THE IMPACT OF CENTRAL BANKING LEGISLATION ON THE ECONOMIC GROWTH OF COMMONWEALTH AFRICAN COUNTRIES WITH PARTICULAR REFERENCE TO NIGERIA

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ABSTRACT OF THE THESIS

The purpose of this Thesis is to investigate whether there is real need for the selected anglophone African countries: Nigeria, Kenya, Tanzania and Zambia, to have a central bank in their countries and whether they should be autonomous institutions or arms of governments and whether in their role as the apex banking institutions these banks as well as the applicable laws have effectively promoted economic stability and growth or reverse.

The thesis, in its ten chapters, surveys the historical development of money in Africa; developments in banking and central banking before and after the advent of colonialism in these countries.

It examined the legal structures of these banks; traced the sources of their organic and subsidiary laws and identified the objectives of legislation as seen by the nationalists of these countries before political independence. The thesis also sought to establish whether government representation on the boards; subordination of these banks to governments; political appointments of the governors and board members had impeded or enhanced economic development in the countries; and whether the lack of functional qualifications of board members and the use or lack of use of the implied powers of the boards had any impact on the performances of the banks. The service, developmental, monetary management and other functions of central banks and their performances in

these functions were critically examined.

The broad conclusion is that a monetary authority be it an association of commercial banks as in Hong Kong, is necessary and desirable in an economy but the pattern of organisation of central banking in advanced countries is not well adapted to the needs and circumstances of the countries surveyed. Many far-reaching reforms have been proposed which would match the level of development of these countries and ultimately conduce, it is hoped, to progressive economic growth. The Central Bank of Nigeria was the model.

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CHAPTER 1

HISTORY OF CENTRAL BANKING IN AFRICA

DEFINITION AND SCOPE

> "Let me first say, then, what I mean by a Central Bank. It is a bank which has the sole right of legal tender note issue; it is the banker for the Government and the commercial banks; it has the power to sell and to buy bills and security... it has the major responsibility for safeguarding the value of the currency..."[1]

Mr. J.L. Fisher, an adviser to the Bank of England, has in these words attempted to define "central banking" by reference to the attributes, functions, roles and practices of central banks. He sees central banking as an institution endowed with powers to carry out diverse functions. Dr. Rasaputram, governor of the Central Bank of Sri Lanka, has also tried to define central banking by stating what he thought were the functions of a central bank. He said, among other things:

> "A central bank is a lender of the last resort, a banker's bank and a banker to the Government. Supervision of all banking institutions is a statutory responsibility given to all central banks."[2]

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1 J.L. Fisher, Report on the Desirability and Practicability of Establishing a Central Bank in Nigeria for Promoting the Economic Development of the Country, 1952 pp. 4-5.

2 Dr. W. Rasamputram, "Relationship of the Central Banks with the Treasury, Planning and Development Agencies in Government," Seanza Lectures 1980, p. 174.

In his own definition of what a central bank is, the Right Honourable J.G. Coates said:

> "Our fore-fathers got along reasonably well with very primitive forms of barter ... The Central Bank merely represents another stage in the evolution of monetary science... [it is] a national institution to co-ordinate and control our banking system."[3]

Mr. Ola Vincent in describing the Central Bank of Nigeria said:

> "Its position as the premier or apex financial institution and the ultimate source of liquidity in the economy makes it a unique and delicate institution."[4]

Professor G.O. Nwankwo, in his own attempt at a definition, sees the central bank as a bank that is central to the operations of a financial system:

> "A central bank can be defined in more than one way. We can say that it is an institution called upon to keep the financial structure upon an even keel or in proper balance; the bank with a duty to regulate currency and credit in a country; or the apex of a country's monetary and banking structure set up to perform certain stipulated functions in the national interest. We can easily see the common feature of these definitions: each attempts to describe a central bank

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3 The Right Hon. J.G. Coates, the Reserve Bank Proposal (Government Printer, Wellington, 1933), p. 12 quoted in Central Banking in the British Dominions by A.F.W. Plumptre, 1940, p. 163.

4 Mr. O. Ola Vincent, former Governor of the Central Bank of Nigeria, Address at the Dinner given in Honour of Participants at the Symposium to mark the 20th Anniversary of the Bank on the 29th June, 1979, p. 6.

> by the tasks it performs or is expected to perform in the economy. From this we can be justified in defining it literally as 'the bank that is central to the operations of any financial system'. It is the heart and propelling force of the financial system and it has an overriding obligation to steer the system in such a way as to promote 'the public Good and benefit of our people', as the original charter of the mother of central banks, the Bank of England, put it."[5]

Most authors have attempted to define central banking in Western capitalist society by reference to the classical and modern functions of central banks. The statutes of practically all central banks circumscribe their powers and functions and the object clauses amount to a definition of what a central bank is and should or should not do. But while one may accept these definitions as valid in the circumstances, one must add that central banking is the science or art of banking in which a single bank at the apex of the monetary and banking systems has a complete or residuary monopoly of regulating credit, currency and the function of money and of control in the banking and financial institutions in a country in accordance with statute and in the national economic interest.

Central banks may therefore be easily differentiated and identified as compared with other banks through their unique functions and practices. For the art of central banking has become an entirely separate branch of banking

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1 Prof. G.O. Nwankwo, Basic Economics, 1977, p. 229.

distinct from such other branches of banking as commercial banking, industrial banking and agricultural banking. Because central banks have developed their own codes of rules, practices and procedures one is tempted to define central banking as an art; and it is also a science in so far as it adopts the modern scientific and technological approach to banking and making periodical readjustments in the system.

For a bank to be classified as a central bank several factors or characteristics must be present, one of which is the vital role money plays in the banking system. The important role of note issue and that of lender of last resort result from the axiomatic position that "money" is the commodity operated upon by any banking system. If there is no "money", there can be no question of having a reserve currency or of a central bank being lender of last resort. As the functions of central banks therefore centre on money, one must first attempt a definition of "money".

It is therefore proposed in the first two introductory chapters:-

1. First, to trace the evolution of the concept and use of money in the operation of an economic system;
2. Secondly, to sketch, in brief, the history of the emergence of banks as the custodians of money and providers of credit;
3. Thirdly, to indicate when and how banking systems and practices were introduced into Africa in the colonial period; and

4. Lastly, to identify the period when and the mechanisms by which central banks were created for the benefit of anglophone African countries.

IS THE CONCEPT OF CENTRAL BANKING UNAFRICAN?

The classical or traditional concept of central banking as can be deduced from the structures and practices of the established central banks in Europe and America has been revolutionised. Central banking before 1920 was conceived in Europe simply as performing the function of note issue with a responsibility to stabilise the currency and prevent inflation. In many of the European countries, one aggressive bank gradually came to assume more and more the position of a central bank if it had been the government's banker or agent and enjoyed the sole or the principal right of note issue. The Bank of France, founded in 1800 partly with the aid of State funds but mainly with private capital, was one such bank. In this kind of role such banks were not originally called central banks, but were generally known as national banks or banks of issue. Before 1914 many countries had established national banks of issue, but it was not until the 1920s that these banks came to be called central banks. The Bank of England for example, was established by public subscription in 1694 for the express purpose of advancing money raised from the rich merchants of London to the government, in return for the privilege of note issue conferred under a charter granted to it in an Act of Parliament. In subsequent years the

Bank of England has assumed its premier position as a central bank by acquiring more and more powers as the custodian of the cash reserves of the private banks and the country's gold reserve, then as lender of last resort, then as regulator of Bank Rate as an instrument of credit policy until around 1866 when its influence enabled it to be recognised as the central bank of Great Britain.[6]

This classical concept of the 19th century of central banking was radically changed after the First World War, when following the advice of the International Financial Conference held in Brussels in 1920 under the auspices of the League of Nations that countries which had not yet established a central bank should proceed to do so as soon as possible to facilitate the restoration and maintenance of stability in monetary and banking systems in the interest of world co-operation. Existing national banks of issue were in many instances re-organised and re-named as central banks. Where national banks of issue did not exist (mainly in Eastern Europe, Latin America and Africa) new central banks were established as part of the internationally acceptable 1920 plan for restoring internal and external stability of prices, which was seen as an essential prerequisite for a return to the gold standard.

Six years earlier in 1914 central banks had been

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6 For a detailed account of the history of the Bank of England, see Dr. A. Andreades, History of the Bank of England 1640-1903.

established in the United States of America in the form of twelve Federal Reserve Banks located in Boston, New York, Philadelphia, Richmond, Atlanta, Cleveland, Chicago, Minneapolis, St. Louis, Kansas City, Dallas and San Francisco. This followed the financial panic of 1907 which necessitated the appointment in 1910 of a National Monetary Commission which was to study banking and money problems and propose solutions. The commission played an important role in banking reforms: its report recommended, among other things, the establishment of a central banking system having a co-ordinating Federal Reserve Board at Washington.[7]

The modern concept of central banking, which is a development of the classical concept, is much broader, going beyond currency stabilisation and prevention of inflation to extend its influence and functions to the relations of central banks with the government, the public, the financial and banking institutions. Historically the classical concept appears to have undergone a significant transformation and has clearly moved away from the restricted view of the functions of the central bank. Consequently, the modern concept can be found in the areas of monetary reserves, open market operation, developmental role and international monetary and economic co-operation. Monetary measures are now taken as part of wider economic measures which are designed to

7 For details of the banking re-arrangement see Robert Craig West, <u>Banking Reform and the Federal Reserve 1863-1923</u>, 1977.

promote a variety of macro-economic aims. The more important aims are: facilitating a faster rate of growth in the economy consistent with price stability, promoting a high level of employment and greater equity in income distribution, and maintaining a relatively stable external value of the national currency.

This new and now general concept of central banking is a product of financial evolution in the advanced countries and is largely un-African, having emerged in mature, industrially advanced, countries with diversified economic structures and sophisticated money and capital markets. In Africa until the 1890s there were no banking systems nor were there any money or capital markets. Central banks established in Africa from the 1950s operated in a less than fully developed financial system and therefore could not meet the conditions required for the effective use of techniques for maintaining monetary stability. Sophisticated money and capital markets are still to be developed or at the early stages of their development. Developing countries have had to face problems that are special to them. However, with the disappearance of colonial regimes in Africa and the achievement of political and therefore economic independence, African governments seized the opportunity of self-government to establish banking systems on the lines of European central banks. Each country had to adopt its own policies formulated in such a manner as to cope with its special problems to achieve set objectives and needs avoiding sophistry in the application of monetary instruments noticeable in the advanced economies.

HISTORICAL DEVELOPMENT OF MONEY

Before the present degree of sophistication in the techniques of banking was achieved there was a time in the history of man when there was no practice of banking, at least as we know it today. In the subsistence economy, before the monetization of economies, trade was by barter. Before Portuguese and Arab traders arrived in Nigeria and other African countries in the 15th century, trade in the region was carried on by barter. Goods were exchanged for goods. Under such a system a man with carcases of surplus meat can seek out the man with spare calico and they can trade their goods between themselves. To be successful, barter requires a double coincidence of needs for the man with cloth must want meat. In a close-knit society where goods are simple and few, it is possible to trade on this basis. It is a fact of history that before and after the Stone Age people were organised in small social groups called bands. These bands were self-sufficient in goods and other material needs because in the subsistence economy under which they lived hunting and nature provided all the food they required, and as a result the need to exchange articles between various bands or individuals did not arise.

Prehistoric man lived at first chiefly on wild berries, nuts, roots and herbs. As his implements improved and his skill increased, he became hunter, trapper, and fisher. A tribe of hunters, however requires an extensive territory and a constant supply of game. When the wild animals are all killed or seriously reduced in number, privation and hardship result. It was a forward step when man began to tame animals as well as to kill them. The domestication of animals therefore made possible an advance from the hunting and fishing stage to the pastoral stage. The domestication of plants marked almost as remarkable an advance as the domestication of animals. The consequence of all this was that Stone Age man graduated from the life of a wandering hunter or shepherd to the life of a settled farmer. Populous communities grew and man had enough leisure which was essential for the development of the arts of life.

As human society settled and early man started to live together in large numbers, the society became more and more complex. With the complexities grew his diverse needs in variety, value, number and quality. As he settled down in communities, and had more time to himself, man started to develop his specialised skills in production and functions. One man or group or village developed the skill of pottery-making, another the skill of cattle rearing while yet another became adept at tool making. As a result of this development in man's economic and social history, the need for interchange of commodities and products within members of the same nomadic group, for instance, and between contiguous bands and individuals inevitably arose. It is this development of trade involving the exchange of goods that is usually referred to as "barter". It is the earliest trade known to man and even in the complex economies of the world throughout the ages and to this day trade goes on by barter. Today, the two greatest world powers in appropriate circumstances resort to barter. The Soviet Union for example adopts in its international trade the system of exchanging goods for grains from other countries, notably the United States. In Nigeria, exchange of goods for goods is still practised to a limited extent; according to Mr. Gamaliel Onosode, the then Special Adviser to the Nigerian President on Budget Affairs:

> "On trade by barter, on crude oil, Mr. Onosode noted that it was not possible to do that because 'this is against OPEC agreement'. Barter is one of the strategies to increase oil production and export, and therefore to embark on this, the country will first of all decide whether to remain in OPEC or not.
> He explained that the purpose of setting production limit by OPEC is to dry (sic) the quantity of surplus oil in the market which caused the oil glut, and therefore trade by barter on oil will increase the oil glut, and worsen the economic situation."[18]

The second type of barter identified is gift exchange, which was in the form of gifts to a relation or friend which did not involve any trade. The most celebrated gift exchange in Oceania (in the Pacific Islands), the Kula system, was recorded by Malinowski:

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1 Nigerian Daily Times, November 30, 1983, p. 32.

> "In the Trobriand Islands, for example, trade items like volcanic rocks, pots and baskets were exchanged between the various islands, but as a secondary activity to Kula exchanges which take place simultaneously. The Kula objects consist of shell necklaces and armshells. Periodically, some inhabittants of one island would decide to sail the dangerous seas to another island to receive armshells of necklaces from their known Kula partners. After they had kept these items for a while, they would hand them over to inhabitants of another island who would also have made the seatrip to collect them. The system is so organised that the necklaces travel in one direction and the armshells in the other. The rule is such that Kula partners do not carry out trade exchanges between themselves, in order not to jeopardise their friendship. Furthermore, it is most prestigious to be in possession of a Kula object, albeit temporarily. In this way a network or web of friendship and prestige is built up, while at the same time economic activities which are necessary for the survival of the Islands are undertaken."[9]

The silent or dumb trade was the third kind of barter identified in many parts of the world. The great Greek historian Herodotus (490 B.C. - 424 B.C.) gave a detailed account of this trade in West Africa when he wrote:

> " merchant ship cast anchor on a strange shore, the merchants went on land, laid out their presents and retreated to show their friendly intentions.. After some time the natives appeared, set out their exchange presents and disappeared so as not to scare away the other party. Then the merchants returned and examined the goods laid out. If they approved, they took them away and left their own ones behind. If not, they took some of their presentts away and thus made new offer. This game went on until

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9 B. Malinowski, <u>Argonauts of the Western Pacific. The primitive economy of the Trobriand Islanders</u>, Economic Journal, March 1921.

> the offers of both sides were balanced and everyone was satisfied, and thus transaction was concluded."[10]

And Mary Kingsley in 1897 in her Travels in West Africa wrote:

> "I have often seen on market roads a little space cleared by the wayside, and neatly laid with plaintain leaves, whereon were very tidily arranged various little articles for sale - a few kola nuts, leaves of tobacco, cakes of salt, a few heads of maize, or a pile of yams or sweet potatoes. Against each class of articles so many cowrie shells or beans are placed, and, always hanging from a branch above or sedately sitting in the middle of the shop, a little fetish. The number of cowrie shells or beans indicate the price of the individual articles in the various heaps and the little fetish is there to see that anyone who does not place in the stead of the articles their proper price or who meddles with the till shall swell up and burst."[11]

On the silent trade in Ghana E.W.Bovill wrote as follows:

> "The merchants beat great drums to summon the local natives, who were naked and lived in holes in the ground. From these holes, which were doubtless the pits from which they dug the gold, they refused to emerge in the presence of the foreign merchants. The latter, therefore, used to arrange their trade goods in piles on the river bank and retire out of sight. The local natives then came and placed a heap of gold beside each pile and withdrew. If the merchants were satisifed they took the gold and retreated, beating their drums to signify that the market was over."[12]

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10 A.H. Quiggin, A Survey of Primitive Money, 1949, p. 11.

11 Kingsley, Travels in West Africa, 1897, p. 248.

12 Quoted in: Walter Rodney, How Europe Underdeveloped Africa, p. 68.

Along London streets and in Tube Stations, the silent trade goes on undisguised. The news-vendors lay the daily newspapers on road kerbs and in the Tube Stations; readers pick up copies of newspapers of their choice and drop the equivalent in money. The vendor need not be present.

THE PROBLEMS OF BARTER

Trade by barter with items of production usually referred to as commodity money in any community is bedevilled with problems and difficulties. The inherent difficulties in the use of commodity money make their acceptability an up-and-down affair. The value of the commodity, say a goat's skin, may change with changing tastes, values and times. In Nigeria for instance, the amount or quantity of goat's skin available in Kano markets may diminish with time and be insufficient as trade and demands expand. Apart from their bulk and storage problems, the system of physical transfer of goods and exchanges is cumbersome and unreliable, and no party is sure that at the end of the day a successful transfer will emerge. The position changed however in the 1940s when transport systems began to be developed in Africa. Markets, where available at all, were imperfect and besides there were no market places and no specific times for the exchange of goods. Demands for commodities were as impromptu as the supplies were erratic. The method of the silent or dumb trade described above is particularly tedious.

From the account of a typical trade by barter given by Herodotus in the preceding paragraphs the problem of having an acceptable measure of equivalents is a significant handicap which can impede trade. There were also the problems of durability of commodities, and of divisibility of some materials or products. As we have seen above the problems associated with barter during the era of pre-monetary societies were enormous, but that system of trade served the societies' needs which were not demanding. Barter would be inappropriate and unsuitable in today's world, although it must be admitted that this early form of trade was the most suitable during the period given the prevailing character of their subsistence economy.

THE SEARCH FOR A STANDARD OF VALUE: THE EMERGENCE OF MONEY

We saw in the preceding paragraphs that trade by barter has four main problems. A successful bargaining in the exchange of goods and services which one produces for the goods and services which others produce and which one needs depends on a double coincidence of wants. Much patience, luck and scouting for someone who wants one's goods is required for this synchromisation of wants to take place. There is also the difficulty of the two parties not being able to settle how much of one commodity can be exchanged for another commodity or service. Closely tied to this difficulty of not being able to find a common unit of measure is the problem of inability to determine a unit of account for the goods and services for purposes of accounting. And finally, because there is no satisfactory unit (like Naira, Dollars) in terms of which to express contracts requiring future payments, such as rents, trade by barter is an unsatisfactory medium of trade.

It was in an effort by some ingenious traders or merchants to overcome these drawbacks that money was invented to fill the gaps barter left in its trail.

For money to be useful as a medium of exchange and to serve as a standard of value, it has to remove, or minimise the effect of, the drawbacks and satisfy the condition in which it can be used as a standard for deferred payment or as a store of value or indeed used to serve as a unit of account and so on. In Africa, during the Bronze Age, some 5,000 years ago, tools, ornaments, metal bars and other products came to be accepted as yard-sticks for measuring values. In the result, a commodity could be measured in so many parts and the values of goods and products reduced to a common measure. It is this COMMON MEASURE that man calls MONEY.

Money thus performs the function of being the acceptable MEDIUM for a community to express the value of goods and services it produces, and it enables buying to be separated from selling. For money to discharge the functions of a medium of exchange, a unit of account, a standard for deferred payments, or a store of value, it has to perform one or more of these traditional roles as a common measure of goods and services. No medium of exchange can serve as money if it is not accepted by a given community. Japan, for instance, accepts the Yen as money, and, in Nigeria, the Naira, and Zambia has the Kwacha while the position is different in Ghana where the Cedi has lost its function as a store of value or medium of exchange because of the gross depreciation in value. In such a period of "funny money" the citizenry is obliged to resort to barter and trade goods and services.

Today, money is such a familiar object that the fact that we live in a monetary economy is taken for granted; for that reason we hardly ever ask what money really is, how it originated, and what its functions and characteristics are.

From time immemorial when the use of money was introduced as a measure of value, money has meant different things and has appeared in different shapes, sizes, values and uses. To some economists[13] money is any object used as a medium of exchange which is acceptable to the community at large. This definition is too simplistic. There are many transactions which can take place on a credit basis or on hire-purchase terms. Although such credit facilities may represent a medium of exchange and be expressed in a currency yet they are not a means of payment even if they were acceptable to the society. An acceptable definition of money should therefore reflect the various characteristics of money which

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13 F.A. Adekanye, The Elements of Banking, 1983, p. 5, defines money as a medium of exchange that is generally not universally, but commonly accepted by people in exchange of goods and services.

are - acceptability, scarcity, durability, homogeneity, divisibility and portability.

