THE VALUE ADDED TAX ACT
(Cap. 476)

IN EXERCISE of the powers conferred by section 23 of the Value
Added Tax Act, the Minister for Finance makes the following Order -

THE VALUE ADDED TAX (REMISSION)
( OFFICIAL AID FUNDED PROJECTS ) ORDER, 2003

1. This Order may be cited as the Value Added Tax
(Remission) (Official Aid Funded Projects) Order, 2003 and
shall come into operation on the 13th June, 2003.

2. The whole of the tax payable on taxable services,
materials and equipment, including vehicles, which the
Commissioner is satisfied are for use in the construction,
equipping or execution of an aid funded project, to be, or
in the process of being carried out pursuant to an
agreement between the Government and a foreign
government, or a foreign or international agency,
institution, foundation or organization, supplying or
making available aid funds, materials or equipment (in this
Order referred to as "the aid agency") is remitted subject to
the conditions set out in paragraph 3.

3. The conditions referred to in paragraph 2 are that—

(a) the agreement expressly provides for remission
of tax on taxable services, materials and equipment,
including vehicles;

(b) the agreement provides that –

(i) the materials and equipment, including
vehicles, shall become the property of the
Government, any public university, the
Kenya Medical Research Institute, the
Kenya Bureau of Standards or such other
non-profit making organization in Kenya as the Minister may, by notice in the Gazette, specify for the purposes of this Order; or

(ii) the materials and equipment belong to, and whilst in Kenya, continue to belong to the aid agency; or

(iii) that both the conditions specified in this subparagraph apply;

(c) the implementing agency shall, at all reasonable times, make the records of the materials and equipment available to an authorized officer and shall give the officer every facility necessary to inspect and audit such records;

(d) within ninety days after the completion of the project, the aid agency shall provide the Commissioner-

(i) in the case of a situation referred to in subparagraph b(i), with a detailed list of items of equipment which have been used in the execution of the project and which, not forming part of the project itself, have become the property of the Government or other organization referred to in that subparagraph;

(ii) in the case of a situation referred to in subparagraph b(ii), with a detailed list of items of equipment which have been used in the execution of the project and which remain the property of the aid agency; and

(e) the Commissioner may, if he considers it necessary, inspect the project at any time during it’s execution.
4. The remission of tax under paragraph 2 shall not apply to -

(a) fuels and oils for use in vehicles and equipments for the projects; and

(b) all taxable services, except those specified in any remission Order published under section 23 of the Act.

5. Notwithstanding the provisions of paragraph 2, tax shall become payable if goods which are the subject of this Order are used or disposed of in a manner inconsistent with the purpose for which the remission is granted.

6. Legal Notice No.93 of 2002 is revoked.

Made on the 12th June, 2003.

D. MWIRARIA,
Minister for Finance.