

**No. 12571**

—

**SWEDEN  
and  
KENYA**

**Development Credit Agreement—*Livestock Development Project* (with schedule, annex and related letter).  
Signed at Washington on 26 September 1968**

*Authentic text: English.*

*Registered by Sweden 14 June 1973.*

—————

**SUÈDE  
et  
KENYA**

**Contrat de crédit de développement — *Projet relatif au développement de l'élevage* (avec appendice, annexe et lettre connexe). Signé à Washington le 26 septembre 1968**

*Texte authentique : anglais.*

*Enregistré par la Suède le 14 juin 1973.*

DEVELOPMENT CREDIT AGREEMENT<sup>1</sup>*(LIVESTOCK DEVELOPMENT PROJECT)*

BETWEEN THE KINGDOM OF SWEDEN AND THE REPUBLIC OF KENYA  
(HEREINAFTER CALLED THE AGREEMENT)

---

WHEREAS the Kingdom of Sweden and the Republic of Kenya, desiring to strengthen the traditional cooperation and cordial relations between the two countries, have agreed that, as a contribution to the economic and social development of the Republic of Kenya, the Kingdom of Sweden (hereinafter called the Lender) shall extend to the Republic of Kenya (hereinafter called the Borrower) a development credit (hereinafter called the Swedish Credit) to assist in the financing of the range livestock development project (hereinafter called the Project) described in the Schedule to the Agreement;

WHEREAS the Borrower is also entering into a development credit agreement (hereinafter called the Association Agreement) of even date herewith<sup>2</sup> with the International Development Association (hereinafter called the Association) with regard to assistance towards financing the Project;

WHEREAS the Association is further entering into an agreement (hereinafter called the Project Agreement) of even date herewith<sup>3</sup> with the Agricultural Finance Corporation (hereinafter called the AFC) providing for the carrying out of part of the Project; and

WHEREAS the Borrower and the AFC will enter into an agreement (hereinafter called the Subsidiary Loan Agreement) for the purpose of providing, by way of loans, the AFC with funds necessary for the carrying out of part of the Project;

NOW THEREFORE the Lender and the Borrower agree as follows:

*Article I. THE SWEDISH CREDIT*

1. The Lender shall make available to the Borrower a development credit in an amount of nineteen million Swedish Kronor (SKr 19,000,000) subject to the provisions of the Agreement, of which the attached annex forms an integral part, and to such other provisions as may be agreed upon between the Parties.

2. Of the total amount of the Swedish Credit, four million Swedish Kronor (SKr 4,000,000) have already been appropriated by the Swedish Parliament. The remaining portion of the Swedish Credit shall be subject to appropriation by the Swedish Parliament, in an amount of five million Swedish Kronor (SKr 5,000,000) for the fiscal year 1968/69, in an amount of five million Swedish Kronor (SKr 5,000,000) for the fiscal year 1969/70, and in an amount of five million Swedish Kronor (SKr 5,000,000) for the fiscal year 1970/71.

*Article II. USE OF THE PROCEEDS OF THE SWEDISH CREDIT*

1. The proceeds of the Swedish Credit shall be used, in accordance with more detailed provisions to be agreed upon between the Parties, to assist, jointly with a credit

<sup>1</sup> Came into force on 26 September 1968 by signature, with effect from 1 May 1969, the date when the related Development Credit Agreement between the Association and Kenya (see foot-note 2 below) became effective, in accordance with article VIII (1).

<sup>2</sup> See p. 119 of this volume.

<sup>3</sup> See foot-note 3, p. 120 of this volume.

provided for under the Association Agreement, exclusively in financing the reasonable cost for goods and services required to carry out the Project.

2. The Borrower shall cause the goods and services financed out of the proceeds of the Swedish Credit to be used exclusively in the carrying out of the Project.

3. The specific allocation of the proceeds of the Swedish Credit and the methods and procedures for procurement of the goods and services to be financed out of these proceeds shall be determined by agreement between the Parties, subject to modification by further agreement between them.

#### *Article III. THE SPECIAL ACCOUNT*

1. The amount to be made available in accordance with article I shall be paid by the Lender, as required to meet requests by the Borrower for withdrawals, to the credit of an account in Swedish Kronor opened in the books of the Sveriges Riksbank, Stockholm, acting as agent for the Lender. The account, which shall be held in favor of the Borrower, shall be denominated "Republic of Kenya, Special Account No. 1" (hereinafter called the Special Account).

2. If for purposes of financing the Project a currency other than Swedish Kronor shall be required and if a request shall be made to withdraw any proceeds of the Swedish Credit in such other currency, the Sveriges Riksbank shall remit the requested foreign currency amount and shall debit the Special Account with the Swedish Kronor equivalent of such amount calculated on the basis of the current market selling rate.

