

**MEMORANDUM OF UNDERSTANDING
(Memorandum)**

between

THE GOVERNMENT OF AUSTRALIA

and

**THE GOVERNMENT OF THE REPÚBLICA DEMOCRÁTICA
DE TIMOR-LESTE**

**ON TECHNICAL COOPERATION FOR
DEVELOPMENT**

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THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE
REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE HAVE REACHED THE
FOLLOWING ARRANGEMENTS:

Paragraph I
Programme of Development Cooperation

1. The Government of the República Democrática de Timor-Leste and the Government of Australia will cooperate in a programme of technical cooperation in support of the National Development Plan of the Government of the República Democrática de Timor-Leste to promote the achievement of national self-sufficiency and financial independence (the Programme).

2. The Programme will be directed to assisting those sectors of the economy of Timor-Leste to which the Government of the República Democrática de Timor-Leste accords greatest priority and in which the Government of Australia has significant expertise.

3. The Programme may consist of one or more of the following components:

- (a) the sending of technical, appraisal, evaluation and other missions to Timor-Leste in respect of development Projects;
- (b) the granting of fellowships to nationals of Timor-Leste for studies and professional training in Australia or third countries;
- (c) the sending of technical missions of nationals of Timor-Leste to Australia and other countries;
- (d) the assignment of Australian experts, advisers and other specialists to Timor-Leste;
- (e) the provision of equipment, materials, goods and services required for the successful execution of development Projects in Timor-Leste;
- (f) the development and carrying out of studies and Projects designed to contribute to the attainment of the objectives of this Memorandum;
- (g) the promotion of educational exchanges, training and sharing of technology in areas of interest or both countries, with a view to promoting internal capacity and self-sufficiency, in all sectors of the economy and public service; and
- (h) any other form of development cooperation which may be mutually arranged.



Paragraph II
Definitions

In this Memorandum:

- (a) "Australian Project personnel" means Australian nationals or permanent residents or other persons who are not nationals or permanent residents of Timor-Leste who are engaged by the Government of Australia or by an Australian contractor to work in Timor-Leste on a Project under this Memorandum and whose salaries are paid by the Government of Australia or by an Australian contractor;
- (b) "Australian contractor" means Australian or other non- Timor-Leste firms, corporations, organisations, institutions, or executing agencies contracted by the Government of Australia by agreement with the Government of the República Democrática de Timor-Leste to implement all or a portion of a Project;
- (c) "Australian project supplies" means equipment, material, and other goods supplied for the execution of development Projects under this Memorandum, the cost of which is funded from the contribution of the Government of Australia to the Project;
- (d) "Dependant" means a spouse of a member of the Australian Project personnel and the child of a member of the Australian Project personnel who is:
 - (i) under twenty-one years of age, or
 - (ii) twenty-one years of age or older and dependant on the member of the Australian personnel for support by reason of mental or physical incapability.

The dependant referred to above will be certified as such by the Australian Mission in Dili;

- (e) "Intellectual Property" will have the meaning provided for in Article 2 of the *Convention establishing the World Intellectual Property Organization*, done at Stockholm, 14 July 1967, as amended on 28 September 1979;
- (f) "Project" means the project activities identified and arranged in the Programme to be supported by the Government of Australia, under a Project Document; and
- (g) "Project Document" means the formal instrument established by arrangement between the Government of the República Democrática de Timor-Leste and the Government of Australia containing the details of the activities, identified from the National Development Plan, to be supported by the Government of Australia on the basis of the Programme under this Memorandum.



Paragraph III
Coordinating Authorities

1. Both the Government of Australia and the Government of the República Democrática de Timor-Leste will, in accordance with their respective laws and regulations, nominate their Coordinating Authorities for the implementation of this Memorandum.

