

GUIDELINES FOR AGREEMENTS ON INTERNATIONAL DEVELOPMENT COOPERATION

A. INTRODUCTION

All development cooperation which involves obligations of the Danish Ministry of Foreign Affairs (MFA) must be defined in a written document, describing the parties' rights and obligations. The document sets out the agreement guiding the relation between the parties, as well as provides a management tool that covers all material aspects of the implementation of activities funded by Danish development cooperation.

The Guidelines for Development Cooperation Agreements outlines how Danish representations and departments enter into agreements with partners. It is an updated version of the Guidelines from 2010 that replaced Guidelines on Standard Government Agreements for Bilateral Development Programmes from 2001.

The guidelines apply to all agreements which involve a Danish financial commitment and/or other obligations vis-à-vis a government, a public entity or an NGO in a partner country, a donor government, an international organisation or an international NGO.

These guidelines do not apply to development cooperation agreements between the Danish government and Danish NGOs that operate under a framework agreement, a partnership agreement or under pooled arrangements for NGO-support. Nor do they apply to contracts with private suppliers defining conditions for purchase of works, goods and services. Please refer to separate guidelines for these agreements.

Types of agreements

The guidelines deal with four types of agreements:

- Country agreement
- General agreement with multilateral, international and non-governmental organisations
- Programme support agreement
- Agreement with implementing partner

In addition to these four types of agreements, Denmark can participate in joint financial arrangements with other donors, in which case the Nordic Plus Practical Guide to Joint Financing Arrangements applies. Likewise, if Denmark is delegating

the implementation of a project or programme to another donor, or vice versa, the Nordic Plus Practical Guide to Delegated Cooperation applies

Responsibility

It is the responsibility of the relevant representation or department in the MFA to draft and negotiate agreements with partner countries and international organisations which fall within their mandate. As a general rule, enquiries must be addressed to the MFA's Department for Quality Assurance of Development Assistance (KVA) or the Department for International Law (JTF). See specific procedures for each of the different types of agreements below.

DEFINITION OF AGREEMENTS AND MANDATE TO SIGN

The status of an agreement under international law depends on whether the agreement contains legal obligations and whether the parties have competence to conclude a treaty. If both criteria are fulfilled, the agreement constitutes a treaty under international law.

Treaty: The term “treaty”, as used in these guidelines, refers to an agreement entered into by the Danish Government, the Danish Ministry of Foreign Affairs or the representation on behalf of Denmark on the one side, and the government of a partner country, a state entity in a partner country, a government of a donor country, an international organisation or a branch hereof on the other side. Treaties are binding under international law and subject to specific rules and procedures regarding authority for signing, deposit and publication.

Non-treaty: Non-treaty agreements are agreements with private subjects, such as national or international NGOs.

Only the Minister for Foreign Affairs (together with the Prime Minister and the Queen) can delegate the authority to sign a treaty. When a Minister for Development Cooperation is appointed he/she is competent to sign a treaty within his or her field of responsibility, but cannot delegate this responsibility.

Pursuant to Article 7 of the Vienna Convention on the Law of Treaties, a person is considered as representing a State for the purpose of signing a treaty if: (a) he/she produces appropriate full powers; or (b) it appears from the practice of the States concerned or from other circumstances that they consider that person as representing the State for such purposes and to dispense with full powers.

Practice to be followed in Danish Development Cooperation is that full powers is needed when signing a country agreement, but is generally dispensed of when the representation/department is signing a programme support agreement or an agreement with implementing partner. However, if a partner requests full powers to sign this must be arranged for.

For more information please refer to the [Guidelines for Treaties](#) and to this [site](#) on um.dk.

B. PROCEDURES

B.1. COUNTRY AGREEMENT

The country agreement specifies general conditions, rights and obligations for Danish Development Cooperation when executed directly by Denmark in a partner country. A country agreement is needed when Danish cooperation includes Danish contracted works and services (e.g. long and short term advisors). Denmark has entered into country agreements in most partner countries.

Format

The standard format for country agreements can be found [here](#). It is recommended that MFA departments/representations, to the extent possible, use the existing templates. However, there will be cases in which it will be necessary to deviate from the template, for instance by leaving out certain articles. Any enquiries or doubt in this regard should be addressed to the MFA's Department for Quality Assurance of Development Assistance (KVA) by submitting the draft country agreement as well as a description of the issue. KVA will approve changes in consultation with the Department for International Law (JTF).

B.2. GENERAL AGREEMENT

A general agreement with a multilateral, international, or non-governmental organisation specifies basic obligations of execution, e.g. the scope of cooperation, agreement on the level of overhead as well as financial reporting procedures.

Before any disbursement to an international or multilateral organisation can be made, it is mandatory to have a signed agreement with the relevant organisation. The request for disbursement from the multilateral organisation must refer to the agreement.

The responsibility for assessing the need to update already existing agreements with multilateral organisations lies with the relevant representation or department.

