

No. 20721

**NETHERLANDS
and
KENYA**

**Agreement on technical co-operation. Signed at Nairobi on
29 April 1980**

Authentic text: English.

Registered by the Netherlands on 30 January 1982.

**PAYS-BAS
et
KENYA**

**Accord de coopération technique. Signé à Nairobi le 29 avril
1980**

Texte authentique : anglais.

Enregistré par les Pays-Bas le 30 janvier 1982.

AGREEMENT¹ ON TECHNICAL COOPERATION BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF KENYA

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

Reaffirming the friendly relations existing between the two States and their peoples;

Desiring to promote technical cooperation, and to create for that purpose the necessary legal and administrative framework;

Have agreed as follows:

Article I. 1. The aim of this Agreement shall be to promote technical cooperation and to create to that effect the legal and administrative framework for technical cooperation projects upon which the competent administrative authorities of the two Parties may decide for the purpose of implementing this Agreement.

2. A decision to cooperate as referred to in paragraph 1 above, the contributions to that project and the manner in which the project is to be implemented shall in each case be laid down in an arrangement to be established by the two competent administrative authorities.

3. The competent authorities in respect of the foregoing paragraph will be:

—For the Government of the Kingdom of the Netherlands:

The Minister for Development Cooperation, c/o Royal Netherlands Embassy, Nairobi

—For the Government of the Republic of Kenya:

The Office of the Vice-President and the Ministry of Finance, Nairobi.

Article II. In connection with a project, the Government of the Republic of Kenya shall:

a. Exempt the Netherlands personnel from all taxes and other fiscal charges in respect of all remunerations paid to them by the Netherlands Government;

b. Exempt the Netherlands personnel from import duties and other fiscal charges on new or used household and personal effects, imported into Kenya within three months of the experts' arrival—except in special circumstances when that period may be extended—, 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 the Republic of Kenya;

c. Exempt the Netherlands personnel from import duties and other fiscal charges on professional equipment imported into Kenya during the whole period of their assignment;

d. Make provisions for duty-free importation or purchase from bond of one motor-vehicle by the Netherlands personnel within three months of first arrival

¹ Came into force on 15 April 1981, the date on which the two Governments notified each other, in writing, of the completion of their constitutional procedures, in accordance with article VIII (1).

in Kenya, except in special circumstances when that period might be extended or renewed, provided that such 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;

In case a motor-vehicle is damaged beyond economical repair, provisions will be made on a case by case basis, similar to those ruling the importation/purchase of the original vehicle;

e. Grant the Netherlands personnel immunity from legal action in respect of any words spoken or written and in respect of any acts performed by that personnel in their official capacity;

f. Exempt the Netherlands personnel or their dependants from national service obligations;

g. Offer the Netherlands personnel and their families in Kenya repatriation facilities in time of national or international crises as are provided for diplomatic personnel;

h. Make provisions for the issue of entry-visas and workpermits, free of charge, to the Netherlands personnel, employed or to be employed by the Netherlands Government to serve a project; an expert who has been formally accepted by the Kenya Government will be provided with a visa either before his departure from the Netherlands or on his arrival in Kenya;

i. Upon acceptance by the Kenya Government, the Netherlands experts will be exempted from registration, examination and other such requirements relative to their respective professional capacity;

j. Provide the Netherlands personnel with identity documents to assure them of the full assistance of the appropriate authorities of Kenya in the performance of their duties;

k. Without prejudice to the foreign exchange regulations prevailing on any point at any time in Kenya, impose no currency or foreign exchange restriction on funds introduced into Kenya from external sources by the Netherlands personnel and their families for their personal use;

External accounts opened in Kenya, by the Netherlands personnel and their families, shall remain at their exclusive disposal, and balances of such accounts shall be freely transferable, provided that such accounts have been fed exclusively from external sources;

Otherwise the account shall be subject to the usual exchange control provisions;

l. Provide medical services and facilities to the same extent as are provided for Kenyan officers;

m. Provide at its expense adequate living accommodation, to the standard provided for Kenya Government officers equivalent or similar status, for the Netherlands personnel as well as their families within three months after their arrival, and bear the costs of upkeep and maintenance of such accommodation, provided that if the Netherlands personnel is accommodated in an appropriate hotel the Government's obligation would be discharged by refunding 50% of the cost of board and lodging until the agreed permanent accommodation can be occupied; in case no suitable living accommodation can be provided the

Kenya Government will pay a monthly allowance to the expert, which allowance will be based on the Kenya Government regulations for housing Technical Assistance Personnel;

n. Bear the costs of, and pay daily allowance during official trips in Kenya undertaken by the Netherlands personnel in connection with their assignment at the rates payable to Kenya Government officers of equivalent or similar status.

