


DEFENCE COOPERATION

AGREEMENT

| | |
|---|---|
|  THE NATIONAL ASSEMBLY PAPERS LAID | |
| DATE: | 27 NOV 2025 |
| | DAY. Thursday |
| TABLED BY: | Hon. Naemi Wago, MP Deputy Majority Whip |
| CLERK AT THE TABLE: | A. Shibuska |

BETWEEN

THE GOVERNMENT

OF THE REPUBLIC OF KENYA

AND

THE GOVERNMENT

OF THE FRENCH REPUBLIC

Handwritten signature

Handwritten signature

PREAMBLE

The Government of the French Republic and the Government of the Republic of Kenya (hereafter referred to jointly as "the Parties" and individually as "a Party"):

STRIVING to strengthen the good and friendly relations between the Parties by means of close defence cooperation;

DESIRING to draw the maximum benefit from their close defence cooperation;

CONFIRMING that the cooperation between the Parties promotes peace and stability and that this cooperation is not directed against any third country;

CONSIDERING the Convention between the Government of the French Republic and the Government of the Republic of Kenya for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed in Nairobi on 4 December 2007 and entered into force on 1 November 2010 (hereafter referred to as "the Tax Convention").

HAVE agreed as follows:

ARTICLE 1 DEFINITIONS

In this Agreement, the following definitions shall apply:

State Aircraft. Means an aircraft within the meaning of Article 3 (b) of the Convention on International Civil Aviation adopted in Chicago on 7 December 1944.

Host Nation. Means the country in the territory of which, or aboard the State Aircraft or the State Ship of which, the Visiting Forces are participating in defence cooperation activities implemented under this Agreement.

Sending Nation. Means the country whose forces are lawfully present in the territory or aboard the State Aircraft or the State Ship of the Host Nation in order to participate in defence cooperation activities implemented under this Agreement.

Armed Forces. Means any unit, contingent or detachment of personnel belonging to the army, navy, air and space force, national gendarmeries or any other military corps as well as the joint support services of either Party.

Visiting Forces. Means personnel belonging to the Armed Forces of either Party, as well as the civilian personnel of either Party employed by the ministries competent in the areas of defence and security, who are present in or transiting through the territory or aboard the State Aircraft or the State Ship of either Party.

Dependant. Means a person who is not ordinarily resident in the Host Nation and who is the spouse or dependant child of a member of the Visiting Forces, in accordance with the respective legislation of the Parties.

State Ship. Means a ship within the meaning of Article 96 of the United Nations Convention on the Law of the Sea adopted at Montego Bay on 10 December 1982.

ARTICLE 2 PURPOSE

This Agreement is to establish a legal framework for defence cooperation activities between the Parties as well as define the status of the Visiting Forces.

ARTICLE 3 GENERAL OBLIGATIONS

- 3.1 The Visiting Forces shall not be involved in the preparation or execution of war or war-like operations, or in actions to maintain or restore public order, public security or national sovereignty.
- 3.2 For the duration of their presence in the Host Nation, the Visiting Forces and their Dependant shall respect the laws in force in the Host Nation and shall refrain from any conduct incompatible with the aims of the Agreement.

ARTICLE 4 AREAS AND FORMS OF COOPERATION

- 4.1. The Parties shall facilitate defence relations between each other by undertaking defence cooperation activities, which may include the following areas:
 - a. Maritime security;
 - b. Intelligence cooperation;
 - c. Peacekeeping, humanitarian assistance and disaster relief;
 - d. Any other defence or security-related areas of cooperation as defined by mutual agreement between the Parties.
- 4.2. Cooperation in the areas defined in Article 4.1 may take the following forms:
 - a. Strategic dialogue;
 - b. Exchanges of officers in learning, training and research in the area of defence;
 - c. Exercises, training and instructions;
 - d. Sharing of knowledge and experience, conferences, seminars and visits;
 - e. Any other defence or security-related cooperation activity as defined by mutual agreement between the Parties.

