

**COMMENTS TO THE ADVANCE PRELIMINARY REPORT OF THE CENTER ON
INTERNATIONAL COOPERATION, NY UNIVERSITY FOR
THE SUDAN COMMON HUMANITARIAN FUND**



Project Title:	Sudan Common Humanitarian Fund – Administrative Agent Sudan Common Humanitarian Fund – NGO & IOM execution
Project/Award ID:	00037661 (Administrative Agent) 00050741 (IOM and NGO)
Designated Institutions : <i>(Executing Agency)</i>	UNDP
Implementing Agencies:	UNDP – Joint Programming pass through
Project Duration:	1 January 2006 – 31 December 2006
Project Budget:	USD 147,009,780.53 project no. 00037661 USD 25,552,711.00 project no. 00050741
Funds Allocated:	USD 145,143,981.35
Contributors:	UK, SWEDEN, THE NETHERLANDS, NORWAY, IRELAND.
Unfunded budget:	N/A
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TABLE OF CONTENTS

I. INTRODUCTION 3

II. RESEARCH SUMMARY 3

III. KEY RECOMMENDATION FOR THE CHF 4

IV. UNDP’S PERFORMANCE AS ADMINISTRATIVE AGENT.....5

V. KEY RECOMMENDATION FOR THE ADMINISTRATION OF THE CHF.....9

VI. KEY RECOMMENDATION TO STRENGTHEN NGO PARTNERSHIP.....10

VII. TRANSACTION COSTS.....10

VII. ADDITIONAL INPUTS.....11

VIII. CONCLUSIONS.....11

The United Nations Development Programme (UNDP) Country Office (CO) in Sudan with its Trust Fund Management Unit (TFMU), in the role as Administrative Agent (AA) for the Common Humanitarian Fund (CHF) managed by the Humanitarian Coordinator (HC) for Sudan, and its second function as Participating UN Organisation for IOM and NGO execution, presents hereby its comments to the draft Advance Report: Evaluation of The Common Humanitarian Fund in Sudan issued by the Center on International Cooperation, New York University, 27th August 2006.

I. INTRODUCTION

UNDP welcomes the draft evaluation report issued by the Center on International Cooperation, New York University as first component of a monitoring and evaluation study of Common Funds for Humanitarian Action in Sudan. UNDP well understands the outcome of the draft report as a preliminary set of findings, and acknowledges that its conclusions and recommendations may be subject to change pending the additional field research and analysis to take place over the course of the study. The comments below from UNDP, in its dual role of Administrative Agent and UN Participating Organization, are presented to clarify the position of UNDP with the Humanitarian Coordinator Office, Donors and the various partners of the Sudan Common Humanitarian Fund.

UNDP will use this opportunity to strengthen its support to the evaluators, and may further contribute if any additional information is required.

Extracts of the evaluation report are below reported in *italic* and commented when relevant to UNDP role and responsibility.

II. RESEARCH SUMMARY

“By mid-year 2006, Ireland, the Netherlands, Norway, Sweden and the United Kingdom had contributed a total of nearly \$130 million to the CHF.” (page 2)

Comments:

The presented figure is correct. The mid-year donor contribution at 30th June 2006 is recorded from UNDP, in its role of AA, as **USD 129,827,880.54** and below presented by donor:

Donor	Actual Disbursement in favor of CHF
DFID	71.255.587,16
THE NETHERLANDS	32.050.000,00
SIDA	12.547.051,44
NORWAY	10.573.248,41
IRELAND	2.484.472,05
<i>exchange rate variation</i>	917.521,48
GRAND TOTAL	129.827.880,54

Table 1: Total amount of each donor contribution at 30/06/2006.

