

No. 12570

**INTERNATIONAL DEVELOPMENT ASSOCIATION
and
KENYA**

Development Credit Agreement—*Livestock Development Project* (with schedule and Development Credit Regulations No. 1, as amended). Signed at Washington on 26 September 1968

Authentic text: English.

Registered by the International Development Association on 14 June 1973.

**ASSOCIATION INTERNATIONALE
DE DÉVELOPPEMENT**

et

KENYA

Contrat de crédit de développement — *Projet relatif au développement de l'élevage* (avec annexe et Règlement n° 1 sur les crédits de développement, tel qu'il a été modifié). Signé à Washington le 26 septembre 1968

Texte authentique : anglais.

Enregistré par l'Association internationale de développement le 14 juin 1973.

DEVELOPMENT CREDIT AGREEMENT¹

AGREEMENT, dated September 26, 1968, between REPUBLIC OF KENYA (hereinafter called the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (hereinafter called the Association).

WHEREAS the Borrower has requested the Association and the Kingdom of Sweden to assist in financing a range livestock development project;

WHEREAS by an agreement of even date herewith² (hereinafter called the Swedish Agreement) the Kingdom of Sweden has agreed to make available to the Borrower for such project a credit in a principal amount of nineteen million Swedish Kronor (SKr 19,000,000), equivalent at present parity rate as near as possible to three million six hundred thousand dollars (\$3,600,000), on the terms and conditions set forth in the Swedish Agreement;

WHEREAS the Borrower and the Association have agreed that the Agricultural Finance Corporation (hereinafter called the AFC), a statutory corporation established by the Agricultural Credit Act, will execute a part of such project, and for such purpose, the Association has agreed to enter into a project agreement³ with the AFC on terms and conditions acceptable to the Borrower; and

WHEREAS the Association has agreed on the basis of the foregoing to make a credit to the Borrower for such project in an amount in various currencies equivalent to three million six hundred thousand dollars \$3,600,000) on the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

Article I. CREDIT REGULATIONS; SPECIAL DEFINITIONS

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 as amended February 9, 1967,⁴ 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) Section 6.02 is amended by inserting the words "or the Project Agreement" after the words "the Development Credit Agreement".

(b) The first sentence of subparagraph 10 of Section 9.01 is deleted and substituted therefor the following sentence:

"10. The term 'goods' means equipment, supplies and services required by the Borrower, the AFC, or ranching enterprises to carry out the Project."

(c) The following subparagraph is added to Section 9.01:

"13. The term 'Project Agreement' shall have the meaning set forth in the Development Credit Agreement."

¹ Came into force on 1 May 1969, upon notification by the Association to the Government of Kenya.

² See p. 137 of this volume.

³ The said Agreement entered into force on 1 May 1969. As it does not constitute an international agreement or a part of the present Agreement, it is not reproduced herein. However, it was published by the Association as document CN129 KE, a certified true copy of which was transmitted to the Secretariat together with the documentation submitted for registration of the present Development Credit Agreement.

⁴ See p. 127 of this volume.

Section 1.02. Unless the context otherwise requires, the following terms wherever used in this Development Credit Agreement have the following meanings:

(a) The term "AFC" means the Agricultural Finance Corporation or any successor thereto.

(b) The term "Project Agreement" means the agreement of even date herewith between the Association and the AFC, as the same may be amended or supplemented from time to time by agreement among the Borrower, the Association and the AFC.

(c) The term "Project Manager" means the livestock expert referred to in Section 2.09 of the Project Agreement.

(d) The term "Subsidiary Loan Agreement" means the agreement to be entered into between the Borrower and the AFC referred to in Section 4.01 (b) of this Agreement, on terms and conditions satisfactory to the Association, as the same may be amended or supplemented from time to time with the approval of the Association.

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 three million six hundred thousand dollars (\$3,600,000).

