



REPUBLIC OF CAPE VERDE

MINISTRY OF FINANCE AND BUSINESS PROMOTION

TERMS OF REFERENCE (TOR)

Hiring a consultancy to review and update the Customs Code and the Customs Code Regulation

1. FRAMEWORK

The Government of the Republic of Cape Verde (GCV) received financing from the World Bank (WB) in the amount of twenty million dollars (US\$ 20,000,000) to finance the implementation of the Digital Cabo Verde Project (PDCV), which aims to contribute to transforming the country into a regional digital hub to accelerate its digital economy through improved digital infrastructure and strengthened demand for digital services and skills. The project will support the government's strategy to transform the country into a digitally enabled services economy, increasing its competitiveness and attracting more investment. Increasing the supply and demand of broadband connectivity and data storage (digital infrastructure) is fundamental to supporting the development of digital platforms, public and private, and creating new services for individuals, companies and governments.

The project comprises three main components, namely:

- 1. Component 1: Favorable Legal and Regulatory Environment.** Support GCV in improving the legal and regulatory environment for a digital economy.
- 2. Component 2: Digital Competitiveness.** Better, equip individuals and businesses across the country to be more competitive in the digital economy's job market and to stimulate innovation and productivity growth.
- 3. Component 3: Public Services and Digital Markets.** Support activities aimed at increasing GCV's capacity to better deliver digital public services.

These TOR fit into Component's three objectives of supporting the Government of Cape Verde in its recent efforts to implement activities aimed at increasing its capacity to better deliver digital public services. More specifically in the domains G2G (Government to Government), G2B (Government to Business) and G2P (Government to Person), in a context where the user's digital maturity to access online services continues to pose challenges.

Gender-oriented interventions are critical for PDCV. Interventions will be designed to reduce the gender gap in a typically male-dominated sector such as technology. This will include (i) mechanisms to overcome social and gender norms in business operations through efforts to address internalized biases about the role of women in economic activities, as well as (ii) training and activities tailored to women. In the same way, the interventions will establish dedicated pathways for people with disabilities and displaced youth through specific awareness campaigns, trainings, support programs and quick access to project support.

2. OBJECTIVE AND SCOPE

A. Overall objective

The objective of this consultancy is to review and update the current Customs Code and the respective Regulation and regulatory framework in Cape Verde, bringing further simplification of customs procedures, both to facilitate trade and to prevent fraud and infringements. This is sought while transitioning to a paperless and fully electronic framework, not only from the perspective of using SYDONIA World¹, but also from the development of a Foreign Trade Single Window (JUICE, acronym in Portuguese). As a result, developing more efficient customs transactions in Cape Verde are in line with the country's current needs. In addition, the consultancy should review current legislation and/or regulations of other border authorities to assess whether there are any specific requirements and/or impediments to implement an automated JUICE (Foreign Trade Single Window in Portuguese) environment, as currently worded.

Summarizing, the consultancy's main goal is two-fold:

- Review and design of projects to update Cape Verde's current Customs Code and the respective Regulation (70-80% of total consultancy time); and,

¹ SYDONIA (i.e. Automated System for Customs Data – ASYCUDA in English) is a computerized customs management system that covers most foreign trade procedures. It handles manifests and customs declarations, along with accounting, transit and suspense procedures. It also generates trade data that can be used for statistical economic analysis. The ASYCUDA software is developed by UNCTAD.

- Review current legislation and/or regulations of other border authorities (in the region and elsewhere) to assess whether there are any specific requirements and/or impediments to implement an automated JUCE environment in Cape Verde, as currently worded (20-30% of total consultancy time).

B. Specific objective

The specific objective of these TOR is to assist DNRE – DGA (the Client), and the Special Project Management Unit (UGPE) to:

- Review, propose, and design legislative amendments to update the current Customs Code and the respective Regulation,
- Evaluate the legal bases for modern electronic processing/transactions in trade across other government authorities part of JUCE implementation.
- Prepare a framework proposal to implement the legal bases for electronic processing/transactions in trade across the public sector.
- Make the new customs code and the respective Regulation available in one of the official languages of the World Customs Organization (WCO) and World Trade Organization (WTO) (preferably English, optionally French)

C. Scope of Work

The consultancy is expected to carry out the following activities:

