

AGREEMENT

Between

THE NORWEGIAN MINISTRY OF FOREIGN AFFAIRS

And

THE UNITED NATIONS DEVELOPMENT PROGRAMME

Signature
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20/8-07
[Signature]

WHEREAS, the United Nations Development Programme (UNDP) and the Norwegian Ministry of Foreign Affairs (MFA) have agreed to cooperate in the implementation of the Work Plan 2005-2009 for the "National Civic Education Programme II" (the "Project") supporting the joint donor "National Civic Education Programme NCEP phase II" (the "Programme") in Kenya;

WHEREAS, both MFA and UNDP are parties to the MoU dated November 12th 2004 (the MoU) regarding the Programme;

WHEREAS, UNDP and MFA concluded a Framework Agreement on 2 December 2003 (the "Framework Agreement") setting out the general arrangements for receipt and use of resources from MFA;

WHEREAS, MFA agrees to contribute funds to UNDP on a cost-sharing basis for the implementation of the Project;

WHEREAS, the Government of Kenya has been duly informed of the contribution of MFA to the Project; and

NOW, THEREFORE, UNDP and MFA hereby agree as follows:

Article I
Scope and Objective

1. This Agreement together with the Framework Agreement sets forth the terms and procedures for MFA's contribution to the Programme, through the Project. The Programme as well as UNDP's responsibilities under the Project (i.e. as intermediary for MFA) are summarized in Annex I to this Agreement, and more fully described in the documents: "Kenya National Civic Education Programme Phase II" (NCEP II), Framework Report (July 2004) and Donor Memorandum of Understanding – NCEP II of November 2004.
2. The Goal of the Programme is the consolidation of a vibrant democratic political culture in Kenya, whereby groups and individuals are fully aware of and exercise their rights and their responsibilities.
3. The Objectives of the Programme are:
 - Enhanced knowledge of legislative and human rights among all Kenyan citizens
 - Efficient and effective co-ordination of Civil Society Organisations (CSOs) involved in providing civic education
 - Efficient and effective management of the Programme.
4. The particular activities to be carried out under the Project are set out in Annex I.

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Article II The Contribution

1. MFA shall, subject to Parliamentary appropriation and on the terms and conditions set forth in this Agreement, and Article II, Paragraph 5 of the Framework Agreement in accordance with the schedule of payments set out below, contribute to UNDP an amount not exceeding NOK 16,000,000, sixteen million Norwegian kroner, to be used exclusively to finance the Programme through the Project, and cover the costs referred to in Article VI, paragraph 1 covering the period 2006 – 2009. The Contribution shall be deposited in DnB NOR, UNDP Contributions Account #7001-02-43287, Kirkegt 21, 0153 Oslo, Norway.

<u>Schedule of payments</u>	
November 2006	NOK 4,000,000
January 2007	NOK 2,000,000
July 2007	NOK 2,000,000
January 2008	NOK 2,000,000
July 2008	NOK 2,000,000
January 2009	NOK 2,000,000
July 2009	NOK 2,000,000
Total	<u>NOK 16,000,000</u>

The schedule may be amended to be consistent with the progress of the Programme.

2. When transferring the funds, MFA shall give the following indications: KEN/05/228: National Civic Education Programme II, ATLAS project number 00043223. UNDP shall promptly upon identification in writing acknowledge receipt of the funds.

The value of the payment, if made in a currency other than United States dollars, shall be determined by applying the United Nations operational rate of exchange in effect on the date of payment. Should there be a change in the United Nations operational rate of exchange prior to the full utilization by the UNDP of the payment, the value of the balance of funds still held at that time will be adjusted accordingly. If, in such a case, a loss in the value of the balance of funds is recorded, UNDP shall inform MFA with a view to determining whether any further financing could be provided by MFA. Should such further financing not be available, the assistance to be provided to the Project may be reduced, suspended or terminated by UNDP.

3. After consultation with UNDP, MFA may withhold disbursements in case of:
 - (a) substantial deviations from agreed plans and budgets;
 - (b) failure of UNDP to provide the reports in Article IV as agreed;
 - (c) evidence of financial mismanagement of the Project.

MFA may claim repayment in full or in part of funds from the contribution to the extent UNDP has been able to obtain repayment from the negligent party if the funds are found to be misused or not satisfactorily accounted for. Such repayment shall be in accordance with the Financial Regulations and Rules of the UNDP. Before withholding disbursement or reclaiming payment, UNDP and MFA shall consult with a view to resolving promptly the matter. UNDP reserves the right to reduce, suspend or terminate the activities, in its sole discretion.

