TERMS OF REFERENCE

Supportive legislative, regulatory framework for bioenergy value chains in Ukraine

Ukraine: Sustainable Bioenergy Value Chain Innovations Programme

1. BACKGROUND

The EBRD is actively promoting investments and policies focused on renewable energy, energy efficiency, and climate technology transfer across all countries of operations. This activity is a result of the Bank’s Green Economy Transition approach (GET), which was adopted in 2015 and could be defined as follows: “A Green Economy is a market economy in which public and private investments are made with a specific concern to minimise the impact of economic activity on the environment and where market failures are addressed through improved policy and legal frameworks aiming at accounting systematically for the inherent value of services provided by nature, at managing related risks and at catalysing innovation”.

As part of the GET strategy, the EBRD is launching “Sustainable Bioenergy Value Chain Innovation” Programme in Ukraine. The Programme will promote investments in innovative bioenergy technologies and practices associated with the use of agricultural residues and waste by enabling and developing sustainable bioenergy value chains leading to significant greenhouse gas emissions reductions and in support of Ukraine’s target to increase the renewable share in energy mix of the country.

The Programme consists of 4 components:

Component 1: Support legislative and regulatory framework for bioenergy value chains, including the development of:
   1.1. Strategic roadmap for supporting bioenergy contribution to national renewable energy targets;
   1.2. Biomass certification system;
   1.3. Regulations for sustainable biomass value chains;

Component 2: Support for bioenergy value chains deployment with targeted technical assistance;

Component 3: Deployment of investment products for bioenergy innovations;

Component 4: Knowledge management and awareness.

Component 1 - Support legislative and regulatory framework for bioenergy value chains is an important component of the Programme and is a subject of this Assignment. Overall, the policy component aims to improve policy, legislation and standards to strengthen the enabling environment for development of bioenergy market in Ukraine.
The main policy barriers are identified as the following:

**Lack of clarity on pathways for bioenergy contribution to national energy and mitigation targets.** Though an overall vision for bioenergy contribution toward national energy goals has been formulated (e.g. as part of the National Energy Strategy to 2035), this has not been codified in concrete action plans and technology roadmaps that would enable the vision to become a reality.

**Regulatory frameworks do not incentivize development of bioenergy supply chains.** The existing regulatory framework does not provide policies with the dedicated incentive structure necessary to facilitate investment in upstream bioenergy supply chain elements, but also in downstream conversion technologies. For example, unlike the FiT for other renewable energy sources (e.g. wind), the FiT for bioenergy does not differentiate by plant size, thereby making small- to medium-sized plants marginally viable. There is also a lack of specific incentive mechanisms and tax structures along the bioenergy supply value chain that can support the establishment of bio-cooperatives and the development of feedstock for bioenergy processing, logistics and storage; in addition to energy production.

**Lack of quality standards for bioenergy products.** Standards essential to ensuring the quality of the bioenergy products and thereby the development of the value chain, such as a sustainable biomass certification scheme, do not exist.

In order to assist the Ukrainian Government, the EBRD wishes to procure the services of a team of consultants (the Consultant). These Terms of Reference outline the scope and tasks for the Consultant.

## 2. OBJECTIVES AND SCOPE OF WORK

The overall aim of this technical assistance assignment (the ‘Assignment’) is to support institutional, policy and regulatory dialogue to assist the Ukrainian government in designing an effective policy framework for development of bioenergy sector in Ukraine. This Assignment will assist to lay the foundations for potential EBRD banking operations in the bioenergy and related value chain development in Ukrainian corporate sector.

The Assignment will focus on providing support to the Government of Ukraine by:

- Developing an action plan for bioenergy capacity to reach targets set in the National Energy Strategy of Ukraine.
- Developing incentives for bioenergy technology transfer and bioenergy value chain development.
- Developing biomass certification schemes to enable biomass exchange operation.

The main governmental stakeholder is expected to be the Ministry of Energy and Environmental Protection of Ukraine. The implementation of the Assignment may require establishing the working group, including (but not limited to) representatives of the Ministry of Agrarian Policy and Food of Ukraine; the Ministry of Ecology and Natural Resources of Ukraine; the State Agency on Energy Efficiency and Energy Savings of Ukraine.
3. **TASKS OF THE CONSULTANT**

**Task 1 – Action Plan for bioenergy development**

Using available information, and in consultation with the government representatives and EBRD, the Consultant will review and summarise the existing policy, legislative and regulatory frameworks that impact the Ukrainian bioenergy sector focusing on overcoming the identified barriers. This will include:

a) Review and analyse the bioenergy targets of the National Energy Strategy to 2035.

b) Review and analyse targets related to bioenergy in the second draft of Ukraine’s NDC.

