

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE UNITED STATES OF AMERICA

AND

THE REPUBLIC OF KENYA

FOR

**IMPROVED NATURAL RESOURCES MANAGEMENT IN TARGETED BIODIVERSE
AREAS BY AND FOR THE STAKEHOLDERS**

DATE: 19 AUG 2002

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ARTICLE 1. Purpose

Section 1.1. The Government of the United States of America, acting through the United States Agency for International Development ("USAID"), and the Government of the Republic of Kenya acting through the Ministry of Finance and Planning (hereinafter referred to as the "Parties") wish to cooperate in a mutual effort to support the Strategic Objective to improve natural resources management in targeted biodiverse areas by and for the stakeholders.

Section 1.2. USAID wishes to furnish, and the GOK wishes to receive, assistance for this purpose. Accordingly, the Parties have concluded the present Memorandum of Understanding, hereinafter referred to as the 'MOU', to set forth their understandings with respect to their undertakings in support of the stated Objective.

ARTICLE 2. Nature of the Assistance

Section 2.1. USAID assistance is intended to provide technical assistance, training and commodities to help lessen, reverse or halt unsustainable use of the Kenya natural resource base. In order to achieve the Objective, the Parties agree to work together to achieve the following results in Kenya:

- (1) Land management improved in focal areas
- (2) Encroachment and subdivision reduced.
- (3) Improved management of protected areas.
- (4) Environmental management strengthened.

The nature of the assistance and coordination between the Parties is more fully described in Annex 1 to this Memorandum of Understanding. The description of the assistance in Annex 1 may be changed by written agreement of the authorized representatives of the Parties named in Section 3.9 below without formal amendment of this Memorandum of Understanding.

Section 2.2. The effective date of this Memorandum of Understanding will be the date of the signature. The completion date is December 31, 2005 or such later date as the Parties may agree upon in writing.

ARTICLE 3. Implementation.

Section 3.1. Partners Implementing the Program. In order to provide the assistance described above and in Annex 1, USAID may enter into such contracts and other instruments with public and nongovernmental organizations as USAID deems appropriate. Funds obligated directly with third party entities (Partners) will not be reflected in the GOK Budget. USAID has ongoing or planned commitments under this Strategic Objective with the following international Partners to implement the programs:

- (1) African Wildlife Foundation (AWF) - for supporting nature-based community enterprise development, community-private sector investment partnerships, business management training and area wide conservation planning;
- (2) Pact Incorporated (Pact) - for organizational development support, training, networking and communication, environment sector policy development and community based natural resources management planning;
- (3) University of Rhode Island (URI) - for providing technical assistance and studies and, using coastal zone management pilot sites to support development of an integrated coastal zone management policy for Kenya; and
- (4) International Centre for Research in Agroforestry (ICRAF) - for developing complementary on-farm agroforestry technologies, creating diversified business approaches and forest conservation extension services.
- (5) Mpala Research Center (MRC), in collaboration with local organizations will integrate and analyze data useful for decision-making in natural resources utilization, derive appropriate tools and develop relevant policies for the prudent management of the Ewaso ecosystem.

Section 3.2. During the term of the assistance under the MOU, USAID may enter into contracts, grants, or other instruments with additional international organizations not listed above to implement the objective. USAID will notify the GOK of the award of such instruments and what Partner has been selected to implement the activity. The GOK agrees that these additional Partners will have the same status under this MOU as those listed in Section 3.1.

Section 3.3. Taxation. The GOK agrees that the Partners implementing the Objective and the assistance provided hereunder shall be free from taxes imposed under laws in effect in Kenya, to the extent provided in this Memorandum of Understanding, because the assistance is for the benefit of disadvantaged, poor and destitute persons and in support of the GOK poverty reduction strategy. This shall specifically include the following:

- (1) Taxes, customs duties and tariffs levied on any transaction for the purchase or import of goods or services, which qualify for exemption, financed by USAID under this agreement, including value-added taxes (VAT), as contained in the VAT Act and the Customs and Excise Act of Kenya.

