Special Action Credit Agreement

(Structural Adjustment Credit)

between

REPUBLIC OF KENYA

and

INTERNATIONAL DEVELOPMENT ASSOCIATION
as ADMINISTRATOR of the SPECIAL ACTION ACCOUNT
established with funds contributed by
the MEMBER STATES of the EUROPEAN ECONOMIC COMMUNITY

Dated April 10, 1980
SPECIAL ACTION CREDIT AGREEMENT

AGREEMENT, dated April 10, 1980, between REPUBLIC OF KENYA (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION as ADMINISTRATOR of the Special Action Account established with funds contributed by the MEMBER STATES of the EUROPEAN ECONOMIC COMMUNITY.

WHEREAS (A) the Borrower is undertaking a comprehensive economic program for the short-term stabilization, medium-term recovery and long-term development of the Borrower's economy;

(B) the Borrower intends, inter alia, to implement, as part of its economic program, a program of economic measures summarized in the letter of intent dated January 2, 1980, addressed to the Administrator by the Borrower's Vice President and Minister responsible for Finance;

(C) by the Agreement, dated May 2, 1978, between the International Development Association (hereinafter called IDA) and the European Economic Community and its Member States there has been established by IDA a Special Action Account constituted by the funds which shall be contributed by the Member States of the European Economic Community and administered by IDA, acting as Administrator of such Special Action Account, for the purpose of, and in accordance with, the provisions of said Agreement;

(D) the Borrower has requested the Administrator for assistance from the resources of the Special Action Account in achieving the aforementioned objectives by providing part of the foreign exchange required to finance essential imports of raw materials, intermediate goods and capital equipment as provided in Schedule 1 to this Agreement, and the Administrator has determined that such assistance would be in accordance with the provisions of the Agreement of May 2, 1978 referred to above;

(E) the Borrower has also requested IDA to provide additional assistance towards the financing of the Project and by an agreement of even date herewith between the Borrower and IDA (hereinafter called the Development Credit Agreement), IDA is agreeing to provide such assistance in an aggregate principal amount equivalent to fifty-five million dollars ($55,000,000) (hereinafter called the IDA Credit) subject to the terms and conditions set forth in the Development Credit Agreement; and
WHEREAS the Administrator has agreed, on the basis inter alia of the foregoing, to extend the Special Action Credit to the Borrower upon the terms and conditions hereinafter set forth;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The parties to this Agreement accept all the provisions of the General Conditions Applicable to Development Credit Agreements of the International Development Association, dated March 15, 1974, with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications thereof (said General Conditions Applicable to Development Credit Agreements of the International Development Association, as so modified, being hereinafter called the General Conditions):

(a) the term "Association", wherever used in the General Conditions, means the International Development Association acting as Administrator of the Special Action Account referred to in the Preamble to this Special Action Credit Agreement;

(b) the terms "Development Credit Agreement" and "Credit", wherever used in the General Conditions are amended to read "Special Action Credit Agreement" and "Special Action Credit", respectively;

(c) Sections 4.01, 4.02, 4.03, 4.04 and the second sentence of Section 5.01 are deleted; and

(d) in Sections 6.02 and 7.01, the term "Association" shall also include the International Development Association acting in its own capacity.

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Member States" means the Member States of the European Economic Community, i.e. Belgium, Denmark, The Federal Republic of
Germany, France, Ireland, Italy, Luxembourg, The Netherlands and The United Kingdom;

(b) "Administrator" means the International Development Association acting as Administrator of the Special Action Account referred to in the Preamble to this Special Action Credit Agreement;

(c) "Development Credit Agreement" means the agreement of even date herewith between the Borrower and IDA for the purpose of the Project, as such agreement may be amended from time to time; and such term includes the General Conditions Applicable to Development Credit Agreements of IDA, dated March 15, 1974, as made applicable to such agreement, all agreements supplemental to the Development Credit Agreement and all schedules to the Loan Agreement;


