



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

*Approved for
tabling*
SNA
13/6/23

THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE AND FOREIGN
RELATIONS

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 13 JUN 2023	DAY:
TABLED BY:	
CLERK-AT THE TABLE:	

REPORT ON THE CONSIDERATION OF THE DEFENCE COOPERATION AGREEMENT
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE
GOVERNMENT OF THE REPUBLIC OF SEYCHELLES.

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 13 JUN 2023	DAY: Tuesday
TABLED BY:	Hon. Musa Nelson Koech (Chairperson, Defence, Intelligence and Foreign relations Committee)
CLERK-AT THE TABLE:	Inzogu Mwale

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

JUNE, 2023

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LIST OF ABBREVIATIONS AND ACRONYMS

ANC	-	Amani National Congress
DCAs	-	Defence Cooperation Agreements
EAC	-	East African Community
KDFA	-	Kenya Defence Forces Act
MDAs	-	Ministries, Departments and Agencies
MoD	-	Ministry of Defence
NIS	-	National Intelligence Service
ODM	-	Orange Democratic Movement
SDF	-	Seychelles Defence Forces
UDA	-	United Democratic Alliance
UDM	-	United Democratic Movement
WDM-K	-	Wiper Democratic Movement-Kenya

LIST OF ANNEXURES

- Annexure 1: Signed list of Members who attended the sitting which considered and adopted the Report
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CHAIRPERSON'S FOREWORD

This report details the consideration by the Departmental Committee on Defence, Intelligence and Foreign Relations of the Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles on Defence Cooperation.

The Defence Agreement aims to promote and enhance military cooperation in Defence and security matters by developing and fostering bilateral relations in military fields. Kenya and Seychelles cooperate in many areas including trade, maritime security and the fight against piracy, the blue economy, parliamentary exchanges, exchanges between the chambers of commerce, youth and sports, cultural exchanges, fisheries, exchange of information, exchanges in labour, experts, skills, and expertise.

In considering the Agreement, the Committee held a total of three (3) Sittings. The first sitting was for an internal briefing on the agreement in order to familiarize with its contents. The second sitting was with the Cabinet Secretary for Defence to apprise members of the rationale for the DCA. The third sitting was to consider and adopt this report.

Pursuant to Article 118(1)(b) of the Constitution on Public Participation and Section 8(3) of the Treaty Making and Ratification Act, 2012, the Committee placed advertisements in two local dailies on Thursday 23rd February 2023, calling for submissions of Memoranda on the subject matter. By the close of the deadline, the Committee did not receive any Memorandum for or against the ratification of the Agreement.

The Committee observed that globally, bilateral Defence Cooperation Agreements (DCAs) have emerged as the most common practice of institutionalized defense cooperation. DCAs establish broad defense-oriented legal frameworks between parties thus facilitating cooperation in defense policy coordination, research and development, joint military exercises, education and training, arms procurement, and exchange of classified information. It further noted that Seychelles and Kenya share a common border at sea. Therefore, being neighbours, it is imperative that they maintain structured defence cooperation for their mutual benefit. Further, the Committee observed that Seychelles is a critical training ground, especially for the Kenya Navy. It is therefore in Kenya's interest to foster defence cooperation with Seychelles. Further, on claims and indemnity, the DCA provides for cross indemnities and/or claims settlement caused by negligence, with parties negotiating a settlement for third-party claims in accordance with the law.

Having reviewed the Agreement and considered the submissions made, the Committee recommends that pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, the House adopts and **approves** the Ratification of the Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles on Defence Cooperation.

Pursuant to Standing Orders 199(6) and 170A (4) it is my pleasant duty to present to the House the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles on Defence Cooperation.

Hon. Nelson Koech, M.P.

Chairperson, Departmental Committee on Defence, Intelligence and Foreign Relations

PART I

1.0 PREFACE

1.1 Introduction

1. This report details the consideration by the Departmental Committee on Defence, Intelligence and Foreign Relations of the Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles.
2. Kenya and Seychelles cooperate in many areas including trade, maritime security and the fight against piracy, the blue economy, parliamentary exchanges, exchanges between the chambers of commerce, youth and sports, cultural exchanges, fisheries, exchange of information, exchanges in labour, experts, skills and expertise.

1.2 Mandate of the Committee

3. The Committee is established under the National Assembly Standing Order No. 216. The functions and mandate of the Committee include, among others, *“to examine treaties, agreements and conventions”*.
4. The Committee’s subject matters are stated in the Second Schedule of the National Assembly Standing Orders and are as follows: Defence, intelligence, foreign relations, diplomatic and consular services, international boundaries including territorial waters, international relations, and veteran affairs.

1.3 Oversight

5. In executing its mandate, the Committee oversees the following MDAs: The Ministry of Defence, the Ministry of Foreign and Diaspora Affairs, the State Department for East African Community (EAC) Affairs, the National Intelligence Service (NIS).

1.4 Committee Membership

6. The Departmental Committee on Defence, Intelligence and Foreign Relations was constituted by the House on 27th October, 2022 and comprises the following Members:

Chairperson

Hon. Koech Nelson, M.P.

Belgut Constituency

UDA Party

Vice-Chairperson

Hon. Maj. (Rtd.) Sheikh Abdullahi Bashir, M.P.

Mandera North Constituency

UDM Party

Members

Hon. Wanjira Martha Wangari, M.P,
Gilgil Constituency
UDA Party

Hon. Hassan Abdi Yusuf, MP
Kamkunji Constituency
Jubilee Party

Hon. Odhiambo Millie G. Akoth,MP
Suba North Constituency
ODM Party

Hon. Kanchory Elijah Memusi, MP
Kajiado Central Constituency
ODM Party

Hon. (Dr.) Kasalu Irene Muthoni,MP
Kitui County
WDM-K

Hon. Kirima Moses Nguchine, MP
Imenti Central Constituency
UDA Party

Hon. Luyai Caleb Amisi, MP
Saboti Constituency
ODM Party

Hon. Joshua Kandie, MP
Baringo Central Constituency
UDA Party

Hon. Kwenya Thuku Zachary, MP
Kinangop Constituency
Jubilee Party

Hon. Logova Sloya Clement, MP
Sabatia Constituency
UDA Party

Hon. Ikana Fredrick Lusuli, MP
Shinyalu Constituency
ANC Party

Hon. Mohamed A. Hussein, MP
Lagdera Constituency
ODM Party

Hon. Teresia Wanjiru Mwangi, MP
Nominated Member
UDA Party

1.5 Committee Secretariat

7. The Committee is facilitated by the following staff:

Mr. Dennis Mogare Ogechi
First Clerk Assistant/Head of Secretariat

Ms. Clarah Kimeli
Principal Legal Counsel II

Ms. Winfred Kambua Kilonzo
Clerk Assistant III

Dr. Donald Manyala, PhD
Research Officer I

Mr. Edwin Machuki
Fiscal Analyst III

Ms. Roselyne Ndeg
Senior Serjeant-at-Arms

Mr. Lenny Muchangi
Legal Counsel II

Mr. Murimi Mwangi
Media Relations Officer III

Mr. Kelvin Ng'ang'a
Research Officer III

PART II

2.0 BACKGROUND

2.1 The Republic of Seychelles

8. Seychelles, officially the Republic of Seychelles, is an island country in the western Indian Ocean comprising about 115 islands with lush tropical vegetation, beautiful beaches, and a wide variety of marine life. Situated between latitudes 4° and 11° S and longitudes 46° and 56° E, the major islands of Seychelles are located about 1,000 miles (1,600 km) east of Kenya and about 700 miles (1,100 km) northeast of Madagascar.¹
9. Seychelles has a total land mass of 455km² which makes it the smallest country in Africa. The total coastline of the islands is 491 km. The biggest islands are Mahé (154km²), Praslin (38km²), Silhouette (20km²), and La Digue (10km²), all of which are granite islands like most other islands among the so-called inner islands. The outer islands are a group of coral islands that are smaller and quite scattered in the Indian Ocean. 58,61% of the land mass is protected which is the highest ratio in the world. The capital, Victoria, is situated on the island of Mahé².
10. The first recorded landing on uninhabited Seychelles was made in 1609 by an expedition of the British East India Company. The French claimed the archipelago in 1756 but surrendered it to the British in 1810. It became a British crown colony in 1903 and a republic within the Commonwealth in 1976. It is a multiparty republic with one legislative house; its head of state and government is the president.³
11. As of 2023, the country had an estimated population of 101,500 people. The mixed population is of French, African, and Asian ancestry. The languages used include Creole, English, and French. The religion practised is largely Christianity (predominantly Roman Catholic). However, smaller populations of Hindus and Muslims exist.⁴
12. Seychelles has a mixed developing economy that is heavily dependent upon the service sector in general and the tourism industry in particular. Despite continued deficits, the economy has experienced steady growth. Exports include fish, copra, and cinnamon. The Gross Domestic Product (GDP) is growing more rapidly than the population. The gross national income (GNI) per capita is significantly higher than those found in most nearby continental African countries. It's noteworthy that Seychelles has a modern fishing industry that supplies domestic and foreign markets; canned tuna is particularly important. The extraction of guano for export is also an established economic activity.⁵
13. Seychelles Defense Forces (SDF), formed in 1977, is one of the world's smallest militaries. It has approximately 500 personnel (2022). Its primary responsibility is maritime security, particularly

¹ Encyclopaedia Britannica, <https://www.britannica.com/place/Seychelles> (Accessed on 20th April, 2023)

² The World Factbook (CIA) <https://www.cia.gov/the-world-factbook/countries/seychelles/#military-and-security> (Accessed on 20th April, 2023)

³ Encyclopaedia Britannica, op.cit

⁴ Ibid

⁵ Ibid

countering illegal fishing, piracy, and drug smuggling. The SDF is comprised of the Army (includes infantry, special forces, and a presidential security unit), Coast Guard, and Air Force. The military reports to the president as the Minister of Defence. It is noteworthy that Seychelles has strong security ties with India (2023).⁶