The first characteristic of money, as we said earlier is that it must be generally acceptable to the community. It has been said that this is the major characteristic of money and that all others are merely superfluous. Acceptability can only result from usage or custom of the people or by legislation. The Tanzania currency was given legal status by an Act of Parliament which says:

> "The unit of currency in Tanzania shall be the shilling, each shilling being divided into one hundred cents.
> The par or other value of the shilling shall be determined by the President on the advice of the Bank and in accordance with any international agreement in that behalf to which Tanzania is a party.
> Notice of such determination shall be published forthwith in the Gazette.
> The Bank shall have the sole right to issue bank notes and coins in and for Tanzania and, subject to section 33, only bank notes and coins issued by the Bank shall be legal tender in Tanzania."[14]

Money must be scarce. This implies that money should not be created to be so plentiful in supply as to satisfy the needs of everybody who wants it; and if there is too much money available in an economy and it chases too few goods its value will fall, it need not be as free as air nor does it have to be as scarce as gold which to get you must dig deep. Money supply must maintain an equilibrium between scarcity and plenty to achieve relative stability in its value.

14 Bank of Tanzania Act, 1966, S.24.

Another characteristic of money is that it must be durable and stable if it is to serve the store-of-value function. Money must generate confidence in its use if a society is to accept it as a medium of exchange. If people believe that money will be accepted in payment of the goods and services which others provide and that its value will not sharply fluctuate but be reasonably stable they will be prepared to accept money as a medium of exchange. That type of faith Ghanaians do not have today in their Cedi.

On the other hand, if there is the likelihood of a sharp fall in the value of money between the time of earning and the time of spending it, people's confidence will be eroded and secondly they would not want to store their value in money but they would rather spend it as fast as they got it and Professor G.O. Nwankwo is of the view that:

> "If the process continues for a long time and is not checked, confidence in the acceptability of the money will break down and the monetary unit will have to be replaced. This has happened many times in history. It happened to the 'greenbacks' during the American Civil War; Germany and Austria in 1923; and it happened to the 'Biafran' currency during the Nigerian Civil War. However, although other measures of quantity, such as yards, inches, gallons, pounds and tons, do not change in value and are therefore absolutely stable, money rarely retains its value over long periods. People have therefore reconciled themselves to relative stability, since they cannot achieve absolute stability in the value of money."[15]

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15 G.O. Nwankwo, Basic Economics, 1977, p. 189.

Yet another characteristic of money is that it must also be homogeneous. This also implies that each unit of money must be as like as possible to every other unit. If there is no homogeneity, money cannot serve as a unit of account and it would be impossible for a standard price to emerge.

Divisibility is yet another desirable characteristic of money. Unless money is easily divisible, it will be very difficult to undertake small transactions.

Finally, money must be portable so that when buyers and sellers come together, they would not find it difficult to carry money to the exchange location.

In trying to find an answer to the definition of money, we have to take into account the characteristics of money we have just considered and we should bear in mind that the "test of what is money is independent of matters of form and substance; it turns on nothing more than whether or not the commodity in question customarily performs what are regarded as the essential functions of money. Nor is it necessary, in order to qualify as money, that it performs all of these functions; a single one of them - as in the case of demand deposits and the medium of exchange function of gold certificates and the reserve function - may be enough .."[16] Thus money is a unit of account or the measure of exchange value which is acceptable to a given community at a given time because it is durable, homogeneous, divisible, portable

16 C.R.Whittlesy, Principles and Practices of Money and Banking, 1968, p. 17.

and scarce and we cannot agree more with R.G. Hawtrey, when he said:

> "Money is one of those concepts which, like a teaspoon or an umbrella, but unlike an earthquake or a buttercup, are definable primarily by the use or purpose which they serve."[17]

AFRICA AND MONEY

It is not known what influenced the choice of early man of some rather than other objects as money. It is probable that barter objects acquired their importance through their use in social or ritual ceremonies. Some objects have been known to be used as bridal presents while others were used in appealing to the gods and deities for their benevolence. In Ibusa in the Bendel State of Nigeria such objects as metals, cowries and amulets made from copper or iron are to be found placed in abundance before the carved images of deities. Some of the amulets and bangles are worn om the arms to prevent escape of blood from any part of the body through the use of knives or cutlas on the body by an attacker, and against evil spirits and witches. If these amulets were worn during tribal wars and a gun was aimed at the wearer, the gun would not fire. The metals were credited with divine powers and because of that they were accepted as a medium of payment. The "Economist" of London has this to say on the role of pre-coimage money:

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17 R.G.Hawtrey, Currency and Credit, 1928, p. 1.

> "The evidence suggests that barter - in its usual sense of exchange of commodities - was not the main factor in the evolution of money. The objects commonly exchanged in barter do not develop naturally into money, and the more important objects used as money seldom appear in ordinary everyday barter. Moreover, the inconveniences of barter do not disturb simple societies. Money appears to enter the economic system, as it were, from the outside, beginning its career as an adjunct to religion, to marriage rites, to legal and social procedures, serving originally as bride-price, as ransom, as ceremonial gift, or as pure means of ostentation, and only later, in more developed societies and particularly under the impact of external trade needs, filling its modern role of universal means of exchange. Money meant power and status long before it meant comfort and good living."[18]

It is no wonder therefore that the early man in Africa attached great importance to these objects, revering them and finally adopting them as money. From the present knowledge of the geography of the different regions of Africa it can now be probably explained that the choice of currencies or money objects depended to a large extent on the ecology of the area in Africa. Thus in the grasslands of North, East, Central and Southern Africa animal husbandry prevailed and the currencies adopted were cattle and grain, and implements used in the production of grains; while in West and Central Africa agriculture was the main preoccupation of the inhabitants and the choices of currencies fell on farming and hunting

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18 August 27, 1949 pp. 450-451 quoted in Principles and Practices of Money and Banking by Charles R. Whittlesey, 1968, p. 6.

implements and the raw materials for manufacturing them.

There were two groups of pre-coinage currencies used in Africa and in Nigeria in particular. The first group consists of local materials which were used for internal trade. Examples were such items as iron, farm products, textiles, feathers, seeds of plants. The other group consists of imported items used for external trade when Europeans established trade contacts with West Africa in the 15th century. These items include Manillas, beads, gin, tobacco.

Generally, however, the following objects were used as indigenous pre-coinage currencies in Africa.[19]

Cattle

Among the pastoral and semi-pastoral peoples of Africa wealth was measured by the number of cattle owned. The lobola (marriage) system of the Zulus is widely known and expressed in terms of a proverb which says that "where the cattle are the woman is not" to mean that a woman of high status and beauty would realise for her family so many heads of cattle on marriage.

Both words "capital" and "chattels" derive from the same root word, as does "cattle", while "pecuniary" means invested in pecus, the Latin for cows.

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19 For a fuller account see (i) A.H. Quiggin, A Survey of Primitive Money (1949); (ii) Mary Kingsley Travels in West Africa 1897; (iii) M. Posnansky, The Origins of West African Trade, Accra, 1971.
We are deeply indebted to the work Money by Ekpo, 1979, for details concerning the objects used as currency in Africa.

Iron

The so-called Ogoja pennies known as the "iyayaw" or "efufy", the Y-shaped iron forms the "yakaro" of the Tiv, the "Tyers"of the Birom, the iron bars of the Efiks and Kalabari and the hoes from Gombe (all in Nigeria) were the most famous.

Copper

History had it that from the writings of El Bakri in the 11th century copper was being exported to the Guinea coast where there was great demand for it. Another Moroccan Berber, Ibn Batuta, a Muslim writer,[20] described the copper mines of Tekedda when he visited West Africa in 1353. As early as the 3rd century A.D., copper was being mined in Kansanshi (Zambia). In Nigeria, the earliest known civilisation which made extensive use of copper alloys was the Igbo Ukwu culture, which has been dated to the 9th century A.D.

Gold

Gold was, and still is, universally accepted as a symbol of wealth and power all over the world because of its inherent qualities. In West Africa, particularly among the Akans and the inhabitants of the present-day Ghana, gold was adopted as the currency of the areas in the form of dust and grain, the dust permitting easy

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20 Travels in Asia and Africa (1325-54), 1929.

division. Posnansky calculated that the output of gold in the Akan area in pre-colonial times was around nine tons per annum with 44% of this coming from Boure in Guinea and the hinterland of present-day Ghana and Ivory Coast. Gold was one of the last commodities to serve as currency when it was formally abolished on the introduction of coins into West Africa by the West African Currency Board in 1912.

Salt

It is not known when man discovered and began to use salt in his diet. However the earliest recorded incidence of the importance of salt in West Africa is contained in Ibn Batuta's 14th century account, which describes the salt mines of Tagharza which produced the salt which was traded over the whole of the Sudan. The salt slabs quarried in the Ethiopian (Abyssinian) mountains were legal tender until 1933. In East Africa, the most important salt centre was Ujiji on Lake Tanganyika where, in 1907, it was observed that between two to three thousand people usually assembled on the banks of River Ruguvu for the sole purpose of converting the saline water into salt which was then traded about in cylindrical leaf packages. Before the arrival of the Royal Niger Company in Nigeria at the close of the 19th century the salt cones from Bornu State of Nigeria were famous. The Royal Niger Company, now the United Africa Company (Nigeria) Limited, dominated trade in the whole of West Africa. It supplied, among other commodities, salt to the region in exchange for palm oil and other local products.

In Roman times soldiers were given salt for their wages instead of their traditional "salt money", or salarium ("salary").

The Cowrie

Cowrie shells were the most universal of all pre-coinage currencies. They were found to be used in China, America, Europe, India, the Pacific Islands and Africa, and the very name Cowrie is believed to have been derived from the Hindu Kauri.

Ibn Batuta[21] again records that he observed cowries being sold in the northern part of the area now known as Nigeria. Hiskett[22] was of the view that the Malian cowries seen in the 11th century must have found their way to Benin in Nigeria by 1450. Also Polanyi[23] recorded that cowries were being traded down the Persian Gulf to Niger by Venetian merchants. The massive importation of cowries by profiteering German traders residing in East Africa in 1850 destroyed the market-value of the cowries causing inflation. These shells bought for a pittance and shipped to West Africa resulted in profits of up to 55%. Other traders soon followed. In England, the firm of Messrs Stuart and Douglas began dealing in cowries

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21 Batuta, Travels in Asia and Africa, 1929, p. 37.

22 Hiskett, Materials Relating to the Cowrie Currency of the Western Sudan, Bulletin of the School of Oriental and African Studies, xxix, pp. 339-366, 1966.

23 Ekpo Eyo, Money, 1977, pp. 43—44.

and soon the West African market was inundated with the ring cowries. At one point 27,000 tons of cowries were shipped to West Africa alone. Badagry, the notorious slave depot, was also a cowrie market. The result was inevitable: cowries became useless as a medium of exchange and, by the time coin currency was introduced, 2,000 of them were worth only 6d. whereas formerly, two only of the Monetaria were enough to procure a wife. In Togoland in 1896, 4,000 shells were worth only one German mark. It was therefore not surprising when their use as currency was banned in Uganda in 1901 and in Nigeria in 1923.

In spite of the misfortune which befell the cowrie currency, legends were woven around them. Among the Ewe, it was believed that they descended from heaven. The Yoruba historian, Samuel Johnson,[24] records that when Oduduwa, the claimed ancestor of the Yoruba, died, the Oba (King) of Benin inherited all his cowries.

Kirk-Greene[25] also reported that King Dosumu in 1861 ceded the territory of Lagos to the British Government for an annuity of 1,200 bars of cowries, an equivalent of about N2,000.00.

The importance of cowries lay not only in their use as a medium of exchange, but in that these tiny shells were believed to be endowed with magical attributes.

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24 S. Johnson, History of the Yoruba, Lagos, 1921.

25 A.H.M. Kirk-Greene, "The major currencies in Nigerian history", Journal of the Historical Society of Nigeria, Vol. II, No. 1, pp. 132-150.

Even today, they are believed to promote fertility and longevity, and it is not an unusual sight to see women wearing girdles of cowries at their marriage as an insurance against sterility. This combining of beauty, indestructability and the difficulty of counterfeiting, as well as their alleged magical powers, makes cowries the most widespread, the most accepted and the longest-used pre-coinage currency throughout the world.

OTHER PRE-COINAGE CURRENCIES

It is worthy of note that in Southern Nigeria the use of cowries was abolished in 1903 and that in 1902, the High Commission for Southern Nigeria prohibited the importatation of manillas[26] except under licence, and by 1911 they ceased to be legal tender. In 1919[27] foreign traders were also prohibited from using manillas in local trade in Nigeria. In 1948, the Eastern Regional House of Assembly passed a law to abolish the use of manilla currency and a big campaign was launched to redeem all existing manillas. The exercise cost the Government about £436,000 to redeem about 32½ million

26 The latin origin of the word "manilla", a dimunitive of manus, a hand, has probably come down through the Portuguese. The origin of the manilla has not been clearly established but the most vivid description of this quaint currency is found in a letter written by Consul Hutchinson to the Foreign Office in London in 1858: "They are pieces of copper of a horseshoe form, about four inches in the measurement of the circumference of their circle and about half an inch in that of their density, being terminated by two lozenge shaped ends facing one another." See Kirk-Greene, op. cit., p. 145.

27 Manilla Currency Ordinance of 1919.

manillas.

THE COMING OF COINS AND NOTES - HISTORICAL DEVELOPMENT

The Coins

In Babylon there are two famous rivers, the Tigris and Euphrates, whose valley the Greeks called Mesopotamia, the land between the rivers. The fertile valley was the granary of the early civilsation[28] and it played a crucial role in the development of urban cultures of the ancient world. It became the centre of economic activities in the known world and the first known empire. The development of the arts and crafts brought a new industrial clan into existence. There was now need of merchants and shop-keepers from far and near to collect manufactured products from producers from India, and all Europe. The need for a medium of exchange arose and so metallic money first circulated in the form of rings and bars. The Egyptians had small pieces of gold - 'cow gold' - each of which was simply the value of a full-grown cow. It was necessary to weigh the metal whenever a purchase took place. Then the practice arose of stamping each piece of money with its true value and weight. The next step was coinage proper, where the

28 We can understand, therefore, why from pre-historic times, men have been attracted to this region, and why it is here that we must look for one of the earliest seats of civilization. It is interesting to note that the Old Testament, Genesis, 11:8-15 places Paradise, the Garden of God and original home of man, in Southern Babylonia and the ancient name for the district was Eden.

government guarantees, not only the weight, but also the genuineness of the metal.

The honour of the invention of coinage is generally given to the Lydians, whose country was well supplied with the precious metals. As early as the 6th century B.C. the Lydian monarchs began to strike coins of electrum, a natural alloy of gold and silver. The famous King Croesus, whose name is still a synonym for riches, was the first to issue the first official coins of pure gold and silver in about 550 B.C.

The Greek neighbours of Lydia quickly adopted the art of coinage and so introduced it into Europe.[29] The next coins to appear were the drachma issued in Greece in Athens and the Roman dinarius. Thereafter the issue of coins spread to other world powers. In the former British African territories, the coins of the colonial masters were used supplemented by the Austrian Maria Theresa dollar struck in Austria in 1780 at the death of Empress Maria Theresa.

The immediate factor that quickened the emergence of coins was the invention of the art of sound writing (by alphabets) which was probably invented by the Babylonians (Phoenicians) in the 10th century B.C. and spread by their sailors and traders first to the Greeks, then the Romans from whom other European peoples borrowed them.[30]

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29 H. Webster, Early European History Part I Ancient Times, 1926, pp. 46-47.

30 The Code of Hammurabi (The Babylonian King) enacted some two thousand years before Christ, readily comes to mind as the first-ever recorded legislation in man's legal history.

Notes

The literate Babylonians kept records of their economic transactions on clay tablets called cuneiform. They would record the commodities bought or sold and their prices were denominated in silver and copper. Because these metal currencies or coins were heavy to carry around and from places as far as India, the merchants began to deposit the metals in the temples with the priests who issued receipts.[31] On presentation of these receipts to another recognised temple[32] the receipts were honoured and in return the merchants were provided with the currency, thereby obviating the difficulty of carrying heavy loads of metal.

KINDS OF POST-COINAGE MONEY USED IN AFRICA

We saw above that money was invented by the Phoenician merchants and sailors and it was left to the Lydian King Croesus to produce the first official coin in the 6th century before Christ.. With the widespread minting of coins that followed the invention, commodity money, for example, copper and silver, ceased to be

31 R. Nitsche, Money, 1970, Collins, London, p. 25.

32 John 2:13-6 confirms this historical fact: Now the Passover of the Jews was near,, and Jesus went up to Jerusalem. And he found in the temple those selling cattle and sheep and doves and the money brokers in their seats. So, after making a whip of ropes, he drove all those with the sheep and cattle out of the temple, and he poured out the coins of the money-changers and overturned their tables. And he said to those selling the doves: 'Take these things away from here! Stop making the house of my Father a house of merchandise!'

important. However, in spite of this fact manillas were extensively used in Nigeria until around 1948 (see above, p. 39). In addition to its value as money, commodity money has a commodity value and examples of such commodity money are bangles and cowrie shells, which were used extensively in Nigeria. These items had value in themselves as ornaments which was different from their value as money.

Apart from commodity money and minted coin mentioned above, there is token money. This type of money has little or no commodity content and its use as money is based on its acceptability by society. The pound and naira notes and coins are examples. These notes and coins are also referred to as currency.

Bank deposits, which are also referred to as "customary money", are money because they are acceptable as a means of final payment since by the deposit money has been created which can be drawn upon subsequently.

Quasi - or near money is yet another type of money which arises from the deposits made with non-bank financial intermediaries. Government securities, treasury bills and certificates, development bonds and savings bonds are examples.

Money can be created through legislation by conferring legal tender status. The attribute of acceptability is not a pre-requisite, but it follows naturally after acquiring the status as money by some enactment.[33]

33 For a full discussion on types of money please see Principles and practices of money and banking, Charles R. Whittlesey.

THE EMERGENCE OF BANKING

In the preceding paragraphs we found that the use of precious metals, silver, gold, copper and so on as money greatly aided the exchange of commodities between different countries of the known world. The cities around the Tigris and Euphrates enjoyed a central position between eastern and western Asia and all the known routes terminated in Babylonia. We found also that the use of coins was introduced by the Babylonians and King Croesus of Lydia minted the first coin.

The art of banking also developed in this cradle of civilization for four principal reasons. First was the emergence of money out of the complexity of external trade in Babylonia as a commercial nerve centre of the world and of the herculean task merchants had of carrying about heavy metals, silver and copper, for the purpose of making payments for goods. Second was the invention of the art of writing by the Babylonians which made it possible to record events and business transactions. Thirdly, there existed in Babylonia priests who served in the temples and were very much relied upon and upon whom the merchants entrusted their currencies. Probably the art of banking would not have emerged at the time it did if the priests did not offer their services and issued receipts which later on became known as letters of credit.

When these receipts issued by the priests were tendered to other recognised temples engaged in similar trade they were honoured and the bearer was provided with the currency required. This transaction was the precursor of the modern banking institution and paper money. Hutton Webster confirms this position when he said:

> "The use of money as a medium of exchange led naturally to a system of banking. In Babylonia, for instance, the bankers formed an important and influential class. One of the great banking houses, established at Babylon before the age of Sennacherib,[34] carried on operations for several centuries. Hundreds of legal documents belonging to this firm have been discovered in the huge earthenware jars which served as safes. The Babylonian temples also received money on deposit and loaned it out again, as do our modern banks. Knowledge of the principles of banking passed from Babylonia to Greece and thence the ancient Italy and Rome."[35]

Another of the important factors that encouraged the establishment of banking was the use of gold as a store of value. Gold has been a sort of god to mankind. Throughout the ages man has shown profound admiration and affection for gold and anything highly valued is equated with gold. The Portuguese Marco Polo, the Spaniard Christopher Columbus and other pirates plundered vessels and searched, in their adventures, for gold in foreign lands. The Englishman, Sir Francis Drake, was famous because of his outstanding success in piracy of gold-laden Spanish ships returning from South America. You will recall that King Croesus of Lydia in the 6th century minted

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34 He was an Assyrian King 705-682 B.C. He was mentioned in the Old Testament, 2 Kings 19:35.

35 Early European History, op. cit., p. 47. Also see Money by Nitsche, p. 25 for an account of two such banking institutions existing at the time, one at Igibi in Sippar and another at Muraschu in Nippur.

and issued gold coin; so did King Darius of Persia (558-486 B.C. and Alexander the Great. The importance and value attached to gold all over the world was incredible.

Like in the Babylonian days gold was used as currency to make payments to a merchant who deposited gold bars with a goldsmith in one locality and obtained a letter of credit which another goldsmith in another city would honour. In Babylonia the banker was the temple priest but during the medieval age the goldsmith played the role of a bank. Speaking about this role and the evolution of banking method and the exchange and deposit bankers, Ekpo Eyo stated as follows:

> "By adopting this system the Florentine merchants could import wool from England. All that was needed for money to be deposited, in this case, with the Roman Catholic Church in Florence, and because England was also at that time Catholic,[36] and the English had to send offerings and legacies to Rome, they could do so by supplying the equivalent in wool to the merchants of Florence who had made the deposit. This method was so successful that it developed into an international clearing business, debts being settled against credits, leaving only balances to be settled by physical transfer of gold or silver.
>
> During this period of multifarious coins some agency needed to evolve if international trade was to be facilitated. This agency was the money changers who, with their scales, could convert one currency into another. The money changer was usually a goldsmith. With the increase in international trade, he became an exchange banker and, later, a deposit banker as well. So, along with the religious institutions acting as deposit bankers,

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36 The 500 Anniversary Celebration of the Rebellion of Martin Luther against the Catholic Faith was celebrated in June 1983.

