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TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1998 Nr. 46

A. TITEL

*Overeenkomst tussen het Koninkrijk der Nederlanden en de Republiek
Uganda inzake ontwikkelingssamenwerking;
Kampala, 20 januari 1998*

B. TEKST

**Agreement on development cooperation between the Kingdom of
The Netherlands and the Republic of Uganda**

The Kingdom of the Netherlands (hereinafter referred to as “the Sending State”) and the Republic of Uganda (hereinafter referred to as “the Receiving State”);

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

Having in mind that respect for democratic principles, general principles of international law as well as human rights are leading principles in the development cooperation relationship between the two countries;

Desirous to cooperate with the aim to support development processes through Projects and Programmes and to create, in addition to the efforts provided by the Receiving State, for that purpose the legal and administrative framework for the employment of Personnel and the importation of resources from the Sending State into the Receiving State;

Have agreed as follows:

Article I

Definitions

For the application of this Agreement:

1. “Personnel” means persons not having the nationality and not being residents of the Receiving State:

- employed by the Sending State; or
 - employed by companies or institutions with whom the Sending State or the Receiving State has concluded an agreement for the execution of Projects and Programmes; or
 - employed by the Receiving State as topping up experts; with regard to whom the Sending State has proposed and the Receiving State has accepted employment within Projects and Programmes.
2. “Dependants” means spouses of Personnel and members of their immediate family dependent on them and forming part of their household.
3. “Projects and Programmes” means development activities in the Receiving State with regard to which the Sending State finances, wholly or in part, out of the Netherlands Budget for Development Cooperation, elements including:
- employment of Personnel;
 - resources such as goods, commodities, machinery and equipment;
 - financial resources or immaterials rights.

Article II

Administrative procedures

1. The Sending State and the Receiving State shall inform each other in writing which executive authority represents that State for the implementation of Projects and Programmes. Both States shall immediately inform each other in writing of any changes regarding this representation.
2. The executive authorities are authorised to take all decisions and actions necessary for the correct and timely implementation of Projects and Programmes.
3. The executive authorities shall jointly administer Projects and Programmes executed under this Agreement.
4. Representatives of both States shall meet regularly to monitor the development cooperation under this Agreement.
5. The Sending State shall inform the Receiving State in writing which Personnel (and their qualifications) the Sending State proposes to employ in Projects and Programmes. The Receiving State shall inform the Sending State in writing whether or not it accepts the proposed Personnel.

Article II

Privileges

1. The Receiving State shall:
- a) exempt Personnel from all taxes and other fiscal charges in respect of all remunerations paid to them by the Sending State;

b) exempt Personnel and their Dependants from paying import and customs duties and other fiscal charges included value added tax on reasonable amounts of new or used household and personal effects, imported into the Receiving State within six months of their arrival – except in special circumstances when that period may be extended –, provided such goods are re-exported from the Receiving State at the time of departure or within such period as may be agreed upon by the Receiving State; this re-exportation shall also be exempted from duties and other fiscal charges;

c) exempt Personnel from paying import and customs duties and other fiscal charges included value added tax on professional equipment to be used for development cooperation activities and imported into the Receiving State during the whole period of their assignment;

d) make provisions for duty-free importation or purchase from bond of one motor-vehicle by each member of Personnel staying for a longer period than one year within six months of first arrival in the Receiving State, 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, for the importation/purchase similar to the provisions governing the procurement of the original vehicle;

In case of vehicles or other equipment beyond economical repair due to age or use, provisions will be made for its disposal without costs to the Sending State;

e) exempt Personnel and their Dependants from national service obligations;

f) provide assistance to Personnel and their Dependants in security clearance and other entry and exit controls, furnish entry and exit visas at any time and exempt Personnel and their Dependants from payment of fees and all other charges connected therewith; Personnel and their Dependants will be provided with a visa either before their departure from the Sending State or on arrival in the Receiving State and will be exempted from normal registration as non-citizens;

g) afford Personnel and their Dependants the same repatriation or evacuation facilities in times of national or international crises as provided for staff of diplomatic missions under the Vienna Convention on Diplomatic Relations;

h) exempt Personnel from registration, examination and other such requirements relative to their professional capacity;

i) provide Personnel with identity documents to assure them of the full assistance of the appropriate authorities of the Receiving State in the performance of their duties;

j) without prejudice to the foreign exchange regulations prevailing in the Receiving State, impose no currency or foreign exchange restriction

on funds introduced into the Receiving State from external sources by Personnel and their Dependants for personal use; external accounts opened in the Receiving State, by Personnel and their Dependants 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 Receiving State shall ensure that Personnel and their Dependants are accorded treatment not less favourable than that accorded to comparable development co-operation Personnel of any other country or international organization.

Article IV

Immunities

1. The Receiving State shall grant immunity to Personnel from legal action in respect of any act or omission or any words spoken or written in their official capacity.

2. The Receiving State shall indemnify and hold harmless the Sending State and Personnel against any extra-contractual civil liability arising from any act or omission on the part of the Sending State and Personnel 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.

3. In case the Receiving State holds harmless the Sending State or Personnel against a claim or action for extra-contractual civil liability in accordance with paragraph 2 of this Article, the Receiving State shall be entitled to exercise all rights to which the Sending State or Personnel are entitled.

4. If the Receiving State so requests, the Sending State shall provide the Receiving State with the administrative or legal assistance needed for satisfactory solution of any problem that may arise in connection with the application of the preceding paragraphs of this Article.

Artikel V

Performance of Personnel

1. The Receiving State, after consulting the Sending State, has the right to request the recall of Personnel if their conduct is deemed unsatisfactory.

The Sending State, after consulting the Receiving State, has the right to recall Personnel at any time.

