

Agreement/MOU for
MWT 2611; 09/036

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2011/00891-1

MEMORANDUM of UNDERSTANDING

Between

the UK Department for International Development

and

Irish Aid

and

Norwegian Ministry of Foreign Affairs

regarding support to the

Malawi Enhancing Community Resilience Programme

WHEREAS the UK Department for International Development, Irish Aid, and the Norwegian Ministry of Foreign Affairs (the Donors) have decided to jointly support the Malawi Enhancing Community Resilience Programme (the Programme);

WHEREAS the Donors wish to channel their support through the UK Department for International Development (DFID) (the Lead Donor), who will take on the responsibility of acting on behalf of Irish Aid and the Norwegian Ministry of Foreign Affairs (the Co-Donors) as specified in this Memorandum of Understanding;

WHEREAS DFID will enter into a formal Accountable Grant Arrangement with the implementing agencies (the Programme Arrangement)¹ regarding support to and implementation of the Programme;

WHEREAS respect for human rights, democratic principles, the rule of law and good governance will form the basis of the cooperation and constitute essential elements of this Memorandum of Understanding and the formal Accountable Grant, hereafter referred to as the Programme Arrangement, between DFID and implementing agencies;

WHEREAS this Memorandum of Understanding records the commitments of the participants, this Memorandum of Understanding is not eligible for registration as a treaty under Article 102 of the UN Charter.

NOW THEREFORE the Donors have reached the following understanding:

¹ The Programme Arrangement is essentially the formal Accountable Grant Arrangement between DFID and the implementing NGO agencies. The formal Accountable Grant Arrangement will be annexed to the Memorandum of Understanding.

Paragraph I Scope and objectives

1. This Memorandum of Understanding sets forth common provisions and procedures for cooperation between the Donors regarding their support to the Programme. The objective of the Memorandum of Understanding is to improve donor co-ordination and harmonisation through cooperation, thereby enhancing the efficiency of DFID, Irish Aid and Norwegian Ministry of Foreign Affairs development cooperation.

2. The scope of the Programme as well as the provisions for the Donors support to the Programme will be defined in the Programme Arrangement which DFID will enter into with the implementing agencies. The Programme arrangement, with two NGO consortiums one led by Concern Universal and the other led by Christian Aid, will clearly state that DFID, Irish Aid and Norwegian Ministry of Foreign Affairs are co-financing the Programme and state DFID's authority to represent the Donors in accordance with this Memorandum of Understanding. Irish Aid and Norwegian Ministry of Foreign Affairs will carry no responsibility or liability towards the implementing partners for the implementation of the Programme Arrangement.

3. Before entering into the Programme Arrangement with implementing agencies, DFID will submit a copy of the final draft of the Programme Arrangement to Irish Aid and Norwegian Ministry of Foreign Affairs for approval. The same applies in respect of any amendments to the formal Accountable Grant Arrangement, which will also be subject to consultations, see Paragraph III, Section 3 below.

4. The formal Accountable Grant Arrangement will cover at least the following issues:

- The objectives of the Malawi Enhancing Community Resilience Programme
- A provision on respect for human rights and adherence to democratic principles, rule of law and good governance
- disclaimer of liability towards the implementing partners in respect of funds from Irish Aid and Norwegian Ministry of Foreign Affairs
- disbursement arrangements avoiding accumulation of funds (incl. any interests) with the implementing partners
- implementation responsibilities, including procurement procedures, which comply with DFID's requirements
- anti-corruption provision
- mechanisms for monitoring the use of funds and achievement of objectives, including financial and narrative reporting, audit and access to information
- reactions in case commitments are not fulfilled, including the possibility to suspend/withhold/reclaim funds in case of (serious) non-fulfilment of the terms of the formal Accountable Grant Arrangement from the side of the implementing partner
- return of funds (incl. any interests) which remain unspent upon completion /termination
- duration

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5. No offer, payment, consideration, gift or benefit of any kind, which could be regarded as an illegal or corrupt practice, has or will be made, promised, sought or accepted, neither directly nor indirectly, as an inducement or reward in relation to activities funded under this Memorandum of Understanding, including tendering, award or execution of contracts. Any such practice will be grounds for the immediate cancellation of this Memorandum of Understanding and for such additional action, civil and/or criminal, as may be appropriate.

Paragraph II Contributions of the Donors

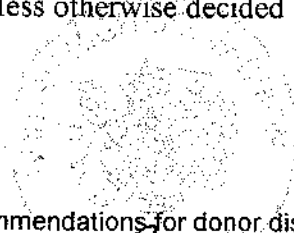
1. DFID and Irish Aid will, subject to parliamentary appropriations, make contributions based on the following indicative amounts and the Norwegian Ministry of Foreign Affairs will, subject to parliamentary appropriations, make contributions not exceeding the following total indicative amounts (collectively referred to as the Contribution) and exclusively to support the Programme in the period August 2011 to June 2016:

		2011	2012	2013	2014	2015	2016	Total
Total for Community Based Programme	Pound Sterling	1,927,000	4,636,000	4,212,000	3,704,000	3,098,000	1,026,000	18,603,000
Lead Donor - DFID	Pound Sterling ² (£)	1,511,559	3,636,562	3,304,182	2,905,319	2,429,672	805,058	14,592,352
Co-Donor Irish Aid	Euro (€)	220,000	470,000	450,000	400,000	350,000	110,000	2,000,000
Co-Donor Norwegian Ministry of Foreign Affairs	Norwegian Kroner	2,000,000	5,000,000	5,000,000	4,000,000	3,000,000	1,000,000	20,000,000

The annual contributions are indicative and will be agreed on each year in connection with the Donors annual budgets.

