

## MEMORANDUM OF UNDERSTANDING (MOU)

**BETWEEN  
IRISH AID,  
THE DELEGATION OF THE EUROPEAN UNION TO MALAWI,  
NORWEGIAN MINISTRY OF FOREIGN AFFAIRS  
AND  
THE UNITED KINGDOM - DEPARTMENT FOR INTERNATIONAL  
DEVELOPMENT (DFID)**

### **THE MALAWI CIVIL SOCIETY GOVERNANCE FUND (CSGF)**

#### **Introduction**

1. This Memorandum of Understanding (MoU) describes the common commitment of Irish Aid, the Delegation of the European Union to Malawi, Norwegian Ministry of Foreign Affairs (MFA) and the United Kingdom Department for International Development (DFID) hereinafter referred to as the "Donors", to establish the Malawi Civil Society Governance Fund (CSGF), hereinafter referred to as the "the Programme" and the joint financing arrangements to fund the Programme.

2. This MoU will serve as the basis for arranging pooled funding between the Donors of the CSGF over the period October 2011 to September 2015 to implement the Programme. It will also serve as a basis for funding should the Donors opt to extend the CSGF.

3. The entities competent to act on behalf of each of the signatories to this MoU in matters related to this MoU are:

The Embassy of Ireland  
Arwa House  
P/Bag B490  
Lilongwe 3

DFID Malawi  
P.O. Box 30042  
Lilongwe 3

The European Delegation  
P.O. Box 30102  
Lilongwe

The Norwegian Embassy  
Arwa House  
P/Bag B323  
Lilongwe 3

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4. All communication in regard to this MoU will be directed to the above mentioned entities.

5. 'Lead Donor' refers to the lead agency in the relationship that contracts the Management Agent (MA) and the Independent Impact Evaluation Agent (IIEA) on behalf of the other donors, according to its own rules and procedures. The 'Lead Donor' will also be responsible for setting up and coordinating the two Crown Agent Bank accounts for the two contracts with the MA and the IIEA. The lead donor in this arrangement will refer to 'DFID'.

6. This MoU and the Civil Society Governance Fund Programme Support Document (including the Technical Specification) (PSD), attached in annex 1, establish the scope, principles, structures and guidelines for the implementation of the CSGF and the purpose for which pooled contributions will be used. The PSD includes more details on the MA and IIEA who will be contracted separately.

7. This MoU describes the relationship between DFID, as lead donor, and the other donors contributing to the CSGF on the basis of this MOU. DFID will also enter into a 'European Union Delegation Agreement for indirect centralised method of implementation' (hereinafter referred to as "Delegation Agreement") with the European Union in respect of the EU contribution to the CSGF. In case of differences or ambiguities between the provisions of the 'Delegation Agreement' and those of this MOU, the provisions of the 'Delegation Agreement' will take legal precedence over those of the MOU for the EU contribution to the CSGF.

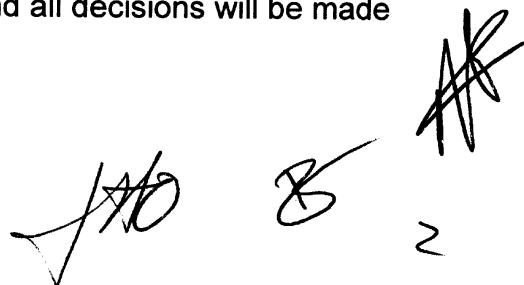
8. The Lead Donor will facilitate the procurement process of the MA and the IIEA in which the other Donors will participate. Following which DFID will contract the two agents on behalf of other Donors according to its own rules and procedures. A copy of the contracts will be submitted to other donors for information. Any subsequent amendments to the contracts will be subject to consultations with the Management Board (MB).

9. This MoU only records the commitments of the participants as such it is not eligible for registration as a treaty under Article 102 of the UN Charter.

#### **CSGF Governance Structure**

10. The CSGF will be constituted of three bodies: the Management Board (MB), the Managing Agent (MA) and the Independent Impact Evaluation Agent (IIEA). Both the MA and IIEA will be accountable to the MB. The MB will have two sub-committees: the Grants Sub-Committee and Audit Sub-Committee. A description of the governance structure is contained in the technical specification found in the PSD annexed to this MoU.