ARTICLE 5
IMPLEMENTATION

- 5.1. The bodies responsible for the implementation of this Agreement are;
- a. For the French Party: the Ministry of Defence of the French Republic;
 - b. For the Kenyan Party: the Ministry of Defence of the Republic of Kenya.
- 5.2. The implementing bodies may conclude implementing arrangements to set out additional details of the defence cooperation activities.
- 5.3. Save for mutually agreed costs, each Party shall bear its own cost of implementing this Agreement.

ARTICLE 6
JOINT WORKING GROUP

- 6.1. The Parties shall establish a Joint Working Group to coordinate the defence cooperation activities implemented under this Agreement.
- 6.2. Unless otherwise agreed, the Joint Working Group will be composed of at least three (3) representatives from each Party appointed by the implementing bodies.
- 6.3. The Joint Working Group shall formulate its own rules of procedure to guide its business, including venues and dates.
- 6.4. The Joint Working Group shall endeavour to meet at least once every year or whenever the need arises, alternately in Kenya and France.

ARTICLE 7
ENTRY AND EXIT

The Visiting Forces and the Dependants shall be authorised to enter the Host Nation with a valid passport. In addition, an individual or collective mission order shall be required for the Visiting Forces. The Visiting Forces and the Dependants shall apply for a visa, of which the Host Nation's competent authorities shall facilitate the issuance.

ARTICLE 8
WEARING OF UNIFORM

The Visiting Forces shall be authorised to wear the military uniform and insignia of their Unit, in accordance with the regulations of their Armed Forces.

ARTICLE 9
CUSTOMS PROCEDURES AND DUTIES

- 9.1. The Host Nation shall take all useful measures to facilitate the entry into and departure from its territory of material necessary to implement the defence cooperation activities provided for in Article 4 of this

Agreement, without commercial intent. The list of such material shall be communicated beforehand to the Host Nation, which may, where necessary, carry out inspections to ascertain their conformity.

- 9.2. The Visiting Forces may import, under the conditions provided by the legislation of the Host Nation, either free of custom duties and taxes or under the temporary admission procedure, with total exemption from custom duties and taxes, the material for their exclusive use, including the reasonable quantities of supplies necessary to implement this Agreement.
- 9.3. The temporary admission procedure provided for in Article 9.2:
 - a. Shall be applied for a period of twelve (12) months from the first arrival of the material concerned in the territory of the Host Nation, extendable under the conditions laid down in the legislation of the Host Nation;
 - b. Shall be subject to submission of the customs documents which the Parties have agreed to provide to the customs authorities of the Host Nation, and of a certificate in a form agreed by the Parties and signed by a person authorised for that purpose.
- 9.4. Material imported under the temporary admission procedure with exemption from custom duties and taxes pursuant to this Article:
 - a. May neither be transferred against payment nor free of charge in the territory of the Host Nation. However, in specific cases, transfer or destruction may be authorised, subject to conditions imposed by the competent authorities of the Host Nation;
 - b. May be freely re-exported free of all custom duties and taxes, provided that a certificate issued in accordance with Article 9.3 is submitted to the customs authorities of the Host Nation. The customs authorities of the Host Nation shall retain the right to verify, if necessary, that the goods re-exported are in fact those described in the certificate and have actually been imported under the conditions laid down in this Article.
- 9.5. Visiting Forces may, upon first arriving in the territory of the Host Nation with a view to starting their mission, import, within the limits compatible with family use duly assessed by the Host Nation, their personal effects and furniture, free of custom duties and taxes, for the duration of their stay, within a period limited to six (6) months following their date of arrival. If such property is not re-exported at the end of the stay, it may, however, only be disposed of in the territory of the Host Nation, whether against payment or free of charge, subject to the conditions imposed by the competent customs authorities of the Host Nation.

ARTICLE 10
DRIVING LICENCE

The Host Nation authorities shall recognize military driving licences issued by the Sending Nation authorities to the Visiting Forces as valid. The terms for the recognition or exchange of civilian driving licenses of the Visiting Forces and the Dependants shall be as defined by the national law of the Host Nation.

