

**Agreement between the Norwegian Ministry of
Foreign Affairs**

**and the Government of the Republic
of Malawi**

**regarding development cooperation concerning Promotion
and Conservation of National Cultural Heritage of Malawi**

WHEREAS Norway and Malawi have entered into a Memorandum of Understanding dated 9 June 2008 regarding Development Cooperation,

WHEREAS Norway has supported the cultural sector in Malawi through agreements dated 31 March 2002 and 5 December 2005, regarding Promotion and Conservation of Cultural Heritage in Malawi,

WHEREAS Malawi in letter dated 8.02.2011 has requested Norway for continued support to the Promotion and Conservation of Cultural Heritage in Malawi, and

WHEREAS the Norwegian Ministry of Foreign Affairs (MFA) has decided to comply with the request,

NOW THEREFORE MFA and the Ministry (the Parties) have reached the following understanding which shall constitute an Agreement between the Parties:

Article I Scope and objectives

1. This Agreement sets forth the terms and procedures for MFA's support to Promotion and Conservation of National Cultural Heritage of Malawi (the Project) as outlined in the Agreed Project Summary in Annex I and further described in the Project Document "Promotion and Conservation of National Cultural Heritage of Malawi", dated October 2011.
2. The Goal of the Project is to have and promote a vibrant Malawian culture for national identity, unity in diversity and sustainable socio-economic development

The Purposes of the Project are

- a) Malawi's intangible and immovable cultural heritage studied, conserved, preserved, interpreted and promoted for a national and international audience.
- b) Malawi's rich cultural heritage sustainably used in the process of economic development; and
- c) Archival collections better preserved and managed.

The project is expected to achieve the following five general outcomes:

- a) Aspects of Malawi's cultural heritage described, interpreted, safeguarded and disseminated,
- b) Malawi's cultural identity strengthened,

- c) Efficient, sustainable, and easily accessible collection and information storage systems established and operational,
 - d) Economic stand of artists and communities around heritage sites improved,
 - e) Capacity and competence of the Department of Culture developed, strengthened and improved.
3. The Parties may agree on extending existing or including new Project elements within the Project, as well as on re-allocating funds within the Project. Any such agreement shall be in writing, e.g. recorded in the Agreed Minutes from the consultations mentioned in Article VI.

Article II Cooperation – Representation

1. The Parties shall communicate and cooperate fully with the aim to ensure that the Goal and Purpose are successfully achieved. The Parties further agree to cooperate on preventing corruption within and through the Project, and undertake to take rapid legal action to stop, investigate and prosecute in accordance with applicable law any person suspected of misuse of resources or corruption. The Parties shall immediately inform each other of any indication of corruption or misuse of resources related to the Project.
2. In matters pertaining to the implementation of the Project the Norwegian Embassy in Lilongwe (the Embassy) and the Malawi Ministry of Finance (the Ministry) shall be competent to represent MFA and Malawi respectively. All communication in relation to the Agreement shall be directed to the Embassy.
3. The Department of Culture in the Ministry of Tourism, Wildlife and Culture shall be the implementing agency.

Article III Contribution of MFA

1. MFA shall, subject to Parliamentary appropriations, make available to Malawi a financial grant not exceeding NOK 6,000,000.00 (Norwegian kroner Six Million (the Grant) to be used exclusively to finance the Project in the planned period from January 2012 to December 2014.
2. Any accrued interests on the Grant may be used for the benefit of the Project if agreed on by the Parties in writing.
3. Any unspent disbursed funds and accrued interests shall be returned to MFA upon completion of the Project.

Article IV Contributions and obligations of the Government of Malawi

The Department of Culture in the Ministry of Tourism, Wildlife and Culture as implementing agency be responsible for implementing the Project, and shall hereunder:

1. Have the overall responsibility for the planning, implementation, reporting and monitoring of the Project,
2. ensure that the Grant is used according to approved work plans and budgets,
3. ensure that Project funds, which shall include any accrued interests, are properly accounted for, and that the Grant is reflected in the plans, budgets and accounting of Malawi,

4. promptly inform MFA of any circumstances that interfere or threaten to interfere with the successful implementation of the Project,
5. defray any customs duties, sales taxes and other taxes, fees and levies on all equipment, materials and supplies financed by the Grant and imported into Malawi for the benefit of the Project,
6. ensure that all permits, import licenses and foreign exchange permissions that may be required are granted,
7. ensure that representatives of Norway are permitted to visit any part of Malawi for purposes related to the Agreement and examine any relevant records, goods and documents.