2.2 International Practice - Defence Cooperation

14. Bilateral Defence Cooperation Agreements (DCAs) have emerged as the most common practice of institutionalized defence cooperation. DCAs establish broad defence-oriented legal frameworks between parties thus facilitating cooperation in defence policy coordination, research and development, joint military exercises, education and training, arms procurement, and exchange of classified information. The radical shifts in the global security environment since the 1980s have fueled demand for DCAs. Largely, states use DCAs to modernize their militaries, respond to shared security threats, and establish security umbrellas with like-minded states.⁷
15. Technological developments, dramatically escalating costs, more restricted defence budgets, as well as new threats, have led to fewer and leaner armed forces. The response across countries has been to seek deeper international cooperation to reduce costs, maintain capabilities and achieve a greater effect. The deeper the integration, the more military capabilities it provides access to. The trend is towards specialization in terms of functions or tasks, i.e. cooperative arrangements in which the participants depend on one another when the necessity to use resources arises. However, in view of the complicated issues that are often raised by defence cooperation, there is a tendency to limit participation to a relatively small group of countries linked by geographical or cultural proximity.⁸
16. Governments rarely sign new alliances, and the global alliance structure has remained relatively static for decades. By contrast, governments are increasingly active in defence cooperation agreements (DCAs). Nearly 2,000 DCAs have been signed since 1980. Evidence suggests that DCAs impact numerous security, military, and defence outcomes and that governments increasingly incorporate DCAs as core elements of their security strategies. The distinctions between DCAs and other agreement types are apparent in their institutional characteristics. While alliances focus primarily on conflict, DCAs exclusively address cooperation. They contain no mutual defence or nonaggression commitments. DCAs have proliferated rapidly and they tend to be relatively symmetric in the commitments they impose on signatories. They endure for periods of 5–10 years or longer.
17. There is anecdotal evidence of DCAs' significance globally. In the 1940s and 1950s, the United States entered into dozens of defence agreements with partners in Europe, South America, and Asia. Many of these agreements were drafted under the aegis of the Mutual Defense Assistance Act or its successor, the Mutual Security Act, and focused heavily on the provision of military aid. Others focused on the status of forces, the establishment of US bases and/or troops, or airspace access for

⁶ The World Factbook (CIA), op.cit

⁷ Kinne, Brandon J. "Defense cooperation agreements and the emergence of a global security network." *International Organization* 72, no. 4 (2018): 799-837.

⁸ Bertelman, Tomas. "International Defence Cooperation—Efficiency, Solidarity, Sovereignty: Report from the Inquiry on Sweden's International Defence Cooperation." (2013): 32.

US military aircraft. These agreements were highly asymmetric and designed to maintain or improve the preponderant military position of the United States. European powers established similar agreements with their former colonies. Despite their asymmetries, these agreements bore similarities to present-day DCAs in that they established comprehensive defence frameworks. Equally, after the loss of its Soviet sponsor in the early 1990s, Mongolia deployed a web of nearly three dozen DCAs to ensure access to defence-related training, education, weapons, and research. Further, a historic 2014 DCA between Russia and Pakistan led to arms transfers, counterterror drills, and joint antidrug exercises in the Arabian Sea.⁹

2.3 Background to Kenya – Seychelles Defence Cooperation Agreement

18. Kenya and Seychelles cooperate in many areas including trade, maritime security and the fight against piracy, the blue economy, parliamentary exchanges, exchanges between the chambers of commerce, youth and sports, cultural exchanges, fisheries, exchange of information, exchanges in labour, experts, skills, and expertise.
19. On 18th July, 2022, the Seychelles' Minister for Foreign Affairs and Tourism, Mr. Sylvestre Radegonde, and the former Cabinet Secretary of Foreign Affairs for the Republic of Kenya, Ambassador Raychelle Omamo, SC, EGH signed, among others, the Defence Cooperation Agreement Between the Government of the Republic of Kenya and the Government of the Republic of Seychelles. Other agreements concerned mutual assistance on criminal matters, Blue Economy, Memorandum of Understanding for peace, security and law enforcement at sea, maritime affairs, tourism development, agriculture, livestock, and cooperative sectors, security and crime combatting, sports, promotion on partnership on gender equality and promoting women economic empowerment.
20. The Ministry of Defence, the Cabinet Secretary, Ministry of Defence, Hon. Aden Duale submitted a copy of the Defence Cooperation Agreement Between the Government of the Republic of Kenya and the Government of the Republic of Seychelles and a Memorandum dated 28th November 2022 to the Speaker of the National Assembly for consideration by the National Assembly.
21. The purpose of the Memorandum was to appraise the National Assembly on the Agreement and to seek approval of the National Assembly for ratification of the Agreement.
22. The Memorandum provided a background that the Kenya Defence Forces has been cooperating with Seychelles People's Defence Force on maritime security and support training, therefore the government of the republic of Seychelles on 6th April 2022 expressed the desire to conclude a defence cooperation agreement with Kenya.
23. A delegation from Seychelles was hosted in Nairobi from 25th -29th April 2022 to discuss the terms of the agreement, and a draft was sent to the office of the Attorney-General for approval, and clearance was provided. The resulting agreement was executed on 18th July, 2022.

2.4 Outline of the Agreement

⁹ Kinne, Brandon J. "The defense cooperation agreement dataset (DCAD)." *Journal of conflict resolution* 64, no. 4 (2020): 729-755.

The Agreement has a total of twenty-two (22) Articles including the Preamble as outlined below:

24. The Preamble provides for the general objectives of the agreement towards achieving close defence cooperation between the two countries;
25. Article 1 provides that the parties shall implement the provisions of the agreement in conformity with their national laws and international obligations;
26. Article 2 comprises of the various definitions applying to the agreement including sending party and receiving party;
27. Article 3 establishes the aim of the agreement which is to promote military cooperation in Defence and security by developing and fostering bilateral relations in military fields and to enhance the strong relations between both parties through exchanging bilateral communications and strengthening bonds of cooperation in Defence and security;
28. Article 4 provides that the parties shall cooperate in joint fields in the agreement on a reciprocal basis, with mutual benefits, and in accordance with the national laws of the parties;
29. Article 5 provides for the scope of cooperation in the fields of defence and security, defence and security training as well as defence industries and technology;
30. Article 6 provides that methods of actual cooperation between the parties shall be formulated by the Joint Military Cooperation Committee;
31. Article 7 describes the competent authorities and establishes the Joint Military Cooperation Committee which is responsible for the implementation of the agreement;
32. Article 8 provides the financial arrangements between the parties including that the sending party shall pay for salaries, traveling expenses, allowances, and health insurance while the receiving party shall pay for local transportation, accommodation, and emergency medical treatment;
33. Article 9 provides that when parties agree upon a cooperation issue that is beneficial to only one party and incurring costs on the other party, the parties shall conclude a prior implementing agreement regarding payment of such costs;
34. Article 10 provides for conditions of security and visits by the sending and receiving parties;
35. Article 11 provides for the protection of classified information exchanged between the parties;
36. Article 12 provides that the parties shall protect the intellectual property rights of each party or of any third party in accordance with national laws and regulations of the parties;
37. Article 13 provides that the legal status of personnel shall be conferred in accordance with the national laws of the receiving nation;
38. Article 14 provides for the legal status of the visiting forces and jurisdiction in the event of crimes committed by visiting forces;

39. Article 15 provides that the parties shall waive any claims to loss or damage of equipment and/or property or personnel injuries or loss of lives due to any activities conducted under the provisions of the agreement;
40. Article 16 provides that any dispute shall be settled through negotiations, consultations and amicable means within the Joint Military Cooperation Committee level;
41. Article 17 provides that the sending party's personnel shall respect and be sensitive to traditions, customs and cultures of local communities of the places where they have been deployed in the receiving party;
42. Article 18 provides that the military personnel of any of the parties who visit the other party's territory shall remain members of the defence forces of their country and are subject to the command and service laws and regulations of their military authorities;
43. Article 19 provides for the regulation of military uniform, arms and equipment;
44. Article 20 provides for rules of entry, movement and exit of the sending party in the receiving party;
45. Article 21 provides for the regulation of imports and exports;
46. Article 22 provides for the entry into force, validity, amendment, review, and termination of the agreement.

2.5 Policy Aspects and Implications

47. The Defence agreement aims to promote and enhance strong military cooperation in Defence and security matters through developing and fostering bilateral relations in military fields. Some of the important policy implications include the following:
 - a) Training- The ratification of this agreement is going to enhance joint military training. This will benefit especially the Kenya Navy which will have access to ideal training grounds provided by Seychelles – an island country.
 - b) Bilateral Relations- This agreement is also going to enhance bilateral relations between the two parties since its set to run for 5 years with automatic renewal for another 5 years, after which the agreement will be reviewed. This is going to enhance trade between the parties which is going to be impactful to the Kenya economy and hence strengthen the relationship between the two countries.

PART III

3.0 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

3.1 Call for Memoranda from the Public

49. Pursuant to Article 118(1)(b) of the Constitution on Public Participation and Section 8(3) of the Treaty Making and Ratification Act, 2012, the Committee placed advertisements in two local dailies, on Thursday February, 23rd, 2023, calling for submissions of memoranda on the subject matter. By the close of the deadline, the Committee did not receive any Memorandum on the Agreement.

3.2 Meeting with the Cabinet Secretary, Ministry of Defence

The Cabinet Secretary Ministry of Defence, Hon. Aden Duale, EGH appeared before the Committee on 17th March, 2023, and submitted as follows:

50. Section 37 of the Kenya Defence Forces Act (KDFA) governs cooperation with external forces and provides that any treaty or agreement between GoK and any other state or international institution or organization regarding the use or provision of military forces shall provide for:
- a) The legal status of: Members of the Defence Forces placed at the disposal of the military authorities of such State, institution or organization; and foreign military personnel and their mission while the personnel are deployed in Kenya;
 - b) The conditions of operation of the Defence Forces, and the foreign military personnel outside gazetted areas;
 - c) Compensation of local communities in the event of accidents in areas where the military is deployed;
 - d) The treaty or agreement entered into pursuant to section 37 KDFA shall put in place mechanisms to: protect the interests of the local community of the place where the foreign military forces are deployed; and provide that the foreign forces are subject to the Constitution and all the Laws of Kenya.
51. On 6 April 2022 Ministry of Foreign Affairs notified MoD of a draft DCA proposed by the Republic of Seychelles.
52. The KDF and Seychelles People's Defence Forces met on various occasions to negotiate the agreement and the final text was submitted for clearance.
53. Opinion from the Attorney General approved the final text of the agreements as sound from a legal perspective and the National Treasury gave its concurrence.
54. The Cabinet Secretary for Foreign Affairs notified the Cabinet Secretary for Defence that the Seychelles DCA was signed on 18 July 2022 during the state visit to the Republic of Seychelles.
55. The Ministry further indicated that DCAs establish frameworks for promoting bilateral military cooperation in Defence and security; cooperation in identified joint fields on a reciprocal basis and mutual benefit; and the implementation mechanisms.

