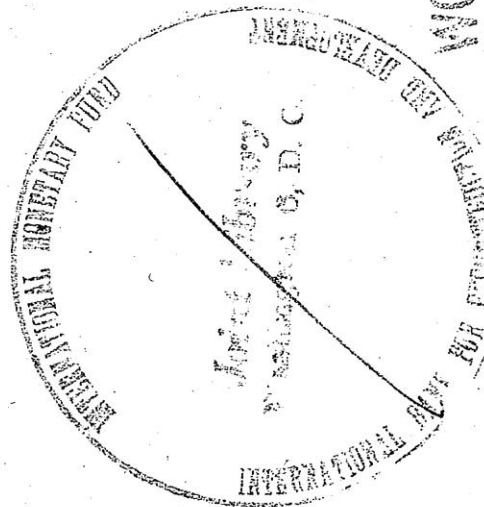


BANCA NAZIONALE SOMALA
(SOMALI NATIONAL BANK)
A PUBLIC INSTITUTION

CONSTITUTIVE LAW



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CHAPTER I — GENERAL PROVISIONS

Article 1 (Constitution)

The Banco Nazionale Somalia (Somali National Bank), a public institution having its own legal personality and autonomous management, is constituted with effect from 1st July, 1960.

For the performance of its functions the Bank operates through two separate departments, one called 'Issue Department' and the other 'Banking Department'.

Article 2 (Object)

The object of the Somali National Bank is as sole issuing institution to issue notes and metallic coin, and to perform banking functions, including the issue of securities to bearer.

The Bank also has functions as supervisor and controller of the credit and foreign exchange systems; as banker to the Treasury; and as adviser of the Government, when requested, in monetary, banking, currency and economic matters.

In performing its activities the Bank must foster and keep efficient the banking and credit systems, devoting particular care to ensuring the constant progress of those of Somalia. It must furthermore contribute, within the limits of its powers and in accordance with the Government's economic and financial policy, towards keeping the internal and international purchasing power of the currency stable and towards regulating and developing the money and capital markets so as to ensure within Somalia sound and balanced economic growth, which shall permit:

- a) better use of natural resources;

- b) increased employment of labour;
- c) raising of the national income and the standard of living.

Article 3 (Capital)

The Bank's Capital consists of:

- a) the Endowment Fund of 1 million Somali;
- b) the Ordinary Reserve Fund;
- c) the Extraordinary Reserve Funds.

Article 4 (Registered Office)

The Bank has its Registered Office at Mogadiscio. By resolution of the Board it may establish offices, branches and agencies in the territory of the Republic, and representative offices also abroad.

CHAPTER II — OPERATIONS OF THE BANK

Article 5 (Issue of Notes and Coin)

For account of the State the Bank exercises exclusive privilege of issuing, within the limits and subject to the rules established by law, notes and metallic coin lawfully circulating as full legal tender in the territory of the Republic.

Article 6 (Legal Reserve)

The Bank issues currency against receipt of gold, silver or foreign currencies, and withdraws the said currency against outgoing of gold, silver or foreign currency.

The Bank is required to hold covering reserves formed out of gold, silver and currencies of recognised international stability to the extent of one hundred per cent of the actual note circulation and, as regards non-divisional coins, to the extent of the difference between the value of any silver which may be contained in them and their face value.

For the purpose of forming the said reserves currencies shall mean:

- a) foreign bank notes;
- b) funds available at sight and short term at banks abroad;
- c) foreign Treasury Bills having not more than twelve months to run.

The Bank is not required to hold covering reserves in respect of the issue of metallic divisional coin; but it must invest in public

securities of or guaranteed by the Somali Republic, or failing these in foreign Treasury paper, the amount by which the said issue exceeds its cost.

The currencies to be accepted for the reserve, and the manner and methods of employing the said reserve, will be determined by the Board of the Bank.

Article 7

(Store of Notes and Coins)

The Bank is authorised to hold in store, and hence without entailing any obligation to form reserves, an amount of notes and metallic coin not greater than one-third of the circulation.

