

No. 8908

**INTERNATIONAL DEVELOPMENT ASSOCIATION
and
KENYA**

Development Credit Agreement—*Agricultural Roads Project* (with related letter and annexed Development Credit Regulations No. 1). Signed at Washington, on 11 May 1967

Official text: English.

Registered by the International Development Association on 10 January 1968.

**ASSOCIATION INTERNATIONALE
DE DÉVELOPPEMENT
et
KENYA**

Contrat de crédit de développement — *Projet de construction de routes dans l'intérêt de l'agriculture* (avec lettre y relative et, en annexe, le Règlement n° 1 sur les crédits de développement). Signé à Washington, le 11 mai 1967

Texte officiel anglais.

Enregistré par l'Association internationale de développement le 10 janvier 1968.

No. 8908. DEVELOPMENT CREDIT AGREEMENT¹ (*AGRICULTURAL ROADS PROJECT*) BETWEEN THE REPUBLIC OF KENYA AND THE INTERNATIONAL DEVELOPMENT ASSOCIATION. SIGNED AT WASHINGTON, ON 11 MAY 1967

AGREEMENT, dated May 11, 1967, between the REPUBLIC OF KENYA (hereinafter called the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (hereinafter called the Association).

Article I

CREDIT REGULATIONS

Section 1.01. The parties to this Agreement accept all the provisions of Development Credit Regulations No. 1 of the Association dated June 1, 1961,² with the same force and effect as if they were fully set forth herein subject, however, to the following modifications thereof (said Development Credit Regulations No. 1 as so modified being hereinafter called the Regulations) :

(a) The second sentence of Section 2.02 is amended by deleting the words “at the same rate” and substituting therefor the words “at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per annum”.

(b) Section 3.01 is deleted and the following new Section is substituted therefor :

“SECTION 3.01. *Currencies in which Cost of Goods is to be Paid and Proceeds of the Credit are to be Withdrawn.* (a) Except as the Borrower and the Association shall otherwise agree, the cost of goods financed out of the proceeds of the Credit shall be paid in the respective currencies of the countries from which such goods are acquired.

“(b) The proceeds of the Credit shall be withdrawn from the Credit Account :

(i) on account of expenditures in the currency of the Borrower or for goods produced in (including services supplied from) the territories of the Borrower, in such currency or currencies as the Association shall from time to time reasonably select;

¹ Came into force on 19 June 1967, upon notification by the Association to the Government of Kenya.

² See p. 108 of this volume.

(ii) in all other cases, in the currency in which the cost of the goods financed out of such proceeds has been paid or is payable.

“(c) The Borrower and the Association may from time to time agree on any other currency in which withdrawals shall be made.”

(c) A new Section 3.04 is inserted after Section 3.03 as follows :

“SECTION 3.04. *Purchase of Currency of Withdrawal with Other Currency.* If withdrawal shall be made in any currency which the Association shall have purchased with another currency for the purpose of such withdrawal, the portion of the Credit so withdrawn shall be deemed to have been withdrawn from the Credit Account in such other currency for the purposes of Section 3.03.”

(d) Section 3.04 is renumbered as Section 3.05.

(e) Paragraph (j) of Section 5.02 is deleted and the following new paragraph is substituted therefor :

“(j) Failure by the Borrower to fulfill an obligation to make payment of principal or interest or any other payment required under this Development Credit Agreement or under any other credit agreement between the Borrower and the Association or under any loan agreement or guarantee agreement between the Borrower and the Bank or under any bond delivered pursuant to any such agreement even though payment has been made by other persons.”

(f) Section 8.04 is deleted.

(g) Section 8.05 is renumbered as Section 8.04.

Article II

THE CREDIT

Section 2.01. The Association agrees to make available to the Borrower, on the terms and conditions in this Development Credit Agreement set forth or referred to, a development credit in an amount in various currencies equivalent to five million three hundred thousand dollars (\$5,300,000).

Section 2.02. The Association shall open a Credit Account in the name of the Borrower and shall credit to such Credit Account the amount of the Credit. The amount of the Credit may be withdrawn from the Credit Account as provided in, and subject to the rights of cancellation and suspension set forth in, this Development Credit Agreement.

Section 2.03. Except as the Association shall otherwise agree, the Borrower shall be entitled, subject to the provisions of the Development Credit Agreement, to withdraw from the Credit Account :

(a) the equivalent of a percentage or percentages to be established, from time to time, by agreement between the Association and the Borrower of such amounts as shall have been expended for the reasonable cost of goods required for carrying out the Project; and

(b) if the Association shall so agree, the equivalent of a like percentage of such amounts as shall be required to meet payments under (a) above; provided, however, that no withdrawals shall be made on account of expenditures made prior to June 1, 1966.

Section 2.04. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one per cent ($\frac{3}{4}$ of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.05. Service charges shall be payable semi-annually on March 1 and September 1 in each year.