(e) "Central Bank" means the Central Bank of Kenya established and operating pursuant to the Central Bank of Kenya Act, Cap. 491 of the Laws of Kenya;

(f) "Project Account" means the account established pursuant to Section 3.02 of this Agreement;

(g) "Letter of No Objection Privileges" means the set of administrative and contractual provisions whereby some private enterprises have the right to object to the import of products competitive with their respective production;

(h) "Shillings" and "Kah" mean the currency of the Borrower; and

(i) "Fiscal Year" and "FY" mean the Borrower's fiscal year beginning July 1 and ending June 30 in each year.

ARTICLE II

The Special Action Credit

Section 2.01. The Administrator agrees to lend to the Borrower on the terms and conditions in the Special Action Credit
Agreement set forth or referred to, the following currency amounts:

- **Seventeen million one hundred forty-nine thousand** Belgian francs (BF17,149,000);
- **Two million one hundred thirty-four thousand** Danish kroner (DK2,134,000);
- **Eight million two hundred forty-three thousand** Deutsche marks (DM8,243,000);
- **Eight million seven hundred fourteen thousand** French francs (FF8,714,000);
- **Nineteen thousand** Irish pounds (Ir£19,000);
- **One billion eleven million one hundred eighty thousand** Italian lire (ItL1,011,180,000);
- **Five hundred thirty-nine thousand** Luxembourg francs (LF539,000);
- **Two million two hundred seventy-nine thousand** Netherlands guilders (Dfl 2,279,000);

and

- **Two million one hundred four hundred** Pounds sterling (£2,101,400).

Section 2.02. (a) The proceeds of the Special Action Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and the Administrator, for expenditures made (or, if the Administrator shall so agree, to be made) in respect of the reasonable cost of imported goods provided for in such Schedule and to be financed out of the proceeds of the Special Action Credit.
(b) Withdrawals shall be made only on account of expenditures for goods produced in, or services supplied from, (A) any of the Member States and (B) any developing country, other than the Borrower, which is a member of the International Development Association and could be the recipient of a special action credit, as determined by the Administrator.

(c) Withdrawals from the Credit Account shall be made in the respective currencies in which the expenditures to be financed out of the proceeds of the Special Action Credit have been paid or are payable or, at the option of the Administrator, in such currency or currencies as the Administrator shall from time to time select.

Section 2.03. Except as the Administrator shall otherwise agree, contracts for goods costing more than $5,000,000 equivalent to be financed out of the proceeds of the Special Action Credit shall be procured on the basis of procedures that include broad international tendering amongst suppliers from the countries referred to in Section 2.02 (b) of this Agreement and contract award to the lowest evaluated responsive bidder. Before requesting a withdrawal of proceeds of the Special Action Credit on account of any such contract, the Borrower shall cause the Administrator to be furnished with a brief report, in form and substance satisfactory to the Administrator, on the procedures followed in procuring such contract.

Section 2.04. The Closing Date shall be September 30, 1980, or such later date as the Administrator shall establish. The Administrator shall promptly notify the Borrower of such later date.

Section 2.05. (a) The Borrower shall pay to the Administrator a service charge at the rate of three-fourths of one per cent (3/4 of 1%) per annum, on each of the various currency amounts withdrawn from the Credit Account and outstanding from time to time. The amounts of service charge in various currencies so found, and additional service charges (if any) payable pursuant to Section 3.02 of the General Conditions, shall be payable in the currency of the United States of America, or in another currency selected by the Administrator in accordance with the provisions of paragraph (b) of this Section, after their conversion into such currency on the basis of exchange rates determined in accordance with the provisions of Section 4.05 of the General Conditions.
(b) If the Administrator shall at any time determine that the currency so specified or selected is not freely convertible or freely exchangeable by the International Development Association for currencies of other members of the International Development Association for the purposes of its operations, service charges shall be payable in such other currency as the Administrator may select for such purposes and shall notify in writing to the Borrower, whereupon, commencing thirty days after the date of such notice, service charges shall be payable in such other currency.