Article V Disbursements

1. The Grant will be disbursed upon semi-annual written requests from the Department of Culture based on the financial needs of the Project and, except the first request, on approved work plans and budgets. The first disbursement, amounting to NOK 1,240,000.00 will be made upon signing of this Agreement.
2. When determining the amount to request, the Ministry shall take into account unspent disbursed amounts and income from all sources as well as any accrued interests which the Parties have agreed on using for the benefit of the Project according to Article III, Clause 2.

Along with the requests, except the first request, the Ministry shall state the cash balance of the Project and shall submit statements of cash and bank balances from the Project's accounting records.

3. Funds will be transferred upon MFA's approval of the requests to a separate bank account with the Ministry of Finance and shall be made available to the Project immediately.

The Ministry shall immediately, in writing, acknowledge receipt of the funds. The date of receipt shall be stated as well as the exchange rate applied.

4. All disbursements to suppliers of goods or services shall be made by Malawi.

Article VI Annual Meeting

1. Representatives of the Parties shall have an Annual Meeting within third quarter each year in order to:
 - Discuss the progress of the Project, including results and fulfillment of agreed obligations,
 - discuss and, if feasible, approve annual work plans and budgets for the following year,
 - discuss issues of special concern for the implementation of the Project, such as the major risk factors set out in the Agreed Project Summary in Annex 1, and how to manage such risks/issues.

Each of the Parties may include others to participate as observers or as advisors to their delegations.

2. The documentation specified in Articles VII and IX shall form the basis for the consultations.
3. The Annual Meeting shall be called by the Ministry and chaired by Principal Secretary in the Ministry.
4. Main issues discussed and points of view expressed as well as any decisions shall be recorded in Agreed Minutes. The Agreed Minutes shall be drafted by the Ministry and be submitted to MFA for comments no later than two weeks after the Annual Meeting.

Article VII Reports

1. Malawi shall submit to MFA the reports and documentation specified below. MFA shall respond within two weeks upon reception of the reports and documentation.
2. A progress report shall be submitted annually within August each year.

The progress reports shall be prepared in accordance with an agreed format, and shall include the following information:

- A description of actual outputs compared to planned outputs (as defined in the work plans),
 - a brief summary of the use of funds compared to budget,
 - an assessment of the efficiency of the Project (how efficiently resources/ inputs are converted into outputs),
 - an explanation of major deviations from plans,
 - an assessment of problems and risks (internal or external to the Project) that may affect the success of the Project,
 - an assessment of the need for adjustments to activity plans and/or inputs and outputs, including actions for risk mitigation.
3. A work plan shall be submitted annually within August each year. The work plan shall specify planned outputs and time schedules for the next fiscal year.
 4. The following annual financial statements and budget shall be submitted within August each year:
 - a. Financial statements for the Project consisting of:
 - i) A statement showing cash receipts/income and expenditures for the previous period structured as and compared to approved budgets for such previous period as well as accumulated for the Agreement period. The statement shall capture all sources of funding, with sufficient segregation of data to permit identification of individual sources of funds and disbursements on major Project activities or types of expenditure,
 - ii) a statement of cash and bank balances,
 - iii) relevant notes to the above mentioned statements including a description of the accounting policies used and any other explanatory material necessary for transparent financial reporting of the Project.
 - b. Budget for the Project for the coming fiscal year showing estimated income from all sources and planned expenditures.

The financial statements and budget(s) shall give complete and detailed information on the financing of the Project.

5. A final report shall be submitted within three months after the completion of the Project. If the Project is not completed three months before the completion date, a status report shall be submitted to MFA by the said date. The final report shall include:

- The topics listed in Clause 2 above for the whole Agreement period,
- an assessment of the effectiveness of the Project, i.e. the extent to which the Purpose has been achieved,
- an assessment of impact (if possible), i.e. the changes and effects positive or negative, planned and unforeseen of the Project seen in relation to target groups and others who are affected,
- an assessment of sustainability of the Project, i.e. an assessment of the extent to which the positive effects of the Project will still continue after the external assistance has been concluded,
- a summary of main "lessons learned".

Article VIII Procurement

1. Malawi undertakes to effect all procurements of goods and services necessary for the implementation of the Project.
2. The procurements shall be performed in accordance with generally accepted procurement principles, good procurement practices and the procurement regulations of Malawi. Norwegian suppliers shall be given the same opportunities as other suppliers to compete for deliveries.

The Ministry of Finance shall observe the highest ethic standards during the procurement and execution of contracts, and shall ensure in its national legislation adequate and effective means to punish and prevent illegal or corrupt practices.

