Terms of Reference

Consultancy assignment
to develop an electronic tool for Advance Rulings for Classification, Origin and Valuation

Assignment Reference:
WCO Global Knowledge Advance Rulings

CALL FOR PROPOSALS
Deadline: 17 October 2022
To submit by email to: tfapartnerships@wcoomd.org
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1. BACKGROUND

i. Beneficiaries

The strategic initiatives of Eswatini Revenue Service (ERS) focus on the mobilization and creation of easy to use digital platforms that do not only benefit Customs, but also support the engagement of the trading community with ERS.

ERS has already implemented a number of initiatives in line with the strategic objectives and has a drive to continue completing the golden circle that is all facilitated through one of the main WCO instruments being the HS Tariffs.

At present ERS already has the Tariff Solution available to Trade and ERS which provides, amongst others the following:

- Legal Notes to the tariff;
- Rates of Duties;
- Non-Tariff Measures commonly referred to as Prohibited and Restricted regulations;
- Duty estimator, etc.

Extending the digital offering to include an Advanced Ruling Tool (ART) will add an important enhancement to the completion of the golden circle as illustrated below:

The development and deployment of a digital, web based online Advance Ruling Tool (ART) will further consolidate the digital journey of ERS. Although the main beneficiary of the ART will be ERS, it will have considerable application and benefits to the trading community as well.

The Electronic Advance Ruling Tool will be used by the trading community to electronically submit request for advance rulings and by ERS Custom’s officers to review, assess, deliver and publish the advance rulings. The overall benefits of having a digital platform will include the simplification of the AR process for ERS and Trade, the improved management and visibility around the process and the lowering of barriers to participation in this process both from an effort and cost perspective.

By taking this approach ERS will achieve a high level of adoption from the trade community and enable previously marginalised sectors like the SME and Women traders to easily participate in the process at a much lower barrier to entry and cost.

From a SACU regional perspective the aim is to start with one country as the first adopter to develop the AR tool/platform and to in future and in separate follow-up projects adapt the same to adhere to the
individual requirements of each country within the region. Such a regional SACU approach allows for the harmonisation of the rulings within the region, which has further trade facilitation benefits and will greatly improve the adoption of the AR mechanism within the region. The envisioned tool is to be developed with this aim in mind.

ii. Contracting Authority

The World Customs Organization (WCO), through a collaboration between the EU-WCO HS Africa Programme funded by the European Union and the Accelerate Trade Facilitation Programme funded by the United Kingdom.

2. DESCRIPTION OF THE ASSIGNMENT

i. Overall concept

Article 3 of the WTO Trade Facilitation Agreement (TFA) requires Members to issue advance rulings regarding the tariff classification and the (non-preferential) origin of goods in accordance with the provisions of that article. Members are also encouraged to issue advance rulings for other areas such as Customs valuation and requirements for relief or exemption from Customs duties.

The provisions of TFA set rules regarding the issuance of advance rulings including cases Members may decline an application and the validity of advance rulings for a reasonable period. The text of Article 3 of WTO TFA is set out in the Annex to these Terms of Reference. The TFA aims to make cross-border trade more transparent and predictable, less burdensome and less costly.

Standard 9.9 of the General Annex to the Revised Kyoto Convention (RKC) states that binding rulings shall be issued at the request of the interested person. The RKC Guidelines to this standard cover many aspects of binding rulings, including their scope, notification, time-limits and use.

Eswatini has implemented an Advance Rulings process for tariff classification and origin of goods, according to the above standards. The functioning of the Advance Ruling process is described in the Standard Operation Procedures document adopted by the Eswatini Revenue Service.

As the next phase in the process of the implementation of Advance Rulings, the WCO’s EU-WCO HS Africa Programme and the Accelerate Trade Facilitation Programme would support ERS in implementing a digital, web-based online tool (Advance Ruling Tool – ART) to enable the AR process to be digitized. The intention is to make the process of application for and issuance of advance rulings (including notification, publication and archiving) fully digital and to enable the ERS to manage the process through a back office workflow.

In this context, the need to design an online electronic Advance Rulings Tool would allow traders to apply for Advance Rulings digitally and for ERS to be able to issue, administer, publish and monitor Advance Rulings digitally. This is seen as an excellent trade facilitation initiative.

ii. Target audience

The Advance Rulings Tool will primarily address the following target audiences in:

- The ERS Team responsible for matters related to application of tariffs, rules of origin and valuation;
- Front line Customs officers responsible for Customs clearance of goods
- Officials of other government agencies involved in matters related to application of tariffs, rules of origin and valuation;
Private sector stakeholders involved in international trade in Eswatini and its trading partners.

Moreover, the tool is envisioned to be easily replicated to the benefit of other developing countries and emerging economies.