- (2) (a) Taxes on the income of a non-Resident organization in respect of management or professional fee, royalty or interest certified by the Minister in accordance with paragraph 11 of the First Schedule to the Income Tax Act of Kenya as may be amended from time to time.

(b) Tax on non-resident employees or employees who are resident solely for the purpose of performing duties under this Memorandum of Understanding in regard to emoluments paid under this Memorandum of Understanding in respect of duties performed in Kenya in accordance with paragraph 27 of the First Schedule to the Income Tax Act of Kenya as may be amended from time to time.

(c) Taxes on any other income as the Minister may by notice in the Gazette Specify.
- (3) Customs duties, tariffs, or import taxes, on the importation upon first arrival in Kenya and re-exportation upon leaving Kenya of personal effects (including a personally-owned automobile) for the personal use of non-Kenyan individuals employed by the organizations listed in Section 3.1 or their family members.
- (4) In the event of a disagreement about the above provisions, the Parties agree to promptly meet and resolve such matters, guided by the principle that the assistance furnished by USAID is free from direct taxation, so that all of the assistance furnished by USAID will contribute directly to improvement in the condition of the poor and destitute.

Section 3.4. Work Permits. The GOK agrees to approve work permits for non-Kenyan persons employed by the Partners for implementation of the Objective, for the period of this MOU, in accordance with laws in effect in Kenya for that purpose.

ARTICLE 4. Standard Provisions.

Section 4.1. Title to and Use of Property. Unless otherwise directed by USAID, title to all property furnished by USAID shall be in accordance with the terms and conditions of each individual agreement between USAID and the implementing Partners. Any property furnished by USAID and titled to the Partners shall be used effectively for the assistance purpose described in Article 1 above and, upon completion of the assistance, shall be used so as to further the objectives of the assistance.

Section 4.2. Information and Implementation Letters. USAID and GOK shall provide each other with such information as may be needed to facilitate provision of the assistance and to evaluate the effectiveness of this assistance. In addition, USAID may from time to time issue implementation letters to provide additional information on matters discussed in this Memorandum of Understanding. The Parties may also use jointly agreed letters to confirm their mutual understandings with respect to implementation of this Memorandum of Understanding, including changes in elements of Annex 1. Implementation letters shall not be used to amend the text of the Memorandum of Understanding

Section 4.3. Authorized Representatives. The Parties shall be represented by those holding or acting in the offices held by the signatories to this Memorandum of Understanding. Each Party may, by written notice, to the other, identify additional representatives authorized to represent that Party for all purposes other than executing formal amendments to this Memorandum of Understanding. Each Party shall notify the other, in writing, of changes in its authorized representatives.

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Section 4.5. Amendment and Modification. This Memorandum of Understanding may be amended or modified by written agreement of the Parties. Elements of Annex 1 may be changed by written agreement of the Parties without formal amendment of this Memorandum of Understanding.

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Section 4.6. Suspension and Termination. In the event that USAID determines that continuation of assistance under this MOU is unlikely to achieve the Objective or that a violation of U.S. law or regulations would result, USAID may, at its option, take steps to suspend or terminate, in whole or in part, provision of assistance under this MOU and provide written notice of its action to the GOK.

IN WITNESS WHEREOF, the Parties, each acting through their duly authorized representatives, have caused this MOU to be signed in their names and delivered as of this 19th day of Aug, 2002.

