

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1993 Nr. 36

A. TITEL

*Overeenkomst inzake technische samenwerking tussen het Koninkrijk der Nederlanden en de Republiek Zimbabwe;
Harare, 20 januari 1993*

B. TEKST

Agreement on technical cooperation between the Kingdom of the Netherlands and the Republic of Zimbabwe

The Government of the Kingdom of the Netherlands and the Government of the Republic of Zimbabwe;

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 a project and the manner in which that project is to be implemented shall in each case be laid down in an administrative arrangement to be established by the two competent administrative authorities.

Article II

1. In connection with a project, the Government of Zimbabwe 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 paying import and customs duties and other fiscal charges, including VAT, on new or used household and personal effects, imported into Zimbabwe within six months of the experts' arrival, except in special circumstances when that period may be extended, provided such goods are re-exported from Zimbabwe at the time of departure or within such period as may be agreed upon by the Government of Zimbabwe; this re-exportation shall also be exempted from duties and other fiscal charges;

c) exempt the Netherlands personnel from paying import and customs duties and other fiscal charges, including VAT, on professional equipment to be used for technical cooperation projects and imported into Zimbabwe 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 staying for a longer period than one year within six months of first arrival in Zimbabwe, 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 sale; 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 and their dependants from national service obligations;

g) offer the Netherlands personnel and their families in Zimbabwe repatriation facilities in time of national or international crises;

h) make provisions for the issue of entry visas, free of charge, to the Netherlands personnel and their families, employed or to be employed by the Netherlands Government; an expert who has been formally accepted by the Government of Zimbabwe will be provided with a visa either before his departure from the Netherlands or on his arrival in Zimbabwe;

i) upon acceptance by the Government of Zimbabwe, 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 Zimbabwe in the performance of their duties;

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

2. The Government of Zimbabwe shall ensure that the Netherlands personnel as well as their families are accorded treatment of a manner no less favourable than that accorded to technical assistance personnel assigned to Zimbabwe by any other country or international organization.

Article III

1. The Government of Zimbabwe shall indemnify and hold harmless the Netherlands Government and the Netherlands personnel against any extra-contractual civil liability arising from any act or omission on the part of one or more of the said individuals during the operations governed by or undertaken in virtue of this Agreement causing the death of or physical injury to a third party or damage to the property of a third party, in so far as such liability is not covered by insurance, and shall abstain 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 said individuals.

2. In the event that the Government of Zimbabwe holds harmless the Government of the Netherlands or one or more of the said individuals against any claim or action for extra-contractual civil liability in accordance with paragraph 1 of this Article, the Government of Zimbabwe shall be entitled to exercise all rights to which the Government of the Netherlands or the individuals are entitled.

3. If the Government of Zimbabwe so requests, the Government of the Netherlands shall provide the competent authorities of Zimbabwe with the administrative or legal assistance needed for satisfactory solution of any problems that may arise in connection with the application of the paragraphs 1 and 2 of this Article.

Article IV

1. The Government of Zimbabwe, 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 Government of Zimbabwe, 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 Zimbabwe so requests.

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 authorities of Zimbabwe responsible for the execution of the project, and they shall respect the operational instructions given by those authorities. The Netherlands personnel shall respect the laws in force in Zimbabwe.

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 or other organizations 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

1. The provisions of Article II, III and IV, paragraph 1, of this Agreement are also 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 Zimbabwe.

2. The experts, mentioned under paragraph 1 of this Article, shall be under the exclusive direction of the relevant authorities of Zimbabwe. The experts will have to comply with such orders and regulations as are in force in Zimbabwe at any given 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 Zimbabwe shall exempt from all import and export duties and other official charges, including VAT, the equipment (including motor vehicles) and other supplies provided by the Netherlands Government in connection with a project.

Article VIII

The provisions of this Agreement shall apply equally to the Netherlands personnel already working in the field of technical cooperation projects in Zimbabwe before the date on which this Agreement becomes effective.

Article IX

1. This Agreement will be applied provisionally from the date of its signature and 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. With respect to the Kingdom of the Netherlands this Agreement shall apply to the European part of the Kingdom only.

DONE at Harare on January 20, 1993, in two originals in the English language, both texts equally authentic.

For the Government of the Kingdom of the Netherlands

(sd.) J. LEEFMANS

For the Government of the Republic of Zimbabwe

(sd.) L. MACHIROVI

D. PARLEMENT

De Overeenkomst behoeft ingevolge artikel 91 van de Grondwet de goedkeuring der Staten-Generaal, alvorens het Koninkrijk aan de Overeenkomst kan worden gebonden.

G. INWERKINGTREDING

De bepalingen van de Overeenkomst zullen ingevolge artikel IX, eerste lid, in werking treden op de datum waarop de twee Regeringen elkaar schriftelijk hebben medegedeeld dat aan de in hun onderscheiden landen daarvoor constitutioneel vereiste procedures is voldaan.

De Overeenkomst wordt ingevolge hetzelfde artikel en lid voorlopig toegepast vanaf 20 januari 1993.

Wat het Koninkrijk der Nederlanden betreft, zal de Overeenkomst ingevolge artikel IX, vierde lid, alleen voor Nederland gelden.

Uitgegeven de *drieëntwintigste* februari 1993.

De Minister van Buitenlandse Zaken,

P. H. KOOIJMANS