

**No. 24969**

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**CANADA  
and  
KENYA**

**Agreement for the training in Canada of personnel of the  
armed forces of the Republic of Kenya. Signed at  
Nairobi on 23 November 1983**

*Authentic texts: English and French.*

*Registered by Canada on 16 July 1987.*

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**CANADA  
et  
KENYA**

**Accord concernant la formation au Canada de personnel  
des forces armées de la République du Kenya. Signé à  
Nairobi le 23 novembre 1983**

*Textes authentiques : anglais et français.*

*Enregistré par le Canada le 16 juillet 1987.*

AGREEMENT<sup>1</sup> BETWEEN THE GOVERNMENT OF CANADA AND THE  
GOVERNMENT OF THE REPUBLIC OF KENYA FOR THE TRAINING  
IN CANADA OF PERSONNEL OF THE ARMED FORCES OF THE RE-  
PUBLIC OF KENYA

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The Government of Canada and the Government of the Republic of Kenya hereinafter referred to as Canada and Kenya respectively,

Considering that Kenya has requested Canada to provide training in Canada for personnel of the armed forces of Kenya

Have agreed as follows:

*Article 1. DEFINITIONS*

In this Agreement

(a) "Trainee" means a member of the armed forces of Kenya who has been authorized by his government to undergo training in Canada with the Canadian Forces and who has been accepted by Canada for training;

(b) "Training" means the military training prescribed by the Chief of the Defence Staff of the Canadian Forces.

*Article 2. TRAINING AND COSTS*

Subject to terms and conditions of this Agreement, Canada shall provide training in Canada for trainees in such numbers as may from time to time be agreed upon by the appropriate authorities of Kenya and Canada.

*Article 3*

Unless other arrangements are made for particular courses of training, costs shall be borne as follows:

(a) Canada shall bear the cost of:

- (i) The allowances mentioned in sub-paragraphs (b)(iii) and (iv) of article 4,
- (ii) Tuition, clothing and equipment required for training, and all other training costs,
- (iii) Rations and quarters,
- (iv) Duty travel in connection with the training, and
- (v) Administration, including routine medical and dental care.

(b) Kenya shall bear the cost of:

- (i) The pay and allowances mentioned in sub-paragraph (a) of article 4,
- (ii) The Maintenance Allowance provided for in sub-paragraph (b)(i) of article 4,
- (iii) The Clothing Allowance provided for in sub-paragraph (b)(ii) of article 4,

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<sup>1</sup>Came into force 23 November 1983 by signature, in accordance with article 21.

- (iv) Return commercial transportation between Kenya and Canada, including all in transit costs,
- (v) Major medical care relating to serious injury and illness and major dental care, and
- (vi) *Ex-gratia* payments made under article 13.

#### Article 4. PAY AND ALLOWANCES

Trainees during their period of training in Canada shall be paid as follows:

(a) Kenya shall issue to the credit of each trainee in Kenya such pay and allowances, according to his rank, as he may be entitled to receive under Kenya regulations. The Kenya authorities will assume responsibilities for arrangements such as assignments or deductions from such pay and allowances, which may be required to meet such obligations as the support of a trainee's dependents in Kenya. A trainee may make private arrangements to draw upon any balance of such pay and allowances remaining to his credit to meet his personal expenses while in Canada, if and to the extent that such arrangements are permitted by the Kenya authorities. Pay and allowances issued by Kenya shall be exempt from Canadian taxation.

(b) Allowances shall be issued by Canada to each trainee, to meet his living and other expenses during his period of training, as follows:

- (i) A Maintenance Allowance at a rate appropriate to the trainee's rank.
- (ii) A Clothing Allowance if the trainee is in Canada for at least two months or during the winter season (October to April).
- (iii) A Ration Allowance, in an amount to be determined by the Minister of National Defence, at any time that rations are not provided to the trainee free of charge,
- (iv) A Leave Transportation Allowance when appropriate, having regard to the duration of the training, and at the rates applicable to members of the Canadian Forces.

(c) The rate of the Maintenance Allowance and Clothing Allowance mentioned above will be determined in consultation with the Kenya authorities. Allowances issued by Canada will be exempt from Kenya taxation.

#### Article 5. MILITARY JURISDICTION

Trainees shall not, during the period of their training in Canada, be subject to the Code of Service Discipline of the Canadian Forces. The authorities of Kenya will, however, issue in advance to trainees appropriate written orders, a copy of which will be conveyed to the authorities of Canada, to ensure compliance by the trainees with orders and instructions issued to them by authorities of the Canadian Forces during the period of their training in Canada. If, in the opinion of the authorities of the Canadian Forces, a trainee fails to comply with said orders and instructions, his training may be terminated.

#### Article 6. PROHIBITED ACTIVITIES

A trainee shall not during the period of training in Canada:

- (a) Be required to participate in any form of combat operations either in or out of Canada or in aid of the civil power; or
- (b) Be required to perform any function, duty or act that is inconsistent with the purpose of this Agreement.

*Article 7. CANADIAN LAW*

Trainees will be amenable to the civil and criminal laws in force in Canada and to the jurisdiction of civil and criminal courts in Canada.