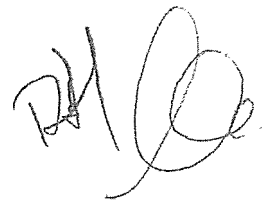
2. Subject to the overall responsibility of the Government of the República Democrática de Timor-Leste for implementation and coordination of Projects under this Memorandum, the two Coordinating Authorities will be responsible for the planning and coordination of the Programme which functions will include but not be limited to:

- (a) establishing priorities under the Programme;
- (b) choosing Projects for implementation under the Programme;
- (c) monitoring, reviewing and reporting on progress in the Programme to the Government of Australia and the Government of the República Democrática de Timor-Leste; and
- (d) recommending to the Government of Australia and the Government of the República Democrática de Timor-Leste any appropriate changes to the Programme including budget and future development.

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Paragraph IV
Project Documents

1. A Project Document will be concluded between the Government of Australia and the Government of the República Democrática de Timor-Leste for project activities identified and mutually arranged in the Programme.
2. The Project Document will, unless otherwise stated, be considered as an administrative arrangement. The Project Document will be subject to the terms of this Memorandum.
3. The Project Document will be signed by the Government of Australia, the Government of the República Democrática de Timor-Leste and the implementing agency of the Government of the República Democrática de Timor-Leste, if any, and will specify the details of the activities, materials and services to be carried out under the Project as well as their costs, as more specifically provided in Sub-paragraph 4 of this Paragraph. Following approval and signature of the Project Document a copy will be submitted by the relevant Ministry to the Ministry of Planning and Finance, for evaluation and processing of the benefits and facilities to be accorded to Australian Project personnel and Australian project supplies, in accordance with this Memorandum, to expedite installation of Australian Project personnel and procurement of Australian project supplies.
4. Whenever possible a Project Document will set out:
 - (a) the name and duration of the Project;
 - (b) the Project locations;
 - (c) a description and statement of objectives of the Project;
 - (d) the nominated implementing agencies in both countries;
 - (e) the Project organisation;
 - (f) details of the contributions to the Project by the Government of Australia and the Government of the República Democrática de Timor-Leste 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;~~
 - (iv) counterpart staff of the Government of the República Democrática de Timor-Leste; and
 - (v) estimated annual budgets;
 - (g) timetable for implementation; and

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- (h) monitoring, review, evaluation and reporting arrangements.

Paragraph V
Project Coordinating Committees

1. In respect of a Project a Joint Project Coordinating Committee will normally be established to:

- (a) monitor, review and report on progress to the Government of Australia and the Government of the República Democrática de Timor-Leste;
- (b) recommend to the Government of Australia and the Government of the República Democrática de Timor-Leste any appropriate changes in the Project including budget and future development; and
- (c) undertake such other functions as may be set out in arrangements between the Coordinating Authorities.

2. The Chairperson of each Joint Project Coordinating Committee will be appointed by the Government of the República Democrática de Timor-Leste. Each Joint Project Coordinating Committee will include members appointed by the Government of Australia and the Government of the República Democrática de Timor-Leste.

Paragraph VI
Responsibilities

Unless otherwise indicated in a subsidiary arrangement, the Government of Australia will assume the responsibilities described in Annex "A" and the Government of the República Democrática de Timor-Leste will assume the responsibilities described in Annex "B" in respect of a Project.

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Paragraph VII
Intellectual Property

1. The Government of the República Democrática de Timor-Leste and the Government of Australia will co-operate and exchange information on any discoveries, inventions or works resulting from Project activities with a view to ensuring their most efficient and effective use and exploitation by the Government of the República Democrática de Timor-Leste and the Government of Australia under applicable laws.
2. Ownership of rights to Intellectual Property resulting from Project activities will vest equally in the Government of the República Democrática de Timor-Leste and the Government of Australia, provided that the Government of Australia will have the option to transfer its ownership in any Intellectual Property rights to Australian Project personnel or an Australian contractor according to their contributions in the discovery, invention or work. The Government of the República Democrática de Timor-Leste will have the right to any licence to work or use any Intellectual Property rights of the Government of Australia or any person or firm to which it may be transferred without the payment of any royalties.
3. The Government of the República Democrática de Timor-Leste and the Government of Australia will consult with a view to establishing effective mechanisms for the protection of Intellectual Property rights used in the execution of Projects in Timor-Leste and for licensing such rights to the Government of the República Democrática de Timor-Leste to ensure their use for the benefit of the Programme.



