

Agreement between the Norwegian Ministry of Foreign Affairs and the Government of the Republic of Uganda regarding development cooperation concerning Strengthening the Management of the Oil and Gas Sector in Uganda

WHEREAS the Government of the Kingdom of Norway (Norway) has endorsed the Uganda Joint Assistance Strategy (UJAS) on 29 December 2005,

WHEREAS Norway has supported Strengthening the State Administration of the Upstream Petroleum Sector in Uganda through agreement dated 6 December 2005 and later addenda dated 5 December 2007 and 12 December 2008,

WHEREAS the Government of Uganda (Uganda) in letters dated 27 March 2008 and 4 June 2009 has requested Norway for continued support to Strengthening the Management of the Oil and Gas Sector in Uganda, and

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

NOW THEREFORE MFA and Uganda (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 Strengthening the Management of the Oil and Gas Sector in Uganda (the Programme). The Programme is described in the draft Programme Document "Strengthening the Management of the Oil and Gas Sector in Uganda" (the Programme Document), dated 31 March 2009 and will be further developed during an inception period of the Programme. A revised Programme Document will be prepared, ref Article IV Clause 2. Based on the revised Programme Document the Parties will agree upon the necessary amendments to this Agreement through an addendum.
2. The Goal of the Programme is "Oil and gas resources used in an economical, social and environmentally sustainable manner to meet the needs of present and future generations".

The Purpose of the Programme is "Institutional arrangements and capacities in place ensuring well-coordinated and results oriented Resource management, Revenue management, Environmental management and HSE management in the oil and gas sector."

3. 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 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 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.
2. In matters pertaining to the implementation of the Programme the Norwegian Embassy in Kampala (the Embassy) and the Ugandan Ministry of Finance, Planning and Economic

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Development (the Ministry) shall be competent to represent MFA and Uganda respectively. All communication to MFA in regard to the Agreement shall be directed to the Embassy.

Article III Contribution of MFA

1. MFA shall, subject to Parliamentary appropriations, make available to Uganda a financial grant not exceeding NOK 80 million (Norwegian kroner eightymillion) (the Grant) to be used exclusively to finance the Programme in the planned period from the date of signature until end June 2014.
2. Any accrued interests on the Grant may be used for the benefit of the Programme if agreed by the Parties in writing.
3. Any unspent disbursed funds and accrued interests shall be returned to MFA upon completion of the Programme.

Article IV Contributions and obligations of Uganda

Uganda shall be responsible for implementing the Programme, and shall hereunder:

1. Have the overall responsibility for the planning, implementation, reporting and monitoring of the Programme,
2. update the Programme Document and propose an Agreed Programme Summary for the Programme as an updated Annex I to the Agreement by implementing the requirements made in Annex III in the course of an inception period lasting no longer than until the first Annual Meeting. The updated Programme Document and Agreed Programme Summary shall be submitted to the MFA for approval when they have been completed, but no later than three weeks before the first Annual Meeting,
3. within four weeks after signing this Agreement, submit to the MFA for approval a work plan and budget for activities to be commenced or continued during the inception period,
4. provide the financial and other resources required in addition to the Grant for the successful implementation of the Programme,
5. ensure that the Grant is used according to approved work plans and budgets,
6. 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 Uganda,
7. undertake the obligations set out in Annex II with regard to personnel/consultants made available to Uganda under the Agreement,
8. promptly inform MFA of any circumstances that interfere or threaten to interfere with the successful implementation of the Programme,
9. defray any customs duties, VAT and other taxes and levies on all equipment, materials and supplies financed by the Grant and imported into Uganda for the benefit of the Programme,
10. ensure that all permits, import licenses and foreign exchange permissions that may be required are granted,
11. ensure that representatives of Norway are permitted to visit any part of Uganda for purposes related to the Agreement and examine any relevant records, goods and documents.

12. enter into the following institutional cooperation agreements:

- An agreement between the Ugandan Ministry of Finance, Planning and Economic Development and the Norwegian Ministry of Finance.
- An agreement between the Ugandan Ministry of Energy and Mineral Development and the Norwegian Ministry of Energy and Petroleum.
- An agreement between the Ugandan Ministry of Water and Environment and the Norwegian Ministry of the Environment.

A copy of the contracts shall be submitted to MFA for approval before entering into force.

Article V Disbursements

1. The Grant will be disbursed upon semi-annual written requests from Uganda based on the financial needs of the Programme and, except the first request, on approved work plans and budgets. The first disbursement will be made upon approval by MFA of the work plan and budget mentioned in Article IV Clause 3 and of a disbursement request from Uganda. The second disbursement is subject to the approval of MFA of an updated Programme Document and Agreed Programme Summary submitted by Uganda in accordance with Article IV Clause 2.
2. When determining the amount to request, Uganda 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, Uganda shall state the cash balance of the Programme and submit a statement of bank balances for the Programme from the bank.

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 Programme immediately.