Article 8

(Ordinary Banking Operations)

The Bank may in the ordinary course conduct the following operations:

- 1) Redebouncing bills of exchange and bank drafts maturing in not more than six months for Somalia or foreign public or private credit institutions which have been doing business in Somalia for at least one year.
- 2) Discounting securities issued or guaranteed by the State, warrants issued by lawfully formed general and bonded warehouses, and coupons of securities specified by the Board.
- 3) Making advances against pledge of securities, goods and other assets specified by the Board.
- 4) Employing amounts in securities issued or guaranteed by the State.
- 5) Issuing circular cheques and bank drafts.
- 6) Providing banking guarantees for the Government in relation to international entities and organisations.

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- 7) Acquiring and selling gold or gold assets, foreign currencies, bills of exchange and cheques on foreign countries, and employing amounts either on current account or in currencies or in Government securities of countries having a currency of recognised international stability. The gold and gold assets, the foreign exchange and the Bank's claims on foreign countries which are allocated to the reserve covering the notes and metallic coin, as well as covering other sight liabilities, must be treated separately and may not form the subject of transactions not serving purposes of cover.

- 8) Receiving deposits for safe custody, by way of guarantee or otherwise under lien.

- 9) Receiving deposits on current and on savings account, with or without interest, the said deposits being repayable at sight or on forward terms.

- 10) Acquiring or constructing buildings for use as its offices or for its employees, as well as for the purpose of investing funds set aside in connection with the retirement of the Bank's staff.

- 11) Collecting for account of individuals, companies, public institutions and bodies corporate, securities payable within the State and abroad, and in general receiving cash items for account and risk of outside parties.

Article 9

(Other Banking Operations)

Whenever the same meets the needs of the country's economy or is useful for the purpose of supplementing the business done by the banking system the Bank may, by decree issued by the President of the Republic after consulting the Council of Ministers, and on a proposal made by the Board of the Bank and supported by a majority of reasons, be authorised to conduct any other banking operation.

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Article 10

(Control and Supervision of Credit Institutions)

The Bank is empowered to control and supervise all institutions conducting credit business in general, including that at medium and long terms, as well as all foreign credit institutions' branches existing in the Republic.

The control and supervision for which this Article provides will be exercised in accordance with the legal provisions.

For the purpose of performing such tasks the Bank is authorised to require from the said institutions and branches periodical statements, balance sheets and any other data deemed desirable.

The Bank may further arrange for ordinary and extraordinary inspection of the said institutions and branches by officials who have power to require the production of all documents as well as of any records deemed useful for the performance of their functions.

The Bank will in addition take steps to determine in agreement with the Council of Ministers the percentage ratio of the obligatory reserves which the said institutions and branches must keep with it against their sight and time deposits, and will adopt such other measures as may be necessary for giving effect to a monetary and banking policy serving the objects mentioned in Article 2.

Article 11

(Conduct and Supervision of Foreign Exchange Business)

The Bank will conduct foreign exchange business for account of the State, and will according to law perform functions by way of supervising observance of the exchange regulations.

The Bank is authorised to acquire and sell by order and for account of the appropriate Ministry foreign currencies, foreign assets and securities, and may for that purpose appoint as its agents banks,

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or bank branches operating in Somalia, while authorising them to conduct the said operations.

Article 12

(Treasury Services)

The Bank conducts the Treasury services for account of the Government in accordance with terms of a special convention to be approved by decree of the Ministry of Finance.

Any debit balances which may arise from the Bank's advances to the Government may in no case together exceed ten per cent of the revenues for the preceding financial year. In exceptional cases, under a previous decree issued by the President of the Republic on the proposal of the Prime Minister after consultation of the Council of Ministers, the said debit balances may amount to 15 per cent of the revenues for the preceding financial year.

The Bank is granted freedom, limited to performance of the Treasury services, from postal dues.

Article 13

(Other Services rendered to the State)

The Bank may perform other services for account of the State on terms which shall be determined by the Board under an agreement to be approved by decree of the appropriate Minister.