56. Further, DCAs place an obligation on visiting forces to comply with domestic and international laws and specifies the areas for cooperation anchored on strategic interests and priorities.
57. Therefore, the DCA with Seychelles has identified the following areas for cooperation:
- a) Maritime security
 - b) Counterterrorism
 - c) Information exchange
 - d) Exchange of Defence and military delegations
 - e) Exchange of military students/instructors/directing staff
 - f) Joint military training exercises
 - g) Procurement of defence equipment, supplies, and repair services subject to national laws
 - h) Participation in trade, science, or technology exhibits
 - i) Research and development in defence science and technology
 - j) Other fields that may be agreed upon according to the nature of this Agreement
58. The implementation mechanism thus involves a Joint Military Cooperation Committee and a Joint Technical Committee which will formulate work plans for the implementation of the DCA, with representation of at least three (3) uniformed personnel for each party. They will convene alternately in Seychelles and Kenya, with the Joint Military Cooperation Committee meeting annually while the Joint Technical Committee meets twice per annum or as directed by the Cooperation Committee.
59. Some of the key provisions of the DCA are mandatory requirements to conform to Kenyan laws and international obligations. The Financial arrangements include each party bears their costs; travel costs, insurance, evacuation salaries and allowances; and training costs to be administered through supplemental arrangements. Further, security and visits will be guided by the host nation's laws, with coordination of visits to be implemented through designated points of contact.
60. The DCA also provides for obligations to protect classified information; obligation to protect the intellectual property of each party; legal status is to be conferred in accordance with host nation laws; and the Host Nation retains primary jurisdiction for criminal offences, with offences that violate military discipline to be disposed of by respective parties in accordance with their military laws and regulations.
61. Further, on claims and indemnity, the DCA provides for cross indemnities and/or claims settlement caused by negligence, with parties negotiating settlement for third-party claims in accordance with the law. The DCA further provides for the settlement of disputes on DCA implementation through amicable means and Community relations that: respect and are sensitive to traditions, customs, and local cultures of communities; and respect and protect vulnerable groups.
62. Additionally, the DCA provides that each party is to retain their respective command for military personnel and ensure the security of equipment uniforms, arms & equipment (Obligation to maintain safe custody of armaments, uniforms, and other defence articles; with a requirement to provide notice when importing the same).
63. On entry, movement, and exit, the DCA provides for freedom of movement within the host nation; prohibited immigrants not to be permitted; and compliance with host immigration laws.

64. Finally, on taxation, importation, and exportation, the DCA provides for the importation of goods for official use tax-free; and importation subject to inspections and customs regulations. It also prescribes the procedures for identification, vehicle registration, investigation procedures for accidents, and entry into Force, duration, amendment, termination

PART IV

4.0 COMMITTEE OBSERVATIONS

56. Having considered the Agreement and analyzed the submissions made, the Committee observed as follows:

- a) Globally, bilateral Defence Cooperation Agreements (DCAs) have emerged as the most common practice of institutionalized defence cooperation. DCAs establish broad defence-oriented legal frameworks between parties thus facilitating cooperation in defence policy coordination, research and development, joint military exercises, education and training, arms procurement, and exchange of classified information.
- b) The Republic of Seychelles and the Republic of Kenya share a common border at sea. Therefore, being neighbours, it is imperative that they maintain structured defence cooperation for their mutual benefit.
- c) The Republic of Seychelles is a crucial and ideal training ground, especially for the Kenya Navy. It is therefore in Kenya's interest to foster defence cooperation with Seychelles.
- d) Further, on claims and indemnity, the DCA provides for cross indemnities and/or claims settlement caused by negligence, with parties negotiating settlement for third-party claims in accordance with the law.
- e) Seychelles Defense Forces (SDF), formed in 1977, is one of the world's smallest militaries. It has approximately 500 personnel (2022). Its primary responsibility is maritime security, particularly countering illegal fishing, piracy, and drug smuggling.

PART V

5.0 COMMITTEE RECOMMENDATION

57. The Committee, having reviewed the Agreement and considered the submissions made, recommends THAT:

Pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, the House approves the Ratification of the Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles on Defence Cooperation.

SIGNED:  DATE: 03/05/23

THE HON. NELSON KOECH, M.P.

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE AND
FOREIGN RELATIONS

ANNEXURE 1:

**SIGNED LIST OF MEMBERS WHO ATTENDED THE SITTING WHICH
CONSIDERED AND ADOPTED THE REPORT**



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - SECOND SESSION
DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE, AND
FOREIGN RELATIONS.

REPORT ADOPTION LIST

**REPORT ON THE CONSIDERATION OF THE DEFENCE COOPERATION AGREEMENT
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF
THE REPUBLIC OF SEYCHELLES**

We, the Members of the Departmental Committee on Defence, Intelligence, And Foreign Relations, have pursuant to Standing Order 199, adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, **Friday 28th April, 2023.**

	NAME	SIGNATURE
1.	The Hon. Koech Nelson, M.P. (Chairperson)	
2.	The Hon. Maj. (Rtd.) Sheikh Abdullahi Bashir, M.P. (Vice Chairperson)	
3.	The Hon. Hassan Abdi Yusuf, M.P	
4.	The Hon. Wanjira Martha Wangari, M.P	
5.	The Hon. Odhiambo Millie Grace Akoth, MP	
6.	The Hon. Kanchory Elijah Memusi, MP	
7.	The Hon. (Dr.) Kasalu Irene Muthoni, M.P	
8.	The Hon. Kirima Moses Nguchine, M.P	
9.	The Hon. Kandie Joshua Chepyegon, M.P	
10.	The Hon. Kwenya Thuku Zachary, M.P	
11.	The Hon. Luyai Caleb Amisi, M.P	
12.	The Hon. Teresia Wanjiru Mwangi, M.P	
13.	The Hon. Logova Sloya Clement, M.P	
14.	The Hon. Ikana Fredrick Lusuli, M.P	
15.	The Hon. Mohamed Abdikadir Hussein, M.P	

ANNEXURE 2:

**MINUTES ON SITTINGS OF THE COMMITTEE ON CONSIDERATION OF THE
AGREEMENT**

MINUTES OF THE 28TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE, AND FOREIGN RELATIONS HELD ON FRIDAY 28TH MAY, 2023 AT 2.00 PM IN THE HILTON GARDEN INN HOTEL, MACHAKOS.

PRESENT

- | | |
|--|-------------------------|
| 1. The Hon. Maj. (Rtd.) Sheikh Abdullahi Bashir, M.P. - | Vice Chairperson |
| 2. The Hon. Hassan Abdi Yusuf, M.P | |
| 3. The Hon. Wanjira Martha Wangari, M.P | |
| 4. The Hon. Luyai Caleb Amisi, M.P | |
| 5. The Hon. Kwenya Thuku Zachary, M.P | |
| 6. The Hon. Kirima Moses Nguchine, M.P | |
| 7. The Hon. (Dr.) Kasalu Irene Muthoni, M.P | |
| 8. The Hon. Kandie Joshua Chepyegon, M.P | |
| 9. The Hon. Teresia Wanjiru Mwangi, M.P | |
| 10. The Hon. Logova Sloya Clement, M.P | |
| 11. The Hon. Ikana Fredrick Lusuli, M.P | |
| 12. The Hon. Mohamed Abdikadir Hussein, M.P | |

APOLOGIES

- | | | |
|---|----------|--------------------|
| 1. The Hon. Koech Nelson, M.P. | - | Chairperson |
| 2. The Hon. Odhiambo Millie Grace Akoth, MP | | |
| 3. The Hon. Kanchory Elijah Memusi, MP | | |

IN ATTENDANCE

THE NATIONAL ASSEMBLY

- | | | |
|-------------------------------|---|-------------------------|
| 1. Mr. Dennis Mogare Ogechi | - | Clerk Assistant I |
| 2. Ms. Winfred Kambua Kilonzo | - | Clerk Assistant III |
| 3. Ms. Roselyne Njuki | - | Senior Serjeant-at-Arms |
| 4. Mr. Lenny Muchangi | - | Legal Counsel II |
| 5. Mr. Machuki Mwebi | - | Fiscal Analyst III |
| 6. Mr. John Nganga | - | Audio Officer |

AGENDA

1. Prayers
2. Preliminaries
3. **Consideration and adoption of a Report on the Consideration of the Ratification of the Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles.**
4. Any other Business
5. Adjournment/Date of the next Sitting

MIN.NO. DDC/DIFR/119/2023: PRELIMINARIES

The meeting was called to order at 2:16 p.m. and commenced with prayers. Then the Chairperson stated that the main agenda of the meeting was the consideration and adoption of a Report on the Committee's deliberation on the Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles.

The agenda was unanimously adopted.

MIN.NO. DDC/DIFR/120/2023:

**CONFIRMATION OF MINUTES OF
THE PREVIOUS SITTING**

Confirmation of the Minutes for the previous Sitting was deferred to the next Sitting.

MIN.NO. DDC/DIFR/121/2023:

**CONSIDERATION AND ADOPTION OF A
REPORT ON THE DEFENCE COOPERATION
AGREEMENT BETWEEN THE
GOVERNMENT OF THE REPUBLIC OF
KENYA AND THE GOVERNMENT OF THE
REPUBLIC OF SEYCHELLES.**

After lengthy deliberations, the Committee Report on the Defence Cooperation Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles was adopted after being proposed by Hon. Martha Wangari, M.P and seconded by Hon. Ikana Fredrick Lusuli, M.P

It was adopted with the following observations and recommendations:

Observations

The Committee observed as follows:

1. Globally, bilateral defence cooperation agreements (DCAs) have emerged as the most common practice of institutionalized defence cooperation. DCAs establish broad defence-oriented legal frameworks between parties thus facilitating cooperation in defence policy coordination, research and development, joint military exercises, education and training, arms procurement, and exchange of classified information.
2. The Republic of Seychelles and the Republic of Kenya share a common border at sea. Therefore, being neighbours, it is imperative that they maintain structured defence cooperation for their mutual benefit.
3. The Republic of Seychelles is a crucial and ideal training ground, especially for the Kenya Navy. It is therefore in Kenya's interest to foster defence cooperation with Seychelles.
4. Further, on claims and indemnity, the DCA provides for cross indemnities and/or claims settlement caused by negligence, with parties negotiating settlement for third-party claims in accordance with the law.
5. Seychelles Defense Forces (SDF), formed in 1977, is one of the world's smallest militaries. It has approximately 500 personnel (2022). Its primary responsibility is maritime security, particularly countering illegal fishing, piracy, and drug smuggling.