ARTICLE 11
CARRYING OF WEAPONS

- 11.1 The Visiting Forces shall be authorised to be in possession of and to carry their service weapons and ammunition for the needs of the defence cooperation activities.
- 11.2 The transportation, storage, custody and use of weapons and ammunition shall comply with the provisions of the legislation of the Host Nation and the regulations applicable to the facilities where they will be stored or used.

ARTICLE 12
DEATH OF A MEMBER OF THE VISITING FORCES

- 12.1 The death of any member of the Visiting Forces or a Dependant in the Host Nation shall be registered in compliance with the legislation in force in the Host Nation by an authorised physician, who shall produce a certificate. The Host Nation shall communicate the certified authentic copy of the death certificate to the authorities of the Sending Nation as soon as possible.
- 12.2 If the judicial authority of the Host Nation orders an autopsy of the deceased, or if the Sending Nation requests an autopsy, the said autopsy shall be carried out by the doctor appointed by the judicial authority of the Host Nation. A doctor of the Sending Nation may attend the autopsy.
- 12.3 The Sending Nation authorities may take possession of the body as soon as the corresponding authorisation is granted to them by the Host Nation authorities.
- 12.4 The costs of transporting the body shall be met by the Sending Nation, pursuant to the conditions stipulated by the Host Nation's legislation in force.

ARTICLE 13
JURISDICTION

- 13.1 Offences committed in the Host Nation by a member of the Visiting Forces or a Dependant shall come under the jurisdiction of the courts of the Host Nation, subject to the provisions of Article 13.2 of this Agreement.

- 13.2 The competent authorities of the Visiting Forces shall have the primary right to exercise jurisdiction in the event of offences relating to any act or negligence by a member of the Visiting Forces committed while in service, as well as in the following cases:
- a. Offences solely against the security of the Visiting Forces;
 - b. Offences solely against the person or property of a member of the Visiting Forces;
 - c. Offences solely against the property of the Visiting Forces;
- 13.3 A member of the Visiting Forces shall be considered, when located in the Host Nation, as out of service during activities entirely unrelated to the implementation of this Agreement.
- 13.4 Where the competent authorities of the Party which has the primary right to exercise jurisdiction decide to waive that right, they shall immediately notify the competent authorities of the other Party.
- 13.5 The competent authorities of the Party with the primary right to exercise jurisdiction shall give sympathetic consideration to requests to waive that right where the other Party's competent authorities consider there are important particular justifications to do so.
- 13.6 The Sending Nation undertakes to present any member of the Visiting Forces or Dependant before the competent authorities of the Host Nation for the purposes of investigation. At the request of the Sending Nation, the Host Nation may allow the member of the Visiting Forces or the Dependant to remain in the custody of the Sending Nation until legal proceedings have been brought against him or her by the Host Nation.
- 13.7 The competent authorities of the Host Nation shall promptly notify the competent authorities of the Sending Nation of the arrest of any member of the Visiting Forces or Dependant and shall state the grounds for the arrest.
- 13.8 The Parties shall assist each other in carrying out investigations and collecting evidence and shall inform each other of the decisions made by their courts on the case.
- 13.9 In the event of prosecution of a member of the Visiting Forces or their Dependents before the courts of the Host Nation, he or she shall enjoy guarantees of a fair trial. As such, he or she shall enjoy the right, inter alia:
- a. To be tried within a reasonable time frame;
 - b. To be represented or assisted by a lawyer;
 - c. If necessary, to the services of a competent interpreter provided free of charge by the Host Nation to assist him or her throughout the proceedings and trial.
 - d. To communicate with a representative from his or her Government and, when procedural rules allow, to have the presence of the said representative during proceedings;