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 Borrower and the Association shall otherwise agree:

- (a) the Borrower shall be entitled, subject to the provisions of this Development Credit Agreement, to withdraw from the Credit Account: (i) the equivalent of 35%, or of such other percentage or percentages as may be established from time to time by agreement between the Borrower and the Association, of such amounts as shall have been disbursed by the AFC under the long-term loans described in part A of the Schedule to this Agreement; provided, however, that, where the amount of any such loan is two hundred thousand dollars (\$200,000) equivalent or more, no withdrawals shall be made with respect to such loan unless such loan shall have been approved by the Association; (ii) the equivalent of 30%, or of such other percentage or percentages as may be established from time to time by agreement between the Borrower and the Association, of such amounts as shall have been paid by the AFC, or if the Association shall so agree, as shall be required by the AFC to meet payments to be made, for the reasonable cost of the technical services described in part A of the Schedule to this Agreement; (iii) the equivalent of 30%, or of such other percentage or percentages as may be established from time to time by agreement between the Borrower and the Association, of (x) such amounts as shall have been disbursed by the AFC from the working capital fund described in part A of the Schedule to this Agreement less (y) any repayments to such funds; (iv) the equivalent of 30%, or of such other percentage or percentages as may be established from time to time by agreement between the Borrower and the Association, of such amounts as shall have been paid by the Borrower for the reasonable cost of goods for the purposes described in parts B and C of the Schedule to this Agreement; and (v) the equivalent of 50%, or of such other percentage or percentages as may be

established from time to time by agreement between the Borrower and the Association, of such amounts as shall have been paid by the Borrower for the reasonable cost of goods for the purposes described in part D of the Schedule to this Agreement; provided, however, that no withdrawal shall be made pursuant to this paragraph (a) for that part of the cost of goods in respect of which withdrawals shall have been made under the Swedish Agreement; and

(b) no withdrawals from the Credit Account shall be made on account of expenditures made prior to the date of this Agreement.

Section 2.04. The currency of the United Kingdom of Great Britain and Northern Ireland is hereby specified for the purposes of Section 3.02 of the Regulations.

Section 2.05. 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. The Borrower shall also pay to the Association a service charge at the rate of one-half of one per cent ($\frac{1}{2}$ of 1%) per annum on the principal amount outstanding from time to time of any special commitment entered into by the Association pursuant to Section 4.02 of the Regulations.

Section 2.06. Service charges shall be paid semi-annually on March 1 and September 1 in each year.

Section 2.07. The Borrower shall repay the principal amount of the Credit withdrawn from the Credit Account in semi-annual installments payable on each March 1 and September 1 commencing September 1, 1978 and ending March 1, 2018, each installment to and including the installment payable on March 1, 1988, 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 the goods required to carry out the Project described in the Schedule to this Agreement. The specific allocation of the proceeds of the Credit and the methods and procedures for procurement of the goods to be financed out of such proceeds shall be determined by agreement between the Association and the Borrower, subject to modification by further agreement between them.

Section 3.02. Except as 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 agricultural, administrative, economic and financial practices and shall at all times make available, promptly as needed, all funds, facilities, services and other resources required for the purpose.

(b) The Borrower shall enter into the Subsidiary Loan Agreement for the purposes of (i) providing to the AFC the equivalent of the part of the proceeds of the Credit to be withdrawn pursuant to subsections (i), (ii) and (iii) of Section 2.03(a) of this Agreement; (ii) providing to the AFC the equivalent of the part of the proceeds of the credit to be withdrawn pursuant to subparagraphs (i), (ii) and (iii) of Paragraph 1 of Article IV of the Swedish Agreement; and (iii) providing to the AFC other funds necessary to carry out part A of the Project. The Borrower shall exercise its rights in relation to the Subsid-

iliary Loan Agreement in such manner as to protect the interests of the Borrower and the Association. Except as the Borrower and the Association shall otherwise agree, the Borrower shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving any provision of the Subsidiary Loan Agreement.

(c) The operating policies and procedures for the carrying out of the Project shall be agreed upon from time to time among the Borrower, the Association and the AFC.

Section 4.02. The Borrower shall: (i) 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, to record the progress of the Project (including the cost thereof) and to reflect in accordance with consistently maintained sound accounting practices the operations with respect to the Project of the Ministries of the Borrower responsible for carrying out the Project; (ii) enable the Association's representatives to inspect the Project, the goods and any relevant records and documents; and (iii) 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, and the administration and operations with respect to the Project of the Ministries of the Borrower responsible for carrying out the Project.

