

PARLIAMENT OF KENYA



THE NATIONAL ASSEMBLY
COMMITTEE ON IMPLEMENTATION

THE NATIONAL ASSEMBLY PAPERS Laid	
DATE: 23 AUG 2023	DAY: WED
TABLED BY:	Hon Raphael Wanjala, MP Chairperson, Committee - Implementation
TABLED AT THE TABLE:	Finlaye Muriuki

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

BY THE CHAIRPERSON OF THE COMMITTEE ON IMPLEMENTATION

Hon. Speaker,

I rise to issue a statement to the House regarding the implementation status of the Agreement between the Government of the Republic of Kenya and the Government of the Italian Republic on the Luigi Broglio-Malindi Space Centre, as requested by Hon. Owen Baya, CBS, MP for Kilifi North Constituency on Tuesday, 13th June, 2023.

Hon. Speaker,

The matter seems to have taken inordinately long to respond to, due to delay in response from the Management of the Italian Space Centre in Malindi. Nevertheless, we now have received the response and we have shared it with Hon. Owen Baya, CBS, MP.

Hon. Speaker,

Even as I table the response as received, appended to this statement, allow me to give the House a brief on the issue for the benefit of all Members.

Hon. Speaker,

The Kenya-Italy Bilateral Agreement on the Luigi Broglio Malindi Space Centre was ratified by this House on 15th October, 2020, and came into effect on 16th December, 2020 following completion of exchange of diplomatic notes on the agreement between the two governments. The implementing parties to this agreement which guides the management of the Space centre which

is located in Malindi Space Centre are the Kenya Space Agency and the Italian Space Agency. The Centre sits on 3.5Ha of Land under the Ministry of Defence.

Hon. Speaker,

The Agreement provides the framework of collaboration between Kenya and Italy on peaceful use of outer space for scientific, technological and socioeconomic development of both nations, among others. It also provides for joint management of the Luigi Broglio Malindi Space Centre. The cooperation framework is premised on five (5) Implementing Arrangements, as follows:

- a) Support to the Kenya Space Agency;
- b) Access to Earth Observation and Space Science Data;
- c) Education and Training;
- d) Telemedicine; and
- e) Establishment of a Centre for Earth Observation.

Hon. Speaker,

The Government of Kenya is concerned about the slow pace of implementation of the Agreement and I would like to inform the House that as a result, the Committee on Implementation has been following up on the implementation of the same. Unfortunately Kenya is yet to see significant tangible benefits of the cooperation; and truth be told, there is nothing much to show for it, either at the national level, or even in the local community around the Space Centre in Ngomeni, Malindi, Kilifi County.

Hon. Speaker,

The current activities at the Malindi Space Centre are exclusively benefitting only the Italian Space Agency and its Western partner agencies through tracking, telemetry and command (TT&C) services, and provision of space science and astronomical data to the western scientific community. The facility is currently undertaking a number of commercial activities in support of satellite launches and provision of telemetry, tracking and command (TT&C) services to a number of clients including the French Ariane Space, European Space Agency, NASA, SpaceX, Chinese Aerospace Administration and other international clients, with no significant share of profits accruing to the Government of Kenya. Three years into the New Agreement, there is no traction on implementation of the Agreement. The Italian side has made only token fulfilments on select obligations while avoiding the substantive ones.

Hon. Speaker,

I wish to inform the House that the Committee of Implementation visited the Centre on the 11th of August, 2023 to follow on the status of implementation of a report that had been tabled by the Committee on Defence, Foreign Relations and Intelligence regarding this emotive matter. The Agreement under Article V (five) mandates the CEO of both the Space Centres as part of the Joint Steering Committee. The CEO from the Italian side was not present for that particular meeting and thus no one present from the Italian side would adequately answer the Members when called upon. The Italian Ambassador clarified that he had sent a reply to the questions that had been sent their way a day before the scheduled meeting. The Committee agreed to meet them on a later date.

Hon. Speaker,

The Ministry of Defence has equally raised its dissatisfaction over the same matter and now is seeking the intervention of this House for the push for our country to have its rightful share of the benefits that derive from activities at the Malindi Space Centre. Such matters include

- a) Full disclosure and visibility into the commercial contracts entered into by the Malindi Space Centre with 3rd Parties.
- b) Establishment of Centre for Earth Observation for access to crucial earth observation data as well as capacity building on development of applications.
- c) More presence of the Kenyan Government personnel and visibility into the operations of the facility, including the commercial contracts.
- d) Tangible capacity building and support for the growth of Kenya's space sector.
- e) Joint projects that is impactful and beneficial to Kenya.

Hon. Speaker,

That is a synopsis of the response and I hereby submit the entire report as received from the Ministry of Defence and the Management of the Italian Republic through the Ministry of Foreign Affairs.