> the goldsmith deposit banker also issued handwritten notes (letters of credit) to depositors. The significance of such notes was that the goldsmith would pay out the amount deposited on the authority of the depositor. The letter of credit also entitled the holder to receive the amount deposited from another banker in a different city upon surrendering his letter of credit. These letters of credit were of course backed by gold or silver securely put away in a vault. Furthermore, the depositor could transfer his letter of credit to another person by issuing that person with a note known as 'an order to pay' and bearing the depositor's signature. The 'order to pay' would be honoured by another banker goldsmith and was the beginning of our modern cheque system."[37]

While these events were taking place in Florence around the 15th century A.D., English goldsmiths were also on the approaches to the art of banking for according to Macleod:

> "Banking in the modern sense of the word, had no existence in England before the year 1640."[38]

Indeed this may be so, but 200 years earlier, in Venice two Jews had in 1400 obtained the authority of the Senate to found a bank in the strict sense of the word. According to Andreades, it was reported that as a result of the remarkable success of this bank, many Venetian nobles established rival banks.[39] It was thought that the

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37 Nigeria and the Evolution of Money, op. cit., pp. 86-87.

38 A. Andreades, op. cit., p. 14.

39 The word "bank" probably comes from the Gothic "bank" which means "hill" or "mountain"; or in Italian "Banco" which means formation of a common capital by contribution from more than one person; or "Banca" in Italian means a bench from which money changers did business in the street; hence the word "bank".

success of these institutions inspired Jews to return to England after three centuries of expulsion and after the death of Charles I in 1660 to establish banking business.

There was an incident generally thought to have precipitated the appearance or establishment of banking in England. Charles I ascended the throne of England believing in the theory of divine right of Kings and hence of absolute monarchy. To sustain the absolute monarchy he needed a standing army and so he required money to maintain the army but the Commons were not prepared to release such money. Negotiations for the Commons release of money were dead-locked and Charles I reigned for 11 years under such a system of absolute monarchy.

Faced with such odds, Charles contrived all means to expropriate money from every avenue possible including illegal levying of tax for emergencies called Ship Money. He next requested loans from the King of Spain, the Pope and the City of London, but no loan was forthcoming. In desperation he seized £130,000 in bullion which had been deposited in the Tower by the City merchants. It is generally thought that this assault on the City merchants led to the rise of banking and in a way delayed the foundation of a national bank.

The experience was too much for the merchants to swallow and so they stopped entrusting their money to the Tower. Consequently, they resorted to a new practice of lending money to the goldsmiths at the rate of 4d per day. According to Andreades:

> "The goldsmiths inspired universal confidence. And consequently it soon occurred to the merchants that since their cashiers had treated them no better than the King, it would be both safer and more profitable to deposit their money strictly with these goldsmiths. The country gentlemen very soon followed the example of the merchants, and, seeing their homes exposed to all the dangers of civil war, were only too glad to entrust their rents to the goldsmiths even without receiving interest. Thus rapidly and with but little trouble the goldsmiths found themselves in possession of considerable sums. A new field of business opened to them, and they anticipated the functions of a modern bank."[40]

THE TRANSACTIONS OF THE GOLDSMITHS

From this time on the goldsmiths had a field day and they carried on different types of what one may now call banking business. They carried on the business of exchanging coins which gave them the opportunity of making very large profits.

The profits made from these transactions encouraged the goldsmiths to venture into other but similar areas of business. It will be recalled that during the civil war of the first half of the 17th century the city merchants resorted to keeping their money with cashiers and clerks who secretly lent out the money entrusted to them to the goldsmiths at the rate of 4d. a day. Through this method the goldsmiths built up a sizeable capital which they re-lent at higher interest. With the confidence the

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40 A. Andreades, History of the Bank of England, 1909, p. 21.

goldsmiths had already built up the habit grew of people depositing their spare money with the goldsmiths at good interest. Depositors were allowed to withdraw their money without notice. Earlier in the year 2,000 B.C., the Temples of Babylon lent gold and silver - entrusted to them by the citizens for safekeeping - at an interest of 20% per month, while the depositors were charged a commission as safekeeping fee. These quasi-banking activities of the Temple had become so common that they were included in the famous Code of Hammurabi, promulgated in about 2,000 B.C.

1,500 years later, the Greek Temples accepted the wealth of the communities as deposit, as the Babylonians had done. In Greece, too, the Temples lent against interest and received likewise safekeeping fees. So widespread were these activities, that there existed a special room in the temples to store the objects deposited.

Though the custody in temples was considered to confer security from robbers and invaders, conquerors and tyrants failed to respect them. Xerxes thus despoiled the great Temple at Delphi, and Dionysius pillaged the Temples of Syracuse in 430 B.C.

Through these safekeeping transactions therefore goldsmiths introduced banking into England and therefore the Commonwealth African Countries and Andreades confirms it all when he wrote:

"This policy succeeded beyond all

expectations, and in the course of a few years the citizens had generally adopted the habit of depositing their savings with the goldsmiths.

Receipts were given for these deposits, which, under the title of goldsmiths' notes, soon circulated better than the actual coins whose scarcity they often supplied. Nor was this usage a temporary one, for even in 1696, during the crisis due to the restoration of the coinage, Davenant tells us that in the absence of coins, 'All great dealings were transacted by tallies, banks bills and goldsmiths' notes'.

Goldsmiths notes must thus be regarded as the earliest form of bank-notes issued in England.

It is not surprising, in view of these profitable transactions that the goldsmiths grew rich with prodigious speed. Five or six of them, Clarendon remarks, gained such a reputation on the London markets, that people would have trusted them with all the money in the Kingdom. 'And they then first came to be called Bankers'."[41]

41 A. Andreades, op. cit., pp. 23-24.

CHAPTER 2

CENTRAL BANKING IN ANGLOPHONE AFRICA: AN HISTORICAL DEVELOPMENT

THE EMERGENCE OF CENTRAL BANKING

In this Chapter we are concerned to show when and how banking systems were introduced into anglophone Africa and the mechanisms by which central banks were created.

We saw in Chapter 1 that the success and prosperity of the goldsmiths in England in the 17th century were so outstanding that the goldsmiths soon became the envy of many people and through their transactions the art of banking emerged in its rudimentary form. It was not surprising therefore that the goldsmiths were vehemently criticised by the Lombards and the public at large for one alleged offence or other. They were accused of charging high interest rates for loans granted, of granting advances and of undermining genuine borrowers in preference to dubious borrowers. They were finally accused of ignoring the safety of the investment they made and of paying more attention to anticipated profits. Andreades, quoted Dr. Lewis' accusation against the Bank of Venice, said in his History of the Bank of England:

> "It [interest] had its first rise from the dishonesty of the Bankers. The Bankers

> at Venice did just as our Bankers have done here, they got men's money into their hands at interest, and use it (as was necessary) to their best advantage, that they might make a better profit of their money than the interest they paid. They lent it out to insolvent persons, or laid out in desperate cases, as our bankers did. This behaviour obliged the Venetian Government to interfere in the matter.
>
> These accusations apparently contained elements of truth, and all this serves to explain why although the goldsmiths introduced banking into England, they did not succeed in adequately fulfilling the functions of a genuine bank and had later on to give place to the Bank of England; this institution, supported as it was by the State, was able to avoid the mistakes of its predecessors."[1]

The evolution of central banking in Europe came gradually. The classical concept of central banking, as described in Chapter 1, is now taken to consist in the right of the issue of notes and acting as the government banker and agent.

The national banks, as they were called in Europe in the 19th century, had the responsibility of regulating the note issue and of preventing and controlling inflation.[2]

As time went by and towards the close of the 19th century, national banks assumed more and more responsibilities. They accepted deposits from governments and private banks and became the custodians of cash reserves and the lender of last resort. Subsequently, these national banks assumed the role of regulating the instruments

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1 A. Andreades, History of the Bank of England, p. 25.

2 See M.H. de Kock, Central Banking, 1973

of credit policy through the use of the bank rate. The Bank of England in particular performed all these functions at various stages since 1694 and the famous Bank of England Act of 1844 gave it more powers thus strengthened its controlling position in the economy. The Act, for instance, gave power to the Bank of England to maintain a minimum gold reserve against its note issue and a power and a duty to redeem its notes on demand in gold coin. Until the Act was promulgated, the Bank of England did not possess the monopoly of issuing bank notes, because from 1697 on there had existed many banks including those in Scotland, issuing their own notes.

In some other countries during the same period, the 19th century, the governments named particular banks to assume the role of national banks and they issued notes and performed other central bank functions. In countries like France the government used state funds to found the Bank of France in 1800. It will be recalled that the Bank of England was established by an Act of Parliament and a Royal Charter on July 27, 1694, under the name of "The Governor and Company of the Bank of England", its immediate purpose being to raise money for the government from the rich merchants of London (Lombards). William and Mary, who were now on the throne, needed this money badly for the prosecution of a war against France in order to secure the Protestant succession to the throne. £1,200,000 was said to have been subscribed in six days and the proceeds lent to the Government.[3] The shares

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3 In connection with this historical survey of the contd...

continued to be in private hands until 1946 when the Bank was nationalised and the shares taken over by the Treasury.

Since 1694 the Bank of England has been playing the role of a national bank and it is probably the first bank in the world to assume this position, although it is claimed that the Riksbank of Sweden, reputed to be the oldest central bank sprang up from a privately-owned bank founded in 1656, and was recognised as a state bank in 1668. It enjoyed a monopoly of note issue and like the Bank of England evolved into a cemtral bank. Between 1800 and 1900 many such national banks were established among which were: the Bank of Netherlands in 1814, the National Bank of Austria in 1817, the Bank of Norway in 1817, the National Bank of Denmark in 1818, and the National Bank of Belgium in 1830, the Bank of Spain in 1856, the Bank of Russia in 1860, the Reichsbank of Germany in 1875, the Bank of Japan in 1882. Thus by the turn of the twentieth century almost every country in Europe had established a national bank with sole rights of note issue. Gradually they took on added responsibilities as bankers to government, agents, lender of last resort and other essential functions now associated with central banks.

In the United States, similar developments took place almost contemporaneously. In 1914 twelve Federal

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contd...

evolution of central banking the author wishes to acknowledge his indebtedness, in particular to the following works: M.H. de Kock, <u>Central Banking</u>, A. Andreades, <u>History of the Bank of England</u>.

Reserve Banks had been established in different strategic locations, all co-ordinated at the centre in Washington D.C. by the Federal Reserve Board. As these central banking developments were taking place in Europe and America most parts of the world were still in the subsistence economy.

Up to the beginning of the 20th century no third-world or developing country as we know them today had a national bank, nor even some of the old world territories like India and China.

However, the International Finance Conferences, held under the auspices of the League of Nations in 1920 and 1922 in Brussels and Genoa respectively, revolutionised central banking; and as a sequel to those conferences many more central banks[4] were established especially in the countries now known as the developing world and national banks for the first time came to be known as central banks.

CENTRAL BANKING IN THE COLONIAL ERA

Virtually all countries of Africa have been subjugated under one form or another of colonial administration since the infamous conference that sat in Berlin from 15th November, 1844 to 26th November 1885, to consider the partitioning of Africa, by the Western European powers.

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4 See in this connection Resolution 111, proposed by the Commission on Currency and Exchange and adopted by the Brussels Conference 1920, "Banks, and especially banks of Issue, should be freed from political pressure and should be conducted solely on the lines of prudent finance" in International Financial Conference, 1920 (Brussels, 1920), p. 18. A list of such banks is given in Chapter 4 of this work.

Ethiopia, whose independence dates to antiquity[5] and which for a short spell in the mid-1930s was under the tutelage of Italy, and also Liberia which more than a century ago became the new home of many thousands of descendants of Negro slaves in America, gained her independence in 1847 and ever since has governed herself, all other African countries have been under some form of colonialism. The following table shows the independent countries of Africa, dates when they attained independence and the last colonial power:

Table 1 Independent States in Africa

Country	Date of Independence	Last colonial power
Afars and Issas	-	France
Algeria	3 July 1962	France
Angola	11 Nov. 1975	Portugal
Botswana	30 Sept. 1966	United Kingdom
Burundi	1 July 1962	Belgium
Cameroon	1 Jan. 1960	France UK
Cape Verde Islands	-	Portugal
Central African Republic	13 Aug. 1960	France
Chad	11 Aug. 1960	France
Comoro Archipelago	-	France
Congo	15 Aug. 1960	France

5 The Kingdom of Ethiopia has been in existence since the years before Christ. II Kings 19:9 of the Holy Bible tells us that "He heard it said respecting Tir-ha-kah the King of Ethiopia: "Here he has come out to fight against you. Therefore he sent messengers again to Hez-e-Kiah saying" Also see Daniel 11:43.

Country	Date of Independence	Last colonial power
Dahomey (Benin)	1 Aug. 1960	France
Egypt	1922	United Kingdom
Equatorial Guinea	12 Oct. 1968	Spain
Ethiopia	Immemorial but 1935	Italy
Gabon	17 Aug. 1960	France
Gambia	18 Feb. 1965	United Kingdom
Ghana	6 March 1957	United Kingdom
Guinea	2 Oct. 1958	France
Guinea Bissau	-	Portugal
Ivory Coast	7 Aug. 1960	France
Kenya	12 Dec. 1963	United Kingdom
Lesotho	4 Oct 1966	United Kingdom
Liberia	24 Dec. 1951	Italy
Madagascar	26 June 1960	France
Malawi	6 July 1964	United Kingdom
Mali	22 Sept. 1960	France
Mauritania	28 Nov. 1960	France
Mauritius	12 March 1968	United Kingdom
Morocco	28 March 1956	France - Spain
Mozambique	1974	Portugal
Niger	3 Aug 1960	France
Nigeria	1 Oct 1960	United Kingdom
Rwanda	1 July 1962	Belgium
St. Helena	-	United Kingdom
Sao-Tome and Principe Islands	-	Portugal

Country	Date of Independence	Last colonial power
Senegal	11 Sept. 1960	France
Sierra Leone	27 April 1961	United Kingdom
Somalia	1 July 1960	Italy-UK-France
South Africa	1910	United Kingdom
Sudan	1 Jan. 1956	UK - Egypt
Swaziland	6 Sept. 1968	United Kingdom
Tanzania	25 April 1964	United Kingdom
The Seychelles	-	United Kingdom
Togo	27 April 1964	France
Tunisia	20 March 1956	France
Uganda	9 Oct 1962	United Kingdom
Upper Volta	5 Aug 1960	France
Zaire	30 June 1960	Belgium
Zambia	24 Oct 1964	United Kingdom
Zimbabwe	12 April 1980	United Kingdom

Although colonialism has been displaced in most of Africa, it has been replaced in many countries in Africa by another equally detestable system, neo-colonialism, which is a form of alliance of local upper and middle classes with foreign capitalist interests which according to one writer is the "latest means of bending the economic fortunes of a dominated country to the interests of a dominant one."[6]

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6 Sergio Botolami, <u>Central Banking in Africa</u>, op. cit., p. 11.

"Colonialism" is a system of rule which assumes the right of one people to impose their will upon another. The imposition implies political, economic and social dependency and systematic subordination of those governed by it to the imported culture in social, economic and political life.[7] The imposition, so far as western colonization in Africa was concerned, was made possible because of the apparatus of Western culture, which was infinitely superior to that of Africa in subjecting others to the will of their colonizers. The system's control over the scientific revolution and its products in the fields of warfare,in the form of cannon and magazine rifles, in the growing knowledge and awareness in Europe of Africa's resources and of its political strength and weakness, enabled the Western European powers to "discover" the world and explore its bounds beyond their own. Thus the powers conquered Africa and divided it up among the leading European nations.

In the face of such overwhelming odds African opposition was quickly overcome and unequal relations between the two forces emerged and were regularised or subdued through coercion and diplomacy.

The view was always held by colonial administrators like Lord Luggard that the colonised people were not capable of governing themselves under the strenuous conditions of the modern world; and that the relationship

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7 But many other forms of colonialism exist, cf. Arab colonialism in North and East Africa, Chinese colonialism in Mongolia.

between the interests of the colonized and those of the colonizer was an essentially reciprocal and creative, rather than an exploitative and contradictory one. The African Negro, in Lugard's view expressed in 1922, lacks power of organisation and is conspicuously deficient in the management and control alike of men or of business.[8] L.S. Amery, in stating why imperialism should continue, said in 1920:

> "I think we have never realised sufficiently the immense economic possibilities of those Colonies, and the immense wealth that could be created by science, energy, and organisation in those parts of the world. The prime object, of course, of that development must be welfare of the inhabitants of those regions. Our first duty is to them; our object is not to exploit them, but to enable them materially, as well as in every other respect, to rise to a high plane of living and civilization. But I am as sure as I stand here that we cannot develop them and help them without an overspill of wealth and prosperity that would be an immense help to this country in the difficult times that lie ahead."[9]

He went on to say:

> "Our goal in the administration of the dependencies is to enable every part of the Empire to obtain in the fullness of time, and when conditions make it possible, full power of controlling its own affairs and developing its own destinies."[10]

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8 Sir F.D. Lugard, The Dual Mandate in British Tropical Africa, 1922, p. 132.

9 Lord Amery, Under-Secretary of State for the Colonies, in 1920, House of Commons Debates, 11 VII 20, V. 133, C.490.

10 Ibid II, VII 20, V. 133, C.496..

On the other hand it must be pointed out that there was also the dark side of colonialism. It was a notorious fact that British attitudes to the development of her overseas territories were conditioned by her needs as a major manufacturing and capital-exporting developed nation. The consequent demand for overseas markets and cheap sources of raw materials had always influenced British Government economic policy. The colonies had almost no indigenous capital, and they had narrow internal markets and technically backward populations. The colonial masters controlled all aspects of the economy, and since they controlled also the political power the colonial governments would not introduce policies that would protect the economies of the colonized peoples against colonial exploitation. All these factors explain why the development of banking was for a long time left in the hands of the colonial masters and British nationals. This basic view of the economic strangulation of the colonized peoples was accurately put at a meeting in 1923 of the Empire Cotton-Growing Corporation:

> "I believe we shall in the future see the whole of our cotton coming from our own Dominions (i.e. Empire). I believe that we shall thus secure cheaper cotton, cheaper raw materials for the use of our British manufacturers. I also believe that in doing that we will be supplying a market for our own people beyond the seas, and that the money that they obtain for their cotton may to a great extent be spent in making purchases from the mother country. It is an ideal for which we all ought to work, that the money obtained from us should in a different form come back to this country. When we are able to do that

> we are really, though separated by thousands of miles, an Empire united and strong."[11]

For the reasons advanced above especially the views held by Lord Amery the imperialists felt justified that they were being called upon to clear the Augean stable, tame and redeem the Africans and so save them from the clutches of ignorance, perfidy and poverty. Various weapons were employed to achieve their objectives, and these included coercion, diplomacy and effective administrative machines. Probably the most successful method adopted was through legislation and the rule of law.

The links which united every British possession to the mother country, and indeed to the rest of the British dominions, were two - the legislative link of the imperial Parliament, consisting of the Crown, Lords and Commons, and the executive and judicial link with the Crown.

THE LEGISLATIVE AND EXECUTIVE LINKS

The United Kingdom Parliament had power to legislate on any subject, and is not subordinated to any superior power or legislature (if we exclude the controversial issue of its relationship to the EEC), and its legislative supremacy extended to all the British dominions and possessions. This legislative supremacy is limited by its own self-imposed limitations, Commonwealth relationships, constitutional practice, efficacy and comity. In practice

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11 Empire Cotton Growing Corporation, Report of the Second Annual General Meeting, 1923, p. 8.

however, it has never legislated for the internal government of a British colonial territory except where imperial policy is affected or imperial subjects are concerned, or where there is a need for a law to have extra-territorial application to more than one colony or in matters of extradition. The Imperial Parliament in granting independence to the colonies always discharges the constitutional responsibility of enacting the Independence Constitution. The Nigerian Independence Constitution, 1960, is an example.

The Crown was the other link between the British Power and the Colonies. The Crown has the supreme executive power in every British possession, it appoints the Governor and all administrative and judicial acts are done by its name or in the name of the Governor as its representative. Apart from these functions the Crown has other legislative powers:

> "The Home Government, apart from what may be done by the Imperial Parliament, acts in different ways, either by order of the King in Council, by Letters Patent under the Great Seal, by a document passed under the Royal Sign Manual, or by orders or directions of a Secretary of State.
> Acts of a legislative character are usually done by the King in Council, that is, by an order made by the King sitting in Council. Such a council is attended, not by all the members of the Privy Council, but only by those who are summoned. The present practice is to summon very few, usually from among the cabinet ministers of the day."12

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12 Sir Henry Jenkyns, British Rule and Jurisdiction Beyond the Seas, 1902, p. 13.

However, in spite of all these legislative and executive powers of the British Parliament and Crown, the colonies have some competence:

> "But the powers of a colonial legislature are plenary and not delegated powers; such a legislature is not a delegate or agent of the Imperial Parliament. Therefore the principle of delegatus delegare non potest does not apply and although the limits of legislature are prescribed, yet within these limits the right of legislation is absolute, and the colonial legislature is supreme, and has the same authority as the Imperial Parliament to confer powers on other bodies and persons, as for instance to give a municipal body power to make by-laws."[13]

As James S. Reed remarked, "debates on colonial legislation, conducted for the most part through the medium of despatches, maintained a leisurely pace in many cases. Yet they bear the characteristics of debates, although the striking contrast with the legislative procedure of the British Parliaments, by open and public discussion, was presumably unnoticed. Indeed, as Slinn observes below, the process of colonial law-making was primarily a secret, bureaucratic operation."[14] He went further to remark that it is hardly necessary to point out that, "in the debates which are the subjects of these studies, one group of persons was scarcely consulted at all in the process of colonial law-making discussed here: these were the colonial subjects themselves, the

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13 Ibid, p. 16.

