

MINUTES OF MEETING
BETWEEN THE JAPANESE DETAILED PLANNING SURVEY TEAM AND
THE AUTHORITIES CONCERNED OF
THE GOVERNMENT OF KENYA ON
THE JAPANESE TECHNICAL COOPERATION PROJECT FOR
CAPACITY DEVELOPMENT FOR AGENCIES IN CUSTOMS CLEARANCE

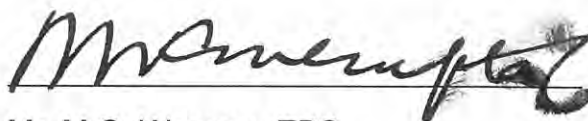
The Government of the Republic of Kenya (hereinafter referred to as “the Government of Kenya”) officially requested the Government of Japan to implement the project entitled “Capacity Development for Agencies in Customs Clearance” (hereinafter referred to as “the Project”) in August 2008. In response to the request, the Detailed Planning Survey Team (hereinafter referred to as “the Team”) organized by the Japan International Cooperation Agency (hereinafter referred to as “JICA”) was dispatched and had a series of discussions with the authorities concerned of the Government of Kenya for the purpose of working out the details of the contents of the Project.

Both parties agreed on the matters referred to in the document attached hereto, at the occasion of the Regional Joint Coordination Committee held in Kenya, under the Project “Capacity Building for the Customs Administrations of the Eastern African Region”.

Nairobi, May 23rd, 2009



Mr. Hiroyuki Abe
Leader
Detailed Planning Survey Team
Japan International Cooperation Agency
Japan



Mr. M.G. Waweru, EBS
Commissioner General
Kenya Revenue Authority
Republic of Kenya

M/M for Phase II (Kenya)

THE ATTACHED DOCUMENT

1. General nature of the Project

The Team and the Government of Kenya confirmed the following general features of the Project as a basis for its implementation.

a. Background of the Project

JICA and the respective governments of Kenya, Tanzania and Uganda have been conducting the Project “*Capacity Building for the Customs Administrations of the Eastern African Region*” (hereinafter referred to as the “current Project”) since September 2007. The Project aims to build the capacity of the respective Revenue Authorities of Kenya, Tanzania and Uganda (hereinafter referred to as the “respective customs administrations”) so that an One Stop Border Post (OSBP) system that is customized to the context of East Africa would function suitably according to their needs, and thereby contributing to promoting efficiency in land transport and distribution of products in the region. OSBP is brought to international attention even more since the TICAD IV meeting held in Yokohama of Japan last May 2008. The Government of Japan and JICA are focusing on assisting capacity building and establishment of OSBP with a view to contributing to the promotion of trade facilitation in Africa.

With a few months left in the cooperation period of the current Project, the Terminal Evaluation was conducted from May 7th thru May 23rd 2009. It was recommended by the Terminal Evaluation Team, dispatched by JICA, and agreed by the respective customs administrations as follows (summary abstract from the Minutes):

(1) To continue the activities of the current Project in order to have the effects achieved so far take root in respective customs administrations.

(2) To further strengthen the basic skills of customs administrations taking into account the situations and common needs of the respective customs administrations.

(3) To consider applying the outcome of the pilot projects to other potential border posts.

(4) To consider including Rwanda and Burundi as beneficiaries of the Project for more comprehensive and regional approach.

(5) To enhance the capacity of the customs agents since they seem to have a lack of understanding in classification & valuation, causing redundant time loss in customs clearance.

(6) To strengthen the capacity of customs agent associations so that they could supervise their members in human resource training, foster responsibility, compliance and internal control, with a view to constructing good relationships with customs administrations.

(7) To initiate the second phase of the Project seamlessly after the completion of the current Project term, covering the components mentioned above.

