|  |
| --- |
|  1. Programme Agreement – Treaty |
| * This is a template for development cooperation treaties between the Norwegian Government and the government of a Partner country. The template should only be used in the cases listed in Section 1.1 of *MFA’s Directives for Entering into Treaties, Administrative Agreements and Contracts* dated 13 September 2006. In other cases the template “Programme Agreement – Administrative” should be used.
* If the parties have entered into a JFA or similar procedural arrangement with other donors, the template “Bilateral Agreement – Multi-Donor Arrangements” should be used instead of the present template.
 |

Template last revised 3 September 2013

Draft dated <date>

Agreement between the Government of the Kingdom of Norway and the Government of the Republic of <Partner country> regarding development cooperation concerning <name of programme>

WHEREAS the Government of the Kingdom of Norway (Norway) and the Government of the Republic of <Partner country> (<Partner country>) have entered into an agreement dated <date> regarding cooperation for promotion of the economic and social development of <Partner country> which has been prolonged by Addendum dated <date> (the Main Agreement),

<If applicable: WHEREAS Norway and <Partner country> have entered into a Memorandum of Understanding dated <date> regarding <specify>,>

WHEREAS Norway has supported <name of sector/programme> in <Partner country> through agreement(s) dated <date(s)>,

Any previous agreements relevant for the present programme should be referred to with agreement name and date.

WHEREAS <Partner country> in letter dated <date> has requested Norway for <continued> support to <name of programme>, and

WHEREAS Norway has decided to comply with the request,

NOW THEREFORE Norway and <Partner country> (the Parties) have reached the following understanding which shall constitute an Agreement between the Parties:

The above whereas clauses must be modified if there is no Main Agreement (Rammeavtale) between Norway and the Partner country or if there has not been any previous support from Norway.

Article I Scope and objectives

# This Agreement sets forth the terms and procedures for Norway’s support to <name of programme> (the Programme) as outlined in the Agreed Programme Summary in Annex I and further described in the Programme Document “<name of document>”, dated <date>.

The Programme Document is a reference document only, and shall not be an annex to, and thereby a part of, the Agreement.

# The Goal of the Programme is <specify>.The Purpose of the Programme is <specify>.

The listing of the Goal and Purpose shall be identical with the listing in the Appropriation Document, the Agreed Programme Summary (Annex 1) and the Programme Document.

# The Parties may agree on extending existing or including new Programme elements within the Programme, as well as on re-allocating funds within the Programme. Any such agreement shall be in writing, e.g. recorded in the Agreed Minutes from the consultations mentioned in Article IV.

Clause 3 permits adjustments within the Programme. Additional funding and other changes of the Agreement require an addendum to the Agreement, see the Agreement Manual Part I Chapter 4.

Article II Cooperation – Representation

# 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 Programme, 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 Programme.

# In matters pertaining to the implementation of the Programme the Norwegian Ministry of Foreign Affairs (MFA) and the <nationality> Ministry of <specify> (the Ministry) shall be competent to represent Norway and <Partner country> respectively. The Norwegian Embassy in <city> (the Embassy) is, as a part of MFA, competent to act on behalf of MFA. All communication to Norway in regard to the Agreement shall be directed to the Embassy.

Article III Contribution of Norway

# Norway shall, subject to Parliamentary appropriations, make available to <Partner country> a financial grant not exceeding NOK <amount> (Norwegian kroner <amount in letters>) (the Grant) to be used exclusively to finance the Programme in the planned period <specify period>.

# Any accrued interests on the Grant may be used for the benefit of the Programme if agreed on by the Parties in writing.

# Any unspent disbursed funds and accrued interests shall be returned to Norway upon completion of the Programme.

Article IV Contributions and obligations of <Partner country>

<Partner country> shall<if applicable: through <specify> as implementing agency/ministry> be responsible for implementing the Programme, and shall hereunder:

Obligations in the list below which are not relevant for the Programme must be deleted.