14 James S. Reed, Studies in the Making of Colonal Laws: An Introduction. See 1979 23 JAL. 3.

inhabitants of the territories, to whom the laws under discussion were to apply."[15]

From 1860, the Imperial British Government sought to establish and maintain a colonial state in Nigeria. Towards this goal a succession of British officials used coercion and diplomacy in Nigeria and other British possessions in Africa to reduce African opposition to a minimum. For administrative convenience, security, and to secure central direction of policy and pool economic resources, the British Government from 1898 adopted the policy of gradually amalgamating its various administrative units in Nigeria. In May, 1906, Lagos Colony and Protectorate were amalgamated with the Protectorate of Southern Nigeria to form the new Colony and Protectorate of Southern Nigeria, which in 1914 was amalgamated with the Protectorate of Northern Nigeria to form Nigeria.

Unlike in Nigeria the East African territories of Kenya, Uganda and Tanganyika after 1918 were administered as separate administrative and political units, although, as with the Protectorates in Nigeria, they were geographically contiguous and part of the same colonial empire. These units, although large by pre-colonial African standards, were each considerably very small in relation to the needs of modern economic organisation with regard to the size and accessibility of markets. This economic consideration led to the suggestion that long-term economic growth would only be possible if economic boundaries were

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15 Ibid, p. 6.

widened. It was this belief that sparked off major political debates in British and East African politics and the issue was finally settled in 1931 with the report of the Joint Select Committee on Closer Union in East Africa,[16] which concluded that unification should not be considered but that East African Common Services should be established and regulated through the machinery of the Governors' conference of Uganda, Kenya and Tanganyika (now known as Tanzania).

Thus unlike the arrangement in Nigeria, the different territorial units were not unified as a political entity but through the common services like Nigeria and Commonwealth West Africa, the whole East African Zone operated its common services as a single economic unit. The result of this was the emergence of a large-scale organisation in West Africa and East Africa which provided economic and social services to the two sub-regions. There were Common Services in Posts and Telegraphs, Airways, Railways, Ports and Currency. One of the most successful unifying forces was the system of the unified currencies for each of the two sub-regions which remained in existence until the end of colonial rule in each territory. In the West African Region we had the West African Currency Board; and in East Africa, the East African Currency Board.

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16 House of Lords, 29 of 1930 and 184 of 1931. For a brief account see D. Austin and H.N. Weiler, Inter-State Relations in Africa, London Institute of Commonwealth Studies, 1965.

THE CURRENCY BOARDS - THE PRECURSORS OF CENTRAL BANKS

The need for the services of a central bank in the West and East African British colonies had long been realised before the advent of commercial banking. At the time the West African Currency Board was established in 1912 there were in existence only the Bank of British West Africa (now First Bank of Nigeria Limited), founded in 1894 and the Bank of Nigeria Limited (founded 1900); the African Banking Corporation founded in 1892 having discontinued operations in 1893.

The British began establishing political and economic control of Nigeria in 1861 when Lagos was ceded to her. The process of integrating the various parts and protectorates of Nigeria continued until 1914, as we saw at page 66 supra; when the geographical expression "Nigeria" was born. During the whole of this period the British colonial administration in Nigeria attempted to replace the existing currencies of the countries with British currency. Long before British currency was imposed on Lagos on May 21, 1880, Mexican, Peruvian, Bràzilian and Chilean dollars; Spanish and South American gold doubloons, American eagles, French francs, gold dust and nuggets and Mozambique cowries circulated freely alongside British gold, silver and copper coins. Other currencies that were in use in Nigeria and other British colonial territories were the Maria Theresa dollars, cowries, manillas, brass rods, iron rods and copper wires.

The attempt in 1880 by Governor Ussher to withdraw these pre-colonial currencies from circulation was resisted vehemently by the local population, because the British currency was of large denominations for which the majority of the population had little or no use in commercial transactions. The reason was that the then standard of living was so low for Nigerians that they could not afford foreign luxury goods and were used to purchasing most of their daily needs rather inexpensively for only a couple of cowries. Wages ranged from 6d. a day in most hinterland locations to 9d. a day in Lagos, a rate which in some districts exceeded four times the cost of a labourer's daily food as late as 1914.[18] The non-redemption of African currencies resulted in the non-availability of smaller denominations of currency and this was a serious threat to the circulation of British money for as J.B. Loynes found the lack of very small coinage units encouraged the continuing use by the Africans of their own tokens. "A government official questioned in 1912 said 'the ordinary native lives on 1 1/4d. a day'. He thought that even the one-tenth penny (a Gold Coast nickel bronze coin) was too large a unit and expressed concern at the disappearance of cowrie shells."[19] These small-denomination pre-colonial currencies suited the needs of the peasant population and were tailored to the

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17 Eyo Ekpo, Money.

18 Sir Fredrick Lugard, The Dual Mandate in British Tropical Africa, 1922, p. 405.

19 J.B. Loynes, West African Currency Board, 1912-1962, p. 7.

price levels of contemporary Nigerian and African markets. Conversely, Britain was an advanced industrial country in which complex financial transactions and relatively higher price levels ruled in economic transactions and therefore the British currency system was specially adopted to suit the British economy.

For these reasons, cowries, manillas, brass rods, iron rods, copper wires were preferred to the denominations of British money in Nigeria, West Africa and indeed in the whole of Commonwealth Africa. In spite of this historical and economic fact, Sir David Barbour's Committee recommended in 1900 the continued use of United Kingdom coinage for West Africa.[20]

Faced with this predicament and determined to demonetise the traditional currencies, the British administration started to take measures to replace the pre-colonial currencies, for:

> "The government was in the process of extraverting [sic] the indigenous economies of Southern Nigeria. Commercially, the country was rapidly being converted into an appendage of the British economy, an area in which the trade with Britain (and other foreign nations permitted to trade in the colony) was increasingly affecting the lives of more and more Southern Nigerians. The extension of the British monetary system into this under-developed region was essential to that extraversion."[21]

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20 Ibid, p. 11.

21 Walter I. Ofonagoro, The Journal of Economic History, Vol. xxxix No. 3, Sept. 1979, p. 640.

As Griffiths, Lieutenant Governor of Lagos Colony, submitted to his Governor for consideration in 1880:

> "It is better to look this loss in the face at once, for if we procrastinate it may be greater.... If Messrs Gaiser and other wealthy firms can make a profit of not less than eight per cent by importing dollars - a gain sufficient to pay their duties and still leave a handsome margin of advantage - they will do so, and the local treasury will overgrow with coins of less intrinsic than nominal value, which we shall be unable to get rid of on the spot, and will be compelled sooner or later to export."[22]

Thereafter, several legislative steps were taken to effect and hasten the withdrawal from circulation of all currencies that were not British. On May 11, 1880, Governor Ussher at Accra passed an ordinance giving ten days' notice for the withdrawal of dollars from circulation. By the Native Courts Proclamation No. 25 of 1901 and the Native Market Proclamation native courts were empowered to make rules for regulating trade, while the native councils were used as the agency through which the rates of exchange were fixed. The Native Currency Proclamation, No. 4 of 1902, attempted by legislation to prohibit the importation of manillas, brass rods and copper wires. This Proclamation was repealed by a new one in 1911 which forbade the use of manillas as currency even in the "native markets". The Nigeria Coinage Ordinance, 1906, provided for the minting of subsidiary coins capable

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22 Ibid, p. 641 citing Minute CO/147/41, Griffiths to Ussher, April 29, 1880.

of competing with the cowrie, which was a very low-denomination currency and which in spite of the resort to compulsion in the Cowries Proclamation of June 1, 1904 was still preferred to British coins.

Up to the year 1912 the colonial government in West Africa had assumed the responsibility of the issue of notes and currencies which was a major classical function of the older central banks. Intermittently however, the government attempted to divest itself of this responsibility. In 1892, when the African Banking Corporation of England opened a branch in Lagos, it had undertaken to repatriate redundant silver coin from Lagos and was given the monopoly of obtaining United Kingdom silver locally against pre-payment in London. This delegation of powers was shortlived, for in 1893 the bank ceased operations in Lagos and government was compelled to resume direct control of issue of silver coins. To a limited extent the Bank of Nigeria Limited (founded in 1899 by a group of trading companies as "Anglo African Bank"), in 1900 was also given powers to supply silver coins to merchants.

However, it was to the Bank of British West Africa, established in 1894, that a monopoly was given to issue the silver coin. And "as the Bank extended its operations to the Gold Coast, Sierra Leone and the Gambia, similar special arrangements followed. Some elements of the future system (i.e. Currency Board as a precursor of the central bank) had therefore already begun to take the shape before the 1912 Committee (Emmott's was appointed."[23]

23 J.B.Loynes, <u>The West African Currency Board 1912-1962</u>, p. 9.

Indeed, it can be seen from the foregoing that before the West African Currency Board was established in 1912 the colonial governments of West African colonies and the Bank of British West Africa played the role of a central bank. The Bank of British West Africa was issuing and redeeming currencies and was banker and agent to the West African Colonial governments and the West African Currency Board in London. It also maintained accounts for those governments.

Concerning the banking activities of the BBWA Fry tells us that the colonial governments were pleased to have this business off their hands. The Lagos Government Report for 1896 says: This Bank has benefited the Colony in many ways and supplies a want which was much felt in the past. And the Report for 1897 adds: "The Bank of British West Africa is of the greatest assistance to the Government."[24]

The use of cheques was rapidly spreading. They were soon almost universally used for payment of customs duties and other revenue, and for the regular remittance of Government funds. Most (but not all) of the trading firms took full advantage of the Bank to open accounts, to obtain cash when needed, and to dispose of surplus coin. By the close of the century the Bank was safely established in West Africa and its home base was strong and stable."[25]

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24 Fry, Bankers in West Africa, London, 1976, p. 29.

25 Ibid, p. 29.

THE WEST AFRICAN CURRENCY BOARD

This was the nature of the currency in use and circulation and the management of the banking system when Emmott's Parliamentary Committee, a follow-up of Sir David Barbour's enquiry of 1900, was set up in 1912 to enquire into matters affecting the currency of British West African colonies and protectorates. The Committee had seven members. The Chairman was Lord Emmott, the then Under-Secretary of State for the Colonies, with John Anderson, who was later to become Chancellor of the Exchequer, as Secretary.

The Committee also examined the question whether profits should be shared between the home government and the colonial governments; a question examined earlier in 1900 by the Barbour Enquiry. Under the existing arrangement the United Kingdom Government retained the seigniorage profit (i.e. a percentage on minted bullion) on the silver coins which were bought by the colonies at a higher price than their intrinsic value without any assurance of the colonies getting back their money. Among other things the Committee also examined the question whether the Royal Mint was under any obligation to redeem the currency, for although United Kingdom silver coinage was issuable against sterling it was not automatically redeemable in sterling.

After five months of sitting the Committee reported[26] on 5th June, 1912, and made the following recommendations:

(a) To mint a new silver coin in West Africa. This

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26 Emmott Report, Cd. 6426, June 5, 1912.

sparked off a debate which centred chiefly on the design: whether the Africans would object to a design which had on it the image of a King, a palm tree, arabesques or drawings of plants and animals and whether the coin should have a hole at the middle which would enable the natives to arrange their coin holdings in strings tied round their waists.

(b) that the supply of coin and management of the reserve should be entrusted to a currency board;

(c) that the Currency Board should at the outset be placed in funds by means of advances from the governments concerned.

(d) that the Currency Board should have its headquarters in London with official representatives at appointed centres in West Africa.

(e) to hold a reserve in the United Kingdom partly in gold and partly in readily realisable securities; and holders of coins of the new currency to have a legal right to tender them in British West Africa for conversion into sterling money to be issued in London at a specified rate of exchange. It was also proposed that not less than 75% of the reserve should be backed by coin;

(f) that the resources and credit of the governments of British West Africa should be the final security for the discharge by the Currency Board of its obligations;

(g) for the issue of a West African paper currency on the same principles of those of the coinage. It was proposed that the currency notes should first be issued at one office in each colony under the authority of a central Currency Board in London, which should be responsible for the distribution and management of the reserve as a whole;

(h) that the new notes when issued should not have legal tender status, except in payment of dues to the Government of the colony of issue. It is to be noted that this aspect of the recommendation was rejected by the Currency Board as far as it applied to Nigeria.

In November 1912 the West African Currency Board was appointed. It held its first meeting in that month. In a memorandum dated 6th December, 1912, signed by the Colonial Secretary, Lewis Harcourt, the first constitution of the West African Currency Board was introduced and the Board was charged, inter alia, with the duties and responsibilities:

> "to hold against the silver coinage a reserve of gold and securities, hereafter referred to as the 'gold standard reserve'",[27]

and the Colonial Secretary, under Regulation 9, was given the power to fix the minimum proportion of gold in this reserve from time to time. This constitution was revised in 1915 and 1924 and in an amendment in 1949 the Board was given more powers. Its functions included:

> "1. The West African Currency Board has been constituted for and to control

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27 J.B. Loynes, op. cit, p. 17. Also see W.T. Newlyn and D.C.Rowan, Money and Banking in British Colonial Africa pp. 40-41.

the Protectorates and Trust Territories (hereinafter referred to as the constituent Territories) to ensure that the currency is maintained in satisfactory condition and generally to watch over the interests of the constituent Territories so far as currency is concerned.

"5. The Board will have to make all necessary arrangements for the minting of any special coins authorised for circulation in the constituent Territories and to comply with applications for the supply of coins at the time being legally current in those Territories. Subject to the provisions of these Regulations and for any legislation from time to time in force in the constituent Territories the Board may provide and may issue and re-issue therein notes hereinafter referred to as currency notes.

"9. The Board shall issue at its main centres at Accra, Bathurst, Freetown and Lagos, in the constituent Territories to any person who makes demand in that behalf coin or currency notes equivalent to the value (at the rate of Twenty shillings West African currency to One pound sterling) sums in sterling lodges with the Board in London."[28]

On 21st November, 1912, the Board had its first meeting in Whitehall Gardens; on 26th June, 1913, the Board issued its first coinage and also in June, 1916, the first consignment of West African notes was despatched to Nigeria. The Emmott Committee had envisaged that the West African Government would finance the Board in minting of coin and other initial expenditure, but it was to London Joint Stock Bank, now the Midland Bank, the Board turned.

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28 Ss. 1, 5, 9 of the Regulations Defining the Constitution, Duties and Powers of the West African Currency Board and the East African Currency Board, see the Appendix.

During the next 50 years or so the Board faithfully carried out its obligations to the satisfaction of the West African countries. The Board issued what were described as West African Currency Board notes and coins and on its recommendation they were accorded full legal tender status. It also appointed the Bank of British West Africa as its agent and in 1948 opened a sub-centre managed by Barclays Bank D.C. & O. in the Southern Cameroons (which was a trust territory administered with Nigeria until 1960). Apart from this traditional central bank function the Board also maintained a coin reserve up to the full amount of the notes. The currency was convertible and so the notes and coins could be readily used to buy sterling drafts from the Board.

The Board had also in 1948-49 to perform the central bank duty of redeeming in the Eastern Provinces of Nigeria the old manillas whose circulation had persisted in spite of the wide and long use of the Board's notes and coins. After the Central Bank of Nigeria had been established and it issued its own currency, the legal tender status of West African Currency Board in Nigeria was withdrawn on 1st July, 1962, and the Board was obliged to redeem its currency, which process it started on 1st July 1959. Similar redemption exercises were carried on in Ghana, where the Board received the withdrawn currency from the Bank of Ghana for redemption and paid out sterling cash, pound for pound, against it without the customary commission charge.

With the departure of Nigeria and Ghana, the West

African Currency Board operated only in Sierra Leone and The Gambia. After an enquiry into the currency issue problem facing the two nations, the independent Government in Freetown decided to create a national issuing authority and national currency. The Gambia was now in a sort of political union amalgamated with Senegal to form Senegambia. One will watch with interest to see what new currency issue arrangements would be made. Now that the Nunc Dimittis of the Board has been sung one cannot but agree with J.B. Loynes, that:[29]

> "A word should be said here about policy. Over the formative years many decisions of importance had been made and a firmer pattern to the Board's operations had become discernible. Early on the Board had decided that its function was not to compete with commercial banking in West Africa on remittance rates: it had fixed its charges in relation to the cost of moving specie and these were the limits beyond which the minimum charges to the public need not go; it had arrived at and achieved a uniform currency, from subsidiary coinage of one tenth penny to currency notes of £5, throughout British West Africa; it had facilitated transfers between the different territories though still charging the banks for the service (it was to abolish such charges in October 1945); and it had steadily pursued a policy of enlarging its sterling investments and had begun to distribute a part of the profits.
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> The Board had also concentrated its reserves in sterling. From 1916 onwards sterling investments were the largest assets item."

We will now turn our attention to East Africa in order to trace the establishment and the performance of a sister

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29 J.B. Loynes, op. cit, pp. 24-25.

board, the East African Currency Board.

THE EAST AFRICAN CURRENCY BOARD

The East African Currency Board was established in December 1919 for three principal reasons. The first was to organise the change from a rupee-based currency to a shilling-based currency in East Africa by buying up all the rupees in circulation. One may recall that in Nigeria the manilla, Maria Theresa and copper wires continued to circulate in some parts of Nigeria some 50 years after British currency was introduced into Nigeria and successive colonial governments had difficulties in redeeming them. The second objective in setting up the East African Currency Board was to issue East African notes and coins against sterling at the rate of 20 East African shillings to £1 sterling. The third function of the Board was to obtain British and colonial government securities for the sterling which it collected from the exchange.

The Board was therefore set up to supervise the monetary system in East Africa in the same way as the West African Currency Board tried to do in West Africa or the Central African Currency Board attempted to do in the Rhodesia and Nyasaland. The Currency board had its headquarters in London with a government advisory board in Nairobi, Kenya, which consisted of the bank mangers of the three main commercial banks operating in East Africa, viz: National Bank of India, the Standard Bank of South Africa and Barclays DCO (originally called the National

Bank of South Africa). In 1960 the head office was moved to Nairobi.[30]

Initially, only Kenya and Uganda were members of the Board; but later in 1920 Tanganyika joined; Zanzibar in 1936, Somaliland, Eritrea and Ethiopia in 1942-43, and Aden in 1951. One country after another left the Board on the attainment of independence until finally in June 1965, the three East African Governments of Kenya, Tanzania and Uganda declared their intention to establish their own separate central banks and to issue their own currencies.

It will be recalled that before 1914 the beginning of the First World War, the gold standard was the basis of financial dealing and systems throughout the world. In Britain, for instance, all Bank of England paper money was exchangeable into gold which was valued at £3.17.10½ per standard ounce. In order to be able to finance the 1914-18 war effort, Britain had, as had Charles I in the 17th century (as we saw in Chapter 1), to print more notes than it had gold stocks in the vaults of the Bank of England.

Printing more paper money without expanding the supply of goods generally leads to inflation, and as a consequence of the world inflation the purchasing power of sterling declined during this period. Parallel to this exchange rate variation in Britain was the falling

30 The headquarters were later moved from London to Nairobi in 1960, and Central Bank of Kenya had agreed to take over and preserve the records.

rate of the Indian rupee, which since 1898 or thereabouts had been the standard coin in East Africa. This state of affairs where the exchange rates of the two currencies had each altered, brought much confusion into the economic life of the area. Sterling was not tied to the gold standard, nor was the rupee. It was then left to the Currency Board to harmonise the conflicting situation by pegging the rupee to sterling in East Africa by law. For instance, the Kenya Currency Interpretation Ordinance No. 1 of 1922 provided that:

> "where in any Act applied to the Colony in force on the first day of January 1922, the word 'rupee' is used, such applied Act shall have effect as if the word 'two shillings' had been used in place of the word 'rupee' which was made a legal tender currency by a proclamation dated the fifteenth day of March 1907, under the East Africa Uganda Currency Order in Council 1905.[31]

The colonial governments in February, 1921, divested the rupee of its legal tender status, substituting in its stead two East African shillings for one rupee. In Kenya and Uganda, in 1923 and 1926 respectively, the demonetised rupees were withdrawn by the Board and replaced by shillings. The shilling is still the nominal unit of currency in these countries.

In many ways the operation of the East African Currency Board during the period 1919-1965 followed the same pattern as that followed by the West African Currency

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31 S.2.

Board. The Board was responsible for the issuing of the local currency, which occurred when the Board replaced the Indian rupee and sterling with the East African shilling. Like its counterpart, the West African Currency Board, the Board was prepared to redeem the cowries, rupees and all pre-colonial money circulating in the region. It also maintained 100% backing in sterling against currency on demand against an equivalent amount of sterling.

The Board, in addition to its reserves in London, strove hard to build up an additional sterling reserve from the proceeds of its investments. The aim was to be in a position to meet unforeseen exigencies. The Board also opened and maintained accounts for the commercial banks in order to facilitate banking operations; and, in order to improve currency distribution it opened new currency centres and sub-centres in remote places.[32]

THE IMPACT OF CURRENCY BOARDS LEGISLATION ON THE ECONOMIES

As has been remarked above, the year 1920 marked a turning point in the affairs and concepts of central banking. It was the time when the central banks began to assume roles different from those conceived in 19th century Europe, and moved from the classical to the modern

32 EACB, Report of the year ended June 30, 1963, pl. The five currency centres were located at Aden, Dar-es-Salaam, Jinja, Nairobi and Zanzibar, while the currency sub-centres were Gulu, Kampala and Mbale in Uganda; Kisumu and Mombasa in Kenya, Moshi, Mwanza and Tanga in Tanganyika; Mukalla in Aden; and Wete in Zanzibar.

concepts of central banking. The classical or traditional concept of central banking involved no more than the maintenance of currency stability amd the avoidance and controlling of inflation. It was during this decade (1910-1920) that the currency boards were born. Not surprisingly, their functions were tailored to these contemporary classical concepts of central banking.

