



OECD DAC Network on Governance – A

# Working towards collective responses to corruption

## Mozambique Case Study

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In 2006, OECD Development Assistance Committee (DAC) members agreed to move towards more effective collective responses to corruption, as outlined in the OECD Policy Paper on Anti-Corruption “Setting an Agenda for Action”. The DAC Network on Governance (GOVNET) was tasked with developing a voluntary code of conduct for co-ordinated donors. As a necessary first step, the Anti-Corruption Task Team conducted a case study by independent consultants of how donors have

## Country Context

Mozambique is a poor country, with more than 50% (in 2003) of its population living in absolute poverty and a Human Development Index of 0.458 (in 2006). Aid dependency is high; in 2007 ODA accounted for 19% of the gross national income (GNI) and more than 50% of the annual state budget.<sup>1</sup>

After its independence from Portugal in 1975, the country adopted a one-party political system with a centrally planned economy. The transition was inspired by the Marxist-Leninist ideology of Mozambique's former liberation movement, which subsequently became a political party, the Mozambique Liberation Front – Frelimo. Internal dissatisfaction with the political system, among the population, led to a civil war that lasted for 16 years and ended in 1992 following a General Peace Agreement for Mozambique between the Frelimo-led government and a guerrilla movement – the Mozambique National Resistance (RENAMO). The civil war and the economic crisis led to political and economic reforms in the 1980s. The former resulted in the enactment of a new pluralist constitution in 1990 that paved the way for the freedom of expression, press and association laws, as well as for a multiparty system and the first democratic elections, held in 1994. The latter consisted in the shift to the market economy and the reduction of state intervention in that economy, through a structural adjustment programme.

The new pluralist regime consolidated the power of the ruling party, as a result of political competition and also Frelimo's influence over the state institutions. More than 30 years of one-party rule and an institutional setting that grants considerable power to the president of the republic (who is also the president of the ruling party) reduces the effectiveness of the institutional checks and balances, which already begins to affect patterns of accountability. The executive is at the core of decision making; the judiciary, although improving its capacity after years of reform, is still influenced considerably by the ruling party; the legislature has been historically dominated by the ruling party and faces serious capacity constraints that limit its ability to perform its oversight roles; civil society is weak. This situation creates imbalances in the accountability relations between the executive, the legislature and the judiciary; and those imbalances, combined with the weak relation between the legislators and their constituencies, results in a relatively unaccountable system. In a context of a weak Parliament and civil society, the government is more accountable to donors than to local actors because of donors' leverage stemming from their contribution to the state budget.

As part of market economic reforms in the 1990s, attempts to convert the political élite of the former socialist regime to a new business class, led to utilisation of state resources and assets (sometimes including donors' funds) in a non-transparent manner, hence fuelling grand-scale corruption. Further more, allegiance between economic and political élites has created a network of loyalties that blocks an effective fight against corruption. From an almost corruption-free country after independence, Mozambique became one of the countries in the world that had the greatest difficulty controlling corruption, according to the assessments of international organisations such as Transparency International, the World Bank Institute, the Mo Ibrahim Foundation and others. The findings were similar in studies carried out by national organisations or sponsored by locally based organisations, including a national survey by the government on governance and corruption (carried out with technical support from the World Bank Institute) and a study commissioned by USAID.

## ODA and aid architecture in Mozambique

Over twenty donors and some United Nations agencies provide ODA to Mozambique. The World Bank, African Development Bank and European Commission are the main donors in volume of funding, accounting for more than 37% of total ODA. Sweden, the United Kingdom, the Netherlands, Norway, Germany, Ireland and Denmark are the bilateral donors with the biggest volume of funding, which is about 42% of total ODA. These are the main players in the joint donor mechanisms set up in the country.

Joint donor responses to governance and corruption in Mozambique can be traced back to 1997, when a group of seven donors were providing financing in the form of balance-of-payment support to poverty reduction. The preparation and

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<sup>1</sup> These figures refer to the 2008 state budget.

approval in 2001 of the country's Poverty Reduction Strategy, called PARPA (Action Plan for Poverty Reduction), created the conditions for effective donor alignment in Mozambique. Before that, a joint programme of general budget support (GBS) was agreed in 1999 and formalised in 2000. Initially it involved six donors, then ten by 2002 and currently nineteen donors are involved, and are called the Programme Aid Partners or PAPs (sixteen bilateral and three multilateral). There are also four donors with observer status, whose participation is limited to meetings of a more public or broader consultative nature and not extended to participation in internal bodies of the PAPs or in decision making.