2. Upon completion of the Programme any remaining Programme Funds on the bank account of DFID mentioned in Paragraph IV, Section 2, including any unspent interests and funds returned from the implementing partners according to the Programme Arrangement will be refunded on a proportional basis unless otherwise decided by the Donors.

² Estimates are based on DFID's recommendations for donor disbursement over the calendar year.



Paragraph III Cooperation and representation

1. DFID will administer the Contribution and follow-up the Malawi Programme in accordance with the stipulations in the Programme Arrangement and DFID's prevailing general principles and guidelines for development assistance.
2. DFID will promptly inform Irish Aid and Norwegian Ministry of Foreign Affairs of any event that interferes or threatens to interfere with the successful implementation of the Programme.
3. DFID will consult with Irish Aid and Norwegian Ministry of Foreign Affairs in case fundamental changes which adversely affect the Programme occur and before making any decision of principle regarding the Programme, e.g. before suspension or termination of, or amendments to, the Programme Arrangement. DFID will obtain Irish Aid and Norwegian Ministry of Foreign Affairs approval before withholding or reclaiming Irish Aid and/or Norwegian Ministry of Foreign Affairs funds from implementing partners.
4. The Donors will meet formally once a year (the Annual Donor Meeting) no later than the end of July each year in order to discuss the progress of the Programme and the cooperation between the Donors. The documentation submitted according to Paragraph V will form the basis for the discussions. The meeting will be called and chaired by DFID. DFID will draft minutes from the meeting, and send the draft for comments and approval to Irish Aid and Norwegian Ministry of Foreign Affairs within two weeks after the meeting. Moreover, Irish Aid and the Norwegian Ministry of Foreign Affairs may at any time request a meeting with DFID to discuss the progress and plans of the Programme and the cooperation between the Donors.
5. Irish Aid and Norwegian Ministry of Foreign Affairs will be given access, whenever requested, to all documentation and information in the possession of DFID pertaining to DFID's administration of the Contribution and implementation of the Programme. Further, DFID will obtain from the implementing partners any information or documentation relating to the Programme that Irish Aid and Norwegian Ministry of Foreign Affairs may reasonably request.
6. The entities competent to act on behalf of each of the Donors in matters related to this Memorandum of Understanding are:

For the Lead Donor:
DFID- Malawi
c/o British High Commission
PO Box 30042
Lilongwe 3

For the Co-Donor Irish Aid:
Embassy of Ireland
c/o Arwa House
P/Bag B490
Lilongwe 3

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For the Co-Donor Norwegian Ministry of Foreign Affairs
Norwegian Embassy
c/o Arwa House
Lilongwe 3

All communication in regard to this Memorandum of Understanding will be directed to the above mentioned entities.

Paragraph IV Disbursements

1. Disbursements for the Programme from Irish Aid will be made annually and from Norwegian Ministry of Foreign Affairs will be made semi-annually depending on the progress and performance to date and the liquidity needs of the Programme for the next six months. Unless otherwise decided the Donors annual contribution to disbursements to the implementing partners will be proportional.

2. Crown Agents Bank is DFID's banker to hold and disburse Irish Aid and Norwegian Ministry of Foreign Affairs funds. DFID will make written disbursement requests to Irish Aid and Norwegian Ministry of Foreign Affairs when contributions are payable. Irish Aid and Norwegian Ministry of Foreign Affairs will pay its contribution to the Programme account held for DFID by Crown Agents Bank. DFID will advise Irish Aid and Norwegian Ministry of Foreign Affairs of the details of the account to be credited. DFID will immediately confirm receipt of Irish Aid and Norwegian Ministry of Foreign Affairs contributions and arrange payments for the Programme.

Paragraph V Reporting

1. Within two weeks before the Annual Donor Meeting, DFID will submit to Irish Aid and Norwegian Ministry of Foreign Affairs a copy the following documentation which the implementing partners have submitted:

- the annual progress report,
- the annual financial statement,
- the audit report of the preceding fiscal year,
- the workplan and budget for the following year

DFID's Fiscal Year is from April to March each year and this will be fiscal year that the Programme implementation will follow.

Within the same deadline, DFID will submit to Irish Aid and Norwegian Ministry of Foreign Affairs for information:

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- DFID's assessment of the above mentioned documentation, highlighting key issues and strategic matters which DFID plans to discuss with the implementing partners.

The above-mentioned provisions will apply correspondingly to the final report, the final financial statement and the final audit report from the implementing partners.