I thank you Mr. Speaker


HON. RAPHAEL BITTA SAUTI WANJALA

CHAIR, COMMITTEE ON IMPLEMENTATION

Kenya NATIONAL ASSEMBLY
PAPERS LAYED
DATE: 23 AUG 2023
BY: Hon. Raphael Bitta Sauti Wanjala, MP
Chair - Committee Implementation
Finlaye Muriuki



MINISTRY OF DEFENCE

	
THE NATIONAL ASSEMBLY	
BRIEF	
PADDEN T A D	
DATE: 23 AUG 2023	DAY: WED
TO: Hon Raphael Wanyala, mps	Chair, Committee on Implementation
BY: Finlay Muriuki	
CLERK-AT-THE-TABLE:	

**THE COMMITTEE ON IMPLEMENTATION OF THE NATIONAL
ASSEMBLY**

ON

**THE STATUS OF IMPLEMENTATION OF THE KENYA-ITALY
BILATERAL AGREEMENT ON THE LUIGI BROGLIO- MALINDI SPACE
CENTRE**

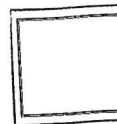
BY

CS DEFENCE, HON ADEN BARE DUALE, EGH

JULY 2023

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STATEMENT BY CS DEFENCE, HON. ADEN BARE DUALE, EGH, TO THE COMMITTEE ON IMPLEMENTATION OF THE NATIONAL ASSEMBLY IN THE MATTER OF IMPLEMENTATION OF THE KENYA-ITALY BILATERAL AGREEMENT ON THE LUIGI BROGLIO - MALINDI SPACE CENTRE

Honourable Chair of the Committee on Implementation

Distinguished Members of the Committee on Implementation,

The Kenya-Italy Bilateral Agreement on the Luigi Broglio Malindi Space Centre was ratified by the Kenya National Assembly on 15 October 2020, and came into effect on 16 December 2020 following completion of exchange of diplomatic notes on the agreement between the two governments. The implementing parties are the Kenya Space Agency (KSA) and the Italian Space Agency (ASI). The Malindi Space Centre sits on 3.5Ha of MoD (KDF) land.

The Agreement provides the framework of collaboration between Kenya and Italy on peaceful uses of outer space for scientific, technological and socioeconomic development of both nations, among others. It also provides for joint management of the Luigi Broglio Malindi Space Centre. The cooperation framework is premised on five (5) Implementing Arrangements, as follows:

- a. Support to the Kenya Space Agency;
- b. Access to Earth Observation and Space Science Data;
- c. Education and Training;
- d. Telemedicine;
- e. Establishment of a Centre for Earth Observation.

Mr. Chair,

The Government of Kenya is concerned about the slow pace of implementation of the Agreement and I would like to inform this Committee and our National Assembly that as a Ministry we have taken firm steps and positions that are targeted at realizing significant benefits to Kenya accruing from our strategic cooperation with the Government of the Italian Republic and the presence of the Luigi Broglio Space Centre in Malindi.

I have written firm letters expressing our discontent with the status of affairs in the implementation, the recent ones being a letter addressed to the President of the Italian Space Agency in March 2023 and another one addressed to the Italian Minister responsible for Space Matters in May 2023. Copies of these letters are attached.

Our nation seeks to leverage the presence of the Malindi facility in our country to build our own capacity as an emerging space faring nation and more importantly realize our aspirations in utilizing space capabilities for our national socioeconomic development. This was the spirit when we signed on to the current bilateral Agreement.

As a developing nation, our country contends with many challenges around agriculture and food security, natural resources management, land and physical planning, disaster management,



national security, and the adverse effects and impacts of climate change. We want to be able to better address these challenges with real capabilities leveraging on space technologies and applications. Unfortunately, with about 60 years of cooperation with a leading space faring nation on earth, Italy, **Kenya is yet to see significant tangible benefits of the cooperation**; and truth be told, **there is nothing much to show for it**, either at the national level, or even in the local community around the Space Centre in Ngomeni, Malindi.

The current activities at the Malindi Space Centre are exclusively benefitting only the Italian Space Agency and its Western partner agencies through tracking, telemetry and command (TT&C) services, and provision of space science and astronomical data to the western scientific community. The facility is currently undertaking a number of commercial activities in support of satellite launches and provision of telemetry, tracking and command (TT&C) services to a number of clients including the French ArianeSpace, European Space Agency, NASA, SpaceX, Chinese Aerospace Administration and other international clients, with no significant share of profits accruing to the Government of Kenya.