The growth of the original group and a succession of events in the financial sector led to the development of a new memorandum of understanding (MoU) for programme aid (direct budget support, DBS, and balance-of-payment, BOP, support) in 2003-04, signed by the government of Mozambique (GoM) and the PAPs. The MoU comprises a common performance assessment framework (PAF) composed of GoM priorities and targets in the areas of governance, including corruption, financial system reform, and the priority poverty reduction sectors. It also includes a set of "underlying principles", comprising GoM commitments to peace, to fighting poverty with reference to the PARPA and the Millennium Development Goals (*inter alia*, through a pattern of public expenditure consistent with both); to pursuing sound macroeconomic policies; and to promoting free, credible and democratic political processes, independence of the judiciary, rule of law, human rights, good governance and probity in public life (including the fight against corruption). The PAF orients the dialogue on priorities and performance between GoM and PAPs. Concerns regarding violation of the underlying principles are dealt with through consultations and dialogue between the two parties. Assessment of GoM performance is carried out in joint reviews: normally in March/April, covering the activities of the previous year (annual); and in September, covering the first semester of the year in course (mid-year). The September reviews are also aimed at agreeing targets for the following years. For this exercise the GoM has to provide all relevant documents and information, such as budgets, plans, and reports on the execution of those plans – all in relation to the agreed indicators. Donors provide information on resource commitments, schedules for disbursement, and information on the assessment of their performance, taking into account indicators for the most part related to harmonisation, alignment and aid predictability.

The general response mechanism explicitly links commitments and disbursements for the coming year to GoM performance measured through the PAF matrix. In principle, the mechanism defines the kind of responses that should be expected when the GoM's agreed performance goes off track. The MoU states that "PAPs may choose between making a single response based on the joint view of performance or a split response, with one part (fixed portion) being based on the joint view of performance and the other part (variable portion) being linked to specific, transparent commitments drawn from the PAF and agreed with GoM". Commitments are made after the joint review and can only be changed when an underlying principle is violated.

As regards corruption specifically, the MoU states that "in the case of serious deviation or misuse of state budget funds or acts of large-scale corruption by members or structures of GoM, GoM commits to make all due efforts to recover funds thus misused or misappropriated and take appropriate measures. PAPs reserve the right unilaterally or jointly to withhold disbursements or claim repayment in full or in part of funds in the case of misuse or fraud". Bilateral agreements have precedence over the MoU (article 2). However, PAPs are required to adjust their agreements in order not to include in "their bilateral agreements any additional conditions or administrative and reporting requirements to those agreed upon in the MoU".

In general terms these are the parameters guiding the relationship between government and budget support donors, and consequently should be used in responding to corruption situations. There are still other MoUs in specific sector programmes, normally funded through common funding mechanisms and usually involving the same PAPs. In these alternative modalities, conditions for joint responses to corruption are defined in the specific agreements with the GoM and tend to be limited to the sector, in order to avoid conflict with article 2 of the GoM-PAPS MoU with its broader scope.

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<sup>2</sup> The PAF Working Group comprises three HoCs plus the European Commission and the World Bank (as the major contributors to the state budget), and has a delegated mandate from the HoMs to ensure the smooth functioning of the internal structure. It liaises with the GoM (at the level of national directors) on a regular (monthly) basis.

The GoM-PAPs MoU also sets forth the structure for dialogue involving the Heads of Mission (HoMs) group, the Heads of Co-operation (HoCs) group and the Economists' Working Group (EWG). Additionally, there is a PAF Working Group chaired by the troika HoCs<sup>2</sup> and formed by the co-ordinators of the Sector Working groups (SWG) and crosscutting areas groups relevant for assessing PAF performance. Basically the HoMs and the government are the main interlocutors in the political dialogue, in which sensitive issues not resolved during the joint reviews are discussed. The HoCs have a mixture of a technical and a political role. The EWG is responsible for the analytical work necessary to advise the PAPs in their dialogue with the GoM and the sector working groups co-ordinate donor-GoM engagement at the sector level. During the joint reviews, 29 working groups, comprising government, donors and civil society representatives, are responsible for carrying out the assessment of the GoM performance.