Uganda 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 Uganda.
5. MFA may in exceptional cases and if considered necessary for the progress of the Programme, upon request from Uganda, effect disbursements directly to suppliers for procurement costs incurred under contracts entered into by Uganda. 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 invoice by the chief financial officer of the Ministry.

MFA shall report payments made according to this clause to Uganda.

Article VI Annual Meeting

1. Representatives of the Parties shall have an Annual Meeting within the first quarter each year in order to:
 - Discuss the progress of the Programme, including results and fulfilment 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 Programme, such as the major risk factors to be set out in the Agreed Programme Summary in Annex I, and how to manage such risks/issues.

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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 and chaired by the Ministry of Energy and Mineral Development. The Ministry of Finance, Planning and Economic Development and the Ministry of Water and Environment shall be represented at the Annual Meeting.
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 Uganda and be submitted to MFA for comments no later than two weeks after the Annual Meeting.

Article VII Reports

1. Uganda shall submit to MFA the reports and documentation specified below. MFA shall respond within three weeks upon reception of the reports and documentation.
2. An annual report shall be submitted by within three weeks before the Annual Meeting.

The annual reports 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.
3. A progress report shall be submitted by 1 July each year.

The progress reports 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 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.
4. A work plan shall be submitted annually within three weeks before the Annual Meeting. The work plan shall specify planned outputs and time schedules for the next calendar year.
 5. The following annual financial statements and budget shall be submitted within three weeks before the Annual Meeting each year:
 - a. Financial statements for the Programme 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. 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

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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 Programme.
- b. Budget for the Programme for the coming calendar 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 Programme.

6. A final report shall be submitted within three months after the completion of the Programme. 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

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

Uganda 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.

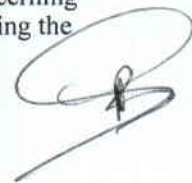
No offer, gift, payment or benefit of any kind, which would or could, either directly or indirectly, be construed as an illegal or corrupt practice, e.g. as an inducement or reward for the award or execution of procurement contracts, shall be accepted. Invitations to make offers as well as the procurement 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. Copies of the contracts entered into shall be submitted to MFA for information within 30 days after the signing.

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

4. Uganda shall provide MFA with a copy of invitations to international tenders concerning procurements which value exceeds NOK 7 million at least 40 days before publishing the invitation.

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5. Uganda 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

1. 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.
2. The audit report shall be submitted within the first quarter of each calendar year.
3. If this deadline is not met, the MFA can require that subsequent audits 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. The cost of such external audits shall be covered by the Grant.
4. 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.
5. The audit report shall state the auditor's opinion/findings as to:
 - 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 cash receipts/income and expenditures are properly accounted for.
 - whether appropriate internal controls to counteract illegal or corrupt practices have been established and are complied with.
6. Uganda shall submit to MFA the audit report and any other report from the auditor significant to the implementation of the Programme within the first quarter each calendar year. Uganda shall comment upon the auditor's findings. MFA shall respond within eight weeks upon reception of the report.

Article X Reviews – Evaluation

1. A 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. The reviews shall include in-depth financial reviews. An assessment of the Programme's impact may also be included in the reviews.

The reviews shall be initiated by the MFA. The MFA shall make a draft terms of reference to be commented upon by Uganda. The review consultants shall be identified by the MFA. The cost of the reviews shall be covered by MFA over and above the Grant.

2. MFA reserves the right to carry out independent reviews or evaluations of the Programme 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 Programme develops unfavourably in relation to the Goal and Purpose,
 - substantial deviations from agreed plans or budgets occur,
 - resources to be allocated by Uganda are not provided as agreed,

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- the documentation specified in Articles IV, VII and IX has not been submitted as agreed,
 - the financial management of the Programme has not been satisfactory,
 - the contracts referred to in Article IV, Clause 12 are breached or terminated before all obligations therein are fulfilled.
2. MFA 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.
 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 Uganda or by a beneficiary of Programme funds during procurement or execution of the contract without Uganda having taken timely and appropriate action satisfactory to MFA 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.

Article 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.

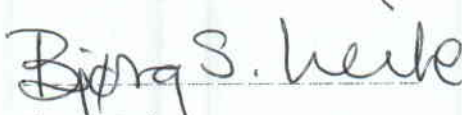
Article XIII Entry into force – Termination – Disputes

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 the respective Party, have signed the Agreement in two originals in the English language.

Done in Kampala the 9 day of July of 2009

For the Norwegian Ministry
of Foreign Affairs



Bjørn S. Leite
Ambassador

For the Government of
the Republic of Uganda



Annexes:

- I. Agreed Programme Summary format
- II. Obligations with regard to personnel/consultants made available to Uganda under the Agreement
- II. Requirements for outputs to be delivered by Uganda during the inception period of the Programme

Annex I – Agreed Programme Summary format

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.

1. Identification of the Programme

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

2. 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.

3. Overall budget

Insert the overall budget with annual breakdown of MFA'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.

