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**MINISTRY OF DEFENCE**

**MEMORANDUM TO THE NATIONAL ASSEMBLY**

**ON**

**THE AGREEMENT BETWEEN THE GOVERNMENT OF THE  
REPUBLIC OF KENYA AND THE GOVERNMENT OF THE  
ITALIAN REPUBLIC ON THE LUIGI BROGLIO – MALINDI  
SPACE CENTRE KENYA**

## **1.0 OBJECTIVES**

1.1 The purpose of this Memorandum to apprise the National Assembly on the Agreement signed between the Government of the Republic of Kenya and the Government of the Italian Republic on the Luigi Broglio - Malindi Space Centre (hereinafter referred to as the Agreement) and to seek approval for its ratification.

## **2.0 BACKGROUND**

2.1 The Luigi Broglio - Malindi Space Centre, formerly referred to as the San Marco Satellite Launching and Tracking Station, located at Ngomeni Village, Magarini District in Kilifi County, was established in 1962.

2.2 An initial Agreement was signed between the Royal Technical College of Nairobi (now the University of Nairobi) and the University of Rome on behalf of their respective Governments. The said Agreement was ratified by the two Governments in 1964 through exchange of notes and has subsequently been renewed as follows:

- a. 1<sup>st</sup> April 1987 - The Agreement was reviewed informing the establishment the National Space Secretariat under the Ministry of Defence.
- b. 14<sup>th</sup> March 1995 - The Agreement was extended for a further period of fifteen (15) years that expired on the 14<sup>th</sup> March 2010. The validity was extended to 31<sup>st</sup> December 2011 to allow time for negotiations between the parties.
- c. 5<sup>th</sup> June 2012 - The agreement's validity was further extended to allow for necessary revision in order to enable the Parties jointly manage the Space Centre and to negotiate implementing arrangements leading to the present agreement that was approved by Cabinet and signed on 24<sup>th</sup> October 2016.

2.3 Matters pertaining to Space Science and Technology impact national security. Through space programmes, Space Nations are exploiting this platform to develop systems for big data and information management, research as well as climate change management amongst other peaceful uses of space. As such, space management has a direct bearing on sovereignty and territorial integrity of the State which falls within the mandate of the Ministry of Defence.

### **3.0 OBJECTS OF THE AGREEMENT**

2.1 The agreement establishes the framework for the Parties to co-operate in the peaceful uses of the Space Centre Facility which consists of:

- a. A mobile segment at sea, for tracking and launching satellites and suborbital platforms and for space research.
- b. A land based segment for tracking and support launching satellites and suborbital platforms, for data acquisition, processing, archiving and dissemination and for space research.

2.2 The Facility is used for aerospace science, space science technology and research applications. The Facility also tracks and monitors space vehicles, navigation applications and any other activity mutually agreed upon by the Parties. The scope of activities being undertaken in the Facility include but are not limited to:

- a. Space science and technology.
- b. Earth observation, applications and services.
- c. Support in Surveillance services also using the mobile segment.
- d. Space communications.
- e. Telemedicine.

- f. Satellite data acquisition.
- g. Tracking and telemetry services.
- h. Launching and tracking of satellites and suborbital platforms.
- i. Atmospheric research.
- j. Navigation and positioning application and services.
- k. Education and training.
- l. Remote sensing.

#### **4.0 CONTENTS OF THE AGREEMENT**

4.1 The Agreement is divided into eighteen articles as follows:

- a. Article I - Provides for the interpretation of terms.
- b. Article II & III - Describe the Facility and define the areas of co-operation respectively.
- c. Article IV, V, VI & VII - Establish the organs responsible for oversight and management of the Facility as follows:
  - i. Joint Council of Ministers - Drawn from the responsible Ministries of the two State Parties. The Council is responsible for strategic guidance and policy formulation. The Council is required to meet once every two years and may take decisions through exchange of notes.
  - ii. Joint Steering Committee - Comprises of Principal Secretaries or equivalent from the Ministries responsible as well as Chief Executive Officers of National Space

Agencies. They are responsible for oversight on implementation and progress monitoring of programmes as well as dispute resolutions. They will also consider and approve applications from third parties to access the Facility and/or its services.