For cooperation with Danish NGOs that operate under a framework agreement, a partnership agreement or under pooled arrangements for NGO-support please refer to separate guidelines.

For multilateral cooperation through core contributions Organisation Strategies form the basis for Denmark's dialogue and partnership. Organisation Strategies serve to enhance priority setting and results reporting. They are, however, Danish documents and do not replace an agreement with the international organisation in question. For more information, see the [Guidelines for Management of Danish Multilateral Development Cooperation](#).

For earmarked contributions, a separate and additional agreement to the general agreement is signed between the organisation and Denmark. The agreement includes information such as the DKK amount of the Danish grant, its designated use, the expected timeframe for its disbursement, and matters pertaining to financial-, audit- and progress reporting. As a general rule, a separate agreement on an earmarked contribution should refer to the general agreement with the organisation in question.

Format

General agreements covering Danish cooperation with multilateral, international or non-governmental organisations normally follow the format of the partner organisation/NGO. Hence, there is no template for this type of agreements.

General agreements can also be referred to as Standard Agreements, Memorandum of Understandings, Letters of Exchange or similar and may vary from organisation to organisation. Regardless of title, the agreements must be regularly reviewed to ensure common understanding of the applicable contractual basis. It is the responsibility of the relevant representation or department to renew or update the agreement when required.

Any enquiries or doubt should be addressed to the MFA's Department for Quality Assurance of Development Assistance (KVA), e.g. to ensure accordance with the [General Guidelines for Accounting and Auditing of Grants Channelled through Multilateral Organisations](#).

Signing

When signing a country agreement or a general agreement the representations/ departments can arrange for the signing in two ways:

- The representations/ departments can request Full Powers from the Minister. The request must be submitted to the Treaty Section in JTF by using the form (Fuldmagt til undertegnelse af traktat) [here](#).

- Together with the relevant department in the MFA, the Representation can arrange for the Minister to sign the agreement, e.g. by Letters of Exchange.

Filing

When a country agreement/general agreement has been signed the document should be deposited with the Treaty Collection at the Department for Documentation (DOK). The representation/department must send the original document of the treaty together with a request (see [formats](#)) to Treaty Collection at the Department for Documentation. The representation/department must also scan the signed original document and upload it to PDB at the appropriate level using the document type “country agreement” or “agreement with multilateral organisation”.

Publication

Immediately after the country agreement’s/general agreement’s date of entry into force, the representation/department must send an electronic request to JTF via mail to traktat@um.dk. Read more in the Guidelines for Treaties [here](#)¹. Based on this information, JTF prepares the promulgation of the agreement in the form of a résumé in the Law Gazette C.

B.3. PROGRAMME SUPPORT AGREEMENT

The Programme Support Agreement governs the Danish programme support to a sector or to a thematic area either in a partner country or with an international organisation/NGO. The programme document is annexed to the programme support agreement. This is described on page 28 in both [Guidelines for Programmes and Projects under 37 mill. DKK](#) and [Guidelines for Programmes and Projects above 37 mill. DKK](#).

The Programme Support Agreement is signed with the relevant partner country, partner ministry or organisation. It is designed for bilateral agreements between two governments but can also be signed by organisations. The Programme Support Agreement with the programme document (for programmes)/Development Engagement Document (for projects) annexed serves as the commitment document for the entire programme/project.

¹ The representation/department shall not provide a résumé text, as JTF and KVA have agreed on a standard text for résumés.

Please note that different commitment rules apply to the different finance act sub accounts. For the country frames under the accounts 06.32.01 and 06.32.02, the commitment can be registered once the programme support agreement has been signed.

If a comprehensive Programme Support Agreement cannot be entered into, commitment agreements can be signed at the level of the implementing partner with the development engagement document (DED) as commitment document. See section B.4 below.

Format

The standard template for a programme support agreement can be found [here](#). It is recommended that representations and departments, to the extent possible, use the existing template. When Denmark is cooperating with an international organisation or an international NGO, the partner's own template for an agreement can be used.

In case of doubt, e.g. where the partner requests substantial deviations from the above mentioned template, the draft programme support agreement together with a description of the issues raised by the partner shall be submitted for comments and approval to the MFA's Department for Quality Assurance of Development Assistance, which may consult the Department for International Law.

Signing

When the Minister has approved the proposal for a new programme/project, the minutes from the relevant Grant Committee meeting is distributed to the relevant representations and departments. After receiving the minutes, the Head Representation/Department can enter into relevant agreements concerning the execution of the programme.

Please note that grants for programmes/projects without direct legal basis on the Finance Act must be presented to the Parliamentary Finance Committee. When approved by the Finance Committee, the approval is communicated to the Representations and Departments, after which they can enter into relevant agreements concerning the execution of the programme/project.

