

From: The Ambassador



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12 December 2008

H.E Dr Tekeda Alemu  
State Minister for Foreign Affairs  
Ministry of Foreign Affairs  
Addis Ababa

A handwritten signature in black ink, appearing to read 'Norman Ling'.

Today we have signed a Memorandum of Understanding (MOU) on behalf of our two Governments regulating the provision of undertakings in respect of persons prior to deportation. Signature of the MOU reflects the British Government's strong wish to strengthen co-operation with the Government of the Federal Democratic Republic of Ethiopia to counter the threat of international terrorism. The content of the MOU also reflects the British Government's intention to respect its international and domestic human rights obligations and responsibilities and Ethiopian law and sovereignty.

During our discussions on the MOU we agreed that it would be right to exchange letters on the use of the death penalty on which, for constitutional reasons, the Government of Ethiopia has been unable to give an undertaking in the MOU. This letter, and the Government of Ethiopia's formal response to it, set out the joint understanding of our two Governments on this issue.

The British Government is opposed to the use of the death penalty in all circumstances. We would not return a person to Ethiopia if that person faced significant risk of the death penalty on return. If a person returned to Ethiopia is, at any time after his return, subsequently sentenced to death, the British Government would consider asking the Ethiopian Government to commute the sentence, while accepting that the provisions of the Ethiopian Constitution and other laws of Ethiopia on pardon, including the powers and functions of the President of the Federal Democratic Republic of Ethiopia to grant pardon in accordance with the conditions and procedures established by law, must apply.

The MOU requires the two Governments to consult closely on the circumstances and identity of those who might be subject to its provisions. The British Government attaches considerable importance to maximum transparency and timely consultation.



The MOU also provides for the two Governments to seek assurances specific to individual cases, in addition to the issue of the death penalty described in this letter. The British Government considers this provision an important means of meeting the counter-terrorism and human rights objectives which underpin the MOU.

Yours sincerely,  
Norman Ling

NORMAN LING

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN  
AND NORTHERN IRELAND  
AND  
THE GOVERNMENT OF THE FEDERAL DEMOCRATIC  
REPUBLIC OF ETHIOPIA  
CONCERNING THE PROVISION OF ASSURANCES IN  
RESPECT OF PERSONS SUBJECT TO DEPORTATION**

Application and Scope

A request for assurances under this Memorandum may be made by the sending state in respect of any citizen of the receiving state who is suspected or convicted of activities which may constitute a threat to national security.

Such requests will be submitted in writing by the British Embassy in Addis Ababa to the Ministry of Foreign Affairs or by the Ethiopian Embassy in London to the Home Office. The Government to which the request is made will acknowledge receipt of the request within 5 working days.

A final response to such a request will be given promptly in writing, by the Home Secretary in the case of a request made to the United Kingdom, or by the Minister of Foreign Affairs in the case of a request made to Ethiopia.

To assist a decision on whether to request assurances under this Memorandum, the receiving state will inform the sending state of any penalties outstanding against a person, and of any outstanding convictions or criminal charges pending against him and the penalties which could be imposed.

The Governments of the United Kingdom and of Ethiopia will comply with their human rights obligations under international law regarding a person in respect of whom assurances are given under this Memorandum. The assurances set out in the following paragraphs (numbered 1-8) will apply to such a person, together with any further specific assurances which may be provided by the receiving state.

Further assurances may be sought in particular in relation to a member of the armed forces facing trial before a court martial to whom assurances 3 and 7 do not apply.

An independent body ("the monitoring body") will be nominated in each country by both Governments to monitor the implementation of assurances given, including any specific assurances which may be given, under this Memorandum by the receiving state. The responsibilities of the monitoring body will include, but are not limited to, monitoring the return of, and any detention, trial or imprisonment of, the person. All findings of the monitoring body will be made available to both Governments. The methods to be employed by the monitoring body will be agreed between the two Governments and the monitoring body concerned with a view to ensuring effective verification of the assurances.

Assurances

1. If arrested, detained or imprisoned following his deportation, the person will be afforded adequate accommodation, nourishment, and medical treatment, and will be treated in a humane and proper manner, in accordance with the national and international obligations of the receiving state.
2. If the person is arrested or detained, he will be informed promptly by the authorities of the receiving state of the reasons for his arrest or detention, and of any charge against him. The person will be entitled to consult a lawyer promptly.
3. If the person is a civilian and is arrested or detained, he will be brought promptly before a civilian judge or other civilian official authorised by law to exercise judicial power in order that the lawfulness of his detention may be decided.
4. Any person who is detained but who at the end of a court-supervised investigation is not charged with an offence, or is found not guilty of any offence, will be released promptly.
5. The person will have unimpeded access to the monitoring body unless they are arrested, detained or imprisoned. If the person is arrested, detained or imprisoned within 3 years of the date of his return, he will be entitled to contact promptly, and in any event within 48 hours, a representative of the monitoring body. Thereafter he will be entitled to regular visits from a representative of the monitoring body and, in the event of an allegation of ill-treatment, the monitoring body will have access to the person without delay.
6. The person will be allowed to follow his religious observance following his return, including while under arrest, or while detained or imprisoned.
7. If the person is a civilian and is charged with an offence he will receive a fair and public hearing without undue delay by a competent, independent and impartial civilian tribunal established by law. The person will be allowed adequate time and facilities to prepare his defence, and will be permitted to examine or have examined the witnesses against him and to call and have examined witnesses on his behalf. He will be allowed to defend himself in person or through legal assistance of his own choosing, or, if he has not sufficient means to pay for legal assistance, to be given legal assistance free when the interests of justice so require.
8. Any judgment against the person will be pronounced publicly, but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

Entry into effect and withdrawal

This Memorandum will come into effect on signature.