Activity 1: Customs Code Legal Assessment and Gap Analysis

The Customs Code Legal Assessment and Gap Analysis aim to provide a rapid contextual analysis of the current Customs Code and the respective Regulation in Cape Verde. The legal assessment includes, but is not limited to the following sections:

- Licensed activities and authorized places;
- Goods declaration;
- Customs procedures;
- Conduct a more detailed analysis of customs regimes to ensure harmonization between customs offices regarding the applicability of each regime. This includes improving the conceptualization, classification, and delineation of both common and special customs regimes;
- Use of risk management;

- Coordinated and joint inspections;
- Authorized Economic operator program;
- Customs officer's powers and skills;
- Disciplines/regulation on fines, penalties, and forfeitures;
- Procedures for appeal or review;
- Electronic environment; and,
- Reformulation of the typology and disciplines of customs tax offenses.

The second part of this activity is to perform a detailed gap analysis of current laws or regulations of other border authorities to assess whether there are any specific requirements and/or impediments to implement an automated JUCE environment, as currently worded. In this regard, to allow the implementation and operation of an automated JUCE solution across all participating border authorities, the fundamental issues that the gap analysis needs to address, among others, are the legal bases for:

- The acceptance for electronic processing/transactions in trade between traders and Government entities and the authority conferred to various entities;
- The processing of electronic transactions generated through the automated solution (e.g. a license, a permit, etc.) has the same legal validity as the actual physical document. Equally, an electronically generated authorization must have the same value as a physical stamp or signature currently has;
- The acceptance of copies of certain supporting documents may, traditionally, require them to be presented in their original form (e.g. a Bill of Lading, a Certificate of Origin, etc.) and accept an electronic facsimile (i.e. an electronic file in PDF or JPG format) in place of the originals;
- The acceptance of electronic records without the need for physical submission of paper, witnessing of signatures, etc;
- The acceptance of electronic payments;
- The acceptance of issues of data privacy, commercial confidentiality, protection, etc. must be addressed and underpinned by law; and,
- The issues of data sharing between government agencies.

Deliverables Activity 1:

The activity includes, but is not limited to, the following deliverables:

- Conduct inception meetings with border authorities and key stakeholders to:

- Review the process for conducting activities within the scope of the contract;
- Determine roles/responsibilities and documents needed;
- Discuss the basis on which the work will be implemented; and,
- Finalize the methodology, work breakdown structure, project schedule for all project deliverables, identification of any risks and mitigation strategies, and any other relevant details for the implementation of the project deliverables (this shall be documented in an Inception Report).
- Detailed review of the Customs Code and its alignment with the World Trade Organization's (WTO) Trade Facilitation Agreement, the World Customs Organization (WCO) Revised Kyoto Convention and SAFE Framework of Standards, the sub-regional Code (ECOWAS) and with the African Continental Free Trade Area (AfCFTA) agreement.
- Make recommendations for the update of the Customs Code in relation to international best practices, automation needs and standards, and specific requirements for implementing a Foreign Trade Single Window.
- Make recommendations for areas that need to be proclaimed, amended, or repealed for alignment with international standards and best practices (this shall be documented in the Gap Analysis Report).
- Review current laws or regulations of other border authorities to assess if there are any impediments to specific requirements for the implementation of an automated JUCE environment. Identify if conflict may arise whenever the legislation requires that traders exchange “documents” or “forms” with a government authority. These documents may be newly drafted applications for labelling and packaging, original or copies of supporting documents to prove credentials (i.e. NIF, Company Registration Number, Importer/Exporter Registration Number, Customs Broker Registration Number, Tax compliance certificate, etc.).
- Propose options for possible ways forward for the Customs Code and prepare a detailed list of legal changes and time needed to complete legal drafting of each option.

Activity 2: Way Forward and Policy Brief

Under Activity 2, the firm will leverage the assessment and gap analysis from Activity 1 to design the Way Forward for Cape Verde’s Customs Code. In addition, the firm will develop a policy brief that will be the basis for the new legislation to be drafted under Activity 3.

