme**

Based on the recommendations from 4.4, and taking into account inputs received from the first consultation meeting, the Consultant shall prepare draft laws and regulations for the establishment and implementation of the EPC scheme in Thailand, which can be in the form of amendments to existing laws and regulations, subject to the findings in 4.4, along with explanatory notes of the aforementioned draft.

The Consultant shall provide the draft to TGO for review and comments. After which the Consultant shall:

1. Present the reviewed draft at the second consultation meeting organized by TGO.
2. Post the reviewed draft on an online platform (proposed by the Consultant and approved by TGO) which is accessible to the public, for a period of at least one month, for views and comments.

The Consultant shall compile and review the inputs received from the second consultation meeting and the online platform and revise the draft, taking into account such inputs. After which the Consultant shall provide the final version of the draft to TGO.

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## 5. Contract Supervision

The consultant shall work under the overall oversight of Thailand Greenhouse Gas Management Organization (TGO), and in close cooperation with the World Bank.

## 6. Timeline and Key Deliverables

The Consultant shall complete its work within a total of 300 days from the date of the signature of the consultancy contract. The overall timeline for the tasks, meetings and delivery of reports is shown in Annex I to this ToR.

The Consultant shall prepare the reports, with timeline, as indicated herein. The reports, with the exception of the inception report, draft final and final reports, shall be in Thai, with the executive summary in English. The draft final and final reports shall be delivered in both Thai and English.

Upon submission of the inception, interim and draft final reports, TGO may request the Consultant to present the reports to the EPC Working Group and the Greenhouse Gas Legal Framework Working Group for comments and suggestions. The summary of such comments and suggestions shall be prepared and included in the subsequent reports.

Upon submission of the final report, the Consultant shall present the report to TGO for consideration on the completion of the tasks required under this Consultancy. TGO may require further improvement of the report, if necessary, in accordance with the requirements specified under this ToR.

The Consultant shall, at the progress meetings with TGO, as indicated in Annex I to this ToR, present the progress made on its work. The second and third progress meetings will be held prior to the consultation meetings, with the aim to discuss the outcomes of the tasks and prepare for the consultation meetings.

### **Submission of reports**

- 6.1 **Inception report** (10 hard copies and 3 CD-ROMs) within **30 days** from the date of the signature of the contract. This report shall cover the background information and understanding of the tasks, monthly work plan, and methodologies.
- 6.2 **Interim report** (10 hard copies and 3 CD-ROMs) within **180 days** from the date of the signature of the contract. This report shall cover the outputs of the tasks 4.2-4.4.
- 6.3 **Draft final report** (15 hard copies and 3 CD-ROMs) within **270 days** from the date of the signature of the contract. This report shall cover the outputs of the tasks 4.2 -4.5.
- 6.4 **Final report** (15 hard copies and 3 CD-ROMs) within **300 days** from the date of the signature of the contract. This report shall cover the outputs of the tasks 4.2-4.5.

## 7. Minimum Qualification Requirements

The Consultant shall be selected through the World Bank's Consultant's Qualifications Selection (CQS) process. In order for the Consultant to be qualified for the Assignment, the firm and its key staff, to be assigned for this work, must meet the following minimum qualifications:

### **7.1 The firm**

- (a) Minimum of 8 years of substantive international experience in legal practices on energy and environmental law

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- (b) Demonstrated experience related to development of incentives, mechanisms or instruments for energy conservation or greenhouse gas reduction
- (c) Demonstrated experience in legal drafting or other relevant aspects of legal development
- (d) Familiar with legislative and policy-making process in Thailand

**7.2 Key staff**, which must comprise of a team leader and at least one legal specialist, one legal officer, and one coordinator (The qualifications of the proposed key staff shall be evaluated at the proposal stage)

### 7.2.1 Team Leader

- (a) Advanced university degree (Master's degree or equivalent) in law
- (b) Minimum of 10 years of progressively responsible experience in public and private legal practices on energy or environmental law in Thailand, including legal research, analysis, and writing
- (c) Minimum of 8 years of substantive experience of team management
- (d) Demonstrated experience relating to development of incentives, mechanisms or instruments for energy conservation or greenhouse gas reduction

### 7.2.2 Legal specialist

- (a) Advanced university degree (Master's degree or equivalent) in law
- (b) Minimum of 8 years of progressively responsible in legal practices on energy or environmental law
- (c) Demonstrated international legal experience in relevant areas

### 7.2.3 Legal officer

- (a) Degree in law or related fields
- (b) Minimum of 4 years of progressively responsible experience in legal practices

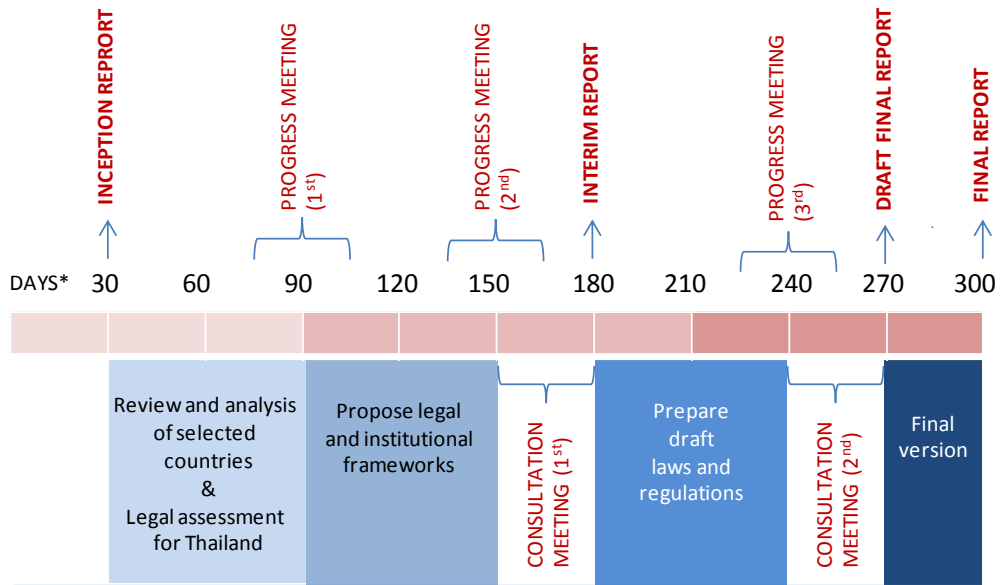
### 7.2.4 Coordinator

- (a) Degree in law or related fields
- (b) Minimum of 2 years of substantive experience in project coordination, computer literacy and administration

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## Annex

Figure 1: Overall timeline for the tasks, meetings and delivery of reports, as indicated in the ToR



\* Number of days from the date of the signature of the consultancy contract