

THE TANZANIA INVESTMENT BANK ACT, 1970

ARRANGEMENT OF SECTIONS

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THE UNITED REPUBLIC OF TANZANIA



No. 20 OF 1970

I ASSENT,

Julius K. Nyerere
President

29TH JUNE, 1970

An Act to establish the Tanzania Investment Bank

[-----]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Tanzania Investment Bank Act, 1970 and shall come into operation on such date as the Minister may by notice in the *Gazette*, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires-
"the Bank" means the Tanzania Investment Bank, established by section 3;
"economic development" means-

Interpretation

- (a) the development of manufacturing, assembly and processing industries including industries engaged in the processing of products of agriculture, forestry or fishing;
- (b) the development of the engineering, construction, transport, tourist and mining industries;
- (c) the development of large-scale corporate agriculture, ranching forestry and fishing.

"long and medium term finance" means any loan or guarantee having reference to a loan where the obligation of the borrower to repay the principal sum advanced will not, in the absence of default, be discharged sooner than twelve months from the date on which such loan became effective;

"the Minister" means the Minister for the time being responsible for Finance;

"the National Bank of Commerce" means the National Bank of Commerce established by the National Bank of Commerce (Establishment and Vesting of Assets and Liabilities) Act, 1967.

Acts 1967 No. 1

"parastatal organization" means any body corporate established by or under any written law other than a company registered under the Companies Ordinance save where the whole of the issued share capital of such company is owned by the Government.

Cap. 212

- Establishment of Bank
- 3.-(1) There is hereby established a Bank to be known as the Tanzania Investment Bank.
- (2) The Bank shall be a body corporate and shall-
- (a) have perpetual succession and common seal;
 - (b) in its corporate name, be capable of suing and being sued;
 - (c) be capable of purchasing and otherwise acquiring, and of alienating, any movable or immovable property;
 - (d) subject to the provisions of this Act, have power from time to time to borrow such sums as it may require for its purposes.
- Acts 1966 No. 12
- (3) The Bank shall be a specified financial institution for the purposes of the Bank of Tanzania Act, 1965.
- Objects and functions of Bank
4. The objects of the Bank shall be-
- (a) to make available long and medium term finance for economic development;
 - (b) to provide technical assistance and advice for the purpose of promoting industrial development;
 - (c) subject to the provisions of this Act, to administer such special funds as may from time to time be placed at the disposal of the Bank;
 - (d) to undertake such other activities as may be necessary or advantageous for the purpose of furthering the foregoing objects.
- Authorized capital and shares
- 5.-(1) The authorized capital stock of the Bank shall be one hundred million shillings divided into one hundred shares each having a par value of one million shillings.
- (2) The said shares shall be divided equally into paid in shares and callable shares.
- (3) The authorized capital stock of the Bank may be increased by a resolution of the Board of Directors but such resolution shall not take effect without the approval of the Minister.
- Restriction on shareholding
- 6.-(1) The shares of the Bank shall be subscribed for by the Government of the United Republic, the National Bank of Commerce and the National Insurance Corporation of Tanzania Limited (hereinafter together referred to as the shareholders) and subject to the provisions of subsection (8), no other person or body corporate may subscribe for the said shares.
- (2) The shareholders shall subscribe for and the Bank shall allot the said shares in the following amounts-
- | | <i>Paid in Callable</i> | |
|---|-------------------------|--------|
| (a) the Government of the United Republic ... | 30 | 30 |
| | shares | shares |

(b) the National Bank of Commerce	15	15
			shares	shares
(c) the National Insurance Corporation of Tanzania Limited	5	5
			shares	shares

(3) Payment shall be made by the shareholders for the paid in shares at their par value as soon as they have been allotted by the Bank'.

(4) Payment by the shareholders of the amount subscribed in respect of callable shares shall be made only if and to the extent that such payment is required by the Bank to meet its obligations in respect of sums borrowed by the Bank for inclusion in its ordinary capital resources or in respect of guarantees chargeable to its ordinary capital resources given by the Bank to secure in whole or in part loans made by other persons or institutions. A resolution by the Board of Directors shall be conclusive evidence that payment is required to the extent specified in such resolution for the purpose of meeting the obligations of the Bank aforesaid.

