



Australian Government

AusAID

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE GOVERNMENT OF AUSTRALIA

AND

THE GOVERNMENT OF VANUATU

ON

DEVELOPMENT COOPERATION

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**MEMORANDUM OF UNDERSTANDING BETWEEN
THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF VANUATU
ON DEVELOPMENT CO-OPERATION**

The Government of Australia and the Government of Vanuatu desiring to strengthen the existing cordial relations between the two countries, have reached the following understandings:

1. Purpose

Both Governments will co-operate in a Program in support of the developmental needs of Vanuatu while promoting mutual economic links.

2. Scope of the Australian Program of Development Co-operation

2.1 The Australian Program of Development Co-operation will be implemented and managed in accordance with the Australia-Vanuatu Joint Development Cooperation Strategy 2005-2010, guided by Vanuatu's *Prioritised Action Agenda (PAA)*; and Australia's 2005 Ministerial Statement on Aid, which reinforces the policy directions outlined in the 2002 Statement by the Australian Minister for Foreign Affairs, *Australian Aid: Investing in Growth, Stability and Prosperity*. The Program is reflective of, and consistent with, the Statement of Principles signed by both Governments in December 2004.

2.2 The Development Cooperation Program will support the Government of Vanuatu's short to medium development goal of

"Long term stability for Vanuatu resulting from accelerated development, including broad-based growth, and improved welfare of the general population."

In pursuing this goal, the Joint Strategy for Development Cooperation will focus on three objectives:

- (a) *Improved Governance* through strengthening the stability and reach of key institutions.
- (b) *Raising Productive Capacity* of ni-Vanuatu, particularly young people and women.
- (c) *Improving Service Delivery* to populations in greatest hardship particularly in isolated rural communities and informal settlements in urban areas, underpinning broad based growth and government legitimacy.

2.3 The program will be generally directed to assisting those sectors of the economy of Vanuatu and to those partners to which the Government of Vanuatu accords greatest

priority and in which the Government of Australia has expertise and comparative advantage. The following sectors have been targeted for possible activities:

- (a) *Governance* - in meeting the challenge of developing more accountable police and legal systems, public sector reform, financial accountability and performance of institutions;
- (b) *Law and Justice* – including working to achieve a more professional, accountable and community-oriented police force (building links with other Australian government programs, and in coordination with New Zealand and France) and stronger legal systems, supporting the rule of law;
- (c) *Transparency, accountability and reducing corruption* - through support for accountability mechanisms and machinery of government processes;
- (d) *Civil Society* - increased engagement with civil society to promote demand-led governance;
- (e) *Education and Health* – are the priority sectors for strengthening delivery of services in Vanuatu, by supporting and engaging with key Government and non-Government institutions. A particular focus will be addressing the problems of young people;
- (f) *Human Resource Development* – through a focused program of scholarships for Ni-Vanuatu to study in Australia and in the region, and appropriate mobilisation of technical assistance for capacity building of key institutions. This will include assisting the Government of Vanuatu extend the benefits of capacity building to people in rural areas, through support for stronger links between central, line and provincial systems;
- (g) *Productive sectors* – in assisting the Government of Vanuatu in its aim to accelerate development by expanding agricultural productivity and strengthening the tourism sector, including through support for infrastructure development. The focus will be on providing income-generation and employment opportunities for ni-Vanuatu, particularly young people.

2.4 The program undertaken jointly by the Government of Australia and the Government of Vanuatu pursuant to this Memorandum of Understanding (MOU) will be in support of specific programs and related activities undertaken primarily but not exclusively within such sectors

2.5 The Program may include the following forms of assistance:

- (a) Analysis of and advice on development challenges that will inform the implementation of the 2005-2010 Joint Country Strategy, through missions to Vanuatu and Australia, desk studies or analysis commissioned by Australia and undertaken by related partner organisations such as NGOs (including Church organisations or the National Council of Chiefs), academic institutions or independent consultants;

- (b) the granting of scholarships to nationals of Vanuatu for studies in Australia, Vanuatu or a third country;
- (c) the assignment of experts, advisers and other specialists to Vanuatu in connection with implementation of program activities;
- (d) the provision of funds, equipment, materials, goods and services required for the successful execution of development programs in Vanuatu;
- (e) any other form of assistance, reportable as Official Development Assistance (ODA) under the OECD Development Assistance Committee (DAC) guidelines as may be determined by the two Governments.