BST

AI

- e. To be informed prior to the proceedings of the charge or charges brought against him or her;
 - f. To be confronted with prosecution witnesses, in accordance with the legislation of the Host Nation;
 - g. For defence witnesses to be compelled to appear for the proceedings if the court of the Host Nation has the power to compel them;
 - h. Not to be prosecuted for any act or negligence that was not an offence under the legislation of the Host Nation when the said act or negligence was committed.
- 13.10 If the authorities of the Host Nation have the right to exercise jurisdiction over a member of the Visiting Forces or Dependant, that jurisdiction shall be exercised within the ordinary criminal justice system applicable to civilians and shall not be exercised within the criminal justice system applicable only to members of the Host Nation Armed Forces.
- 13.11 In the event of the conviction of a member of the Visiting Forces or a Dependant by the courts of the Host Nation, the competent authorities of the Host Nation shall give sympathetic consideration to the request for the sentence to be carried out in the Sending Nation.
- 13.12 Where a member of the Visiting Forces or a Dependant has been tried in accordance with the provisions of this Article and has been acquitted or convicted, he or she shall not be retried for the same offence by the courts of the other Party.
- 13.13 Should the offence committed by a member of the Visiting Forces or a Dependant be punishable by death by the courts of the Host Nation or by a sentence which runs contrary to international commitments of the Sending Nation, surrender by the Sending Nation shall be subject to assurances that this sentence will be neither sought nor imposed or that if such sentence is delivered, it shall not be enforced.
- 13.14 When exercising its jurisdiction in accordance with this Article, the Host Nation undertakes to ensure that, in the event that the sentences referred to in Article 13.13 are permitted by its legislation, they shall be neither sought nor imposed or if such sentences are imposed, they shall not be applied.

ARTICLE 14 **DISCIPLINE**

- 14.1 The Sending Nation shall have exclusive jurisdiction over members of the Visiting Forces in disciplinary matters. The disciplinary actions taken against a member of the Visiting Forces by the appropriate authorities of the Sending Nation do not preclude potential legal proceedings under the provisions of Article 13 of this Agreement.
- 14.2 In the event of a breach of discipline by a member of the Visiting Forces, the Party concerned shall immediately inform the other Party. The Host

Nation may demand that any such personnel be sent back to the Sending Nation.

ARTICLE 15
CIVIL CLAIMS AND SETTLEMENT

- 15.1 Each Party shall waive any claim for compensation against the other Party as well as against the personnel of the other Party, for damage caused, in service or during service, to its personnel or property, within the framework of this Defence Cooperation Agreement, except in the event of serious or wilful misconduct.
- 15.2 "Serious misconduct" shall mean gross errors or serious negligence. "Wilful misconduct" shall mean misconduct committed with the deliberate intent to cause damage or injury.
- 15.3 Determining the existence of serious or wilful misconduct shall be settled by negotiation between the Parties.
- 15.4 Subject to any court outcome, the Parties shall be responsible for the compensation paid for damage or injury caused to third parties, as follows:
- a. If the damage is attributable to only one of the Parties, the said Party shall be responsible for settling the full amount of compensation;
 - b. If the damage is attributable to both Parties or cannot be precisely attributed to either Party, the total amount of compensation shall be shared equally between the Parties.
- 15.5 Regarding civil claims for damage not arising from the defence cooperation activities, the Visiting Forces and their Dependants shall be subject to the civil jurisdiction of the Host Nation.
- 15.6 Any question raised by the implementation of this Article shall be settled through consultation between the Parties.

ARTICLE 16
ADMINISTRATIVE ASSISTANCE

The Host Nation authorities shall provide assistance to the Visiting Forces in the administrative and technical procedures required to implement this Agreement.

ARTICLE 17
PROTECTION OF CLASSIFIED INFORMATION

- 17.1 Information shared between the Parties pursuant to this Agreement shall not be disclosed to a third party without the written consent of the other Party.
- 17.2 The Parties shall do their utmost to conclude a Security Agreement on the exchange and protection of classified information and material.

ARTICLE 18
COMMUNICATION SYSTEMS

- 18.1 Any installation of communication systems of the Visiting Forces shall be subject to prior authorisation from the Host Nation.
- 18.2 In agreement with the competent authorities of the Host Nation, the Visiting Forces may implement communication systems for official communication needs. The use of these systems shall not disrupt the communication systems implemented or authorised by the Host Nation. The procedure of allocation, change, withdrawal or return of frequencies shall be established according to the conditions mutually agreed upon by the Parties.