## Government and donors' responses to corruption

International surveys are the main sources of information on governance and corruption available and used by the donors. These include the World Bank Institute's governance indicators and particular donors' or multilaterals' assessment or diagnostic tools, such as the World Bank's Country Policy and Institutional Assessment (CPIA). Other sources at the national level include studies carried out by Afrobarometer on citizens' opinions on governance in Mozambique, and a series of studies and reports carried out by NGOs on human rights and corruption in key sectors such as education, health and justice. The new State Financial Administration System (SISTAFE) has improved financial reporting and is also a source of information about management of public resources and potential sources of corruption. The improvement in audit coverage and performance resulting from strengthening the Administrative Court (the country's auditor general) and the Finance General Inspectorate has contributed significant input. The overall information on public expenditure is analysed in the PEFA (Public Expenditure and Financial Analysis) reports, which look at the government's performance in managing public funds.

As a response to increasing pressure from donors and civil society to combat corruption effectively, the GoM has taken measures such as creating the Anti-Corruption Unit in the Attorney General's Office in 2003, later converted to the Central Office for the Fight Against Corruption (GCCC) in 2005. Both agencies have a poor record of fighting corruption, however in 2004 the legislature did approve the Anti-Corruption Law and in 2006 the government approved the national Anti-Corruption Strategy (A-CS).

The GoM A-CS and most donors' anti-corruption corporate policies are reasonably consensual in defining corruption essentially as a weakness in country governance and the abuse of public office for personal gain. However, the way that specific donors actually graduate their response to corruption tends to differ depending on corporate concerns about fiduciary, development and reputational risk. Some donors favour dialogue as a first response. Others prioritise a response that seeks to avoid punishing the poor with an eventual cut in funding. Still other donors feel that not taking a strong position against corruption (e.g. cutting funding, cessation of aid) will, in the long run, harm the poor.

To address corruption, the GoM, with support of donors, has throughout the years (even before the approval of the Anti-Corruption Strategy) adopted a comprehensive approach, comprising preventive and punitive measures. These have included improvement in public service delivery through reduction of red tape, public financial management (including procurement, internal and external control mechanisms), and reform of the justice system. The approach of these initiatives has been to strengthen the accountability mechanisms inside and outside the public administration – hence the focus on support to the justice sector, the Attorney General's Office and the Administrative Tribunal. The latter has shown a dramatic improvement in performance in recent years. The Anti-Corruption Strategy is built on ongoing programmes that integrate existing initiatives, and additionally proposes to address weaknesses in the framework of the fight against corruption, in particular to improve the legal framework. The strategy's action plan accords particular attention to five key sectors/areas prone to corruption: the justice, health and education sectors, as well as the Ministries of Finance and the Interior (responsible for the police forces).

Civil society has also participated in the joint reviews, although the mechanisms to influence or participate in decision making are not clear. Donors are also supporting certain watchdog, human rights and research CSOs. A civil society mechanism funded by Irish Aid and DFID, has been set up to strengthen CSOs' capacities for governance monitoring and advocacy. However, despite the weaknesses mentioned above, support to Parliament is still limited, mostly due to previous efforts having a very weak impact. The strong influence that the ruling party exerts over its legislative branch limits the capacity of the latter to perform core accountability functions, like executive oversight.

To monitor the A-CS, the GoM created the A-C Forum, which was subsequently considered unconstitutional by the Constitutional Council. This role is now being performed, in an **ad hoc** way, by the Interministerial Commission for Public Sector Reform (CIRES), whose activities in this regard are barely visible to the donors. Since there is no specific mechanism to monitor the implementation of the A-CS, the joint reviews end up being the main mechanisms for assessing government performance or progress in fighting corruption. The PAF has a number of concrete indicators that provide some objectivity in assessing progress in this area. The number of people that the Anti-Corruption Unit brought to court is an example. Moreover, public financial management, audit and procurement indicators are also regularly assessed. In the case of public financial management, donors and the government have agreed to use the Public Expenditure and Financial Accountability (PEFA) methodology to assess progress in this area.

