

No. 26482

FEDERAL REPUBLIC OF GERMANY
and
KENYA

Agreement concerning financial cooperation—*Investment in the Small Enterprises Finance Company, Nairobi.* Signed at Nairobi on 19 November 1987

Authentic texts: German and English.

Registered by the Federal Republic of Germany on 16 March 1989.

RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
KENYA

Accord de coopération financière — *Investissement dans la Small Entreprises Finance Company, Nairobi.* Signé à Nairobi le 19 novembre 1987

Textes authentiques : allemand et anglais.

Enregistré par la République fédérale d'Allemagne le 16 mars 1989.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY CONCERNING FINANCIAL CO-OPERATION

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 through financial co-operation in a spirit of partnership,

Aware that the maintenance of those relations constitutes the basis of this Agreement,

Intending to contribute to social and economic development in the Republic of Kenya,

With reference to item 2.2.2.4 of the Summary Record of 5 October 1986 of the intergovernmental negotiations,

Have agreed as follows:

Article 1

The Government of the Federal Republic of Germany shall enable the DEG — Deutsche Finanzierungsgesellschaft für Beteiligungen in Entwicklungsländern GmbH (German Finance Company for Investments in Developing Countries), Cologne, hereinafter referred to as the “DEG”, to acquire an investment of up to KSh.12,000,000 (twelve million Kenya shillings) in the Small Enterprises Finance Company, Nairobi, hereinafter referred to as “SEFCO”, and to grant SEFCO a loan with equity features of up to KSh.28,000,000 (twenty-eight million Kenya shillings).

If, in view of the overall equity capital situation, only a smaller DEG investment in the capital of SEFCO is initially possible, the DEG shall be entitled to make up the shortfall to SEFCO in the form of a convertible loan with equity features. The Government of the Federal Republic of Germany shall make available to the DEG a total of up to DM 5,000,000 (five million Deutsche Mark) for this purpose.

Article 2

The DEG investment and the loan with equity features referred to in Article 1 of this Agreement shall be made available in accordance with a financing agreement to be concluded with SEFCO.

Article 3

1. With regard to the investment and the loan with equity features referred to in Article 1 of this Agreement, the Government of the Republic of Kenya shall guarantee the free importation of foreign currency in connection with the acquisition of the investment and the granting of the loan, as well as the free transfer of the agreed amortization payments on the investment and the loan with equity features and of interest and incidental expenses.

¹ Came into force on 19 November 1987 by signature, in accordance with article 7.

2. The Government of the Republic of Kenya undertakes on its own behalf and on behalf of the Central Bank of Kenya not to hinder SEFCO in the discharge of its liabilities to the DEG.

3. The Government of the Republic of Kenya shall, in accordance with the laws applicable in the Republic of Kenya, grant on request "approved status" in respect of the DEG investment referred to in Article 1 of this Agreement.

4. Should the loan with equity features be converted into an investment, the Government of the Republic of Kenya and the Central Bank of Kenya shall not hinder the payment of sale proceeds and any returns to the DEG.

Article 4

1. The Government of the Republic of Kenya shall exempt the DEG from all taxes and other public charges levied in the Republic of Kenya in connection with the granting and repayment of the investment and the loan with equity features referred to in Article 1 of this Agreement as well as with interest and incidental expenses.

2. The same shall apply to the repatriation of sale or liquidation proceeds and of any returns on the investment in the event that the loan with equity features is converted into an investment.

Article 5

Should the investment referred to in Article 1 of this Agreement be increased through the issue of bonus shares, the guarantees and assurances given by the Government of the Republic of Kenya pursuant to Articles 3 and 4 of this Agreement shall also apply to the increased investment.

Article 6

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 of the date of entry into force of this Agreement.

Article 7

This Agreement shall enter into force on the date of signature thereof.

DONE at Nairobi on 19th of November 1987 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

[Signed — Signé]³

¹ Signed by George Saitoti — Signé par George Saitoti.

² Signed by Klaiber — Signé par Klaiber.

³ Signed by Volkmar Köhler — Signé par Volkmar Köhler.