“The most significant shortcoming to the CHF had to do with the difficulty faced by NGOs in accessing funds and engaging in the process. Given the criticality of NGOs as implementers, this would seem a critical area to address in making adjustments to the CHF going forward.” (page 3)

Comments:

The access to the CHF by NGOs is outlined in Art.III-6 of the Memorandum of Understanding

(MOU):

“IOM and NGO partners involved in the Work Plan will have access to the Common Humanitarian Fund through UNDP performing an additional oversight function as Participating UN Organization. UNDP will use its standard NGO execution modality for this purpose (and its agency execution agreement in the case of IOM) and charge the corresponding direct and indirect costs to the CHF on the basis of its financial regulations and rules. The Humanitarian Coordinator will retain the responsibility for the allocation of funds to a specific NGO and Project included in the Work Plan, in line with the allocation process and in keeping with UNDP’s regulations and rules”.

The MOU foresees for IOM and NGO an **indirect** access to the fund. UNDP, as AA, has been given **no role vis a vis IOM and NGO’s**, because its action is limited to disbursements to UN Participating Organizations. UNDP, as UN Participating Organization, identifies in the allocation process a “credit availability”, while its legal obligation of disbursement to IOM and NGO’s is a consequence of its standard IOM/NGO execution modality. Allocated funds are firstly subject to a contracting business process and secondly to a disbursement execution. Indeed it is structurally more difficult for IOM and NGO’s to access funds, if compared to UN Participating Organizations. What appears to be for the CHF a “**significant shortcoming**” could be better defined as an “**additional legal structural layer**”.

III. KEY RECOMMENDATION FOR THE CHF

“Special efforts should be made to lure the NGOs back into the Work Plan process, notwithstanding their dismal experience with the CHF in its first year. The administrative roadblocks need to be removed, the concept of “partnership” has to be translated into a different collaborative model, and the share of the NGOs in the CHF’s allocation needs to be increased.” (page 3)

Comments:

The evaluation of the NGO’s experience in its “*first year*” shall be re-presented at the end of 2006. The evaluation conducted by the Center on International Cooperation, NY University, while useful to highlight an early warning of possible deficiencies of the funding mechanism, is considered by UNDP in its role of UN Participating Organizations as **an early exercise**. This is due to the fact that the MOU, setting the legal framework of the CHF, was finalized only on 20th March 2006 (with the late countersignature of UNMAS of 9th May 2006) as per image below.

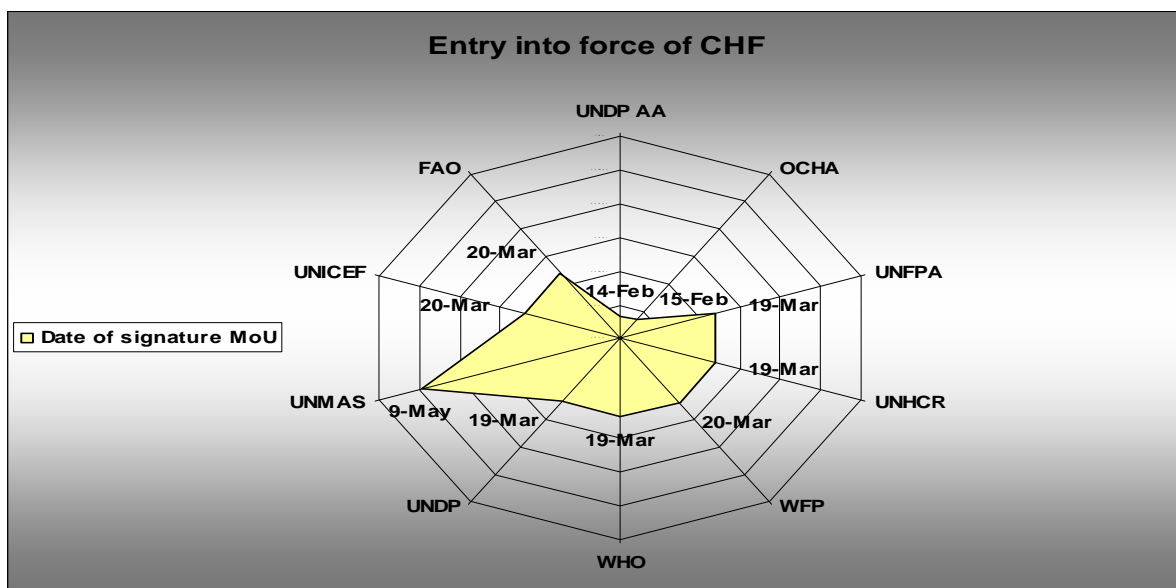


Image 1: Entry into force of the CHF according to the date of signature of the MOU.