No offer, gift, payment or benefit of any kind, which would or could, either directly or indirectly, be construed as an illegal or corrupt practice, e.g. as an inducement or reward for the award or execution of procurement contracts, shall be accepted. Invitations to make offers as well as the procurement contracts shall, respectively, include a clause stating that the offer will be rejected and/or the contract cancelled in case any illegal or corrupt practices have taken place in connection with the award or the execution of the contract.

3. Shortlist of suppliers and tender documents shall be submitted to MFA for approval before calling for tenders, and the subsequent contracts shall be submitted to MFA for information.

Along with the documentation mentioned above The Ministry shall confirm in writing that the procurement regulations agreed on in Clause 2 above, have been adhered to.

4. The Ministry shall upon request furnish MFA with all relevant information on its procurement practices and actions taken, and provide access to all related records and documents. MFA may require access to information even during the stage in the procurement procedure when it is restricted to the officers performing the procurement. Restrictions on such information shall be respected until the information can be made public without any risk of detriment to the result of the procurement.

Article IX Audit

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1. The audit shall be performed by an independent professional external auditor acceptable to MFA in accordance with principles for governmental sector auditing.

The cost of the audit shall be covered by the Grant.

2. The audit shall be carried out in accordance with international auditing standards. The auditor shall state in the report which auditing standards that have been applied.
3. The audit report shall state the auditor's opinion/findings as to:
 - Whether the financial statements present fairly, in all material respects, the Project's cash receipts/income and expenditures as well as the cash/bank/financial position in accordance with an acceptable financial reporting framework,
 - whether the audit has uncovered any material weaknesses in relevant internal control(s),
 - whether the audit has uncovered any illegal or corrupt practices,
 - whether cash receipts/income and expenditures are properly accounted for.
 - whether the Grant is reflected in the budgets and accounting of Malawi Ministry of Tourism, Wildlife and Culture.
 - whether appropriate internal controls to counteract illegal or corrupt practices have been established and are complied with.
4. The Ministry shall submit to MFA the audit report and any other report from the auditor significant to the implementation of the Project within fourth quarter each year. The Ministry shall comment upon the auditor's findings. MFA shall respond within two weeks upon reception of the report.

Article X Reviews – Evaluation

1. A mid-term review focusing on progress to date and the effectiveness of the Project, i.e. the extent to which the Purpose is being, shall be carried out by twelve month after commencement of the project. An assessment of the Project's impact may also be included in the review.
2. The cost of the review shall be covered by the Grant.
3. Norway reserves the right to carry out independent reviews or evaluations of the Project as and when MFA deems it necessary. The cost for such reviews will be covered by funds over and above the Grant.

Article XI Reservations

1. MFA reserves the right to withhold disbursements at any time in case e.g.:
 - The Project develops unfavorably in relation to the Goal and Purpose,
 - substantial deviations from agreed plans or budgets occur,
 - the documentation specified in Articles VII and IX has not been submitted as agreed,
 - the financial management of the Project has not been satisfactory,

2. MFA reserves the right to reclaim all or parts of the Grant and cancel the Agreement if Project funds are found not to have been used in accordance with the Agreement or are found not to be satisfactorily accounted for.
3. MFA has the right to cancel the Agreement or portion of the Agreement, and has the right to demand the cancellation of any contract financed under the Agreement, with immediate effect if it determines that corrupt or fraudulent practices were engaged in by representatives of Malawi or by a beneficiary of Project funds during procurement or execution of the contract without Malawi having taken timely and appropriate action satisfactory to Norway to remedy the situation.
4. Before MFA withholds disbursements, reclaims funds or cancels the Agreement, the Parties shall consult with a view to reaching a solution in the matter.

Annex XII Distribution of the Agreement

The Parties shall distribute copies of the Agreement to the respective ministries, authorities and other institutions involved in the Project or otherwise in need of information on its content.

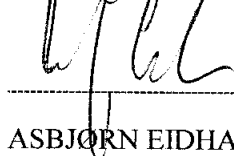
Article XIII Entry into force – Termination – Disputes

1. The Agreement shall enter into force on the date of its signature, and shall remain in force until the Parties have fulfilled all obligations arising from it. Whether the obligations are fulfilled, shall be determined in consultations by the Parties.
2. Notwithstanding the previous clause each Party may terminate the Agreement upon three months written notice.
3. If any dispute arises relating to the implementation or interpretation of the Agreement, the Parties shall consult with a view to reaching a solution.

IN WITNESS WHEREOF the undersigned, acting on behalf of their respective Governments, have signed the Agreement in two originals in the English language.