ARTICLE 19
MEDICAL CARE

- 19.1 The Sending Nation shall ensure that the Visiting Forces are fit for duty in terms of their medical and dental health before their arrival in the Host Nation, and that they have, where applicable, as well as the Dependants, appropriate medical insurance.
- 19.2 Each Party shall be responsible for its medical support and medical evacuation and repatriation. The Host Nation may be requested to provide treatment where possible which may be subject to charges.
- 19.3 However, emergency medical treatment by military health professionals of the Host Nation as well as emergency medical evacuation by military means within the territory of the Host Nation shall be performed free of charge.
- 19.4 Within the framework of this Agreement, health professionals of the Visiting Forces shall be authorised to perform the acts of their profession and use their own health products for the treatment of the Visiting Forces and their Dependants.

ARTICLE 20
TAXATION

- 20.1 With regard to the application of taxes on income, wealth, inheritance or gifts, the Visiting Forces who temporarily take up residence in the Host Nation for the sole purpose of exercising their official duties shall be deemed, for the application of the Tax Convention, to have maintained their tax residence in the Sending Nation that pays their salaries, wages and other similar remuneration.
- 20.2 This stipulation shall also apply to the Dependants, provided that they do not exercise a professional activity in their own right in the Host Nation.
- 20.3 The salaries, wages and other similar remuneration, other than retirement pensions, paid by the Sending Nation to Visiting Forces in their capacity as such shall be taxable only by the Sending Nation.

- 20.4 Subject to the provisions of the Tax Convention, any income to locally recruited consultants or contractors shall be subject to income tax in accordance with the applicable legislation of the Host Nation.
- 20.5 Without prejudice to Article 9 (Customs procedures and duties), all goods and services imported or procured locally, for purposes of implementing this Agreement shall be exempt from indirect taxes in accordance with the applicable legislation of the Host Nation.

ARTICLE 21
SETTLEMENT OF DISPUTES

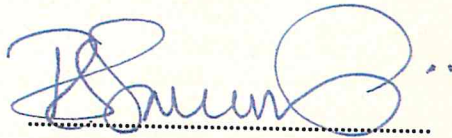
Any dispute concerning the implementation or interpretation of this Agreement shall be settled by negotiation between the Parties through diplomatic channels. Any dispute may be referred first to the Joint Working Group for resolution.

ARTICLE 22
ENTRY INTO FORCE, AMENDMENT AND TERMINATION

- 22.1 The Parties shall notify each other, through diplomatic channels, of the fulfilment of the domestic legal requirements for the entry into force of this Agreement, which shall enter into force on the date of receipt of the last notification.
- 22.2 This Agreement is concluded for a period of five (5) years and is tacitly and automatically renewable for successive periods of five (5) years. The Agreement shall be reviewed after a period of ten (10) years from the effective date.
- 22.3 It may be amended at any time in writing by mutual agreement between the Parties. The entry into force of such amendment(s) shall be governed by the stipulations of Article 22.1.
- 22.4 It may be terminated in writing by either Party. Such termination shall take effect three (3) months after receipt of the written notification by the other Party.
- 22.5 The termination of this Agreement shall not affect the rights or obligations arising from its execution prior to said termination.

Signed at Nairobi Kenya this 29TH day of OCTOBER 2025 in duplicate, in French and English, both versions being equally authentic.

FOR THE GOVERNMENT OF THE
REPUBLIC OF KENYA



HON. ROSELINDA SOIPAN TUYA, EGH
CABINET SECRETARY
MINISTRY OF DEFENCE, KENYA

FOR THE GOVERNMENT OF THE
FRENCH REPUBLIC



H.E. ARNAUD SUQUET
AMBASSADOR OF FRANCE TO KENYA
AND PERMANENT REPRESENTATIVE OF
FRANCE TO THE UNITED NATIONS OFFICE
IN NAIROBI (UNON)