As a consequence of the above, UNDP entered into partnership with IOM and the NGO's community only in **April 2006**. Thus the evaluation was based in our opinion on a **data analysis of three months** out of six in the mid 2006 proposed study. In this respect a more reliable collection of information could have been postponed to **September 2006** with an actual six months of implementation experience of the CHF.

“Another concern is based on the level of allocations. In the first round, efforts were made to spread the CHF resources as widely as possible, and allocations were often no more than a fraction of project requirements (...) (page 4)

Allocations should be substantive, covering a sufficiently large part of a project's proposed budget to allow for viable operations. Assurances should be sought that adequate funding from other sources is likely when co-funding is proposed.” (page 4)

Comments:

UNDP, as Participating UN Organization, is in agreement with the above finding. Allocations to NGO projects had often a too low portfolio threshold. The range of projects identified for funding had a minimum record of **USD 3,680** (i.e. SUD-06/P/HR/RL48) and a maximum record of **USD 2,000,000** (i.e. SUD-06/WS19).

IV. UNDP'S PERFORMANCE AS ADMINISTRATIVE AGENT

“UNDP's stewardship as Administrative Agent for the CHF suffered from a multiple identity disorder. It did the best of jobs, and it did the worst of jobs. As pass-through agent, channelling CHF funds to the UN organizations, it was highly efficient and effective. In performing its additional oversight function with regard to the IOM and the NGO partners involved in the Work Plan, it failed dismally.” (page 5)

Comments:

It will be **wrong to say** that the **AA has two roles**. On the other hand it is correct to say that **UNDP has two separate roles**, well distinguished and separated: Administrative Agent & UN Participating Organization. Separate performance evaluation chapters should have covered UNDP in its AA function and UNDP in its UN Participating Organization activity.

The AA operational support mandate has been fulfilled and largely recognized. At 31/07/2006, the CHF initiative has particularly benefited from the concurrent presence in Khartoum of the HC office and the AA. A common working mode, while respecting the division of responsibilities has developed a mutual sense of commitment towards the action and a constructive working environment. Timely submission of fund balance forecasts, meticulous execution of its legal commitments undertaken with the CHF, solid set up of financial system have enabled the AA to release a total volume of **USD 100,233,806** to Participating UN Organizations in an average of **2 working days**.

The **early** performance evaluation of UNDP, as **UN Participating Organization**, is only taking into account a **three months implementation mode**.

“A first allocation plan was issued in December 2005, well ahead of the signature of the MOU and the letters of agreement needed to give a legal basis to the CHF. Thus, while funds were committed by the donors by year-end 2005, they could not be disbursed until April 2006.” (page 5)

Comments:

Commitments of Donors towards the CHF are **formally** to be **recognized** only **after the signatures** of **Letter of Agreements (LoAs)** with the AA. The timeframe of such commitments of funding was initiated by DFID on 20th February 2006 and reported for the other donors below:

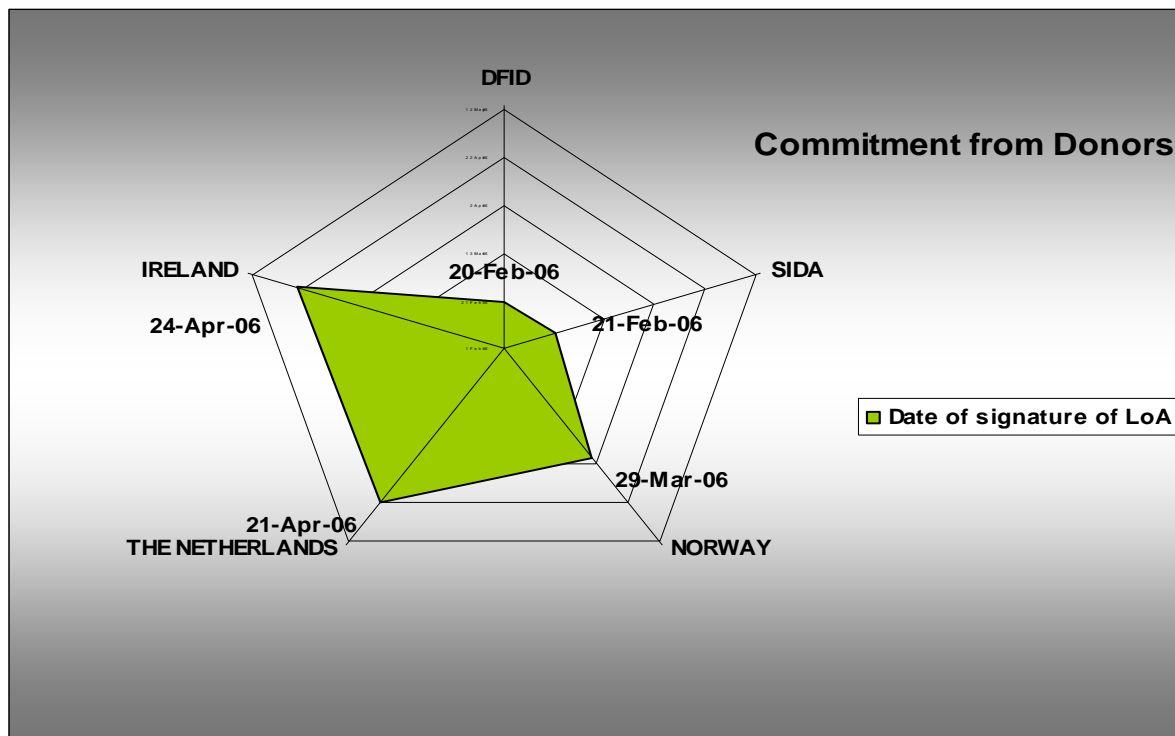


Image 2: First commitment from donors to the CHF according to the date of signature of the LoAs.

It is nonetheless true that the MOU, annexed to the LoAs, was yet to be finalized in its routing of signature amongst CHF actors.

"(...) the Deputy Humanitarian Coordinator, in a letter dated 8 January 2006, had notified all recipients of a first allocation, UN organizations and NGOs alike." (page 5)

Comments:

UNDP believes that an early signal of fund availability could have raised expectations amongst CHF implementing partners, while **allocating resources** to IOM and NGOs, as required by the legal provisions of the MOU, **was not an automatic grant of funding**.

UNDP has been working closely with the HC office, ensuring communication with IOM and NGOs as required by Art.III-6 of the MOU:

"The Humanitarian Coordinator will retain the responsibility for the allocation of funds to a specific NGO and Project included in the Work Plan, in line with the allocation process and in keeping with UNDP's regulations and rules."

"In addition to the UN disbursements, a sum of \$21,849,833 had been allocated to the IOM and to a group of 33 NGOs (\$5,267,400 and \$16,582,433 respectively). As of 24 June 2006, none of them had been paid. As of August 5, a total of \$2,270,448 had been paid out to six NGOs, and the IOM still had not received a penny. What happened?" (page 5)

Comments:

The allocated amount for IOM and NGOs likely to be channelled through UNDP has followed the below path:

Allocation	TOTAL	IOM	NGOs
DECEMBER 2005	21,881,422	5,267,400	16,614,022
AD HOC REVISIONS JUNE – JULY 2006	19,397,711	5,367,400	14,030,311
AUGUST 2006	25,552,711	6,717,400	18,835,311

The July downsizing of the allocation for NGOs is a result of the non-submission of project proposals to UNDP in its role of UN Participating Organization.