*Article 8*

Canada shall take measures to ensure the security and protection within Canada of the person and property of trainees, to the extent that it does for members of the Canadian Forces.

*Article 9*

Kenya shall take security measures to prevent the disclosure by a trainee, after the cessation of his training, to any other government or to any unauthorized person of classified Canadian information of which he may become cognizant in his capacity as a trainee.

*Article 10. CLAIMS*

Canada waives all claims against Kenya for losses of, or damage to, any property owned or used by Canada where such loss or damage is caused by a Trainee acting in the course of his official duties and where there is no evidence of neglect or malice on the part of the Trainee.

*Article 11*

Canada and Kenya waive all claims against each other for injury or death suffered by a trainee or a member of the Canadian Forces while either is engaged in the performance of his official duties. Where a claim is made against Canada by any person for the injury or death suffered by a trainee in the performance of his duties, Kenya shall indemnify Canada in respect of costs incurred and damages paid by Canada in dealing with such a claim.

*Article 12*

A claim against Kenya, or a trainee arising out of an act or omission of a trainee in the performance of his official duties, shall be assimilated to and be dealt with by Canada as if it were a claim arising out of the activities of a member of the Canadian Forces in the performance of his official duties in Canada. This article shall not apply to any claim arising in connection with the death or injury to a trainee.

*Article 13. "EX-GRATIA" PAYMENTS*

Claims against trainees arising out of acts or omissions in Canada not done in the performance of official duty may be dealt with in the following manner:

(a) Canadian authorities may investigate the incident giving rise to the claim and prepare a report on the case including an estimate of the amount of money which the Canadian authorities consider would represent reasonable compensation for the death, injury or property damage or loss suffered by the claimant.

(b) The report may be delivered to Kenya authorities who, upon receipt, shall decide without delay whether to offer an *ex-gratia* payment, and, if so, of what amount.

(c) Any offer of an *ex-gratia* payment or payment itself by the Kenya authorities may be sent to the claimant directly or through the Deputy Minister of the Department of National Defence.

(d) Nothing in this article affects the jurisdiction of courts in Canada to entertain an action against a trainee unless and until there has been payment in full satisfaction of the claim.

(e) Where the claim has been adjudicated by a court in Canada or Kenya and a judgment rendered in favour of the claimant, the Kenya authorities will consider whether to make an *ex-gratia* payment to satisfy the judgment, or to take such other steps as they may within the bounds of Kenya domestic legislation to seek compliance with the judgment.

#### Article 14. IMMIGRATION

On the conditions in the second paragraph of this article and subject to compliance with the formalities established by Canada relating to entry into, and departure from, Canada, of military trainees from foreign countries, trainees shall be exempt from passport and visa regulations on entering or leaving Canada.

The following documents only will be required in respect of trainees and they must be presented on demand:

- (a) Personal identity card issued by Kenya, and
- (b) Individual or collective movement order, in the English or French languages, issued by the appropriate authorities of Kenya.

#### Article 15

A trainee shall not by virtue of his presence in Canada as a trainee:

- (a) Acquire any right to remain in Canada after his training has been completed or otherwise terminated;
- (b) Acquire domicile in Canada.

#### Article 16. DECEASED TRAINEES AND THEIR ESTATES

Official representatives of Kenya shall have the right to take possession and make all arrangements in respect of the body of a trainee who dies in Canada and may dispose of the personal property of the estate after payment of debts of the deceased or the estate which were incurred in Canada and owed to persons ordinarily resident therein.

#### Article 17. TERMINATION AND TRAINING

Canada or Kenya may terminate the training of a trainee at any time and shall give to the other reasonable notification of an intention so to do.

#### Article 18

A trainee whose training is terminated for any reason whatsoever shall be repatriated with the least possible delay by Kenya.

#### Article 19. ADMINISTRATIVE ARRANGEMENTS

The appropriate military authorities of Kenya and Canada may establish mutually satisfactory procedures not inconsistent with the provisions contained herein, to carry out the intent of this Agreement and to give effect to its provisions.

*Article 20.* REVISION

Either Canada or Kenya may at any time request revision of any of the provisions of this Agreement.

*Article 21.* COMMENCEMENT AND TERMINATION

This Agreement shall enter into force upon signature and shall replace the Agreement signed at Nairobi on 29 April 1971.<sup>1</sup> It shall remain in force until terminated by one of the following methods:

- (a) By either Government after six months' written notice to that effect has been given to the other Government;
- (b) Without complying with sub-paragraph (a) of this article, by the withdrawal from Canada of all trainees by Kenya where such withdrawal is in the public interest of Kenya; or
- (c) Without complying with sub-paragraph (a) of this article by Canada without previous notification if Canada decides that such termination is in the public interest of Canada.

DRAWN at Nairobi this 23rd day of November 1983

DONE in duplicate, in the English and French language, each language version being equally authentic, at Nairobi this 23rd day of November, 1983.

For the Government of Canada:

His Excellency DAVID MILLER  
Canadian High Commissioner to Kenya

[Signed]

For the Government of Kenya:

Hon. JUSTUS OLE TIPIS  
Minister of State  
Office of the President

[Signed]

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<sup>1</sup> United Nations, *Treaty Series*, vol. 977, p. 219, and A-14183 of this volume.