Section 2.06. Service charges shall be payable semiannually on May 1 and November 1 in each year.

Section 2.07. (a) The Borrower shall repay the principal amount of the Special Action Credit in semiannual installments payable on each May 1 and November 1 commencing May 1, 1990, and ending November 1, 2029, each installment to and including the installment payable on November 1, 1999, to be one-half of one per cent (1/2 of 1%) of such principal amount, and each installment thereafter to be one and one-half per cent (1-1/2%) of such principal amount.

(b) Each of the installments payable pursuant to paragraph (a) of this Section shall be the aggregate of such amounts in the various currencies withdrawn from the Credit Account as shall be found by multiplying the total amount in each currency so withdrawn by the applicable installment percentage as specified in paragraph (a) of this Section, unless the Administrator shall otherwise specify by notice to the Borrower prior to each payment date for the purpose of avoiding the payment of fractional currency amounts.

(c) If withdrawal shall have been made in a currency which the Administrator shall have purchased with one or more other currencies for the purpose of such withdrawal, the portion of the Special Action Credit so withdrawn shall, for the purpose of paragraph (b) of this Section, be deemed to have been withdrawn in the currency or currencies used by the Administrator for such purchase in the amounts of such currency or currencies so used.

(d) The Administrator will, at the request of the Borrower and on such terms and conditions as the Administrator shall determine, use its best efforts to purchase any currency needed by the Borrower for payment of principal required under this Agreement upon payment by the Borrower of sufficient funds therefor in
a currency or currencies to be specified by the Administrator from time to time. In purchasing the currencies required the Administrator shall be acting as agent of the Borrower and the Borrower shall be deemed to have made any payment required under this Agreement only when and to the extent that the Administrator has received such payment in the currency or currencies required.

Section 2.08. The Borrower's Central Bank is designated as representative of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower shall carry out the Project described in Schedule 2 to this Agreement, or cause the Project to be carried out, with due diligence and efficiency and in conformance with appropriate financial and administrative practices, and shall provide, promptly as needed, the facilities, services and other resources required for the purpose.

(b) Without limitation or restriction to the foregoing, the Borrower shall take all such action including the expeditious granting of import licenses as shall be necessary or convenient to facilitate the timely importation of the goods to be financed out of the proceeds of the Special Action Credit.

Section 3.02. The Borrower shall open an account (the Project Account) with the Central Bank and shall, upon each withdrawal from the Credit Account, deposit in said account in accordance with its usual financial procedures the equivalent in Shillings of the currency or currencies withdrawn from the Credit Account (such equivalent to be determined as of the respective date of such withdrawal). The amounts so deposited in the Project Account shall be used exclusively to finance economic development expenditures of the Borrower.

Section 3.03. Except as the Administrator shall otherwise agree, the Borrower shall cause all goods financed out of the proceeds of the Special Action Credit to be used exclusively for the Project.
Section 3.04. The Borrower shall cause the Central Bank: (i) to maintain records and procedures adequate to record and monitor the progress of the Project, to identify the goods financed out of the proceeds of the Special Action Credit, and to disclose their use in the Project; (ii) to enable the Administrator's accredited representatives to examine any relevant records and documents in connection with the goods financed out of the proceeds of the Special Action Credit; and (iii) furnish to the Administrator at regular intervals all such information as the Administrator shall reasonably request concerning the Project, its cost and, where appropriate, the benefits to be derived from it, the expenditure of the proceeds of the Special Action Credit and the goods financed out of such proceeds and their procurement.

Section 3.05. (a) The Borrower and the Administrator shall, from time to time, at the request of either party, exchange views on the progress achieved in carrying out the economic program referred to in paragraphs (A) and (B) of the Preamble to this Agreement.

(b) The first such exchange of views shall take place not later than April 30, 1980.