Section 4.03. (a) The Borrower and the Association shall cooperate fully to ensure 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 Development Credit Agreement and the Project 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.

Section 4.06. The Borrower shall undertake feasibility studies of the two proposed range water development areas of Wajir and Garissa, prior to initiation of construction in either region, under terms of reference to be agreed between the Borrower and the Association.

Section 4.07. The Borrower shall cause adequately qualified personnel to be recruited and maintained for all its agencies and departments involved in carrying out the Project, including the AFC, and, until the Credit has been fully withdrawn pursuant to Section 2.03 of this Agreement, shall consult with the Association with respect to the persons to be appointed to head the Livestock Marketing Division and the Range Water

Division of the Ministry of Agriculture and Animal Husbandry and shall obtain the Association's approval of the terms and conditions for such appointments.

Section 4.08. Except as the Borrower and Association shall otherwise agree, the Borrower shall make an analysis of livestock (feeder and slaughter cattle) and beef prices, price relationships and marketing methods, under terms of reference to be agreed between the Borrower and the Association, within six months of the date of this Agreement, and in consultation with the Association shall take steps to implement appropriate policies based on such analysis.

Section 4.09. Except as the Borrower and the Association shall otherwise agree, the Borrower shall use the proceeds of payments in respect of the Credit which it receives from the AFC under the Subsidiary Loan Agreement and which are not currently required to service the Credit, for the purpose of agricultural development for a period of eighteen years from the date of this Agreement. The Borrower and the Association shall consult from time to time as to the procedure for ensuring effective use of such proceeds.

Section 4.10. The Borrower shall take all action which shall be necessary on its part to enable the AFC to perform all its obligations under the Project Agreement and shall not take any action that would interfere with the performance of such obligations by the AFC.

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 or if any event specified in paragraphs (a), (b), (d), (e) or (f) of Section 5.02 of this Development Credit Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Association to the Borrower, or (iii) if the event specified in paragraph (c) of Section 5.02 of this Development Credit Agreement shall occur and shall continue for a period of 120 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 such declaration such principal shall become due and payable immediately, anything in this Development Credit Agreement to the contrary notwithstanding.

Section 5.02. The following are specified as additional events for the purposes of paragraph (k) of Section 5.02 of the Regulations:

- (a) The AFC shall have failed to perform any of its obligations under the Project Agreement;
- (b) A default shall have occurred in the performance of any covenant or agreement on the part of the Borrower or the AFC under the Subsidiary Loan Agreement;
- (c) The right of the Borrower to withdraw the proceeds of the credit provided for in the Swedish Agreement shall have been suspended, or the Borrower shall have been unable to withdraw such proceeds, in whole or in part, and the Borrower shall have failed to obtain funds from other sources in substitution therefor;
- (d) The outstanding principal of the credit provided for in the Swedish Agreement shall have been declared, or become, due and payable in advance of the agreed maturity thereof in accordance with the terms of the said Agreement;

- (e) Before the Project Agreement shall have terminated in accordance with its terms, unless the Association shall have otherwise agreed, the Borrower shall have taken any action for the dissolution or disestablishment of the AFC or for the suspension of its operations;
- (f) Before the Project Agreement shall have terminated in accordance with its terms, unless the Association shall have otherwise agreed, the Borrower shall have amended the Agricultural Credit Act (Chapter 323) in such a way as to substantially alter the organization, powers or responsibilities of the AFC;
- (g) Before the Project Agreement shall have terminated in accordance with its terms, unless the Association shall have otherwise agreed, the Borrower shall have amended the Land Adjudication Act 1968 or the Land (Group Representatives) Act 1968 in such a way as to affect adversely the ability of the Borrower or of the AFC to carry out their respective obligations under the Development Credit Agreement or under the Project Agreement; and
- (h) An extraordinary situation shall have arisen which shall make it improbable that the AFC will be able to perform its obligations under the Project Agreement.