# Have the overall responsibility for the planning, implementation, reporting and monitoring of the Programme,

# provide the financial and other resources required in addition to the Grant <if applicable: including the contribution from <Partner country> of <currency and amount> as stated in the budget in Annex I>,

# ensure that the Grant is used according to approved work plans and budgets,

# ensure that Programme funds, which shall include any accrued interests, are properly accounted for, and that the Grant is reflected in the plans, budgets and accounting of <Partner country>,

If it is not possible for the Partner to include the Grant in its national budgets, plans and accounts, e.g. due to the planning/budgeting system in the Partner country, the clause should be modified.

# promptly inform Norway of any circumstances that interfere or threaten to interfere with the successful implementation of the Programme,

# <if applicable: undertake the obligations set out in Article VI, Annex II and III of the Main Agreement with regard to technical assistance personnel and contractors provided by Norway,>

If there is a Main Agreement in force between Norway and the Partner country, one should check whether the references above to the Main Agreement are correct. If there is no Main Agreement in force and it is important to agree on rights/privileges of personnel provided by Norway, a separate annex concerning such rights/privileges should be made. A template for such an annex is available in the Agreement Manual (“Annex – Concerning rights of personnel”).

# <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 <Partner country> for the benefit of the Programme,>

As a general rule the clause should not be included. It shall, however, be assessed whether this general rule should be deviated from in special cases, e.g. where the tax in question is not in accordance with internationally accepted norms for taxation, as set out for instance in the draft guidelines of 22 October 2007 on Tax Treatment of Donor-Financed Projects, which were drawn up by the International Tax Dialogue, see <http://www.un.org/esa/ffd/tax/documents/bgrd_oi.htm> (see under the year 2007). A degree of flexibility will also be necessary e.g. in cases of co-financing with donors who insist on tax exemption or where it would otherwise be unreasonably complicated to pay tax on procurements financed by Norwegian aid, where the tax in question is obviously unreasonable, where the funds in question are for humanitarian assistance and taxation would be in violation of international humanitarian principles, or where the nature of the aid provided and/or aspects of the partner country’s financial administration are such that payment of tax is considered to have disproportionately negative consequences.

# ensure that all permits, import licences and foreign exchange permissions that may be required are granted,

# ensure that representatives of Norway are permitted to visit any part of <Partner country> for purposes related to the Agreement and examine any relevant records, goods and documents.

# <if applicable: enter into the following contract(s):<specify contracts>.

The contract(s) and any subsequent amendments shall be submitted to

Norway for information. <Alternative: A copy of the contract(s) shall be

submitted to Norway for approval before entering into force.>

Clause 10 applies e.g. to contracts on cooperation between a Norwegian institution and a Partner institution. Procurement contracts are dealt with by Article VIII below. Thus Clause 10 is not relevant in all programmes. Norway’s need for monitoring, e.g. submission of the contract for approval/information, should be assessed in the AD.

Article V Disbursements

# The Grant will be disbursed upon <semi-annual> written requests from <Partner country> based on the financial needs of the Programme and, except the first request, on approved work plans and budgets. <If desired: The first disbursement, amounting to NOK <amount>, will be made <upon signing of this Agreement/date> and approval by Norway of a disbursement request from <Partner country>>.

<Alternative if disbursements shall take place in arrears as reimbursements of expenditures (in such cases, delete the paragraph above): Disbursements from the Grant shall be made as reimbursement of expenditures incurred during the preceding period. <Partner country> shall as a rule submit <semiannual> requests for reimbursement. However, more frequent reimbursements may be agreed upon by the Parties.>

# When determining the amount to request, <Partner country> 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 Programme according to Article III, Clause 2. Along with the requests, except the first request, <Partner country> shall state the cash balance of the Programme and submit a statement of bank balances for the Programme from the bank <alternatively: … shall submit statements of cash and bank balances from the Programme’s accounting records>.

# Funds will be transferred upon Norway’s approval of the requests to a separate bank account with the Ministry of Finance <alternatively: the Ministry>, and shall be made available to the Programme immediately.

Disbursements directly to a line ministry may be agreed and explained in the AD if disbursement to the Ministry of Finance is not feasible.