#### *Article IV. WITHDRAWAL FROM THE SPECIAL ACCOUNT*

1. The Borrower or its designated agent shall be entitled, subject to the provisions of the Agreement and such other provisions as may be agreed between the Parties, to withdraw from the Special 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 Parties, of such amounts as shall have been disbursed by the AFC under the long-term loans described in part A of the Project; provided, however, that, where the amount of any such loan is two hundred thousand United States 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 Lender; (ii) the equivalent of 30%, or of such other percentage or percentages as may be established from time to time by agreement between the Parties, of such amounts as shall have been paid by the AFC, or if the Lender 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 Project; (iii) the equivalent of 30%, or of such other percentage or percentages as may be established from time to time by agreement between the Parties, of (x) such amounts as shall have been disbursed by the AFC from the working capital fund described in part A of the Project less (y) any repayments to such fund; (iv) the equivalent of 30%, or of such other percentage or percentages as may be established from time to time by agreement between the Parties, 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 Project; 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 Parties, 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 Project; provided, however, that no withdrawal shall be made pursuant to this paragraph 1 for that part of the cost of goods and services in respect of which withdrawals shall have been made under the Association Agreement.

2. No withdrawals shall be made on account of expenditures made prior to the date of the Agreement. The closing date for withdrawals shall be December 31, 1973, or such other date as may be agreed upon between the Parties.

*Article V. SERVICE OF THE SWEDISH CREDIT*

1. The Borrower shall pay to the Lender 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 Swedish Credit withdrawn from the Special Account and outstanding from time to time. The service charge shall be payable semi-annually on March 1 and September 1 each year. The service charge shall be computed on the basis of a 360-day year of twelve 30-day months.

2. The Borrower shall repay to the Lender the principal of the Swedish Credit withdrawn from the Special Account in semi-annual installments payable on 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. The Borrower shall have the right to repay in advance of maturity all or any part of the principal amount of one or more maturities of the Swedish Credit specified by the Borrower.

3. The principal of and service charge on the Swedish Credit shall be paid by the Borrower in Swedish Kronor to the Sveriges Riksbank in favor of the Lender.

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

5. In regard to the service of the Swedish Credit the Borrower undertakes to give the Lender no less favorable treatment than that accorded to other foreign creditors.

*Article VI. PARTICULAR COVENANTS*

1. The Borrower shall cause the Project to be carried out and maintained with due diligence and efficiency and in conformity with sound agricultural, administrative, economic and financial practices.

2. The Borrower shall at all times make or cause to be made available promptly as needed, all funds, facilities, services and other resources required for carrying out, including maintenance, of the Project.

3. The Borrower shall maintain or cause to be maintained records adequate to identify the goods and services financed out of the proceeds of the Swedish Credit, to disclose to the Lender the use thereof in the Project, and to record the progress of the Project (including the cost thereof).

4. The Borrower and the Lender shall cooperate fully to ensure that the purpose of the Swedish 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 Swedish Credit. The Borrower shall promptly inform the Lender of any condition which interferes with, or threatens to interfere with, the accomplishment of the purpose of the Swedish Credit or the service thereof.

5. The Borrower shall afford all reasonable opportunity for representatives of the Lender to visit any part of the territories of the Borrower for purposes related to the Swedish Credit and to inspect all relevant goods, works, records and documents.

6. Goods to be financed out of the proceeds of the Credit will be obtained through ordinary commercial channels, provided that a satisfactory degree of competition between suppliers is maintained. When such goods shall have to be imported, the opportunities for supplying such goods shall, insofar as they can be controlled by the Borrower, be no less favorable for Swedish suppliers than for suppliers from other countries.

*Article VII. MISCELLANEOUS*

1. The Borrower shall furnish to the Lender evidence of the authority of the person or persons who will, on behalf of the Borrower, take any action or execute any documents under the Agreement, and the authenticated specimen signature of each such person.

2. Any notice or request under the Agreement and any agreement between the Parties contemplated by the Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when delivered through diplomatic channels.

*Article VIII. EFFECTIVE DATE; TERMINATION*

1. The Agreement shall become effective after it has been signed by duly authorized representatives of the Parties and concurrently with the Association Agreement becoming effective.

2. The Agreement and all obligations of the Parties thereunder, except those set forth in article V and the annex, shall terminate on the date when the Project Agreement terminates according to its terms or the date upon which both Parties shall have fulfilled all obligations, including those set forth in Article V, arising from the Agreement, whichever shall be the earlier.

IN WITNESS WHEREOF, the Kingdom of Sweden and the Republic of Kenya, acting through their representatives thereunto duly authorized, have caused the Agreement to be signed.