The Allocated / Contracted / Paid financial status for June/ July/ August 2006 is correctly below presented, and shows the progression of UNDP performance as UN Participating Organization:

Month	Allocated	Contracted	Paid
June 2006	21,881,422	3,491,935	1,624,705
July 2006	19,397,711	18,188,488	8,225,876.49
August 2006	25,552,711	19,117,711	13,737,432.31

In addition it is to be noted that the allocated amounts for IOM & NGO's was **forecasted for disbursements in quarters**. Therefore, UNDP is not expecting a full withdrawal of the allocated amounts from the fund. This has the benefit to make available to the HC office a higher reserve for emergency situations.

“NGOs believed that their allocation letter was a good as a check. UNDP, on the basis of its legal mandate, prepared to introduce its standard, rather cumbersome, NGO executing modality in dealing with the NGOs. Since 92 projects had been approved, this was going to be a lot of work. This task was assigned to the Trust Fund Management Unit of UNDP in Khartoum.” (page 5)

Comments:

At the initial stage of implementation UNDP, on the basis of the legal provisions of the MOU, has involved IOM and NGOss requesting the submission of the following documentation:

- Project proposal
- Log Frame
- Annual Work Plan
- Budget

UNDP verification of the above documents was expected to operate a **minimum oversight function** in the **interests of the HC office and the donors**. UNDP realised that **none** of the above requested documentation was ready as of April 2006.

Therefore UNDP “pass through funding” function to IOM and NGO's **had to quickly mutate in a dedicated technical assistance** to develop a well wide spread common practice of project formulation. UNDP had to remedy the deficiency of the allocation process by **assisting** its partners with their project proposals and **had to tune its staffing specification from a coordination role into a full time technical assistance**. If the UNDP contracting modality has been assessed as “*cumbersome*” it would be appropriate to note that, if an oversight function was to be fulfilled from any UN Participating Organization, a number of **verifiable indicators of performance** would have

applied in all circumstances for IOM and NGO's.

“For its services in managing NGO funding, UNDP charges 3.8% overheads, over and above the 1% it charges to transfer money to itself in its capacity of participating organization. Since the CHF for 2006 is approximately \$140 million, UNDP collects \$1.4 million in pass-through fees, plus 3.8% of the \$20 million set aside for the IOM and the NGOs – that is another \$760,000. One would expect that UNDP, for over \$2 million in fees, would have recruited a sufficient number of staff in time to guide the cumbersome process of its own making, but it did not do so.” (page 5)

Comments:

UNDP general management fees for IOM and NGO's execution is set to **3.7%**, **well below** UNDP executive board mandated fee (i.e. between 5 to 7%) and the overheads applied by other UN Participating Organizations.

UNDP **will not receive such fees until** a verification of the activities of its implementing partners is shown by all implementing partners with the submission of **an audit report** at the closure of the project. **Therefore UNDP advanced its management support from its own resources, at its own management risk and will keep doing it for the entire year 2006.** The 3.7% of the total audited and certified amount to NGO's and IOM will be withdrawn only at the closure of the programme (i.e. **March 2007**). In the best possible scenario, where the full allocated amount will be certified by the auditors of each implementing partner as **correctly** implemented, the total fee is forecasted to be **USD 945,450.31**. UNDP is taking into serious consideration the risk of returning funds by NGO's in case of their non-performance. UNDP, **prudently**, will not collect any management fee, despite the work done. **Up to 31/08/2006 no fee has been collected from UNDP as UN Participating Organization.** The practice with other UN Participating Organizations is different.