3. Definitions

In this MOU:

- 3.1 "program" means jointly determined and programmed bilateral development co-operation activities carried out pursuant to this MOU¹. Forms of assistance are listed in Annex A.
- 3.2 "activity" means any discrete unit of development assistance that may include any one or more of the forms of assistance described in Clause 2.
- 3.3 "Australian project personnel" means persons working in Vanuatu on an activity under this MOU who are not permanent residents of Vanuatu and whose salaries or other costs are funded from the contribution of the Government of Australia to the activity;
- 3.4 "Australian project supplies" means equipment, materials, and other goods supplied for the carrying out of development activities under this MOU, the cost of which is funded from the contribution of the Government of Australia to the activity;
- 3.5 "dependant" means the spouse, including the de facto spouse, and dependent minor children of a member of the Australian project personnel or any other person recognised by the two Governments as a dependant of a member of the project personnel;
- 3.6 "intellectual property" includes all copyrights, patents, registered and unregistered trademarks, registered designs, trade secrets and know-how, all rights subsisting in the national legislation of any other sovereign state, including protection conferred upon circuit layout of semi-conductor chips or similar technology, and all other intellectual property as defined by Article 2 of the "Convention Establishing the World Intellectual Property Organisation of July 1967" and amended on the 28th September 1979.
- 3.7 "personal and household effects" means any goods imported by project personnel for the personal use of Australian personnel or their dependants, excluding food and drink; and

¹ The Australian Government aid program is globally untied in respect of personnel and supplies. For countries that meet the OECD definition of a Least Developed Countries (LDC) all contributions of the Australian Government aid program are untied. At the time of signature of this MOU Vanuatu met the LDC criteria: all Australian contributions at the time of signing this MOU are untied.

- 3.8 "project" means a self-contained activity based on a mutually approved design and involving the provision of Australian-funded services and project supplies.

4. Co-ordinating Authorities

- 4.1 The Co-ordinating Authorities will be, for the Government of Australia, the Australian Agency for International Development (AusAID) of the Department of Foreign Affairs and Trade and, for the Government of Vanuatu, the Ministry of Foreign Affairs or such other authority as the Government concerned nominates by notice in writing through the diplomatic channel.
- 4.2 Subject to the overall responsibility of the Government of Vanuatu for implementation and co-ordination of activities under this MOU, the two Co-ordinating Authorities will be responsible for the co-ordination of the Program which function will include but not be limited to:
- (a) establishing priorities under the Program;
 - (b) choosing activities for implementation under the Program;
 - (c) monitoring, reviewing and reporting to the two Governments on progress in the implementation of the Joint Country Strategy on Development Cooperation and the management of the development cooperation program; and
 - (d) recommending to the two Governments any appropriate changes to the Program including budget and future development.

5. Sharing of Costs

- 5.1 The Government of Australia will meet, on a grant basis, costs incurred relating to training, materials, services, travel by project personnel and equipment as appropriate for each activity; together with payment of remuneration of all Australian project personnel.
- 5.2 The Government of Australia may, at its own discretion, meet costs other than those included in paragraph 1 of this Clause.
- 5.3 The Government of Vanuatu will meet all costs incurred by it in Vanuatu in support of each activity, other than those that the Government of Australia decides to meet in accordance with paragraph 1 and 2 of this Clause. The costs to be met by the Government of Vanuatu will normally include both salaries and allowances of counterpart institution personnel, and materials, services and equipment as appropriate supplied from within Vanuatu for the activity.

6. Financial Commitments

- 6.1 The provision by the Government of Australia and the Government of Vanuatu of the respective contributions to the Program and to the individual activities within the Program is conditional upon annual Parliamentary approval of appropriations.
- 6.2 Program or activity financial disbursement estimates will be indicative planning figures and not financial commitments.

7. Specific Activities

- 7.1 In order to give effect to the Program the two parties to this MOU may enter into a Subsidiary Arrangement (SA) in writing for the purpose of carrying out specific activities.
- 7.2 Such SAs will make particular reference to this MOU and the terms will, unless otherwise stated, apply to such SAs. Wherever possible, such SAs will set out:
 - (a) the name and duration of the activity;
 - (b) description and statement of objectives of the activity;
 - (c) the nominated implementing agencies in both countries;
 - (d) details of the contributions to the activity by the two Governments including
 - (i) financial contributions;
 - (ii) materials, services and equipment to be supplied;
 - (iii) the numbers and areas of expertise of Australian and other personnel to be engaged; and
 - (iv) estimated annual budgets;
 - (e) timetable for implementation; and
 - (f) monitoring, review and evaluation arrangements.
- 7.3 The two parties to this MOU may jointly decide to amend and supplement the SAs for each activity.
- 7.4 The Government of Australia may engage Government or non-Government personnel or organisations to carry out or manage the Government of Australia's contribution pursuant to a particular arrangement.