The new provisions to Cape Verde's Customs Code and the respective Regulation should aim to simplify customs procedures, both to facilitate trade and to prevent new threats. The revised Customs Code and the respective Regulation should allow the introduction of modern and automated customs processes, including but not limited to the following:

- Fully electronic board and 100% paperless;
- Procedures amended to be in line with the future operation of the Foreign Trade Single Window;
- Simplified legislation and uniform application of customs legislation;
- Customs controls carried out essentially through risk analysis within the framework of a common risk management framework;
- Fully computerized customs clearance procedures, offering maximum simplification, without neglecting the security and protection of society;
- Anti-fraud mechanisms that allow greater control of processes;
- Simplified customs procedures to better respond to the economic needs of operators, simplifying their access;
- Update of Procedures considered obsolete in the updated Customs Code;
- Concepts, procedures, and best practices of modern customs administrations in line with international recommendations introduced;
- Customs Code aligned with the sub-regional Code (ECOWAS) and with the African Continental Free Trade Area (AfCFTA) agreement;
- Customs Code adjusted to include the obligation to publish information in the formats defined in the Trade Facilitation Agreement;
- More legal certainty and uniformity available to companies;
- Customs officials with more clarity regarding procedures;
- Faster customs procedures for compliant and reputable companies, through the creation of the figure of the AEO (Authorized Economic Operator);
- Safeguard the financial and economic interests of the country;
- Customs Code aligned with the new Business Ready (B-Ready)² methodology, more specifically with three B-Ready pillars: i.e. quality of international trade regulation; quality of public utility services to facilitate international trade; and, efficiency of imports and exports of goods and participation in digital commerce;
- Customs Code amended to facilitate trade, eliminate bureaucracy, and envision electronic exchange of information with other institutions involved in foreign trade services and processes.

² Business Ready (B-READY) is the World Bank's new flagship report benchmarking the business environment and investment climate in most economies worldwide. The report assesses the regulatory framework and public services directed at firms, and the efficiency with which regulatory framework and public services are combined in practice.

Deliverables Activity2:

The activity includes, but is not limited to, the following deliverables:

- Upon decision on the best way forward, prepare a Draft Policy Brief containing proposals for legal changes to be made, and a proposal of a detailed implementation plan.
- Participate in Stakeholder Consultations on the proposals contained in the Draft Policy Brief and prepare a Stakeholder Consultations Report.
- Prepare a presentation for the NTFC and Customs Administration of the Draft Policy Brief and Stakeholder Consultations Report.
- Incorporate all applicable comments and feedback from the Stakeholder Consultations and presentation to the NTFC on the Final Policy Brief for review and approval.

Activity 3: New Legislation and Final Report

Once the Policy Brief from Activity 2 has been approved by the Client, the firm will prepare a draft Customs Code and the respective Regulation including all legislative changes for adoption/amendment. The firm will be in charge of presenting the draft Customs Code and the respective Regulation and the legislative changes to be adopted/amended to both Cape Verde's Customs Administration and Cape Verde's NTFC. All feedback arising from the presentations to Cape Verde's Customs Administration and NTFC must be incorporated into the final draft legislative changes.

Deliverables Activity3:

The activity includes, but is not limited to, the following deliverables:

- Prepare draft Customs Code and the respective Regulation and other legislative changes for adoption or amendment.
- Prepare a presentation to the Customs Administration of the draft Customs Code and the respective Regulation.
- Make a presentation to the NTFC on the legislative changes to be adopted/amended.
- Incorporate all applicable comments and feedback from the presentation to the Customs Administration and the NTFC into the final draft legislative changes.

- Prepare a presentation to key stakeholders on the final legislative changes and actions required for full proclamation.

Activity 4: Grievance Redress Mechanism (GRM)

Compliance with World Bank Group Environmental and Social Safeguards mandates the establishment of a Grievance Redress Mechanism (GRM). The firm would develop and implement a GRM according to best practice, in order to ensure that candidates, partners, and other stakeholders can file complaints and that the complaints are dealt with in the most appropriate way. The GRM would need to be made available in a transparent way in various media (paper, electronic, etc.) The GRM would add but also be interconnected to the overall DCV Project GRM under UGPE. The GRM would ensure that complaints received are promptly reviewed and addressed in a timely manner. The firm would need to develop a process to properly respond to complaints. This process, as well as the means with which people can voice their concerns, would require approval from the client, UGPE and the World Bank³.