c) Review and analyse the current local legislation related to bioenergy sector, including biomethane and bioliquids in relation to the European Renewable Energy Directives.

d) Recommend the legislative and regulatory actions necessary for improvement of the current legislation with respect to development of bioenergy sector in Ukraine, addressing issues such as bioenergy exports, cross-border cooperation and implications on emissions reductions; and establishment of a bioenergy marketplace. Further, the actions should reflect broad options for biomass projects under Article 6.2 of the Paris Agreement. The recommended actions should identify required (primary and/or secondary) level and describe in outline the required legislative amendments and the content of the regulations. In addition, the recommendations should include a proposed time schedule, with clear identification of stakeholders, responsibilities and milestones for the actions.

e) Provide a rationale for the revised targets (if necessary), recommended actions and estimate the likely financial, energy, CO2 and other benefits associated with the suggested actions.

f) Following the completion of the policy review and recommendations report, the Consultant will arrange a Stakeholder workshop with the aim of raising understanding of the proposed legislative and regulatory framework. The Consultant will be responsible for identifying participants, inviting participants (after approval from the EBRD and the main governmental stakeholder), preparing presentation material, arranging speakers and covering the cost of the venue and simultaneous translation as necessary.

g) Based on the outcomes of the policy review and stakeholder consultations the Consultant will develop a Bioenergy Policy Action Plan for the Government of Ukraine.

**Task 2 – Regulations for sustainable bioenergy supply value chains development**

The Consultant will support the government by drafting legislation and regulations. The tasks relating to legislation will follow from the recommendations in Task 1, and include:

a) Review and analyse the existing incentive mechanism(s), including tariff and tax policies supporting bioenergy sector.

b) Establish bioenergy supply value chains specifications for the different types of biomass. The specifications should focus on the technologies and equipment, used in each of the value chain segments (harvesting, collection, storage, logistics, treatment, final packaging of ready to use biomass feedstock) and include:

   - technical descriptions;
   - local and international producers, available on the market;
   - cost for deployment;
   - local market penetration level in comparison with the international market;
   - diffusion potential.

c) Identify key bottlenecks for the deployment of those technologies and equipment and suggest effective amendments of the local regulations to address those bottlenecks.
d) Provide a rationale for the recommended actions and estimate the likely financial, energy, CO2 and other benefits associated with the suggested actions.

e) Arrange a Stakeholder workshop to discuss suggested legislative amendments.

f) Draft Laws or amendment to the existing Laws to incorporate agreed actions for enabling bioenergy supply value chains development. The amendments and new Laws should be developed based on the principle of introduction of optimal minimal legal changes.

g) Assist main stakeholder to secure inter-Ministerial approval and subsequent governmental sign off.

**Task 3 – Support the establishment of biomass exchanges and biomass certification system**

The biomass certification system is a vital tool for ensuring bioenergy feedstock sustainability. The introduction of the biomass certification system into the Ukrainian context requires the introduction of certain standards against which the sustainability of the biomass can be judged/certified. The certification system should be aligned with international standards for biomass products and be tailored for Ukraine’s needs.

Using available information the Consultant will review and summarise the existing policy and suggest actions to enable biomass certification and Biomass Exchange Stock operation.

This will include:

a) Review the RED directives and other relevant European legislation.

b) Review existing standards, such as NTA8080 and REDcert, for biomass products.

c) Review draft Law on Biomass Exchange Stock.

d) Identify types of biomass, sustainable criteria and indicators, including land protection, food security, carbon balance, etc.

e) Select the biomass certification system according to the following criteria as an initial suggestion:
   - Potential for trade facilitation of bioenergy products;
   - Alignment with the legal requirements in Ukraine and the EU;
   - Credibility of the scheme;
   - Fit with the market needs and requirements.

f) Describe process for certification, including accreditation of certification bodies, validity of certificate, cost of certification, compliance mechanism.

g) Advise on the implementation/transposition of the biomass certification system and propose implementation mechanism. The certification system should include a robust MRV system to track sustainability of the bioenergy value chain and allow bioenergy production to be effectively reported against international obligations – and potentially to be traded with EU and Energy Community Member States who may be interested in utilising sustainable biomass fuels from Ukraine for the meeting of their targets.

h) Arrange a Stakeholder workshop to discuss suggested certification scheme and implementation arrangements.

i) Draft relevant legislation to enable biomass certification. The amendments and new Laws should be developed based on the principle of introduction of optimal minimal legal changes.

j) Assist main stakeholder to secure inter-Ministerial approval and subsequent governmental sign off.
### 4. DELIVERABLES

An indicative deliverable dates are shown in the table below:

