

No. 14805

**FEDERAL REPUBLIC OF GERMANY
and
KENYA**

**Agreement concerning financial assistance. Signed at
Nairobi on 28 November 1974**

Authentic texts: German and English.

Registered by the Federal Republic of Germany on 15 June 1976.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
KENYA**

**Accord d'aide financière. Signé à Nairobi le 28 novembre
1974**

Textes authentiques : allemand et anglais.

Enregistré par la République fédérale d'Allemagne le 15 juin 1976.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING FINANCIAL ASSISTANCE

The Government of the Republic of Kenya and the Government of the Federal Republic of Germany,
in the spirit of the friendly relations existing between the Republic of Kenya and the Federal Republic of Germany,
desiring to strengthen and intensify those friendly relations by fruitful co-operation in the field of development assistance,
aware that the maintenance of those relations constitutes the basis of the present Agreement,
intending to contribute to economic and social development in the Republic of Kenya,
have agreed as follows:

Article 1. (1) The Government of the Federal Republic of Germany shall enable the Government of the Republic of Kenya to raise with the Kreditanstalt für Wiederaufbau (Development Loan Corporation), Frankfurt/Main, a loan up to a total of 21 (twenty-one) million German Marks for measures to put the Chemelil Sugar Company Ltd. on a sound financial basis.

(2) The Government of the Federal Republic of Germany shall enable the Deutsche Gesellschaft für wirtschaftliche Zusammenarbeit (Entwicklungsgesellschaft) mbH (German Development Company/DEG), Cologne, to transfer its share of the capital of the Chemelil Sugar Company Ltd., as well as its equity-like loan to the Company, to the Government of the Republic of Kenya free of charge.

(3) The Government of the Republic of Kenya undertakes to use 13 (thirteen) million German Marks of the loan specified in paragraph 1 above to refinance the amortization instalments initially falling due on the loan granted by the Kreditanstalt für Wiederaufbau under the agreement of 5 May 1967 and the modifying agreements of 21 May 1970 and 30 November 1972. The Government of the Republic of Kenya shall provide the remaining amount of 12, 738,000 (twelve million seven hundred and thirty-eight thousand) German Marks and convert the total equivalent amount of 25,738,000 (twenty-five million seven hundred and thirty-eight thousand) German Marks into capital resources of the Chemelil Sugar Company Ltd.

(4) The Government of the Republic of Kenya also undertakes to make 8 (eight) million German Marks of the loan specified in paragraph 1 above as well as an additional amount of 8 (eight) million German Marks as an own contribution to the Chemelil Sugar Company Ltd. as capital, subject to the condition that the said amounts are used for replacement and extension purposes.

Article 2. (1) The details of utilization of the loan specified in Article 1 (1) as well as the terms and conditions on which it is granted shall be governed by the

¹ Came into force on 28 November 1974 by signature, in accordance with article 8.

provisions of the agreements to be concluded between the Government of the Republic of Kenya and the Kreditanstalt für Wiederaufbau, which shall be subject to the legal provisions applicable in the Federal Republic of Germany.

(2) The details of the transfer referred to in Article 1 (2) of the share in the Chemelil Sugar Company Ltd. held by the Deutsche Gesellschaft für wirtschaftliche Zusammenarbeit mbH and its equity-like loan to the Company shall be governed by the agreements to be concluded between the DEG and the Government of the Republic of Kenya, which shall be subject to the legal provisions applicable in the Republic of Kenya.

Article 3. The Government of the Republic of Kenya shall exempt the Kreditanstalt für Wiederaufbau and the DEG from all taxes and other public charges levied in the Republic of Kenya at the time of the conclusion, or during the execution, of the loan agreements referred to in Article 2 of the present Agreement.

Article 4. The Government of the Republic of Kenya shall allow passengers and suppliers free choice of transport enterprises for such transportation by sea or air of persons and goods as results from the granting of the loan, abstain from taking any measures that might exclude or impair the participation of transport enterprises having their place of business in the German area of application of the present Agreement, and grant such permits as are required for the participation of such transport enterprises.

Article 5. Supplies and services for projects financed from the loan shall, unless otherwise provided for in individual cases, be subject to international public tender.

Article 6. With regard to the supplies resulting from the granting of the loan, the Government of the Federal Republic of Germany attaches particular importance to preference being given to products of industries of Land Berlin.

Article 7. With the exception of those provisions of Article 4 which refer to air transport, this Agreement shall also apply to Land Berlin provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of the Republic of Kenya within three months after the entry into force of the present Agreement.

Article 8. The present Agreement shall enter into force on the date of signature thereof.

DONE at Nairobi on 28 November 1974 in duplicate in the English and German languages, both texts being equally authentic.

For the Government
of the Republic of Kenya:
[Signed — Signé]¹

For the Government
of the Federal Republic of Germany:
[Signed — Signé]²

¹ Signed by Mwai Kibaki—Signé par Mwai Kibaki.

² Signed by Heimsoeth—Signé par Heimsoeth.