11. The MB will be composed of one representative from each participating Donor and four Malawians chosen for their experience and impartiality by the Donors. Each member of the MB will have a single vote on the Board and all decisions will be made

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based on consensus amongst the MB Members. The Chairmanship will revolve amongst the Donors on an annual basis. The signatories approve the ToR for the MB which is included as an Annex to this MoU.

12. The MA will set up a Programme Management Team (PMT) to oversee the implementation of CSGF and to act as the Secretariat to the MB and the Sub-Committees.

13. The IIEA will evaluate the CSGF as a whole, a selection of the projects funded under the CSGF and quality assure grantees evaluation plans. Full details of the IIEA's role will be approved by the MB at a later date, following their contracting by the lead donor.

### Contributions of the Donors

14. The Donors will, subject to annual approval by their respective governments, parliamentary appropriations or other relevant authority, contribute the following amounts exclusively to support the CSGF in the period October 2011 to September 2015. These amounts are indicative and shall not exceed the total amount stated for each Donor. The annual breakdown may increase or decrease and are dependent on the particular circumstances of each donor at the time of disbursement as well as the financial need of the Programme.

		2011	2012	2013	2014	2015	Total
<b>Total for the CSGF Programme</b>	<b>Pound Sterling</b>	<b>2,066,791</b>	<b>3,895,717</b>	<b>4,245,998</b>	<b>4,464,924</b>	<b>283,057</b>	<b>14,956,488</b>
DFID	Pound Sterling (£)	1,266,711	2,216,744	2,216,744	2,216,744	83,057	8,000,000
EU	Euro (€)	0	750,000	1,150,000	1,400,000	200,000	3,500,000
Irish Aid	Euro (€)	530,000	400,000	400,000	400,000	0	1,730,000
Norwegian MFA	Norwegian Kroner	3,000,000	6,000,000	6,000,000	6,000,000	0	Not exceeding 21,000,000

### Disbursements

15. Crown Agents Bank (CAB) is the Lead Donor's Banker. The Lead Donor will open two bank accounts (the CSGF accounts) in Crown Agents Bank (CAB) for the exclusive use of Donor contributions to the CSGF. One will be for administrative costs of the MA and IIEA; and the other for the CSGF grants managed by the MA.

16. The Lead Donor will advise the Donors of the details of the accounts to be credited and submit request for payments to the Donors. The Donors will pay contributions to the CSGF accounts held by CAB in accordance with this MoU and the Delegated Cooperation Agreement between the Lead Donor and European

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Union and CAB will confirm receipt of all Donors contributions. Following MB approval of relevant MA and IIEA work plans, budgets and reporting as specified in the contracts, DFID will instruct CAB to disburse funding to the MA and IIEA.

17. In year one (October 2011 to end March 2012) donor contributions to the CAB accounts will be provided at the onset of the inception phase of the CSGF in October 2011.

18. Subsequent Donor Contributions will be transferred to the CAB accounts annually in advance as it relates to Irish Aid, DFID and EU contributions and biannually in advance for MFA's contribution in the period March - April and August - September of each year and based on the submission of satisfactory work plans, budgets and reporting as specified in the contracts, prepared by the MA and IIEA and approved by MB.

19. The MA will be reimbursed from the CAB accounts for CSGF grants on presentation of appropriate MB approved documentation. Reimbursement will occur on a six-monthly basis. Requests for payment from the CAB will be submitted by the MA to the Lead Donor no later than the last day of each six-month period.

20. The MA and the IIEA will be reimbursed from the CAB accounts for administration on presentation of appropriate MB approved documentation. Reimbursement will occur on a monthly basis. Requests for payment from the CAB will be submitted by the MA and IIEA to the Lead Donor no later than the last day of each relevant month.

21. The Donors will make their best endeavours to ensure predictability and flexibility in the supply of contributions. In the unlikely event that disbursement is delayed, the programme work plan will be revised by the MA to reflect fund availability. The proposed revised programme of work will subsequently be submitted to the MB for approval.

22. The MA and the IIEA will adopt procurement procedures in line with the Lead Donor's contractual requirements.

### **Unspent Funds**

23. Upon completion of the Programme any remaining Funds in the CSGF bank accounts, including any unspent interest, will be refunded on a proportional basis to each of the Donors, unless otherwise decided by the Donors.

### **Accounting, Reporting and Audit**

24. The Lead Donor will have the overall responsibility for the administration of the contributions in as far as it relates to the relationship with the CAB and payment to the MA and IIEA.

