

No. 12144

NETHERLANDS
and
UNITED REPUBLIC OF TANZANIA

**Agreement on economic and technical cooperation. Signed
at Dar es Salaam on 14 April 1970**

Authentic text : English.

Registered by the Netherlands on 14 November 1972.

PAYS-BAS
et
RÉPUBLIQUE-UNIE DE TANZANIE

**Accord de coopération économique et technique. Signé à
Dar es-Salam le 14 avril 1970**

Texte authentique : anglais.

Enregistré par les Pays-Bas le 14 novembre 1972.

AGREEMENT¹ ON ECONOMIC AND TECHNICAL COOPERATION BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA

The Government of the Kingdom of the Netherlands and the Government of the United Republic of Tanzania,

Desiring to strengthen their traditional ties of friendship, to extend and intensify their economic and technical relations and to encourage investments on the basis of equality and to their mutual benefit

Have agreed as follows:

Article I. 1. The Contracting Parties undertake to promote their cooperation in the economic and technical fields.

2. The Contracting Parties will cooperate to facilitate the participation of nationals of either Contracting Party in the establishment of productive and commercial activities and the provision of services in the other State.

3. With regard to the technical cooperation between the two countries the provisions of the Agreement concerning technical co-operation between the Government of the Kingdom of the Netherlands and the Government of the United Republic of Tanzania signed at The Hague on 27th April 1965² shall be applicable.

Article II. To further the achievement of the aims of the present Agreement, each Contracting Party is prepared, within the limits of its legislation, to authorise their mutual nationals at their request to deliver capital goods to and carry out public works for governmental and private enterprises in the other State against payment by instalments.

Article III. 1. The Contracting Parties shall facilitate the intensification of commercial relations between their respective countries to the highest possible extent.

2. They shall, within the framework of and subject to their national legislation, further the cooperation between the companies, associations, foundations and other organisations of any kind or subsidiary bodies thereof, which are connected with their economic life, and all their nationals engaged in economic activities, in order to develop their mutual resources.

Article IV. Each Contracting Party shall accord in its territory to nationals of the other Contracting Party engaged in any economic activity, a treatment not less favourable than that accorded to its own nationals with respect to the payment of taxes, fees or charges pertaining to such activity and to the enjoyment of fiscal deductions and exemptions.

¹ Came into force on 28 July 1972 by the exchange of the instruments of ratification, which took place at Dar es Salaam, in accordance with article XVII. As regards the Netherlands, the Agreement, in accordance with its article XVI, applies to the Kingdom in Europe, Surinam and the Netherlands Antilles.

² United Nations, *Treaty Series*, vol. 594, p. 123.

Article V. Nationals of either Contracting Party shall, as regards the protection of industrial property, enjoy in the territory of the other Contracting Party a protection not less favourable than enjoyed by the latter Contracting Party's nationals, without prejudice to the rights already provided by international conventions in the field of industrial property.

Article VI. Either Contracting Party undertakes with regard to the other Contracting Party to facilitate, to the extent permitted by its legislation:

- (a) the holding in its territory of economic and commercial exhibitions and displays;
- (b) the importation into its territory of professional equipment and of material and equipment intended for technical work on behalf of governmental bodies or private enterprises and the re-exportation thereof.

Article VII. 1. Each Contracting Party shall ensure fair and equitable treatment to the investments, goods, rights and interests of nationals of the other Contracting Party and shall not impair the management, maintenance, use, enjoyment or disposal thereof by those nationals, by unjustified or discriminatory measures.

2. More particularly, each Contracting Party shall accord to such investments, goods, rights and interests the same security and protection as it accords either to those of its own nationals or to those of third States, whichever is more favourable to the investor.

Article VIII. 1. The Contracting Parties recognise the principle of freedom of transfer of payments for current transactions and accordingly agree not to restrict such payments except to the extent that such restriction is permitted under the Articles of Agreement of the International Monetary Fund.¹

2. For the purpose of this article "payment of current transactions" has the meaning attached to it in article XIX (i) of the Articles of Agreement of the International Monetary Fund.

3. The Contracting Parties further agree to permit the transfer of the proceeds of the total or partial liquidation of any investment by the nationals of the other Contracting Party to which this Agreement applies.

Article IX. Neither Contracting Party shall take any measures depriving, directly or indirectly, nationals of the other Contracting Party of their investments, goods, rights or interests unless the following conditions are complied with:

- (a) the measures are taken in the public interest and under due process of law;
- (b) the measures are not discriminatory or contrary to any undertaking which the former Contracting Party may have given;
- (c) the measures are accompanied by provisions for the payment of just compensation. Such compensation shall represent the genuine value of the investments, goods, rights or interests affected, shall be paid without undue delay and shall be transferable to the extent necessary to make it effective for the nationals entitled thereto.