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

# All disbursements to suppliers of goods or services shall be made by <Partner country>.

# Norway may in exceptional cases and if considered necessary for the progress of the programme, upon request from <Partner country>, effect disbursements directly to suppliers for procurement costs incurred under contracts entered into by <Partner country>. Such disbursements will only be made against requests accompanied by:

* a copy of the contract (if applicable),
* original and specified invoice from the supplier (including enclosures to such invoice) and
* a written approval of the invoices by the chief financial officer of the Ministry.

Norway shall report payments made according to this clause to <Partner

country>.

Exceptional cases during the course of the Agreement where direct payments from Norway to suppliers may be warranted are embargos, rupture of bank services, etc. If an exceptional situation before entering into the Agreement justifies direct payment, this should be explained in the AD and this clause should be adjusted accordingly.

Article VI Annual Meeting

# Representatives of the Parties shall have an Annual Meeting within <quarter> each year in order to:

* Discuss the progress of the Programme, including results and fulfillment of agreed obligations,
* discuss and, if feasible, approve <annual/semi-annual> work plans and budgets for the following <year/six months>
* discuss issues of special concern for the implementation of the Programme, such as the major risk factors set out in the Agreed Programme 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.

# The documentation specified in Articles VII and IX shall form the basis for the consultations.

# The Annual Meeting shall be called by <specify> and chaired by <specify>.

# Main issues discussed and points of view expressed as well as any decisions shall be recorded in Agreed Minutes. The Agreed Minutes shall de drafted by <Partner country> and be submitted to Norway for comments no later than <two> weeks after the Annual Meeting.

If the parties decide to name the meeting for “consultations” or if they decide to meet twice a year the article must be adjusted. However, it may be an idea to designate one of the semi-annual meetings as Annual Meeting.

Article VII Reports

Content and formats of reporting should be based on the Partner country’s systems. Deadlines for reporting should be aligned with existing routines, meetings, the fiscal year and disbursements, and must be realistic and give sufficient time for preparation for consultations. The reporting should normally cover the entire Programme, not merely the Norwegian contribution. If any specific requirements for the Norwegian contribution shall apply, these must be set out and justified in the AD.

# <Partner country> shall submit to Norway the reports and documentation specified below. Norway shall respond within <number> weeks upon reception of the reports and documentation.

# A progress report shall be submitted annually <alternatively: semiannually> within <month/quarter, alternatively <number> weeks before a specific meeting, e.g. the Annual Meeting, and, in case of semi-annual reporting, at an additional point in time> each year.

The progress reports shall be prepared in accordance with the format in

Annex 2 to this Agreement, 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 Programme (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 Programme) that may affect the success of the Programme,
* an assessment of the need for adjustments to activity plans and/or inputs and outputs, including actions for risk mitigation.
* <if feasible: a brief assessment of achievements in relation to Purpose.>

# A work plan shall be submitted annually<alternatively: semi-annually> within <month/quarter, alternatively <number> weeks before a specific meeting, e.g. the Annual Meeting, and, in case of semi-annual reporting, at an additional point in time> each year. The work plan shall specify planned outputs and time schedules for the next <select: fiscal year, calendar year, Programme year, six months>.

# The following annual <alternatively: semi-annual> financial statements and budget shall be submitted within <month/quarter, alternatively <number> weeks before specific consultations, e.g. the Annual Meeting> each year:

1. Financial statements for the Programme consisting of:
2. A statement showing cash receipts/income and expenditures for the previous period structured as and compared to approved budgets for such previous period <if desired: 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 Programme activities or types of expenditure,
3. a statement of cash and bank balances,
4. 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 Programme.
5. Budget for the Programme for the coming fiscal year <alternatives: calendar year, Programme year, six months period> 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 Programme.

# A final report shall be submitted within <number> months after the completion of the Programme <alternative: the present phase of the Programme>. If the Programme is not completed by <month/quarter>, a status report shall be submitted to Norway 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 Programme, 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 Programme seen in relation to target groups and others who are affected,
* an assessment of sustainability of the Programme, i.e. an assessment of the extent to which the positive effects of the Programme will still continue after the external assistance has been concluded,
* a summary of main “lessons learned”.

Article VIII Procurement

# <Partner country> undertakes to effect all procurements of goods and services necessary for the implementation of the Programme.

