GOVERNMENT GUARANTEE OF CONTRACTS AND BORROWING BY THE NZOIA SUGAR COMPANY LIMITED. THE GUARANTEE (LOANS) ACT, CAP. 461

In accordance with section 5 of the Guarantee (Loans) Act, the following information is laid before the National Assembly in connection with proposed guarantees by the Government of three agreements entered into by the Nzoia Sugar Company Limited to procure, establish, and finance a sugar factory and plantation complex at Nzoia in the Western Province of Kenya.

2. The Nzoia Sugar Company Limited (hereinafter called the Sugar Company) is a company incorporated in Kenya for the purpose of carrying out the project, in which approximately ninety (90%) percent of the share capital will be held by the Government or by governmental agencies such as the Industrial Development Bank, although it is proposed that approximately ten (10%) percent of its ultimate share capital will be taken up by Fives-Cail Babcock, the factory supplier mentioned below.

3. The first Agreement is the factory supply and construction contract signed on 7th August 1975 between the Government, the Sugar Company and Fives-Cail Babcock, a French Company, whereby the latter is to supply, erect and prove all the machinery, equipment, buildings and related services and facilities required for a "turnkey" Sugar factory at Nzoia for a total price of 147 million French Francs. The factory will have a guaranteed daily crushing capacity of 2,000 metric tons of sugar-can per 24 hours of continuous operation and will be designed to accommodate future extension to a crushing capacity of 3,000 metric tons of cane per day. The contract includes the test proving and full commissioning and technical assistance (of 59 men-months from factory start-up) in the operation of the factory and incorporates warranties of manufactured quality, came processing output and sugar extraction ratio. The price is subject to adjustment for changes in local (Kenya) costs or in exchange rates. The factory is to be completed within 30 months.

4. The second agreement was signed on 14th August 1975 between the Government, the Sugar Company and a French Consortium called Technisucre and is for the supply by Technisucre (which consists of three French government-controlled institutes) of technical personnel and services for both the agricultural and industrial sectors of the project. The agricultural sector comprises agronomic trials and the subsequent establishment and management of (a) a nucleus sugar-cane plantation of about 4,500 hectares to be owned by the Sugar Company, and (b) an out-grower area consisting of all owner-growers within 15 kilometres of the factory- the objective being the overall production of the 520,000 tons of sugar-cane per annum which the factory is expected to require. The first crop will be needed for harvest in the second half of 1978. The industrial sector covers all phases of the operation of the factory after its commissioning by its supplier Fives-Cail Babcock and involves the provision of seven long-term and four short-term personnel for a total of 352 man-months at stages between the factory start-up in 1978 and mid 1983. For the agricultural sector, other than the outgrower part of it, Technisucre will initially supply nine experts at various stages between 1975 and 1980 for a total of between 404 and 423 man-months. The cost of the above personnel for both sectors up to 31st March 1979 is fixed at 17.5 million French francs. The cost beyond 31st March 1979 is to be negotiated. The French personnel's salaries will be subject to Kenya income tax in accordance with the Kenya Income Tax Act. In respect of the outgrower part of the project, Technisucre is to submit a proposal for the rendering of 7 or more experts (depending on the number of outgrowers) to supervise the organisation and training of outgrowers. The duties of Technisucre in all sectors include necessary training programmes. Technisucre is also to submit to the Government and the Sugar Company offers for (a) the supply of agricultural and workshop