Article VI. EFFECTIVE DATE; TERMINATION

Section 6.01. The following events are specified as additional conditions to the effectiveness of this Development Credit Agreement within the meaning of Section 8.01 (b) of the Regulations:

- (a) the execution and delivery of the Project Agreement on behalf of the AFC have been duly authorized or ratified by all necessary corporate and governmental action;
- (b) the Subsidiary Loan Agreement has been duly executed in form satisfactory to the Association and has become fully effective and binding on the parties thereto in accordance with its terms;
- (c) the conditions precedent to the effectiveness of the Swedish Agreement shall have been fulfilled, subject only to the effectiveness of this Agreement; and
- (d) the Project Manager and the heads of the Livestock Marketing Division and the Range Water Division of the Ministry of Agriculture and Animal Husbandry have been employed.

Section 6.02. The following are specified as additional matters, within the meaning of Section 8.02 (b) of the Regulations, to be included in the opinion or opinions to be furnished to the Association:

- (a) that the Project Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the AFC and constitutes a valid and binding obligation of the AFC in accordance with its terms;
- (b) that the Swedish Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and constitutes a valid and binding obligation of the Borrower in accordance with its terms; and
- (c) that the Subsidiary Loan Agreement has been duly authorized or ratified by, and executed and delivered on behalf of, the Borrower and the AFC and constitutes a valid and binding obligation of the Borrower and the AFC in accordance with its terms.

Section 6.03. The date of December 1, 1968, is hereby specified for the purposes of Section 8.04 of the Regulations.

Section 6.04. On termination of the Project Agreement in accordance with its terms, the obligations of the Borrower with respect to the Project and the AFC shall forthwith terminate.

Article VII. MISCELLANEOUS

Section 7.01. The Closing Date shall be December 31, 1973, or such other date as shall be agreed between the Borrower and the Association.

Section 7.02. 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 cables:

Finance
Nairobi

For the Association:

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

Alternative address for cables:

Indevas
Washington, D.C.

Section 7.03. 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 L. P. ODERO
Authorized Representative

International Development Association:

By J. BURKE KNAPP
Vice President

SCHEDULE

DESCRIPTION OF PROJECT

The Project is a portion of the first stage of a long-term range livestock development program of the Borrower and is divided into the following four parts:

Ranch Development

A. A credit operation to be administered by the AFC to provide long-term loans for ranch development to the following four types of ranching enterprises: "group" ranching enterprises in the Kaputiei Section of the Kajiado District, "individual" ranching enterprises in the Kaputiei or adjacent Sections of the Kajiado District, "company" ranching enterprises in the Taita District or adjacent areas of the Kwale or Kilifi Districts, "commercial" ranching enterprises in the Machakos, Laikipia, or Nakuru Districts or adjacent areas of the Nyandarua or Nyeri Districts, and ranching enterprises in other areas which may be agreed between the Borrower and the Association. This part of the Project would also include the provision by the AFC of short-term credits to these ranching enterprises for working capital from a fund to be established in the AFC and the provision of supporting technical services to these enterprises.

Livestock Movement and Marketing

B. The development of facilities for livestock movement and marketing in northeast Kenya, in the Kajiado and Narok Districts and in other areas which may be agreed between the Borrower and the Association.

Range Water Survey and Development

C. The survey and development of range water facilities in northeast Kenya, in the areas of the ranch development referred to in part A of this Schedule, and in other areas which may be agreed between the Borrower and the Association.

Ancillary Technical Services

D. The provision in northeast Kenya, and in other areas which may be agreed between the Borrower and the Association, of technical services ancillary to livestock development to be provided by the Range Management Division and the Department of Veterinary Services of the Ministry of Agriculture and Animal Husbandry.

INTERNATIONAL DEVELOPMENT ASSOCIATION

DEVELOPMENT CREDIT REGULATIONS No. 1, DATED 1 JUNE 1961
AS AMENDED 9 FEBRUARY 1967

REGULATIONS APPLICABLE TO DEVELOPMENT CREDIT AGREEMENTS
WITH MEMBER GOVERNMENTS

[Not published herein. See *United Nations, Treaty Series, vol. 617, p. 60.*]