8. Project Co-ordinating Committees

- 8.1 In respect of a project arranged under the Program a Joint Project Co-ordinating Committee will normally be established to:
- (a) monitor, review and report on progress to the two Governments;
 - (b) recommend to the two Governments any appropriate changes in the project including budget and future development; and
 - (c) undertake such other functions as may be set out in the respective SAs.
- 8.2 The Chairman of each Project Co-ordinating Committee will be appointed by the Vanuatu Co-ordinating Authority. The Committee will include members appointed by the Vanuatu Co-ordinating Authority and the Australian Co-ordinating Authority.
- 8.3 Unless mutually arranged otherwise between the two Co-ordinating Authorities, Project Co-ordinating Committees will meet at least twice a year at mutually acceptable times and places following monitoring visits to the project location undertaken by officials of the two Governments
- 8.4 In the case of some projects, the Joint Project Coordinating Committee may be renamed as another mechanism, such as a 'governing board', or 'advisory group'. In these activities, a SA will set out the details of the coordinating mechanism, drawing on the minimum requirements at Clause 8.1.

9. Evaluation

- 9.1 An evaluation of progress of each project or activity may be made by a joint review team appointed by the two Governments. The purpose of such evaluation will be to assess the effectiveness of activities and to identify lessons for improving future activities.

10. Australian Project Personnel

- 10.1 In order to facilitate the engagement of Australian project personnel required to implement the Australian contribution the Government of Vanuatu will, in respect of such personnel,
- (a) grant exemption from income or other taxes on salaries and allowances;
 - (b) grant exemption from (or arrange payment thereof) import and other duties on personal and household effects, with the exception of consumable items;
 - (c) grant exemption from (or arrangement payment thereof) import duties on one motor vehicle per employee on condition that it be re-exported or duty paid on its assessed value at time of sale within Vanuatu;

- (d) grant to Australian Project personnel all rights and entitlements accorded to the non-accredited aid personnel of any other donor country;
- (e) expedite the issue of all documentation required for the entry of, and performance of work by, Australian Project personnel;
- (f) and expedite the issue of all licences and other documentation and grant any necessary permission required for the performance of the work under the MOU by the Project personnel and meet all costs and charges associated with such licences, documentation or permission.

10.2 Australian project personnel who are Permanent Residents of Vanuatu at the time of the commencement of the activity under which they are engaged are excluded from the definition of Australian Project Personnel for the purposes of Clause 10.1.

11. Motor Vehicles for Personal Use

11.1 Project personnel assigned to work in Vanuatu for more than twelve months on an activity under this MOU may import within the first six months of arrival in Vanuatu free from import duty, service tax and port tax, other duties, taxes, levies and other charges of a similar nature, a vehicle that conforms to Vanuatu motor vehicle regulations for personal use and use by dependants and may re-export that vehicle free from the above charges at the conclusion of the assignment.

11.2 If the vehicle is sold or otherwise disposed of to non-exempt entities or personnel, it will be subject to the normal duties and other charges at the rate in force on the date that the exemption was given and on its entered value at the time of disposal.

12. Australian Project Supplies

12.1 In respect of Australian project supplies the Government of Vanuatu will:

- (a) be responsible for all formalities of clearance including payment of import duties, service tax and port tax, and other taxes or charges of a similar nature;
- (b) facilitate movement of such supplies by providing appropriate customs and wharfage facilities including any necessary storage costs at the first port of embarkation of the Australian Project supplies in Vanuatu; and
- (c) provide expeditious transport from the first port of call of the particular aircraft or vessel in Vanuatu to the Project site.

12.2 Australian project supplies will be available only for the purposes of the project and will not be withdrawn from that use without the consent of the Australian Co-ordinating Authority.

- 12.3 At the completion of project activities all Australian Project supplies will become the property of the Government of Vanuatu.

13. Value Added Tax (VAT)

- 13.1 Supplies of goods or services made in respect of the project that are made directly to the aid donor, aid organisation or Government of Vanuatu are "zero-rated" under the provisions of clause 7 of the Third Schedule of the Value Added Tax Act of 1998.