(5) In the event that the authorized capital stock of the Bank is increased, the shareholders shall, unless the resolution of the Board of Directors pursuant to subsection (3) of section 5 otherwise prescribes, subscribe for the additional shares thereby created in the same proportions as they have subscribed to and been allotted shares pursuant to subsection (2).

(6) The shares of the Bank shall not be pledged or encumbered by the shareholders in any manner whatsoever and shall not be transferred or assigned.

(7) The liability of the shareholders in respect of their shares shall be limited to the unpaid portion of the par value of the shares and the shareholders shall not by reason of having subscribed for and been allotted shares be liable for the obligations of the Bank.

(8) Notwithstanding anything contained in the preceding subsections the President may, by order published in the *Gazette*, direct that the parastatal organization specified in such order shall subscribe for and be allotted such number of shares as may be specified in the order, and where such order is made, the parastatal organization shall subscribe for and be allotted the shares, and references in this Act to shareholders shall include references to such parastatal organization.

7. The Ordinary Capital resources of the Bank shall consist of the following-

- the authorized capital stock of the Bank including both paid m and callable shares subscribed pursuant to section 5;
- funds raised for inclusion in the ordinary capital, resources of the Bank by borrowings of the Bank;
- funds or income derived from the operations of the Bank m which resources referred to in paragraphs (a) and (b) of this section or resources derived therefrom have been used, committed or charged;

Capital
resource of
Bank

(d) any other funds or income received by the Bank which do not form part of its Special Funds is referred to in section 8.

Special fund 8.-(1) The Bank may accept for administration from such sources as it may consider appropriate Special Funds which are intended to promote the objects of the Bank.

(2) Special Funds accepted by the Bank under subsection (1) shall be used on terms and conditions consistent with the objects of the Bank and the agreement under which such funds are accepted by the Bank for administration.

(3) Subject to the provisions of this Act the Board of Directors may make regulations for the administration and use of each Special Fund.

(4) For the purpose of this Act "Special Fund" means the resources of any Special Fund and shall include-

- (a) funds accepted by the Bank in any Special Fund;
- (b) funds repaid in respect of loans made from a Special Fund which under the regulations of the Bank governing that Special Fund are received by such Special Fund;
- (c) funds recovered in respect of guarantees chargeable on a Special Fund which have been honoured out of the resources of that Special Fund and which under the regulations of the Bank governing that Special Fund are received by such Special Fund;
- (d) income derived from the operations of the Bank in which any of the funds referred to in paragraphs (a), (b) and (c) have been used, committed or charged if under the regulations of the Bank covering the Special Fund concerned that income accrues to such Special Fund.

Restriction on use of resources and facilities of Bank 9. The resources and facilities of the Bank shall be used exclusively to implement the objects of the Bank as set forth in section 4.

Operations of Bank 10.-(1) The operations of the Bank shall consist of ordinary operations and special operations. Ordinary operations shall be those financed from the ordinary capital resources of the Bank and special operations shall be those financed from the Special Funds referred to in section 8.

(2) The ordinary capital resources and the Special Funds of the Bank shall at all times and in all respects be held, used, committed, charged, invested or otherwise disposed of entirely separately from each other.

(3) The ordinary capital resources of the Bank shall not be charged with or used to discharge losses or liabilities arising out of special operations for which Special Funds were originally charged, used or committed, and Special Funds shall not be charged with or used to discharge losses or liabilities arising out of ordinary operations for which the ordinary capital resources of the Bank were originally charged, used or committed.

(4) Expenses relating directly to ordinary operations shall be charged to ordinary capital resources of the Bank and those relating directly to special operations shall be charged to the Special Funds. Any other expenses shall be charged as the Bank shall determine.

11. -(1) Subject to the provisions of this Act the Bank may provide finances or facilities to any agency, entity or enterprise in any of the following ways- Financing by Bank

- (a) by making or participating in direct loans with its unimpaired paid in capital and with its reserves and undistributed surplus or with the unimpaired Special Funds;
- (b) by making or participating in direct loans with funds raised by the Bank by borrowing or otherwise acquired by the Bank for inclusion in its ordinary capital resources;
- (c) by investment of funds referred to in paragraphs (a) and (b) in the equity of any agency, entity or enterprise;
- (d) by guaranteeing in whole or in part, loans made by others for economic development.

