

PROJ/SUG/3A/I

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CONFIDENTIAL

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Government Guarantee of Overdraft Facilities to the  
Chemelil Sugar Company Limited, as required under  
THE GUARANTEE (LOANS) ACT, CAP 461

In accordance with the provisions of the Guarantee (Loans) Act, the following information is laid before the National Assembly for consideration and approval.

On 28th February, 1973, an agreement was subscribed to by the Government of Kenya, a group of investing organizations and Chemelil Sugar Company Ltd. The parties to the Agreement were:-

1. The Government of Kenya
2. Development Finance Corporation of Kenya
3. National and Grindlays Finance and Development Corporation Limited.
4. Gutehoffnungshutte Sterkrade Aktiengesellschaft (GHH), a Construction Company incorporated in the Federal Republic of Germany.
5. Deutsche Gesellschaft fur Wirtschaftliche Zusammenarbeit (Entwicklungsgesellschaft), a Company incorporated in the said Federal Republic of Germany as an official agency for economic aid.
6. Kenya Shell Limited
7. Agricultural Development Corporation
8. Kenya Commercial Bank Limited
9. Chemelil Sugar Company Limited.

By Clause 14 of that agreement the Government of Kenya undertook to guarantee the repayment of the overdraft of Chemelil Sugar Company Ltd., with the Kenya Commercial Bank, together with interest thereon, subject to the following limits:-

- to 31st March 1973, shs. 15.5M
- to 31st December, 1974, shs. 12M
- thereafter, to a limit to be determined by agreement amongst the Government, the Bank and the Sugar Company.

The first undertaking listed in this schedule has already been discharged. The second is now due for approval, and the only difference is that the limit is reduced from sh. 15.5M to sh. 12M.

The Chemelil Sugar Company Ltd. was established in 1965. Early problems with the factory and the cane transport system set back the running accounts so badly that capital repayments had to be deferred. This led to a declining economy which could be alleviated only by capital reconstruction.

A major reorganization of the capital structure took place in 1970 and was the subject of Sessional Paper No.5 of 1970. This relieved the situation but did not entirely solve the financial problems of the Company. A further financial crisis arose in 1972, as the result of which it was again necessary to reorganize the capital structure of Chemelil Sugar Company Ltd.

The most important change was the issue of 1,25M preference shares in Chemelil Sugar Company Ltd. at £1 each; the issue was taken up, in equal parts, by D.E.G. and A.D.C. (D.E.G. is the German financial body listed as No.5 in the parties to the contract). There were many minor changes, so many that the original agreement of 1966 was discarded, and replaced by the new agreement of 1973 referred to earlier in this paper.

Among the many items reviewed in the negotiation of the agreement were the overdraft provisions. This was by way of extension in time, because the need for a substantial overdraft with the Company's bankers was accepted, and, in fact, the limit up to 31st March 1973 was already fixed and guaranteed by the Government of Kenya. This is recorded in the preamble to the 1973 agreement, and Clause 8 of the said preamble points out that the limits of overdraft at subsequent stages are subject to a similar guarantee; hence this paper. It is important to keep in mind that the guarantee now sought arises directly out of the 1973 agreement and has nothing to do with any further revision of the capital structure of Chemelil Sugar Company Ltd. which may be under consideration now.

One important factor which has operated against the financial interests of Chemelil Sugar Company Ltd., is that it has been deeply involved and heavily committed in the development of cane grower Co-operative Societies in its zone. By promoting the welfare of a large community of small scale cane growers and by maintaining a large labour force, the Company is rendering a valuable service to Kenya.

No doubt the dire consequences of the financial collapse of Chemelil Sugar Company Ltd., were in the minds of the parties when D.E.G. and A.D.C. decided to contribute financial support in 1972. The same considerations will arise if further capital reconstruction becomes necessary in the future.

The guarantee sought in this paper does not directly determine the fate of Chemelil Sugar Company Ltd., which will be decided, after due consideration, if or when the occasion arises. The overdraft provided for is part of the economic plan laid down in the 1973 agreement, and it is recommended that the guarantee requested be approved.

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