FOR THE GOVERNMENT OF THE
REPUBLIC OF KENYA

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

BY: CM Obure

BY: Kiertisak Toh

NAME: Hon. Christopher M. Obure

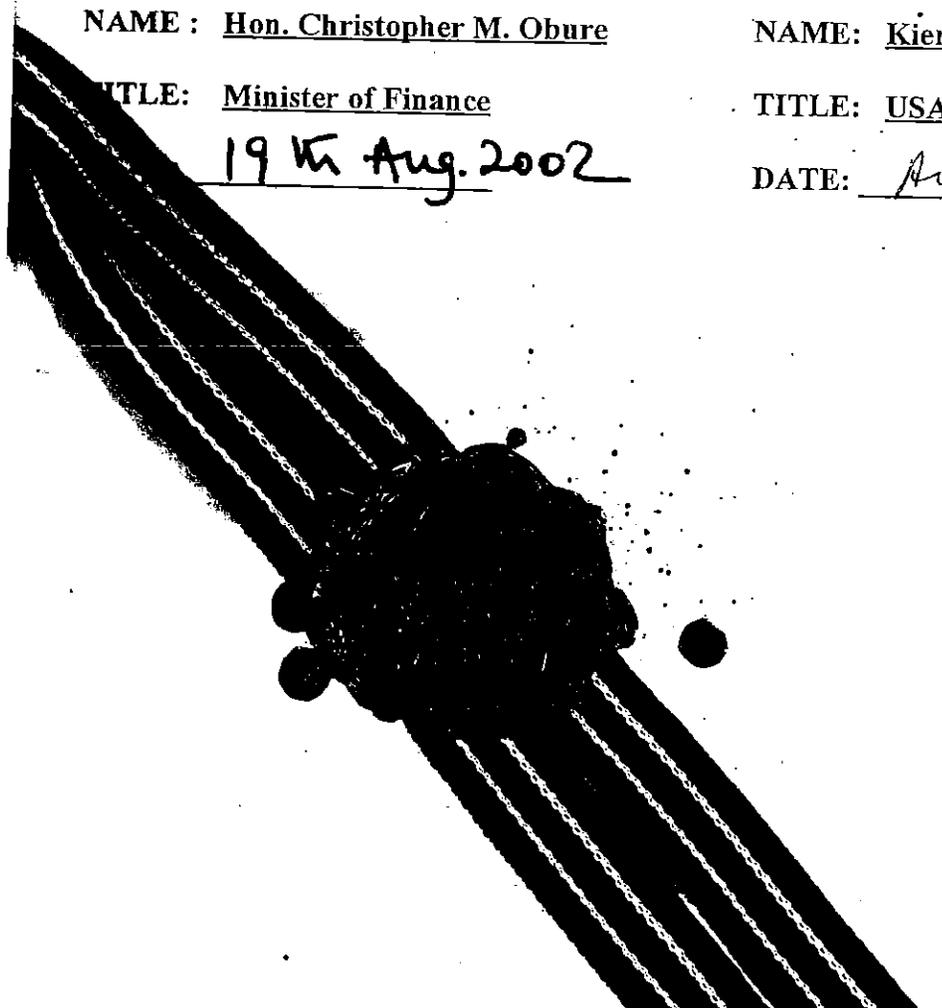
NAME: Kiertisak Toh

TITLE: Minister of Finance

TITLE: USAID/Kenya, Director

19th Aug. 2002

DATE: Aug. 19, 2002



I
**MEMORANDUM OF UNDERSTANDING
NATURAL RESOURCES MANAGEMENT**

ANNEX 1

AMPLIFIED DESCRIPTION

I GENERAL DESCRIPTION.

The economy of Kenya depends to a large extent on proper utilization and management of natural resources. Kenya has diverse natural resources that include wildlife, soils, forests, and water. The significance of natural resources in Kenya's economy can be shown by the contribution of the tourism/wildlife sector to the national economy. In 1999, wildlife-based tourism contributed 2.9 percent of GDP, 10 percent of formal employment opportunities and 18 percent of foreign exchange earnings. As natural resources deteriorate, the performance of the economy also declines.

USAID through the COBRA project provides assistance to the Government of Kenya (GOK) to promote socio-economic development through conservation and sustainable management of Kenya's natural resources. This Strategic Objective (SO), to improve natural resources management in targeted biodiverse areas by and for stakeholders, builds on COBRA project activities. The success of the Objective is a necessary step to conserving the country's biodiversity for future generations of Kenyans.

The SO was developed through a consultative process that involved experts from Kenya in the Natural Resources Management (NRM) sector, USAID staff, GOK representatives from Kenya Wildlife Service (KWS), Office of the President, Forest Department (FD) and other relevant ministries, donors, partners and beneficiaries. The consultation process concluded that 1) sustainable conservation requires active involvement and ownership by all stakeholders; 2) stakeholders must realize economic benefits to maintain interest in NRM issues; 3) management of natural resources in Kenya has suffered from absence of integrated approaches and 4) resources available to USAID cannot maintain a program with national impact. Resources need to be concentrated geographically for impact.