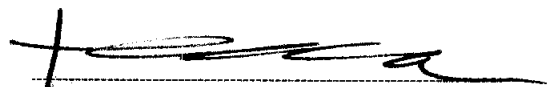
Done in Lilongwe the 8th day of December 2011.

For the Norwegian Ministry
of Foreign Affairs



ASBJØRN EIDHAMMER
Ambassador

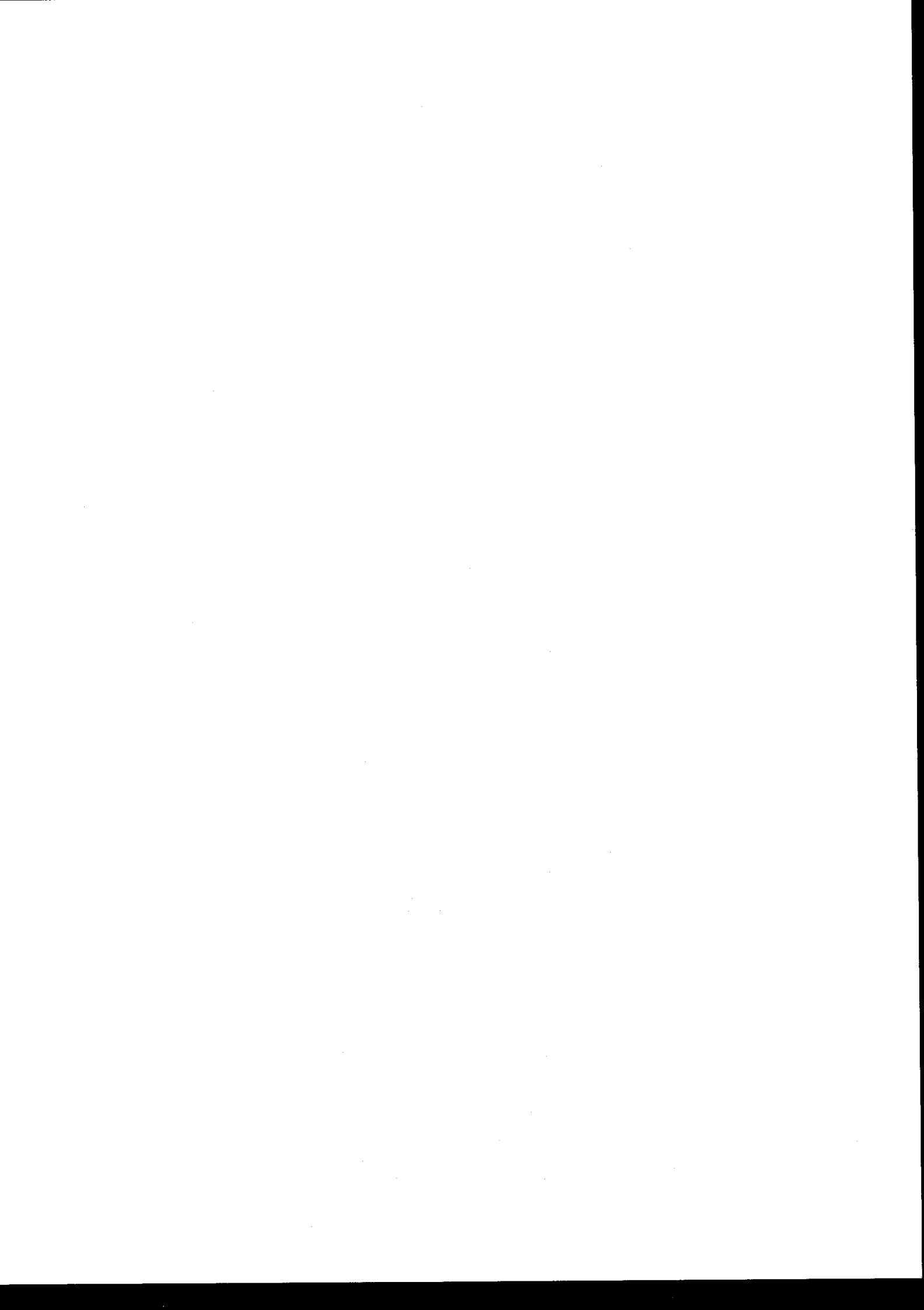
For the Government of
the Republic of Malawi



DR. KEN LIPENGA
MINISTER OF FINANCE AND
DEVELOPMENT PLANNING

Annexes:
I. Agreed Project Summary

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Annex I Agreed Programme Summary

Identification of the Project

Programme Title/Name: Promotion and Conservation of Malawi Cultural Heritage

Implementing institution: Ministry of Tourism, Wildlife and Culture; The Department of Culture

Description of the Project

Malawi is multi-ethnic and each ethnic group has its own traditional practices, foods, ceremonies, festivals, language and historical structure. This means that cultural heritage in Malawi is diverse and requires collaboration of all ethnic groups for effective protection and promotion of culture. However, Malawi's cultural heritage is under threat from modernization which has exposed the youth to western culture. As a result, the youth favour western culture. There has been little effort to document Malawi culture and this couple with the passing of elders leads to loss of authentic cultural heritage. This project aims redress this situation.

