

Agreement on economic co-operation between the Government of the Kingdom of the Netherlands and the Government of the Republic of Uganda

The Government of the Kingdom of the Netherlands and the- Government of the Republic of Uganda,

Desiring to strengthen their traditional ties of friendship, to extend and intensify their economic relations and to encourage investments on the basis of equality and to their mutual benefit,

Have agreed as follows:

Article I.

1. The Contracting Parties undertake to promote their co-operation in the economic field.
2. The Contracting Parties will co-operate to facilitate the participation of nationals of either Contracting Party in the establishment of productive and commercial activities and the provision of services in the territory of the other Contracting Party.

Article II.

To further the achievement of the aims of this Agreement, each Contracting Party is prepared, within the limits of its law, to authorise their respective nationals at their request to deliver capital goods to, and carry out public works for, government and private enterprises in the territory of the other Contracting Party against payment by instalments.

Article III.

1. The Contracting Parties shall facilitate the intensification of commercial relations between their respective countries to the highest possible extent.
2. The Contracting Parties shall, within the framework of and subject to their national legislation and policy, further the co-operation between the companies, partnerships, associations, foundations and other organisations of any kind or subsidiary bodies thereof, which are connected with their economic life, and all their nationals engaged in economic activities, in order to develop their resources.

Article IV.

Nationals of either Contracting Party shall, as regards the protection of industrial property, enjoy in the territory of the other Contracting Party, a protection not less favourable than that enjoyed by their own nationals, without prejudice to the rights already provided by international conventions in the field of industrial property.

Article V.

Either Contracting Party undertakes, with regard to the other Contracting Party, to facilitate to the extent permitted by its law:

- (a) the holding in its territory of economic and commercial exhibitions and fairs;
- (b) the importation into its territory of professional equipment and of material and equipment intended for technical work on behalf of governmental bodies or private enterprises, and the re-exportation thereof.

Article VI.

Each Contracting Party shall ensure fair and equitable treatment to the investments, goods, rights and other interests of nationals of the other Contracting Party and shall not impair the management, maintenance, use, enjoyment or disposal thereof by those nationals by unjustified or discriminatory measures.

Article VII.

Nationals of either Contracting Party engaged in any economic activity in the territory of the other Contracting Party shall be accorded by that Contracting Party most-favoured-nation treatment in respect of payment of taxes, fees and charges.

Article VIII.

1. The Contracting Parties recognise the principle of freedom of transfer (but after payment of taxes) of:

(a) the net profits, interests, dividends and royalties, accruing from any approved economic activity to nationals of the other Contracting Party;

(b) the same proportion of the net proceeds of sale of all or any part of the enterprise as the proportion which the approved investment of foreign assets by a national of the other Contracting Party bore to the total assets at the time when such investment was made by him;

(c) funds in repayment of loans (and interest thereon) which the respective Contracting Party has approved as investment;

(d) an appropriate portion of the earnings of nationals of either Contracting Party who are authorised to work in the territory of the other Contracting Party;

(e) funds in payment of any obligations arising out of transactions specified in Article II and owed to creditors who are nationals of the other Contracting Party;

to the country of residence of these nationals.

2. Any authorisation or permission to transfer funds shall be issued without undue restriction and delay, and in accordance with the law in force, at the official rate of exchange prevailing at the time of transfer, and in the case of application for transfer under clauses (a), (b) and (c) of paragraph 1, shall be in the currency in which the investment was made; and in the case of an application under clauses (d) and (e) of paragraph 1, in the currency of the other Contracting Party.

Article IX.

1. Neither Contracting Party shall take any measures depriving nationals of the other Contracting Party of their investments, goods, rights or other interests unless the following conditions are complied with:

(a) the measures are taken in the public interest and under due process of law;

(b) the measures are not discriminatory;

(c) the measures are accompanied by provision for the payment of adequate compensation.

2. Such compensation shall represent the value at the time of expropriation of the investments, goods, rights or other interests affected, and shall be paid without undue delay and shall be transferable in accordance with the provisions of Article VIII of this Agreement.

Article X.

Where a Contracting Party has approved of an investment to be made in its territory and the other Contracting Party or a national thereof has granted any financial security against non-commercial risks in respect of such investment, the former Contracting Party recognises the subrogation of rights by assignment of the grantor of that security into the rights of the investor as to damages if payment has been made under that security, and to the extent of that payment.

Article XI.

This Agreement shall apply in respect of investments in the Republic of Uganda, only to those investments which have been approved under the laws of Uganda pertaining to foreign investments and to those investments which the Government of Uganda has specifically signified shall be deemed to fall within the provisions of this Agreement.

Article XII.

The Contracting Party in the territory of which a national of the other Contracting Party makes or intends to make an investment, shall assent to any demand on the part of such national to submit, for conciliation or arbitration, to the International Centre for the Settlement of Investment Disputes established by the Convention of Washington of the 18th March, 1965, any dispute that may arise in connection with the investment.

Article XIII.

