

EXPLANATORY MEMORANDUM ON THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND CONCERNING DEFENCE COOPERATION

Title of Agreement

1. Agreement between the Government of the Republic of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland concerning Defence Cooperation.

Command Paper Number:

9249

SUBJECT MATTER

2. This bilateral Agreement concerns defence cooperation between the Government of the United Kingdom and the Government of Kenya. It was signed in Nairobi on 9 December 2015.

3. The Agreement addresses the following subjects: forms of cooperation; implementation; jurisdiction; uniform, arms and other defence articles; environmental protection; access to facilities; provision of training areas; civil claims and liabilities; entry, movement and exit; taxation, importation and exportation; finance; remittance of funds; identification; vehicle registration and driving licences; training costs and salaries; investigation procedures for accidents; medical, optical and dental; death of a member of the visiting forces; protection of information; community relations; inter-governmental liaison committee; and settlement of disputes.

MINISTERIAL RESPONSIBILITY

4. The Secretary of State for Foreign Affairs has overall responsibility for policy concerning the United Kingdom's relations with the Republic of Kenya. The Secretary of State for Defence has overall responsibility for policy matters relating to defence cooperation.

POLICY CONSIDERATIONS

5. Whereas previously the subject matter covered by this Agreement was covered by a Memorandum of Understanding, following the introduction of the new Kenyan constitution in 2010 it was the Kenyan Government's preference to enter into a legally binding bilateral Agreement.

6. This Agreement provides a legal basis for the continuation, and development, of the defence relationship between the UK and Kenya, which is a genuine partnership that both countries benefit from. It enables the UK to have access, through the British Army Training Unit Kenya (BATUK), to one of the best infantry training environments in the world. This allows 10,000 to 12,000 UK troops per year to prepare for future operations, facing the challenges of both an austere physical environment and realistic human interactions. The benefit to Kenya is also significant, including institutional development; collective and individual training; capacity building; operational assistance; and community projects.

FINANCIAL

7. There are direct financial implications for the United Kingdom, arising from the need for visas for up to 12,000 military personnel deploying on short training exercises in Kenya each year and 250 or so personnel on longer postings, as well as work permits for the latter. These were not required under the previous Memorandum of Understanding. The additional cost is as yet undetermined and will be the subject of discussion on the implementation of relevant Kenyan regulations, in which the United Kingdom will seek to minimise both the cost and the administrative burden.

8. The Agreement allows for the continuance of duty free import and export of government goods and equipment, so these will be at no additional cost.

RESERVATIONS AND DECLARATIONS

9. Not applicable.

IMPLEMENTATION

10. The Agreement will come into effect when notifications have been exchanged between both countries informing each other that their respective internal procedures necessary to give effect to the Agreement have been completed.

11. No new legislation is required in the UK to implement the Agreement as Kenya is already designated under the Visiting Forces Act. The One-in, Two-out Rule has been considered as part of the process of concluding the Agreement, but is not applicable.

CONSULTATIONS

12. Relevant Government departments were consulted throughout the negotiations.



Penny Mordaunt MP
Minister of State for the Armed Forces
Ministry of Defence