Either Government may withdraw from this Memorandum by giving 6 months notice in writing to the Embassy of the other government.

Where one or other Government withdraws from the Memorandum any assurances given under it, including specific assurances, in respect of a person will continue to apply in accordance with its provisions.

Signature

This Memorandum of Understanding represents the understandings reached between the Government of the United Kingdom of Great Britain and Northern Ireland and the Federal Democratic Republic of Ethiopia upon the matters referred to therein.

Signed in duplicate at Addis Ababa on 12 December 2008 in the English language.

*West of Spirit Land*

For the Government of the United  
Kingdom of Great Britain and  
Northern Ireland

*Abel*

For the Government of the Federal  
Democratic Republic of Ethiopia



From: The Ambassador

British Embassy  
PO Box 858  
Addis Ababa  
Ethiopia

16 December 2008

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H.E Dr Tekeda Alemu  
State Minister for Foreign Affairs  
Ministry of Foreign Affairs  
Addis Ababa

*Dear Minister,*

On 12 December our two countries signed a Memorandum of Understanding (MOU) regulating the provision of undertakings in respect of persons prior to being deported.

During our discussions we recognised the importance of appointing independent bodies capable of monitoring the fulfilling of the undertakings given in the MOU and that an independent monitoring body would be nominated in each country by both Governments to monitor the implementation of assurances given under the memorandum. We agreed that the responsibilities of "the monitoring body" will include, but are not limited to, monitoring the return of, and any detention, trial or imprisonment of, the person and to make all findings available to both Governments. The Ethiopian Human Rights Commission (EHRC) was nominated to undertake this role to monitor deportees to Ethiopia.

The British Government have today agreed with the EHRC the Terms of Reference (ToRs) under which they will operate in this capacity and that these ToRs fall within the mandate of the EHRC as established under Ethiopian Law.

The monitoring system in the UK is co-ordinated by the Independent Monitoring Board (IMB) Secretariat with help from various legal and social organisations. We have concluded a Framework Agreement with the IMB under which they will operate.

As previously agreed we would like to take this opportunity to pass copies of our exchange of letters with the EHRC and a copy of the Framework agreement with the IMB to the Ethiopian Government to help further our Governments' undertaking to support and facilitate the EHRC's full and unrestricted implementation of the ToRs.

*Yours sincerely,*  
*Norman Ling*

NORMAN LING

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የውጭ ጉዳይ ሚኒስቴር  
Federal Democratic Republic of Ethiopia  
MINISTRY OF FOREIGN AFFAIRS

ቀን  
Date  
ቁጥር  
No. 2-6412/1

December 27, 2008

Dear Ambassador,

I have the honour to acknowledge the receipt of your letter dated 12 December 2008, regarding the Memorandum of Understanding concerning the provision of assurances in respect of persons subject to deportation signed by our two Governments on 12 December 2008.

I would also like to thank for your letter of 16 December 2008, enclosing the exchange of letters you signed with the Ethiopian Human Rights Commission as the monitoring body nominated by the Government of Ethiopia and the Framework Agreement your Government concluded with the Independent Monitoring Board coordinating the monitoring system in the UK.



Yours Sincerely

TEKEDA ABEMU  
STATE MINISTER



From: The Ambassador

15 December 2008

British Embassy  
PO Box 858  
Addis Ababa  
Ethiopia

Tel: +251 11 6 61 23 54  
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Ambassador Kassa  
Chair  
Ethiopian Human Rights Commission (EHRC)  
Addis Ababa

*Jaw Ambassador Kassa*

On 12 December the governments of the United Kingdom and the Federal Democratic Republic of Ethiopia signed a Memorandum of Understanding (MOU) regulating the provisions of undertakings in respect of persons prior to deportation.

During our discussions with the Ethiopian Government on the MOU we agreed that an independent monitoring body would be nominated in each country by both Governments to monitor the implementation of assurances given under the memorandum by the receiving state. We are pleased that the EHRC has been nominated, and has agreed to undertake this role to monitor deportees to Ethiopia.

The responsibilities of "the monitoring body" will include, but are not limited to, monitoring the return of, and any detention, trial or imprisonment of, the person and to make all findings available to both Governments.

We have agreed with the Ethiopian Government that our two Governments will support and facilitate the EHRC's full and unrestricted implementation of its responsibilities under the MOU in accordance with Terms of Reference (TOR) to be agreed between this Embassy and the EHRC. To this end, and to facilitate a clear understanding of the EHRC's role, the British Government would like to propose the attached TOR setting out how the EHRC will monitor the execution of the undertakings given under the MOU between our two countries. The British Government would be grateful if you could confirm that these ToRs of "the monitoring body" fall within the mandate of the EHRC as established under Ethiopian law and that you are willing to adopt them under the terms of the MOU.

*Yours sincerely,  
Norman Ling*

NORMAN LING