Paragraph VIII
Australian project supplies

1. The Government of the República Democrática de Timor-Leste will make administrative arrangements consistent with the tax laws of Timor-Leste which will facilitate the clearance of Australian project supplies imported into the country as Government imports without the payment of customs duty or other import charges from funds provided by the Government of Australia for the Project.
2. Specifically the Government of the República Democrática de Timor-Leste will:
 - (a) facilitate the clearance of Australian project supplies, including payment of import duties and other taxes in accordance with the relevant provisions of the tax laws of Timor-Leste; and
 - (b) take appropriate measures to minimise delays in fulfilment of customs formalities and reduce demurrage and storage charges.
3. Australian project supplies will be available only for the purpose of the Project and will not be withdrawn from that use with the consent of the Co-ordinating Authorities.

Paragraph IX
Claims

The Government of the República Democrática de Timor-Leste will be responsible for dealing with any claims which may be brought by third parties against the Government of Australia, Australian Project personnel or Australian contractors and will hold harmless the Government of Australia, Australian project personnel and Australian contractors in case of any claims or liabilities resulting from this Memorandum. This provision will not relieve any person or entity from liability from a criminal act, gross negligence, or wilful misconduct on the part of that person or entity.



Paragraph X
Australian contractors

1. Australian contractors who have not established an office (not including the establishment of a Project office) or business in Timor-Leste shall be *exempted* from the obligation to declare their income, for Timor-Leste income tax purposes, derived from performing services on Project activities under this Memorandum and paid directly by the Government of Australia.

2. The Government of the República Democrática de Timor-Leste will provide the following facilities to employees or subcontractors of Australian contractors who are not citizens or residents of Timor-Leste:

- (a) accord every assistance in clearance through customs of their personal and household effects;
- (b) provide exemptions from immigration restrictions and alien registration requirements of Timor-Leste;
- (c) accord foreign exchange facilities for funds received from outside the country upon departure from Timor-Leste; and
- (d) give every assistance in obtaining visas, permits and other licences as may be required.



Paragraph XI
Australian Project personnel

The Government of the República Democrática de Timor-Leste will:

- (a) exempt Australian Project personnel from the payment of income tax on emoluments derived from performing services on project activities under this Memorandum;
- (b) exempt Australian Project personnel from the payment of custom duties, excise duties and other taxes in respect of bona fide personal and household effects brought into Timor-Leste within six months of his or her first arrival in Timor-Leste for their own use or the use of their Dependents. In the event of theft, fire or other destruction, the exemptions under this paragraph may be re-exercised at any time during the assignment of the Australian Project personnel. Australian Project personnel may purchase duty free items provided that such purchases will be made from duty free stores;
- (c) accord every assistance in clearance through customs of their personal and household effects;
- (d) provide exemptions from immigration restrictions and alien registration requirements of Timor-Leste;
- (e) accord foreign exchange facilities for funds received from outside the country upon departure from Timor-Leste; and
- (f) give every assistance in obtaining visas, permits and other licences as may be required.



Paragraph XII
Motor Vehicles for Personal Use

1. The Government of the República Democrática de Timor-Leste will exempt from, or bear the cost of, customs duties, and other taxes in respect of one motor vehicle purchased for an Australian Project personnel's personal use provided that:

- (a) the Australian Project personnel are assigned in Timor-Leste for at least twelve (12) months consecutively;
- (b) such motor vehicle is purchased locally or imported within the period of six (6) months from the date of his/her first arrival in Timor-Leste; and
- (c) in case the motor vehicle purchased under the exemptions in this Paragraph, is disposed of in Timor-Leste, the applicable tax will be paid unless the purchaser is a person who has the same privileges.

2. In the event of fire, theft, damage or destruction, the exemptions under this Paragraph may be re-exercised provided the remaining assignment of the Australian Project personnel is for at least eight (8) months.

Paragraph XIII
Transparency of Laws

The Government of the República Democrática de Timor-Leste will, upon request, inform Australian contractors and Australian Project personnel of local laws and regulations which may concern them in the performance of their duties. The Government of the República Democrática de Timor-Leste will notify the Government of Australia of any changes in its law and regulations and will inform the Government of Australia of the application of such changes. If either the Government of Australia or the Government of the República Democrática de Timor-Leste considers it appropriate, the Government of Australia and the Government of the República Democrática de Timor-Leste will consult to find a mutually acceptable solution concerning such changes.