**EXECUTIVE OFFICE OF THE PRESIDENT
CABINET OFFICE**

Telegraphic Address
Telephone: +254-20-22275621/2/3
When replying please quote

SECRET

STATE HOUSE
P.O. Box 40530-00100
Nairobi, Kenya

Ref. No. CAB/GEN.3/1/1 VOL.XXI/81
and date

17th December, 2024 20

Mr. Patrick Mariru, CBS
Principal Secretary
Ministry of Defence
NAIROBI

Dr. Korir SingOei, PhD., CBS
Principal Secretary
State Department for Foreign Affairs
Ministry of Foreign & Diaspora Affairs
NAIROBI

Dr. Chris K. Kiptoo, PhD., CBS
Principal Secretary
The National Treasury
The National Treasury & Economic Planning
NAIROBI

Mr. James B. Muhati, CBS
Principal Secretary
State Department for Economic Planning
The National Treasury & Economic Planning
NAIROBI

Hon. Shadrack J. Mose
Solicitor- General
State Law Office
NAIROBI

**THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA
AND THE GOVERNMENT OF THE FRENCH REPUBLIC OF DEFENCE
COOPERATION**

I refer to the 10th Cabinet Meeting - 2024 held on 17th December, 2024 during which the Cabinet Secretary for Defence presented a Cabinet Memorandum CAB(24)188,

SECRET

jointly with the Prime Cabinet Secretary and Cabinet Secretary for Foreign & Diaspora Affairs; the Cabinet Secretary for the National Treasury & Economic Planning; and the Attorney-General.

The Memorandum apprised Cabinet on the Agreement between the Government of the Republic of Kenya and the Government of the French Republic on Defence Cooperation and sought approval for its execution.

I wish to inform you that Cabinet considered the Memorandum and:

- I. Noted the contents of the Memorandum;
- II. Approved the execution of the Agreement;
- III. Directed the Cabinet Secretary for Defence; the Prime Cabinet Secretary and Cabinet Secretary for Foreign & Diaspora Affairs; the Cabinet Secretary for the National Treasury & Economic Planning; and the Attorney-General to follow up on the full implementation of the MOU; and
- IV. Directed the Cabinet Secretary for Defence; the Prime Cabinet Secretary and Cabinet Secretary for Foreign & Diaspora Affairs; the Cabinet Secretary for the National Treasury & Economic Planning; and the Attorney-General to take necessary action.

Please proceed and take action as directed by Cabinet.



Mercy Wanjau, (Mrs.), EGH
SECRETARY TO THE CABINET

Copy to: Hon. Soipan Tuya, EGH
Cabinet Secretary
Ministry of Defence
NAIROBI

Hon. John Mbadi Ng'ongo, EGH
Cabinet Secretary
The National Treasury & Economic Planning
NAIROBI

Hon. Dorcas Oduor, SC, EBS
Hon. Attorney-General
The State Law Office
NAIROBI

SECRET

Mr. Felix K. Koskel, EGH
Chief of Staff & Head of the Public Service
Executive Office of the President
NAIROBI

Ms. Wanjiku Wakogi, CBS
Chief of Staff
Office of the Deputy President
Executive Office of the President
NAIROBI

Mr. Joseph N. Busiega, MBS, MGH, ndc(K)
Chief of Staff
Office of Prime Cabinet Secretary &
Ministry for Foreign & Diaspora Affairs
NAIROBI

Dr. Idris Salim Dokota, PhD., CBS
Principal Secretary
State Department for Cabinet Affairs
Office of the Deputy President
NAIROBI

SECRET



MINISTRY OF DEFENCE

MEMORANDUM ON THE RATIFICATION OF THE DEFENCE
COOPERATION AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF KENYA

AND

THE GOVERNMENT OF THE FRENCH REPUBLIC

MEMORANDUM ON THE RATIFICATION OF THE DEFENCE COOPERATION AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE FRENCH REPUBLIC

1. Objective of the Memorandum

The objective of this Memorandum is to seek the approval of the National Assembly for the ratification of the Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of the French Republic. The Agreement seeks to strengthen defence relations, enhance military cooperation, and promote mutual understanding between the Armed Forces of the two countries.

2. Background

2.1. Kenya and France have enjoyed long-standing diplomatic relations founded on shared values of peace, security and mutual respect. Cooperation in defence and security matters has existed informally over the years through joint training, technical assistance and military exchanges.

