

No. 13131

NETHERLANDS
and
KENYA

Agreement on co-operation in a soil survey and land use planning programme in Kenya. Signed at Nairobi on 7 November 1972

Authentic text: English.

Registered by the Netherlands on 28 February 1974.

PAYS-BAS
et
KENYA

Accord de coopération en vue d'un programme d'évaluation des terres et de planification de leur utilisation au Kenya. Signé à Nairobi le 7 novembre 1972

Texte authentique : anglais.

Enregistré par les Pays-Bas le 28 février 1974.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE REPUBLIC OF KENYA ON CO-OPERATION IN A SOIL SURVEY AND LAND USE PLANNING PROGRAMME IN KENYA

The Government of the Kingdom of the Netherlands and the Government of the Republic of Kenya

Desiring to strengthen the ties of friendship existing between their nations and to promote good relations between their countries in general;

Recognizing the importance of the knowledge of the characteristics of Kenya soils and the need for proper land use planning as means for the promotion of agricultural production in Kenya;

Have agreed as follows:

Article I. OBJECT OF CO-OPERATION

1. The two Governments shall jointly establish and operate a programme of soil surveying and land classification in Kenya, herein after to be called "the Project".

2. The purpose of the Project is to establish and organise a Kenya Programme of Soil Survey for Land Use Planning in which Kenyan counterpart staff will be trained in soil survey for rural land use planning.

3. The purpose of the Project will be pursued by carrying-out soil surveys, related soil management studies and subsequent evaluation of soil and land resources for the planning of rural land use.

4. The programme will be implemented under the responsibility of the Ministry of Agriculture of the Republic of Kenya.

Article II. SPECIFICATION OF THE CONTRIBUTION OF EITHER GOVERNMENT

1. The Government of the Netherlands undertakes to contribute to the Project an amount not exceeding D.Fl. 4.450.000, which amount shall cover all the expenses to be incurred in respect of the Netherlands contribution.

The Netherlands contribution shall mainly be used for:

- a. six Netherlands experts to work in Kenya for the duration of the Project to a total of 326 man-months;
- b. consultancy services by short visits of visiting Netherlands consultants to a total of 30 man-months;
- c. fellowships to be made available for Kenyan subjects for studies in the Netherlands connected with the Project to a total of 120 man-months;
- d. equipment including vehicles to an amount not exceeding D.Fl. 850.000,-; including all costs to be made in connection with overseas transport thereof to the most suitable port of arrival in Kenya;

¹ Came into force on 5 September 1973, the date on which both Governments informed each other in writing that the procedures constitutionally required in their respective countries had been complied with, with retroactive effect from 1 January 1972, in accordance with article IX (1).

- e. special research to be carried out in the Netherlands to an amount not exceeding D.Fl. 150.000,-;
- f. aerial photography to an amount not exceeding D.Fl. 200.000,-.

2. The Government of Kenya undertakes to facilitate the Netherlands activities under the Project in general and shall contribute to it:

- a. by making available land and buildings, including adequate laboratories, offices and storage space;
- b. by supplying Kenyan counterparts to the Netherlands experts as well as supporting staff including administrative personnel;
- c. by assuming responsibility for all charges to be made for the clearing, inland-transportation, storage, insurance etc. of the equipment and the vehicles provided by the Netherlands Government in connection with the Project;
- d. by bearing the recurrent costs of the Project in general and in particular:
 - the support of the Soil Survey Unit of the National Agricultural Laboratories of the Ministry of Agriculture, including labour, stationery, laboratory and office supplies, maintenance, repair and replacement of equipment, airphotos and mosaics, printing of maps and reports, air reconnaissance flights;
 - the cost of running and maintenance of the vehicles provided by the Netherlands;
 - the cost of suitable housing for the Netherlands experts and their families;
 - 50% of the total expense for board and lodging in hotels for the Netherlands resident experts prior to their movement into permanent accommodation as well as for the visiting experts;
 - the cost of travelling within Kenya for all Netherlands experts;
 - the analyses of a maximum of 3000 soil samples per year by the Chemistry Section of the National Agricultural Laboratories with the assistance of two technical laboratory assistants of the Soil Survey Unit.

Article III. KENYAN FACILITIES ON BEHALF OF THE NETHERLANDS PERSONNEL

1. The Government of Kenya shall:

- a. exempt the Netherlands personnel under the terms of this Agreement from the payment of income and other direct taxes on salaries, allowances and emoluments received from the Netherlands Government;
- b. exempt the Netherlands personnel from paying import and customs duties on new or used household effects and personal belongings, as well as professional equipment, imported into Kenya within three months of their arrival or that of their dependants, provided such goods are re-exported from Kenya at the time of departure or within such period as may be agreed upon by the Government of Kenya;
- c. make provision for duty-free importation or purchase from bond of one motor-vehicle by the Netherlands personnel within three months of first arrival in Kenya provided that such a vehicle if sold to a person not likewise privileged, shall be subject to payment of an appropriate import duty based on the estimated value of the vehicle at the time of its being sold;
- d. make provision for the issue of entry-visas and work permits, free of charge, to the Netherlands personnel, employed or to be employed by the Netherlands Government to serve the Project;

- e. exempt the Netherlands personnel or their dependants from national service obligations;
- f. grant the Netherlands personnel as far as their Netherlands salaries, allowances and emoluments are concerned the privileges in respect of exchange facilities under the most favourable conditions, i.e. external accounts;
- g offer the Netherlands personnel and their families in Kenya repatriation facilities in time of international crises.