The Bank also represents the Somali Republic in the latter's relations with the International Monetary Fund, the International Bank for Reconstruction and Development and similar international organisations.

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CHAPTER III -- ORGANISATION OF THE BANK

Article 14 (Organs)

The organs of the Bank are:

- a) the Board,
- b) the President,
- c) the Managing Director,
- d) the Board of Auditors.

Article 15 (Composition of the Board)

The Board is composed:

- a) of the President;
- b) of the Managing Director;
- c) of thirteen members designated from among particularly expert persons on a scale of three each by the Prime Minister, the Minister of Finance and the Minister of Industry and Commerce, and on a scale of two each by the Minister for Public Works and Communications and the Minister for Agriculture and Animal Husbandry.

The President and the Managing Director are appointed by separate decrees of the Head of State on the proposal of the Prime Minister after consultation of the Council of Ministers; they remain in office for three years, and can be reappointed.

The other members are appointed by decree of the Prime Minister after consultation of the Council of Ministers and following

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designation as stated in c); they remain in office for three years, and can be reappointed.

Directors, managers, auditors, executives and employees of credit institutions operating in Somalia cannot belong to the Board.

Article 16 (Powers of the Board)

Without prejudice to the powers of the President and the Managing Director the Board exercises all powers of ordinary and extraordinary administration without any exception, and with all the rights necessary for pursuit and attainment of the objects indicated in Article 2.

The Board in particular:

- 1) draws the Bank's Statute and arranges for any amendments of them;
- 2) makes proposals to the Council of Ministers as to the distinctive features, the artistic and technical characteristics and the amounts of notes and metallic coins to be produced;
- 3) decides on the creation and issue of notes and metallic coin within the limits laid down by decrees of the President of the Republic, as well as on the destruction of those withdrawn and cancelled;
- 4) decides as to the composition of the covering reserve mentioned in Article 6, and as to the methods of employing it;
- 5) decides as to the form, the distinctive features and characteristics of circular cheques and bank drafts;
- 6) proposes to the Council of Ministers the official rates for discount and advances;
- 7) decides the rules and terms for the Bank's business, and in particular the rates and all other terms to be applied both to lendings and to deposits;
- 8) decides as to establishing offices, branches and agencies in the

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territory of the Republic, and arranges for the allocation of funds for their respective monthly lendings and investments;

- 9) decides as to the establishment of any representative offices abroad;

- 10) appoints the Bank's correspondents within the country and abroad;

- 11) decides on the internal regulations;

- 12) determines the number of members of Discount Committees at offices and branches other than Mogadishu, and arranges for their appointment and dismissal on the proposal of the Managing Director;

- 13) lays down the establishment for the staff, fixes their remuneration, and determines the number, and terms for employment, of personnel not belonging to the Bank;

- 14) authorises the making of agreements with the State for performance of the Treasury service and any other governmental services;

- 15) examines and resolves on the annual Balance Sheet and Profit and Loss Account, and orders their presentation to the Auditors as well as to the Council of Ministers for approval;

- 16) authorises contracts alienating real properties as well as commissions, compositions and assignments relating to claims for amounts greater than 30,000 small, and gives its decision on all other contracts as well as on lendings, which by reason of their importance are subject to its approval;

- 17) approves the allocations for charitable, welfare and cultural purposes of amounts greater than 1,000 small in the individual case, provided however that the total annual amount of such allocations may not exceed ten per cent of the net profit for the previous accounting year;

- 18) decides on cancellation, reduction and extinction of mortgages; registered in the Bank's favour, as well as subrogations in favour of third parties where the claim has not been completely extinguished;

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- 19) decides in general on applications for rediscout in the case of transactions exceeding 50,000 small in the individual case, and acts as a Discount Committee for the Mogadishu Office;
- 20) decides each year on the limits estimated for general expenses;
- 21) decides on participation in entities formed or promoted by the State;

- 22) lays down each year the amount to be allocated to the staff as ordinary premiums and bonuses in connection with the annual Balance Sheet figures;

- 23) decides the remuneration and other payments to be made to the President, to the Managing Director, to the other members of the Board, to the President and to the members of the Board of Auditors and the Discount Committee.