(8) Since the concept of OSBP is a comprehensive initiative that involves wide range of components, various challenges should be taken into account in the succeeding project with a view to carry out OSBP in the region.

b. Objectives and Outputs of the Project

It was confirmed that the Project would be conducted as an integral part of strengthening the capacity of the respective customs administrations, namely the Kenya Revenue Authority (KRA), Tanzania Revenue Authority (TRA), Uganda Revenue Authority (URA) and their officials for the operation of OSBP based on the relevant skills of customs administrations. (The Governments of Tanzania and Uganda first need to submit the official request of the Project respectively to the Government of Japan, in order to initiate the Project in the respective countries.) This time, the Project would also include the customs agents and associations in the respective countries as beneficiaries since both customs administrations and the agents/associations need to jointly work together in order to expedite smooth clearance procedures and facilitate trade.

By taking this opportunity, the customs administrations and customs associations/agents are expected to make efforts to identify and acknowledge each other's grounds, thoughts, visions and share ideas with a view to constructing good relationships, that may create a virtuous cycle in overall development of appropriate and fair customs administration.

Both parties (i.e. KRA and JICA) understand that the Project is designed bearing in mind the following outputs:

- Appropriate knowledge to properly operate the OSBP Operational Model is acquired by the customs officers of respective customs administrations and stakeholders involved.
- The customs administrations' institutional capacity are improved.
- The pilot models for the OSBP Operational Model are implemented at Namanga and Malaba Border Posts.

- Capacity of customs agents is improved to comply with customs procedures.
- The function of customs agent association is strengthened in order to foster social responsibility, compliance and internal control of customs agents.
- Constructive relationship is built among customs administrations and customs agent associations.
- Capacity of understanding customs management, including administration of related law and regulation is improved.
- Analysis and/or studies are conducted in order to identify obstacles including capacity of existing infrastructure that would meet the requirements of OSBP operation in the region, to consider the clearance and dwell time (time release study) taking a corridor approach.
- Provide advice in positioning the operation of OSBP within an inclusive approach in trade facilitation.

These outputs are to be achieved through activities conducted by the joint work of the respective customs administrations and the customs agent associations in the respective countries. Through such joint work, substantial and tangible outputs shall be produced and mechanisms shall be established in the course of the Project implementation, which should be sustainable even after the cooperation term of the Project.

In order to address the aforementioned outputs; the focus of the areas of technical cooperation would be as follows:

1. Enhancement of the capacity of customs administrations.
2. Enhancement of compliance level and capacity of customs agents through the strengthened functions of customs agents associations.

c. Purpose of the Project and tasks of KRA, TRA, URA and customs agent associations

Both parties, after having consultations with the members of TRA and URA, agreed to set the Project purpose as follows: "Smooth and efficient customs clearance is carried out with support of proper operation of OSBP by each customs administration and through establishing constructive relationships with the customs agents." The Project will focus on (1) the capacity development of KRA, TRA and URA and at the same time, (2) capacity development of customs agents through their associations. In

order for customs clearance to be carried out as accurately and as speedy as possible at various border posts, the customs administrations and the customs agents need to come together, identify and share the issues that need to be improved, come up with concrete approach, and work towards that goal.

d. Modification of the Project Title

Taking into account the contents of the aforementioned issues, the Team and KRA agreed to propose their governments to modify the title of the Project to “*Capacity Building for the Customs Administrations of the Eastern African Region (Phase 2)*”. JICA will consult the Ministry of Foreign Affairs in Japan who provides the final approval.

2. Contents of R/D, PDM and PO

Based on the general recognition mentioned above, both sides roughly formed common understanding on the draft of Record of Discussion (hereinafter referred to as “R/D”), Project Design Matrix (hereinafter referred to as “PDM”) and Plan of Operations (hereinafter referred to as “PO”) as attached. The detailed contents of these documents are subject to change based on further internal consideration in JICA and through mutual negotiations among JICA and the respective customs administrations. With regard to the specific contents of the R/D, PDM and PO, both parties confirmed the following issues.

a. Project cooperation term

It was agreed that in order to achieve the Project Purpose, the cooperation term of the Project should be 4 years, taking into account the necessary timeframe to develop the capacity of the respective governments. The Project shall commence from the next day of the completion of the current Project provided that the R/D is signed on or prior to that date.

b. Project beneficiaries

- (1) The officials of KRA, TRA and URA who will play important roles in the operation and management of customs administration and OSBP model.
- (2) The officials of the respective customs administrations with the support of JICA experts are expected to extend assistance primarily to customs agent associations. The members of such associations may directly benefit through participations in

workshops and seminars, but the primary channel of assistance activities shall be provided by associations.