Paragraph XIV
Equality of Treatment

Australian contractors, Australian personnel and their Dependants will be accorded no lesser benefits, privileges and exemptions than those accorded to other non-Timor-Leste firms or nationals under any other bilateral arrangement for development cooperation.

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Paragraph XV
Security

The Government of the República Democrática de Timor-Leste will arrange for normal security services where necessary to ensure the safety of:

- (a) the Australian Project personnel, their Dependants, their property; and
- (b) Australian project supplies.

Paragraph XVI
Consultations

1. The Government of Australia and the Government of the República Democrática de Timor-Leste will consult each other in respect of any matter that may from time to time arise from or in connection with this Memorandum.

2. There will be an annual meeting of senior officials from the Government of Australia and the Government of the República Democrática de Timor-Leste to consider:

- (a) the direction, composition and contribution of Australian development cooperation to the development of Timor-Leste and to the promotion of mutual economic links;
- (b) the effectiveness of the administration of development cooperation; and
- (c) future development cooperation between the two countries.

3. Representatives of the Coordinating Authorities of both countries may attend the meeting.

Paragraph XVII
Settlement of Differences

Differences which may arise relating to the interpretation or application of the provisions of this Memorandum or of any subsidiary arrangement will be settled by means of negotiations between the Government of the República Democrática de Timor-Leste and the Government of Australia or in any other manner mutually arranged.

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Paragraph XVIII
Entry Into Effect and Duration

1. This Memorandum will enter into effect on the date of signature written below, except for the privileges and immunities, including tax exemptions, provided for in Paragraphs X, XI and XII which will take effect for Timor-Leste only upon passage of implementing statutory legislation.
2. The Government of the República Democrática de Timor-Leste acknowledges that the exemptions and privileges, including tax exemptions that have applied to Projects up to the date of this Memorandum will continue to apply to those Projects and to any Projects commenced after the date of this Memorandum and before the passing of the implementation legislation referred to in Sub-paragraph 1 of this Paragraph.
3. This Memorandum will remain in effect until termination by either the Government of Australia or the Government of the República Democrática de Timor-Leste on six (6) months notice in writing to the other.

Paragraph XIX
Completion of Projects

The responsibilities of the Government of the República Democrática de Timor-Leste and of the Government of Australia with regard to Projects begun prior to the receipt of the termination notice referred to above will continue until completion of such Projects as if this Memorandum remained in effect in respect of and for the whole duration of such Projects.



Paragraph XX
Amendments

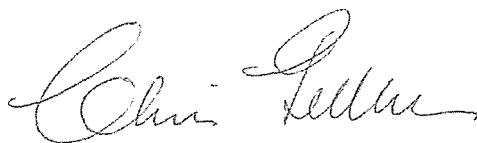
This Memorandum may be amended and supplemented by an exchange of letters between the Government of Australia and the Government of the República Democrática de Timor-Leste.

Paragraph XXI
Annexures

Annexures to this Memorandum will form an integral part of it.

IN WITNESS WHEREOF, the undersigned, duly authorised by their respective Governments, have signed this Memorandum.

SIGNED in duplicate, at Dili, on the 28th day of February 2003, in the English and Portuguese languages, both texts being equally authoritative.



FOR THE GOVERNMENT OF
AUSTRALIA

FOR THE GOVERNMENT OF THE
REPÚBLICA DEMOCRÁTICA DE
TIMOR-LESTE

ANNEX "A"