Article III Utilization of the Contribution

1. The implementation of the responsibilities of UNDP pursuant to this Agreement shall be dependent on receipt by UNDP of the contribution in accordance with the schedule of payment as set out in Article II, Paragraph 1.

2. If unforeseen increases in expenditures or commitments are expected or realized (whether owing to inflationary factors, fluctuation in exchange rates or unforeseen contingencies), UNDP shall submit to MFA on a timely basis a supplementary estimate showing the further financing that will be necessary.
3. If the payments referred to in Article II, Paragraph 1 are not received in accordance with the payment schedule, or if the additional financing required in accordance with Paragraph 2 above is not forthcoming from MFA or other sources, the assistance to be provided to the Project under this Agreement may be reduced, suspended or terminated by UNDP.

Article IV Cooperation and Representation

1. UNDP will manage the Contribution in accordance with UNDP's regulations, rules and directives and the Donor Memorandum of Understanding - NCEP II of November 2004 (MoU). In case of any inconsistency UNDP's regulations, rules, policies and procedures will take precedence to the extent compatible with MFA's commitments according to the MoU.
2. UNDP will promptly inform MFA of any event that interferes or threatens to interfere with the successful implementation of the Project and the Programme.
3. UNDP will consult with MFA in case any fundamental or politically sensitive matter concerning the Project and Programme arises, and before making any significant deviation from Annex I. Moreover, MFA may at any time request a meeting with UNDP to discuss the progress and plans of the Project and Programme and the cooperation between the UNDP and MFA.

UNDP undertakes to share with MFA relevant information pertaining to UNDP's administration of the Contribution and implementation of the Project and Programme that may be reasonably requested by MFA.

4. The Parties agree that it is important to take all necessary precautions to avoid corrupt practices. To this end, UNDP shall maintain standards of conduct that govern the performance of its staff, including the prohibition of corrupt practices in connection with the award and administration of contracts, grants, or other benefits, as set forth in the Staff Regulations and Rules of the United Nations, the UNDP Financial Regulations and Rules, and the UNDP Procurement Manual.
5. The entities competent to act on behalf of each of the Parties in matters related to this Agreement are:
For UNDP: UNDP Kenya
For MFA: Royal Norwegian Embassy in Nairobi

All communication in regard to the Agreement shall be directed to the above mentioned entities.

Article V Administration and Reporting

1. Project management and expenditures shall be governed by the Financial Regulations and Rules of UNDP as well as the Donor Memorandum of Understanding – NCEP II of November 2004 to the extent that they are not inconsistent with UNDP's regulations, rules, policies and procedures. If matters arise during the execution of the Project, which are considered by UNDP of substantive character, UNDP shall inform and consult with MFA.
2. UNDP shall ensure that the contribution is recorded in the accounts of UNDP and reported together with all other (non-core) resources to UNDP from Norway.
3. UNDP headquarters and Country Office shall provide reporting to MFA on the Project as outlined in Article V, Section 3 and 4 and Article VI of the Framework Agreement prepared in accordance with UNDP accounting and reporting procedures.

4. Representatives of MFA and UNDP shall have annual consultations within March 31st each year, in accordance with the Framework Agreement Article VIII, in order to:
 - a. review the progress of the Project and the Programme,
 - b. discuss possible revisions of plans and budgets
 - c. discuss issues of special concern for the implementation of the Project and the Programme.

The documents specified in the Framework Agreement Article VI as well as the documents mentioned in Clause 5 below shall form the basis for the annual consultations. Representatives from other donors involved in the financing of the Programme may also be invited to the annual consultations.

5. Within four weeks before the annual consultations, UNDP will also submit to MFA for information a copy the following documentation:
 - i) the last received quarterly implementation report assessing Programme performance of CSOs against logframe objectives and agreed indicators from the Technical Assistance Team (TAT),
 - ii) the last received quarterly financial and narrative report from the Financial Management Agent (FMA),
 - iii) the last revised overall budget as part of the Framework Project Memorandum from the Financial Management Agent (FMA),
 - iv) the annual audit report of the Programme for the preceding financial year (which is without prejudice to Article VIII below).

Within the same deadline UNDP will submit to MFA for information, UNDP's assessment of the above mentioned documentation. The above-mentioned provisions will apply correspondingly to the final report, the final financial statement and the final audit report from the Programme (the latter of which is without prejudice to Article VIII below).