DONE in the District of Columbia, United States of America, on the 26th day of September, 1968 in two original copies in English.

For the Kingdom  
of Sweden:

[Signed]

By P. B. KOLLBERG  
Authorized Representative

For the Republic  
of Kenya:

[Signed]

By L. P. ODERO  
Authorized Representative

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 Parties. 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 Parties.

*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 Parties.

*Ancillary Technical Services*

D. The provision in northeast Kenya, and in other areas which may be agreed between the Parties, 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.

## A N N E X

The following provisions shall govern the rights and obligations under the Agreement, of which they are considered an integral part with the same force and effect as if they were fully set forth therein.

*Paragraph 1. Cancellation and Suspension*

The Borrower may by notice to the Lender cancel any amount of the Swedish Credit which the Borrower shall not have withdrawn prior to the giving of such notice.

If any of the following events shall have happened and be continuing, the Lender may by notice to the Borrower suspend in whole or in part, the right of the Borrower to make withdrawals from the Special Account:

- (a) A default shall have occurred in the payment of principal or service charge under the Agreement or in the payment of principal, service charge or interest under any other financial commitment entered into by the Borrower in relation to the Lender.
- (b) The Borrower shall have failed to meet any other obligation under the Agreement.
- (c) An extraordinary situation shall have arisen which shall make it improbable that the Borrower will be able to perform its obligations under the Agreement.
- (d) The right of the Borrower to withdraw the proceeds of the Credit provided for in the Association Agreement shall have been suspended or terminated, in whole or in part.
- (e) The outstanding principal of the Credit provided for in the Association Agreement shall have been declared, or become, due and payable in advance of the agreed maturity thereof.
- (f) The Borrower shall have cancelled any part of the Credit provided for in the Association Agreement without a cancellation of a corresponding proportion of the Swedish Credit.

The right of the Borrower to make withdrawals from the Special Account shall continue to be suspended in whole or in part, as the case may be, until the event or events which gave rise to such suspension shall have ceased to exist or until the Lender shall have notified the Borrower that the right to make withdrawals has been restored, whichever is the earlier; provided, however, that

in the case of any such notice of restoration, the right to make withdrawals shall be restored only to the extent and subject to the conditions specified in such notice, and no such notice shall affect or impair any right, power or remedy of the Lender in respect of any other or subsequent event described in this Paragraph.

If (a) the right of the Borrower to make withdrawals from the Special Account shall have been suspended with respect to any amount of the Swedish Credit for a continuous period of thirty days, or (b) by the date specified in article IV, section 2 of the Agreement as the closing date an amount of the Swedish Credit shall remain unwithdrawn from the Special Account, the Lender may by notice to the Borrower terminate the right of the Borrower to make withdrawals with respect to such amount. Upon the giving of such notice such amount of the Swedish Credit shall be cancelled.

Notwithstanding any cancellation or suspension all the provisions of the Agreement shall continue in full force and effect except as in this paragraph specifically provided.

#### *Paragraph 2. Remedies of the Lender*

If any event specified in subparagraph (a) of paragraph 1 shall occur and shall continue for a period of sixty days or, if any event specified in subparagraphs (b), (c), (d) or (f) of paragraph 1 shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Lender to the Borrower, or if the event specified in subparagraph (e) of paragraph 1 shall occur, then at any subsequent time the Lender, at his option, may declare the principal of the Swedish Credit then outstanding to be due and payable immediately, and upon any such declaration such principal shall become due and payable immediately, anything in the Agreement to the contrary notwithstanding.

#### *Paragraph 3. Failure to Exercise Rights*

No delay in exercising, or omission to exercise any right, power or remedy accruing to either Party under the Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such Party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such Party in respect of any other or subsequent default.

#### *Paragraph 4. Arbitration*

(a) Any controversy between the Parties to the Agreement and any claim by either Party against the other arising under the Agreement which cannot be settled in a satisfactory manner through diplomatic channels, within six months, shall at the request of either Party be submitted to arbitration by an Arbitral Tribunal as hereinafter provided.

(b) The Parties to such arbitration shall be the Lender and the Borrower.

(c) The Arbitral Tribunal shall consist of three arbitrators appointed as follows: one arbitrator shall be appointed by the Lender; a second arbitrator shall be appointed by the Borrower; and the third arbitrator (hereinafter called the presiding arbitrator) shall be appointed by agreement of the Parties or, if they shall not agree, by the President of the International Court of Justice or failing appointment by him, by the Secretary-General of the United Nations. If either of the Parties shall fail to appoint an arbitrator, such arbitrator shall be appointed by the presiding arbitrator. In case any arbitrator appointed in accordance with this paragraph shall resign, die or become unable to act, a successor arbitrator shall be appointed in the same manner as herein prescribed for the appointment of the original arbitrator and such successor shall have all the powers and duties of such original arbitrator.