(c) The Borrower shall furnish to the Administrator a report containing such information as the Administrator shall reasonably request, prior to and for the purpose of each such exchange of views.

Section 3.06. In order to assist the Borrower in implementing a system of export insurance and financing, the Borrower shall employ consultants not later than March 1, 1980, whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Borrower and the Administrator.

Section 3.07. The Borrower shall cause the Central Bank to maintain records adequate to reflect in accordance with consistently maintained appropriate accounting practices the operations, resources and expenditures in respect of the Project.

ARTICLE IV

Remedies of the Administrator

Section 4.01. (a) For the purposes of Section 6.02 of the General Conditions, the following additional events are specified
pursuant to paragraph (h) thereof, namely, that subject to paragraph (b) of this Section:

(i) the right of the Borrower to withdraw the proceeds of the IDA Credit shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the agreement providing therefor, or

(ii) the IDA Credit shall have become due and payable prior to the agreed maturity thereof.

(b) Paragraph (a) of this Section shall not apply if: (i) such suspension, cancellation, termination or prematuring is not caused by the failure of the Borrower to perform any of its obligations under such agreement; and (ii) adequate funds for the Project are available to the Borrower from other sources on terms and conditions consistent with the obligations of the Borrower under this Agreement.

Section 4.02. For the purposes of Section 7.01 of the General Conditions, the following additional event is specified pursuant to paragraph (d) thereof, namely, that the event specified in paragraph (a) (ii) of Section 4.01 of this Agreement shall occur.

ARTICLE V

Effective Date; Termination

Section 5.01. The following event is specified as an additional condition to the effectiveness of the Special Action Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions, namely, that all conditions precedent to the effectiveness of the Development Credit Agreement, except for the effectiveness of this Agreement, have been fulfilled.

Section 5.02. The date June 10, 1980 is hereby specified for the purposes of Section 12.04 of the General Conditions.

Section 5.03. The provisions of Article III of this Agreement shall cease and determine on the date on which the Special
Action Credit Agreement shall terminate or on a date two years after the date of this Agreement, whichever shall be the earlier.

ARTICLE VI

Representative of the Borrower; Addresses

Section 6.01. The Minister of the Borrower responsible for Finance is designated as representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

The Treasury
P.O. Box 30007
Nairobi
Kenya

Cable address: Telex:
FINANCE 22003
Nairobi

For the Administrator:

Administrator of the Special Action Account
(International Development Association)
1818 R Street, N.W.
Washington, D.C. 20433
United States of America

Cable address: Telex:
INDEVAS 440098 (ITT)
Washington, D.C. 248423 (RCA) or
64145 (WUI)

IN WITNESS WHEREOF, the parties hereto, acting through their representatives thereunto duly authorized, have caused this Agreement to be signed in their respective names in the
District of Columbia, United States of America, as of the day and year first above written.

Republic of Kenya

/s/ Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION
as ADMINISTRATOR of the SPECIAL ACTION ACCOUNT
established with funds contributed by
the MEMBER STATES of the EUROPEAN ECONOMIC COMMUNITY

International Development Association

/s/ Acting Regional Vice President
Eastern Africa
SCHEDULE 1

Withdrawal of the Proceeds of the Special Action Credit

1. The items that may be financed out of the proceeds of the Special Action Credit shall be those imported items included in SITC Divisions 2, 3, 6, 7 and 8, for which approved import licenses have been returned to the Central Bank as specified below:

   A. All items included in SITC Division 2 (Crude materials and Inedible materials, except fuels) may be financed out of the proceeds of the Special Action Credit.