Recommendation

The Committee recommended that pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, the House **approves the Ratification** of the Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles on Defence Cooperation.

MIN.NO. DDC/DIFR/122/2023:

ADJOURNMENT

There being no other business the meeting was adjourned at 4.30 pm.

SIGNED:  DATE: 03/05/23

THE HON. NELSON KOECH, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE
AND FOREIGN RELATIONS

MINUTES OF THE 17TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE, AND FOREIGN RELATIONS HELD ON FRIDAY 17TH MARCH, 2023 AT 2.30 PM AT SAROVA WHITESANDS BEACH RESORT & SPA, MOMBASA.

PRESENT

- | | | |
|---|---|------------------|
| 1. The Hon. Koech Nelson, M.P. | - | Chairperson |
| 2. The Hon. Maj. (Rtd.) Sheikh Abdullahi Bashir, M.P. | - | Vice Chairperson |
| 3. The Hon. Hassan Abdi Yusuf, M.P. | | |
| 4. The Hon. Wanjira Martha Wangari, M.P. | | |
| 5. The Hon. Kanchory Elijah Memusi, MP | | |
| 6. The Hon. Luyai Caleb Amisi, M.P. | | |
| 7. The Hon. Logova Sloya Clement, M.P. | | |
| 8. The Hon. Kwenya Thuku Zachary, M.P. | | |
| 9. The Hon. Ikana Fredrick Lusuli, M.P. | | |
| 10. The Hon. Kirima Moses Nguchine, M.P. | | |
| 11. The Hon. Mohamed Abdikadir Hussein, M.P. | | |
| 12. The Hon. Teresia Wanjiru Mwangi, M.P. | | |

APOLOGIES

1. The Hon. Odhiambo Millie Grace Akoth, MP
2. The Hon. (Dr.) Kasalu Irene Muthoni, M.P
3. The Hon. Kandie Joshua Chepyegon, M.P

IN ATTENDANCE

MINISTRY OF DEFENCE

- | | | |
|---------------------------------|---|-------------------------------|
| 1. Hon. Aden Duale | - | Cabinet Secretary |
| 2. Mr. Patrick Mariru | - | Principal Secretary |
| 3. Lt. General Francis Ogolla | - | Vice Chief of Defence Forces |
| 4. Maj. General Benard Waliaula | - | KDF |
| 5. Mr. Joseph Mutuma | - | Chief Finance Officer |
| 6. Brig. Sammy Kipngetich | - | KDF |
| 7. Brig. Yvonne Kerubo | - | KDF |
| 8. Brig. Joseph Mukwena | - | KDF |
| 9. Col. Hans Nyange | - | KDF |
| 10. Mr. Gf. Sakwa | - | Parliamentary Liaison Officer |

THE NATIONAL ASSEMBLY

- | | | |
|-------------------------------|---|-----------------------------|
| 1. Mr. Dennis Mogare Ogechi | - | Clerk Assistant II |
| 2. Ms. Winfred Kambua Kilonzo | - | Clerk Assistant III |
| 3. Mr. Edwin Machuki | - | Fiscal Analyst III |
| 4. Mr. Murimi Mwangi | - | Media Relations Officer III |

AGENDA

1. Prayers
2. Preliminaries
3. **Briefing on the Kenya-Seychelles Defence Cooperation Agreement by the Ministry of Defence.**
4. Any other Business
5. Adjournment/Date of the next Sitting

MIN.NO. DDC/DIFR/91/2023: PRELIMINARIES

The meeting was called to order at 2:46 p.m. and commenced with prayers. Then the Chairperson stated that the main agenda of the meeting was a briefing on the Kenya-Seychelles Defence Cooperation Agreement by the Ministry of Defence.

The agenda was unanimously adopted.

MIN.NO. DDC/DIFR/92/2023:

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

Confirmation of the Minutes for the previous Sitting was deferred to the next Sitting.

MIN.NO. DDC/DIFR/93/2023:

BRIEFING ON THE KENYA-SEYCHELLES DEFENCE COOPERATION AGREEMENT BY THE MINISTRY OF DEFENCE.

The Cabinet Secretary Ministry of Defence, Hon. Aden Duale, EGH appeared before the Committee to brief the Committee on the Agreement. He submitted as follows:

1. Section 37 of the Kenya Defence Forces Act (KDFA) governs cooperation with external forces and provides that any treaty or agreement between GoK and any other state or international institution or organization regarding the use or provision of military forces shall provide for:
 - a) The legal status of Members of the Defence Forces placed at the disposal of the military authorities of such State, institution or organization; and foreign military personnel and their mission while the personnel are deployed in Kenya
 - b) The conditions of operation of the Defence Forces, and the foreign military personnel outside gazetted areas
 - c) Compensation of local communities in the event of accidents in areas where the military is deployed
 - d) The treaty or agreement entered into pursuant to section 37 KDFA shall put in place mechanisms to: protect the interests of the local community of the place where the foreign military forces are deployed; and provide that the foreign forces are subject to the Constitution and all the Laws of Kenya
2. On 6 April 2022 Ministry of Foreign Affairs notified the MoD of a draft DCA proposed by the Republic of Seychelles
3. KDF and Seychelles People's Defence Forces met on various occasions to negotiate the agreement and the final text submitted for clearance

4. Opinion from the Attorney General approved the final text of the agreements as sound from a legal perspective and National Treasury gave their concurrence
5. CS Foreign Affairs notified CS Defence that the Seychelles DCA was signed on 18 July 2022 during the state visit to the Republic of Seychelles
6. The Ministry further indicated that DCAs establish frameworks for promoting bilateral military cooperation in defence and security; cooperation in identified joint fields on a reciprocal basis and mutual benefit; and the implementation mechanisms.
7. Further, DCAs place an obligation on visiting forces to comply with domestic and international laws and specifies the areas for cooperation anchored on strategic interests and priorities.
8. The DCA with Seychelles identified the following areas for co-operation
 - a) Maritime security
 - b) Counterterrorism
 - c) Information exchange
 - d) Exchange of defence and military delegations
 - e) Exchange of military students/instructors/directing staff
 - f) Joint military training exercises
 - g) Procurement of defence equipment, supplies, and repair services subject to national laws
 - h) Participation in trade, science, or technology exhibits
 - i) Research and development in defence science and technology
 - j) Other fields that may be agreed upon according to the nature of this Agreement
9. The implementation mechanism thus involves a Joint Military Co-operation Committee and a Joint Technical Committee which will formulate work plans for implementation of the DCA, with the representation of at least three (3) uniformed personnel for each party. They will convene alternately in Seychelles and Kenya, with the Joint Military Co-operation Committee meeting annually while the Joint Technical Committee meets twice per annum or as directed by the Co-operation Committee.
10. Some of the key provisions of the DCA are mandatory requirements to conform to Kenyan laws and international obligations. The Financial arrangements include each party bearing their costs; travel costs, insurance, evacuation salaries, and allowances; and training costs to be administered through supplemental arrangements. Further, security and visits will be guided by the host nation's laws, with coordination of visits to be implemented through designated points of contact.
11. The DCA also provides for obligations to protect classified information; obligation to protect the intellectual property of each party; legal status is to be conferred in accordance with host nation laws; and the Host Nation retains primary jurisdiction for criminal offenses, with offenses that violate military discipline to be disposed of by respective parties in accordance with their military laws and regulations.
12. Further, on claims and indemnity, the DCA provides for cross indemnities and/or claims settlement caused by negligence, with parties negotiating a settlement for third-party claims in accordance with the law. The DCA further provides for the settlement of disputes on DCA implementation through amicable means and Community relations that: respect and are sensitive to traditions, customs, and local cultures of communities; and respect and protect vulnerable groups.
13. Additionally, the DCA provides that each party is to retain their respective command for military personnel and ensure the security of equipment uniforms, arms & equipment (Obligation to maintain safe custody of armaments, uniforms, and other defence articles; with a requirement to provide notice when importing the same)

14. On entry, movement, and exit, the DCA provides for freedom of movement within the host nation; prohibited immigrants not to be permitted; and compliance with host immigration laws.
15. Finally, on taxation, importation, and exportation, the DCA provides for the importation of goods for official use tax-free; and importation subject to inspections and customs regulations. It also prescribes the procedures for identification, vehicle registration, investigation procedures for accidents, and entry into Force, duration, amendment, termination

MIN.NO. DDC/DIFR/94/2023:

OBSERVATIONS

The Committee observed that:

1. Seychelles and Kenya share a common border at sea. Therefore, being neighbors, it is imperative that they maintain structured defence cooperation for their mutual benefit.
2. Further, Seychelles is a critical training ground, especially for the Kenya Navy. It is therefore in Kenya's interest to continue with the defence cooperation between the two countries.
3. Seychelles, with a population of approximately 100,000 people, doesn't match Kenya in terms of technology and military prowess. The defence cooperation is therefore likely to benefit Seychelles more than Kenya in terms of assuring Seychelles' maritime security and training.
4. Further, on claims and indemnity, the DCA provides for cross indemnities and/or claims settlement caused by negligence, with parties negotiating a settlement for third-party claims in accordance with the law.
5. There was a need for the Committee to introduce amendments to the Treaty Making and Ratification Act, 2012 to provide for the amendment of conventions before the House approves them for ratification.

MIN.NO. DDC/DIFR/95/2023:

ADJOURNMENT

There being no other business the meeting was adjourned at 5.03 pm.

SIGNED:  DATE: 03/05/23

THE HON. NELSON KOECH, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE
AND FOREIGN RELATIONS

MINUTES OF THE 8TH SITTING OF THE DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE, AND FOREIGN RELATIONS HELD ON THURSDAY 23RD FEBRUARY, 2023 AT 10.00 AM AT PANARI HOTEL, NAIROBI.

