

Terms of Reference

Support for Due Diligence activities of parties under the IRBC Agreement for the floricultural sector

January 27, 2021

1. Introduction

IDH Sustainable Trade Initiative (“IDH”) accelerates and up-scales sustainable trade by building impact-oriented coalitions of front running companies, civil society, governments, knowledge institutions and other stakeholders in several commodity sectors. We convene the interests, strengths and knowledge of public and private partners in sustainability commodity programs that aim to mainstream international and domestic commodity markets. We jointly formulate strategic intervention plans with public and private partners, and we co-invest with partners in activities that generate public goods. IDH hosts the Secretariat of the Agreement for International Responsible Business Conduct (“IRBC”) for the floricultural sector

On basis of these Terms of Reference (“ToR”) IDH aims to select a party **to guide and support the practical implementation of due diligence processes of the businesses that signed the IRBC agreement for the floricultural sector.**

2. Background

The IRBC Agreement for the floricultural sector

On 2 July 2019, the companies Afriflora, Albert Heijn, Dutch Flower Group, Dümme Orange, FleuraMetz, Flower Trade Consult, Royal Lemkes and Waterdrinker, Royal Flora Holland, and the industry organisations Glastuinbouw Nederland, Tuinbranche Nederland and the Dutch Association of Wholesalers in Floriculture Products (VGB), the Government of the Netherlands, trade union FNV and NGOs HIVOS and Natuur & Milieu, together referred to as ‘the Parties’, entered into the IRBC Agreement for floriculture. Koppert and Chrysal, and the certification organisations Max Havelaar (Fairtrade) and MPS support the agreement.

The companies under the IRBC agreement are all member of the Floriculture Sustainability Initiative (FSI) as well. The activities under the agreement, including this exercise, therefore do not start from scratch but build on the work done in FSI. FSI members are able to monitor volumes of responsibly sourced products through compliance with a so-called basket of standards, on which they can report with the help of a tool called the Sustainable Sourcing Scan. At the same time, results from this exercise are to facilitate and accelerate the work in FSI. More detail on the connection with FSI can be found on page 3.

Due Diligence as core objective

The core objective of the IRBC agreement is that by 2022 companies and the auction undertake to perform must implement due diligence activities in accordance with OECD Guidelines for Multinational Enterprises and the UN Guiding Principles for Business and Human Rights (UNGPs).

Both the United Nations and the OECD have stated since 2011 that due diligence is a prerequisite for responsible business conduct. The Government of the Netherlands requires due diligence not only in its own procurement procedures but also in the support that it extends to companies, for example as part of its efforts to promote international trade. By participating in this agreement, the companies and industry organisations in the Dutch floriculture industry commit to performing due diligence and to be part of this modern sustainability movement.

During the first year of the IRBC Agreement, the parties selected KPMG to guide them on the basic principles and frameworks around this topic, and to evaluate the current state of play based on the “*essential due diligence questions*” as listed in annex III of the IRBC agreement. With the support of the IRBC companies, KPMG has assessed the progress that the parties made so far and presented an aggregate report on the status. As next steps for 2021, the parties seek support on implementation and improvement of their due diligence processes, using the KPMG report as basis. The implementation and improvement of due diligence processes is to be based on existing tools and frameworks where relevant.

The Due Diligence objectives in practical terms

- *Each company* is expected to have an operational due diligence system in place by the end of 2022.
 - Due diligence is a responsibility borne by individual companies, but many companies in the floriculture industry will obviously be facing similar risks, sometimes at the same source. The Parties have therefore agreed to support the companies with a joint industry risk analysis (‘sector mapping’) about the above-mentioned and other possible risks. All Parties will volunteer information known to them about the supply chain and risks. This risk mapping is finalized and available for the individual companies’ due diligence process.
 - Every company must ensure, ‘no matter what’, that it can provide detailed and accurate answers to essential due diligence questions about its business operations. This means the company must ensure that it has the information it needs to answer the questions in their entirety and that it addresses the problems or shortcomings so identified.
 - Collection of accurate information is challenging due to the interconnectivity in the chain (e.g. one trader may source from thousands of suppliers), and therefore creates the necessity of a centralized and integral way of data collection (which prevents double work and queries).
- *The industry organisations* will promote the introduction of due diligence systems and, accordingly, compliance with the agreement among their members.
- *The parties under the agreement in general*, will set up a working group to explore the possibility of a collective complaint’s mechanism. A final factor in due diligence is to be receptive to complaints from stakeholders in production countries in the event that something does go wrong.

Scope of the assignment

IDH is looking for an experienced consultant to (1) develop, or identify and adapt, Due Diligence tools, to (2) execute practical support and guidance for the Due Diligence process of the Parties under the IRBC Agreement and to (3) develop a framework for practical implementation of Due Diligence in 2022..

Link to the Floriculture Sustainability Initiative

Due to the relatively short IRBC timeline of 3 years, use of existing tools and practices should be prioritized. Keeping a close link to the [Floriculture Sustainability Initiative](#) (FSI), the FSI Basket of standards¹ principles, sector standards and already developed tools for supply chain transparency are considered a must. Further, by embedding the IRBC work into the overall FSI2025 strategy, we will ensure continuity beyond this covenant without duplication of work and allow for impact and international scale up.