In conclusion, joint reviews have been the main sources of information on progress in governance and fighting corruption, although the information they yield is scarce (e.g. on implementation of specific anti-corruption sector's action plans). In taking decisions on funding, donors complement the joint review assessments with other analyses, which potentially increases the likelihood of multiple responses to corruption. This is the context that provides the incentives, opportunities and constraints for joint donor responses to corruption.

## Corruption situations

### Scandals in the financial sector

A succession of events in the 1990s put corruption at the top of the agenda in donor-government dialogue in Mozambique. There was a particular focus on scandals in the country's banking system, following the privatisation of two state-owned banks: the Mozambique Commercial Bank (BCM) and the People's Development Bank (Banco Popular de Desenvolvimento – BPD), afterwards named Banco Austral. Both were technically bankrupt, and privatisation did not solve their chronic problems. Disastrous management, including arbitrary loans to the ruling élite or people linked with it bloated the banks' bad credit portfolios, thus endangering the Mozambican financial system. After privatisation the GoM pulled out completely, but in the midst of its successive interventions to recapitalise both banks news emerged that donor money had allegedly been used. In the late 90s, and through his own newspaper, a local journalist named Carlos Cardoso denounced the political élite for deliberately plundering both banks. Cardoso was killed in November 2000. Moreover, in an attempt to recover the bad loan portfolio of Banco Austral, the GoM appointed a senior Central Bank economist, Siba-Siba Macuacua, who was also killed in August 2001.

After the death of Macuacua, the seven donors that at that time were providing general budget support (GBS) had high-level meetings with the government to obtain a better understanding of the latter's position on the issue of Banco Austral. Since the government did not signal its position clearly, at the end of the 2002 Joint Review the GBS donors decided to withhold their budget support. The GoM tried to negotiate with those donors not involved in GBS, to counterbalance the GBS group attitude. Because of these events it became clear to donors that to be effective in dealing with sensitive situations like the Banco Austral case, they needed to adopt a more co-ordinated response as well as dialogue mechanisms (including with the GoM). Subsequent discussions led to the decision to design a joint response mechanism, whose elements were embodied in the GoM-PAPs MoU and its particular PAF.



### The USAID study

In 2005 a team of independent consultants carried out a study under the supervision of USAID staff, its purpose was to inform the agency's decisions in preparing its country strategy. The study was very critical of the government: it included allegations of state capture by criminal networks as well as assertions that part of the ruling élite was involved with organised crime. Donors' attitude towards corruption was also scrutinised and the study came to the conclusion that – despite a considerable number of reviews, particularly in public financial management, and strong positions condemning corruption – donors have not been successful in persuading the government to take serious measures to tackle corruption. A draft report was sent to the government for comments, but there has never been any official reaction.

The report was mainly discussed by the press and donors. One of the donors involved in A-C issues convened a meeting with representatives of the various donor working groups. The idea was to increase awareness of the issues highlighted in the report and to encourage further follow-up through the working groups, which are operate jointly (in co-operation with the GoM). The initiative did not succeed, and the initial enthusiasm and shock over the report faded away. Donors were divided about the report's content and tone. Some favoured using it in dialogue with government on corruption. Others thought that the approach was not appropriate and that it would compromise the good relationship with the government. Meanwhile there was also a reduction in staffing in the USAID Democracy and Governance Team that had commissioned the study.

At the same time, the US Embassy was co-ordinating the process of preparing the Millennium Challenge Account (MCA) application. Good performance in governance was a key prerequisite. Mozambique was considered a strong candidate and an MCA agreement with the country followed. This suggests that the strong messages stemming from the study might have had an impact, however modest, on the decision taken regarding Mozambique's eligibility for the MCA.