PRESENT

- | | | |
|---|---|------------------|
| 1. The Hon. Koech Nelson, M.P. | - | Chairperson |
| 2. The Hon. Maj. (Rtd.) Sheikh Abdullahi Bashir, M.P. | - | Vice Chairperson |
| 3. The Hon. Hassan Abdi Yusuf, M.P | | |
| 4. The Hon. Kandie Joshua Chepyegon, M.P | | |
| 5. The Hon. (Dr.) Kasalu Irene Muthoni, M.P | | |
| 6. The Hon. Kwenya Thuku Zachary, M.P | | |
| 7. The Hon. Logova Sloya Clement, M.P | | |
| 8. The Hon. Ikana Fredrick Lusuli, M.P | | |
| 9. The Hon. Mohamed Abdikadir Hussein, M.P | | |

APOLOGIES

1. The Hon. Wanjira Martha Wangari, M.P
2. The Hon. Odhiambo Millie Grace Akoth, MP
3. The Hon. Kanchory Elijah Memusi, MP
4. The Hon. Luyai Caleb Amisi, M.P
5. The Hon. Teresia Wanjiru Mwangi, M.P
6. The Hon. Kirima Moses Nguchine, M.P

IN ATTENDANCE

PARLIAMENT OF UGANDA, COMMITTEE ON FOREIGN AFFAIRS

- | | | |
|---------------------------------|---|-------------------------|
| 1. Hon. Birigwa Norah Nyendwoha | - | Chairperson |
| 2. Hon. Lumu Richard | - | Member |
| 3. Hon. Kisa Stephen | - | Member |
| 4. Hon. Okot Boniface | - | Member |
| 5. Mr. Kiggundu Stephen | - | Director, Budget Office |
| 6. Mr. Herbert Ngabirano | - | Senior Researcher |
| 7. Mr. Peter Odeke | - | Clerk to Committee |
| 8. Mr. Evans Aryabana | - | Charge D'Affaires |
| 9. Ms. Bernadette Ssempe | - | Accounting Officer |

THE NATIONAL ASSEMBLY

- | | | |
|-------------------------------|---|----------------------|
| 1. Mr. Dennis Mogare Ogechi | - | Clerk Assistant II |
| 2. Ms. Winfred Kambua Kilonzo | - | Clerk Assistant III |
| 3. Mr. Lenny Muchangi | - | Legal Counsel II |
| 4. Mr. Edwin Mwebi | - | Fiscal Analyst III |
| 5. Mr. John Nduaci | - | Serjeant-at-Arms |
| 6. Mr. John Ng'ang'a | - | Audio Officer |
| 7. Mr. Kelvin Ng'ang'a | - | Research Officer III |

AGENDA

1. Prayers
2. Preliminaries
3. **Briefing on the Kenya-Seychelles Defence Cooperation Agreement**
4. **Courtesy call by a visiting delegation of the Foreign Relations Committee of the Ugandan Parliament**
5. Any Other Business
6. Adjournment/Date of the next Sitting

MIN.NO. DDC/DIFR/39/2023:

PRELIMINARIES

The meeting was called to order at 10:25 a.m. and commenced with prayers. The Chairperson then welcomed all those present and asked them to introduce themselves. Thereafter, he stated that the main agenda of the meeting was:

- a) Briefing on the Kenya-Seychelles Defence Cooperation Agreement
- b) Courtesy call by a visiting delegation of the Foreign Relations Committee of the Ugandan Parliament

The agenda was unanimously adopted.

MIN.NO. DDC/DIFR/40/2023:

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

Confirmation of the Minutes for the previous Sitting was deferred to the next Sitting.

MIN.NO. DDC/DIFR/41/2023:

BRIEFING ON THE KENYA-SEYCHELLES DEFENCE COOPERATION AGREEMENT

PRESENTATION BY THE LEGAL COUNSEL

The Legal Counsel briefed the Committee as follows:

1. The Cabinet Secretary, Ministry of Defence, Hon. Aden Duale submitted a copy of the Agreement and a Memorandum dated 28th November, 2022 to the Speaker of the National Assembly for consideration by the National Assembly.
2. Purpose of the Memorandum was to appraise the National Assembly on the Agreement and to seek approval for ratification.
3. The Kenya Defence Forces has been cooperating with Seychelles People's Defence Force on maritime security and support training, therefore the government of the Republic of Seychelles on 6th April, 2022 express the desire to conclude a defence cooperation agreement with Kenya.
4. A delegation from Seychelles was hosted in Nairobi from 25th-29th April, 2022 to discuss the terms of the agreement, and a draft was sent to the office of the Attorney General for approval and clearance was provided. The resulting agreement was executed on 18th July, 2022.
5. Article 2(5) of the Constitution of Kenya, 2010 provides that the general rules of international law shall form part of the law of Kenya while Article 2(6) of the Constitution provides that any treaty or convention ratified by Kenya shall form part of the law of Kenya under this Constitution.

6. The Treaty Making and Ratification Act, No. 45 of 2012 was enacted by Parliament to give effect to Article 2(6) of the Constitution. The Act governs the making and ratification of treaties in Kenya.
7. Although initiation of the treaty-making process is the role of the Executive, Parliament as the legislative arm decides whether a Treaty shall form part of the law of Kenya upon which the treaty comes into force. This flows from Article 94(5) of the Constitution which provides that "no person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or legislation".
8. He then took members through the process of consideration of a treaty for ratification as guided by the Treaty Making and Ratification Act (section 8) and the National Assembly Standing Orders (Standing Order 216(5) (fa) and Standing Order 170A).
9. He then took the Committee through a scrutiny of the agreement stating that:
 - a) The Preamble provides for the general objectives of the agreement towards achieving close defence cooperation between the two countries;
 - b) Article 1 provides that the parties shall implement the provisions of the agreement in conformity with their national laws and international obligations;
 - c) Article 2 comprises of the various definitions applying to the agreement including sending party and receiving party;
 - d) Article 3 establishes the aim of the agreement which is to promote military cooperation in defence and security by developing and fostering bilateral relations in military fields and to enhance the strong relations between both parties through exchanging bilateral communications and strengthening bonds of cooperation in defence and security;
 - e) Article 4 provides that the parties shall cooperate in joint fields in the agreement on a reciprocal basis, with mutual benefits, and in accordance with the national laws of the parties;
 - f) Article 5 provides for the scope of cooperation in the fields of defence and security, defence and security training as well as defence industries and technology;
 - g) Article 6 provides that methods of actual cooperation between the parties shall be formulated by the Joint Military Cooperation Committee;
 - h) Article 7 describes the competent authorities and establishes the Joint Military Cooperation Committee which is responsible for the implementation of the agreement;
 - i) Article 8 provides the financial arrangements between the parties including that the sending party shall pay for salaries, traveling expenses, allowances, and health insurance while the receiving party shall pay for local transportation, accommodation, and emergency medical treatment;
 - j) Article 9 provides that when parties agree upon a cooperation issue that is beneficial to only one party and incurs costs on the other party, the parties shall conclude a prior implementing agreement regarding payment of such costs;
 - k) Article 10 provides for conditions of security and visits by the sending and receiving parties;
 - l) Article 11 provides for the protection of classified information exchanged between the parties;
 - m) Article 12 provides that the parties shall protect the intellectual property rights of each party or of any third party in accordance with national laws and regulations of the parties;
 - n) Article 13 provides that the legal status of personnel shall be conferred in accordance with the national laws of the receiving nation;
 - o) Article 14 provides for the legal status of the visiting forces and jurisdiction in the event of crimes committed by visiting forces;

- p) Article 15 provides that the parties shall waive any claims to loss or damage of equipment and/or property or personnel injuries or loss of lives due to any activities conducted under the provisions of the agreement;
- q) Article 16 provides that any dispute shall be settled through negotiations, consultations and amicable means within the Joint Military Cooperation Committee level;
- r) Article 17 provides that the sending party's personnel shall respect and be sensitive to traditions, customs and cultures of local communities of the places where they have been deployed in the receiving party;
- s) Article 18 provides that the military personnel of any of the parties who visit the other party's territory shall remain members of the defence forces of their country and are subject to the command and service laws and regulations of their military authorities;
- t) Article 19 provides for the regulation of military uniform, arms and equipment;
- u) Article 20 provides for rules of entry, movement and exit of the sending party in the receiving party;
- v) Article 21 provides for the regulation of imports and exports;
- w) Article 22 provides for the entry into force, validity, amendment, review, and termination of the agreement;

PRESENTATION BY THE RESEARCHER

The research officer briefed the Committee as follows:

1. Kenya and Seychelles cooperate in many areas including trade, maritime security and the fight against piracy, the blue economy, parliamentary exchanges, exchanges between the chambers of commerce, youth and sports, cultural exchanges, fisheries, exchange of information, exchanges in labour, experts, skills, and expertise.
2. On 18th July, 2022, Seychelles' Minister for Foreign Affairs and Tourism, Mr. Sylvestre Radegonde, and the former Cabinet Secretary of Foreign Affairs for the Republic of Kenya, Ambassador Raychelle Omamo, signed agreements concerning Defence, mutual assistance on criminal matters, Blue Economy, Memorandum of Understanding for peace, security and law enforcement at sea, maritime affairs, tourism development, agriculture, livestock, and cooperative sectors, security and crime combatting, sports, promotion on partnership on gender equality and promoting women economic empowerment.
3. This Defence agreement between the two countries aims to promote and enhance strong military cooperation in Defence and security matters through developing and fostering bilateral relations in military fields.
4. Some of the important policy implications include the following: -
 - a) Employment- This agreement is believed to create jobs for both permanent staff and temporary staff, hence it will help to solve the problem of the high unemployment rate in Kenya and delivers projects that will also support the local communities.
 - b) Training- The ratification of this agreement is going to enhance joint military training. Deployed soldiers work with partner nations to share skills in military aspects. These pieces of training are very effective and will help the Kenya Defence Forces (KDF) deliver training to their troops after completing the course.
 - c) Bilateral Relations- This agreement is also going to enhance bilateral relations between the two parties since it is set to run for 5 years with automatic renewal for another 5 years, after which this agreement will be reviewed, this is going to enhance trade between the parties which is going to be impactful to the Kenya economy and hence strengthening the relationship between the two countries.

5. The bilateral relations between Kenya and Seychelles have been mutual. Strengthening of Defence cooperation will therefore go a long way into enhancing the bilateral relations between the two countries.

MIN.NO. DDC/DIFR/42/2023:

OBSERVATIONS

The Committee observed that:

1. Bilateral relations between Kenya and Seychelles have been cordial. Strengthening defence cooperation would enhance the bilateral relations between the two countries.
2. Seychelles, with a population of approximately 100,000 people, doesn't match Kenya in terms of technology and military prowess. The defence cooperation is therefore likely to benefit Seychelles more than Kenya in terms of assuring Seychelles' maritime security and training. However, Seychelles and Kenya share a common border at sea. Therefore, being neighbors, it is important that they maintain structured defence cooperation for their mutual benefit.