25. The MA and IIEA will administer and account for Donor contributions in accordance with their contracts and Lead Donor's financial regulations. The MA and IIEA will maintain accounting systems and staffing records in accordance with sound accounting practices as accepted in their contract, and keep separate records and accounts for the CSGF. Expenditures paid from the CSGF accounts will only be those eligible as per the MB approved annual budgets and work plans.

26. The MA and IIEA will submit narrative and financial reports to the MB as set forth in their contracts. The MB will discuss the content of the reports and approve them.

27. Accounting and reporting rules and procedures for the grantees will follow the Lead Donor's rules and will be set out during the Inception Phase in a Grant Management Manual to be approved by the MB and attached to the Inception Report.

28. The Lead Donor will issue an instruction to CAB to provide the Donors with statements of account and an annual financial statement.

29. The MB will prepare the TOR and select an external independent Auditor for the Programme to be contracted by the MA. The MA and IIEA will forward annually to the MB a certified external independent audit statement showing funds received and disbursed to grantees for the project by the MA. The certified annual audit statements must be received within 3 months of the end to the year in question.

30. The MA and IIEA will submit final financial and narrative report to the Donors within 3 months of the completion of the Programme.


31. On the closure of the Programme, the MA and IIEA will provide a full final audited statement in line with the CSGF accounting procedures. Where this is not possible immediately, an un-audited financial utilisation statement is acceptable as an interim measure and the full audited statement will be provided within 3 months of the end of the Programme.

32. The Donors reserve the right to commission special audits of CSGF, collectively or individually and at their own cost, where there are concerns about the possible misuse of funds and where the existing audit arrangements are deemed to be insufficient.

### **Monitoring and Review**

33. There will be Participatory Annual Reviews of the Programme, to be arranged by the MB. This will assess progress and challenges as well as make recommendations to maximise the impact of the Programme. The IIEA will engage in the review process and provide analysis and other inputs as per its Terms of Reference and contract.

34. External, mid-term and final reviews of the Programme will be carried out to

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assess outputs delivery and outcomes against its goals and objectives. The MB will approve the terms of reference and the reports for both reviews.

35. The Donors will to the extent possible refrain from conducting unilateral reviews/evaluations of the Programme. However, when a Donor is required to conduct a unilateral review /evaluation, the Donor will in a timely fashion consult with other Donors to discuss, reach a common position, decide on Terms of Reference (ToR), composition and scheduling. The Donor concerned will immediately share the results of the review/evaluation with other signatories.

### **Sharing of Information**

36. The participating Donors will be given access, whenever requested, to all documentation and information in the possession of the Lead Donor pertaining to the Lead Donor's administration of the Contribution and implementation of the Programme. Further, the Lead Donor will obtain from the MA, the IIEA and the beneficiaries of the Programme any information or documentation relating to the Programme that the other Donors may reasonably request.

37. CSGF represents only one element of a broader commitment by the Donors to support civil society and Government accountability and responsiveness. The Donors may provide support through other mechanisms that complement this Programme but are not subject to this MoU. The Donors through the MA will explore ways of co-operating and sharing lessons. The MA will develop and implement a communications strategy for the Programme, to be approved by the MB, with the aim of creating awareness and making information about the Programme accessible to various actors including Government, Parliament, civil society, the private sector, the media and other development partners within and outside Malawi.

38. All published documents and public events funded by the Programme will include a visible acknowledgement of the contributions from each Donor which should be approved by each Donor and a standard disclaimer. All Donors may attend the public events funded under the Programme.

### **Indemnity**

39. The Donors will not be responsible for the activities of any person or third party engaged by the MA, IIEA or any grantees as a result of this MoU. Nor will the Donors be liable for any costs incurred by the MA, IIEA or any grantees in terminating arrangements made with any such person or entity. None of the personnel working or who will work on the Programme is, nor will be deemed to be, employees or agents of the Donors.

40. Although the Donors are providing a financial contribution towards the cost of the Programme, no Donor will bear any liability for claim of whatever nature or for any court order made against the MA, IIEA or any party, arising from, or in connection with the Programme and the MA, IIEA will be responsible for any

liabilities, claims, actions or proceedings whatsoever in connection with the Programme.