### The education sector

The education sector in the Province of Zambezia was one of the main beneficiaries of Danish funds, i.e. a budget of USD 100 million in the 2002-06 period. In 2005, a diversion of funds was discovered. Because of the publicity the event received in Denmark, the Danish Ministry of Development Cooperation was keen to see the case adequately resolved and urged the Danish Embassy in Mozambique to take the necessary measures. A joint steering committee was created, comprising the Ministry of Education, the Internal Audit of the Ministry of Finance (IGF) and the Danish Embassy, which decided to hire an auditing firm to carry out a forensic audit. The audit came to the conclusion that more than USD 2 million had been diverted from the project. When the 2006 mid-year review was carried out, donors expressed their usual concern about lack of progress in implementing the government Anti-Corruption Strategy in general and about lack of clarification on the corruption cases reported to the Central Office for the Fight Against Corruption.<sup>3</sup> Denmark decided to take a stronger stance. Based on the audit findings, the country decided to freeze 75% of its general budget support until the government returned the money presumably diverted. Furthermore, Denmark froze all funding for new activities in the education sector until a solution to the problem was found. Negotiations with the government, through the Ministry of Finance, continued until the allegedly diverted money (USD 2.4 million) was returned. Afterwards, Denmark's budget support contribution and funding to the education sector were resumed. While some donors had informally expressed their sympathy and understanding, others did not agree with the Danish position. The latter group saw it as a unilateral decision, running contrary to increasing development aid harmonisation and co-ordination among donors. However, despite donors being informed in advance about Denmark's decision, there was no formal agreement or disagreement from the G19 on the position taken.

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<sup>3</sup> No reference was made to specific cases.

## Incentives, opportunities and constraints for donor joint responses to corruption

As the three situations show, despite considerable efforts to ensure joint donor responses to corruption, these have tended not to occur exactly as expected. There are factors that favour (incentives and opportunities) and hinder (constraints) more co-ordinated responses, as follows.

### Incentives

The main incentive for the use of joint donor responses is to reduce the risk to development and reputation in two ways. First, they reduce uncertainty through sharing of information among donors and interaction with government. Secondly, they reduce the possibility of donors' home constituencies receiving mixed<sup>4</sup> or negative signals about use of donor funds; these can trigger decisions (e.g. stemming from pressure for reduction/changes in aid) affecting the development agenda in countries in which they operate. In the case of Mozambique, joint responses allowed donors to keep relating a success story: of poverty reduction (the poverty rate dropped from 69.4% in 1997 to 54.1% in 2003); post-war political and macroeconomic stability; and economic growth (an average of 7% in the last decade). And all of that was in spite of recurrent criticism of the poor GoM performance in fighting corruption.

### Opportunities

Improvements in public financial management, as reported in PEFA assessments, are considered by donors to reduce the fiduciary risk associated with general budget support. This is an incentive for donors to maintain their budget support mechanisms and participate in the associated aid architecture. Commitment to this mechanism and associated agreements and architecture involves co-ordination of efforts; alignment of development support with the government agenda and priorities; agreement with the GoM on the "rules of engagement" (in this case, good performance as gauged by defined indicators relating to funding commitments); ensuring the continuous and predictable flow of resources; and providing a predictable and coherent response in case of poor performance. In sum, the mechanisms set up around budget support create conditions for the effectiveness of donors' development aid.

### Constraints to joint donor responses to corruption

- **Donors' short-term domestic political imperatives** have the potential to disrupt dialogue and longer-term development outcomes. Pressure from parliaments, CSOs and media in donors' home countries can be an incentive to unilateral responses to corruption.
- **Multiple and different assessment tools** – Despite the apparent importance and supremacy of the joint reviews, many donors still use other assessments to inform their responses to corruption, and this can disrupt joint responses.
- **Inefficient technical dialogue mechanisms** – In dealing with corruption through multiple measures, if there is not a specific dialogue and monitoring mechanism that takes an overview of different governance reforms to address the problem, it is difficult to build a co-ordinated position or response.
- **Risk to reputation** – GBS poses a very high reputational risk to donors, since corruption situations involving public funds will tend to be linked to many donors' interventions at the same time. A joint response with donors acting as a single coalition might endanger the development agenda. The variable tranche might mitigate this risk, giving an opportunity to donors to respond selectively to corruption situations. However, because of the differing donors' policies, a selective response might not solve the problem, or might not meet with corresponding measures from other donors, and so raise concerns about the effectiveness of donors' response to corruption.

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<sup>4</sup> From different donors.