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Annex II – Obligations with regard to personnel/consultants made available to Uganda under the Agreement

1. Permissions, taxes

Uganda shall provide or cause to be provided:

- 2.1 exemption from professional registration and licence requirements;
- 2.2 exemption from income taxes and any other direct taxes on emoluments paid to the personnel for services in Uganda under the Agreement;
- 2.3 exemption from payment of import and export duties, taxes and other fees on equipment imported to Uganda in connection with the services performed under the Agreement;
- 2.4 exemption from any currency or foreign exchange controls on financial resources brought into Uganda by the personnel for the purpose of the Agreement;

2. Indemnity – Arrest

- 2.1. Uganda shall indemnify MFA and the personnel serving in Uganda under the Agreement and hold them harmless against any liability, suits, actions, demands, damages, costs or fees claimed by third parties on account of death, injuries to person or property, or any other losses resulting from or connected with words spoken or written or any act performed or omission made in the execution within the territory of Uganda of assistance under the terms of the Agreement, short of acts amounting to gross negligence or wilful misconduct of such personnel. In case of gross negligence or wilful misconduct, Uganda will be liable to third parties to the same extent as it would be in respect of its own employees. In all cases Uganda shall be entitled to exercise and enforce the benefit of any defence or right of set off, counterclaim, insurance, indemnity, contribution or guarantee to which such personnel become entitled.

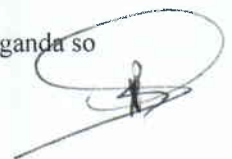
If claims arise in a case where gross negligence or wilful intention on the party of the personnel has been established by a court of law in Uganda, Uganda may hold the person concerned liable according to applicable law.

- 2.2. In the event of arrest or detention, for any reason whatsoever, of any personnel, or of any member of his/her family, or criminal proceedings being instituted against them, the Embassy shall immediately be notified by Uganda. Representatives from the Embassy shall be entitled to visit the arrested or detained person.

3. Recall

- 3.1. Uganda shall have the right to request the recall of any personnel whose work or conduct is deemed unsatisfactory. Before exercising such right Uganda shall consult with MFA.
- 3.2. MFA shall have the right to recall any person at any time. In case of such recall, MFA shall, unless exceptional circumstances demand that the person be recalled immediately, give one month's notice to Uganda.
- 3.3. MFA shall make every effort to obtain a replacement for the recalled person if Uganda so requests.

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Annex III – Requirements for outputs to be delivered by Uganda during the inception period of the Programme

Area	Outputs from the inception period	Page reference, appraisal report ¹
Results management	Programme goal and purpose duplicate the National Oil and Gas Policy or are aligned with these to a greater extent	9, 10
	Additional pillar II and III objectives in sections 2.3 and 2.4 have been reassessed in light of appraisal findings	11
	Indicators and means of verification have been redefined, and targets added	13-15
	Activities and outputs have been refined	12
	A programme baseline has been completed	2, 15
Financial management	The overall budget has been broken down and is presented in detail	12-13
	The budget has been redistributed over the five-year period to reduce unrealistic front-end loading	2, 22-23
	The financial management system, incl. disbursement mechanisms, has been described in detail	2, 8, 17
	Procurement procedures have been agreed with lead pillar institutions. The procedures and mitigating measures for the risk of delayed procurement have been described	3, 17, 19, 26
Risk management	The risk management framework (risk identification, analysis, mitigation and monitoring) has been improved	16-17, 20-24, 26-31
Governance structure	The programme governance structure has been more clearly defined in light of the appraisal recommendations, including mandates for the various bodies and roles on both the Ugandan and Norwegian sides, and the source of funding. It has been shown how sustainability will be achieved and programme funds phased out if Government of Uganda employees are to be funded through programme funds in a bridging phase, or in case consultants will perform tasks which would typically fall within the responsibility of one or several Government institutions	1, 18-19, 23-24
	The roles of the Department of Occupational Safety and Health, the Midstream Petroleum Unit in the MEMD and the key stakeholders within the revenue pillar have been clarified	2
Monitoring & reporting	The monitoring system has been clearly described, including the integration with or duplication of National Oil and Gas Policy principles, and the alignment with the National Integrated Monitoring and Evaluation Strategy (NIMES)	2, 15, 17

¹ Appraisal, Strengthening the Management of the Oil and Gas Sector in Uganda, Oslo, June 2009.

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Area	Outputs from the inception period	Page reference, appraisal report
Consultation, coordination & communication	Measures for public consultation, cooperation and coordination with organisations outside the Government of Uganda have been described	1, 9, 19-20
	The communication strategy to be funded through the Programme has been described in more detail, including whether the scope will be sector-wide and/or programme-specific	11
	An overall plan for a coordinated communication strategy for Uganda and Norway has been developed	3
Sustainability	A description has been included of how managerial and administrative skills, particularly within the revenue and environmental pillars, will be built	2, 8
	A description has been included of how the programme will ensure that the capacity building will benefit all relevant stakeholders within each pillar, not only the lead pillar organisation	3
	An exit strategy for Norwegian support to the management of the oil and gas sector has been defined	2, 8, 24-25

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