- (3) Officials of Other Government Agencies (OGA) in the area of cross-border administration.

c. Orientation of respective Outputs

With regard to the Outputs in the PDM, while they are equally important for achieving the Project Purpose, the Project shall be implemented bearing in mind the following context. Both parties confirmed that the detailed activities and the working modality for each Output shall be discussed after the commencement of the Project.

Output 1: The capacity of customs administration is enhanced.

- 1-1 Establish the plan of operations based on the outputs achieved in the previous phase.
- 1-2 Continue building the capacity of officials of customs administration in order for them to operate the OSBP model properly and smoothly.
- 1-3 Conduct activities and provide advice to enhance institutional capacity and strengthen the capacity of management so as to share, stock and develop institutional knowledge.
- 1-4 Continue the pilot projects (ICT and Joint Border Surveillance). Consider rolling out the pilot projects to other potential border posts, if appropriate.
- 1-5 Strengthen the supervision functions of customs administration in order to improve the compliance level of trade, particularly customs agents.
- 1-6 Consider on and provide advice in tackling regional common issues.
- 1-7 Conduct the detailed design study of OSBP at Namanga (with a view to be used as a model for OSBP facilities in other areas)
- 1-8 Grasp and analyze obstacles to trade facilitation including shortcomings of infrastructure.

Output 2: Compliance level and capacity of customs agents are enhanced through the strengthened functions of customs agents associations.

- 2-1 Conduct the baseline survey on customs agents and associations in each country.
- 2-2 Based on the results of the baseline survey, conduct activities so as to strengthen functions of customs agents associations.

3. Implementing structure of the Project

a. Joint Coordination Committee

To ensure smooth collaboration among relevant governments and JICA experts, and to monitor the progress of the Project, the Joint Coordination Committee shall be held periodically in a timely manner. The Committee shall be composed of representatives of the respective governments, JICA experts, JICA Office and other relevant organizations.

b. Coordination with other development partners

The Project shall be implemented paying due attention to coordination with other development partners, for the purpose of avoiding any duplication and maximizing complementary effects. The Project will share information with those concerned parties as and if necessary.

c. Inclusion of Rwanda and Burundi to the Project

It may be beneficial to include Rwanda and Burundi as the member of the Project in order to share the same approach and conduct uniform activities with a view to achieving the same Overall Goal, as member countries of EAC. Discussions with the two countries and JICA experts shall take place during the course of implementation of the Project.

4. Logistic arrangements

a. Work space for JICA expert(s)

KRA agreed to provide the JICA experts with an adequate office space with enough furnishing, telephone lines and access to Internet that would be necessary in order to carry out the Project.

b. Counterpart budget

As according to the government's procedures, KRA will ensure sufficient allocation of counterpart budget required for the implementation of the Project activities.

c. Submission of official requests by the Governments of Tanzania and Uganda

It was acknowledged that submission of official requests from the Governments of

Tanzania and Uganda to the Government of Japan, who will then provide approvals, is being awaited in order to conduct the Project in full scale.

5. Training in Japan or in a third country

Both parties basically agreed to carry out the training programme in Japan or in a third country where the situation of OSBP and/or customs agent associations is deemed suitable for the Project participants to visit and learn. The necessity of the training in Japan shall be considered if certain subjects are agreed that it would be better to be conducted in Japan. Detailed contents and the number of participants will be discussed during the course of the Project.

6. Administration of the Project

It was agreed that the Commissioner General of KRA would be appointed as the Project Director in Kenya, who will bear overall responsibility for the administration and management of the Project in Kenya while the Commissioner of KRA, as the Project Manager, will be responsible for the managerial and technical matters of the Project in Kenya.