(d) Arbitration proceedings may be instituted under this paragraph upon notice by the Party instituting such proceeding to the other Party. Such notice shall contain a statement setting forth the nature of the controversy or claim to be submitted to arbitration, the nature of the relief sought, and the name of the arbitrator appointed by the Party instituting such proceeding. Within thirty days after the giving of such notice, the adverse Party shall notify the Party instituting the proceeding of the name of the arbitrator appointed by such adverse Party.

(e) If, within sixty days, after the giving of such notice instituting the arbitration proceeding, the Parties shall not have agreed upon a presiding arbitrator, either Party may request the appointment of a presiding arbitrator as provided in subparagraph (c) of this paragraph.

(f) The Arbitral Tribunal shall convene at such time and place as shall be fixed by the presiding arbitrator. Thereafter, the Arbitral Tribunal shall determine where and when it shall sit.

(g) Subject to the provisions of this paragraph and except as the Parties shall otherwise agree, the Arbitral Tribunal shall decide all questions relating to its competence and shall determine its procedure. All decisions of the Arbitral Tribunal shall be by majority vote.

(h) The Arbitral Tribunal shall afford to the Parties a fair hearing and shall render its award in writing. Such award may be rendered by default. An award signed by a majority of the Arbitral Tribunal shall constitute the award of such Tribunal. A signed counterpart of the award shall be transmitted to each Party. Any such award rendered in accordance with the provisions of this paragraph shall be final and binding upon the Parties to the Agreement. Each Party shall abide by and comply with any such award rendered by the Arbitral Tribunal in accordance with the provisions of this paragraph.

(i) The provisions for arbitration set forth in this paragraph shall be in lieu of any other procedure for the determination of controversies between the Parties to the Agreement and any claims by either Party against the other Party arising thereunder.

(j) Service of any notice or process in connection with any proceeding under this paragraph or in connection with any proceeding to enforce any award rendered pursuant to this paragraph shall be made through diplomatic channels.

#### RELATED LETTER

THE KINGDOM OF SWEDEN

September 26, 1968

Republic of Kenya  
The Treasury  
P.O. Box 30007  
Nairobi, Kenya

Dear Sir:

With reference to the Development Credit Agreement of today's date (hereinafter called the Swedish Agreement) between the Kingdom of Sweden and the Republic of Kenya, I have the honor to propose that the following provisions should govern the implementation of articles II, IV and VI of the Swedish Agreement.

#### 1. *Definitions*

The terms and abbreviations used in the Swedish Agreement are used also in this letter.

#### 2. *Provisions Agreed Between the Borrower and the Association*

By agreements entered into in conjunction with the Swedish Agreement, the Borrower and the AFC have undertaken certain obligations towards the Association. Those obligations are included in sections 4.01 (b), 4.06, 4.07, 4.08, 4.09 and 4.10 of the Association Agreement, in the Project Agreement and in Supplemental Letters on Procurement, Organization and Management, Lending Policies and Procedures, Ranching Enterprises and Use of the Proceeds of the Credit, and Recruitment of the Heads of LMD and RWD. The provisions in the said sections of the Association Agreement, the Project Agreement, and Letters are agreeable to the Lender, making agreements in these respects between the Lender and the Borrower superfluous under present conditions. Should these conditions change, however, the Lender and the Borrower shall consult with each other concerning appropriate provisions in these respects.

3. *Authority of the Association to Act on Behalf of the Lender*

Unless the Lender otherwise specifies, the Association may represent the Lender with respect to supplementary agreements, approvals or arrangements with the Borrower regarding:

- (a) matters arising under subparagraphs (i), (ii), (iii), (iv) or (v) of article IV:1 of the Swedish Agreement;
- (b) the closing date under article IV:2 of the Swedish Agreement;
- (c) the selection of areas mentioned in the schedule to the Swedish Agreement; and
- (d) changes in the Supplementary Letter on Allocation of the Proceeds of the Credits and Withdrawal Procedures.

If the foregoing provisions are acceptable to the Republic of Kenya, I have the honor to suggest that you indicate your agreement by signing the form of confirmation on this letter, retaining a copy for your records, and returning another to me.

I have the honor to renew the assurances of my highest consideration.

Very truly yours,

The Kingdom of Sweden:

[Signed]

By P. B. KOLLBERG  
Authorized Representative

*Confirmed:*

Republic of Kenya:

[Signed]

By L. P. ODERO  
Authorized Representative