The Board meets at least once per month.

Article 17 (The President)

The President legally represents the Bank in relation to any administrative or judicial authority and in relation to third parties, with authority to delegate the necessary powers.

He is empowered in urgent cases to adopt on the proposal of and with the agreement of the Managing Director measures within the scope of the Board's functions, reporting them to the Board at the latter's next following meeting.

In general the President exercises all other powers conferred on him by the laws, decrees, the Statute and internal regulations, and governing the Bank's activity.

In case of vacancy, absence or impediment the President is replaced by the Managing Director.

Article 18 (The Managing Director)

The Managing Director has power of signature for all matters of ordinary administration, superintends all the departments, and

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arranges for implementing decisions of the Board. He makes provision for the general expenses in accordance with Article 16, paragraph 2b, and for any other duly ordered expenditure.

The Managing Director is the head of the staff and exercises in regard to the staff the functions assigned to him by the regulations; he is also Director of the Mogadishu Office.

In case of vacancy, absence or impediment the Managing Director is replaced by a Deputy Director, appointed according to the rules mentioned in the By-Laws.

Article 19

(Delegation of Signing Powers)

So as to assist the conduct of business both at the Head Office and at the branches the General Director may, after approval by the President, delegate power of joint or several signature in respect of specified acts or contracts, securities, assets, papers, documents and correspondence to other executives, officials and employees of the Bank.

Article 20

(Composition of the Board of Auditors)

The Board of Auditors is composed of the President, of two substantive members and two alternates, appointed by decree of the Prime Minister after consultation of the Council of Ministers.

The members of the Board of Auditors remain in office for three years, and can be reappointed.

Article 21

(Powers of the Board of Auditors)

The Board of Auditors exercises its functions subject to observance of the rules laid down for Auditors by the Civil Code, so far as these apply.

In particular the Auditors:

- a) supervise the Bank's administration to ensure observance of laws, decrees, the Statute and the Bank's regulations;
- b) ascertain that the books and other accounting records are properly kept;
- c) annually audit the Bank's expenditure;
- d) audit the Bank's Balance Sheet and the relevant Profit and Loss Account, reporting thereon to the Council of Ministers.

The members of the Board of Auditors must attend meetings of the Board of the Bank.

Article 22

(Discount Committees)

Discount Committees, also acting as Controllers on behalf of the Board of Auditors, may be appointed at the offices, branches and agencies excluding the Mogadishu Office.

The members of the Discount Committees are appointed by the Board on the proposal of the Managing Director.

CHAPTER IV — ADMINISTRATION OF THE BANK

Article 23

(Accounting Year and Balance Sheet)

The Bank's accounting year begins on 1st January and closes on 31st December in every year. The Bank's first accounting year begins on 1st July, 1960, and ends on 31st December, 1961.

In respect of each accounting year there will be compiled the Balance Sheet, the relevant Profit and Loss Account and the inventory of the Bank's assets and liabilities.

The profits are those obtained during the year from both ordinary and extraordinary business, as well as recoveries on bad and doubtful debts written off.

The expenditure includes that on ordinary administration, on maintenance of the metallic reserve, on the issue of notes, metallic coin and the like, and any provision of amounts for social and cultural objects or by way of contribution for purposes in the public interest.

For the purpose of ascertaining the net available profit there may be added to the said expenditure the bad and doubtful debts for the accounting year, the necessary depreciation and similar charges, as well as instalments for writing off expenditure which the Board may consider should be spread over two or more accounting years.

Article 24

(Approval of the Balance Sheet)

The annual Balance Sheet together with the Profit and Loss Account must be presented to the Board of Auditors not later than 31st March in each year.

By the following 30th April the Board will send the annual Balance Sheet, together with the Reports of the Board itself and of the Board of Auditors, to the Council of Ministers for approval.