The goal of the project is to have and promote a vibrant Malawian culture for national identity, unity in diversity and sustainable socio-economic development.

The programme is designed to achieve the following objectives:

- a) Malawi's intangible and immovable cultural heritage studied, conserved, preserved, interpreted and promoted for a national and international audience.
- b) Malawi's rich cultural heritage sustainably used in the process of economic development; and
- c) Archival collections better preserved and managed.

The following are the expected outputs/outcomes

- a) Aspects of Malawi's cultural heritage described, interpreted, safeguarded and disseminated,
- b) Malawi's cultural identify strengthened,
- c) Efficient, sustainable, and easily accessible collection and information storage systems established and operational,
- d) Improved economic stand of artists and communities around heritage sites improved,
- e) Capacity and competence of the Department of Culture developed, strengthened and improve

For effective implementation the programme will require equipement (vehicles, computers, digitizers etc). Programme activities will be implemented by staff from the Department of Culture and consultants. Logistic support may be required from the University of Malawi, Department of Fine and Performing Arts and UNESCO. The programme require NOK6,000,000.00 over a three year period. This will be provided by the Embassy. Government contribution will be in kind in form of staff time and office space.

Main indicators and targets

- Three additional inscriptions under UNESCO 1972 and 2003 Conventions by 2014



- 20% increase of number of national and international visitors to Heritage sites by 2014,
- 10% increase in revenue collected from heritage sites by 2013,
- 80% of National Archives collections digitized and easily accessible by 2014,

Major risk factors (internal and external)

- There is a risk that project funds may be borrowed for other purposes if project funds are mixed with government funds in the same account. This may lead to delays in programme implementation. To reduce the risk a separate account will be opened and will be closely monitored by a Programme Financial Coordinator.
- There is a risk that the current shortage of forex and fuel will result in high inflation and devaluation of the local currency. This risk is insignificant since funds will be disbursed when needed semi-annually in foreign currency. Fluctuation of the local currency will therefore not have a significant impact.
- The low capacity of the department will affect implementation. The programme addresses this risk by training staff members and also by using other institutions and consultants to implement other activities.
- Corruption is a serious threat to project implementation. Although probability of this affecting implementation is moderate, there are adequate measures (strict procurement procedures and anti-corruption law) within government to manage the risk.
- Political risk. Malawi is a relatively stable country and chances of conflicts are minimal. The political risk is therefore insignificant.

Overall budget

The overall budget is estimated to be NOK6,000,000.00. Of this about 80% will be used for project activities and about 16% will be used on equipment.

Activity	Total	2011/12	2012/13	2013/14
Aspects of Malawi's cultural heritage described, interpreted, safeguarded and disseminated				
Heritage and Management Development at Chongoni Rock Art site	350000	116000	117000	117000
Heritage and management Development at Mulanje Mountain	930000	310000	310000	310000
Heritage and management development at the Mbona Sacred site, Lower Shire	650000	216000	217000	217000
Development of Master plan for a village Museum	450000	150000	150000	150000
Malawi's cultural identity strengthened				
Rehabilitation of Chichiri Museum	500000	166000	167000	167000
Annual national cultural festival	350000	116000	117000	117000
Integration of Malawi heritage into the Primary and Secondary school curriculum	400000	133000	133000	134000
Efficient, sustainable and easily accessible collections and information storage systems established				
Digitization of the Audio Visual Collection	200000	66000	67000	67000
Digitization of inventories and fragile	500000	166000	167000	167000

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documents				
Public dissemination of information	15000	5000	5000	5000
Economic stand of artists and communities around heritage sites improved				
Community craft and business management training	70000	23000	23000	24000
Arts empowerment	300000	100000	100000	100000
Departmental capacity Development				
Procurement of equipment	845000	664000	231000	
Training	140000	46000	47000	47000
Programme management	150000	50000	50000	50000
Operational cost including reviews and audits	150000	50000	50000	50000
Grand total	6000000	2327000	2001000	1672000

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