**UNICEF Moldova**

**Terms of Reference**

**Title: National Individual Consultancy to assess and adjust/develop law implementing the International Code of Marketing of Breast-milk Substitutes**

**Location:** Chisinau, Republic of Moldova

**Duration and timeline:** **38 working days** (within a 3-month period July – September 2024)

1. **Background**

One of the most critical times for good nutrition is in the 1,000 day period from conception until a child’s second birthday. The most recent MICS-2012 report has brought to light concerning downward trends in early and exclusive breastfeeding within Moldova. When compared to DHS-2005 data, early breastfeeding has declined from 65% to 61%, while exclusive breastfeeding during the initial 6 months of life has decreased from 46% to 36%, with only 12% of infants breastfed up to the age of two years. Notably, in the rural areas of Moldova, approximately 40% of children aged 0-5 months are exclusively breastfed, in contrast to 30% in urban areas. To acquire updated data pertaining to parents/caregivers’ knowledge and practices in the field of Infant and Young Child Feeding (IYCF), UNICEF Moldova is conducting a nationally representative study which *aims to furnish compelling evidence for decision-makers, aid in policy planning and monitoring of IYCF trends with the emphasis on identifying knowledge and policy gaps prevalent in the country.*

There has been limited progress in the last twenty years to significantly raise breastfeeding rates. A key challenge is the lack of adequate laws to protect breastfeeding from the aggressive and unethical promotion of breastmilk substitutes (BMS), including but not limited to formula milk. Promotional tactics are often designed to undermine women’s confidence in breastfeeding and persuade them to feed their babies inferior and expensive substitutes that can put their baby’s health and survival at risk.

In 1981, the World Health Assembly (WHA) adopted the International Code of Marketing of Breast-milk Substitutes (‘the Code’) to curtail the inappropriate marketing of BMS. It establishes minimum requirements for regulating the marketing of BMS, feeding bottles and teats, and aims to stop their aggressive and inappropriate marketing. A series of subsequent WHA resolutions has kept the Code up to date and addressed some of the loopholes in the original document. These resolutions have the same status as the Code itself.

The Code expresses the collective will of member states, informed by the highest global authority on health, and carries substantial political and moral weight. Implementation of the Code also falls within member states’ international human rights law obligations. Governments that have ratified the Convention on the Rights of the Child, including the Republic of Moldova– are legally obliged to implement the Code to fulfill their obligations under the Convention.

Nevertheless, more than forty years after the adoption of the Code, formula milk marketing still represents one of the most underappreciated risks to infants and young children’s health, especially that on a national level, only a few provisions of the Code are adopted/implemented.

**2.** **Purpose of the assignment**

This consultancy aims to provide technical support to the Health team in reviewing and enhancing the country's regulatory system concerning breast-milk substitutes (BMS), feeding bottles, teats, and the labeling of food products for children under three years old. This consultancy aims to adjust and develop laws that align with the International Code of Marketing of Breast-milk Substitutes (the Code), the European Union directives/regulations and ensure the proper labeling of products intended for young children.

1. **Objectives of the consultancy**

Under the guidance of the Health Officer and of the Legal Specialist from UNICEF HQ, the consultant will conduct a legal landscape analysis to inform the development of laws implementing the Code and the labeling of foods products intended for children under 3 y.o. The review of the country’s regulatory system will be performed using a legal landscape analysis tool developed by UNICEF HQ. In addition, the consultant will provide support in adjustment/development of the concerned laws/regulations.

1. **Specific Tasks and Deliverables**

The Consultant, under the direct supervision of the Health Officer and of the Legal Specialist from UNICEF HQ, when required, will ensure the provision of services of the highest quality and standards. He/she will:

* + - 1. **Conduct a legal landscape analysis of the existing national Code-related laws/regulations**
* The analysis will be performed using a legal landscape analysis tool developed by UNICEF HQ. The provisions of Code-implementation laws will be grouped into three main categories: labelling and composition, health care systems, marketing prohibitions. The analysis will include relevant national and sub-national laws. Litigation and regulatory enforcement actions that affect the interpretation or application of these laws will be considered. Any information to the implementation, monitoring, enforcement, evaluation of the law that cannot be found, will be explained, as this can provide useful insights.
* Determine what legislation and/or regulations are needed to implement the Code;
* Provide recommendations for the most appropriate policy pathways for the new law;
  + - 1. **Conduct a legal landscape analysis of the existing national laws/regulations concerning the labeling of food products intended for children under 3 y.o.**
      2. **Adjustment/ development of the law to implement the Code.** The law must also align with the updated EU legislation.
      3. **Adjustment/ development of the law concerning labeling of food products intended for children under 3 y.o.** The law must also align with the updated EU legislation.