2.2. The Kenya Defence Forces is seeking cooperation with the French Armed Forces primarily in the field of defence and security.

2.3. The Ministry of Defence in negotiating the Agreement considered and identified the Republic of Kenya's strategic interests in the bilateral cooperation with the Government of the French Republic on defence & security and further developed the draft Agreement setting out the framework for co-operation.

2.4. The Parties through exchange of diplomatic notes and documents agreed on the terms of the draft Agreement herein. The resulting Agreement is attached hereto as Annex A.

2.5. The draft Agreement was subsequently submitted to the Office of the Attorney General and the National Treasury and Economic Planning for clearance and advice.

3. Object and Subject Matter of the Convention

3.1. The main object of the Agreement is to strengthen the good and friendly relations between the Parties through enhanced defence cooperation. The Agreement provides the legal framework governing the presence and activities of visiting forces from either country and defines key terms and responsibilities.

3.2. The subject matter of the Agreement includes:

- a. Definitions and scope (e.g., "State Aircraft," "Host Nation," "Sending Nation," "Armed Forces," "Visiting Forces," and "Dependants");
- b. Status of visiting forces, including privileges, immunities, and applicable laws;
- c. Training, exercises, and exchange programs;
- d. Entry and exit procedures, customs and tax exemptions;
- e. Discipline, jurisdiction, and dispute resolution mechanisms; and
- f. Implementation and coordination between the ministries responsible for defence and security.

3.3. Article 4 of the draft Agreement provides the objectives of enhancing bilateral cooperation on defence and security by identifying a framework for the exchange of experience and knowledge for the use and mutual benefit of the Republic of Kenya and the French Republic.

3.4. The Agreement will regulate cooperation in the following areas:

- a. Strategic dialogue;
- b. Exchanges of Officers in learning, training and research in defence establishments;
- c. Exercises, training and instructions; and
- d. Sharing of knowledge and experience, conferences, seminars and visits.

3.5. The Agreement at Article 6 establishes the Joint Working Group comprising the representatives of the Republic of Kenya and the French Republic to coordinate and oversee the implementation of the Agreement.

4. Obligations Imposed by the Agreement

4.1. Upon ratification, Kenya will be obliged to:

- a. Facilitate the lawful presence and movement of French Armed Forces personnel and equipment in Kenya for agreed defence activities;
- b. Accord visiting French forces certain privileges, immunities and logistical support in accordance with the Agreement;
- c. Ensure that defence cooperation activities are implemented in compliance with Kenyan laws, sovereignty and territorial integrity;
- d. Cooperate with France in training, capacity building, information exchange and joint exercises and;

e. Consult with France on any matters arising from the interpretation or implementation of the Agreement.

4.2. The French Republic, in turn, will provide reciprocal treatment for Kenyan Armed Forces personnel engaged in activities in France.

5. Problem Analysis

5.1. The bilateral co-operation in defence between the Republic of Kenya and the French Republic is primarily in the field of defence and security between the Parties. The draft Agreement potentially covers areas of co-operation to include the fields of maritime security, intelligence cooperation, peacekeeping, humanitarian assistance and disaster relief.

5.2. The draft Agreement provides a formal framework for bilateral co-operation in defence between the government of the Republic of Kenya and the Government of the French Republic in conformity with Section 37 of the Kenya Defence Forces Act (Cap 199), as read with Section 283 thereof that requires cooperation in defence be regulated by an agreement providing for the legal status of the visiting forces while in Kenya.

5.3. The draft Agreement at Article 13 confers criminal jurisdiction to the Host Nation subjecting the Visiting Forces to the national laws.

5.4. Cooperation in the field of defence and security is crucial for both Parties considering the ever-changing security environment that requires modernization of military equipment and systems through research and development. Therefore, exchanges between the Parties in training and research will bolster the development of the capability needed to meet and address the contemporary defence and security challenges.

