



Treaty Series No. 70 (1953)

Exchange of Letters

constituting an Agreement between
the Government of the United Kingdom of Great Britain
and Northern Ireland and the Government of the
United States of America

on the subject of a loan for
the development of certain port facilities in
Kenya and Tanganyika

London, June 26, 1953

*Presented by the Secretary of State for Foreign Affairs to Parliament
by Command of Her Majesty
October 1953*

LONDON
HER MAJESTY'S STATIONERY OFFICE
SIXPENCE NET

Cmd. 8965

**EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE
GOVERNMENT OF THE UNITED STATES OF AMERICA ON
THE SUBJECT OF A LOAN FOR THE DEVELOPMENT OF
CERTAIN PORT FACILITIES IN KENYA AND TANGANYIKA**

London, June 26, 1953

No. 1

*The Chief of the Special Mission to the United Kingdom of the United States
of America Mutual Security Agency to Sir Winston Churchill*

American Embassy,

Sir,

London, June 26, 1953.

I have the honor to refer to the conversations which have taken place between representatives of the Special Mission to the United Kingdom of the Mutual Security Agency and representatives of the Government of the United Kingdom of Great Britain and Northern Ireland relating to the rendering of financial assistance by the Mutual Security Agency in furtherance of certain Development Programs, submitted to it by the Government of the United Kingdom, for construction of new berthing facilities and storage and other ancillary facilities, and performance of operations incidental to such construction, at the Port of Mombasa, Kenya, and for rehabilitation and modernization of existing wharfs and construction of new wharfs, sheds, marshalling yards and ancillary facilities at the Port of Tanga, Tanganyika.

The purpose of such financial assistance to the Government of the United Kingdom for application to these Development Programs is to further the development of the supply of essential raw materials from the areas concerned by eliminating existing port congestion and providing for further growth in port capacity which is necessary to maintain present levels of shipments and allow for increases in these levels of shipments of essential raw materials.

It is the judgment of the Mutual Security Agency that the additional port, storage, and ancillary facilities to be afforded by the Programs will substantially contribute to the accomplishment of the purposes of Section 514 of the Mutual Security Act of 1951, as amended, and that the financial assistance proposed to be rendered is therefore authorized under the provisions thereof.

The conversations above-mentioned have resulted in an understanding that the Mutual Security Agency is to loan to the Government of the United Kingdom, from the 5%-10% United States portion of the counterpart account, for certain purposes specified in the respective Development Programs, up to £2,020,000 for the Port of Mombasa Development Program, and up to £370,000 for the Port of Tanga Development Program, on the terms and conditions next set forth.

1. The Mutual Security Agency (hereinafter referred to as "MSA") will loan to the Government of the United Kingdom up to £2,020,000 for the Port of Mombasa Development Program and up to £370,000 for the Port of Tanga Development Program. The loan shall be made in such installments, at such times, as the Government of the United Kingdom may request in writing, but

995
in no event shall any amount be advanced after June 30, 1954. The principal repayable by the Government of the United Kingdom shall be the amount advanced on or before that date.

2. The principal of the loan shall be repayable by the Government of the United Kingdom in sterling in accordance with the amortization schedule set forth in Annex A hereto attached and made a part hereof. The Government of the United Kingdom may prepay at any time, without penalty or premium, all or any part of the principal of the loan. Any partial prepayment shall be applied to the installments of principal set forth in the above-mentioned amortization schedule in the inverse order of their maturity.

3. The Government of the United Kingdom shall pay simple interest at the rate of 5% per annum on the principal amount of the loan withdrawn under paragraph 1 and outstanding from time to time. Interest shall be payable annually on the thirtieth day of June, beginning the thirtieth day of June 1954. Interest shall accrue on any amounts advanced to the Government of the United Kingdom from the date on which advanced. Payments of principal and interest shall be made to MSA or to such other agency as may be designated by the Government of the United States.

4. (a) The proceeds of the loan shall be used exclusively for the purposes specified in the Development Programs hereto attached and made a part hereof as Annex B, Port of Mombasa Development Program, and Annex C, Port of Tanga Development Program, and only in amounts designated in the respective Development Programs. Annexes B and C hereof are based on the Development Programs as submitted to MSA and subsequently modified by agreement between MSA and the Government of the United Kingdom.

(b) In respect of the MSA advances under paragraph 1, the Government of the United Kingdom shall for the purposes set forth in paragraph 4(a) and Annexes B and C hereof extend sterling credits to the East Africa High Commission for the East African Railways and Harbours Administration of amounts not less than the advances made under paragraph 1 and on terms not less advantageous than the terms on which such advances are made.