7. Sustainability of the Project

KRA will take necessary measures to ensure that the self-reliant operation of the Project in Kenya will be sustained during and after the period of the Japanese technical cooperation, through the full and active involvement in the Project by all related authorities and institutions so that the skills and knowledge acquired by the officials of KRA, in cooperation with TRA and URA, as well as those of customs agent associations will ultimately contribute to the economic and social development in the Eastern African region.

Annex 1: Draft of Record of Discussions

Annex 2: Draft of Minutes of Meeting

DRAFT

RECORD OF DISCUSSIONS
BETWEEN JAPAN INTERNATIONAL COOPERATION AGENCY AND
AUTHORITIES CONCERNED OF THE GOVERNMENT
OF THE REPUBLIC OF KENYA
ON JAPANESE TECHNICAL COOPERATION PROJECT
FOR
CAPACITY BUILDING FOR THE CUSTOMS ADMINISTRATIONS
OF THE EASTERN AFRICAN REGION (PHASE 2)

In response to the request of the Government of the Republic of Kenya, Government of Japan has decided to implement Japan-Kenya Technical Cooperation Project for “Capacity Building for the Customs Administrations of the Eastern African Region (Phase 2)” (hereinafter referred to as “the Project”) in accordance with the Agreement on Technical Cooperation between the Government of Japan and the Government of the Republic of Kenya, signed on (date of technical cooperation agreement) XX XX, 200X (hereinafter referred to as “the Agreement”), the Embassy of Japan’s note XX/XX/200X dated XX X, 200X and the Ministry of XX of Kenya’s note XXX/X/XXX/XX/XX dated XX XX, 200X.

Accordingly, the Japan International Cooperation Agency (hereinafter referred to as “JICA”), the official agency responsible for the implementation of the technical cooperation program of the Government of Japan, will cooperate with the authorities concerned of the Government of Kenya in implementing the Project.

JICA and the authorities concerned of the Government of the Republic of Kenya had a series of discussions on the framework of the Project. As a result of the discussions, JICA and the authorities concerned agreed on the matters referred to in the document attached hereto.

Nairobi, XX XX, 2009

Mr. Yoshiyuki Takahashi
Chief Representative
Kenya Office
Japan International Cooperation Agency
Japan

Mr. M.G. Waweru, EBS
Commissioner General
Kenya Revenue Authority
Republic of Kenya

R/D for Kenya

THE ATTACHED DOCUMENT

I. COOPERATION BETWEEN JICA AND THE GOVERNMENT OF THE REPUBLIC OF KENYA

1. The Government of the Republic of Kenya will implement the Project in cooperation with JICA.
2. The Project will be implemented in accordance with the Master Plan which is given in Annex I.

II. MEASURES TO BE TAKEN BY JICA

In accordance with the laws and regulations in force in Japan and the provisions of Article III of the Agreement, JICA, as the executing agency for technical cooperation by the Government of Japan, will take, at its own expense, the following measures according to the normal procedures of its technical cooperation scheme.

1. DISPATCH OF JAPANESE EXPERTS

JICA will provide the services of the Japanese experts as listed in Annex II. The provision of Article V of the Agreement will be applied to the above-mentioned experts.

2. PROVISION OF MACHINERY AND EQUIPMENT

JICA will provide such machinery, equipment and other materials (hereinafter referred to as "the Equipment") necessary for the implementation of the Project as listed in Annex III. The provision of Article VII of the Agreement will be applied to the Equipment.

3. TRAINING OF KENYAN PERSONNEL IN JAPAN

JICA will receive the Kenyan personnel connected with the Project for technical training in Japan.