### iii. Overall objective

The overall objective of this assignment is to facilitate the process of applying for *Advance Rulings* by traders in Eswatini and enable ERS to issue, monitor and publish *Advance Rulings* more effectively and efficiently – i.e lowering the barrier to participation in this process as well as the overall costs and effort associated with an AR process.

Considering that the rulings once issued will be published on the Advance Rulings Tool, private sector in trading and other trading partners of beneficiary countries also stand to benefit from this enhanced predictability and transparency as well as thru the envisioned future harmonisation within the SACU region.

The ART should also allow Customs Officers to easily verify the validity of the advanced ruling presented during the operational trading activities. This will allow for legitimate trade to be facilitated based on the advance rulings that has been issued and enable the trade to flow in a seamless and efficient manner.

### iv. Specific objective

The specific objective of this assignment is to develop the online Advance Ruling Tool to enable traders in Eswatini and other trading partners to apply for *advance rulings* digitally in the form of a web-based platform that will be linked to the Customs administration website. In addition it must include a back office environment to allow ERS to manage and process the applications received as well as an online workflow allowing for updates to be available as the application progresses along the review and approval cycle.

The digital application, review, approval and publication processes would be aligned with the WCO Technical Guidelines on Advance Rulings for Classification, Origin and Valuation and the Standard Operating Procedure approved and published by ERS in November 2018. The tool should be integrated into the Eswatini Revenue Service website ([http://www.ers.org.sz](http://www.ers.org.sz)) as described in section vi (Requested services) below and use the ERS HS tariff portal as the source for the HS information during the application process.

The tool shall be developed with and for the ERS as a WCO pilot using ERS’s SOPs and processes. The tool developed for ERS shall serve as basis for similar tools in other countries, i.e. the tool is to be easily tailored and adapted for the benefit of other countries in the future. Hence, the outputs and requested services outlined below shall be conducted for ERS while the submitted offer and proposal should confirm suitability for easy adjustment to the benefit of other countries, including the cost for deployment to other countries.

Maintenance and updates of the tool should be able to be conducted with ease. Service providers are also requested to consider offering a license based structure in which such maintenance and updates are conducted by said Service Provider.

### v. Outputs

The following outputs are expected. (Refer the *Advance Rulings; Process Flow* provided under section 5 of the ERS *Advance Rulings* SOP given in annex II.

- Digital application for advance rulings on a web based solution linked to the ERS website.
- .
• A workflow that automatically pushes notifications via email and mobile to the applicant from the time the application is lodged and actioned by ERS and throughout the process including: request for information, confirmation of reception and notification of issuance.
• Submission of additional documents by the applicant when requested by ERS.
• Possibility for applicants to log-in with request number and check the status of their request.
• Back office environment for ERS to review, process and manage the application process in line with the ERS SOP.
• Ability for the operational team to verify the submissions done to ERS under the AR issued.
• Notification of changes made to the advance ruling application process by ERS.
• Publication of advance rulings issued by ERS.
• Publication of advance rulings revoked by ERS.
• FAQ relating to the issuance of advance rulings.
• Ability for ERS to update information.
• Ability to host the solution but allowing this to be accessed via the ERS website.
• Online user guides and manuals for the use of the Advance Ruling Tool.

Initially all outputs will be delivered in English. However, it is envisaged that the solution should allow for multi-language functionality in line with the stated intend that this will be available across the region and the broader African continent and possibly the globe.

vi. Requested services

Service Provider(s) to be contracted for this assignment is (are) requested to:

(a) Design and build a web-based tool to allow for digitization of the Advance Rulings process incorporating criteria and details contained in the Advance Rulings SOP and the WCO Technical Guidelines on Advance Rulings for Classification, Origin and Valuation. The tool shall be used and developed for ERA as pilot with an option to duplicate it to other countries.

(b) Include a function enabling users to monitor the approval process of the application at important stages of the approval process and communicate with ERS if needed.

(c) Include a function enabling user to submit additional documents and information pertaining to the application as and when requested by ERS.

(d) Include a workflow function that would inter alia enabling ERS to publish information relating to Advance Rulings issued and/or revoked.

(e) Include an easy to use mechanism to verify the authenticity and validity of advanced rulings by Customs Officers and OGAs.

(f) Design a FAQ pertaining to application for Advance Rulings including; criteria, types of approvals, time taken, conditions of approval etc.

(g) Design and build back-office environment for ERS staff to manage and update content on a continuous basis as rules may change and software updates may be needed AND/OR a license based option for the service provider to maintain and update the tool and its content on a regular basis. Sustainability and quality maintenance are of outmost importance.