Within FSI, the members have already developed a monitoring system that can be used to support the due diligence efforts by covenant members and beyond. The FSI Basket benchmarking in combination with the reporting tooling (sustainable sourcing scan by Floridata) could be used as a mechanism to further increase transparency and create a level playing field on both producer and trade levels. The companies have also indicated that the supply chain information systems and standards should be made fit for purpose to support the growers, trade and retail on risk assessments and due diligence reporting.

3. Assignment

Objectives

The overall objective of this assignment is to (1) develop Due Diligence tools, to (2) offer practical support and guidance for the implementation of Due Diligence processes of the Parties under the IRBC Agreement with a sector-wide angle and to (3) develop a concept for practical implementation of Due Diligence in 2022.

The specific objectives are:

1. Development of a tool to identify and assess adverse impacts in their operations, supply chains and business relationships. This tool will:
 - Create an aligned and sector-wide mode of risk identification and assessment, which prevents double work (e.g. multiple queries) for suppliers/breeders.
 - Define raw materials and link specific risks to it
 - Consider usage of the current FSI approach (FSI basket of standards, sustainable sourcing scan) and other existing reporting tools such as [Certifeye](#)
 - Consider making existing due diligence tools fit for purpose (e.g. tools developed in other RBC agreements)
 - Include training and guidelines for (1) implementation and integration into company processes and (2) the prioritisation and selection of risks (minimal steps/ selections to make)
 - Enable the sharing of risk assessment data amongst companies under the IRBC Agreement for cross-learning, this must be subject to a clear governance structure to respect and protect competition.

¹ 'Standards' are sustainability schemes such as GLOBAL GAP Flowers, MPS-GAP, KFC, or Florverde Sustainable Flowers.

2. Development or identification of a grievance mechanism, which will i.a. consider (where relevant), grievance mechanisms facilitated by sustainability standards that are part of the FSI basket of standards.
3. Development of a concrete action plan on how to make use of the results from using the tool and grievance mechanism for the remaining part of the covenant and beyond. This action plan should consider how to report on the activities and results, to facilitate alignment in aggregated reporting and target setting. It should also be based on the progress of the Due Diligence process of the parties in 2021.

Communication with the IRBC parties

The consultant will provide progress updates to the IRBC Steering Committee or Due Diligence WG on a quarterly basis. Specifically, the Consultant will update the IRBC Steering Committee on the framework of tools and directions in May. In September, the consultant will update the Steering Committee on the level of implementation and preliminary insights on future needs. It will also indicate how the parties have prioritized risks and how they monitor the effectiveness of their risk mitigation.

As the activities for completion of the objectives are to consider the progress of due diligence of the IRBC parties as well as their needs, the consultant will be in touch with the 9 relevant organisations bilaterally at least once.

Deliverables

The deliverables of this assignment will be:

Deliverables of assignment	Deadline
Workplan based on the objectives set out in the ToR and its annexes	8 March 2021
IRBC Due Diligence risk mapping tool & guidelines	31 October 2021
IRBC Due Diligence reporting approach and framework	31 October 2021
IRBC Grievance Mechanism	31 October 2021
Report on findings related to the objectives and identification of points of attention for 2022 IRBC Due Diligence program	31 October 2021

For further detail on the requirements, please see the IRBC Agreement text (incl. the essential Due Diligence Questions in Annex III) and the KPMG report (Annex 1 & 2).

4. Selection Procedure

The procedure will be as follows:

1. Publishing the tender and/or inviting services providers to submit a proposal based on this ToR.
2. Evaluation of the proposals: The IRBC Secretariat and representatives of the IRBC Due Diligence WG will evaluate the proposals based on the selection criteria as published in this ToR.
3. Decision on selection of the service provider.

4. Inception meeting with the selected service provider.

The schedule below indicates the timelines for the tender procedure:

Tender process	Timeline
ToR published	26 January 2021
Deadline for submission of proposals	9 February 2021
Selection of Service provider	12 February 2021
Start of assignment	22 February 2021

After the deadline to submit a proposal has passed, the IRBC Secretariat and representatives of the IRBC Due Diligence WG will evaluate the proposals.

The proposals will first be tested for completeness:

- The absence of the documents referred to in Section 6 of this document can lead to exclusion from further participation in the tender procedure. This is also the case when minimum requirements listed in this ToR are not met.
- If the proposal is complete, the selection committee will evaluate the proposal based on the criterion as mentioned in section 6.

5. Proposal requirements

IDH is requesting the service providers to hand in a proposal of maximum 10 pages (excluding company biographies, CVs, sample work and references). The proposal must be handed in a MS Word or PowerPoint version next to a PDF submission to facilitate any copy-and-pasting of content that we may need during evaluation.