From a close examination of the laws governing the operations of the East African Currency Board and the West African Currency Board, it can be seen that the Boards were hamstrung by inflexible provisions that did not give them any elbow-room to operate. For instance, section 11 of the Board's constitution gave the West African Currency Board the power to invest the Board"s funds in sterling securities of the government of any part of His Majesty's dominions, but subject to the Secretary of State's approval. The Board thus had no free hand in the investment of its funds in sterling securities. The case was also true of the East African Curremcy Board for:

> "With the coming of independence to the three East African countries the Secretary of State relinquished his powers over the Board and with this withdrawal of the over-riding powers of the Secretary of State a regulation was made to the effect that actions of the Board must have the unanimous support of its members. This regulation was later to cause considerable difficulty during the period when Aden was claiming a larger share of the Board's distributions than the East African countries were prepared to concede.[33]

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33 A.C.C. Roberts, The Final Report of the East African Currency Board, p. 8.

The Board therefore had no opportunity to exercise any discretion.

Similarly, apart from sections 1, 11 and 17 all of the constitution of the West African Currency Board provide for the machinery of administration of the system. Currency Boards were therefore operating as mere administrators of the monetary system and were not in a position to formulate a national monetary or credit policy.

The West African Currency Board derived its powers of operation mainly from section 1 of the law:

> "The West African Currency Board has been constituted to provide for and to control the supply of currency to the British West African Colonies and Protectorates and Trust Territories (hereinafter referred to as the constituent Territories), to ensure that the currency is maintained in satisfactory condition and generally to watch over the interests of the constituent Territories so far as currency is concerned."[34]

There was a similar provision in the East African Currency Board Constitution:

> "The Board was constituted and the Members appointed by the United Kingdom Secretary of State for the Colonies in December 1919. Its first Regulation stated that its purpose was to provide for, and to control the supply of, currency to the East African Protectorate, the Uganda Protectorate and any other Dependencies in East Africa which might be added by the Secretary of State; to ensure that the currency was maintained in satisfactory condition; and generally

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34 West African Currency Board Constitution, p. 1. See Appendix

> to watch over the interests of the said Dependencies so far as currency was concerned. The name of the 'East African Protectorate' was shortly afterwards changed to Kenya and the Secretary of State added Tanganyika to the Dependencies in which the Board was to operate. Therefore, at the outset, the area in which the Board operated comprised of [sic] Kenya, Uganda and the mainland of Tanzania but not Zanzibar."[35]

Handicapped by inadequate provisions in the laws, the Boards could not regulate the banking system so as to foster economic growth and they were in no position to realise the aspirations of Africans to provide a symbol of financial independence associated with political freedom, nor an environment for indigenous banks to establish and grow. The system was not geared towards achieving a rapid rate of economic growth in an under-developed economy for the system lacked money and capital markets and there were no open market operations. Monetary instruments were not available at that time to these dependent territories, so emerging countries could not reach the goal of economic development. Although the Boards had quite substantial amounts in reserve at the Midland Bank in London, they could not, at the earlier stages of their existence, make any investments in the bonds and other domestic government securities. Call money, Treasury bills and certificates of deposit facilities could have been established and developed and the proceeds used by government to finance development

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35 A.C.C. Roberts, op. cit, p. 3.

projects. This was not done. As we saw at pages 78 and 80 the Boards were expected to maintain an equal cover in sterling for the currency they issued. In the case of the East African Currency Board there was the difficulty of providing 100% sterling cover for its currency issue by reason of the difficulties encountered in replacing the rupees.

Currency Boards were by no means substitutes for central banks. They did not act, in strict sense, as banker to the governments nor were they bankers of last resort to the banking system. The existing banking system was not supervised and controlled in the way that contemporary central banks are now accustomed to do. A remote reference to supervision can be seen in section 3 of the Board's constitution, which lamely provided that "the Board will have power to appoint officers for the discharge of such duties in connection with currency in the United Kingdom or in British West Africa."[36]

The Boards could not provide a national currency which was the aspiration of every African country struggling to shake off the shackles of colonialism. There was a sense of humiliation and disgust among the nationalists. They were also incensed by the fact that the entire reserves held in London had to be held in cash or foreign securities at a time when a greater proportion of these holdings should be invested in local securities. The policy of maintaining 100% sterling cover for the Board's

36 A.C.C. Roberts, op. cit, p. 7.

currency issue prevented the Board from influencing economic conditions in the areas of their jurisdictions. This was yet another source of criticism of the Boards, especially from the emerging nationalists. The East African Currency Board, for example, declared the first surplus of £EA577,000 only in June 1952 and this was shared among the three component countries of Kenya, Uganda and Tanzania.[37] The Boards lost the opportunity of employing the excess liquidity that was in the banking system to advantage; and this was particularly true for "during the years from 1939 the East African Currency Board financial position had so greatly improved that this decrease (caused by the exit of Ethiopia and Somaliland from the Board) caused no worry and on the 30th June, 1948, the readily available assets still amounted to £22.8 million; 96% of the circulation."[38]

Again, Africans would have been delighted to see a progressive master-plan for the development of commercial banking in those African countries over which the Boards exercised their influence. Unfortunately, the Boards had neither the will nor the power to encourage the development of commercial banking. The few banks that were in operation during the period were foreign-owned and directed. Because Africans lacked the financial capacity to establish their own banks they had hoped that the colonial governments through the currency boards should

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37 Ibid, p. 6.

38 Ibid, p. 3.

have encouraged the establishment of an indigenous banking system and foster development of financial institutions.

Thus the Currency Boards could not engage in normal banking business such as central banks engage in as a matter of routine not only because they lacked the capacity to do so in the absence of enabling legislation, but also because there was little or no financial infrastructure and the economy was only beginning to be demonetised.

On the other hand, it must be admitted that the East African Currency Board from 1960 began to provide a limited degree of seasonal credits for export crops, with the dual aim of promoting exports and acting as a banker of last resort to the commercial banks. It is also true that it was only in 1955, when the Secretary of State amended the East African Currency Board's regulations, that the Board was permitted to subscribe to local securities up to £10 million (£20 million in 1962). It was only then that it became possible for the Board to become an agent of domestic monetary expansion, which was a step in the assumption of orthodox central banking functions.

In the following pages we will attempt to trace the history of the founding of some of the central banks which succeeded the Currency Boards.

THE COMING OF THE COMMERCIAL BANKS IN AFRICA

THE TRADITIONAL BANKS

Elsewhere in Chapter 1[39] we dealt with commodity

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39 Pp. 32-40.

money which was in use before the colonisation of Africa. We tried to establish that the traditional currencies then in use effectively discharged the functions of money and were ideally suited for the type of economy which Nigeria (and indeed Africans generally) had in the pre-colonial setting. Although the economy was a subsistence one, economic activities on moderate scale were going on in the different countries in Africa. In the lush vegetation of tropical rain forests and the savannah as well as in the deciduous forest areas, the bulk of the people were engaged in hoe agriculture, in producing handicraft and textiles. Others were engaged in producing tools, fish, livestocks and other goods. Groups living on the coast of Southern Nigeria were engaged in international trade with Europeans who came into early contact with them. On the eastern coast of Africa the local population came in early contact with the Arabs, Portuguese, Germans and the Indians. The result of this early contact and trade was that some natives became quite affluent and were therefore in a position of saving money. This they saved by hoarding. The few well-to-do were thus able to constitute themselves into money-lenders, as traditional sources of credit. There were many such wealthy traders in Onitsha, Port-Harcourt and Warri in Nigeria even before the colonisation of what is now Nigeria.

From these rich merchants, the poor would borrow, pledging their farmlands or the person of their kinsman as collateral. The obligations of the debtor would come to an end only when the debt was fully repaid, the usufruct of the land or the labour of the pawn[40] merely satisfying the interest element of the deal. With the home-coming of the demobilised soldiers from the World Wars more capital became available to the natives. Large numbers of these soldiers who fought for the British cause particularly during the Second World War received their entitlements as lump-sum payments in British currency. These people were now in a position of surplus. An indigenous capital market had thus taken deep root in the African society.

Some of the demobilised soldiers who had surplus funds now operated as money-lenders charging exhorbitant interest and accepting security in the form of parcels of land, sometimes with cash crops on them which the creditor harvested. Other traditional institutions which acted like bankers were:

(a) The Isusu, ajo (Yoruba), Igbe oha (Ibo)

Under the African traditional credit institutions[41] the promoter visits the houses or offices of members in

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40 The traditional finance system by which a Yoruba borrower sends his daughter or son or wife to work on the farms or household for the money-lender until the debt is paid.

41 See M.O. Ijere, "Credit development in Nigeria agriculture", Nigerian Journal of Economic and Social Studies vol. 5, No. 2, July 1963, p. 211 for classification and further reading. Also Cf. W.R. Bascon, "The Esusu. A credit institution of the Yoruba", in Journal of the Royal Anthropological Institute, vol. LXXXII, New York, 1949, p. 63; S.F. Nadel, A Black Byzantium, London, 1951, p. 371ff. 9.1; Jones, "Dual organisation in Ibo social structure", 1951.

turn collecting their daily, weekly or monthly savings, each member in turn contributing the same amount each time. A member collects his turn of the group's proceeds of the contributions on the fortnightly or monthly meeting and the fund that revolves to a member each time is usually several times greater than his contributions.

(b) Social Clubs, Women's Unions, Family Funds, Town Unions

One of the objectives of setting up Union funds is to pool resources of members together to finance projects, for example, children's education, naming of a child ceremony, building a house, constructing an access road and so on.

Although not all the usual characteristics of banking (e.g. chequeing) are present, the functions of these traditional financial institutions are akin to those of modern banking. They include savings, credit discounting with interest when, for instance, a member in dire need of funds may wish to buy the right of another member whose turn it was to receive the revolving fund. In the field of development financing we observe that the unions or associations carry out projects which they execute as a body either by the use of manual labour for the selected projects or by the use of the money in the fund. Hopkins divides indigenous credit into two main classes: There are the small credit association, organised by kinsmen or by groups of friends, devoted to such social purposes as raising money for funerals and weddings. Hopkins gives the Yoruba esusu and Igbe oha (community chest) as examples. The second instrument he classified as the commercial capital market, a traditional credit institution which served economic needs at local and inter-regional levels, by providing finance for institutional and local trade.[42] Professional traders often needed to finance their ventures by seeking credit. Because of the high initial investment and slow returns involved, wealthy merchants, specialised bankers, and money-lenders, usually operating out of the larger trade entrepots, provided this service.[43]

From the foregoing it would be obvious that the isusu system and its variants have contributed, as they still do today, to the economic growth of the Nigerian economy. The system has provided an avenue for the supply of funds, as opposed to hoarding for rural development. In spite of the many disadvantages of this system including the fact of it not being regulated by statute, it has provided scarce funds and credit to the Nigerian economy. And as we shall see in Chapter 3, the system has in addition provided a basic source of Nigerian banking legislation.[44] These formed the necessary base of the "banking" industry when Africa was colonized in the 19th century, and notwithstanding the benefits of modern banking and the

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42 Anthony G. Hopkins, An Economic History of West Africa, New York, 1973, p. 71.

43 Ibid, p. 70.

44 At pp. 132.

securities provided, the traditional banks still subsist.

THE COMMERCIAL BANKS

The African Banking Corporation

By the time the West African Currency Board was established in 1912 there had been only three commercial banks which had at one time or the other been in existence and operating in Nigeria. The first[45] was the African Banking Corporation of England which began operations in Lagos in 1891. On 28th January 1892 the Crown Agents concluded the arrangements which permitted the bank to import into Lagos Colony for the first time new United Kingdom silver coins from the Royal Mint. The bank had earlier opened for business in South Africa in 1891. When it was felt by the European traders in the territory that banking facilities were urgently required in West Africa and especially in Lagos the bank was approached and induced to establish a branch in the Colony. Consequently

> "A letter of instructions to Mr. (George) Neville was approved by the board (of the African Banking Corporation) on August 13, 1891, and the Lagos branch was opened soon afterwards. On October 8, the board decided to send an inspector Mr. McKenzie, to Lagos to see that the machinery of the branch is in proper working order, and if possible to visit other ports and send full reports to the directors on the banking possibilities of the West Coast."

For several reasons the bank could not survive. One

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45 Fry, op. cit, p. 20.

reason was the outbreak in February of 1892 of serious unrest among the Ijebus and the Egbas which disrupted road communications between Lagos and Abeokuta and halted trade. The second reason was the complaint to the Colonial Secretary by prominent Lagos traders alleging that Elder Dempster, their captaims and officers, had taken over the trade of Lagos. The directors of the African Banking Corporation thereupon decided to close up the bank and concentrate their attention on their South African operations. Elder Dempster then negotiated to take over the branch which they had earlier taken the initiative to establish.

Bank of British West Africa

When the African Banking Corporation ceased to operate in Lagos, the firm of Elder Dempster took over the interests and the securities of the bamk in May, 1893, and the formation of the Bank of British West Africa - though little more than a department of Elder Dempster and Co. - was announced. It was not until March 31, 1894 that the bank was registered in London as a limited liability company.

Before its incorporation, an agreement had been reached on March 14, 1894, grantimg the bank the sole right to import silver coin free of charge from the Royal Mint, with permission to charge a commission of 1% for supplying the coin in the Colony of Lagos, and allowing it to continue to act as government banker. Until the inauguration of the West African central banks in the '50s the Bank of British West Africa had faithfully played the roles of bankers and agents of the West African Currency Board. It successfully administered the West African Currency Board for an agency fee of only £4,000 a year which had been fixed in 1927.

<u>The Anglo-African Bank</u> (later the Bank of Nigeria)

As a result of a joint venture, the Niger Company, the African Association and Alexander Miller-Brothers & Co. founded in 1899 the Anglo-African Bank with branches in Old Calabar in 1900, Burutu, Lokoja and Jebba, the main outposts of the Niger Company. In reaction to the activities of this newcomer on the banking scene, the Bank of British West Africa quickly established a branch in Calabar too. By 1905 the bank had changed its name to the Bank of Nigeria. The bank closed down its business when in 1912 the monopoly to issue silver a share of which was granted to it - was abolished. It then sold out to the Bank of British West Africa[46] on June 30, 1912, at the time of the takeover having 10 branches.

<u>The Colonial Bank</u>

The Colonial Bank, a bank which had been in existence in the West Indies since 1836, opened for business in Nigeria in 1916. From 1912 to 1917 - when the Colonial

46 The Bank of Nigeria operated until 1913. It would not be absolutely correct to state, as C.V. Brown in his book the <u>Nigerian Banking System</u>, did at p. 1 that in 1912 only the Bank of British West Africa was in existence.

Bank first appeared on the scene to offer some competition, the Bank of British West Africa had had the field to itself and was once more the only bank in the entire West African region. Within three years of its formation the Colonial Bank had spread its tentacles to 9 cities in Nigeria, 6 branches in Ghana, and one each in Sierra Leone and The Gambia. It later merged with other banks (Barclays Bank, Anglo-Egyptian Bank and National Bank of South Africa) in 1925 to become Barclays Bank D.C.O. (Dominion, Colonial and Overseas).

THE COMING OF INDIGENOUS BANKS

Between 1925 and 1952 no more expatriate banks were established. However, from 1959 to January 1983 7 expatriate, inclusive of wholly foreign-owned and majority foreign share holding (that is, mixed, 60 per cent to 40 per cent Nigerian-Foreign ratio) banks were issued with licences to operate as banks. This period, i.e. 1925 to 1952, witnessed a rush to establish indigenous banks, a great many of which failed. The Industrial and Commercial Bank, established in 1929, went into liquidation a year later; the Nigerian Mercantile Bank was established in 1931 but due to lack of patronage closed down in 1936; the Nigerian Farmers and Commercial Bank, established in 1947 with over 30 branches in Nigeria and the United Kingdom, was liquidated in 1952; the Merchant Bank, set up on January 25, 1952, had its licence revoked in 1960 because it had misused government funds. Of the 18 indigenous banks registered between February 1951 and May 1952, only three survived liquidation.

These early attempts to establish indigenous banks matched the rapidly growing political awareness of Africans and Nigerians in particular. There were several other reasons which impelled Nigerians to establish indigenous banks. The first was the profit motive. In order to make as much money as was possible, the Nigerian as well as other West African traders worked hard as was confirmed by Elspeth Huxley when he wrote:

> "The markets of Accra are remarkable for the size, vigour and astuteness of the women traders, who hold a position unique, I should think, in Africa. Strong as buffalos, large-boned, strident, gaily dressed in patterned clothes with little jackets, either plump and soft fleshed as marshmallows or else lean as old leather, their faces look imperious and uncompliant, like the faces of cattle dealers in English country towns.
>
> Their God is money and they adore him constantly.... They are down at their stalls by six in the morning and stay there till dark.... Somewhere a husband is working, idling or trading too. These husbands are, in a sense, adjuncts, like male spiders - it is the market women who make the money and call the tune..."[47]

With the earnings from their labour, the proceeds of trade in primary products, the traders were able to provide some collateral to their bankers for the grant of credits. The refusal or reluctance to grant such requests had caused Nigerians, particularly Dr. Nnamdi Azikiwe, Chief Dr. Akinola Maja, Chief Akintunde Adeshingbin, Chief Theophilus Adebayo Doherty, Mr. Alfred

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47 Elspeth Huxley, Four Guineas published by Chatto and Windus Ltd, 1954, quoted by Fry, op. cit, at p. 108.

Olatunde Johnson and Chief Okupe, to found such banks as the Industrial and Commercial Bank in 1929, the Nigerian Mercantile Bank in 1931, the National Bank in 1933, the African Continental Bank in 1947, and the Agbonmagbe Bank in 1945 to name a few. Noting these grievances, Fry said:

> "The real grievances of the African traders were not concerned with the British bank or banks as such but with two aspects of the financial system. First, African savings, private and public, were already substantial in the inter-war period, but the greater part was held or invested in London rather than converted into lending in West Africa. This was true of private deposits in the banks as much as of the reserves built up by the West African Currency Board, and after the war of the surplus funds of the produce boards. Secondly, the great bulk of the lending activity in West Africa was carried on not by the banks but by the European trading companies, which naturally lent to their produce buyers and distributors rather than to independent African competitors. In any case lending was largely done on the security of produce in store or in transit; the problem of obtaining collateral security from African traders for general credit was a real obstacle to change.
>
> It was for these broader reasons that Africans found it difficult to finance their business, and their intense commercial zeal was frustrated as the volume of trade expanded. A demand for new African banks sprang up."[48]

The monopoly by the Bank of British West Africa of the West African business was another determining factor. The Niger Company and other firms operating on the West Coast early in the century fought hard as a group to break

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48 Fry, <u>op. cit</u>, p. 216.

the monopoly. They had therefore welcomed the arrival of the Bank of Nigeria in 1899 and the Colonial Bank in 1916.

The result of all the indigenous efforts was that commercial banks were set up by Nigerians to satisfy their yearnings and aspirations for banks that they could call their own. Between February 1951 and May 1952 (when the Banking Ordinance was promulgated) 18 indigenous banks were registered. All except three foundered. The rush to establish them was to pre-empt the Report of G.D. Paton, who, it was speculated, had recommended in his Report[49] that a banking ordinance should be issued to regulate banking practices and protect depositors. The law[50] was in fact enacted in 1952.

No sooner were these indigenous banks established than they began to crumble like a pack of cards; they went into oblivion as fast as they were established. Only the National Bank, the African Continental Bank and the Agbonmagbe Bank survived the spate of liquidation, mainly as a result of government funding and the deposits made to them by the Marketing Boards and the parastatals. This patronage was motivated by the belief that the expatriate banks operating in Nigeria were deliberately and unreasonably discriminating against Nigerian businessmen. With the enactment of the 1952 Ordinance as an instrument[51]

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49 For the background to the Paton Report, see Newlyn and Rowan, p. 230-241.