(2) In the case of funds invested in equity capital out of the ordinary capital resources of the Bank, the total amount invested (excluding any amount invested in non-voting preference shares or like securities) shall not exceed ten per centum of the aggregate amount of the unimpaired paid in capital stock of the Bank together with the reserves and surplus included in its ordinary capital resources.

(3) The amount of any equity investment in any agency, entity or enterprise shall not exceed such percentage of its equity capital as the Board of Directors shall in each specific case determine to be appropriate. The Bank shall not seek to obtain by such investment a controlling interest in the agency, entity or enterprise concerned except where necessary to safeguard the investment of the Bank.

12. The operations of the Bank shall be conducted in accordance with the following principles-

- (a) the Bank shall be guided by sound banking principles in its operations and shall finance only economically sound and technically feasible projects;
- (b) in selecting projects, the Bank shall always be guided by the need to pursue the objects set forth in section 4;
- (c) the operation of the Bank shall provide principally for the financing directly of specific projects but may include loans or guarantees of loans made to national development agencies so long as such loans or guarantees are in respect of and used for specific projects which are agreed to by the Bank;
- (d) the Bank shall seek to maintain a reasonable diversification in its investments;

Bank to follow certain principle

- (e) the Bank shall seek to revolve its funds by selling its investments in equity capital to other investors wherever it can appropriately do so on satisfactory terms;
- (f) before a loan is granted or guaranteed or an investment made, the applicant shall have submitted an adequate proposal to the Bank, and the Chairman of the Bank shall have presented to the Board of Directors a written report regarding the proposal, together with his recommendations;
- (g) in making or guaranteeing a loan, the Bank shall pay due regard to the prospects that the borrower and its guarantor, if any, will be able to meet their obligations under the loan contract;
- (h) in making or guaranteeing a loan, the rate of interest, other charges and the schedule for repayment of principal shall be such as are, in the opinion of the Bank, appropriate for the loan concerned;
- (i) in guaranteeing a loan made by other investors, the Bank shall charge a suitable fee or commission for its risk;
- (j) in the case of a direct loan made by the Bank for a specific project, the borrower shall be permitted by the Bank to draw the loan funds only to meet payments in connection with the project as they fall due;
- (k) the Bank shall take all necessary measures to ensure that the proceeds of any loan made, guaranteed or participated in by the Bank are used only for the purposes for which the loan was granted and with due attention to considerations of economy and efficiency; and
- (l) the Bank shall ensure that every loan contract entered into by it shall enable the Bank to exercise all necessary powers of entry, inspection and supervision of operations in connection with the project and shall further enable the Bank to require the borrower to provide information and to allow inspection of its books and records during such time as any part of the loan remains outstanding.

Loans and
guarantees
by Bank

13.-(1) In the case of direct loans made or participated in or loans guaranteed by the Bank, the contract shall establish, in conformity with the operating principles specified in section 12 and subject to the other provisions of this Act, the terms and conditions for the loan or the guarantee concerned, including payment of principal, interest, commitment fee and other charges, maturities and dates of payment in respect of the loan, or the fees and other charges in respect of the loan, or the fees and other charges in respect of the guarantee, respectively.

(2) Whenever it considers it appropriate, the Bank may require as a condition of granting or participating in a loan that the Government of the United Republic or a public agency or instrumentality of the Government acceptable to the Bank, guarantee the repayment of the principal and the payment of interest and other charges on the loan in accordance with the terms thereof.

14.-(1) In addition to interest, the Bank may charge a commission on direct loans made or participated in as part of its ordinary operations at a rate to be determined by the Board of Directors and computed on the amount outstanding on each loan or participation.

Interest,
commission
and fees

(2) In guaranteeing a loan as part of its ordinary operations, the Bank shall charge a guarantee fee at a rate determined by the Board of Directors payable periodically on the amount of the loan outstanding.

(3) Other charges, including commitment fee, of the Bank in its ordinary operations and any commission, fees or other charges in relation to its special operations shall be determined by the Board of Directors.

15.-(1) In cases of default on loans made, participated in or guaranteed by the Bank in its ordinary operations, the Bank shall take such action as it considers appropriate to conserve its investment including modification of the terms of the loan.

