

PDBBM 856

CLASSIFICATION:

AID 1120-1	AGENCY FOR INTERNATIONAL DEVELOPMENT	1. PAAD NO. 615-K-607D (615-0240 Amendment No. 3)
		2. COUNTRY KENYA
PAAD	PROGRAM ASSISTANCE APPROVAL DOCUMENT	3. CATEGORY COMMODITY IMPORT PROGRAM (CIP)
		4. DATE AUGUST 1988
5. TO:	STEVEN W. SINDING DIRECTOR	6. OVER CHARGE NO. N/A
7. FROM:	CAROL STEELE <i>Carol Steele</i> PROGRAM OFFICER	8. OVER INCREASE None TO BE TAKEN FROM:
9. APPROVAL REQUESTED FOR COMMITMENT OF \$ 14,500,000		10. APPROPRIATION
11. TYPE FUNDING <input type="checkbox"/> LOAN <input checked="" type="checkbox"/> GRANT	12. LOCAL CURRENCY ARRANGEMENT <input type="checkbox"/> INFORMAL <input checked="" type="checkbox"/> FORMAL <input type="checkbox"/> NONE	13. ESTIMATED DELIVERY PERIOD 08/01/88-02/28/91
14. COMMODITIES FINANCED \$14,500,000 AID Eligible Commodities		15. TRANSACTION ELIGIBILITY DATE

16. PERMITTED SOURCE	17. ESTIMATED SOURCE
U.S. only: 14,500,000	U.S.: 14,500,000
Limited F.W.:	Industrialized Countries:
Free World:	Local:
Cash:	Other:

18. SUMMARY DESCRIPTION

The purpose of this Structural Adjustment Assistance Program (SAAP) Amendment is to assist the Republic of Kenya by supporting key sectoral and structural reforms, with emphasis on the agriculture sector, through the provision of essential intermediate imports primarily through the private sector, and with technical assistance. Specifically, the proposed \$14.5 million Program Grant Amendment and its complementary \$3.0 million Technical Assistance Project will contribute to the achievement of this purpose by:

1. providing additional foreign exchange to replenish the private sector commodity import program;
2. utilizing local currency proceeds from the sales of imported commodities, both from this Amendment and prior A.I.D. programs, to encourage institutional changes and policy initiatives;
3. financing technical assistance to support the analyses for and undertaking of policy initiatives and institutional change;

19. CLEARANCES	DATE	20. ACTION
FRJ: GBertolin <i>GB</i>	8-18-88	<input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED <i>Stw Sinding</i> AUTHORIZED SIGNATURE STEVEN W. SINDING, DIRECTOR TITLE
AGR: JThomas <i>JT</i>	8-16-88	
CONT: TTotino <i>TT</i>	8-18-88	
RLA: SSpelman <i>SS</i> DRAFT	8-17-88	
D/DIR: LHausman <i>LH</i>		
		8/18/88 DATE

CLASSIFICATION:

SUMMARY DESCRIPTION (CON'T)

4. continuing support of market-based fertilizer policies which promote rural distribution, liberalize import licensing approval process, and improve planning and analytic capability of the Fertilizer Inputs Unit of the Ministry of Agriculture;
5. supporting components of the GOK budget, including those components of the agriculture sector budget in which A.I.D. has a special interest;
6. encouraging further import liberalization by implementing a new system of import licensing schedules and progress toward unrestrictive licensing for imports under Schedule 1;
7. initiating actions directed to the establishment of a Capital Market Development Authority; and
8. assisting the GOK in reducing its budget deficit through use of local currency proceeds from the sales of imported commodities, both from this Amendment and prior A.I.D. other programs.

The FY 1988 program is subject to the following:

CONDITIONS PRECEDENT AND COVENANTS

A. Condition Precedent to the Disbursement of Dollar Grant

Except as A.I.D. may otherwise agree in writing, prior to any disbursement of the dollar funds made available under this Amendment, or to the issuance by A.I.D. of documentation pursuant to which such payment will be made, the Cooperating Country shall, in form and substance satisfactory to A.I.D., provide documentation that the Grantee has established a separate, numbered Special Account entitled "1988 A.I.D. CIP Account" and two subsidiary accounts thereunder, "A" and "B," or made equivalent arrangements for deposit of currency of the Cooperating Country in amounts equal to all proceeds accruing to the Cooperating Country or any authorized agent thereof as a result of the sale or importation of the Eligible Items.