Three years into the New Agreement, there is no traction on implementation of the Agreement. The Italian side has made only token fulfilments on select obligations while avoiding the substantive ones. The key issues and concerns we have raised with Italian counterparts are as follows:

- a. There is **no single capacity-building project or programme being undertaken jointly by the Italian Space Agency and the Kenyan Space Agency**. *The Implementing Arrangement on Support to the Kenya Space Agency* provides for assistance in the operationalization of the Kenya Space Agency. In accordance with **Article 2.1** of the Implementing Arrangement, the envisaged support activities **include capacity building, human and infrastructure resources development and technical assistance in terms of equipment and software, among others**. Through regular meetings at the Joint Technical Working Group level, KSA has requested for specific assistance on earth observation data processing and analytics and establishment of a Centre for Microsatellite Development, **but no firm commitments have been made by ASI to support these requests**.
- b. Kenya is **yet to be granted access to earth observation data and other data**, expressly provided for in the *Implementing Arrangement on Access to Earth Observation and Space Science Data*. This is contrary to **Article 3.1 b)** of the Implementing Arrangement which provides for **access and use of data from past, ongoing and future space programs including but not limited to, COSMO-SkyMed, MODIS, Terra & Aqua, LANDSAT, ERS2, and ENVISAT**. This is useful data for decision support in Kenya's socioeconomic activities.
- c. Under the *Implementing Arrangement on Education and Training*, the Italian Government is obligated under **Article 3 a)** to **provide fifteen (15) annual scholarships and fellowships to selected Kenyan nationals to undertake graduate and**



postgraduate degree programmes in Italian Institutions. In 2021, ASI cited the COVID 19 pandemic situation to set aside its obligation. Since the new Agreement came into effect, ASI has offered only 9 slots for academic year 2023. Even then, the students are **only doing the studies virtually** instead of full-time residential training contrary to **Article 3 h) of the Implementing Agreement** which states *"To provide Kenyan nationals accorded scholarship in Italy, full tuition including research fees, travelling expenses, medical insurance cover and adequate allowance for subsistence."*

d. Under the *Implementing Arrangement on Telemedicine*, the Italian Government is obligated under **Article 2.1 to provide training for medical personnel in Kenya on telemedicine and assist in the development of ICT infrastructure and provision of equipment for telemedicine in Kenya.** Nothing has been implemented towards realization of this capability.

e. The Agreement expressly provides for **establishment of a Centre for Earth Observation** in accordance with **Article 2.1** of the *Implementing Arrangement on Establishment of a Regional Centre for Earth Observation*. Malindi Space Centre currently is not able to acquire and process earth observation data that would be useful for Kenya's space-derived data needs. The article further provides for **provision of requisite equipment and infrastructure, and knowledge and technology transfer in data management** to include acquisition, processing, analytics, dissemination and archiving among others. **There is little progress in realization of this capability.** Following our push, ASI has begun refurbishment of the Earth Observation Antenna **but no commitments have been made on delivery of requisite data processing equipment and infrastructure and completion timelines.**

f. There is **reluctance by ASI to provide full disclosure and information about current commercial contracts with third parties** entered into by the facility contrary to provisions of the agreement. **Article VIII Clause 5 f)** obligates the Government of the Italian Republic, through the Italian Space Agency to *"... remit to the Government of the Republic of Kenya 50% of the profits of contracts with Third Parties for commercial services provided by the Facility, including but not limited to launching services, satellite tracking and telemetry services, communication services, data acquisition, surveillance and navigation, with the exception of cooperation agreements in which there is no exchange of funds..."* ASI has kept the list of the Third Parties engaged on commercial contracts a closely guarded secret and despite several requests, including direction from the Joint Steering Committee, ASI has failed to provide the information. They have also failed to disclose the value of the contracts or avail copies of all the contracts to KSA. The GoK is therefore unable to determine its fair share of the profits and Authorization Fees due, owing to lack of full disclosure by ASI.—

g. There is **lack of visibility in the operations of the Malindi Centre** to KSA and other GoK staff. The Agency has appointed a Deputy CEO, who is yet to fully settle down at the facility owing to reluctance to provide suitable office space. The CEO and other GoK staff are furnished with information on the Malindi Space Centre on a "need-to-know" basis.



The Deputy CEO has no access to has no access to operational information including commercial contracts, and does not participate in decision making on administrative and operational functions of the Centre. This is in contravention of provisions under **Article VII, Clause 4** of the Agreement which provides that *"the Deputy CEO shall deputize the CEO in all the functions provided in Article VII (2), with the exception of making financial commitments for the facility."*

h. ASI through the Malindi Space Centre has been **collaborating with other institutions or individuals in Kenya on space matters without the involvement and/or sanction by the Kenya Space Agency** as the local implementing partner and focal point. Some of the institutions do not have credible or accredited engineering programmes related to space sciences and technology, while the individuals have suspect credentials. For example:

- (1) Experiment conducted by ASI and Malindi Space Centre in partnership with individual researchers from Machakos University to be conducted in the Chinese Space Station (Tian Gong);
- (2) Project supposedly intended to track Kenya's endangered wildlife. No information has been shared with the Agency on the objectives, outcomes and monitoring mechanism of the project.

i. ASI is **yet to make payments for Annual Authorization Fees** in the amount of USD 50,000 for ALL 3rd Parties contracted on commercial services, as provided for in **Article VIII, Clause 5 (g)**. There are also some outstanding payments, which include the following:

- (1) Land Rent for Yr 2022 in the amount of USD 250,000.
- (2) 3rd Party Authorization Fee for ESA for 2021, in the amount of USD 50,000.
- (3) 3rd Party Authorization Fees for TT&C support to *Chinese Human Space Flight Mission* and *NASA/SpaceX launch missions* for 2021 and 2022 yet to be paid.