Section 2.06. The Borrower shall repay the principal amount of the Credit in semi-annual installments payable on each March 1 and September 1 commencing September 1, 1977 and ending March 1, 2017, each installment to and including the installment payable on March 1, 1987 to be one-half of one per cent ($\frac{1}{2}$ of 1%) of such principal amount, and each installment thereafter to be one and one-half per cent ($1\frac{1}{2}$ %) of such principal amount.

Article III

USE OF THE PROCEEDS OF THE CREDIT

Section 3.01. The Borrower shall cause the proceeds of the Credit to be applied exclusively to financing the cost of goods required to carry out the Project described in the Schedule to this Agreement. The specific goods to be financed out of the proceeds of the Credit and the methods and procedures for procurement of such goods shall be determined by agreement between the Borrower and the Association, subject to modification by further agreement between them.

Section 3.02. Except as the Borrower and the Association shall otherwise agree, the Borrower shall cause all goods financed out of the proceeds of the Credit to be used in the territories of the Borrower exclusively in the carrying out of the Project.

Article IV

PARTICULAR COVENANTS

Section 4.01. (a) The Borrower shall cause the Project to be carried out with due diligence and efficiency and in conformity with sound engineering and financial practices.

(b) The Borrower shall at all times make available promptly as needed all funds and other resources which shall be required for the carrying out of the Project.

(c) Except as the Association shall otherwise agree, the roads referred to in Part A of the Schedule to this Agreement shall be constructed by contractors satisfactory to the Association and the Borrower, employed under contracts satisfactory to the Association and the Borrower.

(d) Except as the Association shall otherwise agree, the Borrower shall, in the carrying out of the Project, employ engineering consultants acceptable to, and to an extent and upon terms and conditions satisfactory to, the Association.

(e) The general design standards to be used for the roads included in the Project shall be as determined from time to time by agreement between the Association and the Borrower.

(f) The Borrower shall furnish or cause to be furnished to the Association, promptly upon their preparation, the plans, specifications, contract documents and work schedules for the Project and any material modifications subsequently made therein, in such detail as the Association shall reasonably request.

(g) The Borrower shall cause the roads included in the Project and connecting roads to be adequately maintained, and shall cause all necessary repairs thereof to be made promptly, all in accordance with sound engineering practices.

(h) The Borrower shall take all steps reasonably required to ensure at all times that the dimensions and axle-loads of vehicles using the roads included in the Project and the Borrower's public road system shall not exceed the limits prescribed by the present legislation of the Borrower or such other limits as the Borrower may prescribe in the future after consultation with the Association.

(i) The Borrower shall maintain or cause to be maintained records adequate to identify the goods financed out of the proceeds of the Credit, to disclose the use thereof in the Project and to record the progress of the Project (including the cost thereof) and shall enable the Association's representatives to inspect the Project, the goods and any relevant records and documents; and shall furnish or cause to be furnished to the Association all such information as the Association shall reasonably request concerning the expenditure of the proceeds of the Credit, the Project, the goods to be financed out of the proceeds of the Credit, and the operations with respect to the Project of the Ministries of the Borrower responsible for carrying out the Project.

Section 4.02. The Borrower shall construct the roads referred to in Part B of the Schedule to this Agreement with due diligence and efficiency and in accordance with a schedule satisfactory to the Association and the Borrower.

Section 4.03. (a) The Borrower and the Association shall cooperate fully to assure that the purposes of the Credit will be accomplished. To that end, each of them shall furnish to the other all such information as it shall reasonably request with regard to the general status of the Credit. On the part of the Borrower, such information shall include information with respect to financial and economic conditions in the territories of the Borrower and the international balance of payments position of the Borrower.

(b) The Borrower and the Association shall from time to time exchange views through their representatives with regard to matters relating to the purposes of the Credit and the maintenance of the service thereof. The Borrower shall promptly inform the Association of any condition which interferes with, or threatens to interfere with, the accomplishment of the purposes of the Credit or the maintenance of the service thereof.

(c) The Borrower shall afford all reasonable opportunity for accredited representatives of the Association to visit any part of the territories of the Borrower for purposes related to the Credit.

Section 4.04. The principal of, and service charges on, the Credit shall be paid without deduction for, and free from, any taxes, and free from all restrictions, imposed under the laws of the Borrower or laws in effect in its territories.

Section 4.05. This Agreement shall be free from any taxes that shall be imposed under the laws of the Borrower or laws in effect in its territories on or in connection with the execution, delivery or registration thereof.

Article V

REMEDIES OF THE ASSOCIATION

Section 5.01. (i) If any event specified in paragraph (a) or paragraph (c) of Section 5.02 of the Regulations shall occur and shall continue for a period of thirty days, or (ii) if any event specified in paragraph (b) of Section 5.02 of the Regulations shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Association to the Borrower, then at any subsequent time during the continuance thereof, the Association, at its option, may declare the principal of the Credit then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in this Development Credit Agreement to the contrary notwithstanding.