If the programme support agreement is a treaty and if a partner requests signing of the agreement according to international law, the Representation can arrange for the signing in two ways:

- The representations/departments can request Full Powers from the Minister . The request must be submitted to the Treaty Section in JTF by using the form (Fuldmagt til undertegnelse af traktat) [here](#).
- Together with the relevant MFA Department, the representation can arrange for the Minister to sign the agreement, e.g. by Letters of Exchange.

Filing

If a signed programme support agreement is a treaty, the document must be deposited with the Treaty Collection at the Department for Documentation (DOK). The representation/department must send the original document of the treaty together with a request (see [formats](#)) to the MFA's Department for Documentation. The representation/department must also scan the signed agreement document and upload it to PDB using the document type "programme support agreement".

If the signed programme support document is not a treaty, it should be filed at the representation and uploaded to PDB, as described above.

Publication

The Ministry of Foreign Affairs is required to publish all treaties entered into force within the area of development cooperation. Treaties include any agreement entered into force between MFA or the Danish representations on the one side and the government of a partner or donor country (formally recognised by Denmark as a sovereign state) or an international organisation or a branch hereof on the other side. Agreements with national or international civil society organisations and commercial contracts are not considered as treaties in this regard. Please refer to the grey box on page 2 for more information on treaties.

The treaties (except for bilateral country Agreements/general agreements that are treated separately under section B.1.) are promulgated in the Law Gazette C once a year. KVA and JTF are responsible for the procedures.

On an annual basis, early in the calendar year, representations and departments inform KVA regarding treaties commenced since the last publication by using the mandatory reporting template. Report in Danish and in alphabetical order, avoiding abbreviations. KVA prepares the list of treaties and JTF arranges the publication.

B.4. AGREEMENT WITH IMPLEMENTING PARTNER

The Agreement with Implementing Partner describes the obligations of the executing entity and includes agreements on Joint Financial Arrangements, Delegated Cooperation and bilateral agreement with implementing partner (either with a partner in a partner country or with an international organisation/NGO).

Format

The type of agreement to be signed with individual implementing partners within a programme depends on the support modality.

- It is recommended to use the [Nordic Plus Practical Guide to Joint Financing Arrangements](#) in cases of budget support, sector budget support, basket-fund arrangements and co-financing of programmes/projects.
- It is recommended to use the [Nordic Plus Practical Guide to Delegated Cooperation](#) (and template in annex 3) when formulating an agreement regarding delegated cooperation with another donor.
- The template for [Bilateral Agreement with Implementing Partner](#) should be used when the cooperation is not joined with another donor. The Development Engagement Document should be annexed to the agreement. A development engagement is defined at partner level and specifies the agreed results, activities and the budget for the cooperation between Danida and the partner concerned.
- For projects below 5 million DKK, the appropriation note for projects up to 5 million DKK and the template for Development Engagement Document up to 5 million DKK can be used
- The international organisations'/NGOs' own templates can be used for agreements with international organisations/NGOs. It is the responsibility of the representation/department to ensure that the quality of the individual agreement is of an equal standard to the Danish template for Bilateral Agreement with Implementing Partners and, if more than one donor signs the agreement, the template for Joint Financial Partner Agreement.

It is recommended that representations and departments to the extent possible use the existing templates.

In case of doubt, e.g. where the partner requests substantial deviations from the above mentioned templates, the draft agreement together with a description of the issues raised by the partner shall be submitted for comments and approval to the MFA's Department for Quality Assurance of Development Assistance, which may consult the Department for International Law.

Signing

When the Minister has approved the proposal for a new programme/project, the minutes from the relevant Grant Committee meeting is communicated to representations and departments. After receiving the minutes the Head of Representation/Department can enter into relevant agreements concerning the execution of the programme. For programmes/projects approved by the Finance Committee of Parliament, the approval is communicated to the representation/department, after which they can enter into relevant agreements concerning the execution of the programme/project.

The programme support agreement should be signed before the agreements with implementing partners.

Filing

If the agreement with an implementing partner is a treaty the document should be deposited with the Treaty Collection, Department of Documentation. The representation/department will send the original document of the agreement together with a request (see [formats](#)) to the Treaty Collection, Department of Documentation. The representation/department must also scan the original document and upload it to PDB in the programme/component file.

If the signed programme support document is not a treaty, it should be filed at the representation and uploaded to PDB, as described above.

Publication

If the implementing partner is the government of a partner or donor country (formally recognised by Denmark as a sovereign state) or an international organisation or a branch hereof the Ministry of Foreign Affairs is required to publish the agreement (treaty). Agreements with national or international civil society organisations and commercial contracts are not considered as treaties in this regard. Please refer to the grey box on page 2 of these guidelines.

The treaties (except for country agreements/general agreements that are being treated under section B.1.) are published in the Law Gazette C once a year. KVA and JTF are responsible for the procedures.

On an annual basis, early in the calendar year, representations and departments inform KVA regarding treaties that have entered into force since the last publication by using the mandatory reporting template. Reports should be in Danish and in alphabetical order, avoiding abbreviations. KVA prepares the list of treaties and JTF arranges the publication.