Bank's duty
to conserve
its invest-
ments

(2) Whenever necessary, to meet contractual payments of interest, other charges or amortization on borrowing of the Bank in its ordinary operations, or to meet its liabilities with respect to similar payments in relation to loans guaranteed by it, chargeable to its ordinary capital resources, the Bank may call an appropriate amount of the uncalled subscribed callable capital in accordance with the provisions of this Act.

16. In addition to the powers specified elsewhere in this Act, the Bank shall be empowered-

Additional
power of
Bank

- (a) to borrow funds in Tanzania or elsewhere, and in this connection to furnish such collateral or other security therefor as the Bank shall determine;
- (b) to buy and sell securities which the Bank has issued or guaranteed or in which it has invested;
- (c) to guarantee securities in which it has invested in order to facilitate their sale;
- (d) to invest funds not immediately needed in its operations in such securities as it may determine and invest funds held by the Bank for pensions or similar purposes in trustee securities;
- (e) to provide technical advice and assistance which may serve its purposes and fall within its objects and where appropriate the Bank may charge for such services; and
- (f) to study and promote investment opportunities.

17.-(1) "The Bank shall establish and maintain a general reserve fund.

Distribution
of income

(2) The Board of Directors shall determine annually what part of the net income of the Bank, including the net income accruing to the Special Funds, shall be allocated, after making provision for the reserve fund, to surplus and what part, if any, shall be distributed to the shareholders:

Provided that no part of the net income of the Bank shall be distributed to the shareholders unless such amount as may be necessary to maintain the reserve fund at an amount equal to fifty per centum of the authorized capital stock of the Bank has first been transferred to the reserve fund.

(3) Any distribution to shareholders made pursuant to subsection (2) shall be in proportion with the number of shares held by such shareholder, and payment shall be made in such manner as the Board of Directors shall determine."

Regulations

18.-(1) The Board of Directors may make such regulations, including financial regulations, being consistent with the provisions of this Act as it considers necessary or appropriate to further the objects and functions of the Bank.

(2) It shall not be necessary to publish in the *Gazette* any regulations made by the Board of Directors under this section or any other provisions of this Act.

Board of Directors and other officers of Bank

19. The Bank shall have a Board of Directors, a General Manager and such other officers and staff as it may consider necessary.

Composition and powers of Board of Directors

20.(1) All the powers of the Bank shall, subject to the provisions of this Act, be vested in the Board of Directors.

(2) The Minister for Finance may, after consultation with the Governor of the Bank of Tanzania, give to the Board directions of a general character as to the exercise and performance by the Board of their functions in relation to matters appearing to the Minister to affect the national interest and the Board shall give effect to any such directions.

(3) The Board of Directors shall consist of a Chairman and six other members.

(4) The Chairman, who shall also be the Managing Director of the Bank, shall be appointed by the President.

(5) Of the remaining six Directors-

(a) three Directors shall be appointed by the Minister on behalf of the Government;

(b) two Directors shall be appointed by the National Bank of Commerce;

(c) one Director shall be appointed by the National Insurance Corporation Limited.

(6) Appointment of Directors by the shareholders shall be by notice in writing addressed to the Bank and the shareholder who has appointed a director may at any time by such notice as aforesaid revoke such appointment.

(7) All directors shall be persons experienced in economic and financial matters or in banking.

21.-(1) The Board of Directors shall normally meet at the principal office of the Bank and shall meet at least once every three months or more frequently if the business of the Bank so requires.

Meetings of
Board of
Director

(2) Meetings of the Board of Directors shall be convened by the Chairman or, in the absence of the Chairman, by the General Manager.

(3) Four directors shall constitute a quorum for any meeting of the Board of Directors.

(4) Decisions of the Board of Directors shall be by majority vote of the Directors present and voting.

(5) The Board of Directors may, by regulations, establish a procedure whereby a decision in writing signed by all the Directors of the Bank shall be as valid and effectual as if it had been made at a meeting of the Board of Directors.

22.-(1) There shall be a General Manager of the Bank who shall be appointed by the Minister for Finance after consultation with the Board of Directors, and who, while he remains General Manager, may not hold office as a Director or an alternate to a Director.