Article X. The Contracting Party in the territory of which an investment approved by it has been made, in respect of which investment the other Contracting Party or a national thereof has granted any financial security against

¹ United Nations, *Treaty Series*, vol. 2, p. 39.

non-commercial risks, recognises the subrogation of the grantor of that security into the rights of the investor as to damages if payment has been made under that security and to the extent of that payment.

Article XI. The present Agreement shall apply

- (a) to any investment made in the territory of the Kingdom of the Netherlands by a national of the United Republic of Tanzania;
- (b) to any investment made in the territory of the United Republic of Tanzania by a national of the Kingdom of the Netherlands, provided that the investment has been made in an enterprise approved by the Minister for Finance of Tanzania under section 3 of the Foreign Investments Act, 1963;
- (c) to goods, rights and interests acquired or arising out of any investment referred to in paragraphs (a) and (b) above.

Article XII. 1. The Contracting Parties agree to establish a mixed commission, composed of representatives appointed by them.

2. The mixed commission shall meet at the request of one of the Contracting Parties, to discuss any matters pertaining to the implementation of the present Agreement and to consider means of promoting their economic cooperation.

3. The mixed commission shall therefore keep under review the development of the economic relations between the two countries, both in bilateral and multilateral contexts. It shall moreover make recommendations to the respective Governments in cases where the objectives of this Agreement might be furthered and a fuller measure of economic cooperation might be obtained.

Article XIII. For the purposes of the present Agreement:

(a) The term "nationals" includes legal persons established according to the law of a Contracting Party in the territory of that Contracting Party;

(b) The term "legal person" includes a legal person established according to the law of one Contracting Party, in the territory of that Contracting Party in respect of which, because of its being controlled by a national of the other Contracting Party, it has been agreed that it should be treated, for the purposes of the present Agreement, as a national of the latter Contracting Party.

Article XIV. Where any matter is governed by both the present Agreement and another international agreement binding on the Contracting Parties, nothing in this Agreement shall prevent a national of the one Contracting Party from benefiting by the provisions most favourable to him.

Article XV. 1. Any dispute between the Contracting Parties concerning the interpretation or application of the present Agreement which is not settled in any other way, shall be submitted, at the request of any party to the dispute, to an arbitral tribunal composed of three members. Each party shall appoint one arbitrator and the two arbitrators thus appointed shall together appoint a third arbitrator who is not a national of either party.

2. If one of the parties fails to appoint its arbitrator and has not proceeded to do so within two months after an invitation from the other party to make such appointment, the arbitrator shall be appointed, at the request of the latter party, by the President of the International Court of Justice.

3. If the two arbitrators are unable to reach agreement, in the two months following their appointment, on the choice of the third arbitrator, the latter shall be appointed, at the request of either party, by the President of the International Court of Justice.

4. If, in the cases provided for in the second and third paragraph of this article, the President of the International Court of Justice is prevented from discharging the said function or is a national of either party, the Vice-President shall make the necessary appointments. If the Vice-President is prevented from discharging the said function or is a national of either party, the oldest member of the Court who is not a national of either party shall make the necessary appointments.

5. The tribunal shall base its decision on the provisions of the present Agreement in conformity with the principles of law. Before the tribunal gives its decision, it may at any stage of the proceedings propose to the parties that the dispute be settled amicably. The foregoing provisions shall not prejudice the power of the arbitral tribunal to decide the dispute *ex aequo et bono* if the parties so agree.

6. Unless the parties decide otherwise, the tribunal shall determine its own procedure.

7. The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on the parties to the dispute.

Article XVI. As regards the Kingdom of the Netherlands, the present Agreement shall apply to the territory of the Kingdom in Europe, to Surinam and to the Netherlands Antilles, unless the instrument of ratification of the Kingdom of the Netherlands provides otherwise.

Article XVII. 1. The present Agreement shall be ratified and the instruments of ratification shall be exchanged as soon as possible at Dar es Salaam.

2. The present Agreement shall enter into force on the date of the exchange of the instruments of ratification and shall remain in force for a period of five years. Unless notice of termination has been given by either Contracting Party at least six months before the date of expiry of its validity, the present Agreement shall be extended tacitly for another period of five years, and so on, each Contracting Party reserving the right to terminate the Agreement upon notice of at least six months before the date of expiry of the current period of validity.

3. Subject to the periods mentioned in paragraph 2 of this article, the Government of the Kingdom of the Netherlands shall be entitled to terminate the application of the present Agreement separately in respect of Surinam or the Netherlands Antilles.

4. Termination of the present Agreement shall not affect the validity of contracts concluded, or the validity of financial securities given, within the framework of the present Agreement prior to the date of termination.

IN WITNESS WHEREOF, the undersigned representatives, duly authorised thereto, have signed the present Agreement.

DONE at Dar es Salaam, this fourteenth day of April 1970, in duplicate, in the English language.

For the Government of the Kingdom of the Netherlands :
BRINK

For the Government of the United Republic of Tanzania :
JAMAL