

No. 8833

**NETHERLANDS
and
KENYA**

Agreement concerning the employment of Netherlands volunteers in Kenya. Signed at Nairobi, on 9 February 1967

Official text: English.

Registered by the Netherlands on 16 November 1967.

**PAYS-BAS
et
KENYA**

**Accord relatif à l'emploi de volontaires néerlandais au Kenya.
Signé à Nairobi, le 9 février 1967**

Texte officiel anglais.

Enregistré par les Pays-Bas le 16 novembre 1967.

No. 8833. AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE REPUBLIC OF KENYA CONCERNING THE EMPLOYMENT OF NETHERLANDS VOLUNTEERS IN KENYA. SIGNED AT NAIROBI, ON 9 FEBRUARY 1967

The Government of the Kingdom of the Netherlands and the Government of the Republic of Kenya in their desire to promote understanding and friendly relations between the peoples of the two countries by the exchange of knowledge and professional skills have agreed as follows :

Article 1

a) Within the limits imposed by the availability of manpower, financial, and material resources the Netherlands Government shall at the request of, and in agreement with, the Government of Kenya dispatch volunteers from the Organisation of Netherlands Volunteers to serve on specific development projects in Kenya selected for support.

b) Volunteers shall be made available on the conditions specific in this Agreement and in accordance with any special arrangements to be agreed upon as the need arises. Any contingency not provided for in this Agreement shall be the subject of a separate exchange of notes.

c) The Netherlands Government shall entrust the implementation of this Agreement to the Organisation of Netherlands Volunteers. The details of implementation shall in each case be the subject of arrangements between the Organisation of Netherlands Volunteers and the Agency or Agencies responsible in Kenya for the day to day administration of the projects upon which the volunteers are employed.

Article 2

a) The Government of Kenya shall afford the volunteers all the assistance they may require for the satisfactory performance of their duties.

b) During the period of their stay in Kenya volunteers shall be subject to the laws and regulations in force in Kenya.

c) Subject to prior consultation with and the agreement of the Government of Kenya, representatives of the Netherlands Government or of the Organisation

¹ Came into force on 30 September 1967, in accordance with article 10(a).

of Netherlands Volunteers may observe how work is progressing in connection with the tasks to which the volunteers have been assigned.

Article 3

a) Notwithstanding the provisions of paragraph (*a*) of Article 1 of this Agreement the Netherlands Government shall have the right to recall a volunteer after consultation with the appropriate authorities of the Government of Kenya. Such action should, however, wherever possible not impair the execution of the project to which the volunteer has been assigned.

b) The Government of Kenya shall have the right to request the Netherlands Government to recall a volunteer if his personal or professional conduct justifies such a measure. The Government of Kenya shall not, however, avail itself of this right before having lodged a complaint with the authorised representative of the Netherlands Government in Kenya, and having discussed measures by which the volunteer might be placed in an alternative appointment.

Article 4

The Netherlands Government shall :

a) Be responsible for the pre-assignment training of volunteers prior to their arrival in Kenya.

b) Meet the cost of social insurance, salaries, and passages from and to the Netherlands in respect of each volunteer.

c) Furnish the volunteers with such personal and professional equipment for each individually and for the team as a whole as is deemed necessary for the effective execution of the projects to which the volunteers are assigned. Agreement shall be reached beforehand between the two Governments in respect of the volume of these consignments and the manner in which they are to be delivered. The equipment in question shall remain the property of the Netherlands Government unless by mutual agreement its ownership is vested in the Government of Kenya.