(h) It is critical for the sustainability of the project that a Train the Trainer approach forms part of the deliverables to the project. This will enable the ERS Training team to be capacitated to continue
with the trade and customs enablement and capacity building beyond the completion of the project. It is also a possibility that the ERS

(i) Include Data Management and Analysis option to generate reports for applications, approvals, amendments and traffic.

(j) Carry out the necessary preparatory work for the launch of Advance Rulings Tool, including the drafting and adoption of a user manual

(k) The delivery of training and information sessions for traders and ERS staff in Eswatini and other relevant stakeholders (including nominated WCO Secretariat staff) prior, during and after the launch of the project.

(l) Recommend any additional action required in the context of developing the Advance Rulings Tool.

(m) Prepare a final report on the assignment providing an overview of the activities undertaken and the results achieved.

(n) Ability to host the ART but allowing it to be accessed via the ERS website

(o) Assist and work with the ERS and funding partners to manage the project in accordance with agreed methodology and to deliver period project reporting to update the status of the project

vii. Support to the selected Service Provider

All process, regulatory and other information relevant to the delivery of the project and building the ART and functionality and process that needs to be included in the tool will be provided by the ERS staff.

ERS and WCO to make the necessary resources available to assist the Service Provider during the duration of the project to enable the successful delivery of the project.

The Service Provider contracted for this assignment will report to the WCO and will work in close collaboration with the ERS project team.

3. SERVICE PROVIDER PROFILE, EVALUATION AND SELECTION

i. Profile required

The Service Provider(s) should have relevant qualifications, skills and experience, in particular:

Profile and skills

- Proven IT solution capabilities and a portfolio of successfully delivered IT projects for Customs Authorities including the ability to develop web-based tools and solutions relating to the international trade process as well as the project management capacity to manage the successful delivery of solutions to Customs and Trade.

- Knowledge/skills on Customs tariffs, the Harmonized System, the HS 2017, the HS 2022 editions, Rules of Origin and Customs Valuation will be a strong asset.

- Ability to host the solution if required.

- Regional experience working with SACU and regional Customs Authorities
• Availability and composition of a multidisciplinary team including IT experts, project management capacity building and communications experts, while trade experts would be an asset.

• Impeccable English for written and oral communications – including the Advance Ruling Tool.

Relevant experience

• Previous relevant projects at national, regional and global level.

• Proven track record of successful delivery of assignments in designing web-based databases and tools.

• Participation in assignments for the WCO, other international organizations/regional organizations or academia will be an advantage.

ii. Evaluation and selection

Evaluation and selection will be made based on proposals that demonstrate that the Service Provider has all the required profiles with the relevant skills and experience and can deliver upon all the requirements and/or elements set out in the assignment.

Proposals should include a financial offer presented in EUR with a clear breakdown and across the proposal’s elements

A list of the members of the team to be working on the assignment should be included in the proposal, with a curriculum vitae for each individual team member.
Evaluation grid

<table>
<thead>
<tr>
<th>Content of the offer</th>
<th>Max Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal:</td>
<td></td>
</tr>
<tr>
<td>- Overall proposal including information on reference projects</td>
<td>30</td>
</tr>
<tr>
<td>- Links for successfully completed projects relevant to this assignment</td>
<td>15</td>
</tr>
<tr>
<td>- Presentation of time-frame and work-plan with milestones</td>
<td>15</td>
</tr>
<tr>
<td>CV of team members in annex:</td>
<td></td>
</tr>
<tr>
<td>- Qualifications and skills</td>
<td>5</td>
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<tr>
<td>- Professional experience</td>
<td>5</td>
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<tr>
<td>Financial offer:</td>
<td></td>
</tr>
<tr>
<td>- Financial offer must include all services required (expertise for content-writing,</td>
<td>30</td>
</tr>
<tr>
<td>editing, designing, communication costs, training, etc. (excluding travel)) and</td>
<td></td>
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<tr>
<td>should be presented in EUR with a breakdown of the costs.</td>
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</tbody>
</table>

4. LOCATION, DURATION, PAYMENT

i. Commencement date & Duration of assignment

The commencement date will be the first day of the signature of the contract and the maximum period of execution of the technical side of the contract will be 90 calendar days from the date of commencement with an additional 30 days for the training and information cession phase of the project. The information on the milestones and related tentative timing is summarized in the table below on an indicative basis.