50 An Ordinance for the Regulation of the Business of Banking of May 22, 1952.

51 For details of these see Charles V. Brown, the <u>Nigerian Banking System</u>, p. 32.

for regulating banking activities and with the establishment of the Central Bank of Nigeria, at the apex of the banking system as supervisor, a preponderant number of indigenous banks set up after 1952 have survived and are still in operation. In some cases the Central Bank as a lender of last resort has bailed some of these banks from mis-management and illiquidity that would have led to total collapse.[52]

The following table shows the expatriate, mixed and indigenous banks that have ever operated or are still in business in Nigeria and their dates of registration or of grant of licence in chronological order:

Table 2 Banks that Operated in Nigeria Since 1891

	Bank	Date
1.	African Banking Corporation	1891
2.	Bank of British West Africa (now the First Bank of Nigeria Limited)*[53]	1894
3.	Anglo-African Bank	1899
4.	Bank of Nigeria	1905
5.	The Colonial Bank	1916
6.	Barclays Bank DCO (now Union Bank of Nigeria Ltd.)*	1925
7.	Industrial and Commercial Bank (incorporated in U.K. in May 1914)	1929
8.	Nigerian Mercantile Bank	March 1931
9.	National Bank of Nigeria*	February 1933
10.	Agbonmagbe Bank Ltd. (now Wema Bank Ltd.)*	1945

52 For further discussion on this theme see Chapter 3, p.

53 The asterisks indicate the banks that were operating in Nigeria up to 31st December, 1983.

	Bank	Date
11.	Nigerian Farmers & Commercial Bank	1947
12.	African Continental Bank* (formerly Tinubu Properties Ltd. and in January 1947, Tinubu Bank Ltd.)	Nov. 1947
13.	Banque del'Afrique Occidental	1948
14.	Pan Nigeria Bank	1951
15.	Standard Bank of Nigeria	1951
16.	Premier Bank	1951
17.	Nigerian Trust Bank	1951
18	Afroseas Credit Bank	1951
19.	Onward Bank	1951
20.	Central Bank of Nigeria	1951
21.	Provincial Bank of Nigeria	1952
22.	Metropolitan Bank of Nigeria	1952
23.	Merchant Bank	1952
24.	Union Bank of British Africa	1952
25.	United Commercial (Credit) Bank	1952
26.	Cosmopolitan Credit Bank	1952
27.	Mainland Bank	1952
28.	Group Credit Bank	1952
29.	Industrial Bank	1952
30.	West African Bank	1952
31.	Co-operative Bank Limited	1954
32.	Muslim Bank	1958
33.	Bank of Lagos Ltd.	1959
34.	Berini Riyyad Bank	1959
35.	British and French Bank (now United Bank for Africa)*	May 1959
36.	International Bank for West Africa Ltd.*	1959

37.	Bank of the North Limited*	7th July 1960
38.	Bank of America (now Savannah Bank Ltd.)*	1960
39.	Chase Manhattan	1961
40.	Arab Bank (now Nigeria-Arab Bank Ltd.)*	2nd Nov. 1962
41.	Bank of India (now Allied Bank (Nigeria) Limited)*	10th Sept 1962
42.	Co-operative Bank of Eastern Nigeria (now Co-operatibe and Commerce Bank Ltd.)*	1962
43.	New Nigeria Bank Limited*	8th Feb. 1971
44.	Pan African Bank Limited*	19th May 1971
45.	Mercantile Bank of Nigeria Ltd.*	1st July 1971
46.	Nigerian Merchant Bank Limited	23rd June 1973
47.	NAL Merchant Bank Limited*	3rd June 1974
48.	International Merchant Bank Ltd.*	Sept 1974
49.	ICON Ltd. (Merchant Bankers)*	Oct. 1974
50.	Kaduna Co-operative Bank Ltd.*	25th Nov. 1974
51.	Kano Co-operative Bank Limited*	1st April 1976
52.	Chase Merchant Bank Limited*	10th April 1976
53.	Societe Generale Bank (Nigeria)*	Sept 1977
54.	Nigerian-American Merchant Bank Ltd	17th Sept 1979
55.	Bank of Credit & Commerce International (Nigeria) Limited*	20th Nov 1979
56.	Owena Bank Nigeria Limited*	8th Feb 1982
57.	Progress Bank of Nigeria Limited*	21st Oct 1982
58.	Indo-Nigerian Merchant Bank Ltd.*	3rd Feb 1983
59.	Merchant Banking Corporation Ltd.*	3rd Feb 1983
60.	Lobi Bank (Nigeria) Ltd.*	27th April 1983
61.	Merchant Bank of Africa (Nig.) Ltd.*	1st Aug 1983
62.	Habib Nigeria Bank Limited*[54]	16th May 1983

54 Sources: Private, Banking Supervision Department, Central Bank of Nigeria, Lagos, and C.V. Brown, op. cit, p. 25.

THE COMING OF COMMERCIAL BANKS IN EAST AFRICA

The so-called Big Three banks dominated the banking scene in East Africa: Kenya, Tanzania and Uganda. The big three banks were the National Grindlays, the Standard and the Barclays Banks and they were all branches of British banks. Between 1951 and 1965 seven other banks set up business in East Africa:

Other Banks Established in East Africa

Date	Bank
1951	Nederlandsche Handel-Martschappii
1953	Bank of India
1953	Bank of Baroda
1956	Habib Bank (Overseas)
1958	Ottoman Bank
1962	Commercial Bank of Africa
1965	Uganda Commercial Bank

In Kenya, for example, the National Bank of India, which later became the National and Grindlays Bank, was first to open an office in Mombasa in 1896, 16 years later in 1910 the Standard Bank of South Africa, which later became the Standard Bank, opened a branch. The third bank was the National Bank of South Africa, which was established in 1916. It was incorporated in South Africa and in 1925 was amalgamated with the Colonial Bank and the Anglo - Egyptian Bank Limited, to form Barclays Bank (Dominion, Colonial and Overseas). The African Banking Corporation, a subsidiary of the Standard Bank, was granted a banking licence in 1963 but it did not carry out any banking business.[55]

In Zambia, the banking system, apart from the Central Bank, comprises 5 commercial banks. Three of them, viz: Barclays Bank of Zambia Limited, Standard Bank Zambia Limited and the Grindlays Bank International (Zambia) Limited are subsidiaries of foreign banks. The other two commercial banks are the National Commercial Bank Limited, established August 21 1969, and wholly owned by the government, and the Commercial Bank Zambia Limited, in which government owns 60 per cent of the shares, was established on May 1, 1965. The Standard Bank of South Africa Limited started business in Zambia in 1906 when its first branch was opened in Kalomo. It was locally incorporated in November, 1971 under its present name, Standard Bank Zambia Limited. The second bank to commence business in Zambia was the Barclays Bank DCO, which was incorporated in London and opened its first branch in Zambia, then Northern Rhodesia, in 1918. It was locally incorporated in 1971 under the name of Barclays Bank of Zambia Limited.

The third bank to be established in Zambia was the National and Grindlays Bank Limited which was first established in Zambia in 1965. It was locally incorporated in 1971.

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55 The main source of this section is Clara Caselli, The Banking System of Tanzania, Milan, 1975.

INDIGENOUS BANKS IN EAST AFRICA

Indigenisation of banks in East Africa took a shape different from that in West Africa. Entrepreneurs in Nigeria like Dr. Nnamdi Azikiwe, Dr. A. Doherty, Chief Okupe and so on took the private initiative to found the banks, some of which survive today. Although it is true that but for the funds from regional governments and marketing boards these banks would have foundered, yet their establishment, management, control and survival should be credited to the ingenuity and determination of these nationalists. In East Africa it was the governments that took the initiative to establish commercial banks. In Zambia (see above p.105) there are only two indigenous banks: The National Commercial Bank Limited, a state-owned bank incorporated on August 21, 1969 and the Commercial Bank Zambia Limited, the first locally incorporated bank. It was incorporated on May 1, 1965 to take over the banking business of the Netherlands Bank of South Africa Limited.

In Kenya, the first locally owned bank was the Co-operative Bank of Kenya Limited. It was first registered on June 19, 1965 under the Co-operative Societies Act but later registered under the Banking Act 1968 which came into force on June 3, 1969. The second indigenous bank, the National Bank of Kenya Limited, fully owned by the Government of Kenya, was established on June 19, 1968, while the third locally-owned bank, the Kenya Commercial Bank Limited with 60 per cent government participation and 40 per cent for National and Grindlays

Bank, assumed operations in December 1971.

The only indigenous banks in Tanzania were the National Co-operative Bank founded in 1964, the Tanzania Bank of Commerce, established in 1965 with 60 per cent equity holding by government, and the People's Bank of Zanzibar founded in 1966. It was about this time that important political changes were taking place in Tanzania.

On February 6, 1967, President Nyerere announced the decision to nationalize the country's commercial banks in accordance with the Arusha Declaration, which says that:

> "to build and maintain socialism it is essential that all the major means of production and exchange in the nation (including banks) are controlled and owned by the peasants through the machinery of their government..."[56]

By nationalization, the government hoped that the following benefits would accrue:

> "(a) more efficient mobilization and redistribution of savings, geared to the requirements of economic development;
>
> (b) speed up the rate of the formation of household savings both in urban and rural areas;
>
> (c) a banking system which, while not oblivious of the need to earn profits, would give priority to the aspect of service to the community;
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> (d) a denser network of banking facilities throughout the country;
>
> (e) equitable remuneration of deposits."[57]

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56 Julius K. Nyerere, in Arusha Declaration: Freedom and Socialism, Dar es Salaam, Oxford University Press 1968.

57 National Bank of Commerce, Annual Report and Accounts for the Year ended June 30, 1971, p. 16.

On February 15, 1967, the National Assembly passed the National Bank of Commerce (Establishment and Vesting of Assets and Liabilities) Act, 1967 (No. 1 of 1967), by which all foreign-owned banks except the Jetha Lila Bankers[58] were nationalized and their assets and liabilities vested in the National Bank of Commerce. The nationalization of the banking system left Tanzania with three commercial banks: the National Bank of Commerce, the National Co-operative Bank and the People's Bank of Zanzibar. In 1970 the National Co-operative Bank was taken over by the National Bank of Commerce to leave Tanzania with only two commercial banks, viz: the National Bank of Commerce and the People's Bank of Zanzibar.

FEATURES OF THE BANKING SYSTEM BEFORE THE COMING OF CENTRAL BANKS

Undoubtedly, the banking sector of the economies of the African territories surveyed was dominated by foreign commercial banks, which were largely left to run their business according to the dictates of external economic conditions. Due to lack of appropriate legislation the banks did not come under the proper control of Currency Boards. Because the Boards had very little or no regulatory power over the banks credit flows and other activities were left in the hands of the banks to direct. Their lending policy was determined by their overseas head offices. The trend was for banks to provide export finance

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58 The Jetha Lila Bankers discontinued business in 1968.

and short, medium and long-term credits only to the expatriate commercial farmers, while the local farmers and businessmen found it difficult to take advantage of the loan facilities due to the banks' traditional orthodox demand for collateral security. The range of the banks' operations was thus very much circumscribed; they financed mainly commerce rather than agriculture and industry, the import of consumer goods rather than capital goods for development. As we have seen above, there was never an efficiently organised money market or security market.

Because Africans were not used to the art of banking in the classical sense, there was a dearth of trained personnel to man the banks. The indigenous people were therefore employed to do menial jobs and this trend continued until conscious training efforts were made to arrange courses for staff immediately before and soon after national central banks were established. Another of the distinctive features of the banking system during this period was the absence of well developed central banks in the two sub-regions. The existence of central banks would have facilitated the development and maintenance of a sound monetary policy to stimulate credit expansion or contraction. Above all, the habit of banking among the Africans had not yet been cultivated. All these identified short-comings have now to a large extent been corrected or removed with the establishment of central banks in the Commonwealth African countries surveyed.

ESTABLISHMENT OF CENTRAL BANKS IN COMMONWEALTH AFRICA

As political independence of Commonwealth African countries was approaching in answer to the former United Kingdom Prime Minister McMillan's call for political wind of change, African governments, politicians, the IMF, economists and parliamentarians were busy debating the post-independence form of the monetary and credit system in the African countries.

Elsewhere[59] in this chapter it was concluded that the Currency Boards which were operating in the pre-independence African Commonwealth countries did not do banking business in the same way as contemporary central banks do not only because they were incapacitated by lack of adequate legislation but because there was no financial infrastructure and the economy was only beginning to be demonetised. We also saw that towards the end of the lives of the West African Currency Board and the East African Currency Board they had started to perform, to a limited degree, the orthodox functions of central banks.

At this point in the economic and banking development of these countries political consciousness had simultaneously grown and politicians had started to whip up agitation for political and economic independence. The debates, discussions, and agitations assumed greater proportions in the declining years of the colonial regimes. In answer to nationalists' demands for economic independence the respective colonial governments set up panels to study the financial arrangements best suited to these

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59 See page 89.

countries.

In East Africa, the question was first seriously discussed as far back as 1953 by W.T. Newlyn and D.C. Rowan in their book Money and Banking in British Colonial Africa wherein the two authors concluded that there was no case, in the short run, for central banking in East Africa. However, there was the rider that the position as it was in 1951 might change in the future with the development of the use of bank credit, with the increasing complexity resulting from local borrowing by East African governments, and thirdly with the emergence of indigenous banks.

Some seven years later the Uganda Government commissioned its former Economic Adviser, W.T. Newlyn, to advise on the banking situation. In his report[60] Mr. Newlyn seemed to have changed his position as expressed in 1953. He pointed out that conditions in East Africa had changed since 1953 and so saw a strong case for the establishment of a central bank:

> "It is my opinion that if East Africa were a single political unit there would be no doubt whatever but that a central bank should be set up with minimum delay, with the intention of adopting an independent monetary system based on sterling. But East Africa is not a single political unit."[61]

In 1960 there was yet another commission. A German

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60 W.T. Newlyn, Economic Policy in Uganda. Report of the Economic Adviser, Entebbe, Ministry of Finance, 1959.

61 W.T. Newlyn, ibid, p. 68.

banker, Erwin Blumenthal,[62] was requested to report on the following matters:

> "(a) the steps necessary to safeguard Tanganyika's interests under the existing system, pending the time when a new East African currency and an~~d~~ East African Central Bank could be brought into being;
>
> (b) the steps and measures needed to establish a Tanganyika currency and Central Bank and the terms on which the separation from the East African Currency Board should take place;
>
> (c) the possibility of establishing an East African Central Bank now, the steps and measures necessary to establish that bank with an independent Tanganyika in a position to safeguard its interests, and the steps and measures necessary to establish, if possible now, a new East Africa currency."[63]

He reported in 1963.

Blumenthal strongly warned the Tanganyika government against any attempt to establish an independent currency and central bank.[64] However, he suggested a two-tier system consisting of a central bank for East Africa and of state banks performing a number of central bank functions in each country. He put forward his two-tier system plan as under:

> "80. The top of the System will be formed by a Central Bank established on a regional basis by agreement of the participating Governments. This bank

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62 Erwin Blumenthal, <u>The Present Monetary System and its Future</u>: Report to the Government of Tanganyika, Dar es Salaam 1963, p. 59.

63 <u>Ibid</u>, p. 59.

64 See W.T. Newlyn, The significance of separate monetary Systems in East Africa, in <u>East Africa Institute of Social Research Conference Papers</u>, January 1966 papers, where the subject was fully examined.

would by virtue of pertinent arrangements take over the assets and liabilities of the Currency Board. The Central Bank will have the sole right to issue legal tender currency in East Africa.

81. In each of the four countries at the same time a State Bank would be established to assume territorial functions within the System. Although these State Banks form part of, and be incorporated in, the Central Bank System, they would be allowed a certain measure of independence and freedom of decision on a territorial basis, which would serve to safeguard the special interests of the country concerned in co-ordination with its financial and economic policy.[65]

An elaborate system of management was envisaged to bring about the co-ordination of policy between the State Bank and the Central Bank. In particular, it was recommended in paragraphs 83 to 88 of the Report that the Central Bank should have a Board of 11 Directors including, apart from its own Governor, a Deputy Governor, the Finance Ministers of the member countries and the Presidents of the State Banks; and that it should perform the functions listed therein.

The governments of Uganda, Kenya and Tanganyika considered the Report, which became the focal point for discussion and counter-proposals. In a confused atmosphere the three governments invited the IMF to send a Mission to East Africa to make a further study of the situation and advise them on the future organisation of banking and monetary matters and how best to proceed. But, on the eve of the arrival of the IMF Mission headed by Jan Mladek, the

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65 Erwin Blumenthal, op. cit, p. 34, paras. 80 and 81.

Ugandan Government soft-pedalled and on February 2, 1965, announced its own intention to set up the Bank of Uganda and to endow it with central bank functions. The Mladek Mission was therefore doomed to failure. It concluded its assignment on February 12, 1965 without achieving its objectives. The pious hopes of preserving the common currency was thus dashed to the ground. No wonder then that on June 10, 1965, the three Finance Ministers of Kenya, Uganda and Tanzania announced simultaneously their intention to establish their national central banks.

All that was left for the three countries was to enact laws to establish each its own central bank. Tanzania did so in January 1966, Kenya in March and Uganda in May. The three Central Banks officially started business on June 14, September 14 and August 15, 1966, respectively with the following Acts as the organic laws:

The Bank of Tanzania Act 1965
The Central Bank of Kenya Act 1966
The Bank of Uganda Act 1966

CENTRAL BANK OF NIGERIA

The position in Nigeria was somewhat similar to the pre-central banking system in East Africa. There was a common currency which served the whole of the West African region and the system was administered by the West African Currency Board with the Bank of British West Africa as its agents. But with the arrival of independence disintegration of the ubiquitous Board set in. First it was the Gold Coast, now Ghana, which when it became independent in

1957 set up the first central bank in the region. This it did by splitting into two the Bank of the Gold Coast which had been set up by the Government in 1953. One part became the Bank of Ghana and was a bank of issue, which later grew into a complete central bank. The other part became the Ghana Commercial Bank, a government commercial instrument. Sir Cecil Trevor had earlier in 1952 inquired into the banking situation in the Gold Coast and recommended the immediate setting up of a central bank in these words:

> "For the reasons given earlier in the Report, I do not consider the time is ripe for the formation of a full-fledged Central Bank of Issue, but I recommend the formation of a semi-Government Bank to be conducted on commercial lines to meet the present needs of the country as a whole and to provide a nucleus from which a more powerful and comprehensive institution may develop for the future advancement of the country."[66]

As a natural follow-up the Bank of Ghana took control of the management of the currency in 1958 and issued a separate national currency, thereby parting company with Nigeria, Sierra Leone and The Gambia, now in political union with Senegal and forming part of "Senegambia".

In Nigeria the development in Ghana had influenced the reasoning of government and the nationalists compelling them to assess their banking policies and objectives.

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66 Sir Cecil Trevor, C.I.E., Report on Banking Conditions in the Gold Coast and on the Question of Setting up a National Bank, para. 153 and para. 169 for details of the Proposals.

Other influencing factors were the rash of bank failures in the 1950s and the self-governing status that was soon to be achieved in Nigeria regionally. The departing Colonial Government felt so much concerned particularly about the indigenous bank failures that Mr. G.D. Paton, an officer of the Bank of England, was requested to enquire into banking management in order to safeguard the interests of customers who used the indigenous banks. Paton's Report[67] paved the way for the enactment of "An Ordinance for the Regulation of the Business of Banking" on May 22, 1952. The Ordinance[68] provided that banking may be carried out only by a company, which in order to be registered must have a nominal capital of at least £25,000 and that banks incorporated outside Nigeria to have a paid-up capital of £100,000. All banks were required to have a licence and existing banks were given 3 months to regularise their position by applying to the Financial Secretary for a licence and they were allowed three years within which to obtain such a licence.

However the debate continued whether to be or not to be, whether a central bank should be set up or not. Government was compelled to set up studies to determine whether Nigeria was ripe to have a central bank following Dr. K.O. Mbadiwe's motion[69] in the House of Representatives

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67 Report on Banking in Nigeria, Lagos, 1948.

68 Banking Ordinance, 1952, sub-section 3.6.

69 Mbadiwe, K.O., House of Representatives Debates, First Session, 11 to 31 March and 1 to 9 April 1952, vol. 2, pp. 1172-1183.

praying the House to establish a central bank.

After much debate, the House passed a motion calling for a feasibility study, Mr. J.L. Fisher of the Bank of England was requested to investigate the matter. He reported in 1952[70] and suggested that a central bank for Nigeria should be built up in three stages: first, the West African Currency Board should transfer its operations to Africa; secondly, there should be a Nigerian Currency Board. In its third stage a bank of issue should be set up and develop gradually into a fully fledged central bank.

The next study was undertaken in 1953 by the International Bank for Reconstruction and Development, otherwise called the World Bank, which considered also the Fisher's Report. It recommended the establishment of a state bank for Nigeria which could have the statutory power of issuing Nigerian currency and assuming control of the banks.

During this period Nigerians had attained a reasonable measure of self-government and were in a position better placed to realise their aspiration which in this case was a central bank with more far-ranging scope and operational freedom than a state bank recommended by the IBRD. Mr. J.B. de Loynes, another adviser to the Bank of England, who like Mr. J.L. Fisher was a member[71] of the

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70 J.L. Fisher, Report on the Desirability and Practicability of establishing a central bank in Nigeria for promoting the economic development of the country, Lagos, 1953.

71 Richard Fry, <u>op. cit</u>, p. 220.

erstwhile West African Currency Board, was in 1957 commissioned to undertake another study. He recommended the immediate establishment of a central bank. His Report according to Fry:

> "became the basic text for new central banks in the developing world. It contained the drafts of a banking bill and a Central Bank bill."[72]

These bills were debated and subsequently adopted by the House of Representatives in March, 1958. The Central Bank of Nigeria was as a result founded and the first Nigerian members of staff assumed duty on 6th June, 1958, Governor Roy P. Fenton on 24th July, 1958 and the present writer on February 2, 1959. Roy Fenton, R.K.C. Giddings and Peter Edgley, Governor, General Manager and Currency Officer, respectively, from the Bank of England and Mr. G.W. Keep from the Reserve Bank of Australia worked assiduously to set up the Bank in temporary offices at the Mosaic Building, Federal Ministry of Finance, Tinubu Square, Lagos. (The table below gives the list of top expatriate and Nigerian personnel who served the Bank during the first decade of its existence.) The Central Bank of Nigeria was formally inaugurated on July 1, 1959 and started operations in accordance with the provisions of the Central Bank of Nigeria Act, 1958.

In his speech that day, the Federal Minister of Finance, Chief Festus S. Okotie-Eboh said:

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72 J.B. Loynes, op. cit, p. 30.

> "During my Budget speech last February, I said that it was hoped that on the 1st July the Central Bank would assume its functions as the Bank of Issue and that the issue of Nigeria currency would commence on that same day. Today that prophecy is fulfilled."[73]

In place of prophecy we will now examine the functions of the Central Bank, the objectives of the legislation setting it up and the impact the laws have made on the economic growth of Nigeria and to a lesser extent of other Commonwealth East African countries.