5. The third agreement, also signed on 14th August 19[illegible] is a "Buyer's Credit Agreement" between the Sugar Company as bo[illegible]r and two French banks, the Banque de Paris et des Pays-bas and [illegible] Banque Francaise du Commerce Exterieur, as lenders. Under this a[illegible]ent, 80% of the F.F. 143 million French currency portion of the [illegible] F.F. 147 million contract price under the Fives-Cail Babc[illegible]ctory supply contract, and 80% of the above-mentioned F.F. 17 m[illegible] payment due to Technisucre for services up to 31st March 1979, ar[illegible] be financed by the two lender banks (mainly by the first-mentioned wh[illegible] a French Government controlled institution). The total cre[illegible] F.F.128.25 million carries interest at the rate of, in the case of the [illegible]tory supply contract payments, 7.95 per cent, and in respect of the pa[illegible] under the Technisucre contract, 7.5 per cent. The interest is capi[illegible]d half-yearly until principal repayments are due to start (after [illegible]ory start-up); it is thereafter payable half-yearly on the reducing [illegible]nces of the compounded principal. The principal itself is rep[illegible], in the case of the factory supply credit, by 16 equal consec[illegible] half-yearly instalments starting 6 months after the factory st[illegible] (due in 1978) but no later than 30th June 1979. In the case of th[illegible]chnisucre, credit, the principal is payable by 13 such half-yearly in[illegible]ments the first one due 6 months after the completion of the fi[illegible]x months sugar-cane harvest supplied to the factory but not later [illegible] 30th June 1979. There is also payable a commitment fee of half [illegible] 1% on the unused part of the credit for the time being, and a manag[illegible] fee of one fifth of 1% which is a single flat fee payable on the [illegible] amount of the credit plus capitalised interest.

6. These agreements have been made within the framewor[illegible] earlier discussion between the Governments of Kenya and France reg[illegible]ng the supply of French goods and services for the project and th[illegible]nancing thereof by French credit institutions.

7. The approximate one-fifth of the contract prices un[illegible] the factory supply and technical services contracts not financed under [illegible] French banks credit will be met partly out of the equity share ca[illegible]l of the Sugar Company and partly out of local borrowings.

8. Kenya Government will charge the Sugar Company a gu[illegible]tee fee of 1% on the amount of the capitalised principal payable u[illegible] the buyer's credit agreement mentioned in paragraph 5 above and guara[illegible]d by the Government. This fee which is a single flat one will be p[illegible]ble over approximately 8 years from the factory start-up date.

9. When commissioned, the factory will produce about [illegible]0 tons of sugar per annum which will mean a saving of approximately [illegible]2 million in foreign exchange. It will also offer employment to ove[illegible]0 Kenyans besides contributing to the economic well being of the f[illegible] in the outgrower zone.

10. The approval of the House is accordingly sought und[illegible] the Guarantee (Loans) Act to Government guaranteeing performa[illegible]y the Sugar Company of the factory supply contract with Fives-C[illegible] Babcock and the technical services contract with Technisucre as above [illegible]cribed, and giving a guarantee of payment by the Sugar Company of [illegible] principal, interest and other charges to become due under the buyer's [illegible]edit agreement with the French Banks mentioned in paragraph 5 [illegible].

11. The amounts of present contingent liability under the three agreements, to be guaranteed are as follows (calculated at [illegible] FR.Fr.= K.Shs. 1.6378, the rate of exchange in force when the agre[illegible]ts were signed as required by the Act)

A. Factory supply contract with Fives-Cail Babcock:
Total Contract price less downpayment (10%) already p[illegible]
French Francs 132,748,400 = Shs. 217,415,00[illegible]

B. Technical services contract with Technisucre:

C. Buyer's Credit Agreement with French banks:
Credit of French Francs 128,252,484 = K.Shs. 210,000,000
Plus capitalized interest as stated in para 5 above.

It is to be noted however that although all three agreements are required to be guaranteed at this stage, in fact the incurrence of actual liability under the Banks Credit Agreement will ipso facto discharge liability for the corresponding amounts thereby paid under the first two contracts. Accordingly only the aggregate of the sums mentioned under A and B above, plus the sum allowed in paragraph 12 below, needs to be and has been, included in the contingent liability amounts given in paragraph 13.

12. In addition, authority is sought to guarantee any further contracts made with Technisucre as mentioned in para 4 above (beyond the contract amount mentioned in para 11. B) and to guarantee any further credit extended by the French banks above mentioned on terms as to interest and other charges to be negotiated in the near future.

13. The current total contingent liabilities of Kenya Government in respect of guarantees given under section 3 of the Guarantee (Loans) Act (other than those specified in the schedule to the Act) amounts to K£194,511,934 with the above proposed guarantees of K£21,499,875 the aggregate will be increased to K£216,011,809 of which K£127,262,537 will fall under paragraph (a), and K£ 88,749,292 under paragraph (b), of section 3 (3) of the Act.

Minister of Agriculture

3rd December, 1975.