RESPONSIBILITIES OF THE GOVERNMENT OF AUSTRALIA

- 1 Unless otherwise indicated in a subsidiary arrangement, the contribution of the Government of Australia will include but not be limited to the following:
 - (A) Expenditures related to Timor-Leste fellowship holders and members of technical missions:
 - (1) registration and tuition fees, books, supplies or materials required;
 - (2) a living allowance;
 - (3) medical and hospital expenses;
 - (4) economy-class fares for travel by air or any other approved means of transportation, in compliance with the requirements of the Programme but excluding any departure taxes or fees imposed by Timor-Leste;
 - (5) other expenditures as appropriate.
 - (B) Expenditures related to Australian Project personnel:
 - (1) their salaries, fees, allowances and other benefits;
 - (2) their travel expenses and those of their Dependants between their normal place of residence and their place of assignment in Timor-Leste;
 - (3) the cost of shipping, between their normal place of residence and their place of assignment in Timor-Leste, their Personal and Household effects, those of their Dependants and the professional and technical materials required by the said personnel for the execution of their duties;
 - (4) the costs of accommodation;
 - (5) other expenditures as appropriate.
 - (C) Expenditures normally related to Projects:
 - (1) the cost of professional services, technical services and other services required for the execution of Projects;
 - (2) the cost of providing equipment, materials, supplies and other goods and of the transportation of the same from their point of departure to the port of entry nearest to the Project site as arranged on a case by case basis;
 - (3) other expenditures as appropriate.



- II The Government of Australia will provide the Government of the República Democrática de Timor-Leste in a timely manner with the names of the Australian contractors and the Australian personnel and their Dependants entitled to the rights, exemptions and privileges set forth in this Memorandum who are engaged in a Project.
- III Contracts for the purchase of goods or commissioning of services financed by the Government of Australia and required for the execution of Projects will be signed by the Government of Australia or one of its agencies. However, it may be provided in any subsidiary arrangement that such contracts may be signed by the Government of the República Democrática de Timor-Leste or one of its agencies in accordance with the terms and conditions specified in such subsidiary arrangement.
- IV Australian Project supplies will be available only for the unrestricted use of the Project and will not be withdrawn from such use without the consent of an Australian team leader appointed by the Government of Australia. The Australian team leader will exercise administrative control over such supplies for the duration of the Project or such other time as mutually arranged between the Government of Australia and the Government of the República Democrática de Timor-Leste.
- V The provision by the Government of Australia of the Australian contribution to the Programme and to the Projects within the Programme is conditional upon annual Australian Parliamentary approval of appropriations.
- VI Programme or Project financial disbursement estimates will be indicative planning figures and not financial commitments.

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ANNEX "B"

RESPONSIBILITIES OF THE GOVERNMENT OF THE REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE

- I Unless otherwise indicated in a subsidiary arrangement, the contributions of the Government of the República Democrática de Timor-Leste will include, but not be limited to, the following:
- (1) the recruitment, selection, and secondment of suitable counterpart personnel when required for a Project;
 - (2) any official assistance which may be required for the purpose of facilitating the travel of Australian Project personnel and the transportation of professional and technical material required in the performance of their official duties in Timor-Leste;
 - (3) any official assistance which may be required for the purpose of expediting the clearance through customs of equipment, products, materials, supplies and other goods required for the execution of Projects and the Personal and Household effects of Australian Project personnel or their Dependants;
 - (4) demurrage, storage and payment of any related charges for articles mentioned in Paragraph (IV) above during the period when they are held at the port of entry after a thirty day period;
 - (5) any measures required to protect articles mentioned in Paragraph (IV) against natural elements, loss, fire and any other danger;
 - (6) all permits, and other documents, if any, for equipment, materials, supplies or goods required for the execution of Projects and to enable Australian contractors and Australian Project personnel to carry out their functions in Timor-Leste;
 - (7) all necessary visas, exit permits, and all import or export permits, as the case may be, for the Australian Project personnel and their Dependants and for the Personal and Household effects of such Australian personnel and their Dependants;
 - (8) assistance in obtaining permission from the relevant Ministry or Ministries to use all means of communication, depending on the needs of a Project;
 - (9) reports, records, maps, statistics and other information related to a Project and likely to assist Australian personnel in carrying out their duties, provided that they are not classified and have no relation to national security;
 - (10) permission for Australian personnel to open personal external bank accounts and for Australian executing agencies to open Project external bank accounts; and permission to repatriate free from foreign currency exchange restrictions revenues transferred from abroad; and
 - (11) other measures within its jurisdiction which may facilitate the execution of a Project.