(c) Before any advance of funds is made to the Government of the United Kingdom under paragraph 1, representatives of the Government of the United Kingdom and of MSA shall agree on the procedures, conditions, and requirements to be established governing the advance and expenditure of funds and the inspection and reporting thereon.

(d) The Government of the United Kingdom shall expend or cause to be expended amounts on the Development Programs, which amounts shall be respectively, at the completion dates for the respective Development Programs set forth in Annexes B and C hereto, at least equal to the amounts advanced by MSA hereunder for each Development Program.

(e) The Development Programs including completion dates as described in Annexes B and C shall be subject to such modifications from time to time as may be agreed by the Government of the United Kingdom and MSA.

5. The Government of the United Kingdom shall:

(a) Take all reasonable measures to assure that each Development Program above referred to is carried out and completed in conformity with Annexes B and C hereto (subject to modification in accordance with the provisions of paragraph 4(e)), with due diligence and efficiency and in conformity with sound business, engineering and financial practices and that suitable records with respect thereto are maintained;

(b) Take such measures as may be necessary to assure that all costs of the Development Programs as described in Annexes B and C hereto and in paragraph 4(d) are provided for.

- (c) Take such measures as may be necessary to assure that the proceeds of the loan to the Government of the United Kingdom, pending their expenditure pursuant to paragraph 4(a), shall not be subject to garnishment, attachment, seizure, or other legal process.

6. Until repayment of the loan has been made, the Government of the United Kingdom shall make reports, or cause reports to be made, at semi-annual or other intervals as may be agreed between the Government of the United Kingdom and MSA, with respect to the progress of the Development Programs, the status of funds advanced to the Government of the United Kingdom, and the status of credits extended to the East Africa High Commission; and shall furnish or cause to be furnished to MSA copies of the respective official periodic financial and operating reports of the East African Railways and Harbours Administration relating to the Ports of Mombasa and Tanga; and shall afford or cause to be afforded to MSA all reasonable opportunity to inspect the properties and operations involved in the Development Programs and to examine complete records of expenditure of funds under paragraph 4 above; and shall make available such other reports relating to the Development Programs as MSA may reasonably request.

7. In the event of:

- (a) Any default by the Government of the United Kingdom in the prompt payment to MSA in accordance with Annex A hereto, of any installment of principal of the loan, or of interest thereon, or in performance of any other obligation or undertaking of the Government of the United Kingdom hereinabove set forth; or
- (b) Any modification in either of the Development Programs undertaken without MSA agreement as provided for in paragraph 4(e), which MSA, after consultation with the Government of the United Kingdom, may determine to be such that the Program no longer makes a significant contribution to the furtherance of development of essential raw materials; the entire unpaid principal of the loan to the Government of the United Kingdom (or, in the case specified in the foregoing subparagraph (b), that portion of the loan theretofore advanced by MSA for the purposes of the Program with respect to which MSA has made the determination referred to in subparagraph (b)), shall become due and payable, with accrued interest, upon notice by MSA to the Government of the United Kingdom, and MSA shall thereafter be under no obligation to make any further advances under paragraph 1 for the purposes of either of the Programs or, as the case may be, for the purposes of the Program with respect to which MSA has made the determination above mentioned. The failure by MSA to exercise any right pursuant to the foregoing provisions shall not be deemed to constitute a waiver of any other right of MSA under this paragraph 7 or under the other paragraphs of this Agreement.

8. Communications to MSA for the purposes hereof shall be addressed to the Special Mission to the United Kingdom of the Mutual Security Agency. All requests, notices or other communications shall be in writing and signed by a duly authorized representative of MSA or the Government of the United Kingdom, as the case may be.

9. References herein to MSA shall be deemed to mean MSA and any successor to MSA or any designated or duly authorized representative or representatives of MSA.

10. The Government of the United Kingdom shall take the necessary measures to ensure that the rail connections at the Ports of Mombasa and

Tanga respectively and the quantity of rolling stock available to both said Ports shall be developed and increased respectively as is appropriate to the improved and enlarged port facilities envisaged in the Ports of Mombasa and Tanga Development Programs. 997

Upon receipt of a letter from you confirming that the foregoing terms and conditions are acceptable to the Government of the United Kingdom, the Government of the United States of America will consider that this letter and your reply thereto constitute an Agreement between the two Governments which shall then become effective immediately, and which shall terminate upon repayment of all amounts advanced by MSA together with interest thereon in accordance with the provisions set out above, including paragraph 7, unless revised or modified by agreement between the Government of the United Kingdom and MSA.

