

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1993 Nr. 73

A. TITEL

*Overeenkomst tussen het Koninkrijk der Nederlanden en de Republiek
Namibië inzake technische samenwerking;
Windhoek, 17 juni/26 november 1992*

B. TEKST

**Agreement between the Kingdom of the Netherlands and the Republic of
Namibia on technical cooperation**

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

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 compe-
tent 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 project agreements to
be concluded by the competent authorities of the two Governments.

Article II

In connection with a project, the Government of the Republic of Namibia shall:

a) exempt the Netherlands personnel from all direct 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 Namibia within six months of the experts' arrival – except in special circumstances when that period may be extended – provided such goods are re-exported from Namibia at the time of departure or within such period as may be agreed upon by the Government of the Republic of Namibia and provided further that if such goods are sold to a person not enjoying similar privilege, import charges shall be payable;

c) exempt the Netherlands personnel from import duties and other fiscal charges on professional equipment to be used for technical cooperation projects and imported into Namibia 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 Namibia, 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; provided that in case a motor-vehicle is damaged beyond economical repair, provisions shall be made on 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 dependents from national service obligations;

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

h) make provisions 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; an expert who has been formally accepted by the Namibian Government will be provided with a visa either before his or her departure from the Netherlands or on his or her arrival in Namibia;

i) upon acceptance by the Namibian 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 Namibia in the performance of their duties;

k) without prejudice to the foreign exchange regulations prevailing on any point at any time in Namibia, impose no currency or foreign exchange restriction on funds introduced into Namibia from external sources by the Netherlands personnel and their families for their personal use; provided that external accounts opened in Namibia, by the Netherlands personnel and their families shall remain at their exclusive disposal, and balances of such accounts shall be freely transferable, and further provided that such accounts have been fed exclusively from external sources; otherwise the account shall be subject to the usual exchange control provisions;

l) ensure that the Netherlands personnel and their families are accorded treatment of a manner no less favourable than that accorded to technical assistance personnel assigned to the Republic of Namibia by any other country or international organization.

Article III

1. The Government of Namibia will indemnify the Netherlands Government and or the Netherlands personnel serving in Namibia 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; provided that the liability, claim, loss, damage does not result from gross negligence or international wrong-doing of the personnel.

2. In the event of the Namibian Government meeting any claim on behalf of the Netherlands Government or the Netherlands personnel in accordance with the paragraph 1 of this Article, the Namibian 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.

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

Article IV

1. The Government of Namibia, after consulting with the Netherlands Government shall 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 Namibian Government shall 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 Namibia so requests.

2. All Netherlands personnel shall 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 shall act in close consultation with the Namibian 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 arrangement.

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, and only to such extent as such personal or business enterprises are acting within the framework of this Agreement or any project agreed upon between both competent authorities.

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 the Republic of Namibia.

2. The experts, mentioned under paragraph 1 of this Article, shall be under the exclusive direction of the relevant Namibian authorities. The experts will have to comply with such orders and regulations as are in force in Namibia 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 Namibia shall exempt from all import and export duties and other public charges the equipment (including motor-vehicle) and other supplies provided by the Netherlands Government in connection with a project in the form of grants.

Article VIII

1. This Agreement shall 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 Windhoek on 17 June/26 November 1992, in duplicate in the English language.

(sd.) J. LEEFMANS

For the Government of the Kingdom of the Netherlands

(sd.) Z. NGAVIRUE

For the Government of the Republic of Namibia

D. PARLEMENT

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

G. INWERKINGTREDING

De bepalingen van de Overeenkomst zullen ingevolge artikel VIII, eerste lid, in werking treden op de datum waarop de beide Regeringen elkaar schriftelijk hebben medegedeeld dat de constitutioneel daarvoor vereiste procedures in hun onderscheiden landen zijn vervuld.

Ingevolge hetzelfde artikel en lid wordt de Overeenkomst voorlopig toegepast.

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

Uitgegeven de *derde* juni 1993.

De Minister van Buitenlandse Zaken,

P. H. KOOIJMANS