

# **Agreement between the Norwegian Ministry of Foreign Affairs and the Government of the Republic of the Sudan -Ministry of Petroleum- in connection with the Cooperation Programme for Sustainable Development and Management of the Petroleum Sector in Sudan**

WHEREAS the Norwegian Ministry of Foreign Affairs (MFA) and the Government of the Republic of the Sudan -Ministry of Petroleum- (MoP) have entered into a Memorandum of Understanding (MoU) dated 15 October 2008;

WHEREAS Ministry of Petroleum in Sudan has requested continuous support from Norway in a letter dated 19.November 2011

WHEREAS MoP has been nominated to represent Sudan in the implementation of the development cooperation concerning Cooperation Programme for Sustainable Development and Management of the Petroleum Sector in Sudan;

NOW THEREFORE MFA and Government of Sudan (GoS) (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 the Cooperation Programme for Sustainable Development and Management of the Petroleum Sector in Sudan (the Programme) as outlined in the Programme Summary in Annex I and further described in the Programme Document "Cooperation Programme for Sustainable Development and Management of the Petroleum Sector in Sudan" submitted to MFA on 20 February 2012
2. The overall objective of the Programme is a developed and strengthened governance system for the petroleum sector in Sudan that fosters efficiency, transparency, anticorruption, and which is in compliance with the principles of Good Governance.

The purpose of the Programme is the establishment of economically, environmentally and socially responsible management of petroleum resources which safeguards the needs of future generations in Sudan.

The Outcomes of the Programme are:

- a. Sudanese policymakers set goals, and define and assign responsibilities in a manner which promotes the overall objective of the Programme.
  - b. Sudanese petroleum sector regularly authorises Oil Exploration and Production Authority (OEPA) and General Directorate for Environment and Safety (GDES) carry out their assigned responsibilities.
  - c. Sudanese policy makers and regulatory authorities are held accountable for their management of the petroleum 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 Annual Meetings.

## **Article II Cooperation – Representation**

1. The Parties shall communicate and cooperate fully with the aim to ensure that the Objective 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 against any person suspected of misuse of resources or corruption including stopping, investigating and submitting the case to authorised body in accordance with applicable law. 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 Khartoum (the Embassy) and the MoP shall be competent to represent MFA and GoS respectively. All communication in regard to the Agreement shall be directed to the Embassy and MoP respectively.

## **Article III Contribution and obligations of MFA**

1. MFA shall, subject to Parliamentary appropriations, make available to GoS a financial grant not exceeding **NOK 57 000 000 (Norwegian kroner fifty seven million)** (the Grant) to be used exclusively to finance the Programme in the planned period 2012-2014.
2. Any unspent disbursed funds shall be returned to MFA upon completion of the Programme.

## **Article IV Contributions and obligations of Sudan**

GoS shall through MoP as implementing ministry be responsible for the implementation of the Programme, and shall hereunder:

1. Have the overall responsibility for the planning, implementation, reporting and monitoring of the Programme,
2. ensure that the Grant is used according to approved work plans and budgets,
3. provide the financial and other resources required in Sudan in local currency, in addition to the Grant, if deemed necessary by MoP
4. ensure that Programme funds are properly accounted for,
5. provide office space for the Norwegian coordinator, while in Khartoum.
6. liaise with the Sudanese Ministry of Foreign Affairs for the provision of visas to the Norwegian team, at the quickest possible way.
7. promptly inform MFA of any circumstances that interfere or threaten to interfere with the successful implementation of the Programme,
8. 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 Sudan for the benefit of the Programme,
9. ensure that all permits, import licenses and foreign exchange permissions that may be required for implementation of the Programme are granted,
10. ensure that representatives of Norway are permitted to visit any part of the Programme's sites for purposes related to the Agreement and examine any relevant records, goods and documents, provided obtaining a written approval of the concerned Sudanese authority.
11. enter into an institutional cooperation contract (the Contract) with the Norwegian Ministry of Petroleum and Energy (MPE) regarding the administration and activities of MPE and MoP for the duration of the Programme. The Contract shall *inter alia* define the management structure, scope and objectives, procurement, the responsibilities of MoP and MPE, the details of the delegation of

MPE to the Norwegian Petroleum Directorate (NPD) for the management and implementation of the Programme, disbursement, reporting, disputes etc. The Contract as well as any subsequent amendments shall be submitted to MFA for approval.