Please accept, &c.

LINCOLN GORDON.

ANNEX A

AMORTIZATION SCHEDULE

<i>Date Payment Due</i>	<i>Payment of Principal (Pounds)</i>	<i>Principal Amount Outstanding after Each Payment</i>
<i>June 30</i>		
1956	103,913	2,286,087
1957	103,913	2,182,174
1958	103,913	2,078,261
1959	103,913	1,974,348
1960	103,913	1,870,435
1961	103,913	1,766,522
1962	103,913	1,662,609
1963	103,913	1,558,696
1964	103,913	1,454,783
1965	103,913	1,350,870
1966	103,913	1,246,957
1967	103,913	1,143,044
1968	103,913	1,039,131
1969	103,913	935,218
1970	103,913	831,305
1971	103,913	727,392
1972	103,913	623,479
1973	103,913	519,566
1974	103,913	415,653
1975	103,913	311,740
1976	103,913	207,827
1977	103,913	103,914
1978	103,914	0
	<u>2,390,000</u>	

ANNEX - B

(Port of Mombasa Development Program)

DEVELOPMENT PROGRAM FOR THE EXTENSION OF THE PORT OF MOMBASA, KENYA

The program referred to herein provides for the expansion of the port of Mombasa located on the Indian Ocean in the protectorate of Kenya, including the construction of new berthing, storage and other ancillary facilities.

All of the sea-borne traffic of Kenya and Uganda passes through the port of Mombasa and, in addition, a portion of the traffic from Northern Tanganyika is handled by this port. This traffic includes the export of essential materials such as sisal, wattle bark, and some minerals from Uganda including tin ores, columbite and tantalite, and other important materials such as cotton and oil-seeds. Exports from a Uganda copper mining project under consideration would pass through this port if and when the project is carried out.

The port is very badly congested and serious delays have been experienced by shipping. The present expansion is intended to relieve the serious congestion which now exists and which has occurred over the last two years and has resulted in the establishment of a phasing committee which controls the shipments through the port of Mombasa. In addition, the development of further traffic through this port requires the expansion envisaged by this Development Program.

Work is being started or is ready to begin on many of the items included in the Development Program, and plans and specifications for the other items are well along, with construction expected to be initiated in the near future. The following are the items of work to be undertaken:—

1. <i>Construction of two new berths Nos. 9 and 10</i>	
These berths will add 1,130 feet to the deep water quay. This item as planned includes the quay wall, with foundations and back fill, a storage shed, port cranes, and the supporting road and rail connections	£ 2,300,000
2. <i>Ligherage berth</i>	
The work planned includes construction of 720 feet of new ligherage wharf and two sheds 140' x 300' with additional stacking ground and road and rail connections	350,000
3. <i>Construction of new dock yard and supporting mechanical shops</i>	260,000
4. <i>New storage facilities</i>	
This item as planned includes the construction of four new storage sheds, 150' x 420' each, open storage/stacking areas and the necessary relocation and construction of road and railway connections...	1,000,000
5. <i>Improvement of Oil Wharf</i>	
This item as planned includes both the rehabilitation of the existing oil quay and cased oil wharf and the adjustments thereto necessitated by the construction of berths 9 and 10	130,000
Total	4,040,000

Payments for the work set forth above are estimated as follows:—

999

<i>Period</i>	<i>Estimated Amount (Pounds)</i>
June–December 1953	1,200,000 ⁽¹⁾
January–June 1954	1,100,000
July–December 1954	1,000,000
January–June 1955	740,000
Total	4,040,000

The first phase of the work, which includes the construction of new berths 9 and 10, the lighterage berth, and the new storage facilities are being started and will provide for two new deep draft ocean-going berths and improved lighterage service for the existing seven berths as well as the two new berths. It is planned that the work will be completed by June 30, 1955.

The work being started will be carried forward under the immediate supervision of the East African Railways and Harbours Administration under various contracts. Technical supervision of the work is the responsibility of the East African Railways and Harbours Administration, which has engaged Coode and Partners as consulting engineers.

The total estimated cost for the five items proposed is £4,040,000, to be paid over the next two years. Fifty per cent (50%) or £2,020,000 will derive from the funds provided under this agreement. The Government of the United Kingdom agrees to expend or cause to be expended £2,020,000 from other funds to be secured by the East Africa High Commission for this development program.

The East African Railways and Harbours Administration has an additional program under way for the purchase of railway rolling-stock and improvement of the existing rail connections to the interior from the port. Funds for these improvements are to come from amounts that have been set aside by the East African Railways and Harbours Administration in their renewals program fund, and from sources, other than this agreement, available to the East Africa High Commission.