Table 3

THE EXPATRIATE PERSONNEL WHO SERVED THE CBN IN ITS FORMATIVE YEARS

R.P. Fenton, C.M.G. Bank of England	Governor	24th July 1958 24th July 1963
W. Keep, Reserve Bank of Australia	Deputy Governor	27th Jan 1959 26th Jan 1962
R.K.C. Giddings, M.C. Bank of England	General Manager	23rd Aug 1958 22nd Aug 1961
W.A. Tibbles, Bank of England	General Manager	11th May 1961 31st March 1963
	Adviser to the Governors	1st April 1963 3rd March 1964
J. Beach, Reserve Bank of Australia	Deputy General Manager	6th Oct 1959 5th Oct 1960
J.W. Axten, Bank of England	Chief Accountant	5th April 1959 4th Oct 1960
J.P. Gore, Bank of England	Chief Accountant	26th May 1960 25th Sept 1962

73 Chief F.S. Okotie-Eboh, An address by the Federal Minister of Finance, Chief the Honourable F.S. Okotie-Eboh M.H.R., At the opening of the Central Bank Building on the 1st July, 1959, p. 2.

P.F. Maugham, Bank of England	Auditor	7th June 1960 3rd Aug 1964
P.E. Edgley, Bank of England	Currency Officer	22nd Aug 1958 7th Jan 1961
F.E. Roycroft, Bank of England	Currency Officer	15th Sept 1960 30th June 1962
	Assistant to General Manager	1st July 1962 14th Jan 1963
R.K. Barton, Bank of England	Agent, Kano Branch Agent, P. Harcourt	3rd Aug 1962 2nd March 1965
C.L. Mobbs, Reserve Bank of Australia	Exchange Controller	13th Nov 1961 15th Dec 1963
*M.H. Rice, Federal Reserve Bank, Dallas	Research Adviser	24th Nov 1960 5th Dec 1963
*F.R. Dahl, Federal Reserve Board, Washington	Balance of Payments Adviser	18th April 1962 18th May 1964
*E.J. Rice, Federal Reserve Bank, New York	Research Adviser	17th Nov 1962 28th April 1964
*W.R. Belmont, Federal Reserve Bank, Minneapolis	Research Adviser	19th Aug 1964 22nd July 1966
Miss S.G. Stoney, Bank of England	Governor's Secretary	30th July, 1958 1st Jan 1961
Miss J.H. Taylor, Bank of England	Governor's Secretary	12th Sept 1960 1st Sept 1963
Miss J. Bogardue, Federal Reserve Bank, New York	Librarian	4th April 1961 9th Dec 1961

CBN BOARD OF DIRECTORS 1959-1979

No.	Governors Name	Period
1.	Mr. Roy Pentelow Fenton CMG	24 July 1958-24 July 1963
2.	Alhaji Aliyu Mai-Bornu	25 July 1963-31 July 1967

No.	Governors Name	Period
3.	Dr. Clement Nyong Isong	15 Aug 1967-22 Sept 1975
4.	Mallam Adamu Ciroma	23 Sept 1975-27 June 1977
5.	Mr. O. Olabode Vincent	Since 28 June 1977

Deputy Governors

1.	Mr. Grahame William Keep	27 Jan 1959-26 Jan 1962
2.	Alhaji Aliyu Mai-Bornu	27 Jan 1962-24 June 1963
3.	Dr. Abai Njoku Abai	25 July 1963-26 Jan 1967
4.	Mallam Ahmed Talib	1 Aug 1968-5 Nov 1969
5.	Mr. Samuel O. Asabia	2 March 1970-1 March 1975
6.	Mr. O. Olabode Vincent	1 April 1975-27 June 1977
7.	Alhaji Abdulkadir Ahmed	Since 28 June 1977

Executive Directors

1.	Alhaji Amusa O.G. Otiti	Since 21 Sept 1977
2.	Professor Green O. Nwankwo	Since 28 Sept 1978
3.	Mr. Paul R.V. Belabo	10 April 1978-25 Jan, 1979

Directors

1.	Malam Yakubu Wanka O.O.N., M.B.E.	1 July 1958-30 June 1967
2.	Chief Jabin A. Obahor	1 July 1958-30 June 1967
3.	Mr. Richard O. Nzimiro	1 July 1958-1 March 1959
4.	Chief Festus O. Awosika	1 July 1958-20 June 1961
5.	Mr. Laban N. Namme	1 July 1958-21 Nov 1960
6.	Mr. Chuba Ikpeazu Q.C.	2 March 1959-31 Aug 1964
7.	Alhaji Abdu Gusau M.B.E.	22 Nov 1960-30 June 1968

No.	Name	Period
8.	Mr. E.A. Iyanda	1 July 1963-30 June 1966
9.	Chief Daniel Nwandu	1 Feb 1965-30 June 1966
10.	Chief T. Adeola Odutola	1 July 1966-30 June 1972
11.	Dr. W.O. Uzoaga	1 July 1966-30 June 1969
12.	Mallam Adamu Ciroma	1 July 1970-22 Sept 1975
13.	Mr. David O. Dafinone	1 July 1970-15 Oct 1975
14.	Mr. Aliyi Ekineh	1 Nov 1970-15 Oct 1075
15.	Professor Iya Abubakar	1 July 1972-15 Oct 1975
16.	Professor Herbert M.A. Onitiri	1 Sept 1972-16 Oct 1978
17.	Dr. Samuel Etim Andem Ewa	Since 16 Oct 1975
18.	Dr. Suleiman Kumo	Since 16 Oct 1975
19.	Dr. Sylvester U. Ugoh	Since 16 Oct 1975
20.	Mr. Hamza Zayyad	Since 16 Oct 1975
21.	Alhaji Ibrahim Argungu	Since 5 April 1978
22.	Chief Samuel M. Amoye	Since 10 April 1978
23.	Mr. Lucas J.S. Longpuan	Since 12 April 1978
24.	Professor Christopher S. Ola	Since 16 Oct 1978

CBN HEADS OF DEPARTMENTS 1959-1979

Name	Department	Period
Mr. R.C.K. Giddings MC	General Manager	Aug 23 1959-Jan 26 1962
Dr. C.N. Isong	(Secretary (Director of (Research	1959 - Aug 31 1961 Sept 1 1961-1963
Mr. W.A. Tibbles	General Manager	May 11 1961-March 31
Dr. A.N. Abai	Secretary	Dec 1 1962-July 24, 1963

Name	Department	Period
Mr. O. Ola Vincent	General Manager	April 1 1963-Oct 31 1966
Mr. M.A. Adejoro	(General Manager	Nov 1 1966-Jan 11 1971
	(Chief of Banking Operations	Jan 1 1969-Jan 11 1971
Mr. F.A. Ijewere	(Secretary	Jan 1 1966-Jan 7 1971
	(Chief of Banking Operations	Jan 1 1971-Dec 10 1975
Mr. E.A. Ekukinam	Director of Research	Jan 1 1966-April 1 1972
Mr. E.N. Ukochio	Internal Auditor	Jan 1 1966-Nov 31 1975
Mr. F.O. Sogunro	Bank Examiner	Jan 1 1967-Mar 31 1968
Alhaji A.O. Otiti	Exchange Controller	Apr 1 1970-Dec 31 1975
Mr. C.E. Okobi	Bank Examiner	Jan 1 1971-July 1 1973
Mr. A.B. Obilana	(Chief Security (Officer	Jan 1 1974-Dec 31 1975
	(Exchange (Controller	Jan 1 1976-Dec 30 1977
	(Director (Domestic (Operations	Since Jan 1 1978
Alhaji Usman Nagogo	(Chief Personnel (Officer (later retitled	Jan 1 1974-Dec 31 1977
	(Director of (Personnel	Jan 1 1978-Oct 13 1978
	(Director of (Administration	Since Oct 16 1978
Chief J.A. Ogedegbe	(Chief of (Administration	Jan 1 1974-Dec 31 1975
	(Chief Internal (Auditor	Jan 1 1976-Dec 31 1977
	(Director Foreign (Operations	Jan 1 1978
Dr. J.O. Adekunle	Director of Research	Apr 1 1974-Aug 1 1975
Mr. R.A. Lawal	Chief Accountant	Jan 1 1975-Mar 1 1975

Name	Department	Period
Mr. O. Olashore	Chief Bank Examiner (later retitled Director of Banking Supervision)	Jan 1 1975-Dec 31 1977 Since Jan 1 1978
Chief S.B. Falegan	Director of Research	Jan 1 1976-Jun 30 1979
Mr. A.O. Durojaiye	Director of Administration	Jan 1 1976-Oct 2 1978
Mr. C.N. Nwangwu	(Chief Security (Officer (Director, (Financial Systems (and Control	Jan 1 1976-Dec 31 1977 Since Jan 1 1978
Mr. B.I. Semowo	Director, Agricultural Finance	Since Jan 1 1978
Alhaji S.A. Okponobi	Director, Exchange Control	Since Jan 1 1978
Mr. S. Chuks Ezeugoh	(Director, (Governor's Office (Director, (Personnel	Jan 1 1978-Oct 15 1978 Since Oct 16 1978

CHAPTER 3

OBJECTIVES OF CENTRAL BANKING LEGISLATION

SCOPE AND SOURCES OF LEGISLATION

Apart from the Bank of England which was established in 1694 and which is governed not by a single organic law but by a series of statutes and a charter, most of the world's central banks are established by virtue of law and their powers, authorities and functions are derived from specific legal rules. These rules are designed to give central banks wide powers of operation in order to be able to cope with the tremendously diversified type of jobs and functions they have to perform. These functions as can be seen in Chapters 4-10 cover a very wide spectrum of activities. These activities include the issuing of currency, the management of public debt, acting as banker and adviser to the government, the supervision of the banking system the direction of open-market operations and the money and capital markets, the preservation of the purchasing power of reserves, and so on.

All transactions of central bnks, therefore whether with government or with banks are governed by law, usage or practice. Furthermore, the relations between a central bank and international financial institutions, such as the International Bank for Reconstruction and Development

(I.B.R.D.) (otherwise called the World Bank), International Monetary Fund, Bank for International Settlements are governed by special rules which require the central banks to act in a certain manner to achieve set targets. The IMF, for instance, requires the central banks to maintain exchange stability.

The wording of central bank and monetary laws is of more than purely legal interest; it reflects the thinking of governments and the political leaders, their goals on the desired scope of the legal regulation of money, banking, social and economic activities. The differences that exist in the structure and functions of central banks can in most cases be traced back to differences in the phraseology of the organic laws governing the institutions and the declared objectives. Thus some central banks may only be an extension of the Ministry of Finance or Treasury while others may be a parastatal or semi-autonomous body. However, instances have been known where differences in function may obtain even where the organic laws of 2 or more central banks are virtually identical. These differences can be traced to, for example, the use central banks make of their discretionary and mandatory powers; for one central bank may choose to exercise its discretionary powers while the other may not. Differences of wording and definition of the same operative factors could therefore point to different legal consequences and to different sources of legislation. Furthermore, some basic concepts of techniques of central banking, such as the monetary unit, discount rate, minimum reserve ratio are differently defined and interpreted or implemented in different systems.

We observe that some of these concepts or techniques of central banking are determined by domestic law embodied in parliamentary statutes or in rules of sub-delegated legislation or even determined by custom or usage. There are those central banks who operate without enabling laws, for example those that are part and parcel of the Treasury. Before the establishment of the Bank of Sudan, for example, some of the traditional functions of central banking were shared between the Ministry of Finance and Economics, which administered the foreign reserve, the Sudan Currency Board which managed the currency and the National Bank of Egypt, which acted as banker to the Sudanese Government.[1]

Another example is Brazil, which was the last of the earlier independent countries to establish a central bank, namely, the Central Bank of Brazil in 1965. Before the establishment of the Central Bank of Brazil, the Bank of Brazil performed some central banking functions, such as holding deposits of the other banks and rediscounting for them, and acting as the government's banker and agent, but it did not have the right of note issue which was vested in the Treasury. The control of the money and exchange markets and bank reserve requirements was also exercised by the Treasury through its superintendence of money and credit. With the establishment of the central bank these functions have been entrusted to the Central Bank of Brazil.

There are also some central banks that operate with

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1 Bank of Sudan, Report of the Year Ending 31st December, 1960, pp. 1-2.

specific central bank laws, with banking laws as supplementary legislation, as in the case of the Bank of Zambia. On the other hand, the rules of international law as a source of law apply fairly uniformly to all the different central banks whose countries are signatories to the multilateral or bilateral agreements or through membership of such world bodies as the I.M.F. and I.B.R.D.

SOURCES

Literally, the term "Source of Law" means source of authoritative statement of the law, such as is to be found in the law reports and the statute book. In strict legal phraseology, it means any source from which the substance of the law is derived. Salmond classified sources of law into "formal" and "material". The former he gave as the source of the validity of law, that is, the source from which a rule derives its legal force, and this source is nothing other than "the will and power of statute" which is manifested in the Court of Justice.[2] Material sources are those sources from which the substance of the law, as opposed to its validity, is derived (that is, the historical sources); and legal sources are those sources which are recognised as such by the law itself and they comprise legislation, precedent and custom. For our purpose we shall be concerned with the material and legal sources from which the substance of law is drawn.

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2 Salmond, Sir John, On Jurisprudence, 11th Ed by Glanville Williams (London: Sweet and Maxwell, 1957).

The sources of central banking law in Commonwealth Africa usually comprise domestic law, and subsidiary domestic law sources, basic international law and subsidiary international law sources and received law which includes the English Common Law, the Doctrines of Equity; and the statutes of general application. It will be shown also that customary law in some countries like Nigeria is a source of banking law.

BASIC DOMESTIC LAW

The basic domestic law sources are varied and can be grouped into various heads:

(a) Specific central bank law, which deals with the rules that affect the structure, functions and power of the central bank. In the Commonwealth African central banks surveyed, this type of law is usually in the form of an Act of Parliament, and is the organic law of the central bank. Here the law specifically defines the powers, duties and obligations of the central bank. The Central Bank of Nigeria Act 1958, the Bank of Zambia Act 1964, the Central Bank of Kenya Act 1967 and the Bank of Tanzania Act 1965 are examples.

(b) Monetary laws that govern domestic payments for instance Article 1 of the Monetary Act, 1875 of the Kingdom of Norway designates the Krone as the Monetary Unit of the Kingdom. Another example is the Kenyan Currency Interpretation Ordinance No. 1 of 1922, which stipulated in sections 2 and 4 that where in any

Act applied to the Colony in force on the first day of January 1922, the word "rupee" is used, such applied Act shall be deemed to have had effect from the said date and shall have effect as if the words "two shillings" had been used in place of the word "rupee" which was made a legal tender currency by a proclamation dated the fifteenth day of March, 1907, under the East Africa and Uganda Currency Order in Council, 1905.

(c) Clauses or Articles conferring special powers on central banks: the third category of basic domestic law sources includes provisions or Articles in the banking or other domestic laws that confer special power on the central banks in relation to such other institutions or for other set objective. The Nigerian Constitution 1979, the fundamental law of Nigeria provides that the Central Bank of Nigeria should have the inherent power to be a member of the National Economic Council and to advise the President concerning the economic affairs of the Federation, and in particular on measures necessary for the co-ordination of the economic planning efforts or economic programmes of the various governments of the Federation of Nigeria.[3] A further example is to be found in section 19(1) of the Kenya Banking Act 1969, which empowers the central bank to cause an

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3 S.140, item ii(c) of the 3rd Schedule of the Constitution of the Federal Republic of Nigeria, 1979.

S.4(2), items 6,12, and 24 of the 2nd Schedule place banks and banking, capital issues, currency, and exchange control matters in the Exclusive Legislative List.

inspection to be made of any licensed bank; while the Minister shall consult with the central bank in the exercise of his functions under the Act.[4] In like manner section 5(1) of the Pre-shipment Inspection of Imports Act, 1978, confers on the Central Bank of Nigeria the power to administer generally the provision of the Act; this stipulates that "no goods to which this Decree applies shall be imported into Nigeria unless a clean Report of Findings has been issued in respect of such goods to the overseas sellers of the goods by the inspecting authority ..." and that any person intending to import any goods shall before shipment of such goods to Nigeria furnish the Central Bank the particulars specified in the schedule to the Act. The Nigerian Banking Act, 1969, is another example. The Act, among other things, confers very wide powers on the Central Bank of Nigeria to supervise the banking system and carry out periodic examinations of the banks.[5]

SUBSIDIARY DOMESTIC LAW SOURCES

Subsidiary domestic sources of central bank law can be found in rules issued by them under the authority of the organic law. Such sub-delegation include by-laws[6]

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4 See S24 the Banking Act, 1969, Kenya.

5 See s.20 of the Nigerian Banking Act, 1969.

6 See for example Central Bank of Nigeria Bye-Laws, 1959.

of the bank or general rules governing credit controls or rules issued by the central bank independent of its organic law[7] under the authority of special laws conferring power on the bank to act in a particular field, such as foreign exchange control regulations in manuals.[8]

CUSTOMARY LAW

As a subsidiary domestic law source, the indigenous laws, otherwise known as customary laws, would at first sight appear not to be applicable to the banking industry. Although the courts of Nigeria and other African countries are by law enjoined to observe and enforce the observance of every customary law which is applicable and not repugnant to natural justice, equity and good conscience (or words to that effect), customary law is inapplicable "if it appears either from express contract or from the nature of the transaction out of which any suit or question has arisen, that such transaction should be exclusively regulated otherwise than by native law and custom."[9]

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7 E.g., Monetary Circulars issued by Central Bank of Nigeria at the Annual and Supplementary Budgets.

8 See Appendix below for the principal sources of Central Banking Legislation in Nigeria,

9 See High Court of Lagos Act (Cap. 80) s.27, High Court Law, Cap. 44 (Western State); High Court Law, No. 27 of 1955 (Eastern States); High Court Law No. 8 of 1955 (Northern States) s.13, High Court Law, No. 9 of 1964 (Midwestern States). By virtue of the Designation of Ordinance Act, 1961, any enactments, e.g. ordinances, deemed enacted or enacted by the Federal Legislatures are to be called Acts. State enactments are termed laws. Under the Military regime, Federal Laws are called decrees and state Laws, edicts - see s.4, Constitution (Suspension and Modification) Decree, 1966.

contd...

Similarly, the Evidence Act[10] in Nigeria provides that "any custom relied upon in any judicial proceeding shall not be enforced as law if it is contrary to public policy"; Lord Wright in Laoye v. Oyetunde[11] was of the opinion that the effect of this phrase was to invalidate customs which were barbarous, and in Edet v. Essien,[12] where Edet relied on a native law and custom to claim custody of Essien's two children because Essien did not refund the dowry when Edet's former wife left him and married Essien by whom she had two issues; it was held by the Divisional Court in Calabar that "it was contrary to natural justice, equity and good conscience to allow the appellant to claim the children of another man merely because the other man had deprived the appellant of his wife without paying dowry for her."

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contd...

S.3(2) of the Judicature Act of Kenya, Act 16 of 1967 provides that the "High Court and all subordinate courts shall be guided by African Customary Law in civil cases in which one or more of the parties is subject to it or affected by it, so far as it is applicable and is not repugnant to justice and morality or inconsistent with any written law, and shall decide all such cases according to substantial justice without undue regard to technicalities of procedure and without undue delay".

10 S.14(3) Evidence Act (Cap. 62).

11 [1944] A.C.170.

12 (1932) 11 NLR/47.

In other words, customary law does not apply to transactions that are unknown to customary law or are contrary to public policy. The banking industry as we know it today in its sophistication was to a very large extent unknown to native law and custom.

In Chapter 2, page 89 we attempted to establish that some traditional credit institutions from time immemorial performed functions similar to those of the banks. In this section we will submit that the regulations of the institutions and their practices are complementary to the Nigerian banking law and therefore a source of Nigerian banking law.

Section 41(i)(e) of the Nigerian Banking Act 1969 defines "banking business" to mean "the business of receiving monies from outside sources as deposits irrespective of the payment of interest and the granting of money loans and acceptance of credits or the purchase of Bills and Cheques."[13]

In Nigeria before banks were established and before, during and after the colonial regimes there were, as now, traditional financial institutions which served the Nigerian

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13 Contrast with s.2 of the Kenya Banking Act, 1969, where "Banking Business" is defined to mean any business which includes the accepting of deposits of money from the public repayable on demand or after a fixed period or after notice, the employing of those deposits in whole or in part by lending or any other means for the account and at the risk of the person accepting the deposits and the paying and collecting of cheques; while s.3 of the Bank of Tanzania Act, 1965 defines "Banking Business" as the business of receiving money on current account subject to withdrawal by cheque.

communities and performed the functions of modern banks in towns, the rural areas and even in the cities. These types of traditional institutions in their various forms proliferate all over Nigeria and they vary from locality to locality in function, objectives and methods.

In local parlance these traditional financial units or institutions are popularly known as Isusu, Esusu, Igbe Oha, Iwofa and other variants. Their activities are not nationally standardised or regulated by statute but they operate loans, savings, deposits and mutual aid scheme as in "banking business". However, they operate under rules and every member understands the mechanics of their operations. And as Lloyd has remarked, "Customary Law needs no Lawyers since all know the law; and since it has no lawyers it does not develop into an esoteric science - until, of course, it is written down and one can begin to quibble over the meaning of words."[14]

Hopkins suggested two broad classifications for indigenous credit institutions in the pre-colonial setting. There were the small credit associations, organised by kinsmen or by groups of friends, devoted to such social purposes as raising money for funerals, and weddings. The Yoruba Esusu, and the Igbe Oha were examples of this he said. On the other hand, there was the commercial capital market which served economic needs at local and inter-regional levels.[15]

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14 P.C. Lloyd, Yoruba Land Law, Oxford, 1962.