B. Conditions Precedent to the Release and Utilization of Prior and To Be Generated Local Currencies

The Cooperating Country agrees that release and uses of all unexpended Local Currencies generated under previous A.I.D.-financed CIPs, fertilizer import programs and PL-480 Title I Programs, in addition to all Local Currencies generated pursuant to the Agreement and all Amendments thereto, shall be subject to the following Conditions Precedent. The permissible uses of such Local Currencies shall remain in accord with the terms of the instrument under which that Local Currency was generated.

1. Conditions Precedent to the Release of the First Tranche of Local Currency

Except as the Parties may otherwise agree in writing, prior to the release of a first tranche of Local Currency (430 million shillings) other than Local Currencies to be entrusted to A.I.D. pursuant to the Trust Account provisions of this Amendment, the Cooperating Country shall, in form and substance satisfactory to A.I.D.:

a. Review with A.I.D. the 1988/89 Forward Budget and demonstrate that adequate funding levels are provided for high priority A.I.D.-financed activities.

b. Demonstrate that the funding levels agreed upon by A.I.D. and the Cooperating Country during the review of the 1988/89 Forward Budget have been incorporated in the 1988/89 Annual Budget.

c. During the fourth quarter of Kenyan financial year 1987/88, review with A.I.D. the 1987/88 national budget deficit, and demonstrate that the 1987/88 budget deficit financing from domestic sources will be limited to no more than 4.6 percent of the Gross Domestic Product (GDP) (about 6.2 billion shillings), of which not more than 1.3 billion shillings or 1 percent of the GDP shall be from the domestic banking system.

d. Demonstrate that the Cooperating Country is continuing to price fertilizer based on the "Benchmark International Price" formula, with adequate retail margins.

2. Conditions Precedent to the Release of the Second Tranche of Local Currency Subsequent to March 31, 1989

Except as the Parties may otherwise agree in writing, prior to release of the second tranche of Local Currency subsequent to March 31, 1989 (up to 550 million shillings, subject to available deposits), other than Local Currency to be entrusted to A.I.D. pursuant to the Trust Account provisions of this Amendment, the Cooperating Country will, in form and substance satisfactory to A.I.D.:

a. Demonstrate that government domestic borrowing for financial year 1987/88 did not exceed 4.6 percent of GDP (approximately 6.2 billion shillings), of which not more than 1.3 billion shillings or 1 percent of GDP was from the domestic banking system.

b. Demonstrate that the budget deficit for Kenyan financial year 1988/89 will be limited to 5.0 percent of GDP or less.

c. Demonstrate that for Kenyan financial year 1988/89, transfers and net lending to the National Cereals and Produce Board will be limited to the provision in the budget.

d. Demonstrate that it is continuing to price fertilizer based on the "Benchmark International Price" formula, with adequate retail margins.

3. Additional Disbursements

Except as the Parties may otherwise agree in writing, no Conditions Precedent shall apply to Local Currencies in excess of those set forth in sub-sections 1 and 2 above.

C. Covenants Related to Administration of the Commodity Import Program

1. Reports and Records

Except as A.I.D. may otherwise agree in writing, the Cooperating Country, with respect to the commodities financed under this Amendment, covenants to furnish A.I.D. such reports and information relating to the goods and services financed by this Amendment and the performance of Cooperating Country's obligations under this Amendment as A.I.D. may reasonably request. These reports and information shall include but not be limited to; (i) a list of all importers registered with the Government of the Cooperating Country, (ii) a copy of each approved Import License Application for goods financed under this Amendment, (iii) a copy of the "Import Entry" form for each consignment of goods financed under this Amendment, and (iv) a copy of the "Out-Turn" report for each ocean vessel carrying goods financed under this Amendment.

2. Validity of Licenses

The Cooperating Country, with respect to all commodities financed under this Amendment, covenants to issue all Import Licenses and all Foreign Exchange Allocation Licenses with a validity of not less than six months, except as A.I.D. may otherwise agree in writing.

3. Size of Transactions

The Cooperating Country covenants that no letter of credit issued pursuant to this Amendment shall be in an amount less than Five Thousand Dollars (\$5,000) nor more than One Million, Five Hundred Thousand Dollars (\$1,500,000), except as A.I.D. may otherwise agree in writing.