Further, ASI has been underreporting on its commercial activities and has been very economical in declaring proceeds from the activities at the Malindi facility. Over the last two years, ASI declared Kenya's share of profits to be EUR 64,951.57 for 2021, and EUR 18,382.00 for 2022. No detailed and transparent explanation has been provided on how the amounts were arrived at. Our efforts to get our Italian counterparts to make full disclosure of the commercial contracts and commitments in implementation of some of the priorities in the Agreement have so far not borne much fruit.

Mr Chairman,

We have renewed our push for our country to have its rightful share of the benefits that derive from activities at the Malindi Space Centre. We are now advocating for realization of the above commitments and obligations to the letter.



Recently, on 15 June 2023, the Government of Kenya sent a delegation headed by the Principal Secretary in the Ministry of Defence, Mr. Patrick Mariru, to attend the 2nd Joint Steering Committee with the singular aim of addressing ssues around implementation of the Agreement. The meeting arrived at a raft of Resolutions and Recommendations to the Joint Council of Ministers, which included the above concerns. To our utter consternation, our Italian Counterparts declined to append their signature to the joint resolutions, preferring instead to table before the JCM a watered-down version of the Resolutions, with the bulk of Kenya demands omitted. The Draft JSC Resolutions (Kenya and Italian Versions) are attached for your information.

Mr. Chair,

In conclusion, the Italian Government has operated the Malindi Space Centre for over sixty (60) years now and despite our Bilateral Agreements and clear deliverables, our partners have not been genuine and have instead resorted to tokenism and time-delaying tactics in the implementation. There is very little to show for the presence of the facility in Kenya either in terms of impact to the local community or assistance in the development of Kenya's space sector.

From our recent engagements with our Italian counterparts, there has been no demonstrated goodwill and sincerity, beyond mere lip-service, in genuinely seeking to address Kenya's concerns in the implementation.

We have renewed our push for our country to have its rightful share of the benefits that derive from activities at the Malindi Space Centre. We are now advocating for realization of the following important provisions at the minimum:

- a. Full disclosure and visibility into the commercial contracts entered into by the Malindi Space Centre with 3rd Parties.
- b. Establishment of Centre for Earth Observation for access to crucial earth observation data as well as capacity building on development of applications.
- c. More presence of Kenya GoK personnel and visibility into the operations of the facility, including the commercial contracts.
- d. Tangible capacity building and support for the growth of Kenya's space sector.
- e. Joint projects that are impactful and beneficial to Kenya.

We are seeking the National Assembly's voice in expressing our dissatisfaction to the Government of the Italian Republic in the implementation of the Bilateral Agreement.

Mr Chair, thank you for your attention.

HON. ADEN BARE DUALE, EGH
Cabinet Secretary
MINISTRY OF DEFENCE



REPUBBLICA ITALIANA



REPUBLIC OF KENYA

RESOLUTIONS

OF

THE JOINT STEERING COMMITTEE MEETING

ON THE

KENYA – ITALY BILATERAL AGREEMENT ON THE

LUIGI BROGLIO – MALINDI SPACE CENTRE

HELD

IN ROME, ITALY

ON

THURSDAY 15 JUNE 2023

16 June 2023



**AGREED OUTCOMES OF JOINT STEERING COMMITTEE MEETING HELD AT
THE ITALIAN SPACE AGENCY (ASI) HEADQUARTERS IN ROME, ITALY, ON
15 JUNE 2023**

The Joint Steering Committee Meeting on implementation of the Kenya-Italy Bilateral Agreement on the Luigi Broglio-Malindi Space Centre between the Government of the Republic of Kenya and the Government of the Italian Republic, held in Rome, Italy on the 15th Day of June 2023, hereinafter called "the Parties":

ACKNOWLEDGING the strong diplomatic, economic, technical, cultural and political relations existing between the Parties;

ACKNOWLEDGING the strong historical bond and friendly ties between the Parties in the peaceful exploration and exploitation of outer space;

RECOGNIZING the strategic importance of the Luigi Broglio-Malindi Space Centre to the bilateral relationship and cooperation in the use of space and space activities between the Parties;

COMMITTED to strengthening the ties for joint use of space for technical, scientific and socio-economic development of both Parties;

COGNIZANT of the Parties' obligations under the Bilateral Agreement between Kenya and Italy on the Luigi Broglio-Malindi Space Centre, the attendant respective domestic legislation as well as international legal obligations on the peaceful use of outer space;

RESOLVE AND AGREE to accomplish their respective undertakings towards attainment of the objectives set out in the Kenya-Italy Bilateral Agreement on the Luigi Broglio-Malindi Space Centre as follows:

1. Establishment of Regional Centre for Earth Observation.
 - a. Refurbishment of the S/X Band Antenna, currently ongoing, to be completed by end of June 2023.
 - b. Importation and installation of associated Earth Observation data processing equipment to be completed by end of October 2023.
 - c. ASI to develop capacity building training assistance program on earth observation data processing and analytics, data management and dissemination once the Centre for Earth Observation is operational.
 - d. Discussions on establishing a Nairobi Node with direct access to the COSMO-SkyMed Constellation and PRISMA data to continue in the Joint Technical Working Group and a report submitted to the JSC during its next meeting.