Article VI

MISCELLANEOUS

Section 6.01. The Closing Date shall be December 31, 1969, or such other date as may from time to time be agreed between the Borrower and the Association.

Section 6.02. If this Development Credit Agreement shall not have come into force and effect by July 15, 1967, this Development Credit Agreement and all the obligations of the parties hereunder shall terminate, unless the Association, after consideration of the reasons for the delay, establishes a later date for the purposes of this Section. The Association shall promptly notify the Borrower of such date.

Section 6.03. The following addresses are specified for the purposes of Section 7.01 of the Regulations :

For the Borrower :

The Treasury
P.O. Box 30007
Nairobi, Kenya

Alternative address for cablegrams and radiograms :

Finance
Nairobi

For the Association :

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Alternative address for cablegrams and radiograms :

Indevas
Washington, D.C.

Section 6.04. The Minister of the Borrower for the time being responsible for finance is designated for the purposes of Section 7.03 of the Regulations.

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Development Credit Agreement to

be signed in their respective names and delivered in the District of Columbia, United States of America, as of the day and year first above written.

Republic of Kenya :

By J. K. ILAKO

Authorized Representative

International Development Association :

By A. BROCHES

General Counsel

SCHEDULE

DESCRIPTION OF PROJECT

The Project is part of the Borrower's agricultural road development program under the Miwani-Chemelil-Muhoroni regional development scheme for the expansion of sugar cane cultivation and processing. It consists of the following :

Part A.

The detailed engineering and construction of

- (a) 41 miles of bituminous surfaced main road;
- (b) 4 miles of gravel surfaced main road;
- (c) 118 miles of gravel surfaced feeder roads; and
- (d) 106 miles of gravel surfaced field access roads.

Part B.

The detailed engineering of approximately 40 miles of main roads and 200 miles of feeder and field access roads.

The roads referred to in Part A above are more particularly described in the schedule attached to the letter to the Association dated April 10, 1967, signed by the Chief Engineer (Roads) for the Borrower's Permanent Secretary of Works.

The construction of the roads referred to in Part A above is scheduled to be completed by June 30, 1969, and the detailed engineering of the roads referred to in Part B above is scheduled to be completed by June 30, 1968.

LETTER RELATING TO THE DEVELOPMENT CREDIT AGREEMENT

EMBASSY OF KENYA

May 11, 1967

Letter No. 7

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433

Re : *Credit No. 104- KE (Agricultural Roads Project)*
Currency of Repayment

Dear Sirs :

We refer to the Development Credit Agreement (*Agricultural Roads Project*) of even date between us and to Section 3.02 of the Regulations referred to therein. Pursuant to such Section, we hereby request your agreement as follows :

- (i) Except as hereinafter provided, the principal amount of, and service charges on, the Credit provided for in such agreement shall be payable in the currency of the United Kingdom of Great Britain and Northern Ireland.
- (ii) If at any time we shall desire that, commencing with a given future payment date, such principal and service charges shall be payable in an eligible currency other than that specified in (i) or than one theretofore designated pursuant to this clause (ii) or selected pursuant to (iv), we shall deliver to the Association, not less than three nor more than five months prior to such payment date, a notice in writing to that effect and designating such other eligible currency, whereupon the currency so designated shall, commencing with such payment date, be the currency in which such principal and service charges shall be payable.
- (iii) If at any time the Association shall determine that a currency payable pursuant to the provisions of this letter is not an eligible currency, the Association shall so notify us in writing and furnish us with a list of eligible currencies.
- (iv) Within thirty days from the date of such notice, we shall notify the Association in writing of our selection of a currency from such list in which payment shall be made, failing which the Association shall select a currency for such purpose from such list, whereupon, in either case, such principal and service charges shall, commencing with the payment date next succeeding such thirty-day period, be payable in the currency so selected.
- (v) For the purpose of this letter, "eligible currency" means any currency of a member of the Association which the Association at the relevant time determines to be freely convertible or freely exchangeable by it for currencies of other members of the Association for the purposes of its operations.

Please indicate your agreement with the foregoing by signing the form of confirmation on the enclosed copy of this letter and returning it to us.

Sincerely yours,

Republic of Kenya :
By J. K. ILAKO
Authorized Representative

Confirmed:
International Development
Association :
By A. G. EL EMARY

INTERNATIONAL DEVELOPMENT ASSOCIATION
DEVELOPMENT CREDIT REGULATIONS No. 1, DATED 1 JUNE 1961
REGULATIONS APPLICABLE TO DEVELOPMENT CREDIT AGREEMENTS WITH MEMBER
GOVERNMENTS
[*Not published herein. See United Nations, Treaty Series, Vol. 415, p. 68.*]