<table>
<thead>
<tr>
<th>Deliverable</th>
<th>Description</th>
<th>Timeframe after Assignment commencing</th>
<th>Approximate date</th>
<th>Payment structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Start of the assignment</td>
<td></td>
<td></td>
<td>13.01.2020</td>
<td>Advance payment</td>
</tr>
<tr>
<td>Inception Report</td>
<td>Detailed work plan, review the initial findings on all matters covered in the Scope of Work, highlighting any important obstacles encountered and suggested amendments to indicative deliverables table. Stakeholder mapping</td>
<td>3 weeks</td>
<td>03.02.2020</td>
<td></td>
</tr>
<tr>
<td>Kick-off meeting*</td>
<td>Provide meeting and get early engagement of stakeholders for the whole assignment</td>
<td>4 weeks</td>
<td>03-07.02.2020</td>
<td></td>
</tr>
<tr>
<td><strong>TASK 1</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Final policy review and recommendations report</td>
<td>Task 1 (a) - (f)</td>
<td>12 weeks</td>
<td>06.04.2020</td>
<td></td>
</tr>
<tr>
<td>Stakeholder meeting*</td>
<td>Task 1 (g)</td>
<td>13 weeks</td>
<td>06-10.04.2020</td>
<td></td>
</tr>
<tr>
<td>Bioenergy Policy Action Plan</td>
<td>Task 1 (h)</td>
<td>16 weeks</td>
<td>07.05.2020</td>
<td>Payment upon acceptance</td>
</tr>
<tr>
<td><strong>TASK 2</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Policy review</td>
<td>Task 2 (a)</td>
<td>20 weeks</td>
<td>01.06.2020</td>
<td></td>
</tr>
<tr>
<td>Recommendations for incentives</td>
<td>Task 2 (b), (c), (d)</td>
<td>28 weeks</td>
<td>31.07.2020</td>
<td></td>
</tr>
<tr>
<td>Stakeholder meeting</td>
<td>Task 2 (e)</td>
<td>34 weeks</td>
<td>07-11.09.2020</td>
<td></td>
</tr>
<tr>
<td>Legislation drafted</td>
<td>Task 2 (f)</td>
<td>41 weeks</td>
<td>09.11.2020</td>
<td>Payment upon acceptance</td>
</tr>
<tr>
<td>Stakeholder assistance</td>
<td>Task 2 (g)</td>
<td>58 weeks</td>
<td>09.11.2020 - 05.03.2021</td>
<td></td>
</tr>
<tr>
<td><strong>TASK 3</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Policy review</td>
<td>Task 3 (a), (b), (c)</td>
<td>20 weeks</td>
<td>08.06.2020</td>
<td></td>
</tr>
<tr>
<td>Advise on certification scheme and implementation arrangements</td>
<td>Task 3 (d), (e), (f), (g)</td>
<td>28 weeks</td>
<td>31.07.2020</td>
<td></td>
</tr>
<tr>
<td>Stakeholder meeting</td>
<td>Task 3 (h)</td>
<td>34 weeks</td>
<td>07-11.09.2020</td>
<td></td>
</tr>
<tr>
<td>Legislation drafted</td>
<td>Task 3 (j)</td>
<td>41 weeks</td>
<td>09.11.2020</td>
<td>Payment upon acceptance</td>
</tr>
<tr>
<td>Stakeholder assistance</td>
<td>Task 2 (j)</td>
<td>58 weeks</td>
<td>09.11.2020 - 05.03.2021</td>
<td></td>
</tr>
<tr>
<td>Final report</td>
<td>A final report summarising all of the activities of the Assignment and the achievements against deliverables</td>
<td>58 weeks</td>
<td>05.03.2021</td>
<td>Final payment</td>
</tr>
</tbody>
</table>
All reports and presentations will be submitted in English and Ukrainian in a MS Word document. All legislation and regulations will be provided in Ukrainian. The Final report will be provided in English and Ukrainian.

5. **IMPLEMENTATION ARRANGEMENTS**

The Consultant shall report on a bi-weekly basis to the EBRD Program Manager. The bi-weekly Progress Reports will summarise the progress on all on-going activities.

The assignment will be implemented in cooperation and dialogue with the governmental and other relevant stakeholders, including the Ministry of Energy and Environmental Protection of Ukraine; the Ministry of Economy. A working group of governmental stakeholders should be organized to ensure proper coordination and alignment of the assignment with governmental priorities.

The duration of the Assignment will be 58 weeks. Subject to availability of funding, the performance of the Consultant and the business needs, the Assignment may be extended beyond the current scope.

The contract payments will be tied to deliverables as tentatively indicated in the section 4 Deliverables.