#### **Article V Disbursements**

1. Disbursements from the Grant will be transferred directly to MPE upon semi-annual requests from GoS to MFA, based on the financial need of the Programme and on approved work plans and budgets.
2. Disbursements will be made to a non-interest bearing account.
3. MFA shall report to Sudan all payments made to MPE.

#### **Article VI Annual Meetings**

1. Representatives of the Parties of the Agreement shall have an Annual Meeting tentatively in the first quarter each year in order to:
  - Discuss the progress of the Programme, including results and fulfilment of the previous year work programme and budget,
  - discuss and 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 1, and how to manage such risks/issues.

NPD, representing the MPE, shall be invited to the meeting as an observer. Each of the Parties may include others to participate as observers or as advisors to their delegations, with approval of the two Parties.

- Norad/OfU will act as adviser to MFA and participate in the meeting.
2. The documentation specified in Articles VIII and X shall form the basis for the consultations.
  3. The Annual Meetings shall be called by MFA and chaired alternately by one of the Parties at a location agreed by both Parties.
  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 MFA and be submitted to the Parties for comments no later than two weeks after the Annual Meeting.

#### **Article VII Reports**

1. GoS shall submit to MFA the reports and documentation specified below.
2. A progress report shall be submitted semi-annually, one to be submitted within three weeks before the Annual Meeting and one submitted by 1 September each year. The progress reports shall be prepared in accordance with the format in Annex II 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 progress and 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.
  - a brief assessment of achievements in relation to Goal and Purpose.

3. A work plan and budget shall be submitted annually within three weeks before the Annual Meeting. The work plan shall specify planned outputs and time schedules for the current calendar year. The budget for the Programme shall show estimated income from all sources and planned expenditures.
4. Annual financial statements shall be submitted within three weeks before the Annual Meeting each year: The financial statements for the Programme shall cover the entire Grant and be, with regards to all Norwegian funding showing cash receipts/income and expenditures for the previous period structured as and compared to approved budgets for such previous period. The statements shall have sufficient segregation of data to permit identification of funds used on major Programme activities or types of expenditure. The financial statements and budget(s) shall give complete and detailed information on the total financing of the Programme.
5. A final report shall be submitted within three months after the completion of the Programme. If the Programme is not completed by 31 December 2014, a status report shall be submitted to MFA by the said date. The final report shall include:

The topics listed in Clause 2 above for the whole Agreement period,

- an assessment of the effectiveness of the 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. GoS through MPE respectively, undertakes to effect all procurements of goods and services necessary for the implementation of the Programme. Procurements shall be based on specifications and/or Terms of Reference mutually agreed between MoP and MPE.
2. The procurements shall be performed in accordance with internationally accepted procurement principles and good procurement practices and the procurement regulations of Norway.

GoS through MPE shall observe the highest ethic standards during the procurement and execution of contracts, and shall ensure that illegal or corrupt practices are prevented.

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. Contracts entered into by MPE exceeding NOK 1 million shall be submitted to MFA for information.

#### **Article IX Audit**

The annual financial statements of the Programme shall be audited by the Norwegian Auditor General in accordance with regulations related to Norwegian Governmental audits.

#### **Article X Reviews – Evaluation**

1. An independent mid-term review is to be issued by the GoS approximately half way into the Programme period. The Terms of Reference for the review shall be presented to and approved by MFA.
2. An end review focusing on progress to date and the effectiveness of the Programme, i.e. the extent to which the Purpose and outcomes are being/have 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.
3. MFA and GoS reserve the right to carry out independent reviews or evaluations of the Programme as and when deemed 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 with 15 days prior written notice in case e.g.:
  - The Programme develops unfavourably in relation to the Objective and Purpose,
  - substantial deviations from agreed plans or budgets occur,
  - contributions to be made by Sudan- ref. Article 4- 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,
  - the contract referred to in Article IV, Clause 11 is breached or terminated before all obligations therein are fulfilled.
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2. MoP shall through its contract with MPE ensure that MFA has the right to seek direct recourse towards MPE in accordance with this Article and hereunder 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 Sudan or MPE during procurement or execution of the contract without Sudan having taken timely and appropriate action satisfactorily to MFA to remedy the situation.
4. Before MFA withholds disbursements, reclaim 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.