MIN.NO. DDC/DIFR/43/2023:

**COURTESY CALL BY A VISITING
DELEGATION OF THE FOREIGN
RELATIONS COMMITTEE OF THE
UGANDAN PARLIAMENT.**

Welcoming Remarks by the Chairperson, Kenya

The Chairperson made his welcome remarks stating that:

1. The Kenyan Parliament has maintained an active Parliamentary Friendship Group (PFG) with their counterparts from Uganda in recent parliaments.
2. In terms of bilateral parliamentary relations, the two countries have had a number of cooperative initiatives over the years. For example, in 2019, the Speakers of the Kenyan Parliament and the Ugandan Parliament signed a memorandum of understanding aimed at strengthening parliamentary cooperation and information sharing between the two countries.
3. The memorandum of understanding covers a number of areas, including promoting the exchange of information on parliamentary practices, strengthening the capacity of parliamentary committees, and collaborating on legislative initiatives. It also includes provisions for the two parliaments to work together on issues of mutual interest, such as regional integration, peace and security, and economic development.
4. Kenya and Uganda have collaborated on a number of issues over the years, including:
 - a) Regional integration: Kenya and Uganda are members of the East African Community (EAC) and have worked together to promote economic integration and cooperation within the region. For example, they have collaborated on the implementation of the EAC Common Market Protocol, which aims to create a single market for goods, services, and labor within the EAC.
 - b) Infrastructure: Kenya and Uganda have collaborated on a number of infrastructure projects, such as the construction of the Mombasa-Nairobi-Kampala railway line and the standard gauge railway line that will eventually connect Mombasa to Kampala, Kigali, and other cities in the region.

- c) Peace and security: Kenya and Uganda have collaborated on peace and security issues in the region, including the fight against terrorism and cross-border crime. For example, the two countries have been working together as part of the African Union Mission in Somalia (AMISOM) to combat the extremist group Al-Shabaab.
 - d) Energy: Kenya and Uganda have collaborated on energy projects, such as the construction of the East African Crude Oil Pipeline, which will transport crude oil from Uganda to the port of Tanga in Tanzania via Kenya.
 - e) Agriculture: Both Kenya and Uganda are agricultural countries, and they have collaborated on initiatives to improve agricultural productivity and food security in the region. For example, the two countries have worked together on research and development of new crop varieties and on initiatives to promote regional trade in agricultural products.
 - f) Tourism: Kenya and Uganda both have significant tourism industries, and they have worked together to promote tourism in the region. For example, the two countries have jointly marketed themselves as single tourist destination, highlighting the range of natural and cultural attractions available in both countries.
 - g) Health: Kenya and Uganda have collaborated on health initiatives, such as efforts to combat the spread of HIV/AIDS and other communicable diseases. For example, the two countries have worked together on joint research initiatives and initiatives to improve access to healthcare services in the region.
 - h) Education: Kenya and Uganda have collaborated on education initiatives, such as student exchanges and joint research projects. For example, the two countries have collaborated on initiatives to improve access to education for girls and other disadvantaged groups, as well as on initiatives to promote research and innovation in the education sector.
5. Despite their generally strong diplomatic and parliamentary relations, there have been some areas of divergence between Kenya and Uganda over the years.
- a) Trade: Kenya and Uganda are both members of the East African Community (EAC), which is a regional intergovernmental organization that aims to promote economic integration and cooperation among its member states. However, there have been tensions between Kenya and Uganda over trade issues within the EAC, with each country accusing the other of unfair trade practices.
 - b) Border disputes: Kenya and Uganda share a border, and there have been occasional disputes over the years over issues such as border demarcation and access to resources such as the Mbingo island of Lake Victoria.
 - c) Refugees: Uganda has been hosting a large number of refugees from neighboring countries such as South Sudan and the Democratic Republic of Congo. However, there have been concerns in Kenya and other neighboring countries about the impact of these refugees on regional stability and security.
 - d) Regional politics: Kenya and Uganda have sometimes found themselves on opposite sides of regional political issues. For example, in the early 2000s, Kenya was a strong supporter of the Sudan People's Liberation Movement/Army (SPLM/A) during the civil war in Sudan, while Uganda was supporting the government of Sudan.

Remarks by the Chairperson, Uganda

The Chairperson made her remarks stating that:

1. She appreciated the Committee's acceptance to host the delegation at a short notice.

2. Kenya and Uganda have a long and proud history of cordial relations and there was need to further foster the relations.
3. There were challenges that had prompted their visit to Kenya including that Ugandans had challenges obtaining work permits to work in Kenya, the auction of goods at the port of Mombasa destined for Uganda due to delays in port clearance and charging of extra fees for Ugandan students in Kenyan universities (higher by a factor of 1.5).
4. She affirmed her conviction that the foregoing challenges ought to be resolved through the East African Community platform.

Observations

It was observed that:

1. There was a need to deal with colonial borders through the East African Community and thereby open up the economies for vibrant growth.
2. The gay debate in Uganda had a lot of resonance with the position held by a majority of Kenyans.
3. There was a need for more political exchanges to enhance democracy across the East African region.
4. Tourism had been enhanced in Uganda courtesy of the lessons learned from Kenya. There was a need to foster the ties on the tourism front.
5. There was a need for enhanced cooperation in sports through joint training for Uganda to tap into the prowess of Kenyans especially in athletics.
6. In terms of food security, Kenya can tap into the Ugandan experience since the country seemed to have worked toward being food secure.

MIN.NO. DDC/DIFR/44/2023:

ADJOURNMENT

There being no other business, the meeting was adjourned at 2.05 pm. The next meeting to be held on notice.

SIGNED: 

**THE HON. NELSON KOECH, M.P.
CHAIRPERSON,**

**DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE AND FOREIGN
RELATIONS**

DATE: 03/05/23

ANNEXURE 3:

**COPY OF NEWSPAPER ADVERTISEMENT ON PUBLIC PARTICIPATION AND
SUBMISSION OF MEMORANDA**



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT (SECOND SESSION)

DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE, AND FOREIGN RELATIONS

In the Matter of Articles 2 (5) & (6) and 118 (1)(b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012

and

In the Matter of Consideration by the National Assembly of:

The Defence Cooperation Agreement Between the Government of the Republic of Kenya and the Government of the Republic of Seychelles

The Defence Cooperation Agreement Between the Government of the Republic of Kenya and the Government of the Republic of Seychelles was laid on the Table of the House on 14th February, 2023 and consequently committed to the Departmental Committee on Defence, Intelligence, and Foreign Relations for consideration and reporting to the House in accordance with the provisions of Articles 2 (5) & (6) and 118 (1)(b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012.

The Agreement establishes the legal basis for defence cooperation between the two parties and aims to promote military cooperation in defence and security by means of developing and fostering bilateral relations in the military field.

The Departmental Committee on Defence, Intelligence, and Foreign Relations hereby invites the public and relevant stakeholders to submit Memoranda on the Agreement. The full text of the Agreement and the accompanying Memorandum to Parliament may be accessed at <http://www.parliament.go.ke/the-national-assembly/news-business/14309-14310>

Memoranda may be submitted to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk of the National Assembly, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Wednesday, 8th March, 2023.

SAMUEL NJOROGE
CLERK OF THE NATIONAL ASSEMBLY
23rd February 2023



COUNTY ASSEMBLY OF NYERI

P.O. BOX 162-10100, NYERI
info@nyeriassembly.go.ke
Tel: +061 2037100

OFFICE OF THE CLERK

NOTICE TO THE NOMINEES AND MEMBERS OF THE PUBLIC

Pursuant to Article 179(1)(b) of the Constitution, Section 35(2) of the County Governments Act, 2012 and the Public Appointments (County Assemblies Approval) Act (Section 5-8), the Assembly has received from H.E. the Governor of Nyeri County the names of three (3) Nominees for appointment as Members of the County Executive Committee. The Nominees are hereby invited for vetting by the Assembly Committee on Appointments on Thursday, 9th of March, 2023 at the County Assembly Lobby Room in Ruring'u as per the schedule here below:-

No.	Name	Portfolio	Time
1	Dr. Joseph Maina Kiragu	Health Services	9:00 - 10:30 a.m.
2	Eng. Abdi Hanif Hussein	Transport, Public Works and Infrastructure	11:00 a.m. - 12:30 p.m.
	Mr. Peter Macharia Ngatia	County Public Service and Public Administration	2:00 - 3:30 p.m.

The Nominees are required to collect the relevant Questionnaire from the Office of the Clerk of the County Assembly during official working hours. Alternatively, the Questionnaire may be obtained from the County Assembly of Nyeri website <https://www.nyeriassembly.go.ke/advert/>. The Questionnaire should then be returned (in triplicate), together with true copies of the Nominee's identity card or passport, academic and professional certificates and other testimonials including but not limited to the thesis, journals and publications by Wednesday, 1st March, 2023 at 5:00 p.m.

The Nominees should also enclose true copies of current clearance certificates from the following Institutions:- The Ethics and Anti-corruption Commission; the Kenya Revenue Authority; the Higher Education Loans Board; the Criminal Investigation Department; the Credit Reference Bureau and Commission for Higher Education (applicable to those with foreign degrees only).

The originals of the aforementioned documents must be availed to the Committee at the approval hearing.

Members of the public are invited to attend the approval hearing sessions. Any member of the public with information having a bearing to the appointment of the Nominee mentioned here above is hereby invited to submit in writing the said information or comment by written statement on oath and accompanied by evidence to the Clerk of the Assembly on or before Wednesday, 1st March, 2023 at 5:00 p.m.

CLERK,
COUNTY ASSEMBLY OF NYERI



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

In the matter of consideration by the National Assembly of:-

1. The Land (Amendment) (No.2) (National Assembly Bill No. 40 of 2022)
2. The National Transport & Safety Authority (Amendment) (National Assembly Bill No. 43 of 2022)
3. The Pensions (Amendment) (National Assembly Bill No. 44 of 2022)
4. The Cancer Prevention & Control (Amendment) (National Assembly Bill No. 45 of 2022)
5. The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022)
6. The Geriatric Bill, (National Assembly Bill No. 50) of 2022.

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the following Bills:

The Land (Amendment) Bill (National Assembly Bill No. 40 of 2022) sponsored by Hon. Simon King'ara, MP.

The principal objective of the Bill is to amend the Land Act, No. 6 of 2012 to provide for registration of public land and land set aside for public purpose.

The National Transport & Safety Authority (Amendment) (National Assembly Bill No. 43 of 2022) sponsored by Hon. Simon King'ara, MP.

The principal objective of the Bill is to amend the National Transport & Safety Act, No. 33 of 2012 to assign additional functions to the Authority to include the establishment of systems and procedures for the registration and licensing of two and three wheeled public motorcycle taxis.

The Pensions (Amendment) (National Assembly Bill No. 44 of 2022) sponsored by Hon. Abdul Dawood, MP.