The process resulted in USAID Strategic Objective No. 5, improved natural resources management in targeted biodiverse areas by and for stakeholders. The Objective adopts a more integrated approach to NRM as opposed to the previous USAID assistance that only focused on wildlife management as a means of income and employment generation. It expands the scope and set of intermediate results to include a new forestry/rangelands initiative, strengthen the constituency for policy reform and to reflect improvement in management of Kenya's natural resources. The targeted geographical areas are Laikipia-Samburu, Greater Amboseli, and Coastal regions including Taita-Taveta and Greater Maasai Mara.

The program will work with communities outside protected areas to effect positive changes in stakeholders' behavior and management of natural resources. It will adopt an integrated and holistic approach to improved natural resource management. It builds on USAID's past experience

in natural resources management and addresses emerging challenges to the environment. The proposed strategy is consistent with the current NRM best practices and policies of empowering local communities and the private sector to participate in, and benefit from, the wise use of natural resources. It complements GOK priorities in the NRM sector as spelled out in the Poverty Reduction Strategy Paper (PRSP) and Kenya Rural Development Strategy (KRDS).

II. ACTIVITIES AND IMPLEMENTING PARTNERS.

The SO 5 programs are designed around four major sub-Sectors namely: Wildlife, NRM and Conservation in Dry Lands, Coastal Marine, and Forestry/Range Rehabilitation initiatives. The activities supported under these initiatives include: i) land improvement programs such as reforestation, agro-forestation and range improvement, ii) promotion of nature-based businesses including support to community-private sector partnership deals and iii) support for environmental conservation (forestry management issues, wildlife user rights etc).

a) **Wildlife Initiative.** This activity is implemented under the Conservation of Resources Through Enterprise Project(CORE Activity). The Activity is based on the premise that if people benefit from wildlife and other natural resources, then they will take care of these resources, using them sustainably.

The CORE Project is an incentive community wildlife program designed to build the capacity of communities living adjacent to parks and reserves to successfully undertake nature-based business. By benefiting from wildlife, communities are encouraged to conserve wildlife especially in land essential to wildlife, such as wildlife corridors and dispersal lands outside parks. The program is also designed to build the capacity of communities to productively engage in nature-based businesses and develop the institutional and technical capacity of community organizations to manage businesses, as well as advocate for wildlife conservation. The project, thus, supports the following activities:

- i) Promotion of nature-based businesses. This involves entrepreneurial business development skills, for women and men, such as business plan development, stock inventory, bookkeeping, marketing, accounting, and business management. Examples of supported businesses include community wildlife sanctuaries, game cropping, and boat guiding in the marine parks; and
- ii) Building the institutional and technical capacity of community based organizations (CBOs) to carry out nature-based business such as management and marketing of eco-tourism facilities, CBO networking and education for conservation.

PARTNERS: The CORE Project is implemented through a coalition of NGOs led by KWS, that include African Wildlife Foundation (AWF), and PACT, Inc. USAID has provided separate grants to those NGOs that are closely monitored to ensure that the project provides a coordinated approach to community-based conservation in key landscapes that are important to the long term survival of Kenya's biodiversity.

The KWS grant is to provide leadership in wildlife policy direction, deal with human-wildlife conflict, enforce the law and build the capacity of the communities on wildlife management.

The PACT, Inc. grant supports a coalition of implementing NGOs that include the East African Wild Life Society (EAWLS) and, the African Conservation Center (ACC). This coalition combines on-the-ground NRM planning and management, and organizational development expertise to: 1) develop the capacity of established and newly-formed CBOs in wildlife dispersal areas, 2) reinforce communications and networking among CBOs, 3) foster and encourage wildlife management and education at multiple levels, especially through support to the Landowners' Wildlife Forums.

