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TERMS OF REFERENCE

TITLE:	Consultant: Legal analysis of Malaysia’s existing law and regulations and Case analysis of Malaysian environment cases relating to Anti-money Laundering
LOCATION:	Kelana Jaya, Malaysia
ANTICIPATED ENGAGEMENT:	65 working days beginning 1 January to 30 April 2025
REPORTS TO:	INL Project Manager / Senior Wildlife Crime Analyst

Background

TRAFFIC is a leading non-governmental organisation working to ensure that global trade in wild species is legal and sustainable, for the benefit of the planet and people. At a time of unprecedented biodiversity loss, TRAFFIC provides evidence, solutions, and influence to combat environmental degradation and ensure a nature-positive future. TRAFFIC plays a unique and leading role as a global wildlife trade specialist, carrying out research, investigations and analysis to provide evidence and catalyze action by governments, businesses and individuals to reduce the pressure of illegal and unsustainable wildlife trade on biodiversity, and enhance the benefits to wildlife conservation and human wellbeing that derive from trade at sustainable levels. TRAFFIC has worked on tackling IWT in Malaysia since 1992, including an ongoing project “Project Catalyse (CATalysing Action in MaLaYsia to Strengthen Enforcement)”.

Funded by the United States Department of State Bureau of International Narcotics and Law Enforcement Affairs (INL), this project focuses on capacity building of enforcement agencies with the premise that better technically equipped and competent frontline law enforcement, reinforced by improved national and regional inter-agency collaboration will lead to higher levels of interception, seizures, arrests and prosecution of those engaged in in wildlife trafficking. One of the major areas of the project is to strengthen law enforcement authorities with the understanding of using of anti-money laundering (AML) laws to counter wildlife trafficking to investigate illegal wildlife trade in Malaysia.

AML laws can play a crucial, game-changing role in transforming wildlife trafficking from a low-risk/high-reward to a high-risk activity, particularly by providing an opportunity to follow the illicit financial flows to the senior criminals who benefit from these crimes. Yet despite the 2017 UN General Assembly Resolution A/71/L.88, which calls on countries to leverage AML laws in the fight against IWT, they remain under-utilized, including in Southeast Asia. In Malaysia, investigations and prosecutions still rely primarily on charges for poaching or illegal trade (or illegal possession), while financial crimes are rarely pursued, despite the Second Schedule of the *Malaysia Anti-Money Laundering Act* including *International Trade in Endangered Species Act 2008 [Act 686]* as a predicate crime. This legislation remains under-utilized but there is nascent interest in Malaysia to pursue this avenue, especially given the establishment of the National Financial Crime Centre under the Prime Minister’s Department.

The overall aim of this assessment is to assess the legal framework in Malaysia relating to AML and wildlife crime to improve Malaysia’s use of investigating wildlife crime through an AML lens. Key to securing interest is by advocating on follow-the-money principles and can be used to identify taxation loss to increase prioritization. To build a strong foundation for this, a thorough legal analysis of Malaysia’s existing laws and regulations is required to evaluate the application of ‘follow the money’ principles and AML-laws and regulations to wildlife crime and formulate appropriate solutions.

Findings from this assessment will be used by TRAFFIC to develop a guideline for law enforcement agencies, to increase their understanding and implementation of AML regulations, and deliver bespoke training for both law enforcement agencies and financial institutions and / relevant third-party payment platforms to enhance collaboration within and between the sectors to tackle wildlife trade-linked illicit financial flows.

Main Duties and Responsibilities

The consultant is required to conduct a thorough legal analysis on existing AML laws and regulations in Malaysia and include examples of relevant cases as national case studies relating to wildlife and environmental crime.

As part of this assignment, the consultant will be required to:

- a. Undertake a comprehensive study and review of existing AML legislative instruments in Malaysia, identifying strengths, gaps and opportunities for improvements;
- b. Complete a desk study review and prepare wildlife and environmental crime cases studies in Malaysia that involve financial crime-related methods and charges;
- c. Organize consultations and/or interviews (physical or virtual) with target audience (financial, justice and law enforcement sectors) to verify and augment the desk study findings;
- d. Based on (a) to (c) above, compile a report as an existing baseline highlighting strengths, opportunities and gaps in Malaysia's legislative and regulatory framework and detailing case examples from Malaysia to illustrate the use of financial regulations by enforcement agencies in Malaysia to investigate and prosecute environmental crime cases;

Methodology

The methodology to be used consists of the following:

- a. Complete a desk study to review Malaysia's existing AML and other relevant legislative instruments including, but not limited to the *Anti-Money Laundering and Anti-Terrorism Financing Act 2001 (Act 613)*. This should cover legislation that has been effective for "following the money" relating to environmental and wildlife crime in Malaysia, including fraud and corruption. The review should also include implementing agencies and their jurisdictions, identified gaps, challenges and opportunities, and how existing legal framework can be used in fighting against wildlife crime.
- b. Complete a desk study to review and analyze any crime cases in Malaysia that involve financial crime-related methods used in wildlife and environmental crime, where financial crime-related charges were pressed. These should emphasize lessons that can be applied to the wildlife trafficking context.
- c. Organize consultations and/or interviews (physical or virtual) with target audience (financial, justice and law enforcement sectors) to verify and augment the desk study findings.
- d. Write a comprehensive report based on the legal and case analysis and interviews.
- e. Present the analysis results/report to TRAFFIC staff and other relevant stakeholders/experts for comments through informal meetings and expert reviewing workshops.

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- f. Revise and finalize report in accordance with the comments.

The consultant may propose additional methodological components to be agreed upon with TRAFFIC International Southeast Asia.

Outputs

- a. A report summarizing the approach and findings for legal analysis and wildlife and environmental case analysis in Malaysia. The structure and contents will be determined together with TRAFFIC. The TRAFFIC style manual (to be provided) should be followed as much as possible when writing the end of contract report. In case of any questions or issues concerning presentation and style, the TRAFFIC focal person should be consulted. TRAFFIC will supervise the work and review draft reports and any other accompanying documents. TRAFFIC may also support the execution of certain aspects of this study as and when appropriate.
- b. List of names and contact details of persons consulted in the course of the study.

Timeline

The Consultancy will be carried out over a period of total 65 working days for legal and case analysis as follows:

Description	Number of workdays
Desk/literature research, meetings and communication with stakeholders	50
Preparation of draft report	10
Comments on draft report by TRAFFIC	0
Revise report with TRAFFIC comments incorporated	5

Budget

The total budget to cover this consultancy fee (including all travel, communication costs, research, preparation and finalisation of the report) is up to and not exceeding MYR50,000. The fee payable by TRAFFIC is inclusive of all taxes. Further details will be discussed upon contract award.

Required skills and competencies

- a. Prior experience working on anti-money laundering or financial crime issues is required.
- b. Experience engaging with government agencies in Malaysia, especially the Financial Investigation Unit, is highly beneficial.
- c. Excellent working knowledge of English and Bahasa Melayu.
- d. Knowledge and previous working experience in Malaysia's legal system, development, wildlife trade (including on forest and marine resources), environmental crime and related law enforcement issues preferred.
- e. Ability to work independently and show initiative in developing innovative approaches.

Application

To apply, please send your written application to zareena.murtadza@traffic.org. The application should be submitted as a single PDF consisting of the following sections:

- a. A cover letter describing your relevant knowledge, skills, experience, and motivation for applying.
- b. Curriculum Vitae.
- c. A writing sample.

NB: Only selected candidates will be contacted for interviews.

Deadline

9 December 2024