General
Manager

(2) Subject to subsection (3), the General Manager shall hold office for a term of five years and may be reappointed.

(3) The General Manager shall vacate his office if the Minister for Finance after consultation with the Board of Directors so decides.

(4) If the office of the General Manager becomes vacant for any reason, a successor shall be appointed for a new term of five years.

(5) The General Manager shall be the chief of the staff of the Bank and shall conduct under the direction of the Board of Directors and in consultation with the Chairman of the Board of Directors the current business of the Bank. He shall be responsible for the organization, appointment and dismissal of the officers and staff in accordance with regulations adopted by the Board of Directors.

(6) The General Manager shall have authority to sign solely or jointly with such other persons as the Board of Directors may designate agreements concluded by the Bank, notes or securities issued by the Bank, reports, balance sheets, statements, correspondence and other documents of the Bank.

23.-(1) The Board of Directors shall ensure that proper account and proper records are kept in relation to the operations of the Bank and such accounts shall be audited in respect of each financial year by the Tanzania Audit Corporation.

Books of
accounts, etc.

(2) The Bank shall prepare and transmit to the Minister for Finance and to the shareholders, and shall also publish an annual report containing an audited statement of its accounts.

(3) The Bank shall prepare and transmit to its shareholders quarterly, a summary statement of its financial position and a profit and loss statement showing the results of its operations.

(4) All the financial statements of the Bank shall show ordinary operations and the operations of each Special Fund separately.

(5) The Bank may also publish such other reports as it considers desirable in carrying out its objects and functions and such reports shall be transmitted to the shareholders.

Bank may terminate its operations

24.-(1) The Bank may terminate its operations by resolution of the Board of Directors provided that such resolution shall not take effect without the approval of the Minister for Finance.

(2) After such termination, the Bank shall forthwith cease all activities except those incidental to the orderly realization, conservation and preservation of its assets and the settlement of its obligations.

Consequences of termination of operations

25.-(1) In the event of termination of the operations of the Bank, the liability of the shareholders for uncalled subscriptions to the capital stock of the Bank shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

(2) All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of payments to the Bank on unpaid or callable subscriptions. Before making any payments to creditors holding direct claims, the Board of Directors shall make such arrangements as are necessary, in its judgment, to ensure a pro rata distribution among holders of direct and contingent claims.

Distribution of assets

26.-(1) No distribution of assets shall be made to shareholders on account of their subscriptions to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for and any such distribution shall be approved by the Board of Directors.

(2) Any distribution of the assets of the Bank to the shareholders shall be in proportion to the capital stock held by each shareholders and shall be effected at such times and under such conditions as the Bank shall consider fair and equitable. The shares of assets distributed need not be uniform as to type of asset. No shareholder shall be entitled to receive its share in such a distribution of assets until it has settled all of its obligations to the Bank.

(3) Any shareholder receiving assets distributed pursuant to this section shall enjoy the same rights with respect to such assets as the Bank enjoyed prior to their distribution.

Minister may transfer any asset or liability of National Bank of Commerce to Bank

27.-(1) The Minister may, at any time within six months from the date on which this Act comes into operation by order under his hand transfer any asset or liability of the National Bank of Commerce to the Bank and may by such order direct that the value of any such asset shall be treated as payment or part payment by the National Bank of Commerce for the shares required to be subscribed by it under this Act.

(2) Where by an order made under subsection (1) the Minister transfers any asset or liability to the Bank, such asset or liability shall, with effect from the date on which such order comes into operation, vest in the Bank by virtue of such order and without further assurance, and the National Bank of Commerce shall be discharged from its obligations in respect of any such liability.

(3) Where by an order made under subsection (1) the Minister transfers any asset or liability to the Bank, the rights and obligations of the National Bank of Commerce under any contract, guarantee, agreement, bond, authority, mortgage, charge, bill of exchange promissory note, bank draft, bank cheque, letter of credit or any other security or instrument whatsoever relating to such asset or liability shall, subject to any directions which the Minister may give in that behalf, by virtue of such order and without further assurance, be transferred to the Bank and every such security or instrument shall continue in force and have effect as if the Bank were substituted for the National Bank of Commerce as a party thereto.

Passed in the National Assembly on the twenty-fourth day of June, 1970.


Msekwa
Clerk of the National Assembly