The A.A. fee of **1%** is applicable to the income to the CHF received from donors and has been **withdrawn in tranches** and after the execution of the **service** provided to UN Participating Organizations. The total amount withdrawn up to date is **USD 1,457,014**. This fee is applicable to the AA role and **cannot be confused to the management fee** applicable for the IOM and NGO execution.

The **staffing requirement** of UNDP to perform the **AA** role at CO level will not require more than **two units**. The **staffing requirement** for UNDP to carry out an **oversight function** to IOM and NGOs would have been appropriate in **three** units: one Programme Coordinator, one Programme Assistant and one Finance officer for a **merely coordination role**. The fact UNDP had **to move from coordinating** the IOM and NGO's access to the fund into a **fully dedicated technical assistance** resulted in decreasing the units of coordination while increasing the units to assist project proposal drafting and cooperation strengthening with its partner. It is true that to operate such changes, from April to July 2006, UNDP faced a **reasonable difficulty** of replacing and tuning its staff to the need of the assignment.

The **impact** of such staffing change undertaken by the UNDP CO is visible in the **progression of the financial status** above proposed, for contracting and disbursement, from June 2006 up to August 2006.

“As a result, many NGOs feel betrayed, and have serious doubts about the wisdom of participating in the 2007 Work Plan. That they had asked for \$187 million in the 2006 Work Plan, and only were granted \$17 million, did not endear the process to them either.” (page 6)

Comments:

A **common working mode** has been established by UNDP with its partners during the months of June/July and August and we feel it could have a dual benefit:

1. Assessing the NGO's capacity to meet basic contractual requirements, increasing their capacity to work with UN Participating Organization;
2. The experience accumulated by UNDP and its partners in the CHF could be of benefit for the AWP 2007 exercise.

It would be also beneficial to UNDP and any other UN Participating Organization taking over the oversight function of NGO's and IOM having as basic requirement for subcontracting the submission and verification of:

- Project proposal
- Log Frame
- Annual Work Plan
- Budget

In addition it has to be recognized that there is a **common interest** by linking the management fee to the delivery rate of implementing partners. *De facto* UNDP and IOM/NGO's share the same result based working mode.

V. KEY RECOMMENDATIONS FOR THE ADMINISTRATION OF THE CHF

“The PCA, in addition to being legally inappropriate, also imposes a level of administrative red tape on the participating NGOs that violates the spirit of the CHF. The NGOs are not subcontractors.” (page 6)

Comments:

It is generally agreed that the spirit of the CHF should have taken into consideration NGO's expectation for quick funding, on the other hand it appears difficult to have a UN Participating Organization playing an oversight function with the following set of circumstances:

1. HC office identifies the NGO/ Project / and level of funding;
2. It appears that there was not a NGO capacity assessment before April 2006;
3. An oversight function can only be performed with measurable indicators of performance which are integral part of the PCA.

As per the NGO's and IOM role of **subcontractors** there is **no legal bridge**, as this definition is well specified in **Art.VII-6** of the **MOU**, in which UNDP will have nothing else than a **secondary level of commitments** with its partners within the standard execution project modality.

What might appear as **break of the fund spirit** is instead a **structural discrepancy of the MOU** which did not allow NGO's and IOM to have direct source of funding, same as UN Participating Organizations.

“Here it is important to recall that the Work Plan represents a partnership, not a subcontracting arrangement. It is helpful, in this respect, to compare the UNDP PCA with similar contracts used by UNICEF, WFP, UNHCR and FAO, which all have considerable experience working with NGOs in a humanitarian context, where speed and flexibility are often paramount.” (page 7)

Comments:

UNDP welcomes the comment done by the evaluators. In order for UNDP to operate in a

humanitarian environment, delivering quickly and flexibly, there is a need, at corporate level, to adjust UNDP operating procedures and rules.