2. Commercial Contracts with 3rd Parties.

- a. ASI to make full disclosure on existing and past contracts entered into with third (3rd) Parties for use of services from the Malindi Space Centre. ASI to avail copies of all current contracts with 3rd parties to KSA for information and record.
- b. KSA to be enjoined in all future contract negotiations with 3rd Parties.
- c. ASI to furnish details of calculations for Share of Profits to both Parties.
- d. Need to institute a management information system on 3rd party Contracts at the Malindi Space Centre for ease of tracking of the contracts.
- e. Joint Management Board to review the 8% rate of determination of profits and the basis for the value, and provide report to the next JSC meeting.

3. Payment of Annual Authorization Fees for 3rd Parties.

- a. ASI to provide details of all 3rd Parties contracted to utilize services provided by at the Malindi Space Centre.
- b. KSA to avail banking details to ASI to facilitate payment for 3rd Party Authorization Fees for 2022.
- c. ASI has requested for review of the Clause on Payment of Authorization Fees (Article VIII, Clause 5 (g), citing it as punitive for single-use 3rd party clients and rendering the services at the Malindi Space Centre uncompetitive. ASI requests that the Clause be amended to provide for a pro-rated payment structure. The JSC tasked the Joint Technical Working Group to review the practice globally on similar services provided by other TT&C (Telemetry, tracking and Command) service providers and make recommendations to the JSC in the next meeting.

4. Payment of Taxes; Tax and Duty Waivers.

- a. ASI is paying high taxes for equipment imported for upgrade/maintenance of systems at the Malindi Space Centre. The equipment such as those for the Centre for Earth Observation are not meant for commercial purposes, therefore ASI requests for necessary waiver of taxes and duties. KSA to assist ASI in seeking necessary duty exemptions on case-by-case basis, and where there are issues, both Parties to jointly seek negotiated settlement with KRA.
- b. The JSC noted that the Finance Bill 2023 has provisions for duty exemptions for aerospace and space equipment. KSA to assist in the application for necessary duty exemptions in respect of imported space equipment for use by the Malindi Space Centre.



5. Joint Projects

- a. ASI to involve KSA in all capacity building projects to be conducted in collaboration with other institutions in Kenya without exception.
- b. Joint projects between ASI and KSA need to be jointly conceived and implemented, taking into consideration Kenya's requirements as well. ASI to also consider projects involving support to agriculture, natural resources management and environmental monitoring.
- c. ASI to ensure all its space programs and activities carried out in collaboration with other Kenyan institutions are in line with international legal and regulatory requirements, taking into account state responsibility and liability. This is to ensure Kenya does not unwittingly and unknowingly become liable for space activities conducted within its soil by ASI in concert with third party non-state actors in the country.
- d. ASI offered to provide legal and technical support in the development of Kenya Space Policy and Space Legislation. KSA to formally request for the support from ASI.

6. Management of the Luigi Broglio-Malindi Space Centre

- a. The Deputy CEO to be provided with office space and accommodation and to be fully involved in the day-to-day administrative and operational functions of the facility.
- b. The Deputy CEO to have full visibility of all contracts in existence including technical and financial reports.
- c. The Deputy CEO and other GoK technical staff to be considered part of the Staff of the Malindi Space Centre and to be entitled to privileges including allowances as has been the practice in the past. Associated labour costs to be borne by the Malindi Space Centre just like for other staff at the facility.

7. Education and Training

- a. ASI to facilitate provision of the annual fifteen (15) postgraduate scholarship opportunities and ensure current batch of selected students continue with their residential phase of training at La Sapienza University in Rome.
- b. Arrears of scholarship opportunities for 2021 and 2022 to be bridged by ASI.
- c. ASI to consider establishment of a Centre for Micro-Satellite Development in Malindi to impart hands-on technical skills and competencies



in space systems engineering and development to trained professionals for Kenya's space sector.

d. ASI in collaboration with relevant institutions in the Italian Republic to consider support in the development of advanced curriculum on space science and technologies for Kenya's institutions of higher learning.

8. Local Community Support Projects. Initial disbursement of funds for the Malindi Social and Health Development Program Phase II, provided under a soft-loan facility by the Government of the Italian Republic have been received by the implementing Agency, the Coast Development Authority. The Government of Kenya will ensure proper supervision of the improvement of the Mjanaheri-Ngomeni access road to the Malindi Space Centre.