14. Intellectual Property

- 14.1 The two Governments will discuss and jointly determine:
- (a) the equitable allocation of ownership of all intellectual property arising directly or indirectly from collaborative projects under this Arrangement;
 - (b) the equitable licensing of such intellectual property; and
 - (c) where it is within their power, the equitable licensing of such other intellectual property as is necessary for the utilisation of the results of the project
- 14.2 In fulfilling their commitments under paragraph 1 of this Clause, the two Governments will have regard to relevant considerations, including:
- (a) the intellectual contributions of each country;
 - (b) the financial contributions of each country;
 - (c) the contribution of intellectual property, materials, research effort and preparatory work of each country;
 - (d) the facilities provided by each country; and
 - (e) such other considerations as the Governments may mutually determine.
- 14.3 Each Government will not, without the written approval of the other Government, make any use of any intellectual property contributed to, or arising from, this MOU, or Projects under this MOU, or do anything prejudicial to the intellectual property rights of that other Government or any national of the country of that other Government.

15. Facilitation of Activities

- 15.1 The Government of Vanuatu will use its best endeavours to facilitate the implementation of activities under this MOU.

16. Claims

- 16.1 The Government of Vanuatu will bear all risks associated with operations carried out in pursuance of this MOU and will hold harmless and indemnify the Government of Australia in respect of the amount of any claim including legal costs arising from such claim that is brought by third parties against the Government of Australia, its servants or Australian project personnel (whether such claim is brought in a court or tribunal in Australia or Vanuatu or a third country) and will hold harmless the Government of Australia and Australian project personnel in case of any claims resulting from operations under the MOU, except where it is mutually decided by the parties that such claims arise from gross negligence, gross professional negligence or wilful misconduct on the part of the servants or representatives of the Government of Australia.

17 Security

- 17.1 The Government of Vanuatu will arrange for protective services as may be necessary in the circumstances to ensure the safety of:
- (a) the person and property of the Australian project personnel and their dependants; and
 - (b) Australian project supplies.

18. Consultations

- 18.1 There will be an annual meeting of senior officials from the two Governments to consider:
- (a) the direction, composition and contribution of Australian development co-operation to the development of Vanuatu and to the promotion of mutual economic links;
 - (b) the effectiveness of the administration of development co-operation; and
 - (c) future development co-operation between the two countries.
- 18.2 Representatives of the Co-ordinating Authorities of both countries and other institutions and organisations of both Governments may attend the annual meetings.

19. Settlement of Differences

- 19.1 The two Governments will consult together at any time upon request of either Government regarding any matter relating to the terms of the Arrangement and will

endeavour jointly in a spirit of co-operation and mutual trust to resolve any difficulties or misunderstandings which may arise.

20. Amendments

- 20.1 The MOU may be amended and supplemented at any time by an arrangement in writing between the two Governments.

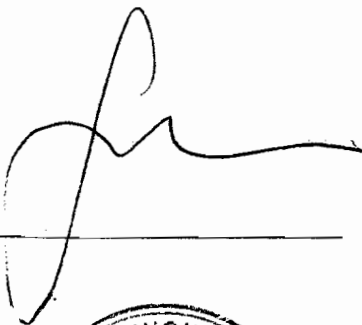
21. Duration

21.1 This MOU will take effect from the date of its signature. It will remain in effect for an initial period of five years. Thereafter it will be automatically renewed for subsequent periods of effect of two years, subject to a review four months before the end of such two year periods, unless either Government gives written notice, at least 6 months before the expiry of a period of effect, of its desire to terminate the MOU.

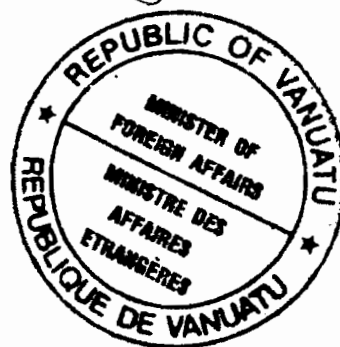
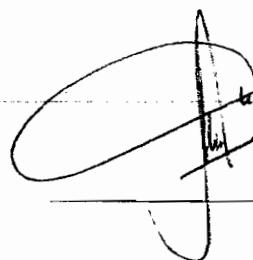
21.2 The responsibilities of the two Governments for development activities being carried out pursuant to subsidiary SAs begun prior to the receipt of the termination notice referred to above will continue until completion of such development activities as if this MOU remained in effect in respect of and for the whole duration of such activities.

Signed in duplicate at Port Vila on this 15th day of December 2005

For the Government of
Australia



For the Government of the
Vanuatu



Annex A

JOINTLY PROGRAMMED AID

Forms of Jointly Programmed Aid include:

- a) Grants
- b) Programs or Projects
- c) Commodity Assistance
- d) Staffing Assistance
- e) Co-financing of Projects
- f) Joint Ventures
- g) Provision of training in Australia
- h) Provision of training in Vanuatu or Third Countries
- i) Ad hoc visits
- j) Small Grants Scheme
- k) Multi country programs
- l) Other activities within the objectives of this MOU