4. License Application Fee

The Cooperating Country covenants that it will inform all importers financed under this Amendment that, in recognition that no Society General Surveillance or other inspection will be required for CIP commodities, the usual one and a half percent import license application fee paid to the Central Bank will be reduced to one half of one percent for CIP commodity import license applications, except as A.I.D. may otherwise agree in writing.

5. Kenya Exchange Control Notice No. 19

The Cooperating Country covenants that with respect to Exchange Control Notice No. 19, guarantees issued to Kenya-Registered companies, regardless of owner nationality, will not be considered as local borrowing under this Amendment, and further agrees to so notify importers, except as A.I.D. may otherwise agree in writing.

6. Insurance

The Cooperating Country agrees that it will inform Kenyan importers that funds from this Amendment are available to cover marine insurance costs as set forth in Section 3.9 of the Agreement, except as A.I.D. may otherwise agree in writing.

7. Timeliness of Approvals

The Cooperating Country covenants that, except as A.I.D. may otherwise agree in writing:

a. the Central Bank of Kenya will process all applications for Foreign Exchange Allocation Licenses under this Amendment within a maximum of five working days, such five days to include the time before sending to the Ministry of Commerce and Industry as well as the time between the return from the Ministry of Commerce and Industry and the despatch to A.I.D.; and

b. the Ministry of Commerce and Industry will review and process all Import License applications under this Amendment within a maximum of ten working days after receipt from the Central Bank of Kenya.

8. Letter of Credit Guarantee

The Cooperating Country covenants to participate in meetings with representatives from the banking industry, A.I.D., and the Ministry of Finance. The purpose of these meetings is to consider establishing a letter of credit guarantee scheme to assist small importers unable to open letters of credit due to insufficient security. If it is found

desireable and feasible by the participants of the meeting, the Cooperating Country covenants to implement such a letter of credit guarantee scheme in at least one bank which participates in the Commodity Import Program, except as A.I.D. may otherwise agree in writing,

D. Other Covenants

1. Import Policy

Except as A.I.D. may otherwise agree in writing, the Cooperating Country covenants that:

a. It will issue the new Import Licensing Schedules containing the reorganized schedules by August 1988.

b. It will permit goods on Schedule 1 licensed without restrictions, provided that they are properly classified and reasonably priced.

2. Capital and Money Markets

Except as A.I.D. may otherwise agree in writing, the Cooperating Country covenants that:

a. It will complete the necessary legal and administrative requirements for making the Capital Market Development Authority operational by June 1989; and

b. It will review the tax system to ensure that taxes do not create disincentives for issuance of public equity and debt instruments and to investors in such securities.

3. Fertilizer Pricing and Distribution

The Cooperating Country covenants that, it will review and implement the recommendations of the National Fertilizer Policy study, recently completed by the Ministry of Agriculture, to improve import allocation approval procedures to shorten the time and reduce the steps involved in the import licensing approval process, except as A.I.D. may otherwise agree in writing.

THE FY 88 PROGRAM PROVIDES FOR THE FOLLOWING USE OF COUNTERPART FUNDS

Kenyan Shillings 40 million in local currency proceeds generated under this Amendment will be put in trust for A.I.D. The Trust Fund so created is to be used for operational support of the USAID/Kenya Mission and monitoring of the CIP imports and counterpart deposits.

6

All other local currency generations will be deposited into a Special Account, the "1988 A.I.D. CIP Account," with the Paymaster General. This account will have two subsidiary accounts. (Alternative mechanisms creating separate, non-comingled accounts may be utilized.) The local currency equivalent of \$4,500,000 accruing from the DFA component of the CIP will be deposited into sub-account "A" and will be used in support of components of the GOK agricultural budget, including those in which A.I.D. has a special interest. The balance of local currencies, approximately \$7,800,000 will be deposited into sub-account "B." An equivalent of \$5,000,000 of counterpart funds from sub-account "B" will be used for mutually agreed upon private sector development activities. The remainder may be used to fund sectoral activities in the GOK development budget which are supportive of the general objectives contained in USAID's Country Development Strategy Statement, provided that adequate funding is given to high-priority USAID-financed activities.

The methods of implementation and financing have been approved by the Mission Controller.

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