ANNEX C

(Port of Tanga Development Program)

DEVELOPMENT PROGRAM FOR THE EXTENSION OF THE PORT OF TANGA, TANGANYIKA

The program referred to herein provides for the construction of new wharf, sheds, marshalling yards, and ancillary facilities, and for rehabilitation and modernization of existing wharves in the port of Tanga located on the Indian Ocean in North-Eastern Tanganyika.

This port has become increasingly important for the shipment of the essential raw material, sisal, which constituted over 90 per cent. of its export tonnage in 1952. Production of sisal in this area is expanding rapidly and the port facilities built in the 1930's are inadequate for handling this growing traffic.

⁽¹⁾ Includes small amounts obligated by the East African Railways and Harbours Commission for this project in anticipation of entering this loan agreement, which small amounts will be defrayed from funds made available or caused to be made available by the Government of the United Kingdom pursuant to paragraph 4(d) of the Agreement to which this Annex B is attached.

It is expected that sisal shipments will increase considerably over the next few years, and the port expansion envisaged in this Development Program is essential to provide facilities to handle this anticipated increase in the supply of sisal.

Preliminary work on port expansion is ready to start and necessary plans and specifications have been prepared. The following are the items of work to be undertaken:—

1. <i>Extension of the existing lighter wharf by 350 feet</i>	
This item includes the necessary port-handling equipment and road and rail connections	£ 300,000
2. <i>Rebuilding of 600 feet of existing wharf (excluding contribution from renewals)</i>	
This item as planned includes work on the wharf itself, the port-handling equipment and construction of road and rail connections	200,000
3. <i>Marshalling yard</i>	
This item provides for the construction of the required expansion of railway facilities	100,000
4. <i>Port storage facilities</i>	
This item provides for the construction of a 50,000 square foot storage shed	120,000
5. <i>The provision of slip ways and marine and mechanical work shops</i>	20,000
Total	<u>740,000</u>

Payments for the work set forth above are estimated as follows.—

<i>Period</i>	<i>Estimated Amount (Pounds)</i>
July–December 1953	200,000
January–June 1954	200,000
July–December 1954	200,000
January–June 1955	140,000
Total	<u>740,000</u>

The first phase of the work provides for the addition of 350 linear feet of new wharf and the rehabilitation of 600 feet of existing wharf. Work is to begin in June or July 1953, and it is planned that it will be completed by June 1955.

The work being started will be carried forward under the immediate supervision of the East African Railways and Harbours Administration under various contracts. Technical supervision of the work is the responsibility of the East African Railways and Harbours Administration.

The total estimated cost for the five items proposed is £740,000, to be paid over the next two years. Fifty per cent (50%) or £370,000 will derive from the funds provided under this agreement. The Government of the United Kingdom agrees to expend or cause to be expended £370,000 from other funds to be secured by the East Africa High Commission for this development program.

The East African Railways and Harbours Administration has an additional program under way for the purchase of railway rolling-stock and improvement of the existing rail connections to the interior from the port. Funds for these improvements are to come from amounts that have been set aside by the East African Railways and Harbours Administration in their renewals program fund, and from sources, other than this agreement, available to the East Africa High Commission.

No. 2

Sir Winston Churchill to the Chief of the Special Mission to the United Kingdom of the United States of America Mutual Security Agency

Foreign Office, S.W. 1,

June 26, 1953.

Sir,

I have the honour to acknowledge the receipt of your letter of to-day's date in the following terms:—

[As in No. 1]

In reply I have the honour to inform you that the proposals, terms and conditions contained therein, including the three annexes thereto, the texts of which are attached to this letter,⁽¹⁾ are acceptable to Her Majesty's Government in the United Kingdom, which will regard your letter and this reply as constituting an Agreement between Her Majesty's Government in the United Kingdom and the Government of the United States of America.

I have, &c.

(For Sir Winston Churchill),
SELWYN LLOYD.

(¹) As annexed to No. 1.

PRINTED AND PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

To be purchased from

York House, Kingsway, LONDON, W.C.2 423 Oxford Street, LONDON, W.1

P.O. Box 569, LONDON, S.E.1

13a Castle Street, EDINBURGH, 2 1 St. Andrew's Crescent, CARDIFF

39 King Street, MANCHESTER, 2 Tower Lane, BRISTOL, 1

2 Edmund Street, BIRMINGHAM, 3 80 Chichester Street, BELFAST

or from any Bookseller

1953

Price 6*d.* net

PRINTED IN GREAT BRITAIN