5. Deliverables and delivery dates

| **Tasks** | **Deliverable** | **Timeline\*** |
| --- | --- | --- |
| 1. **Conduct a legal landscape analysis of the existing national Code-related laws** | Draft analysis submitted to UNICEF for review. Consultant will be available to respond to UNICEF’s follow-up questions and update the analysis until it is determined to be finalized after UNICEF’s review.  Final analysis submitted to UNICEF. The analysis will be in English with detailed citations. Weblinks and/or PDFs for sources will be provided whenever possible. | 10 working days July 2024  3 working days July 2024 |
| 1. **Conduct a legal landscape analysis of the existing national laws concerning the labeling of food products intended for children under 3 y.o.** | Draft analysis submitted to UNICEF for review. Consultant will be available to respond to UNICEF’s follow-up questions and update the analysis until it is determined to be finalized after UNICEF’s review.  Final analysis submitted to UNICEF. The analysis will be in English with detailed citations. Weblinks and/or PDFs for sources will be provided whenever possible. | 6 working days July 2024  2 working day July 2024 |
| 1. **Adjustment/development of the law/regulations to implement the Code** | Draft laws/regulations submitted to UNICEF for review.  Final laws/regulations submitted to UNICEF. | 8 working days August 2024  2 working days August 2024 |
| 1. **Adjustment/development of the law/regulations concerning labelling of food products intended for children under 3 y.o.** | Draft laws/regulations submitted to UNICEF for review.  Final laws/regulations submitted to UNICEF. | 5 working days August 2024  2 working days August 2024 |
| **Total:** | | 38 working days |

*\* Exact deadlines will be mutually agreed upon contract signature.*

1. Reporting requirements

The consultant will report to the Health Officer, who will regularly communicate with the consultant and provide feedback and guidance on his/her performance and all other necessary support so to achieve objectives of the consultancy, as well as remain aware of any upcoming issues related to consultant’s performance and quality of work. When required, the working process and deliverables will be consulted with the Legal Specialist from UNICEF HQ.

All activities and deliverables undertaken by the consultant shall be discussed and planned in consultation with UNICEF. The consultant is expected to deliver each component of the workplan electronically (in Word format) and in Romanian/English based on requirements.

1. **Performance indicators for evaluation of results**

The performance of work will be evaluated based on the following indicators:

* Completion of tasks specified in ToR;
* Compliance with the established deadlines for submission of deliverables;
* Quality of work;
* Demonstration of high standards in cooperation and communication with UNICEF and counterparts.

1. **Qualifications and experience**

* University degree in public health, nutrition, mother and child health or any other relevant studies is required;
* At least 10 years of practical professional experience in public health, nutrition, mother and child health is required;
* Strong background in the country’s legal system, government processes and legislative drafting will be considered an asset;
* Fluency in Romanian and working knowledge of English is required;
* Previous relevant experience in nutrition with UN and other development organizations be  
  considered an advantage.

1. **Content of technical proposal**

* Relevant experience with similar type of assignments and proposed approach (at least 1,000 words);
* Curriculum Vitae.

1. **Content of financial proposal**

The applicant should fill in the Financial Offer Template and specify an all-inclusive fee to complete the tasks/deliverables described in the Terms of Reference in MDL.

Other expenses directly related to the ToR assignments and deliverables such as: (translation/interpretation costs, local transportation etc.) may be included in the financial offer unless specified that UNICEF will cover them separately (see paragraph 14 and 15 below).

The final selection will be based on the principle of “best value for money” i.e., achieving desired outcome at lowest possible fee. If not provided by ToR, UNICEF will not reimburse costs not directly related to the assignment.

This contract does not allow payment of off-hours, medical insurance, taxes, and sick leave. UNICEF reserves the right to withhold all or a portion of payment if performance is unsatisfactory, if work/output is incomplete, not delivered or for failure to meet deadlines.

1. **Evaluation criteria for selection**

The candidate is expected to reflect in the submission the qualifications, knowledge and experience related to the requirements listed above. Technical evaluation will be performed through a desk review of applications, evaluation of technical proposals, and if necessary, may be supplemented by an interview.

The total amount of points to be allocated for the price component is 30. The maximum number of points (30) will be allotted to the lowest price proposal of a technically qualified offer. Points for other offers will be calculated as Points (x) = (lowest offer/ offer x) \* 30.

The selection process is aimed at selecting the applicant who obtains the highest cumulative score (technical evaluation + financial offer evaluation points) following “best value for money” principle.