41. In particular and without prejudice to sub-paragraph (34), no Donor will be liable in respect of any claim by or on behalf of any advisor, manager, volunteer, expert, employee, servant or agent of MA or IIEA or by or on behalf of any other person who may have a claim against the MA or IIEA arising out of the implementation of the Programme and nor will the Donors be liable in respect of any claims that may arise where any advisor, manager, volunteer, expert, employee, servant or agent of MA or IIEA or any other person, is injured, disabled or killed in the course of employment or engagement under the Programme.

42. The nature and extent of the Donors indemnity as stipulated in paragraphs 34, 35 and 36 above will be reflected in the contracts made by the Lead Donor with the MA and IIEA.

### **Non-compliance**

43. In the event of non-compliance by the MA, IIEA and any other beneficiaries with the above provisions as are reflected in their contracts, the Donors will be permitted to withhold the release of funds or claim repayment of funds expended in non-compliance.

### **Corruption**

44. No offer, payment, consideration, gift or benefit of any kind, which could be regarded as an illegal or corrupt practice will be made, promised, sought or accepted, neither directly or indirectly, as an inducement or reward in relation to activities funded under this Programme/MoU, including tendering, award or execution of contracts. Any such practice will be grounds for immediate cancellation of this MoU and for such additional action, civil and/or criminal, as may be appropriate.

45. If at any stage, the MA, the IIEA, the Donors or any other beneficiaries/representatives of the Programme should become aware of, or suspect, any misappropriation or diversion of funds or possible fraud or corruption relating to the programme activities funded by CSGF, the MA, IIEA, the Donors or any beneficiaries/representatives will report the matter immediately to the MB. The MA will prepare a fraud policy for the CSGF which will be submitted for approval of the MB by December 2011, as per their contract. The MA will assess the robustness of financial systems and will regularly monitor and support funded grantees to ensure the effective use of funds.

### **Entry of New Donors**

46. This MoU is open to the entry of new Donors at any time. New donors can enter the MOU with prior approval of the MB and by signing a separate annex to the MOU, upon full acceptance of it.



47. New CSGF Donors will be discouraged from ring-fencing their contributions for specific uses. If that is a condition for joining the pooled fund, the MB will take that into consideration prior to approving and accepting any new Donor contributions.

### **Resolution of Disagreements**

48. Any disagreements between the Donors will be resolved in the first instance through dialogue and consultation to achieve consensus. MB meetings, annual reviews and external reviews will serve as the primary mechanisms for identifying and addressing problems.

### **Amendment, Withdrawal and Termination**

49. The MoU and the attached PSD document may be amended in writing by arrangement of all the Donors and included as addenda to this MoU.

50. The Donors will inform each other as early as possible and consult in advance in respect of any plans to discontinue or reduce the level of funding to the Programme. Any participating Donor may withdraw from this MoU on giving six months written notice to all the Donors. A Donor who withdraws may continue to honour any outstanding financial commitments to the Programme in order not to incur a shortfall in grant making.

51. The MoU can be terminated through written consensus signed by all the Donors.

### **Additional Arrangements**

52. This MoU may be supplemented by additional arrangements which are required in order to reflect the particular needs of individual donors through consensus with other Donors.

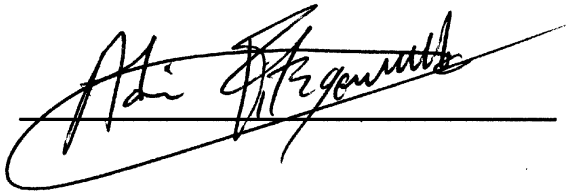
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**Commencement**

53. The MoU commences on the date when all Donors append their signatures.

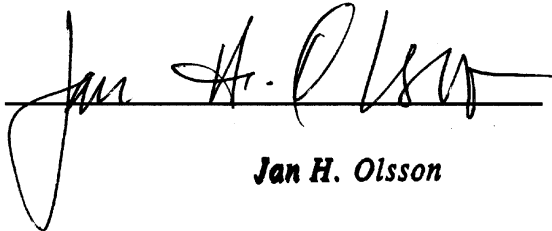
Signed this day 10 of the month of Nov, 2011.




For IRISH AID,



For The DELEGATION OF THE  
EUROPEAN UNION TO MALAWI,

  
*Jan H. Olsson*

For NORWEGIAN MINISTRY OF  
FOREIGN AFFAIRS



For The DEPARTMENT FOR  
INTERNATIONAL DEVELOPMENT  
(DFID)



**Annexes**

1. CSGF Programme Support Document and Technical Specification
2. CSGF Terms of Reference for the Management Board