   B. Items included in SITC Divisions 5, 6, and 7, respectively, may be financed out of the proceeds of the Special Action Credit except, however, for the following items which may not be financed out of the proceeds of the Special Action Credit:

<table>
<thead>
<tr>
<th>SITC CODE</th>
<th>DESCRIPTION OF ITEMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Division 5:</td>
<td>Chemical</td>
</tr>
<tr>
<td>553.000</td>
<td>Perfumery and cosmetics, dentifrices and other toilet preparations (except soaps)</td>
</tr>
<tr>
<td>554.101</td>
<td>Soap, toilet</td>
</tr>
<tr>
<td>554.102</td>
<td>Soap, other</td>
</tr>
<tr>
<td>571.400</td>
<td>Hunting and sporting ammunition</td>
</tr>
<tr>
<td>Division 6:</td>
<td>Manufactured goods classified by material</td>
</tr>
<tr>
<td>613.000</td>
<td>Fur skins, tanned or dressed</td>
</tr>
<tr>
<td>632.710</td>
<td>Picture and mirror frames of wood</td>
</tr>
<tr>
<td>632.720</td>
<td>Household utensils of wood</td>
</tr>
<tr>
<td>632.731</td>
<td>Articles of personal adornment of wood</td>
</tr>
<tr>
<td>651.140</td>
<td>Silk yarn put up for retail sale</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>651.250</td>
<td>Yarn of wool or animal hair put up for retail sale</td>
</tr>
<tr>
<td>651.420</td>
<td>Cotton yarn and thread put up for retail sale</td>
</tr>
<tr>
<td>651.520</td>
<td>Flax or ramie yarn put up for retail sale</td>
</tr>
<tr>
<td>651.620</td>
<td>Yarn of continuous synthetic fibers put up for retail sale</td>
</tr>
<tr>
<td>651.650</td>
<td>Yarn of discontinuous or waste synthetic fibers put up for retail sale</td>
</tr>
<tr>
<td>651.730</td>
<td>Yarn of continuous regenerated fibers put up for retail sale</td>
</tr>
<tr>
<td>651.750</td>
<td>Yarn of discontinuous or waste regenerated fibers put up for retail sale</td>
</tr>
<tr>
<td>653.110</td>
<td>Silk fabrics, woven Tulle, lace, embroidery, ribbons, trimmings, and other small ware</td>
</tr>
<tr>
<td>656.000</td>
<td>Blankets and travelling rugs</td>
</tr>
<tr>
<td>656.930</td>
<td>Linens and other furnishing articles of textile fabrics, bed sheets, bedspreads, bed covers and tablecloths</td>
</tr>
<tr>
<td>656.940</td>
<td>Towels</td>
</tr>
<tr>
<td>656.950</td>
<td>Curtains, textile</td>
</tr>
<tr>
<td>656.980</td>
<td>Linens and other furnishing articles of textile fabrics, n.e.c.</td>
</tr>
<tr>
<td>657.000</td>
<td>Floor coverings, tapestries, etc.</td>
</tr>
<tr>
<td>665.200</td>
<td>Glass tableware and other articles of glass for household, hotel and restaurant use</td>
</tr>
<tr>
<td>666.000</td>
<td>Pottery</td>
</tr>
</tbody>
</table>
Manufactured goods classified by material

<table>
<thead>
<tr>
<th>SITC CODE</th>
<th>DESCRIPTION OF ITEMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>667.000</td>
<td>Pearls and precious and semi-precious stones, worked or unworked</td>
</tr>
<tr>
<td>696.000</td>
<td>Cutlery</td>
</tr>
<tr>
<td>697.000</td>
<td>Household equipment of base metals</td>
</tr>
</tbody>
</table>

Machinery and Transport Equipment

<table>
<thead>
<tr>
<th>SITC CODE</th>
<th>DESCRIPTION OF ITEMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>711.411</td>
<td>Internal combustion engines for aircraft</td>
</tr>
<tr>
<td>711.422</td>
<td>Jets and gas turbines for aircraft</td>
</tr>
<tr>
<td>724.100</td>
<td>Television broadcast receivers, whether or not combined with sound recorders or reproducers or radios</td>
</tr>
<tr>
<td>724.200</td>
<td>Radio broadcast receivers, whether or not combined with sound recorders or reproducers</td>
</tr>
<tr>
<td>725.000</td>
<td>Domestic electrical equipment</td>
</tr>
<tr>
<td>732.100</td>
<td>Passenger motor cars (other than buses or special vehicles) whether or not assembled</td>
</tr>
<tr>
<td>731.910</td>
<td>Motorcycles, auto-cycles, etc. and side cars</td>
</tr>
<tr>
<td>734.000</td>
<td>Aircraft</td>
</tr>
<tr>
<td>735.000</td>
<td>Ships and boats</td>
</tr>
</tbody>
</table>