iii. Joint Management Board - Comprises of technical executives from the Ministries and National Space Agencies of the respective State Parties. They are responsible for oversight of the executive function in the facility as well as receiving and considering strategic plans, work plans and budgets and recommending the same for approval to the Joint Steering Committee.

iv. Executive - Led by a Chief Executive Officer from appointed by the Italian Government and a Deputy appointed from the Government of Kenya responsible for the day to day management of the activities of the facility.

c. Article VIII & IX – Enumerates the prerogatives and obligations of both state parties. The Italian Government is amongst other duties obligated to report on all its undertakings in the Facility, promoting development projects for the community in Ngomeni Kilifi and paying compensation to the Government of Kenya for the land upon which the Facility rests. The Government of Kenya on the other hand is responsible for providing the requisite approvals and liaisons to facilitate operation of the Facility.

d. Article X - Provides for admission of third parties in accessing the Facility upon approval by the joint parties to the Agreement.

e. Article XI - Provides for liability and compensation for damages or loss that may be occasioned as a result of the activities of the Facility by the Italian Government.

- f. Article XII - Provides for verification and inspection of the activities of the Facility by the Government of Kenya through full disclosure.
- g. Article XIII - Provides for confidentiality of any information emanating from the Facility.
- h. Article XIV - Provides for settlement of disputes through amicable negotiations failing to which the parties may resort to international arbitration.
- i. Article XV - Provides for the vesting of assets to the respective parties.
- j. Article XVI - Provides for the governing Law as the Laws of the Republic of Kenya.
- k. Article XVII & XVIII – Provides for Amendments, entry into force and termination of the Agreement.

#### **4.0 IMPLEMENTING ARRANGEMENTS**

4.1 Article III (7) of the Agreement provides for the conclusion of implementing arrangements for purposes of better carrying out and efficient implementation of the aforesaid objectives. The implementing arrangements that form part of this agreement are as follows:

- a. Education and Training - Outlines the framework for training and education programmes in space science and technology. The Italian Government will provide fifteen (15) scholarships annually to selected Kenyans to be trained in Italian institutions.
- b. Telemedicine - Provides the framework for co-operation for promotion, support and sustained research to inform policy development for the use of Telemedicine.

- c. Access to Earth Observation and Space Research Data - Establishes the Framework for co-operation in accessing data from the Italian Space Agency's Constellation of small Satellites for the Mediterranean basin Observation comprising a constellation of 4 medium-size satellites, each equipped with a microwave high-resolution synthetic aperture radar. The earth observation data will be key undertaking research and national development programmes.
- d. Establishment of a Regional Centre for Earth Observation - Provides the framework for the development of infrastructure of the Centre for acquiring, processing and archiving system that will also disseminate the data as well as promote research and applications development for earth observation.
- e. Support to the Kenya National Space Agency - Provides the framework for co-operation in operationalization of the Kenya National Space Agency through capacity building as well as infrastructure and human resources development.

## **5.0 FINANCIAL IMPLICATION**

5.1 Kenya's contribution to the Agreement is the provision of the location of the Space Facility. Located at the east coast of the continent, launching of space craft is directed into the sea which is considered the safest as the population is not endangered during launch.


5.2 Article VIII 5 (d) of the Agreement provides for the payment of compensation of USD 250,000 (United States of America Dollars Two Hundred and Fifty Thousand Only) per year by the Government of Italy to the Government of Kenya for the use of the land availed for the facility. The compensation is to be reviewed every five years with an increment of USD 50,000 (United States of America Dollars Fifty Thousand Only).

**6.0 THE NATIONAL ASSEMBLY IS INVITED TO:**

6.1 Take note of this Memorandum outlining the contents of the present Agreement and the constituent five Implementing Arrangements.

6.2 Approve ratification of the Agreement.

Dated this .....10<sup>th</sup>..... day of .....January..... 2017

  
**AMB. RAYCHELLE OMAMO, SC, EGH**  
CABINET SECRETARY, MINISTRY OF DEFENCE

**ATTACHMENTS**

The signed Agreement and the five Implementing Arrangements.