9. Schedule of JSC Meetings. To ensure adequate traction and momentum in the implementation of the Agreement, the Joint Steering Committee shall be meeting twice a year, alternately in-person and virtually. The JSC shall resume annual meetings thereafter. The next JSC meeting is scheduled to be held virtually in December 2023.

IN WITNESS whereof the undersigned Steering Committee Co-Chairs and duly authorized representatives of the parties to the Kenya-Italy Bilateral Agreement on the Luigi Broglio-Malindi Space Centre sign, acknowledge and commit to the foregoing resolutions:

Done in Rome, Italy on the in two originals, both in English language, all texts being equally authentic.

For and on behalf of the Government
of the Republic of Kenya

For and on behalf of the Government
of the Italian Republic

.....
MR. PATRICK MARIRU
Principal Secretary
Ministry of Defence

.....
PROF. TEODORO VALENTE
Presidente
Agenzia Spaziale Italiana



KENYA SPACE AGENCY
Possibilities beyond our skies

RECOMMENDATION

OF

THE JOINT STEERING COMMITTEE

TO

THE JOINT COUNCIL OF MINISTERS

**on implementation of the Bilateral Agreement on the Luigi Broglio-Malindi
Space Centre between the Government of the Republic of Kenya and the
Government of the Italian Republic**

The Joint Steering Committee (JSC) on the implementation of the Bilateral Agreement on the Luigi Broglio-Malindi Space Centre between the Government of the Republic of Kenya and the Government of the Italian Republic:

ACKNOWLEDGING the strong diplomatic, economic, technical, cultural and political relations existing between the Parties;

ACKNOWLEDGING the strong historical bond and friendly ties between the Parties in the peaceful exploration and exploitation of outer space;

RECOGNIZING the strategic importance of the Luigi Broglio-Malindi Space Centre to the bilateral relationship and cooperation in the use of space and space activities between the Parties;

COMMITTED to strengthening the ties for joint use of space for technical, scientific and socio-economic development of both Parties;

COGNIZANT of the Parties' obligations under the Bilateral Agreement between Kenya and Italy on the Luigi Broglio-Malindi Space Centre, the attendant respective domestic legislation as well as international legal obligations on the peaceful use of outer space;

CONSIDERING the JSC meeting held at the Italian Space Agency (ASI) headquarter in Rome, on June, 15th 2023 and the agreed outcomes therein as documented in the attached Minutes of Meeting (MoM);

RECOMMENDS to the Joint Council of Ministers the reviewing of the provisions of this Agreement as follows:

1. Commercial Contracts with 3rd Parties

All future Third-Party contracts will be discussed jointly by ASI and KSA before their negotiation and signature.

2. VAT e custom duties

a. ASI, its operations, services, assets, income and other property, when purchases or services are made or used by the Agency or on its behalf, shall be exempt from all direct taxes, whether national, provincial or municipal, as well as from indirect taxes (including excise duties and the Value Added Tax (VAT) or an equivalent tax), whether national, provincial or municipal.

b. Goods imported or exported by ASI or on its behalf necessary for the BSC activities under this Agreement are entitled to the exemption at the source from import and export duties and taxes.

3. Request of modification of the art. VIII, 5, g

a. partners should pay proportionally to the amount of times they use the Centre, so to increase the inflow of clients and the continuity of contracts;

- b. the canon gets fixed as percentage of the Centre usage by third parties.
4. Office, Accommodation and Facilitation of Kenyan Personnel at the Facility
- Deputy CEO and other two GoK technical staff (as stated in the formal agreement) should be considered part of the Staff of the Malindi Space Centre and to be entitled to privileges including allowances as has been the practice in the past.
 - Associated labour costs to be borne by the Malindi Space Centre just like for other staff at the facility.

IN WITNESS whereof the undersigned Steering Committee Co-Chairs and duly authorized representatives of the parties to the Kenya-Italy Bilateral Agreement on the Luigi Broglio-Malindi Space Centre sign, acknowledge and commit to the foregoing resolutions:

Done in Rome, Italy on the in two originals, both in English language, all texts being equally authentic.

For and on behalf of the Government
of the Republic of Kenya

For and on behalf of the Government
of the Italian Republic

.....
MR. PATRICK MARIRU
Principal Secretary
Ministry of Defence

.....
PROF. TEODORO VALENTE
Presidente
Agenzia Spaziale Italiana



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MOD 12/19/5A

23 June 2023

Prof. Teodoro Valente

Presidente, Agenzia Spaziale Italiana (ASI)

Via del Politecnico s.n.c.

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RESOLUTIONS DURING JSC MEETING HELD IN ROME, ITALY ON 15 JUNE 2023

Greetings from Kenya. I thank you, Mr. President, for the warm reception accorded to my delegation during the recent Joint Steering Committee meeting held in Rome, Italy, on 15 June 2023. My delegation also appreciates the frank, cordial and fruitful deliberations that took place during the meeting aimed at further solidifying and strengthening our bilateral cooperation on peaceful uses of outer space.