“It makes sense that the contracting agency, be it UNDP or its successor, keeps an eye on the finances. But it makes no sense to designate the contracting agency as the substantive supervisor, even if it has humanitarian antecedents. It might make more sense to focus on the concept of partnership, that is, treating the NGO with the same yardstick as the UN organizations.” (page 7)

Comments:

UNDP welcomes improvements of the ToR of the MOU to adjust the legal basis of the Programme to the spirit of a CHF for the year 2007.

VI. KEY RECOMMENDATIONS TO STRENGTHEN NGO PARTNERSHIPS

“NGOs should be assessed on the basis of their track record and capacity as a condition for participating in the Work Plan process, and thus gaining eligibility for CHF funding. This would better ensure credible performance, and lighten the burden of substantive supervision. To give meaning to the “partnership” concept implicit in the structure of the Work Plan, the HC should give thought to a formal accreditation program for NGOs in Sudan.

Participating NGOs should in first instance be responsible for their own substantive monitoring and evaluation. Sector leaders should be asked to review projects for attainment of objectives, and donors might want to carry out occasional site visits.” (page 7)

Comments:

UNDP welcomes improvements of the ToR of the MOU to adjust the legal basis of the Programme to the spirit of a CHF for the year 2007.

VII. TRANSACTION COSTS

“The most visible transaction cost is the management fee claimed by the Administrative Agent. Is it excessive for writing a limited number of checks?” (page 7)

Comments:

Up to date the AA performed disbursements totalling USD 130,045,820.04, in an average timing of 1.9 days per transaction.

The AA action is not just limited to issuing a certain number of checks. In actual technical terms **no one single check** has been operated as a form of transaction. **Wire transfers and General Ledger transactions** are the basis of the disbursement execution modality of the AA function.

The AA is called to perform a quick transfer of funds and did excel in its operational support given to UN Participating Organizations. The low timing for transaction is due to the fact that many sister agencies share a common financial system, ATLAS, with UNDP. This allows the AA to execute, in most of the cases, General Ledger account moves from the programme of CHF into the specific programme.

It would be limited to see the AA operational support as a “banking/account exercise”. UNDP has contributed to the allocation plan process of the HC adjusting the call of rapid humanitarian response, with timely submission of **income and disbursement forecast reports**. There is also a significant **legal initiation** by linking the **donor action** to UNDP with the drafting/coordination of the **LoAs**. It is worth mentioning that UNDP, as AA, is the only UN agency that reports **monthly** to

the HC and donors. The AA also backstops UN Participating Organizations in the **provisions of the legal basis** of the CHF programme on call. The AA has contributed at its own initiatives to have a **mid-year CHF report**, with an in depth analysis of the funding mechanism. The AA could have a role of **consolidation** of UN Participating Organization's financial reporting by standardizing the reports of allocation/ commitment / disbursement status.

In this respect a 1% fee is seen appropriate when the administrative component is assisting the **resource mobilization planning** in addition to the operational support.

VIII. ADDITIONAL INPUTS

While UNDP **AA performance** has been firmly recognized as **effective and efficient**, UNDP as UN Participating Organization faced an **early pronouncement of defeat**. It is to be considered that **UNDP** in its oversight function for IOM and NGOs **plays at the same level of its sister UN Participating Organizations**. A comparative analysis of sister UN agencies would allow a more objective evaluation of UNDP within the UN Participating Organizations.

IX. CONCLUSIONS

UNDP followed by the book its legal commitments towards the CHF. UNDP thanks the work done from the evaluation team of the New York University. It is of sure help that the mid year evaluation of the fund is highlighting a clear break between the spirit of the initiative and the legal basis of the programme. UNDP has shown an effective operational support to UN Participating Organizations and firmly believes that the effort in the technical assistance to its implementing partners (NGOs and IOM) is an investment that can eventually results in high dividend for future AWP exercises. The evaluation of the New York University, though, seems not to have enough stressed the late start up of the real programme operations, April 2006. In conclusion, UNDP had to change its staffing requirements, in the middle of the process, to provide necessary technical assistance to NGOs because of their difficulties in submitting basic documentation.