The principal objective of the Bill is to amend the Pensions Act, Cap. 189 to provide for a timeline within which pension shall be payable to an officer.

The Cancer Prevention & Control (Amendment) (No. 2) (National Assembly Bill No. 45 of 2022) sponsored by Hon. Didmus Barasa, MP.

The principal objective of the Bill is to amend the Cancer Prevention & Control Act, 2012 to provide for training of health cadres in the specialized medical field of oncology, to include cancer treatment as part of the provision of primary healthcare and incorporate the use of e-health and telemedicine.

The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022) sponsored by Hon. Abdul Dawood, M.P.

The principal objective of the Bill is to amend the Public Service (Values and Principles) Act, 2015 to require all state organs in the national and county governments and state corporations to submit annual reports on details of human resource in constitutional commissions, independent offices and County Public Service Boards and County Assembly Service Boards.

The Geriatric Bill (National Assembly Bill No. 50 of 2022) sponsored by Hon. Gathoni Wamuchomba, M.P.

The principal objective of the Bill is to give effect to Article 57 of the Constitution by establishing a legal framework for the treatment of elderly persons.

The Bills were Read a First Time on Tuesday, 15th and Wednesday, 16th February, 2023 and pursuant to Standing Order 127(1) of the National Assembly Standing Orders, committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:

SCHEDULE		
No.	Bill	Committee
1.	The Land (Amendment) (No.2) (National Assembly Bill No.40 of 2022)	Lands
2.	The National Transport & Safety Authority (Amendment) (National Assembly Bill No.43 of 2022)	Transport & Infrastructure
3.	The Pensions (Amendment) (National Assembly Bill No. 44 of 2022)	Finance & National Planning
4.	The Cancer Prevention & Control (Amendment) (No.2) (National Assembly Bill No. 45 of 2022)	Health
5.	The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022)	Labour
6.	The Geriatric Bill (National Assembly Bill No.50 of 2022)	Social Protection

Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills

The memoranda should be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Wednesday, 8th March, 2023 at 5:00 p.m.

SAMUEL NJOROGE
CLERK OF THE NATIONAL ASSEMBLY
23rd February, 2023

ANNEXURE 4:

COPY OF THE DEFENCE COOPERATION AGREEMENT



DEFENCE COOPERATION AGREEMENT

BETWEEN

THE GOVERNMENT OF THE REPUBLIC OF KENYA

AS REPRESENTED BY THE MINISTRY OF DEFENCE

AND

THE GOVERNMENT OF THE REPUBLIC OF SEYCHELLES

AS REPRESENTED BY THE DEPARTMENT OF DEFENCE



PREAMBLE

The Government of the Republic of Kenya and the Government of the Republic of Seychelles (hereinafter referred to individually as "Party" and collectively as the "Parties"): (hereinafter the term "Party" and "Parties" shall also substitute for the term determined to abide by the principles of the Charter of the United Nations "Country" and "Countries" wherever the context so requires);

RE-AFFIRMING their existing friendly relations between the two countries on the basis of reciprocity and mutual benefits;

INSPIRED by a common desire to enhance and strengthen existing bilateral relations and promote cooperation between the two countries in the field of defence and security;

BEARING in mind that bilateral defence cooperation will develop into formidable defence and security engagements between the Parties and the two Defence Forces;

HAVE agreed as under:

ARTICLE 1 GENERAL PRINCIPLE

The Parties shall implement the provisions of this Agreement in conformity with their national laws and international obligations.

ARTICLE 2 DEFINITIONS

2.1 The expressions shall have the following meanings unless the context provides otherwise:



- a. "Sending Party" is the Party that sends its Military Personnel, in the field of their competency, to the other Party's territory;
- b. "Receiving Party" is the Party that receives Military Personnel sent by the other Party on its territory;
- c. "Visiting Personnel" shall include serving members of the military and civilians in the employment of the Defence Forces of the Parties.

ARTICLE 3 AIM AND PURPOSE

3.1 This Agreement aims to:

3.1.1 Promote Military cooperation in defence and security by means of developing and fostering bilateral relations in Military fields;

3.1.2 Enhance the strong relations between both Parties through exchanging bilateral communications and strengthening bonds of cooperation in defence and security;

3.2 The purpose of this Agreement is a general framework for cooperation in defence and security and will be followed by Implementing Arrangements related to each cooperation field separately and shall be signed by the respective authorities of the Parties under the same procedures used in executing this Agreement. The Implementing Arrangements shall be considered an integral part of this Agreement;

3.3 The Parties agree that their cooperation shall not be directed against any third party.



ARTICLE 4 CONCEPT OF COOPERATION

The Parties shall cooperate in joint fields identified in this Agreement on reciprocal basis, mutual benefits and in accordance with the national laws of the Parties.

ARTICLE 5 SCOPE OF COOPERATION

5.1 The Parties shall in accordance with the principles of equality, collaboration and mutual benefit cooperate in the following fields:

5.1.1 Defence and Security;

- a. Maritime security.
- b. Counter-terrorism.
- c. Exchange of information.
- d. Exchange of defence and Military delegations.

5.1.2 Defence and Security Training;

- a. Exchange of Military students/instructors/directing staff.
- b. Joint Military training exercises.

5.1.3 Defence Industries and Technology;

- a. Procurement of defence equipment, supplies and repair services subject to national laws.
- b. Participation in trade, science or technology exhibits.



c. Research and Development (R&D) in defence science and technology.

5.1.4 Any other fields that may be agreed upon according to the nature of this Agreement.

ARTICLE 6 PLANNING FOR COOPERATION

Methods of actual cooperation between the Parties shall be formulated by the Joint Military Cooperation Committee.

ARTICLE 7 THE COMPETENT AUTHORITIES

7.1 The Appropriate Authorities responsible for executing this Agreement are the Department of Defence of the Republic of Seychelles and the Ministry of Defence of the Republic of Kenya;

7.2 The Parties shall establish a Joint Military Cooperation Committee and a Joint Technical Cooperation Committee;

7.3 The Joint Military Cooperation Committee shall formulate Implementing Arrangements and set work plans. The Joint Technical Cooperation Committee shall be responsible for the implementation of this Agreement on behalf of the Joint Military Cooperation Committee;

7.4 The Joint Military Cooperation Committee shall be composed of senior Military leadership. The Joint Military Technical Committee shall comprise of not less than three (3) Military Personnel per Party and shall coordinate the implementation of this Agreement;



7.5 The Parties Military leadership shall decide on the membership of the Committees;

7.6 The Joint Military Cooperation Committee shall convene alternately in Kenya and in Seychelles; at least once per annum while the Joint Military Technical Committee shall meet at least twice per annum or as directed by the Joint Military Cooperation Committee.

ARTICLE 8 FINANCIAL ARRANGEMENTS

8.1 The Parties shall bear the cost of implementation of this Agreement subject to the availability of resources and based on the principle of reciprocity;

8.2 Sending Party shall pay for travelling expenses, salaries, insurance and any other allowances due under their own regulations for its Personnel;

8.3 Receiving Party shall pay for local transportation, accommodation and planned activities on reciprocal basis;

8.4 Receiving Party shall provide emergency medical treatment;

8.5 Sending Party shall pay health insurance, in addition to the expenses for evacuation of its own sick Personnel and repatriation of deceased Personnel;

8.6 As regards to the attendance of courses by Military Personnel, financial and medical aspects as well as detailed implementing procedures for any specific form of cooperation will be regulated by ad-hoc supplementary arrangements to be concluded between the Parties in accordance with the existing laws of the Parties;

8.7 Should any of the Parties send a delegation outside the framework of this Agreement, the concerned Party shall bear the cost of all the relevant expenses.



ARTICLE 9 PAYMENT OF SPECIAL COSTS

When the Parties agree upon a cooperation issue which is beneficial to only one Party and incurring costs on the other Party, the Parties shall conclude a prior Implementing Arrangement regarding the payment of such costs. In this case, the terms set out in Article eight (8) of this Agreement shall not be restrictive.

ARTICLE 10 SECURITY AND VISITS

10.1 With regards to security the following shall apply:

10.1.1 Security procedures related to visiting Personnel of the Sending Party shall be coordinated with the Competent Authorities in the Receiving Party;

10.1.2 All delegation members of the Sending Party shall abide by security instructions of the Receiving Party. Any information disclosed or informed to the delegation members shall be treated as information officially presented to the Sending Party.

10.2 With regards to visits the following shall apply:

10.2.1 Requests for visits or Military exercises shall be coordinated through channels designated by each Party. Delegation members of the Sending Party shall observe all applicable security procedures and laws and regulations related to entry and exit in the Receiving Party's country;

10.2.2 Regarding regular visits, rosters of Personnel who conduct such regular visits to the other Party shall be sent via official channels in accordance with the applicable procedures of the Receiving Party's country;



10.2.3 Delegation members of the Sending Party shall return to their homeland after the end of their visit or activity unless authorized by the Parties.

10.3 Visiting Personnel shall not perform any activities outside this Agreement.

ARTICLE 11 PROTECTION OF CLASSIFIED INFORMATION

11.1 Classified information exchanged between the Parties in the framework of the identified cooperation areas included in this Agreement, shall be protected by the Receiving Party in accordance with applicable national laws and regulations and according to the classification degree assigned thereto by the Sending Party;

11.2 The Parties shall protect the classified information disclosed as a result of the cooperation activities identified in this Agreement. The Receiving Party shall not disclose any information to a third Party without written consent from the Sending Party;

11.3 The method of protecting classified information related to activities under this Agreement shall be agreed upon through an implementing arrangement.

ARTICLE 12 INTELLECTUAL PROPERTY

The Parties shall protect the intellectual property rights of each Party or of any third party in accordance with the national laws and regulations of the Parties. Any intellectual property rights gained through joint research/effort shall be shared as mutually agreed by the Parties.



ARTICLE 13 LEGAL STATUS

The legal status of the personnel of the Parties shall be conferred in accordance with the national laws of the Receiving Party.

ARTICLE 14 JURISDICTION

14.1 Sending Party's Personnel shall respect the Receiving Party's National Laws, Rules and Regulations while staying in the Receiving Party's territory and shall not conduct any activity that affects the security or integrity of the Receiving Party;

14.2 Sending Party's Personnel shall be subject to criminal laws of the Receiving Party while staying in the territory of the Receiving Party;

14.3 In case of the violation of the rules of Military discipline by the Sending Party's Personnel while being in the Receiving Party's territory, the Sending Party's Authorities shall take appropriate action in accordance with its Military Laws and Regulations.