6. If a review or evaluation is carried out of the Programme, the following shall be submitted to MFA for information:
 - i) a copy of the draft Terms of Reference prior to the review/evaluation,
 - ii) a copy the review/evaluation report,
 - iii) a copy of the comments to the report of the Programme,
 - iv) UNDP's assessment of the report.

Article VI Equipment

Ownership of equipment, supplies and other properties financed from the contribution will be considered for donation to the implementing CSOs at the end of the Programme, dependent upon the performance of the CSOs, according to UNDP regulations and rules and Paragraph 6 of the MoU.

Article VII Management and Support Services

1. In accordance with the decisions and directives of UNDP's Executive Board, the contribution shall be charged 5 % in indirect costs incurred for the provision of general management support (GMS) by UNDP headquarters and country offices.
2. The total cost incurred for the Project, including the indirect cost of general management support, shall not exceed the total resources available to the Project under this Agreement.

Article VIII Audit

Arrangements for audit of the Contribution to the Project provided under this Agreement are exclusively as set forth in the Framework Agreement.

Article IX
Completion, termination and amendments

1. UNDP shall notify MFA when all activities relating to the Project have been completed.
2. After consultations have taken place between MFA and UNDP, and provided that the payments already received are, together with other funds available to the Project, sufficient to meet all commitments and liabilities incurred in the implementation of the Project, this Agreement may be terminated by UNDP or by MFA. The Agreement shall cease to be in force 30 (thirty) days after either of the Parties have given notice in writing to the other Party of its decision to terminate the Agreement.
3. Notwithstanding termination of this Agreement, UNDP shall continue to hold unutilized payments and liabilities incurred in implementation of the Project up to the date of termination have been satisfied and the Project activities brought to an orderly conclusion.
4. Any payments that remain unexpended after such commitments and liabilities have been satisfied may be utilized for the benefit of other activities within the Project upon agreement between the Parties.
5. The Agreement may be amended through an exchange of letters between MFA and UNDP. The letters exchanged to this effect shall become an integral part of the Agreement.

Article X
Entry into Force

This Agreement shall enter into force upon its signature by both Parties and shall remain in force until all obligations arising from it have been fulfilled and all commitments and liabilities incurred in the implementation of the Project have been satisfied. Whether these obligations shall be regarded as fulfilled shall be determined in consultations between the Parties.


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

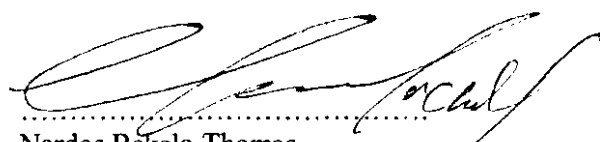
Nairobi, 23/11-06

Nairobi, 8-11-06

For the Norwegian Ministry of Foreign
Affairs:

For the United Nations Development
Programme:


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Elisabeth Jacobsen
Ambassador


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Nardos Bekele-Thomas
Resident Representative a.i.

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United Nations Development Programme
Country Programme Action Plan of the Government of Kenya 2004-2008
Work Plan 2005-2009

REVISION

Title: National Civic Education Programme II

Number: KEN/05/201/B
ATLAS project: 00043223
ATLAS proposal: 00038795

UNDAF Outcome: Promote Good Governance and the Realisation of Rights –

Enhanced capacities of key national and local institutions for improved governance

Estimated Budget (in US\$): 4,509,289						
Allocated Resources:						
	2005	2006	2007	2008	2009	TOTAL
UNDP	50,000	25,000	25,000			100,000
Sida	1,066,433	725,507				1,791,940
EC	128,599	48,750				177,349
Norway		610,000	610,000	610,000	610,000	2,440,000
Total	1,245,032	1,409,257	635,000	610,000	610,000	<u>4,509,289</u>

ACC/UNDP Sector & Subsector: 2.4 Fostering Democratic Governance/Justice and Human Rights

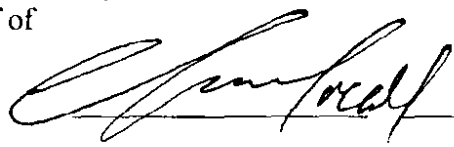
Implementing Partner: UNDP

Collaborating Parties: NCEP II Financial Management Agent and Technical Assistance Team, Programme Steering Committee, Consortia, CSOs allocated funds by the Programme Steering Committee.