African Wildlife Foundation (AWF) and its implementing partners, ACC, Small Medium Enterprises Development (SMED) and Price Waterhouse Coopers (PWC), bring to bear their collective expertise in wildlife conservation, community and enterprise development to: 1) increase the capacity of the community to conserve and manage wildlife resources 2) design and test innovative legal and economic tools for conservation (such as conservation easements) 3) establish and promote wildlife-related enterprises through training and the establishment of an enterprise development fund and 4) facilitate active and mutually-beneficial partnerships between local communities and the private sector.

The program targets farmers and members of group ranches, large-scale ranchers, tour operators, tour guides, entrepreneurs in the tourism sector and CBOs in target areas.

b) Natural Resources Management and Conservation in Drylands (NRMC): The purpose of this activity is to integrate and analyze data useful for decision-making in natural resource utilization, derive appropriate tools and develop relevant policies for the prudent management of the Ewaso Ecosystem.

The activity will bring together in a retrievable format Geographical Information Systems (GIS) data on the ecosystem that already exists, but reside with different collaborating institutions. The project will assemble a GIS database for Ewaso Ecosystem, including information on the abundance and distribution of key components in this landscape: humans, livestock, wild herbivores, agriculture, rainfall, and river flow

These efforts will contribute to policy formulation and local initiatives for sound management of land, vegetation, water, and animal resources, which in turn can be applied to the data-poor environment (lower Ewaso Ngiro basin and in similar drylands elsewhere in Kenya if appropriate). This information will be disseminated through workshops, publications and seminars to landowners and district administrators.

The beneficiaries of this program will be KWS, Laikipia community, wildlife croppers and the researchers.

The lead implementing partner for the activity is Mpala Research Center (MRC), in collaboration with the University of Nairobi, and the Department of Resource Survey and Remote Sensing (DRSRS).

c) Kenya Coastal Marine Initiative (KCMI): The objective of this program is to set the foundation for Kenya marine policy. The program will focus its activities on the Coast. Kenya

currently does not have a marine policy, although the new Environmental Act passed in January 2000 calls for the adoption of a coastal management policy. A two-track approach will be used to set a foundation for the marine policy, namely: i) national level initiatives and ii) local level initiatives. The national level initiatives will include raising the awareness of the key decision-makers in government (Directors and above) and other opinion leaders about the socio-economic and ecological importance of the Kenyan coast. The activities will include facilitation of workshops/meetings, exchange visits and technical studies. Typical studies may include the legal and jurisdictional basis for Integrated Coastal Management in Kenya (ICM), local district strategic action planning guidelines, special area management planning guidelines, guidelines for coastal tourism development and investment; and, coastal law enforcement guidelines. At the local level, demonstration activities will be supported at Jomo Kenyatta Public Beach, Shimoni, Diani-Chale and Malindi -Watamu. Illustrative activities include mentoring and supporting community self-help groups to implement integrated coastal management initiatives such as installation of mooring buoys, mangrove replanting, fish processing/marketing, coral cover surveys, fish counts and institutional capacity building for targeted marine groups. The implementing partners include the University of Rhode Island that will provide technical assistance to the National Environmental Management Authority (NEMA) to lead the policy process, and the Coast Development Authority (CDA) to lead the local activities including organizing the study tours, and focused group discussions, as well as the implementation of local community initiatives.

d) Forestry Initiative and Environmental Strengthening Initiative (FORREMS): The program objective is to enhance integrated forest management and conservation. It is a community-based program, designed to address three natural resource management (NRM) issues in Kenya: 1) improved forest and rangeland management inside and outside specific Protected Areas (PAs), 2) strengthening advocacy for NRM policy reform and 3) improved national/local government performance in NRM. The Activity will achieve the following results: 1) Appropriate tools and technologies for forest/range management adopted by communities and/or Government in target areas 2) Stakeholder management of NRM improved 3) Performance of nature-based enterprises increased and 4) Effectiveness of NRM advocacy by national/local groups increased. The Activity consists of two major components, one for institutional strengthening of selected GOK Institutions and site-specific technical interventions.

Activities under component one: institutional strengthening will build the capacity of selected GOK Institutions namely KWS, Forest Department (FD), National Environmental Management Authority (NEMA), and the District Environmental Committees (DECs). Funds for these activities will be granted under the Development Assistance Grant Agreement.

