

# TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

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JAARGANG 1972 Nr. 151

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A. TITEL

*Overeenkomst tussen het Koninkrijk der Nederlanden en de  
Republiek Kenya inzake samenwerking bij de uitvoering van  
een oriënterend onderzoek naar de mogelijkheden met  
betrekking tot de ontwikkeling van twee gebieden gelegen  
langs de rivier de Tana;  
Nairobi, 30 augustus 1972*

B. TEKST

**Agreement between the Government of the Kingdom of  
the Netherlands and the Government of the Republic of Kenya  
on cooperation in carrying out feasibility studies on two areas  
located at the Tana River**

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 development of irrigated  
agriculture in Kenya for improved land use as a 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 carry out two feasibility  
studies on the development possibilities of two areas at the Tana  
River, hereinafter to be called "the Studies".

2. The purpose of the Studies is to investigate the feasibility of the development of some 6,000 acres in the Masinga area and some 10,000 acres in the Bura area for irrigated agriculture, and to train Kenyan counterparts in carrying out such studies.

3. The purpose of the Studies will be pursued by studying the soils and land use aspects, agronomic and economic aspects, the irrigation and drainage aspects, and the civil engineering works to be required.

4. The programme of the Studies 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 Studies an amount limited to D.Fl. 525,000; this amount shall cover all the expenses to be made for the Netherlands contribution.

The Netherlands contribution shall mainly be used for:

- a. five Netherlands experts to work in Kenya for the duration of the Studies in Kenya to a total of 12 manmonths;
- b. consultancy services by short visits of Netherlands consultants to a total of 1 manmonth;
- c. costs to be made in connection with transport of the Netherlands experts to and from Kenya, and boarding and lodging costs of these experts in Kenya;
- d. 50 copies of a Final Report, to be drafted by the Netherlands experts after returning from Kenya to the Netherlands. This report will contain the findings of the experts and the results of their studies and their recommendations;
- e. costs to be made in connection with the drafting and editing of the Final Report.

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

- a. by making available and giving access to all data, aerial photographs, maps and other information in relation to the Studies;
- b. by supplying Kenyan counterparts to the Netherlands experts for training the Kenyan counterparts in carrying out parts of such Studies;
- c. by supplying four landrovers with drivers, to be used by the Netherlands experts and Kenyan personnel for all transport in relation to the Studies in Kenya and to bear all costs in the exploitation of these landrovers;

- d. by supplying adequate office accommodation for the duration of the Studies in Kenya;
- e. by supplying soil sampling and analysing services, permeability measurements, topographical surveys along main canals and at intake sites, and other services as required for the efficient execution of the Studies;
- f. by supplying camping equipment for the Netherlands experts and Kenyan personnel as required during their stay in the areas concerned and as required for the efficient execution of the Studies;
- g. by supplying the funds for the abovementioned contributions and contingencies which are estimated not to exceed K.£. 14.700.

### 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 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 Studies;
  - d. exempt the Netherlands personnel or their dependants from national service obligations;
  - e. 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;
  - f. 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, advisors, agents,

employees against any extra-contractual 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 extra-contractual 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 extra-contractual 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 and other supplies provided by the Netherlands Government in connection with the implementation of the Studies.

#### 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 Studies 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 those described in the present Agreement referred to in Article VII.

4. The Government of Kenya shall provide the Netherlands personnel with any information that the latter consider necessary for the efficient execution of operations in the Studies 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

##### *The Competent and Executive Authorities*

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

The responsibility for all activities in connection with the Kenyan contribution to the Studies 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 Studies 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 National Irrigation Board acting as the Kenyan Executive Authority.

#### Article VII

##### *Programme of Work*

The Competent Authorities of both Governments shall establish in mutual understanding a Programme of Work giving all necessary details of the implementation of the provisions of the present Agreement, mentioned in Article I and Article II, including a barchart of activities, a time schedule and a budget.

## Article VIII

*Duration*

This Agreement shall enter into force, with retroactive effect as from the first of June nineteen hundred and seventy two, on the date of its signature and shall be effective until the date upon which the Final Report mentioned in Article II, 1, d. of this Agreement shall be presented to the Government of Kenya or ultimately on <sup>1)</sup> "the first of June nineteen hundred and seventy three, whichever date will be earlier.

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

DONE at Nairobi, on Wednesday, August 30, 1972 in two originals.

For the Government of the Kingdom of the Netherlands:

(sd.) JACOBVITS DE SZEGED

A. P. R. Jacobovits de Szeged, Chargé d'Affaires a.i.

For the Government of the Republic of Kenya:

(sd.) J. G. KIBE

Accounting Officer

J. G. Kibe, Permanent Secretary, Ministry of Agriculture

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<sup>1)</sup> Lees in plaats van „or ultimately on” ten rechte: „or until”.

D. GOEDKEURING

De Overeenkomst behoeft ingevolge artikel 62, eerste lid, letter c, van de Grondwet niet de goedkeuring der Staten-Generaal.

G. INWERKINGTREDING

De bepalingen van de Overeenkomst zijn ingevolge artikel VIII op 30 augustus 1972 in werking getreden en wel met terugwerkende kracht vanaf 1 juni 1972. Zij blijven van kracht tot de datum waarop het in artikel II, eerste lid, letter d, bedoelde eindrapport aan de Regering van Kenya wordt aangeboden, of uiterlijk tot 1 juni 1973, naar gelang welk tijdstip eerder valt.

Wat het Koninkrijk der Nederlanden betreft, geldt de Overeenkomst alleen voor Nederland.

Uitgegeven de *elfde* december 1972.

*De Minister van Buitenlandse Zaken,*

W. K. N. SCHMELZER.