Article 25

(Profits and Reserves)

The net profits earned according to the approved Balance Sheet will be applied fifty per cent to gradual formation of the Reserve Fund and Extraordinary Reserve Funds, while the remaining fifty per cent will be paid to the State Treasury.

Article 26

(Exemption from Tax)

In view of its objects, and of the allocation to the State of fifty per cent of the profits annually earned, the Bank is exempted from all present and future taxes or imposts.

Article 27

(Publications)

Each month the Bank will send to the Presidency of the Council its general statement of accounts, which will be published in the Bollettino Ufficiale della Repubblica Somalia (Official Bulletin of the Somali Republic).

Within four months after the end of each accounting year the Bank must submit to the Council of Ministers and publish an Annual Report on the Bank's position, and a review of the policies, monetary and credit measures adopted during the accounting year in question, as well as an analysis of the economic and financial conditions which prompted the said policies and measures.

The Annual Report must include the Bank's financial position, and at least the following data:

- a) monthly movements of the circulation;
- b) monthly movements of the legal reserve;
- c) monthly movements of the accounts and, in consolidated form, of the accounts of ordinary credit institutions and foreign banks' branches;
- d) money and capital market rates;
- e) monthly movements of sight and time deposits of lendings and investments of the Bank and of other credit institutions and foreign banks' branches, analysed by categories;
- f) the parity of, and exchange rates for, the somali;
- g) monthly acquisitions and sales of foreign currencies;
- h) monthly movement, in summarised form, of imports and exports;
- i) the annual balance of payments;
- l) principal data concerning Government revenues and expenditure;
- m) text of legal measures enacted during the year in connection with monetary, banking and currency matters.

CHAPTER V — GENERAL AND FINAL PROVISIONS

Article 28 (Incompatibilities)

The President, the Managing Director, the officials and all the other employees may pursue no professional, commercial, industrial or financial activity and may assume no paid or other functions except in connection with higher education. In particular they may not belong to other credit institutions operating in the territory of the Republic, conduct stock exchange business, be directors, managers or auditors in any company, have an interest in any unlimited partnership, nor assume liability in any limited partnership.

In special cases however the Board may permit the assuming solely of the functions of directors or auditors, in companies or institutions, where this is recognised to be in the interest of the Bank.

The President, the Managing Director, the members of the Board, of the Board of Auditors and of the Discount Committees may not be members of parliament.

Article 29 (Official Secrecy)

The members of the Board, of the Board of Auditors and of the Discount Committees, the officials and the employees are required to observe the strictest secrecy in all matters concerning the Bank and its relations with third parties, and in general regarding all information which they may obtain in the exercise of their functions.

Article 30 (Supervision)

Supervision of the Somali National Bank is exercised by a Committee under the chairmanship of the Prime Minister and composed:

- of the Minister of Finance, the Minister of Industry and Commerce, the Minister for Public Works and Communications, and the Minister for Agriculture and Animal Husbandry;
- of two officials appointed by the Prime Minister.

Article 31 (Transfer of Functions)

The functions and powers in any way vested in the Casa per la circolazione monetaria della Somalia (Somalia Monetary Circulation Fund), and in the discontinued Mogadiscio Branch of the Bank of Italy, are transferred to the Somali National Bank. The functions and powers which in the Northern Regions are in any way vested in the East African Currency Board, as such or in an agent of the said Board, are transferred to the Somali National Bank as from the day on which the exchange of currency shall begin in those Regions.

In particular the functions assigned by existing legislation to the Controller of the Casa per la circolazione monetaria della Somalia are transferred to the President of the Board of Auditors of the Somali National Bank.

Article 32 (Approval of the Statute)

The Statute of the Somali National Bank and any successive amendments thereof will be approved by decree of the President of the Republic on the proposal of the Prime Minister after consultation of the Council of Ministers.

Article 33 (Provisions Repealed)

All provisions incompatible with these of this Law are repealed.

Article 34 (Entry into Force)

This Law comes into force on 1st July, 1960.

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