Article III. 1. The Government of Kenya will indemnify the Netherlands Government and/or the Netherlands personnel serving in Kenya in accordance with this Agreement, and hold them harmless against any liability, suits, actions, demands, damages, costs or fees on account of death, injury to persons and property, or any other losses resulting from or connected with any act or omission performed or made by the Netherlands personnel in the course of their duties.

2. The provisions of paragraph 1 of this Article do not apply to a civil action against Netherlands personnel for damages resulting from an accident caused by a motor-vehicle not provided by the Government of Kenya or by the Government of the Netherlands and being used by them at a time when they could have used a motor-vehicle provided by either Government, unless the Government of Kenya has specifically allowed the use of a non-official vehicle.

3. In the event of the Kenya Government meeting any claim on behalf of the Netherlands Government or the Netherlands personnel in accordance with paragraphs 1 and 2 of this Article, the Kenya Government will be entitled to exercise and enforce the benefit of any defence or of any right of set-off, counter-claim, indemnity, contribution or guarantee to which the Netherlands Government or the Netherlands personnel becomes entitled.

4. If the Government of the Republic of Kenya so requests, the Government of the Kingdom of the Netherlands shall provide the competent authorities of the Republic of Kenya with the administrative or legal assistance required to achieve the satisfactory solution of any problems that may arise in connection with the application of the preceding paragraphs of this Article.

Article IV. 1. The Government of Kenya, after consulting with the Netherlands Government, will have the right to request the recall of any Netherlands personnel whose work or conduct is unsatisfactory;

The Netherlands Government, after similar consultations with the Kenya Government, will have the right to recall any Netherlands personnel at any time;

In case of recall, the Netherlands Government will make every effort to obtain an adequate replacement for the recalled Netherlands personnel if the Government of Kenya so request.

2. All Netherlands personnel will carry out their assignment to be agreed upon by the respective competent authorities. As far as the daily operations of a project are concerned they will act in close consultation with the Kenyan authorities responsible for the execution of the project, and they shall respect the operational instructions given by those authorities.

Communications between the Netherlands personnel and the competent Netherlands authorities shall be dealt with in the respective project arrangements.

Article V. 1. The provisions in this Agreement concerning Netherlands personnel shall apply equally to persons employed by the Netherlands Government and to persons employed by business enterprises with which the Netherlands Government has concluded an Agreement, for the execution of a project on which both competent authorities have decided to cooperate.

2. The Netherlands personnel made available may perform operational or advisory duties.

Article VI. A. The provisions of Articles II, III and IV, 1, of this Agreement are applicable to the topping-up experts made available by the Netherlands. However, those experts would be required to pay local income tax on emoluments paid to them by the Government of the Republic of Kenya, and shall not be entitled to the privilege under article II, *d*.

2. The experts mentioned under paragraph 1 of this Article shall be under the exclusive direction of the relevant Kenyan authorities. The experts will have to comply with such orders and regulations as are in force in Kenya from time to time, provided such orders and regulations do not conflict with any provision of this Agreement or any other arrangement between the two Contracting Parties applicable to the experts concerned.

Article VII. The Government of the Republic of Kenya shall exempt from all import and export duties and other official charges the equipment (including motor-vehicles) and other supplies provided by the Netherlands Government in connection with a project.

Article VIII. 1. This Agreement shall enter into force on the date on which the two Governments have given each other written notification that the procedures constitutionally required therefore in their respective countries have been complied with.

2. This Agreement shall remain in force for an initial period of two years. If neither Government declares its intention to terminate the Agreement three months before it expires, the Agreement shall each time be tacitly renewed for a further period of one year.

3. In respect of the projects started before the date of termination of this Agreement the foregoing articles shall continue to be effective until the project has been terminated.

4. This Agreement shall automatically terminate when a general multi-lateral agreement on technical cooperation, involving both Governments, comes into force.

5. With respect to the Kingdom of the Netherlands this Agreement shall apply to the European part of the Kingdom only.

DONE at Nairobi, this 29th April 1980 in duplicate in the English language.

For the Government
of the Kingdom of the Netherlands:
R. J. VAN SCHAİK

For the Government
of the Republic of Kenya:
N. NG'ANG'A