In case of recall, the Sending State will make every effort to obtain adequate replacement for the recalled Personnel if the Receiving State so requests.

2. Personnel will carry out their assignment to be agreed upon by the Sending State and the Receiving State. As far as the daily operations of a Project or Programme are concerned, they will act in close consultation with the authorities responsible for the execution of the project, and they shall respect the operational instructions given by those authorities.

3. The Receiving State shall afford Personnel any assistance they may reasonably require in order to enable them to perform their duties.

4. Personnel shall respect the laws and regulations in force in the Receiving State.

Article VI

Arrest, detention

1. Notwithstanding the rights and duties of the Sending State and the Receiving State under international consular conventions, the Receiving State shall promptly notify the Sending State if Personnel or one of their Dependants is arrested, imprisoned, taken into pre-trial detention or otherwise held in custody. All messages to the Sending State from Personnel and their Dependances in case of arrest, imprisonment, pre-trial detention or custody, shall be forwarded to the Sending State, without delay, by the Receiving State.

2. Representatives of the Sending State shall be entitled to visit, speak to and correspond with Personnel and their Dependants, who have been arrested, imprisoned, taken into pre-trial detention or otherwise held in custody and shall be entitled to make arrangements for their legal representation.

Artikel VII

Projects and Programmes

1. The identification, preparation, appraisal and supervision of Projects and Programmes pursuant to this Agreement shall be carried out under the final responsibility of the Receiving State. The Receiving State shall hold harmless the Sending State for any responsibility or liability for such Projects and Programmes under the law of the Receiving State.

2. Representatives of the Sending State shall in consultation with the Receiving State be given the opportunity to acquaint themselves in situ with the progress of Projects and Programmes and to review Projects and Programmes.

3. The Receiving State shall, with regard to the resources mentioned in Article I, paragraph 3 and procured by the Sending State:

a) exempt these resources from all import and export duties and other official charges, including value added taxes;

b) ensure swift and safe reception, berthing, handling, clearing, forwarding as well as storing and onward transportation within the jurisdiction of the Receiving State;

c) take all appropriate measures and institute any proceedings that may be necessary with regard to claims for loss or damage, whether total or partial, of any consignment of the resources and notify the Sending State promptly thereafter;

d) facilitate the registration of motor vehicles brought into the Receiving State.

The Sending State will notify the Receiving State in due time of the venue of such resources.

4. All resources referred to in Article I, paragraph 3 and procured by the Sending State are designated for the Sending State's public service and remain property of the Sending State unless otherwise agreed. At the end of a Project or Programme the Sending State and the Receiving State shall, in consultation, decide on an alternative destination and/of transfer of property. However, goods, commodities, machinery and equipment brought into the Receiving State under loan arrangements or partial funding shall belong to the Receiving State.

Artikel VIII

Settlement of disputes

Differences which may arise relating to the interpretation, application and/or implementation of this Agreement, shall be settled by negotiations between the Sending State and the Receiving State.

If any dispute arises between the Sending State and the Receiving State as to the interpretation, application or performance of this Agreement, including its existence, validity or termination, either State may submit the dispute to final and binding arbitration in accordance with the Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between two States, as in effect on the date of submission of the dispute to the Court. The number of arbitrators shall be three.

The agreement to arbitrate constitutes a waiver of any right to sovereign immunity from execution to which the Sending State or the Receiving State might otherwise be entitled with respect to the enforcement of any award rendered by an arbitral tribunal constituted pursuant to this Agreement.

Article IX

Entry into force and termination

1. This Agreement shall be applied provisionally from the date of its signature and will enter into force on the first day of the second month following the date on which both States have notified each other in writing that their constitutional requirements have been complied with.

2. This Agreement shall remain in force until termination by either State on six months' notice in writing to the other State.

3. Agreements and/or Arrangements with regard to Projects and Programmes in force on the date of signature of this Agreement will continue to be applied until termination of that Agreement or Arrangement. In case Projects and Programmes continue after such termination this Agreement shall be applied.

4. With respect to the Kingdom of the Netherlands this Agreement shall apply to the territory in Europe only.

DONE at Kampala on the Tuesday 20 January 1998, in duplicate in the English language.

For the Kingdom of The Netherlands

(sd.) H. VAN MIERLO

Hans van Mierlo

Deputy Prime Minister and Minister of Foreign Affairs

For the Republic of Uganda

(sd.) E. KATEGAYA

Eriya Kategaya

First Deputy Prime Minister and Minister of Foreign Affairs

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.

De voorlopige toepassing van het Verdrag (zie rubriek G hieronder) is

in overeenstemming met artikel 15, vierde lid, van de Rijkswet goedkeuring en bekendmaking verdragen medegedeeld aan de Eerste en de Tweede Kamer der Staten-Generaal bij brieven van 5 februari 1998.

G. INWERKINGTREDING

De bepalingen van de Overeenkomst zullen ingevolge artikel IX, eerste lid, in werking treden op de eerste dag van de tweede maand volgende op de datum waarop de beiden Staten elkaar er schriftelijk van in kennis hebben gesteld dat aan de in hun onderscheiden landen daarvoor grondwettelijke vereisten is voldaan.

De Overeenkomst wordt ingevolge hetzelfde artikel en lid voorlopig toegepast vanaf 20 januari 1998.

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

In overeenstemming met artikel 19, tweede lid, van de Rijkswet goedkeuring en bekendmaking verdragen heeft de Minister van Buitenlandse Zaken bepaald dat de onderhavige Overeenkomst zal zijn bekendgemaakt op de dag na die der uitgifte van dit Tractatenblad.

Uitgegeven de *achttiende* februari 1998.

De Minister van Buitenlandse Zaken,

H. A. F. M. O. VAN MIERLO