The meeting discussed and agreed on a number of critical issues, which have been captured in the Draft Minutes, and which will be circulated for our signature soon. For purposes of briefing back to our Principals at the level of Cabinet Secretaries / Ministers, the secretariat on the Kenyan side extracted the key decisions and action items in form of Draft JSC Resolutions, and promptly shared the same with yourselves on Friday 16 June 2023 for your review and further refinement.

In our view, the JSC Resolutions are the appropriate means to communicate JSC decisions to the JCM as we cannot present the JSC Minutes to the JCM. Please note that the JSC Resolutions are not meant to substitute the Minutes of the Meeting.

Unfortunately, despite several efforts and reminders to get feedback and/or amendments to the document, to-date we have not received any responses from the Italian side. This is rather disappointing and causing unnecessary friction, which could potentially impact on the conduct of the JCM scheduled to be held in a month's time. It is my hope that you will direct for the necessary review to be done to enable us finalize and sign the document in short order.

A copy of the Draft JSC Resolutions is attached for your consideration and review.

Patrick Mariru

PRINCIPAL SECRETARY

Encl.

Copy to: **Cabinet Secretary – Defence**



MINISTRY OF DEFENCE
Office of the Cabinet Secretary

Telegrams: "DEFENCE", Nairobi
Telephone: 2721100
Fax No: 254-2-2723446
Email: cs-secretary@mod.go.ke

DEFENCE HEADQUARTERS
ULINZI HOUSE
P O BOX 40668-00100
NAIROBI KENYA

When replying please quote:

Ref. No. MOD.12/19/5A

5th May 2023

Mr. Adolfo Urso
Minister for Enterprises and Made in Italy
Via Molise 2
00187 Rome, ITALY

Dear *Urso,*

CONVENING OF JOINT STEERING COMMITTEE – KENYA ITALY BILATERAL AGREEMENT ON THE LUIGI BROGLIO MALINDI SPACE CENTRE

Greetings from Kenya. I am writing this letter to you as my counterpart in the Joint Council of Ministers at the apex of the existing governance structure of the Kenya-Italy Bilateral Agreement on the Luigi Broglio Malindi Space Centre.

Kenya and Italy enjoy cordial relations which strengthened even more with the recent first ever State Visit to Kenya by the President of the Italian Republic, His Excellency Sergio Mattarella, from 13 to 17 March 2023. The President's visit to Kenya, and particularly to the Luigi Broglio Malindi Space Centre on 15 March 2023 demonstrated the important ties between our nations on space programmes. During the visit to the Malindi facility, both governments expressed commitment to further strengthen the relations and activities on space programmes on a win-win basis.

Prior to the visit, Kenya had expressed its concerns about implementation of the existing Kenya-Italy Bilateral Agreement on the Luigi Broglio Malindi Space Centre (hereinafter referred to as "the Agreement"), in a letter Ref. No. MOD.12/19/5A dated 9 March 2023 addressed to the President of ASI and copied to the Italian Embassy in Nairobi (copy attached). You may wish to

note that in response to the letter, the ASI President and the Italian Ambassador to Kenya promptly committed to holding of high level meetings between officials of both parties to the Agreement at the earliest convenience soon after the Italian President's visit, preferably in the April/May 2023 timeframe. Copies of ASI letter Registro Ufficia 0003322 dated 10 Mar 2023 and Italian Embassy letter Prot. 620 dated 10 March 2023 are attached.

Consequently, vide KSA letter Ref. No. KSA/MSK/Vol.1 dated 30 March 2023, the Ag. Director General Kenya Space Agency wrote to the ASI President requesting for convening of in-person Joint Steering Committee (JSC) in the first week of May, preferably on 3 May 2023, either in Rome or Nairobi. A proposed Agenda for the meeting was also shared in the letter (copy attached). ASI responded vide letter Registro Ufficia 0004681 dated 6 April 2023 confirming readiness to hold the meeting as requested and suggested that the meeting be held in Rome on 3 May 2023 (copy attached). Subsequent to this, and following developments on the Italian side, the JSC meeting was rescheduled to 10 May 2023, which the Kenyan side accepted.

It needs to be appreciated that holding of the JSC meeting is critical and needs to happen at the earliest instance considering the weighty issues that the Kenyan side raised over the implementation of the Agreement, which were communicated through my letter. It is important to also note that since the current Agreement came into effect on 16 December 2020, no Joint Council of Ministers (JCM) meeting has ever been held. The JSC meeting needs to happen very soon to pave the way for the inaugural JCM. This will facilitate making of critical decisions touching on the implementation of the Agreement that have been outstanding since the Agreement came into effect.

The last JSC meeting was held virtually on 23 February 2022. Several meetings have since been held between both parties at the subordinate Joint Management Board (JMB) and Joint Technical Working Group (JWG) levels. Issues that have been deliberated upon at these meetings are awaiting decision which can only be made at the JSC and JCM meetings. Any delays in holding the meetings means delays in decision making, which adversely affect implementation of the Agreement. The Kenyan side made necessary preparations to attend the JSC on the rescheduled date of 10 May 2023 with raised hopes of a new spirit of enhanced cooperation between both parties. These hopes have unfortunately been dashed by the unexplained decision to postpone the meeting at the last minute.