ARTICLE 15 CLAIMS AND INDEMNITY

15.1 The Parties shall waive any claims related to loss or damage of equipment and/or property or Personnel injuries or loss of lives due to any activities conducted under the provisions of this Agreement, unless inflicted by intentional actions or neglect of duty;

15.2 In case of third-party claims, the Parties shall negotiate the settlement of the claim in accordance with the respective applicable laws and regulations of the Parties;



15.3 In case the claim is not relevant to any official activities related to this Agreement, the Party whose Personnel causes the damage or loss shall be obliged to indemnify for the damage or loss according to an amicable settlement or a judicial ruling.

ARTICLE 16 SETTLEMENT OF DISPUTES

16.1 Any dispute arising from the implementation or interpretation of this Agreement shall be settled between the Parties through negotiations, consultations and amicable means within the Joint Military Cooperation Committee level;

16.2 Any disputes not settled within the Joint Military Cooperation Committee shall be resolved by the Parties through diplomatic channels.

ARTICLE 17 COMMUNITY RELATIONS

17.1 Sending Party's Personnel shall respect and be sensitive to the traditions, customs and cultures of local communities of the places where they are deployed in the Receiving Party;

17.2 The Military Authorities of the Sending Party shall ensure that its Personnel while deployed in the Receiving Party's territory shall not harm vulnerable groups in particular the disabled, women and children.

ARTICLE 18 COMMAND

18.1 The Military Personnel of any of the Parties who visit the other Party's territory shall remain, under all circumstances, Members of the Defence Forces of their country and are subject to the Command and service laws and regulations of their Military Authorities at all times;



18.2 Receiving Party shall not assign the Personnel sent by the Sending Party to perform operational tasks or other activities in favour of the Receiving Party outside the agreed upon framework of this Agreement.

ARTICLE 19 MILITARY UNIFORM, ARMS AND EQUIPMENT

19.1 Military Personnel from the Parties who visit the other Party's territory shall have the right to wear their official Military uniforms and insignias;

19.2 Visiting Military Personnel shall be allowed to import Military equipment and arms into the Receiving Party territory for use within the framework this Agreement subject to applicable laws of the Parties;

19.3 Sending Party shall give a notice of thirty days (30) days before any such importation.

ARTICLE 20 ENTRY, MOVEMENT AND EXIT

20.1 Host/Receiving Party may allow Sending Party Personnel freedom of movement and freedom to travel within its territory (including stopping and anchoring in its waters) and its air space, provided that a request to do so has been received within reasonable time;

20.2 Personnel who have been declared prohibited immigrants shall not be allowed to enter the territory of the Host/Receiving Party;

20.3 Personnel who are declared prohibited immigrants while in the Host/Receiving Party shall be repatriated or otherwise removed from the territory of the Host/Receiving Party by the Sending Party Authorities at their own expense;



20.4 To obtain entry into the Host/Receiving Party, Personnel of the Sending Party shall be required to produce valid Passports and be processed in accordance with immigration laws of the Host/Receiving Party;

20.5 Personnel of the Sending Party seeking to work in the territory of the Host/Receiving Party shall be required to apply for Work Permits and pay the applicable fees in accordance with national laws of the Host/Receiving Party.

ARTICLE 21 IMPORTS AND EXPORTS

21.1 Subject to Host/Receiving Party national laws, Sending Party may import free of duty, licence or other permit the equipment, materials, vehicles, provisions, supplies, official mail and other goods required for their exclusive use for official purposes. Items so imported shall be subjected to inspection at the port of entry in the presence of an authorized representative of the Sending Party;

21.2 Postal articles may be imported into and exported from Host/Receiving Party by authorized Service postal agencies subject to the production of such articles to the proper authorities for examination in order to ensure compliance with the relevant customs regulations.

21.3 Personnel of the Sending Party in the territory of the Host/Receiving Party may import free of duty personal, household effects and a private motor vehicle;

21.4 Goods imported duty free may be re-exported freely and without payment of duty. Any disposal of these goods in the territory of the Host/Receiving Party by sale or otherwise, shall be subject to payment of duty in accordance with national laws of the Host/Receiving Party;



21.5 Vehicles and articles seized by the Host/Receiving Party Authorities in connection with an offence against the laws of the Host/Receiving Party and are the property of the Sending Party, shall be handled in accordance with the laws of the Host/Receiving Party.

21.6 Any seized vehicles and items shall be processed under the applicable laws of the Host/Receiving Party and handed over to the Sending Party after proper investigations and disposal thereof have been carried out by the Host/Receiving Party's Authorities.

ARTICLE 22 ENTRY INTO FORCE, VALIDITY, AMENDMENT, REVIEW, AND TERMINATION

22.1 This Agreement shall come into force on the date of its signature by both Parties and shall remain valid for a period of five (5) years with automatic renewal for a further period of five (5) years.

22.2 This Agreement is subject to review after ten (10) years from the effective date.

22.3 Despite the provisions of sub-article 2 above the Parties are at liberty to review any specific areas in this Agreement as they may deem it fit.

22.4 The Parties may amend this Agreement by mutual written consent, and such amendments shall come into force under the same procedures as used before execution of this Agreement.

22.5 Any of the Parties may terminate this Agreement by sending a written notice to the other Party at least six (6) months prior to its termination date.

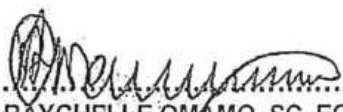
22.6 Termination or amendments of the Agreement shall not affect the financial obligations of the Parties and their related implications.



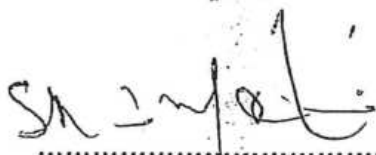
22.7 Classified information exchanged under the provisions of this Agreement shall, after termination, continue to be treated in accordance with the provisions of Article 11 of this Agreement.

IN WITNESS WHEREOF the undersigned duly authorized thereto by their respective Governments, have signed and sealed this Agreement in duplicate in the English language.

Signed at Victoria, Seychelles on this 18th day of July in the year 2022.


.....
AMB. RAYCHELLE OMAMO, SC, EGH
CABINET SECRETARY
FOR FOREIGN AFFAIRS

FOR THE GOVERNMENT OF THE REPUBLIC
OF KENYA


.....
MR. SYLVESTRE RADEGONDE
MINISTER
FOR FOREIGN AFFAIRS & TOURISM

FOR THE GOVERNMENT OF THE
REPUBLIC OF SEYCHELLES

ANNEXURE 5:

COPY OF A MEMORANDUM OF THE AGREEMENT

REPUBLIC OF KENYA



MINISTRY OF DEFENCE

MEMORANDUM TO THE NATIONAL ASSEMBLY

ON

**THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA
AND THE GOVERNMENT OF THE REPUBLIC OF SEYCHELLES**

ON

DEFENCE CO-OPERATION

1.0 PURPOSE

The purpose of this Memorandum is to apprise the National Assembly on the Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles on Defence Cooperation (the Agreement) and to seek approval for ratification.

2.0 BACKGROUND

2.1 The Kenya Defence Forces has been cooperating with Seychelles People's Defence Force on maritime security and support training. Hence, the Government of the Republic of Seychelles on 6th April 2022 expressed the desire to conclude a Defence Cooperation Agreement with the Government of the Republic of Kenya.

2.2 Subsequently, a delegation from Seychelles (Seychelles Peoples Defence Force) was hosted in Nairobi from 25th – 29th April 2022 to discuss, review and firm up the terms of the Agreement. The draft Agreement was sent to the Office of the Attorney General for approval and clearance which was provided. The resulting Agreement was executed on 18th July 2022 in Victoria, Seychelles and is annexed hereto as **Annex A**.

3.0 ANALYSIS OF THE PROBLEM

3.1 The Kenya Defence Forces has been cooperating with Seychelles People's Defence Force on maritime security and support training and seek to re – affirm that defence cooperation and to assist in building bilateral capabilities and training for military personnel.

3.2 The Defence Cooperation Agreement provides a formal legal framework for bilateral cooperation in defence between the two Republics in conformity with Section 37 as read with Section 283 of the Kenya Defence Forces Act, 2012 (revised 2018) which require that cooperation in defence be regulated by an Agreement. According to the two provisions, the Agreement should also provide for the legal status of the Visiting Forces while on Kenyan territory. This element is captured in Article 13 of the Agreement.

3.3 It is expected that contemporary security challenges such as maritime security, organized crime and counter-terrorism that necessitate deepened collaboration and partnership between the two States shall be resolved to the mutual benefit of both countries. The Agreement will provide an important tool to facilitate a robust partnership to tackle these challenges.

4.0 THE AGREEMENT

4.1 Article 3 of the Agreement establishes the legal basis for defence cooperation between the parties which is to promote cooperation in defence and security, to enhance relations through exchange of bilateral communications and strengthening the bonds of the military field.

4.2 The Agreement will regulate cooperation in the broad areas of defence and security, defence and security training and defence industries.

4.3 Article 13 prescribes the legal status of the Visiting forces which is to be conferred in accordance with the national laws of the Receiving party. The Agreement while subjecting Visiting forces to the laws of the host nation grants the authorities of the Sending party primary jurisdiction in case of violations of military disciplinary law.

4.4 Article 6 as read with article 7 establish the Joint Military Cooperation Committee and the Joint Technical Cooperation Committee. The former is charged with the formulation of Implementing Arrangements and setting of work plans whilst the latter will be responsible for the implementation of the Agreement on behalf of the Military Cooperation Committee.

5.0 WAY FORWARD

The Defence Council considered the Agreement prior to signature and approved it. It is recommended that the National Assembly approves its ratification in accordance with the Treaty Making and Ratification Act.

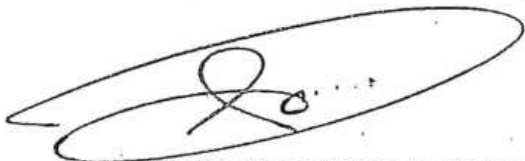
6.0 FINANCIAL IMPLICATION

The implementation of the Agreement will occasion additional expenditure which will be defrayed from the budget voted to the Ministry of Defence.

7.0 RECOMMENDATIONS TO THE NATIONAL ASSEMBLY

The National Assembly is invited to approve the ratification of the Agreement between the Government of the Republic of Kenya and the Government of the Republic of Seychelles on Defence Co-operation.

Dated this 28th day of November 2022



HON. ADEN BARE DUALE, EGH.MP
Cabinet Secretary
Ministry of Defence