Activities under component two: site-specific interventions will provide substantial technical assistance and a limited infrastructure package to support improved forest management, rangeland conservation and natural resource management training in three target sites, namely, Arabuko-Sokoke, Mt. Kenya and NE Laikipia. This component will be implemented through NGOs that will work with local communities and Protected Area authorities to improve forest and rangeland management and to derive benefits therefrom. Activities under the component are linked to the FORREMS themes of 1) diversified, nature-based rural economies with expanded business opportunities 2) increasing institutional capacity 3) improved NRM planning/implementation; and 4) increased empowerment of local communities . Most of the funds for component two will be

obligated directly by USAID through grants, cooperative agreements, contracts and/or Inter-Agency Agreements, as appropriate.

Nature Kenya will be awarded a cooperative agreement to implement FORREMS activities in Arabuko Sokoke forest reserve. The Nature Kenya's lead Arabuko Sokoke Forest Management Team (ASFMT) has evolved among four GOK institutions - KWS, FD, National Museums of Kenya and Kenya Forestry Research Institute (KEFRI) - for the management of the forest. This partnership is well-placed and experienced in delivering the sort of results USAID would like to support.

ICRAF will implement activities in the Mt. Kenya forest through an award of a Public International Organization grant agreement. ICRAF has many years' experience in agro-forestry around Mt. Kenya, particularly in the Meru area. The focus has been on diversifying forest products on-farm and their marketing. All of ICRAF's on-going and proposed interventions around Mt. Kenya are within USAID's programmatic interest. Thus, USAID proposes to assist ICRAF's approaches to agro-forestry and strengthening farm-to-market linkages. In Laikipia/Mukogondo USAID will use the existing partners on the ground to implement the activity. USAID will amend the program description of the Cooperative Agreement with AWF to accommodate expanded technical assistance responsibilities and infrastructure development under FORREMS.

The beneficiaries will include communities in the target areas (Mt. Kenya forest, Mukogondo and Arabuko Sokoke forests in Coast Province), timber merchants and CBOs. A landscape approach will be adopted for the implementation of the program over the four year period. The Government, through KWS, NEMA and the FD, will take the lead in implementation, especially in information gathering and dissemination, and forest co-management and training. NGOs may be contracted to implement the technology transfer component as well as components of training. Implementation is expected to start by July 2002.

III. MONITORING AND EVALUATION

USAID is in the process of finalizing a Performance Monitoring Plan (PMP) to measure the performance and effectiveness of the Strategic Objective. The draft PMP has proposed 21 indicators to be used to monitor progress toward achievement of results. Performance data for these indicators will be analyzed periodically for decision-making at predetermined benchmarks and for assessing the impact of USAID's investment in the NRM. This analysis will guide USAID in determining necessary adjustments in program approaches.

Performance data for these indicators will be derived from various sources, including routinely published Government statistical databases, KWS monitoring and progress reports and other partner organization reports. However, the bulk of it will be drawn from observations of monitoring and field visits as well as periodic special surveys.

USAID agreed with all the implementing partners on how to track, evaluate and report the performance of this SO. Our counterparts particularly contractors and cooperating agencies, as well as NGOs, will monitor these indicators. A detailed listing of the indicators, including precise

descriptions of the numerator and denominator, and most suitable data source is contained in the draft performance-monitoring plan.

Evaluation of the Strategic Objective must be undertaken during the life of the SO. Evaluation findings will inform the strategic objective team and provide useful guides for necessary adjustments of the SO program approaches. The SO team members will decide when to evaluate the SO.

GOK will not be responsible for the achievement of the strategic objective results or be held accountable for funds obligated directly with third party entities under the MOU.

The parties will, however, cooperate in ensuring that all implementing partners actually work towards achieving the Strategic Objective Results, and agree to develop modalities for such cooperation on a case-by-case basis. To this end, USAID shall promptly inform GOK of all implementing partners with which it contracts/deals directly, and undertakes to keep GOK fully informed of the scope of activities entrusted to each such implementing partner.

Clearance: ABEO:MBrown MB

PDA:SRagama SR

RLA:KHansen KHansen

CONT:RAmin RA

505: JNdirangan JN