III. MEASURES TO BE TAKEN BY THE GOVERNMENT OF THE REPUBLIC OF KENYA

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1. The Government of the Republic of Kenya will take necessary measures to ensure that the self-reliant operation of the Project will be sustained during and after the period of Japanese technical cooperation, through full and active involvement in the Project by all related authorities, beneficiary groups and institutions.
2. The Government of the Republic of Kenya will ensure that the technologies and knowledge acquired by the Kenyan nationals as a result of the Japanese technical cooperation will contribute to the economic and social development of the Republic of Kenya.
3. In accordance with the provisions of Article V of the Agreement, the Government of the Republic of Kenya will grant, in the Republic of Kenya, privileges, exemptions and benefits to the Japanese experts referred to in II-1 above and their families.
4. In accordance with the provisions of Article VII of the Agreement, the Government of the Republic of Kenya will take the measures necessary to receive and use the Equipment provided by JICA under II-2 above and equipment, machinery and materials carried in by the Japanese experts referred to in II-1 above.
5. The Government of the Republic of Kenya will take necessary measures to ensure that the knowledge and experience acquired by the Kenyan personnel from technical training in Japan will be utilized effectively in the implementation of the Project.
6. In accordance with the provision of Article V-2(b) of the Agreement, the Government of the Republic of Kenya will provide the services of Kenyan counterpart personnel and administrative personnel as listed in Annex IV.
7. In accordance with the provision of Article V-2(a) of the Agreement, the Government of the Republic of Kenya will provide the buildings and facilities as listed in Annex V.
8. In accordance with the laws and regulations in force in the Republic of Kenya, the Government of the Republic of Kenya will take necessary measures to supply or replace at its own expense machinery, equipment, instruments, vehicles, tools, spare parts and any other materials necessary for the implementation of the Project other than the Equipment provided by JICA under II-2 above.

9. In accordance with the laws and regulations in force in the Republic of Kenya, the Government of the Republic of Kenya will take necessary measures to meet the running expenses necessary for the implementation of the Project.

IV. ADMINISTRATION OF THE PROJECT

1. Commissioner General of the Kenya Revenue Authority (hereinafter referred to as "KRA"), as the Project Director, will bear overall responsibility for the administration and implementation of the Project.
2. Commissioner of Customs of KRA, as the Project Manager, will be responsible for the managerial and technical matters of the Project.
3. The Japanese experts will provide necessary recommendations and advice to the Project Director and the Project Manager on any matters pertaining to the implementation of the Project.
4. The Japanese experts will give necessary technical guidance and advice to Kenyan counterpart personnel on technical matters pertaining to the implementation of the Project.
5. For the effective and successful implementation of technical cooperation for the Project, a Joint Coordinating Committee will be established whose functions and composition are described in Annex VI.

V. JOINT EVALUATION

Evaluation of the Project will be conducted jointly by JICA and the Ugandan authorities concerned in order to examine the level of achievement.

- Mid-term evaluation: At the interim period of the cooperation term
- Terminal evaluation: During the last six months of the cooperation term

VI. CLAIMS AGAINST JAPANESE EXPERTS

In accordance with the provision of Article VI of the Agreement, the Government of the

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Republic of Kenya undertakes to bear claims, if any arises, against the Japanese experts engaged in technical cooperation for the Project resulting from, occurring in the course of, or otherwise connected with the discharge of their official functions in the Republic of Kenya except for those arising from the willful misconduct or gross negligence of the Japanese experts.

VII. MUTUAL CONSULTATION

There will be mutual consultation between JICA and the Government of the Republic of Kenya on any major issues arising from, or in connection with this Attached Document.

VIII. MEASURES TO PROMOTE UNDERSTANDING OF AND SUPPORT FOR THE PROJECT

For the purpose of promoting support for the Project among the people of the Republic of Kenya, the Government of the Republic of Kenya will take appropriate measures to make the Project widely known to the people of the Republic of Kenya.

IX. TERM OF COOPERATION

The term of cooperation will be 4 years from September 4th 2009.

ANNEX I	MASTER PLAN
ANNEX II	LIST OF JAPANESE EXPERTS
ANNEX III	LIST OF MACHINERY AND EQUIPMENT
ANNEX IV	LIST OF KENYAN COUNTERPART AND ADMINISTRATIVE PERSONNEL
ANNEX V	LIST OF BUILDINGS AND FACILITIES
ANNEX VI	JOINT COORDINATING COMMITTEE

ANNEX I

MASTER PLAN

Overall Goal

Efficient and effective trade facilitation is carried out in the region.

Project Purpose

Smooth and efficient customs clearance is carried out with support of proper operation of OSBP by each customs administration and through establishing constructive relationships with the customs agents.