#### **Article XIV Confidentiality**


Both Parties to this agreement shall safe any information, data, and documents issued or belonging to any of the Parties confidential, in accordance with applicable internal legislation. Both Parties

shall refrain from disclosing or disseminating confidential information, data, and document, without prior or written consent of the other Party.

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

Done in Khartoum the 22 day of February of 2012.

For the Ministry of Foreign Affairs

  
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H.E. Erik Solheim

Minister for the Environment and  
International Development

For the Government of Sudan

  
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H.E. Dr. Awad Aljaz

Minister of Petroleum

Annexes:  
Annex I Agreed Programme Summary

## I Agreed Programme Summary

### **Programme Title: Cooperation Programme for Sustainable Development and Management of the Petroleum Sector in Sudan**

#### **Main implementing institutions:**

##### Sudan:

Ministry of Petroleum

##### Main Norwegian and/or other Partner institutions:

Ministry of Petroleum and Energy (including Norwegian Petroleum Directorate and Petroleum Safety Authority), Ministry of the Environment (including Directorate for Nature Management and Norwegian Climate and Pollution Authority) and Petrad

#### **Description of the Programme**

**The overall objective of the Programme** is a developed and strengthened governance system for the petroleum sector in Sudan that fosters efficiency, transparency, anticorruption, and which is in compliance with the principles of Good Governance.

**The Purpose of the Programme** is the establishment of economically, environmentally and socially responsible management of petroleum resources which safeguards the needs of future generations in Sudan.

#### **Outcomes**

1. Sudanese policymakers set goals, and define and assign responsibilities in a manner which promotes the overall objective of the Programme.
2. Sudanese petroleum sector regularly authorises Oil Exploration and Production Authority (OEPA) and General Directorate for Environment and Safety (GDES) carry out their assigned responsibilities.
3. Sudanese policy makers and regulatory authorities are held accountable for their management of the petroleum sector.

#### **Inputs**

Norwegian funds

Institutional support

Manpower contributions from Sudanese institutions

To be refined during the Programme period.

#### **Main indicators**

Indicators for the Programme's overall objective

- Oil recovery rates in Sudan's producing fields
- Quantity of produced water injected
- Quantitative measure of serious incidents

Indicators Outcome 1.

- Approval by the Sudanese government of a written petroleum policy which is appropriate for the new political and economic situation.
- A new petroleum law is enacted by the Sudanese Parliament



- MoP is reorganized in a manner which separates its policy making role from the regulatory functions of the oil Exploration and Production Authority (OEPA) and the commercial operations.

#### Indicators Outcome 2.

- Number of qualified resource assessments and production forecasts provided by OEPA to the Ministry of Finance and Economic Planning
- The oil field technical studies on IOR is formulated and approved by MoP
- Number of environmental audits of the petroleum companies conducted by GDES
- Number of health and safety inspections on production fields conducted by GDES
- The number of staff within MoP, with relevant Master Degree education, has increased

#### Indicators for Outcome 3.

- Approved Petroleum policy and enacted petroleum legislation published on MoP website
- Publication by OEPA on its websites of resource assessments and production forecasts in English and Arabic
- Sudan is approved as a candidate country for the implementation of EITI

To be refined during the Programme period.

#### Specific risk factors:

- Relevance of Programme:

The cooperating partners have made the proposed Programme as relevant as possible to the challenges facing Ministry of Petroleum and Sudan in managing the petroleum potential, with focus on

- Regulatory and institutional framework
- Efficient Resource Management with particular focus on IOR
- HS&E with particular focus on produced water handling and safety
- ICT, data management and information
- Environmental management
- Training

A well discussed and designed programme is an important tool in reducing the risks for not meeting the programme objectives. In the programme design, the activities for the first year are relatively specific, for the rest of the programme period the uncertainty is higher but the main focus is maintained and ample funds are allocated to meet specific high priority needs.