2. a. The Government of the Republic of Kenya shall indemnify and hold harmless the Government of the Kingdom of the Netherlands and the Netherlands experts, advisers, agents or employees against any extracontractual civil liability arising from any act or omission on the part of one or more of the individuals mentioned during the operations governed by or undertaken in virtue of this Agreement which has caused the death or physical injury of a third party or damage to the property of a third party and shall abstain, for its part, from making any claim or instituting any action for extracontractual civil liability unless such liability derives from wilful misconduct or from gross negligence on the part of one or more of the individuals mentioned;

b. in the event the Government of Kenya holds harmless the Government of the Kingdom of the Netherlands or one or more of the individuals mentioned against any claim or action for extracontractual civil liability in accordance with paragraph 2a of this article, the Government of the Republic of Kenya shall be entitled to exercise all rights to which the Netherlands Government or such individuals are entitled;

c. should the Government of the Republic of Kenya so request, the Government of the Kingdom of the Netherlands shall provide the competent authorities of the Republic of Kenya with the administrative or judicial assistance needed for a satisfactory settlement of such problems as may arise in connection with the application of paragraphs 2a and 2b of this article.

Article IV. KENYAN FACILITIES ON BEHALF OF THE NETHERLANDS EQUIPMENT

The Government of Kenya shall exempt from all import- and export duties and other official charges the equipment (inclusive motor vehicles) and other supplies provided by the Netherlands Government in connection with the implementation of the Project.

Article V. STATUS OF THE NETHERLANDS PERSONNEL

1. The Netherlands Authorities shall appoint a team-leader who shall be responsible to the Netherlands Authorities for the Netherlands assistance to be rendered for the Project and for reporting thereof to these authorities.

2. The team-leader shall act in close consultation with the Government of Kenya or with the authorities designated by the Government in matters concerning the technical activities of the Netherlands personnel, and shall respect the operational instructions given by that Government or such authorities as may be pertinent in view of the nature of his duties and of the technical assistance to be given.

3. The Government of Kenya shall not request the Netherlands personnel to take part in any activities other than these described in the present Agreement or in the Schedule of Operations referred to in article VIII.

4. The Government of Kenya shall provide the Netherlands personnel with any information that the latter may reasonably consider necessary for the efficient execution of operations in the Project, subject to the security regulations.

5. The Government of Kenya may request the Netherlands Government to recall one or more of the Netherlands personnel if the professional or personal conduct of the person or the persons concerned justifies such a measure. However, the Government of Kenya shall not have recourse to such an expedient until it has consulted the Netherlands Authorities.

Article VI. STATUS OF THE NETHERLANDS EQUIPMENT AND SUPPLIES

All equipment and supplies contributed by the Netherlands Government to serve the purpose of the Project shall remain the property of the Netherlands Government for the duration of the Netherlands assistance to the Project. Upon the termination of the Netherlands assistance to the Project, the equipment and supplies contributed by the Netherlands Government will become property of the Kenya Government to serve the purpose of the Project or any other purpose agreed upon by the two Governments.

Article VII. THE COMPETENT AND EXECUTIVE AUTHORITIES

1. The responsibility for all activities in connection with the Netherlands contribution to the Project shall lie with the competent Netherlands Authority, which is the Netherlands Minister without Portfolio, in charge of Development Co-operation.

The responsibility for all activities in connection with the Kenyan contribution to the Project shall be with the competent Kenyan Authority, which is the Minister for Agriculture of the Republic of Kenya.

2. Each of the Competent Authorities is entitled to delegate under its own responsibility, partly or entirely, its duties in connection with the Project to other authorities or organizations. In doing so the Competent Authorities shall inform each other of such delegations and to what extent delegations are made.

3. The responsibility for the implementation of the Netherlands contribution is delegated by the Competent Netherlands Authority to the International Technical Assistance Department of the Ministry of Foreign Affairs of the Kingdom of the Netherlands, acting as the Netherlands Executive Authority.

The responsibility for the implementation of the Kenyan contribution is delegated by the Competent Kenyan Authority to the Chief Research Officer of the Ministry of Agriculture acting as the Kenyan Executive Authority.

Article VIII. SCHEDULE OF OPERATIONS

The Competent Authorities of both Governments shall establish in mutual understanding a "Schedule of Operations" giving all details of the implementation of the provisions of the present Agreement, mentioned in article I and article II, including an organization chart, a time schedule and a budget.

Article IX. DURATION

1. This Agreement shall enter into force, with retroactive effect as from the 1st January, 1972, on the date on which both Governments have informed each other in writing that the procedures constitutionally required therefore in their respective countries have been complied with and shall be effective for an initial period of five years.

This Agreement shall be considered to be extended tacitly by further periods of one year subsequently, unless either of the Governments has notified the other one, at least six months before the expiry of the current period, of its intention to terminate the Agreement.

2. Notwithstanding the provisions of the foregoing paragraph this Agreement may at any time be terminated by mutual agreement between the Governments.

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

DONE at Nairobi, on Tuesday, 7th November, 1972 in two originals.

For the Government
of the Kingdom of the Netherlands:

[Signed]
J. POLDERMAN
Ambassador

For the Government
of the Republic of Kenya:

[Signed]
J. G. KIBE
Permanent Secretary
Ministry of Agriculture