# The procurements shall be performed in accordance with generally accepted procurement principles, good procurement practices and the procurement regulations of <Partner country>. Norwegian suppliers shall be given the same opportunities as other suppliers to compete for deliveries. <Partner country> 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.

If the Partner country’s procurement regulations are insufficient, other regulations must be applied, but preferably only for a limited transitional period during which the Partner country’s regulations are being strengthened. In such case the clause must be modified.

# <Select one or more of the following alternatives: Alternative 1: Contracts entered into <if desired: exceeding threshold amount> shall be submitted to Norway for information.><Alternative 2: Contracts exceeding <threshold amount> shall be submitted to Norway for approval before entering into force.><Alternative 3: Shortlist of suppliers and tender documents shall be submitted to Norway for approval before calling for tenders, and the subsequent contracts shall be submitted to Norway for information <alternative: for approval before entering into force.>Along with the documentation mentioned above <Partner country> shall confirm in writing that the procurement regulations agreed on in Clause 2 above, have been adhered to.

# <If applicable: Partner country shall provide Norway with a copy of invitations to international tenders concerning procurements which value exceeds <currency and amount corresponding to SDR 700.000> at least 40 days before publishing the invitation. Copies of the contracts entered into shall be submitted to Norway for information within 30 days after the signing.>

Clause 4 shall be used only if the Partner country is among the Least Developed Countries.

The clause is necessary in order to comply with OECD/DAC’s reporting requirements and recommendation of untying aid*, see DAC Recommendation on Untying Official Development Assistance to the Least Developed Countries* adopted at the DAC High Level Meeting on 25-26 April 2001. The Recommendation is available at www.oecd.org/dac/untiedaid. Insert hard currency selected for the Programme equivalent to 700,000 Special Drawing Rights (SDR), a reserve asset created by IMF. Information on the SDR value is available at www.imf.org.

# <Partner country> shall upon request furnish Norway with all relevant information on its procurement practices and actions taken, and provide access to all related records and documents. Norway 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

# The annual financial statements of the Programme shall be audited by the Auditor General or an equivalent governmental audit body or an independent professional accountant/accountancy firm in public practice (external auditor/ audit firm) engaged by the Auditor General.<If the above is not feasible: The audit shall be performed by an independent professional accountant/accountancy firm in public practice (external auditor/ audit firm) acceptable to MFA in accordance with principles for governmental sector auditing.> <If applicable: The cost of the audit shall be covered by the Grant.>

# 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.

National auditing standards may be applied provided that they are, in all material respects, consistent with international standards. International auditing standards are issued by the international Organisation of Supreme Audit Institutions (INTOSAI), see www.intosai.org for further information.

# The audit report shall state the auditor’s opinion/findings as to:

The audit arrangements should be discussed with the Partner, who in turn should discuss them with his Auditor General. Modifications in Article IX may be required. The audit should at least cover the issues mentioned in the first five points below. Whether to request more should be assessed in view of needs and costs.

* Whether the financial statements present fairly, in all material respects, the Programme’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 funds have been used exclusively to cover Programme expenditures,
* whether cash receipts/income and expenditures are properly accounted for.
* <if applicable: whether the counter funds from <Partner country> have been made available according to the budget in Annex 1.>
* <if applicable: whether the Grant is reflected in the budgets and accounting of <Partner country/Ministry.>
* <if applicable: whether appropriate internal controls to counteract illegal or corrupt practices have been established and are complied with.>

# <Partner country> shall submit to Norway the audit report and any other report from the auditor significant to the implementation of the Programme within <month/quarter> each year. <Partner country> shall comment upon the auditor’s findings. Norway shall respond within <number> weeks upon reception of the report.

Article X Reviews – Evaluation

For contributions of NOK 50 mill or more within the Norwegian budget area 03.10 “Bilateral Development Co-operation” it is mandatory to carry out a mid-term and an end review, see Chapter 2.6 of the Development Cooperation Manual.