- Specific risk factors:

Disagreement on sharing of land, resources and production facilities between Sudan and South Sudan may lead to unrest and disruption of exploration and production. The Programme is considered to build understanding within the government of Sudan on geological, technical and environmental challenges. This knowledge can ease the dialog and cooperation with neighbouring countries.

- Petroleum resources and markets, external uncertainties that which can have impact on the Programme execution:

The petroleum resources of Sudan may not be exploited in an efficient and optimal way due to lack of exploration, low recovery from the fields, little international interest to invest and unsuitable market conditions. The Programme is considered to make the government able to market and license its acreage efficiently and to ensure that the operating companies are draining the oil reservoirs in an optimal way.

- The political and security risk is important:  
 Petroleum production and sales may be hampered by internal and external armed conflicts and violent interference. The Programme is considered to give Sudan good policy and legal documents, and increase the knowledge and awareness of the potential benefits from regular petroleum exploitation within the government and civil society.
- Risk regarding availability of technical staff:  
 The government's ability to regulate and guide the petroleum activities may be reduced due to lack of competence and personnel. The Programme is considered to strengthen the government's organisation and to build capacity and competence.
- Risk regarding Management capacity:  
 The effectiveness of regulating the petroleum industry may be reduced due to inefficient organisation and unclear delegation of responsibility within the government institutions. After the split of Sudan in 2011 the tasks and duties for the government of Sudan have been affected. The Programme is considered to strengthen the organisation, to build competence and understanding of the tasks of petroleum regulators at all organisational levels.
- Risks related to environment and climate  
 There may be negative climate effects from the Sudanese petroleum sector. The Programme is considered to have a positive effect – if any - on climate issues by seeking to insure that appropriate measures are included in the legal framework  
 The Programme is expected to have a large positive effect on petroleum sector environmental issues, for instance, by increasing the reinjection of produced water, and by providing capacity building on key environmental topics such as environmental monitoring.
- Risks related to the impact on gender equality  
 Training Programmes and other activities must be designed with care to ensure that women have the opportunity to participate  
 Negative social impacts related to petroleum activities may disproportionately affect women.
- Risk related to corruption  
 Corruption in the petroleum sector could undermine the achievement of a range of Programme goals. The Programme is in itself expected to have a preventative effect related to corruption in the sector by helping to establish a sound legal framework and by increasing the transparency of the sector.

To mitigate the identified risks, and to ensure that positive anti-corruption, gender equality, environmental and climate change components have been integrated, the following revisions have been made to earlier drafts of this Programme;

- The focus on sector transparency in the Programme has been increased, including plans for a website for publication of relevant information and for implementation of EITI. These
- Planning will be conducted on how to ensure that those who receive training through master scholarships are legally required to return to the Sudanese public petroleum sector to work for a specified number of years
- Training providers under the Programme will be asked to take special precautions to facilitate the participating of qualified women in relevant training activities. Data on training activities shall be gender-disaggregated, so as to monitor the Programme's performance related to the promotion of women in the sector

- Any social impact assessments that are to be conducted under the Programme will take into account whether or not there will be a particularly negative impact on women from petroleum activities

Throughout the implementation of the Programme, revised risk assessments and mitigation strategies will be included in each annual planning process.

#### Overall budget

<b>Programme budget, Mill NOK</b>			
<b>Year</b>	<b>2013</b>	<b>2014</b>	<b>2014</b>
Policy, legal, organisation	5.50	3.00	1.00
Resource management	5.00	5.50	4.00
Petroleum geospatial data management	1.00	1.00	1.00
ICT , Data management and info.	0.50	1.50	1.50
Health and safety management	1.20	2.00	2.00
Environmental management	2.50	3.00	3.00
Formal training	1.00	1.3	1.00
Administration	1.80	1.20	1.00
Contingency	1.00	1.50	3.00

**NOK 57 000 000**