Activity 4 Deliverables:

This activity includes but is not limited to the following deliverables:

- GRM, including inter alia:
 - Grievance Redress strategy that allows easy access and confidentiality to those who complain. The firm will present evidence of the implementation of this strategy.
 - Report on the number of complaints received and processed. The firm will prepare a report of complaints received throughout the program, how they were addressed, as well as their status at the end of the program.

3. REPORTING REQUIREMENTS

Initial Report

An Initial Report and detailed Work Plan are required within 2 weeks of signing the contract. The Initial Report would update the methodology and program of work, including the deployment of personnel that would be included in the Company's proposal and used as a basis for the agreed price, noting the changes

³ SMEs and individuals affected by the project may also submit their complaint to the Independent Inspection Panel, which determines whether there, has been, or could be, damage because of the World Bank's non-compliance with its policies and procedures.

and detailing any difficulties encountered, together with a proposal on how they could be overcome. The Client would review and comment on the Initial Report and provide final acceptance. The Work Plan established by the Company may be revised from time to time, but acceptance by the Client must be requested each time.

The tasks foreseen in this consultancy must be developed in close collaboration with the Client and UGPE, and periodic meetings will be held according to the agreed deadline and whenever necessary. The Consulting team must carry out interviews with interested parties in preparation for the work provided for in this TOR and will be responsible for collecting and processing all data and information necessary to carry out the tasks within the scope of this contract. The Consultancy will be responsible for the logistical organization of its activities and communication with representatives of the sectors, or others that are necessary, always keeping the Client and UGPE aware of the contacts made. If necessary, they can count on support from the Client and UGPE team in scheduling meetings with other institutions.

Progress Reports

The Company would report the progress of Project implementation to the Project Coordinator at the Client through interim reports every month. Interim reports would include project implementation status (description of activities for the period and comparison of work progress with the projected work plan), updated work calendar, key issues and proposed corrective actions. The reports would be in Portuguese.

Completion Report

A Completion Report at the end of the task would be presented immediately upon completion of the activities and would summarize the activities and approaches/methods used during the task, including a brief section on recommendations with lessons learned for future projects of a similar nature.

4. DELIVERABLES, SCHEDULE AND PAYMENT SCHEDULE

The selected consultancy must execute the project within **6 months** from the date of signing the contract. The following compensation schedule is defined for each party to the contract. Proposers must adhere to these in their proposals, within the total budget provided. Deliveries completed in accordance with the compensation schedule will be approved by the Customer, after which invoices may be submitted for payment in accordance with the compensation schedule below:

Deliverable	Description	Tranche	Payment after
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		disbursement date	Customer approval
R1. Initial Report	<ul style="list-style-type: none"> Detailed Work Plan Personnel posting 	Contract signing + 2 weeks	10%
R2. GRM	<ul style="list-style-type: none"> GRM 	Contract signing + 2 months	20%
R3. Way Forward, and Policy Brief	<ul style="list-style-type: none"> Approved Way Forward Draft Policy Brief Presentations to Customs Administration and NTFC Final Policy Brief 	Contract signing + 4 months	20%
R4. - Legislation and Final Report	<ul style="list-style-type: none"> Draft Customs Code and the respective Regulation Presentations to Customs Administration and NTFC Final legislative changes 	Contract signing + 5 months	20%
R5. Legal Assessment, and Gap Analysis	<ul style="list-style-type: none"> Detailed Review List of recommendations Review of other border authorities 	Contract signing + 3 months	20%
R6. Completion Report	<ul style="list-style-type: none"> Final report Summarize activities and approaches/methods Recommendations 	Contract signing + 6 months	10%

Note: The consultancy will provide a 4-month guarantee to the project for legal purposes related to updating the Customs Code.

5. CONSULTING COMPANY PROFILE

The firm to provide the consulting services must meet the following minimum requirements to be considered during the evaluation:

- At least ten (10) years of experience. The consultancy firm should present information about the company's management model, as well as its area of expertise and the technical resources at its disposal;
- Likewise, it must demonstrate that it has relevant experience in carrying out similar studies, and for this purpose must present a list of six (6) projects/contracts that can best attest to this;

- It must have experience working on at least three (3) similar projects, preferably in similar countries and with the legal framework (Portuguese countries);
- Proof of financial capacity and adequacy of resources to carry out the study in question must also be presented;
- Ability to work in Portuguese and English;
- Be familiar with challenges and opportunities in Cabo Verde, other small island states, Africa, as well as the developed world.