# A <select one or both: mid-term and end> review focusing on progress to date and the effectiveness of the Programme, i.e. the extent to which the Purpose is being/has been achieved, shall be carried out by <month(s)/(quarter(s)>. An assessment of the Programme’s impact may also be included in the review(s).<If applicable: A special review on <specify issue> shall be carried by <month>.><If applicable: In addition an evaluation of the Programme shall be out by <month/year>.> <Alternative: In addition the Parties may agree carrying out an evaluation of the Programme.>

# The cost of the <review(s)/evaluation(s)> shall be covered <by the Grant, alternatively: by a particular party, e.g. Norway or the donors to the Programme over and above the Grant>.

# Norway reserves the right to carry out independent reviews or evaluations of the Programme as and when Norway deems it necessary. The cost for such reviews will be covered by funds over and above the Grant.

Article XI Reservations

# Norway reserves the right to withhold disbursements at any time in case e.g.:

* The Programme develops unfavorably in relation to the Goal and Purpose,
* substantial deviations from agreed plans or budgets occur,
* resources to be allocated by <Partner country> <if applicable: and by <specify donors>> are not provided as agreed,
* the documentation specified in Articles VII and IX has not been submitted as agreed,
* the financial management of the Programme has not been satisfactory,
* <if applicable: the contract(s) referred to in Article IV, Clause 10 is breached or terminated before all obligations therein are fulfilled.>

# Norway reserves the right to reclaim all or parts of the Grant and cancel the Agreement if Programme funds are found not to have been used in accordance with the Agreement or are found not to be satisfactorily accounted for.

# Norway 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 <Partner country> or by a beneficiary of Programme funds during procurement or execution of the contract without <Partner country> having taken timely and appropriate action satisfactory to Norway to remedy the situation.

# Before Norway withholds disbursements, reclaims funds or cancels the Agreement, the Parties shall consult with a view to reaching a solution in the matter.

Specific assumptions/conditions which are important for Norway’s contribution may be included in this article.

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 Programme or otherwise

in need of information on its content.

Article XIII Entry into force – Termination – Disputes

# 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.

# Notwithstanding the previous clause each Party may terminate the Agreement upon three months written notice.

# 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 <place> the <number> day of <month> of <year>.

|  |  |  |
| --- | --- | --- |
| For the Government ofthe Kingdom of Norway |  | For the Government ofthe Republic of <Partner country> |
|  |  |  |
| <Name in type/block letters><Ambassador> |  | <Name in type/block letters><Title> |

Annexes:

1. Agreed Programme Summary

2. Format for progress reports

Annex I Agreed Programme Summary

In the template for Agreed Programme Summary it is assumed that the Programme is designed according to the Logical Framework Approach. If another approach has been used, modifications may be required.

Identification of the Programme

* Programme Title/Name:
* Implementing institution:
* Norwegian and/or other Partner institution:

Description of the Programme

Goal

The Goal is the higher-order objective that the Programme is intended to contribute to in the long run. Target groups should be defined.

Purpose

The Purpose is the immediate reason for the Programme. The effect which the Programme is expected to achieve if completed successfully and on time. Target groups should be defined.

Outputs

Outputs are the products, capital goods and services which results from the Programme. For larger programmes this section may describe the main components, while their respective outputs will be defined in the annual work plans.

Inputs

Inputs are the funds, personnel, materials, etc. of a programme which are necessary to produce the intended outputs. For larger programmes the description of inputs should be limited to the main components, with more details given in the annual work plans.

* Equipment, logistical support and/or facilities
* Funds
* Technical assistance

Main indicators

List the main indicators and targets (with estimated time frames) specified for the Goal, Purpose and outputs.

Major risk factors (internal and external)

List the most important risk factors that need to be monitored to ensure Programme success specified for the Goal, Purpose and outputs.

Overall budget

Insert the overall budget with annual breakdown of Norway’s contribution, other donors’ contributions and Partner’s own contribution. If the Programme includes more than one component, the budget should contain a breakdown of costs by components and, where appropriate, outputs. The budget should be set up so that it easily can be compared to the annual financial statements.

Annex II Format for Progress reports

The reporting format must be agreed upon in each case and should be based on the Partner country’s systems and tailored to the specific needs of the Programme. Regarding the content of the progress report, the requirements in Article VII, Section 2 in the Agreement must be complied with.