You will appreciate that the letter requesting for convening of the JSC was made in good time and with sufficient notice, having been sent on 30 March 2023. It is therefore disconcerting to us, and injurious to the goodwill that was being established, that ASI would postpone at the last minute a meeting that they had agreed to, for reasons that are not clear. We take great exception to this and request that a new date for holding of the JSC meeting

be set within the next two weeks. Any further delay would be detrimental to our collaboration under the Agreement.

I look forward to our holding of the inaugural Joint Council of Ministers meeting soon after the JSC meeting. In the meantime, I urge you to weigh in on this matter to ensure the JSC takes place at the earliest convenience.

Yours sincerely



HON. ADEN B. DUALE, EGH
CABINET SECRETARY

Copy to:

Dr. Alfred Mutua
Cabinet Secretary
Ministry of Foreign and Diaspora Affairs
NAIROBI

Presidente, Agenzia Spaziale Italiana (ASI)
Via del Politecnico s.n.c.
00133 Roma, ITALIA

H.E. Roberto Natali
Ambassador of the Italian Republic
Embassy of the Italian Republic
NAIROBI, KENYA



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NAIROBI, KENYA

Ref No. MOD.12/19/5A

9th March, 2023

Dr. Giorgio Saccoccia
Presidente, Agenzia Spaziale Italiana (ASI)
Via del Politecnico s.n.c.
00133 Roma, ITALIA

Dear *Giorgio*,

**KENYA CONCERNS ON IMPLEMENTATION OF KENYA-ITALY BILATERAL
AGREEMENT ON THE LUIGI-BROGLIO MALINDI SPACE CENTRE**

INTRODUCTION

Kenya entered into an agreement with Italy on cooperation on space matters and management of the Luigi Broglio – Malindi Space Centre. The bilateral agreement was signed on 24 October 2016 in Trento, Italy, and ratified by the Kenyan National Assembly on 15 October 2020. It formally came into effect on 16 December 2020 with the completion of exchange of diplomatic communications on the ratification of the Agreement.

As you are well aware, the agreement has five Implementing Arrangements, namely:

- a. Institutional capacity building support to the Kenya Space Agency.
- b. Access to Earth Observation and Space Science Data.
- c. Education and Training.
- d. Telemedicine.
- e. Establishment of a Regional Centre for Earth Observation.

It is noted and appreciated that the President of the Italian Republic, His Excellency Sergio Mattarella will be conducting the first ever State Visit by an Italian President to Kenya from 13 to 17 March 2023. Part of the President's itinerary includes a visit to the Malindi Space Centre on 15 March 2023. It is

important that critical issues in the implementation of the bilateral agreement are addressed through commitments by the Italian Space Agency ahead of the visit.

ACTIVITIES AT THE FACILITY

As you know, the current activities at the Luigi Broglio Malindi Space Centre are almost exclusively benefiting only western partner agencies of ASI through tracking, telemetry and command (TT&C) services, and provision of space science and astronomical data to the western scientific community.

There is no single capacity-building project or programme currently being undertaken jointly by the Italian Space Agency and the Kenyan Space Agency. As a matter of fact, and most unfortunately, **Kenya is yet to realize any tangible benefits from the services provided at the facility, and there is very little to show for the over 60 years of operation of the facility in Kenya**, despite existence of bilateral agreements with clear deliverables over the period.

IMPLEMENTATION EFFORTS

It is noted that since the first Joint Steering Committee meeting held in February 2022 under the new agreement, there have been meetings at the Joint Management Board (JMB) and Joint Technical Working Group (JWG) level aimed at gaining traction in implementation of the Agreement and to derive some benefits for Kenya. These unfortunately are yet to receive substantive decisions at the Joint Steering Committee (JSC) and the Joint Council of Ministers (JCM) levels for implementation, which as you know have not been held. There is therefore very little progress made even in addressing minor issues around access to the Malindi Space Centre by Kenyan partners in the agreement, owing to apparent deliberate efforts to frustrate the implementation.

There have been token efforts in the recent months to address some provisions in the Agreement. In particular, it is appreciated that the Italian Space Agency has provided nine (9) postgraduate scholarship opportunities in 2023 to Kenyan engineers in space systems engineering and related fields. But **a lot remains to be done to attain a win-win situation for the principal parties.**

KENYA PRIORITIES

Kenya wishes to see investment and engagement in joint programmes that are directly beneficial and address its needs, to include capacity building on space systems engineering; space data analytics and processing; and developing earth observation applications for decision support in socioeconomic sectors, to include:

- a. Environmental monitoring;
- b. Climate change monitoring and mitigation;
- c. Agriculture and food security;
- d. Natural resources management (water, forests, mining, blue economy);