2. DFID will further submit to Irish Aid and Norwegian Ministry of Foreign Affairs for information, as soon as it is available, a copy of the agreed minutes from the annual meeting with the implementing partners

3. If a review or evaluation of the Programme is carried out, the following will be submitted to Irish Aid and Norwegian Ministry of Foreign Affairs for information:

- prior to the review/evaluation a copy of the draft Terms of Reference,
- a copy the review/evaluation report,
- any comments by the implementing partners on the report,
- DFID's assessment of the report and suggestions for any follow-up actions.

4. By the end of June each year DFID will submit to Irish Aid and Norwegian Ministry of Foreign Affairs a financial statement showing, as per the end of the previous fiscal year, funds received from Irish Aid and Norwegian Ministry of Foreign Affairs funds disbursed to implementing partners, each Donor's contribution to the disbursements and the balance of the Contribution carried over to the following year. The opening and closing amounts on the financial statement will be in Pounds Sterling and converted into Euros and Norwegian Kroner at the rate of exchange of the end of the financial year. Further, DFID will submit to Irish Aid and Norwegian Ministry of Foreign Affairs a copy of any audit report pertaining to the bank account mentioned in Paragraph IV, Section 2 above.

Paragraph VI Reservations

1. The Donors will do their utmost to reach a joint position on how to handle the matter if one or more of the Donors are of the opinion that its contribution has not been, or will not be, used and/or accounted for by implementing partners as described in the Programme Arrangement, including if one or more of the Donors are of the opinion that political changes which would negatively affect the achievement of the goal and objectives of the Programme have occurred. The Donors may decide, without affecting other actions that DFID will:

- withhold/suspend any future disbursements to implementing partners,
- reclaim all or part of the funds already disbursed to implementing partners and/or
- cancel the Programme Arrangement and this Memorandum of Understanding.

2. If the Donors are unable to reach a joint position on how to handle the matter, each Donor may, without affecting other actions:

- withhold/suspend any future disbursements to DFID,
- reclaim any contribution transferred to DFID, but not yet disbursed to implementing partners and/or
- request, in respect of its contribution, that DFID takes any such action as mentioned in Section 1 above towards the implementing partners.

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3. If DFID does not fulfil its commitments according to this Memorandum of Understanding, either Irish Aid or Norwegian Ministry of Foreign Affairs may, after consultations with DFID, without affecting other actions:

- Withhold/suspend any future disbursements,
- reclaim all or part of funds already disbursed to DFID and/or
- cancel this Memorandum of Understanding.

In respect of funds already disbursed or irrevocably committed to implementing partners or any other third party in accordance with this Memorandum of Understanding, DFID's repayment to Irish Aid or Norwegian Ministry of Foreign Affairs will be limited to the amount repaid by the implementing partners or such third party.

4. DFID will inform the implementing partners immediately in writing of any action as referred to in this paragraph, and will take any necessary actions in respect of the Programme Arrangement and, including (partially) cancel the Programme Arrangement. In case of cancellation of this Memorandum of Understanding by one or more of the Donors; the Donors will consult with each other on how to bring the Memorandum of Understanding to an orderly end in respect of the cancelling Donor(s). Any amount corresponding to the contribution by the cancelling Donor(s) which remains unspent by the implementing partners will be returned to that/those Donor(s) immediately and unconditionally unless otherwise decided by the Donors. In respect of unspent funds in the possession of the implementing partners, DFID will exercise its best efforts in reclaiming the Donor's contribution from the implementing partners. However, DFID will not cover/reimburse any amounts which are not repaid by the implementing partners or which have been irrevocably committed in good faith to any third party.

Paragraph VII Duration - Disputes

1. The delegated cooperation under this Memorandum of Understanding will start on the date it is signed by the Donors, and is planned to end on 30 September 2016 unless the Donors decide to change the date.

2. Each Donor may terminate this Memorandum of Understanding upon four months written notice to the other Donors. Paragraph VI, Section 5 will apply accordingly.

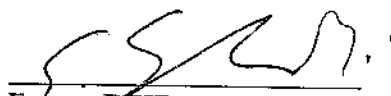
3. If any dispute arises relating to the implementation or interpretation of this Memorandum of Understanding, the Donors will consult with a view to reaching a solution.

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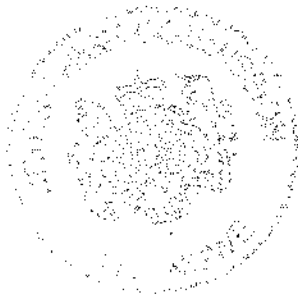
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The undersigned have signed the Memorandum of Understanding in three originals in the English language.

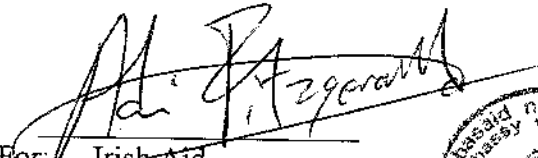
Date the 07 day of September of 2011.



For: DFID
Head of DFID
Sarah Sanyahumbi



For: Norwegian Ministry of Foreign Affairs
Head of Development Cooperation
Jan Håkon Olsson



For: Irish Aid
Head of Development
Adrian Fitzgerald