6. Justification for Ratification

6.1. Ratification of the Agreement is justified because it will:

- a. Enhance Kenya's defence capacity through access to French training, technology, and expertise;
- b. Strengthen strategic bilateral relations with France, an important security and development partner;
- c. Promote regional peace and stability, especially in counter-terrorism and maritime security operations;
- d. Provide legal clarity on the status of visiting forces and avoid jurisdictional or operational disputes; and
- e. Reinforce Kenya's international standing as a reliable partner committed to global peace and security.

7. Constitutional and Legislative Implications

7.1. The Agreement is consistent with the Constitution of Kenya, 2010, particularly:

- a. Article 2(b) which provides that any treaty or convention ratified by Kenya forms part of the law of Kenya;
- b. Article 94 and 132 which mandate Parliament and the Executive to approve and implement international agreements; and
- c. Article 241(3) on the mandate of the Kenya Defence Forces in defending and protecting the sovereignty and territorial integrity of the Republic of Kenya.

7.2. The Agreement also conforms to the provisions of the Kenya Defence Forces Act (Cap 199) as follows:

- a. Section 37 requires that any treaty or agreement involving the use or exchange of military forces between Kenya and another state or institution to clearly define the legal status of both Kenyan forces deployed abroad and foreign forces operating in Kenya. It must also outline the conditions under which these forces may operate outside officially designated areas and establish procedures for compensating local communities in case of accidents or damage caused by military activities.
- b. Section 281 on the role of the Defence Council in conjunction with the Cabinet Secretary for Foreign Affairs in issuing an order designating a country as a visiting force. Such an order may include specific limitations, conditions or modifications to tailor how the provisions of the Act are applied.
- c. Section 283 provides that Kenyan civil courts have the exclusive and primary authority to try members of visiting forces for offences committed under Kenyan law while in Kenya. However, this jurisdiction may be altered by a treaty or agreement that grants the visiting force's own authorities the primary or exclusive right to try their members. Additionally, if a member of a visiting force has already been tried by their home country's service court for the same offence, they cannot be retried in Kenya and if they are, the Kenyan court must consider any previous sentence imposed.

7.3. There are no direct conflicts with existing laws, though implementation will require implementation of the Kenya Defence Forces Act (Cap 199) and related security legislation to ensure consistency with domestic jurisdictional provisions.

8. Implication on Counties

8.1. Defence is an exclusive function of the national government under Part 1 of the Fourth Schedule to the Constitution. Therefore, the Agreement has minimal direct implications for county governments. However, counties hosting military installations or training activities may benefit from infrastructure improvements and local economic opportunities arising from joint exercises.

9. Financial Implications

9.1. The implementation of the Agreement will occasion additional but minimal expenditure which will be defrayed from the budget voted to the Ministry of Defence, supplemented by cost-sharing and in-kind support from the French Government.

10. Ministerial Responsibilities

10.1. The Ministry of Defence will be the lead ministry responsible for implementing the Agreement. It will coordinate with the following ministries:

- a. The Ministry of Foreign and Diaspora Affairs for diplomatic and treaty matters;
- b. The National Treasury and Economic Planning on fiscal implications; and
- c. The Ministry of Interior and National Administration for immigration and security coordination.

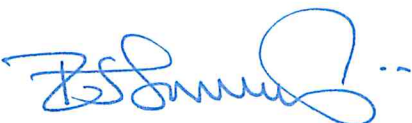
11. Public Participation

11.1. In line with Article 118 of the Constitution and Section 15 of the Treaty Making and Ratification Act (Cap 4D), stakeholder consultations were conducted with relevant ministries, the Kenya Defence Forces and policy experts in international security law.

11.2. The consultations confirmed broad support for ratification, with stakeholders emphasizing the potential benefits in capacity building and defence modernization.

12. Recommendation to the National Assembly

12.1. In view of the foregoing, it is recommended that the National Assembly approves the ratification of the Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of the French Republic, in accordance with Article 2(6) of the Constitution and section 8 of the Treaty Making and Ratification Act (Cap 4D).


SIGNED

DATED 19/11/.....NOVEMBER 2025

HON ROSELINDA SOIPAN TUYA, EGH
CABINET SECRETARY
MINISTRY OF DEFENCE