Outputs

- 1 The capacity of customs administration is enhanced.
- 2 Compliance level and capacity of customs agents are enhanced through the strengthened functions of customs agents associations.

Activities

- 1-1 Establish the plan of operations based on the outputs achieved in the previous phase.
- 1-2 Continue building the capacity of officials of customs administration in order for them to operate the OSBP model properly and smoothly.
- 1-3 Conduct activities and provide advice to enhance institutional capacity and strengthen the capacity of management so as to share, stock and develop institutional knowledge.
- 1-4 Continue the pilot projects (ICT and Joint Border Surveillance). Consider rolling out the pilot projects to other potential border posts, if appropriate.
- 1-5 Strengthen the supervision functions of customs administration in order to improve the compliance level of trade, particularly customs agents.
- 1-6 Consider on and provide advice in tackling regional common issues.
- 1-7 Conduct the detailed design study of OSBP at Namanga (with a view to be used as a model for OSBP facilities in other areas)
- 1-8 Grasp and analyze obstacles to trade facilitation including shortcomings of infrastructure.
- 2-1 Conduct the baseline survey on customs agents and associations in each country.

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2-2 Based on the results of the baseline survey, conduct activities so as to strengthen functions of customs agents associations.

ANNEX II

LIST OF JAPANESE EXPERTS

Long-term experts

- Chief Advisor
- Customs Agents Association
- Regional Cooperation
- Coordinator

Short-term experts

- as necessary

ANNEX III

LIST OF MACHINERY AND EQUIPMENT

1. Equipment necessary for the implementation of the Project, if any.

Note:

The contents, specifications and quantity of equipment will be decided through mutual consultation and within the allocated budget.

ANNEX IV

LIST OF KENYAN COUNTERPART AND ADMINISTRATIVE PERSONNEL

1. Counterpart Personnel

- (1) Project Director
- (2) Project Manager
- (3) Working Group

2. Administrative Personnel

- (1) Administrative Assistant
- (2) Supporting Staff
- (3) Other Supporting Staff necessary for the implementation of the Project

ANNEX V

LIST OF BUILDINGS AND FACILITIES

1. Office spaces and facilities including sufficient furnishing, telephone lines and access to Internet necessary for the Japanese experts
2. Other facilities necessary for the implementation of the Project
3. Other facilities mutually agreed upon as necessary

ANNEX VI

JOINT COORDINATING COMMITTEE

1. Functions

The Joint Coordinating Committee (hereinafter referred to as "JCC") will be established and convened at least twice a year and whenever necessity arises in order to fulfill the following functions:

- (1) advise on the relevance of an annual work plan of the Project based on the Plan of Operations within the framework of the R/D.
- (2) participate in the monitoring and evaluation exercises on the progress of the Project and provide advice on the results of the annual work plan, and
- (3) discuss and advise on major issues that arise during the implementation period of the Project.

2. Compositions

The Joint Coordinating Committee shall be composed of:

(1) Chairperson: Commissioner General of KRA

(2) Members:

1. *Kenyan side:*

- (1) Project Manager
- (2) Representative(s) of Ministry of Finance
- (3) Other personnel concerned with the Project decided by the Kenyan side, if necessary

2. *Japanese side*

- (1) Project Expert(s)
- (2) Representative(s) of JICA Kenya Office
- (3) Official(s) of Embassy of Japan, if necessary
- (4) Other personnel concerned and/or dispatched by JICA, if necessary

3. *Observers*

Observers may attend as agreed upon by both KRA and JICA.

3. Steering Committee

Steering Committee is to provide secretariat services to RJCC. This includes technical and operational issues. The committee should meet with all working groups of concerned countries including representatives from EAC Secretariat . They shall meet to discuss agenda and proposals that would be discussed in RJCC.

4. Regional JCC

Since the Project will be implemented as part of the regional cooperation including Tanzania Revenue Authority (TRA) and Uganda Revenue Authority (URA), the Project may substitute holding JCC with Regional JCC together with TRA and URA, including EAC Secretariat. In such case, the venue and the chairperson shall be decided upon mutual discussions among the concerned parties.