## Effectiveness

1. GBS and the associated joint donor response mechanism contained in the MoU and PAF have helped institutionalise dialogue mechanisms and substantially improve horizontal accountability (relations among state institutions). However, the persistent weakness of the legislature limits the impact of the achievements in overall accountability. Vertical accountability (relations between state institutions and citizens) has improved only slightly, partly due to weak civil society capacity.
2. Donors are at the core of accountability relations, functioning as a hub connecting civil society and government. This does not strengthen accountability relations between the latter two actors. The weak civil society and Parliament is skewing GoM accountability to donors instead of to its principals (citizens and the legislature). Civil society has been invited by donors to participate in joint reviews, but its role in decision making is not yet clear (or at least it is not defined in the GoM-PAPs MoU).
3. The dynamics of the joint response mechanism are changing aid relationships, improving donors' and government's knowledge about each other, and stimulating donors to improve their performance, which helps reduce the GoM's transaction costs.
4. The MoU locks donors into coherent and co-ordinated responses. At the same time however, for those bilaterals who need to take more unilateral action, the variable tranche mechanism provides a pragmatic and flexible tool that avoids damaging the core of the development agenda (because only part of the funding is not disbursed). Moreover it does not dramatically reduce predictability, because changes in previous commitments must be communicated in advance.
5. The joint mechanisms within the MoU/PAF framework can assess performance and impact, but not necessarily sustainability. Donors cannot foresee to what extent given positive changes will be sustainable in the long run or contribute to the successful implementation of the development agenda. Donors need to supplement this framework by carrying out and sharing political economy analysis in key areas. Such analysis can uncover results chains and provide strategic insights into the dynamics involved in the recipient country's governance and development agendas.

## Lessons learned and recommendations

### Donors' joint response mechanisms can improve but also distort accountability mechanisms.

**Recommendation:** Donors should pay more attention to the dynamics of accountability in beneficiary countries, with emphasis on capacities and the balance of power between the executive, the legislative and the judiciary, as well as between state and non-state actors. Strengthening civil society is particularly important, because it can contribute to good governance by holding state actors more accountable. Also, improving transparency in the processes involving donors and government can contribute to better domestic accountability.

### Specific dialogue mechanisms on corruption are important.

**Recommendation:** Working groups or other types of forums used to discuss policies, programmes or issues related to corruption (e.g. public financial management, procurement, the justice sector, etc.) are not enough. Donors should also have specific mechanisms to discuss corruption issues in a more integrated way (e.g. bringing people from different sector/areas together). This would help to link the various elements contributing to the fight against corruption, and promote dialogue with the parties involved so that they develop and share a common vision or understanding about the whole process. Building confidence among the parties will reduce the likelihood of punitive responses (e.g. budget cuts, pullout) and can contribute to more co-operation in fighting corruption. However, it is important to avoid increasing transaction costs because of an excessive number of groups. Hence, donors should adopt solutions that balance usefulness and efficiency.

### Accountability to home constituencies influences prospects for joint responses.

**Recommendation:** Joint response mechanisms adopted in beneficiary countries should be aligned with donors' domestic accountability processes, to prevent trade-offs between donor co-ordination in the field and the need to be accountable to principals at home. If this is not possible due to the rigidity of the legal framework, donors should at least have sound knowledge of the existing possibilities or room for manoeuvre to combine the demands of the joint donor mechanism



in the beneficiary countries and those of their home constituencies. Alternatively, donors' agencies should improve their accountability and communication of aid policies and issues to key home audiences and constituencies, such as parliaments, the media, civil society and pressure group organisations, to increase their awareness and understanding of the complex nature of the fight against corruption, hence building the necessary supporting coalition at home.

#### Maintaining joint donor mechanisms is complex.

**Recommendation:** Joint donor response mechanisms are part of an international movement and involve agreements between states. Therefore, the risks of using these mechanisms should be adequately communicated to home principals, mainly parliaments and civil society, to ensure the necessary ownership in donor countries. In cases of beneficiary countries with weak governance, donor agencies should communicate clearly the risks involved and the strategies to mitigate them. This would allow donors to design strategies to assist countries that combine mid- and long-term measures to reduce fiduciary and development risk as part of a broader development agenda.

#### Donors respond according to their corporate priorities.

**Recommendation:** Donors' corporate policies and mechanisms at headquarters should take account of the need for predictability in recipient countries and co-ordination between donors.