Service providers in their proposals are requested to confirm the timeframe or propose an alternative.

ii. Suggested Milestones and Submission Dates

<table>
<thead>
<tr>
<th>Milestone/Output</th>
<th>Due date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Mobilization of service provider team / Briefing meeting and Kick Off</td>
<td></td>
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<tr>
<td>2. Presentation of work-plan, timeline and milestones</td>
<td></td>
</tr>
<tr>
<td>3. First version of tool submitted</td>
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<tr>
<td>4. Second version of tool submitted</td>
<td></td>
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<tr>
<td>5. First draft of user manual submitted</td>
<td></td>
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<tr>
<td>6. Final version of tool submitted</td>
<td></td>
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<tr>
<td>7. Final version of user manual submitted</td>
<td></td>
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<tr>
<td>8. Training and information sessions</td>
<td></td>
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<tr>
<td>9. Official launch</td>
<td></td>
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</tbody>
</table>
iii. Location

The work for this assignment can be delivered through a combination of remote and on site engagements. There will be a need to visit ERS in Eswatini to conduct the initial scoping and architectural design and thereafter training to the ERS team and information sessions but the exact travel needs will be finalised once the scope and architectural design has been concluded and the project approach has been finalised with the Service Provider selected.

Travel expenses would be covered by the WCO in line with WCO travel rules.

iv. Payment

Payment will be made by instalments, according to the following milestones deliverables and upon satisfactory completion and submission of the outputs as per timeline and milestones agreed in the contract with the Service Provider:

- Signature of Agreement: 50 % of the total contract value
- Approval of the product and final evaluation report: 50 % of the total contract value.

5. ADMINISTRATIVE INFORMATION

i. Management structure

The Contracting Authority is the World Customs Organization.

The Advance Ruling Tool developed under this assignment will fall under the copyright of the WCO Secretariat.

The EU-WCO HS Africa and the Accelerate Trade Facilitation Programmes at the WCO will liaise with the assigned Service Provider and will be the focal contact points for this assignment.

ii. Facilities to be provided by the Service Provider

The assigned Service Provider shall ensure that it is adequately equipped with the technical means (computers, software, etc.) and knowledge to carry out the assignment.

6. DEADLINE FOR CALL FOR PROPOSALS

Proposals meeting the set requirements are to be submitted no later than 17 October 2022* in English by e-mail to: tfapartnerships@wcoomd.org.

*The WCO may, at its own discretion, extend the deadline for submission of proposals.

Interested Service Providers may submit a request for additional information via e-mail, providing full name and contact details.

The evaluation of proposals will be conducted on the basis of the information submitted in the proposal according to set criteria and the WCO applicable rules.
Annex I

ANNEX 1:

WTO TFA ARTICLE 3 – ADVANCE RULINGS

1. Each Member shall issue an advance ruling in a reasonable, time-bound manner to the applicant that has submitted a written request containing all necessary information. If a Member declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

2. A Member may decline to issue an advance ruling to the applicant where the question raised in the application:
   a. is already pending in the applicant’s case before any governmental agency, appellate tribunal, or court; or
   b. has already been decided by any appellate tribunal or court.

3. The advance ruling shall be valid for a reasonable period of time after its issuance unless the law, facts, or circumstances supporting that ruling have changed.

4. Where the Member revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where a Member revokes, modifies, or invalidates advance rulings with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, false, or misleading information.

5. An advance ruling issued by a Member shall be binding on that Member in respect of the applicant that sought it. The Member may provide that the advance ruling is binding on the applicant.

6. Each Member shall publish, at a minimum:
   a. the requirements for the application for an advance ruling, including the information to be provided and the format;
   b. the time period by which it will issue an advance ruling; and
   c. the length of time for which the advance ruling is valid.

7. Each Member shall provide, upon written request of an applicant, a review of the advance ruling or the decision to revoke, modify, or invalidate the advance ruling.

8. Each Member shall endeavor to make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.

9. Definitions and scope:

1 Under this paragraph: (a) a review may, either before or after the ruling has been acted upon, be provided by the official, office, or authority that issued the ruling, a higher or independent administrative authority, or a judicial authority; and (b) a Member is not required to provide the applicant with recourse to paragraph 1 of Article 4.
a. An advance ruling is a written decision provided by a Member to the applicant prior to the importation of a good covered by the application that sets forth the treatment that the Member shall provide to the good at the time of importation with regard to:

i. the good's tariff classification; and

ii. the origin of the good².

b. In addition to the advance rulings defined in subparagraph (a), Members are encouraged to provide advance rulings on:

(i) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts;

(ii) the applicability of the Member's requirements for relief or exemption from customs duties;

(iii) the application of the Member's requirements for quotas, including tariff quotas; and

(iv) any additional matters for which a Member considers it appropriate to issue an advance ruling.

c. An applicant is an exporter, importer or any person with a justifiable cause or a representative thereof.

d. A Member may require that the applicant have legal representation or registration in its territory. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium-sized enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination.

² Under this paragraph: (a) a review may, either before or after the ruling has been acted upon, be provided by the official, office, or authority that issued the ruling, a higher or independent administrative authority, or a judicial authority; and (b) a Member is not required to provide the applicant with recourse to paragraph 1 of Article 4.