Article 5

The Government of Kenya shall :

a) Exempt the volunteers from the payment of direct taxes and social security contributions in respect of any emoluments received by them from Netherlands sources for their services under the present Agreement.

b) Exempt from the payment of customs duties the new or used personal effects imported by the volunteers within three months of their first arrival in Kenya.

c) Exempt from all import and export duties and other public charges the funds, equipment, materials and supplies provided by the Netherlands Government in connection with the successful implementation of the projects to which volunteers have been assigned.

d) Permit the exchange of funds referred to under paragraphs (a) and (c) of this Article at the highest rate permitted under existing Kenyan legislation.

e) Make provisions for and bear the costs of the clearance and temporary storage at the port of arrival in Kenya of the equipment made available by the Netherlands Government and also for the insurance and transportation of such equipment from the port of arrival to the duty station of the volunteers for whom the equipment is intended.

f) Make provisions for the duty free importation by the Organisation of Netherlands Volunteers or the purchase from bond of one motor vehicle for the official use of a volunteer where it is indicated that independent means of transport would assist the volunteer in the successful fulfilment of his duties. The implementation of this concession shall be discussed in each case between the Government of Kenya and the authorised representative of the Organisation of Netherlands Volunteers. Where this concession is extended by mutual agreement the vehicles must be owned, taxed and insured by the Organisation of Netherlands Volunteers which will also undertake the responsibility for its maintenance and repair. If the vehicle is sold in East Africa duty will be payable at the appropriate rates at the time of the sale unless re-sold to a person or an organisation similarly privileged.

Article 6

The Government of Kenya shall grant the volunteers :

a) Permission to enter or leave the country at any time subject only to the applicable immigration laws of Kenya.

b) The working and residence permits free of charge as and whenever required in connection with the execution of the projects.

c) Rent free housing at places where they are to perform their duties. Alternatively, the Government of Kenya agrees to pay each volunteer a straightforward allowance of shs. 300/— per month if suitable housing is not available from Government sources.

d) The same medical facilities as are extended to Kenya Government civil servants.

e) Transportation when on duty or the payment of a mileage allowance at the same rates as are applicable from time to time for Government officers

travelling on duty, when a volunteer travels on official business in a vehicle belonging to the Organisation of Netherlands Volunteers and used by him.

f) Internal transportation from their point of entry and departure in Kenya to their duty stations.

Article 7

a) Subject to the provisions of paragraph (b) below, a volunteer or the Netherlands Government shall not be liable for any act or omission occurring in the *bona fide* discharge of his official duties when such act or omission gives rise to a legal claim on the part of a third party.

b) In cases of gross negligence or deliberate intention giving rise to the claim, the volunteer shall remain fully liable notwithstanding that the act or omission was done in the performance of official duties.

c) In the event of the Government undertaking to meet any claim on behalf of a volunteer, in accordance with the provisions of this Article, the Government of Kenya shall be entitled to exercise and enforce the benefit of any right of set-off, counterclaim, indemnity, contribution, guarantee, defence or insurance to which such volunteer is entitled.

d) The Government of the Netherlands shall place at the disposal of the Government of Kenya any information or other assistance required for the handling of any case to which the provisions of this Article relate, and shall make such personnel as may be required to give evidence in the matter available for all necessary purposes.

Article 8

The provisions of the present Agreement shall also apply when volunteers are dispatched to the University College, Nairobi, and to other quasi-Government or private organisations subject to mutual agreement between the Netherlands Government and the Government of Kenya.

Article 9

The provisions and concessions as contained in paragraphs (a), (b), (d), and (f) of Article 5 and in paragraphs (a) and (b) of Article 6 of the present Agreement shall equally apply to the Resident Representative of the Organisation of Netherlands Volunteers in Kenya and to two of his Administrative Assistants recruited from overseas.

Article 10

a) The present Agreement shall enter into force on a mutually agreed date after due constitutional processes have been complied within each country.

b) It shall be valid for a term of three years and shall be renewable by tacit consent for similar periods afterwards, unless one of the Governments notify the other at least six months before the expiry of the current period of its intention to terminate it.

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

DONE at Nairobi this ninth day of February 1967, in duplicate in the English language.

For the Kingdom
of the Netherlands :
J. C. VAN BEUSEKOM

For the Republic
of Kenya :
T. MBOYA