5.1 QUALIFICATION AND PROFESSIONAL EXPERIENCE OF THE TEAM

The team must consist of the following experts, at the minimum:

- 1 International legal expert;
- 1 Specialist in legislative modernization (customs and international trade)
- 1 International trade specialist (Local).

5.1.1. INTERNATIONAL LEGAL EXPERT

- Excellent understanding of international trade, trade-related policies, and multilateral trade agreements.
- Good knowledge of trade facilitation measures and of the WTO Trade Facilitation Agreement.
- Excellent analysis, communication and writing skills.
- Ability to network with officials from the public and private sector.
- Ability to multi-task and meet tight deadlines.
- Bachelor's Degree or higher in law, international business, international trade law or related fields.
- Minimum of eight (8) years of relevant experience in the matters that are the object of this consultancy. At least 2 projects experience in trade-related field such as import-export procedures and process simplification.
- Previous experience in trade facilitation projects – especially related to trade procedures – is highly desirable.
- Previous experience in the Africa region will be considered a strong asset.
- Prior experience in working cooperatively with other border agencies and industry, would be an advantage.
- Excellent oral and writing capacity in English, understanding of Portuguese would be an advantage.

5.1.2 INTERNATIONAL TRADE SPECIALIST (LOCAL)

- Excellent understanding of international trade, trade-related policies, and multilateral trade agreements.

- Good knowledge of trade facilitation measures and of the WTO Trade Facilitation Agreement.
- Excellent analysis, communication and writing skills.
- Ability to network with officials from the public and private sector.
- Ability to multi-task and meet tight deadlines.
- Bachelor's Degree or higher in development studies, international business administration, economics, or related fields.
- Minimum of five (5) years of relevant experience in the matters that are the object of this consultancy. At least 2 projects experience in trade-related field such as import-export procedures and process simplification.
- Previous experience in trade facilitation projects – especially related to trade procedures – is highly desirable.
- Previous experience in the Cape Verde will be considered a strong asset.
- Prior experience in working co-operatively with other border agencies and industry, would be an advantage.
- Excellent oral and writing capacity in English and Portuguese.

5.1.3 SPECIALIST IN LEGISLATIVE MODERNIZATION (CUSTOMS AND INTERNATIONAL TRADE)

- Excellent understanding of international trade, trade-related policies, and multilateral trade agreements.
- Good knowledge of trade facilitation measures and of the WTO Trade Facilitation Agreement.
- Excellent analysis, communication and writing skills.
- Ability to network with officials from the public and private sector.
- Ability to multi-task and meet tight deadlines.
- Bachelor's Degree or higher in law, international business, international trade law or related fields.
- Minimum of five (5) years of relevant experience in the matters that are the object of this consultancy. At least 2 projects experience in legislative modernization for customs and foreign trade
- Previous experience in trade facilitation projects – especially related to trade procedures – is highly desirable.
- Previous experience in the Cape Verde will be considered a strong asset.
- Prior experience in working co-operatively with other border agencies and industry, would be an advantage.
- Excellent oral and writing capacity in English and Portuguese.

6. WORK ORGANIZATION

The consultancy will work closely with the Centre for Legal Studies and Tax and Customs Training (CEJFFA) and the working group to be appointed by the DGA. The work carried out by the consultancy service must correspond to the above objectives and the vision presented in this task.

The company must present a work methodology with the following principles:

- Ensure effective communication between consultants and the Client and UGPE team;
- Ensure a common understanding of the work expected;
- Be flexible in managing expectations and adjusting process flows;
- Be able to anticipate and manage project risk.

The methodology must be adapted in order to achieve the Client's objectives within the established deadline and guarantee high quality products.

The Special Project Management Unit (UGPE) intends for the contract to be executed within a framework of trust between the parties, in order to facilitate the availability and use of information necessary for the exclusive purposes for which it was made available.

The reference workplace is DGA Offices, represented by the National Directorate of State Revenue, located at Avenida Amílcar Cabral, CP no. 563, Cidade da Praia, Republic of Cape Verde.