Estimated Start Date and Duration: May 2005 – December 2009

Project Summary – i) Outcome, ii) Outputs, iii) Activities, iv) Inputs:

i) The overall objective of NCEP II is the consolidation of a vibrant democratic political culture in Kenya; ii) The project will have three key outputs (a) enhanced knowledge of legislative and human rights among all Kenyan citizens; (b) efficient and effective co-ordination of CSOs involved in providing civic education; and (c) efficient and effective management of the programme. iii) The activities required to produce these outputs include review of existing training materials, mapping of areas in need, assessment of trainers, collection of baseline data, development of a targeting strategy, message design workshops, development of a communication strategy, training, selection among CSO proposals, implementation of selected proposals within the five thematic areas: human rights, good governance, democratisation, constitutionalism, and nation-building with HIV/AIDS and gender as issues to be mainstreamed; iv) the main inputs will be described in the selected CSO proposals. However, a Financial Management Agent and Technical Assistance Team are procured to ensure that the programme will be properly managed from a financial and a technical point of view.

Approved on behalf of	Signature	Date	Name/Title
UNDP		8-11-06	RR a.i.

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Situation Analysis and Implementation Strategies

The outcome of NCEP II is in line with the UNDP Country Programme Action Plan for the years 2004 – 2008 and clearly falls within the UN's mandate to promote and protect rights as stipulated in the main international human rights instruments that Kenya has ratified and is therefore legally obligated to comply with. Among these central to the UNDP mandate are the International Bill of Rights and the Convention on the Elimination of All Forms of Discrimination Against Women.

The attached NCEP II framework report outlines the background, implementation strategies and management arrangements for NCEP II. The participating donors will contract a Financial Management Agency (FMA) and a Technical Assistance Team (TAT) to undertake respectively. The following documents will guide the implementation of NCEP II and is an integrated part of this Work Plan: Kenya National Civic Education Programme Phase II (NCEP II) Framework Report (July 2004), Donor Memorandum of Understanding – National Civic Education in Kenya (NCEP II), Contract with Financial Management Agent (FMA), Contract with Technical Assistance Team (TAT).

UNDP's Role as Intermediary

UNDP will have the following responsibilities:

- Timely transfer of funds to the FMA;
- Peruse financial reports from FMA and make remarks if necessary;
- Peruse progress reports from TAT and make remarks if necessary;
- Continuously assess the performance of FMA and TAT against their Terms of Reference and raise issues at the Donor Committee meetings if any;
- Submit financial and technical reports to the donors;
- Represent Sida, EC and Norway at Donor Committee meetings, workshops and other events related to the programme. In this context UNDP shall use its best endeavours to ensure:
 - That the entire range of civil, political, economic, social and cultural rights be addressed under the NCEP II;
 - That the lower socio-economic strata of the population be kept as the key target group for the programme;
 - That gender considerations be mainstreamed in all activities hereunder the Uraia Manual;
 - That HIV/AIDS considerations be mainstreamed in planning and implementation where relevant;
 - That information be openly shared between all the stakeholders;
 - That effort be put in to finding ways of ensuring sustainability of planned activities;
 - That the financial capacity of the consortia be strengthened and that focus be kept on their accountability according to NCEP II guidelines;
 - That the need for the revision of the MoU, with special attention on simplified procedures, is set on the Donor Committee's agenda.

Expected Outputs	Monitoring Actions	Timeframe					Source of Funds	Input Description	Planned (indicative) Budget								
		2005	2006	2007	2008	2009			Budget Amount US\$	Budget Amount Euro							
Enhanced knowledge of legislative and human rights among Kenyan citizens	- Monthly financial summary statements from FMA - Quarterly financial statements from FMA - Monthly update from TAT - Quarterly consolidated progress reports by TAT - Mid-term evaluation	2	2	2	2	2	SIDA	- Transfer to FMA - UNDP management	1,015,650	690,958				1,706,608	1,341,394		
		0	0	0	0	0			50,783	34,549				85,332	67,071		
		0	0	0	0	0											
		5	6	7	8	9											
TOTAL								1,245,032	1,409,257	635,000	610,000	610,000	4,509,289 *	3,554,905 *			
								2,500	25,000	22,500			95,000	74,670			
								47,500	30,500	30,500	30,500	30,500	2,318,000	1,821,948			
								6,124	2,437				168,788	142,500			
								579,500	579,500	579,500	579,500	579,500	8,561	7,500			
								30,500	30,500	30,500	30,500	30,500	122,000	95,892			
								2,500	2,500	2,500			5,000	3,930			

FMA = Financial Management Agent of NCEP II
 TAT = Technical Assistance Team managing the NCEP II in collaboration with the FMA

* Contributions from donors may change due to fluctuations in exchange rates or according to the agreements between the individual donor and UNDP