1. **Payment schedule**

The payment will be made in 1 instalment/lumpsum, upon submission and acceptance of all deliverables stipulated in the table above.

UNICEF reserves the right to withhold all or a portion of payment if performance is unsatisfactory, if work/outputs is incomplete, not delivered or for failure to meet deadlines.

1. Definition of supervisory arrangements

The consultant will work under the oversight of Health Officer of UNICEF Moldova and in coordination with Legal Specialist from UNICEF HQ. Fees will be rendered upon written approval by the UNICEF Supervisor, and contingent upon the quality and achievement of deliverables. UNICEF will regularly communicate with the selected consultant and provide formats for reports, feedback and guidance on performance and all other necessary support to achieve objectives of the document, as well as remain aware of any upcoming issues related to expert’s performance and quality of work.

1. Work location and official travel involved

The work will be performed remotely and will not require local travels.

1. Support provided by UNICEF

UNICEF will regularly communicate with the consultant and provide feedback and guidance and necessary support so to achieve objectives of the work. If needed be, UNICEF will provide support in contacting other relevant stakeholders during the assignment process.

1. **Child Safeguarding**

Is this project/assignment considered as “[Elevated Risk Role](https://unicef.sharepoint.com/sites/DHR-ChildSafeguarding/DocumentLibrary1/Guidance%20on%20Identifying%20Elevated%20Risk%20Roles_finalversion.pdf?CT=1590792470221&OR=ItemsView)” from a child safeguarding perspective?

   YES      **NO**        If YES, check all that apply:

More information is available in the [Child Safeguarding SharePoint](https://unicef.sharepoint.com/sites/DHR-ChildSafeguarding/SitePages/Amendments-to-the-Recruitment-Guidance.aspx) and [Child Safeguarding FAQs and Updates](https://unicef.sharepoint.com/sites/DHR-ChildSafeguarding/DocumentLibrary1/Child%20Safeguarding%20FAQs%20and%20Updates%20Dec%202020.pdf)

1. **Ethical considerations**

The Contractor will ensure that the process is in line with the United Nations Evaluation Group (UNEG) Ethical Guidelines1. The Contractor should be sensitive to beliefs, manners and customs and act with integrity and honesty while interacting with stakeholders and beneficiaries. Furthermore, the Contractor should protect the anonymity and confidentiality of individual information. All participants should be informed about the context and purpose of the Assessment, as well as about the confidentiality of the information shared. The Contractor is allowed to use documents and information provided only for the tasks related to these terms of reference.

As per the [UNICEF](https://unicef.sharepoint.com/sites/portals/RF/Regulatory%20Framework%20Library/DHR%20Procedure%20on%20Consultants%20-%20DHR_PROCEDURE_2018_005.pdf) procedure on Individual Consultants, together with the Notification letter, the contractor will be sent the [link on UNICEF’s learning platform, Agora](https://agora.unicef.org/login/index.php), containing UNICEF policies on Prohibiting and Combatting Fraud and Corruption; Prohibition of discrimination, harassment, sexual harassment and abuse of authority and other relevant policies for their information and acknowledgment. The selected candidate must complete the applicable mandatory online courses on UNICEF’s learning platform prior to signature of contract.  All certificates should be presented as part of the contract.

1. **Other considerations**

Individuals engaged under a consultancy or individual contract will not be considered “staff members” under the Staff Regulations and Rules of the United Nations and UNICEF’s policies and procedures and will not be entitled to benefits provided therein (such as leave entitlements and medical insurance coverage). Their conditions of service will be governed by their contract and the General Conditions of Contracts for the Services of Consultants and Individual Contractors. Consultants and individual contractors are responsible for determining their tax liabilities and for the payment of any taxes and/or duties, in accordance with local or other applicable laws.

The selected candidate is solely responsible to ensure that the visa (if applicable) and health insurance required to perform the duties of the contract are valid for the entire period of the contract.

Selected candidates are subject to confirmation of fully vaccinated status against SARS-CoV-2 (COVID-19) with a World Health Organization (WHO)-endorsed vaccine, which must be met prior to taking up the assignment. It does not apply to consultants who will work remotely and are not expected to work on or visit UNICEF premises, programme delivery locations or directly interact with communities UNICEF works with, nor to travel to perform functions for UNICEF for the duration of their consultancy contracts.

UNICEF offers reasonable accommodation for consultants with disabilities. This may include, for example, accessible software, travel assistance for missions or personal attendants. We encourage you to disclose your disability during your application in case you need reasonable accommodation during the selection process and afterwards in your assignment.