The reports must be developed in Portuguese and English, the outputs must be sent to UGPE, and the Client in English and Portuguese, digital format and on A4 paper.

7. TYPE OF CONTRACT

This procedure is subject to a written contract for a fixed amount, payment under the contract will be upon approval and validation of the work carried out.

The contract takes effect from the date of its signature.

8. INTELLECTUAL PROPERTY

The Client will be the rightful owner of all intellectual property resources associated with these TOR and will have all rights in the ways in which it may use such resources. The developed Customs Code Legislation will be the exclusive property of *National Directorate of State Revenue* or any agencies designated by it.

Terms of Reference to hire a consultancy to review and update the Customs Code and the Customs Code Regulation

9. ANNEX

BACKGROUND

Cutting bureaucracy and simplifying processes are extremely important requirements that anticipate the development of the Single Window for Foreign Trade platform. However, these are dependent on an update of the entire legal framework to have a platform that responds to the requirements of a simplified business environment, in line with best practices. Thus, improving the effectiveness of the legal and regulatory framework of the surrounding institutions should be considered as a relevant project within the list of projects included in the JUCE project. Within this legal and regulatory framework, the Customs Code (CA) is to be modernized, which currently includes the acceptance of electronic copies and documents, the dematerialization of customs declaration submission processes, as well as the need to formalize, structure and harmonize a set of practical measures that will positively influence the simplification of formalities, coordination, and alignment of the border procedure.

A detailed review and update of The Customs Code will ensure the development of the other planned activities, supported by a framework of predictability and legal certainty, allowing more credibility and guarantee in future projects with a view to products that comply with international specifications. With this scenario in mind, the Customs Administration aims to take advantage of this review and now update the entire Customs Code to align it with international best practices and standards, particularly to the World Trade Organization's Trade Facilitation Agreement, and the World Customs Organization (WCO)'s Revised Kyoto Convention and SAFE Framework of Standards. Customs procedures in paper format have been gradually replaced by electronic processes over the last few years, to increase market competitiveness and simultaneously improve security and protection controls. The adoption and application of the modern Customs Code in a digital environment will complete Customs' transition to a fully electronic and interoperable environment, with core values of simplicity, service, and speed.

There is also a need to establish whether any current laws or regulations pose an impediment to specific requirements of JUCE in the way they are currently worded. Although the customs code is an important piece of legislation, other documents such as licenses and registrations could become bottlenecks for the implementation of digital solutions in the Customs. Typically, conflict may arise whenever the legislation requires that traders exchange "documents" or "forms" with a government authority. These documents may be newly drafted applications for labelling and packaging, originals or copies of supporting documents to prove credentials (NIF, Company Registration Number, Importer/Exporter Registration Number, Customs Broker Registration Number, Tax compliance certificate, etc.), originals or copies of documents such as commercial invoice, bill of lading, load lists, etc. Traditionally the common meaning of the word "document" implied that

it was made of paper. Similarly, the word “signature” implied a hand-written signature, and the word “stamp” implied a physical rubber stamp.

ABOUT CUSTOMS CODE

The Cape Verde Customs Code, approved by Legislative Decree No. 4/2010 and in force since October 3, 2010, had the fundamental objective of consolidating economic integration by optimizing customs procedures, as well as boosting foreign trade.⁴

However, after more than 10 years of its effectiveness and given the numerous innovations introduced in recent years, with reforms carried out by the customs administration, it is also urgent to revise/amend the Customs Code, to have a legal instrument adapted to the current reality and the best national and international practices, the improvement of the relationship of economic operators, the reengineering of customs destinations and regimes, the current modality of Small Orders (“Pequenas Encomendas” in Portuguese), the evolution of electronic commerce a new approach to the constitution and constitutive facts of the customs debt, its collection and penalties.

The simplification of processes brings many advantages to the business environment, mainly in terms of reducing the waiting time for the release of goods, reducing costs, and improving the efficiency of international trade. In addition, simplified customs processes help to improve transparency, and predictability of international trade, rationalize and modernize procedures and controls at the border, as well as complete automation of procedures and guarantee the effectiveness and efficiency of the goods. You can use this space to delve deeper into any topic described above that deserves to be detailed in a rational, developed manner.

⁴ [Customs Code](#)

[Customs Code Regulation](#)