The proposal must at least include:

Content:

- a. A succinct, well-documented approach addressing the requirements set out this ToR. We request that the proposal structure match the selection criteria as closely as possible
- b. Maximum of three client references and a sample of previous work relevant to the deliverables in this ToR
- c. An overview of the project team, including the CVs of the project team members
- d. Budget presented in Euros (ex VAT) with a break-down of at least the separate objectives and days/rate per project team member
- e. Statement on Ground for exclusion (see section 6 below)

Administrative:

- f. Completed detail request form (annex 3)
- g. Statement of acceptance draft contract (annex 6)

The proposal must be submitted to Coen Frederiks at frederiks@idhtrade.org before **9 February at 17:00 CET**.

6. Testing and weighing

The assignment will be awarded to the service provider with the most economically advantageous tender. The most economically advantageous tender is determined based on the evaluation criteria of price and quality.

Grounds for exclusion

Service providers shall be excluded from participation in this tender procedure if:

- a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- b) they or persons having powers of representation, decision-making or control over them have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata;
- c) they have been guilty of grave professional misconduct proven by any means which the IDH can justify;
- d) they have not fulfilled obligations relating to the payment of social security contributions or the payment of taxes in accordance with the legal provisions of the country in which they are established, or with those of the Netherlands or those of the country where the contract is to be performed;
- e) they or persons having powers of representation, decision making or control over them have been the subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization, money laundering or any other illegal activity.

Service providers must confirm in writing that they are not in one of the situations as listed above.

Scoring and weighing

The evaluation criteria are compared and weighed according to the procedure below. This concerns a general outline of the scoring methodology and an explanation how the service provider can demonstrate compliance with the requirements.

Step 1 - Criterion Quality

Evaluation scores will be awarded for each of the below components.

Component		Criteria	Max. Grading
1	Proposal overall	The extent to which the proposal meets the requirements set out in Section 3 above and throughout this document.	5
2	Design and Development process	The extent to which the Service provider demonstrates that a clear design and development process will be followed and IDH is	5

		adequately consulted for input during the design and development. The extent to which it is clear what is required of IDH in terms of human resources, digital assets and other input to deliver the project without being too onerous on our staff.	
3	Track record	The extent to which the Service provider presents the required level of expertise and knowledge to fulfil the requirements both at team member and company level. To extent to which the Service providers gives a clear description of the project team, relevant (delivering similar projects) experience of team members and time allocation per team member. Experience in the floricultural sector is considered an advantage.	5

Because of the important link to this sector, knowledge of- and experience in the Floriculture sector is considered an advantage.

Step 2 - Criterion price

A combined price in Euros (ex VAT) is to be presented. This is to be broken down by team member rate and hours. The criterion of assessment is “the best price for the proposed level of quality” with a maximum grading of 5.

Step 3 - Weighting

If scores of service providers are equal, priority will be based on the total scores that were given for the Criterion Quality. The assignment will be awarded to the service provider that has received the highest score for the Criterion Quality. If the evaluation of the Criterion Quality does not lead to a distinction, the score for the component “Proposal overall” will be decisive. If this does not lead to a distinction, the ranking will be determined by the drawing of lots.

Award

Once IDH has decided to which Service provider it intends to award the assignment, a written notification thereof is sent to all Service providers participating in the tender procedure.

The Service provider is contracted via a letter of assignment, following IDH’s template (Annex 4).

7. Communication and Confidentiality

The Service provider will ensure that all its contacts with IDH, with regards to the tender, during the tender procedure take place exclusively in writing by e-mail to Coen Frederiks via frederiks@idhtrade.org. The Service provider is thus explicitly prohibited, to prevent discrimination of the other Service providers and to ensure the diligence of the procedure, to have any contact whatsoever regarding the tender with any other persons of IDH than the person stated in the first sentence of this paragraph.

The documents provided by or on behalf of IDH will be handled confidentiality. The Service provider will also impose a duty of confidentiality on any parties that it engages. Any breach of the duty of confidentiality by the Service provider or its engaged third parties will give IDH grounds for exclusion of the Service provider, without requiring any prior written or verbal warning.

All information, documents and other requested or provided data submitted by the Service providers will be handled with due care and confidentiality by IDH. The provided information will after evaluation by IDH be filed as confidential. The provided information will not be returned to the Service provider.

8. Disclaimer

IDH reserves the right to update, change, extend, postpone, withdraw, or suspend the ToR, this tender procedure, or any decision regarding the selection or contract award. IDH is not obliged in this tender procedure to make a contract award decision or to conclude a contract with a participant.

Participants in the tender procedure cannot claim compensation from IDH, any affiliated persons or entities, in any way, in case any of the afore-mentioned situations occur.

By handing in a proposal, participants accept all terms and reservations made in this ToR, and subsequent information and documentation in this tender procedure.

9. Annexes

Annex 1: [IRBC Agreement for the Floricultural Sector](#)

Annex 2: KPMG Aggregated Report on IRBC Due Diligence in 2020 (available upon request)

Annex 3: Detail request form (available upon request)

Annex 4: Letter of Assignment (available upon request)

Annex 5: IDH General Terms and Conditions for Services (available upon request)

Annex 6: Statement of acceptance draft contract (available upon request)