C. With respect to items included in SITC Division 8, only the following items may be financed out of the proceeds of the Special Action Credit:

<table>
<thead>
<tr>
<th>SITC CODE</th>
<th>DESCRIPTION OF ITEMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>861.100</td>
<td>Miscellaneous manufactured articles</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SITC CODE</th>
<th>DESCRIPTION OF ITEMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>861.100</td>
<td>Optical elements</td>
</tr>
<tr>
<td>Division B:</td>
<td>Miscellaneous manufactured articles</td>
</tr>
<tr>
<td>------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>861.330</td>
<td>Microscopes and diffraction apparatus, electron and proton</td>
</tr>
<tr>
<td>861.340</td>
<td>Compound optical microscopes</td>
</tr>
<tr>
<td>861.390</td>
<td>Optical appliances and instruments, n.e.s.</td>
</tr>
<tr>
<td>861.700</td>
<td>Medical instruments, n.e.s.</td>
</tr>
<tr>
<td>861.800</td>
<td>Meters and counters, non-electric</td>
</tr>
<tr>
<td>861.900</td>
<td>Measuring, controlling and scientific instruments, n.e.s.</td>
</tr>
<tr>
<td>895.000</td>
<td>Office and stationery supplies, n.e.s.</td>
</tr>
<tr>
<td>899.600</td>
<td>Orthopedic appliances</td>
</tr>
</tbody>
</table>

2. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of:

(a) expenditures in the currency of the Borrower or for goods or services supplied from the territory of the Borrower;

(b) payments made for expenditures prior to January 1, 1980;

(c) expenditures for goods to be supplied under a contract which another official export financing institution or any international development institution shall have financed or agreed to finance;

(d) payments for taxes levied by, or in the territory of, the Borrower on goods, or on the importation, manufacture, procurement or supply thereof; and

(e) expenditures for goods procured under invoices for less than Ksh 20,000 equivalent.
SCHEDULE 2

Description of the Project

The Project consists of certain measures to be taken by the Borrower in carrying out its economic program referred to in paragraphs (A) and (B) of the Preamble to this Agreement, including the measures described in Schedule 3 to this Agreement and a program of importation of essential goods.
In reviewing the progress achieved by the Borrower in the carrying out of the economic program referred to in paragraphs (A) and (B) of the Preamble to this Agreement, the Borrower and the Administrator shall focus in particular on:

(1) The adequacy of the Forward Budget for the Fiscal Years 1980/81 to 1982/83;

(2) Improvements in debt management, including:

(a) the provision of technical assistance to and the strengthening of staff of the Treasury dealing with external debt; and

(b) the establishment of a record of private external debt;

(3) Implementation of measures to phase out Letters of No Objection Privileges, including enforcement of the Borrower's directive providing that no new Letters of No Objection Privileges shall be granted, and that existing Letters of No Objection Privileges shall not be renewed or extended but shall to the extent permitted be terminated;

(4) The Borrower's measures to ensure adequate incentives for export, including:

(a) a plan of measures, to be implemented during the Borrower's Fiscal Year 1980/81, for the administrative simplification of its existing export compensation system;

(b) progress made in the design of an export insurance and financing system, which is expected to be introduced by September 1980;

(5) The introduction or retention of an appropriate level and structure of interest rates in Kenya; and

(6) Progress achieved in carrying out the ongoing study aimed at rationalization of Kenya's trade regime.