1. The Contracting Parties agree to establish a Mixed Commission composed of representatives appointed by them.
2. The Mixed Commission shall meet at the request of one of the Contracting Parties to discuss any matters pertaining to the implementation of this Agreement and to consider means of promoting their economic co-operation.
3. The Mixed Commission shall therefore keep under review the development of the economic relations between the two countries, both in bilateral and multilateral contexts. It shall moreover make recommendations to the respective Governments in cases where the objectives of this Agreement might be furthered, and a fuller measure of economic co-operation might be obtained.

Article XIV.

For the purposes of this Agreement:

(a) the term "national" of one Contracting Party includes a legal person established or registered according to the law of that Contracting Party in the territory of that Contracting Party, be it a company, partnership, association, society or other body of persons, irrespective of whether the liability of its members is limited or unlimited and of whether or not its activities are directed to the making of profits;

(b) where such legal person is in law and in fact controlled by a national or nationals of one Contracting Party, it shall be deemed to be a national of that Contracting Party.

Article XV.

Where any matter is governed by both this Agreement and another international Agreement binding on the Contracting Parties, nothing in this Agreement shall prevent a national of either Contracting Party from benefitting by the provisions more favourable to him.

Article XVI.

1. Any dispute between the Contracting Parties concerning the interpretation or application of this Agreement shall, if possible, be settled by negotiation between themselves,
2. If a dispute cannot thus be settled, it shall, upon the request of either Contracting Party, be submitted to an arbitral tribunal.
3. Such arbitral tribunal shall consist of three members. Each Contracting Party shall appoint one arbitrator and these two arbitrators shall nominate a chairman who shall be a national of a third State. Such members shall be appointed within two months, and such chairman shall be appointed within three months, from the date on which either Contracting Party has informed the other Contracting Party that it wishes to submit the dispute to an arbitral tribunal.
4. If either of such appointments has not been made within the periods specified in paragraph 3, either Contracting Party may invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Contracting Party or if he is otherwise prevented from discharging the said function, the Vice-President may be invited to make the necessary appointments. If the Vice-President is a national of either Contracting Party or if he, too, is prevented from discharging the said function, the next senior member of the International Court of Justice who is not a national of either Contracting Party may be invited to make the necessary appointments.

5. The tribunal shall base its decision on the provisions of this Agreement in conformity with the principles of law. Before the tribunal gives its decision, it may at any stage of the proceedings propose to the parties that the dispute be settled amicably. The foregoing provisions shall not prejudice the power of the arbitral tribunal to decide the dispute *ex aequo et bono* if the parties so agree.

6. Unless the parties decide otherwise, the tribunal shall determine its own procedure.

7. The tribunal shall reach its decision by a majority of votes. Such decision shall be final and binding on the parties to the dispute.

Article XVII.

As regards the Kingdom of the Netherlands, this Agreement shall apply to the territory of the Kingdom in Europe, to Surinam and to the Netherlands Antilles, unless the instrument of ratification of the Kingdom of the Netherlands provides otherwise.

Article XVIII.

1. This Agreement shall be subject to ratification and the instruments of ratification shall be exchanged as soon as possible in Kampala.

2. This Agreement shall enter into force on the date of exchange of the instruments of ratification and shall remain in force for a period of five years. Either Contracting Party may terminate this Agreement at the end of the initial five-year period by denouncing it in writing to the other Contracting Party six months before its expiration. If this Agreement is not thus terminated, it shall remain in force thereafter for an unlimited period but may be terminated by either Contracting Party at any time by giving six months notice in writing to the other Contracting Party.

3. Termination of the present Agreement shall not affect the validity of contracts concluded or the validity of financial security given within the framework of this Agreement from the date of ratification to the date of termination.

4. Subject to the periods mentioned in paragraph 2 of this Article, the Government of the Kingdom of the Netherlands shall be entitled to terminate the application of this Agreement separately in respect of Surinam or the Netherlands Antilles.

IN WITNESS THEREOF, the undersigned representatives, duly authorised thereto, have signed this Agreement.

DONE at Entebbe this day of 24th April, 1970, in duplicate, in the English language.

For the Government of the Kingdom of the Netherlands:

(sd.) H. C. G. CARSTEN

For the Government of the Republic of Uganda:

(sd.) KALULE SETTALA

Protocol

At the time of signing the Agreement on Economic Co-operation between the Government of the Kingdom of the Netherlands and the Government of the Republic of Uganda, the undersigned plenipotentiaries have, in addition, agreed on the following understanding which shall be regarded as an integral part of the said Agreement:

(1) *Ad Article VI.* Measures taken in the national interest or for reasons of public order and security, public health or morality shall not be considered "unjustified or discriminatory" within the meaning of Article VI.

(2) *Ad Article VII.* The word "taxes" in Article VII shall not be taken to include customs duties.

(3) Any reference in the Agreement to most-favoured-nation treatment shall not apply to privileges which either Contracting Party is obliged to grant to nationals of a third State because of its membership in, or association with, an arrangement concerning a free trade area, customs union, or common market.

IN WITNESS THEREOF, the undersigned representatives, duly authorised thereto, have signed this Protocol.

DONE at Entebbe this day of 24th April, 1970, in duplicate, in the English language.

For the Government of the Kingdom of the Netherlands:

(sd.) H. C. G. CARSTEN

For the Government of the Republic of Uganda:

(sd.) KALULE SETFALA