15 Anthony G. Hopkins, An Economic History of West Africa New York, 1973, pp. 21-71.

Professional traders often needed to finance their ventures by seeking credit, because of the high initial investment and slow returns involved. Wealthy merchants, specialised bankers, and money lenders, usually operating out of the target trade entrepots, provided this service.[16]

Although methods of organising and managing these financial units are simple, differing from locality to locality, the pattern of administration is an unsophisticated version of the modern methods of banking management or administration. There are no written laws, rules or regulations to guide the operators of these institutions and their customers. However, every member has an impeccable knowledge of the conventions and they keep to them and respect them like any written laws for there are regulations governing the appointment of Chairman, the itinerant collecting Secretary, frequency of meetings, the day, time and place as well as the amount to be paid by each member. The system also regulates the regularity and question of payment of contribution, which can also be paid in multiples and in advance.

The promoter or manager of an Esusu institution manages the daily or weekly or monthly contributions of members, he can invest them in a business with a rapid turn-over to advantage and can call for collaterals or securities like beads, calico cloths, cassava plantations, cooking pots, etc. for loans given to members or to non-members.

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16 Ibid, p. 70: See 3.2 (1976) Journal of African Studies, p. 147.

A recent investigation by the present writer amply shows the functions of these traditional financial institutions to include savings, credit, discounting and development finance and the acceptance of deposits. To the extent that they accept deposits, lend money and do "crude" banking it can be said that they come within the definition and meaning of banking as defined by Section 41, Nigerian Banking Act 1969. The Banking Ordinance 1952 as we have seen above did not define banking nor did it exclude traditional financial institutions. The Esusu institution should therefore have been controlled by the provisions of the Ordinance if the colonial governments had wanted to harness the available capital.

From the foregoing it would therefore not be perfectly correct to say that the act of banking, or banking business as operated by our ancestors was a transaction unknown to customary law. Because it is unwritten, a rule of customary law derives its force and authority from the assent of the community. Lord Atkin summarised the effect of this trend in Eshugbayi Eleko v. Government of Nigeria, when he said:

> "Their Lordships entertain no doubt that the more barbarous customs of earlier days may under the influence of civilization become milder without losing their essential character as custom. It would however, appear to be necessary to show that in their milder form they are still recognised in the native community as custom, so as in that form to regulate the relations of the native community inter ... It is the assent of the native community that gives a custom its validity, and therefore, barbarous or mild, it must be

> shown to be recognised by the native community whose conduct it is supposed to regulate."[17]

If a dispute were to arise between members of the Esusu financial units as to their rights and obligation inter se under the arrangement, it is probable that the courts would have exercised jurisdiction as they did in Re Effiong Okon Ata[18] when the Courts rejected a rule of customary law that laid down that a former owner of an emancipated slave was entitled to administer the deceased slave's personal estate as repugnant to natural justice, equity and good conscience and nugatory to the provisions of the Slavery Abolition Ordinance.[19]

A court of law cannot by itself create customary law. Thus the true position seems to be that the nature of a custom remains in doubt until ascertained by judicial enquiry.

Since 'Isusu' cannot be said to be repugnant to natural justice, equity and good conscience, or incompatible directly or by implication with any law, the rules governing the 'Isusu' system are complementary to the Banking Act and can by necessary implication be said to be our first and fundamental source of domestic law on traditional financing and therefore matters connected with it could be justiciable.

RECEIVED ENGLISH STATUTES

The received English Law is another source of law in

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17 See also A.N. Allott New Essays in African Law, p. 63.

18 (1930) 10 NLR 65.

19 No. 35 of 1916.

anglophone Africa and it consists of the common law, doctrines of equity, statutes and subsidiary legislation. Before the partitioning of the African continent by the British, the French, the Germans and other European colonisers there were, as we saw above, customary legal systems. The distinguishing characteristics of the customary laws was that they were not written. With the annexation of each anglophone country, the British colonialists through the force of arms or legislation backed up with coercion extended their legal system to Africa thus supplanting in some cases the indigenous or customary legal institutions. According to [Professor] A.N. Allott, it was the arrival of the European colonial powers which had the most far-reaching impact upon African legal systems when he said:

> "The arrival of European colonial powers wrought a fundamental revolution in African legal arrangements, the results of which are with us to this day. The nature of the revolution varied somewhat with different colonial powers, but in general each power first introduced its own legal system or some variant of it as the fundamental and general law of its territories, and, second, permitted the regulated continuance of traditional African law and judicial institutions except they ran counter to the demands of colonial administration or were thought repugnant to 'civilised' ideas of justice and humanity."[20]

Before the African Commonwealth countries attained their national political independence, both the British Parliament and the power of the Crown derived from the

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20 A.N. Allott, The future of African law quoted in <u>New Essays in African Law</u>, 1970, p. 11.

Foreign Jurisdiction Acts 1890-1913. In the case of Nigeria A.E.W. Park expressed the view that "Acts of Parliament and Orders-in-Council passed pursuant to those powers constituted the highest source of Nigerian law; they prevailed over inconsistent rules derived from other sources, and any Nigerian statute that was repugnant to them was pro tanto void."[21]

The technique of the reception by these countries of English Law was by enacting local statutes which incorporated the laws by reference. Examples of Nigerian enactments that have received English Law include the Law (Miscellaneous Provisions) Act[22] in force as federal law throughtout the country; the Law (Miscellaneous Provisions) Law Cap 65 of Lagos State, and the Law of England (Application) Law in force in Bendel State.[23]

The effect of the provisions is that where there is no local statute on a particular subject the provisions of pre-1900 statutes of general application and in force in England will be the relevant law. Thus in the Ghanaian case of Inspector-General of Police v. Kamara[24]

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21 A.E.W. Park, The Source of Nigerian Law 1963, p. 14. For further reading on the subject of received English Law, see Anthony Allott, Essays in African Law, and B.O. Nwabueze, Machinery of Justice in Nigeria.

22 See Interpretation Act 1964 (no. 1 of 1964) S.28.

23 See also art 15 of the East Africa Protectorate Order in Council, 1902, where it was provided that the "said Common Law, doctrines of equity and statutes of general application shall be in force in the territory ... subject to such qualifications as local circumstances may render necessary."

24 (1934) 2 WACA 185.

which dealt with the Summary Jurisdiction Act, 1848, a statute which in England governed only Magistrates' Courts, the West African Court of Appeal held that the Act was of general application in England, but, because the field was covered by local legislation, ruled that the Act was not in force in the Gold Coast.

The activities of money lenders[25] have been regulated in Nigeria since 1939 but before then it would seem probable that they were governed by the appropriate English statutes. A similar Act, the Infants Relief Act, 1874, was held in Labinjoh v. Abeke[26] by the Full Court to apply to Nigeria. In that case, a girl of seventeen years of age was sued for certain trade debts and the Court held that the effect of the Infants Relief Act, 1874, on which she relied was to make such debts unenforceable against an infant.

Similarly, before the Banking Ordinance was promulgated in 1952 in Nigeria for instance, the applicable law in this regard was the Companies Ordinance 1906.[27] In that Ordinance the only remote referencesto banking were the provisions that the Governor-in-Council may (after

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25 See Money Lenders Ordinance, 1939.

26 (1924) 5 NLR 33.

27 The received English Law as a source of African Commonwealth Law excludes English Law received by being enacted or re-enacted as the countries legislation.

consultation with his Advisory Committee) call for books, accounts and documents, and may order the bank to refrain from banking or business and/or cancel its licence. Licensed banks were required to pay an annual fee of £5,000 and provision was made for the publication of balance sheets. The issue of notes was prohibited except by the chartered note-issuing banks.

It was under that law that the "Bank of British West Africa" operated even though it was registered in London as a limited liability company on March 31 1874. It would therefore seem that the applicable banking law up to 1906 was the received English law on Companies Act applicable on 1st January, 1900.[28]

Received English law also includes the doctrines of common law and the principles of equity. Since sources of law in the African countries include these doctrines, it is obvious therefore that Central Banks derive their law from these. Thus case law and the common law doctrine of precedent apply. The Central Bank would therefore be guided by the common law system of stare decisis or binding judicial precedent and compelled to act in compliance with judicial decision as in the case of Etablissement Esefka International Anstalt v. Central Bank of Nigeria.[29]

The Plaintiffs brought an action against the Central Bank of Nigeria.

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28 The history of the reception dates back to 1863 when Ordinance No. 3 of that year introduced English Law into the Colony of Lagos.

29 1979 1 Lloyds Rep. 445.

This was the "Cement Armada" case in which the Ministry of Defence in Nigeria ordered vast quantities of cement from all over the world and the Central Bank issued Letters of Credit to pay for all the claims. As a result of uncontrollable congestion of the ports (there were 300 to 400 ships waiting to discharge cement), immense demurrage was built up. Shipping documents were forged and as a result the Central Bank refused to pay. It was held by Lord Denning,

> "That the MAREVA INJUNCTION was only to be granted where there was a danger of the money being taken out of jurisdiction so that if the plaintiffs succeeded they were not likely to get their claims and that where there are many doubts in the plaintiff's claim and there was so much defence to be raised against it that it could not be a case where the plaintiffs had a novel point of law did arise [sic] in regard to the effect of the fraudulent conduct of the beneficiary, under a Letter of Credit."[30]

And in a case with facts identical in all material respects Hispano Americana Mercantil S.A. v. Central Bank of Nigeria,[31] it was held that the Central Bank of Nigeria was not a mere alter ego or organ of the state of Nigeria; and for that reason alone would not qualify for sovereign immunity.

The law of negligence in Commonwealth African countries, like the law of agency and contracts, is based on the common law of England. A banker's duty to his

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30 Ibid, p. 445.

31 (1979) 2 Lloyds Rep. 277. Also on this subject see Trendtex Trading Corporation v. Central Bank of Nigeria, (1976) 3 ALL ER 437.

customer under the banking contract is to carry out its functions with a reasonable standard of professional care and skill. If a banker is careless in dealing with the affairs of his customer, he will be liable, because he is in breach of his contractual duty. Under sections 60 and 80 of the Bills of Exchange Act of Kenya, for example, the banker is only entitled to the protection of those sections if he has acted "in the ordinary course of business" or "without negligence." The law in Kenya[32] as well as other Commonwealth African countries[33] in this regard is similar to the English law.

Perhaps one of the most interesting applications of the law of negligence to the functions of bankins is that laid down in the case of Hedley Byrne v. Heller and Partners[34] by Lord Devlin. The facts were that the appellants, Hedley Byrne, were advertising agents and they were anxious to discover the credit-worthiness of Easipower Limited, who had instructed the appellants to arrange substantial advertising contracts on their behalf. Hedley Byrne asked their bank, National Provincial, to make these enquiries of Heller and Partners, a firm of merchant bankers, who were financing Easipower. The enquiry asked whether Easipower was trustworthy in the way of business to the extent of £100,000 per annum and

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32 Bills of Exchange Act of Kenya, s.60.

33 Bills of Exchange Act of Kenya, s.80.

34 [1964] A.C. 465. For the facts of this case, we are grateful to Margaret Rogers, "An Outline of the law covering the relationship between banker and customer in Kenya," (1975) 19 JAL 52.

received the answer that Easipower was a "respectably constituted company, considered good for its ordinary business engagements. Your figures are larger than we are accustomed to see". The statement was headed by the words "without responsibility on the part of the bank or its officials". The reference was passed to Hedley Byrne, who relied upon it and suffered a loss of £17,000 on credit extended to Easipower when the company went into liquidation a short time later. In the subsequent action for damages, Heller and Partners admitted negligence but argued that they owed no duty of care because they did not know the precise purpose of the enquiries made by them and did not even know of Hedley Byrne's existence. This argument was rejected and the general interpretation of the judgements of the Law Lords in Hedley Byrne[35] appears to be that there is a duty of care owed and liability for negligent misstatments will arise where a person belongs to a profession, or has a superior skill and knowledge and is asked a question in circumstances where his enquirer might reasonably trust him to give the reply with gravity and seriousness and the person replying knows that he is being so trusted.

The House of Lords in Hedley Byrne reached the conclusion that the disclaimer of responsibility in the letter of reference from Heller and Partners exempted them

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35 (1964) A.C. 465. For other decisions on the tort of negligence, see for example, Barclays Bank Ltd. v. CBN - The Nigerian Commercial Law Report 1976, 288. National Bank Ltd. v. CBN, Ibid, 1976, 199. CBN v. Odaro - The Nigerian Common Law Reports 1974, 200. CBN v. Barclays Bank Ltd., ibid. 1976, 288.

from liability for damages in this particular case. This has, of course, had the effect of making bankers ensure that they always include such an exemption clause in any reference in regard to credit worthiness.

The decision of the House of Lords in these cases will have persuasive authority in Nigerian Courts and such case law and the common law of negligence will form sources of Central Bank Laws. In Kenya, for example, the courts have approved the principles laid down in Hedley Byrne in regard to the existence of a duty of care in the case of Winter v. Langrish Southern Limited.[36]

Thus, to summarise, the BBWA was originally registered as a limited liability company on 31st March 1874, it operated in Nigeria in the colonial period under the Companies Ordinance, 1906. Before that date the BBWA could only operate in Nigeria under the applied English law. At that date there was no English statute on banking or on central banking eligible to be received into Nigeria. The gap in the law had to be filled by recourse to the doctrines of equity and rules of common law which thus formed original sources of Nigerian Banking law.

BASIC INTERNATIONAL LAW SOURCES

In addition to the basic domestic organic laws there

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36 (1966) E.A. 292.
For the law which is applicable to banks in Kenya see Margaret Rogers, op. cit., 52. Where there is a lacuna she is of the view that "in any relevant areas of law where there is no legislation, the law will be the common law of Kenya as set out in the cases decided by the Kenya Courts."

are various other rules and norms of international law which affect the powers and duties of central banks, and consequently the organic laws of some central banks expressly require the central banks to act in conformity with the international monetary and banking agreements to which the country concerned is a party and also to comply with and implement the requirements of the laws relating to these arrangements.

Where it is required by the law of the land to incorporate all or specific provisions of a Convention as 'internal law' such laws confer special powers on central banks to act in a certain manner to achieve a stated objective. Sections 57(2) and 58 of the Bank of Tanzania Act 1965 attempted to do this:

> "57(2) The Bank shall act as a depository for the Tanzania currency holdings of international financial organisations or institutions of which Tanzania is a member."

and,

> "58 The Bank may open accounts, for, accept deposit from, and collect money and other monetary claims for and on account of foreign central banks, foreign banks and foreign financial institution, and may generally act as banker to such banks and institutions."

An example of where a country adopts legislation to make the provisions in a Convention effective as internal law is the 1931 Geneva Convention which provides for a uniform law for bills of exchange and promissory notes. Decree Law No. 43341 of November 22, 1960 of the Banking Legislation of Portugal on the Bretton Woods Agreement Measures is a case in point:

> "The Government shall be authorized to participate in the International Monetary Fund with a quota of sixty million U.S. dollars of the weight and fineness in effect on July 1, 1944, and in the International Bank for Reconstruction and Development with eight hundred shares to a total amount of eighty million U.S. dollars of the same weight ~~and~~ and fineness.
>
> In conformity with Article V, Section 1, of the Fund Agreement, it shall be the duty of the Bank of Portugal, on behalf of Portugal to deal with the Fund, carrying out the necessary exchange operations specifically as provided in the said Article.
>
> The Bank of Portugal shall also discharge the obligations arising from Article VII, Section 5, of the Fund Agreement, for which purpose it shall request the necessary information direct from any public and private organizations.
>
> The Bank of Portugal shall further, exercise the functions of depository referred to in Article XIII, Section 2, of the Fund Agreement.
>
> By act of the Minister of Finance, the Governor of the Bank of Portugal shall be appointed as Governor to represent the State in the International Monetary Fund. The Alternate Governor shall be similarly appointed, on the proposal of the Bank of Portugal."[37]

That the Bretton Woods Agreements constitute a subsidiary source of international law is succinctly illustrated in the case of:

Mansouri v. Singh LTR July 21, 1984. In that case the plaintiff was an Iranian who had considerable wealth in Iran, following the revolution, he had been unable to remove from there. His wife had gone to England and arranged with defendant, a travel agent, that the plaintiff would pay Iranian currency to a travel agency in Iran, which would buy airline tickets with it and send them to the defendant.

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37 The emphasis is mine

The defendant would then obtain a refund on the tickets and make sterling payments to her, at about double the official exchange rate. A number of such transactions had taken place, and the money duly paid by the defendant but a post-dated cheque issued by the defendant in respect of one such transaction had been countermanded before presentation.

At a later stage the defendant raised the further defence that the contract was unenforceable under the Bretton Woods Agreements Order in Council (SR & O 1946 No. 36), and that the plaintiff could not therefore enforce payment of the cheque.

His Lordship, Mr Justice Beldam was satisfied, following Sharif v. Azad (1967 IQB 605), that the agreement was an exchange contract for the purposes of the Fund Agreement, and, on the balance of probabilities, that it was contrary to Iranian exchange control regulations; it did not matter that the court did not know the precise terms or form of those regulations.

Iran was a member of the International Monetary Fund (IMF) and a signatory of the Agreement, there was therefore a presumption that its exchange control regulations were consistent with the Fund Agreement, and there was no evidence to rebut that presumption. The contract was accordingly unenforceable in England by virtue of article VIII of the Fund Agreement.

The plaintiff had argued that as he was suing on a cheque he did not need to rely on the contract, and that in allowing him to recover on the cheque the court would not be enforcing the contract. That, he had contended, was the true ratio, or a further ratio, of Sharif's case.

Having considered the judgements in that case, and what Mr. Justice Kerr had said in Wilson, Smithett and Cope Ltd. v. Terrazzi [1976] QB 683, 694-5), his Lordship was satisfied that that was not a ratio in Sharif's case.

Indeed the House of Lords had rejected such an argument in United City Merchant's (Investments) Ltd v. Royal Bank of Canada (1983 IAC 168). To allow the plaintiff to recover on the cheque would be in effect to enforce the defendant's obligations under the exchange contract, and that amounted to enforcing the contract. If that were permissible, the provisions of the Bretton Woods Fund Agreement would be ineffective. Accordingly, the plaintiff could not recover the sum claimed.

The courts in Nigeria would in all probability follow the judgement in this case and in consequence confirming our view that Subsidiary International Law is a source of domestic banking law.

The Articles of Agreement of the International Monetary Fund (Fund Agreement) are a basic source of international law. The provisions of the Fund Agreement on the monetary units of Fund members, on exchange stability, on currency convertibility, and on members' drawing rights and purchase obligations as provided in the Fund Agreement,[38] are of direct concern to the Central Banks of Fund Members.

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38 Art XIII, Sec 2, of the Fund Agreement.

Thus, the Fund Agreement prescribes that, wherever there is a central bank, that bank shall be the depository for all the Fund's holdings of the member's currency. The Agreement provides that:

> "Each member shall designate its central bank as a depository for all the Fund's holdings of its currency, or if it has no central bank it shall designate such other institutions as may be acceptable to the Fund."[39]

Other rules and multilateral international agreements which have bearing on the domestic organic laws of central banks include agreements such as the Articles of Agreement of the International Bank for Reconstruction and Development (IBRD),[40] and the Convention respecting the Bank for International Settlements (BIS)[41] and the European Monetary Agreement, which are of particular significance because of the policies and activities of the central banks of the countries that are parties to these agreements.

Another basic source of international law which empowers central banks specifically to carry out certain functions is the United Nations Charter, which provides that all members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purpose set forth in Article 55,

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39 Art XIII, Sec. 2, of the IMF (Fund Agreement).

40 Article V, Section II,IBRD.

41 Article 19, BIS.

that is of creating conditions of stability and well-being which are necessary for peaceful and friendly relations among nations.[42] Central banks are the tools or instruments used by governments to achieve these objectives.

The West African Clearing Banks is an association of Central Banks for the whole West African region. The members of this Association undertake by their Articles of Agreements to establish machinery for the multilateral settlement of payments among Central Banks of the West African sub-region with the following objectives:

(a) to promote the use of members' currencies for sub-regional trade and other transactions;

(b) to effect economies in the use of foreign exchange;

(c) to encourage participating member countries to liberalize trade among themselves;

(d) to promote monetary co-operation and consultation among participating Central Banks and Monetary Authorities.

Membership is open to all central banks in the West African Sub-region as defined by the Association of African Central Banks' Constitution.[43]

As a result of these developments in international law and the establishment of such international financial institutions as the IMF, IBRD, WACB, ADB, BIS, as we

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42 Sections 55 and 57 of the U.N. Charter.

43 Sections 55 and 57.

have seen above, central banks have assumed the role of agents, depositories, or correspondents of these institutions, and these functions are re-affirmed in several of their organic laws.

<u>SUBSIDIARY INTERNATIONAL LAW SOURCES</u>

International agreements or international institutions that are not concerned primarily with money and banking on the domestic or international level may nevertheless touch central banking through their indirect effect on currency, foreign exchange, and banking and monetary policies and activities generally.

Thus the Contracting Parties to the General Agreement on Tariffs and Trades (GATT) have jurisdiction over trade measures, while the International Monetary Fund has jurisdiction over exchange measures and the financial aspects of trade measures. To the extent that GATT trade measures have repercussions on the foreign exchange situation of a country, the attitude of the Contracting Parties toward these trade measures may materially affect the domestic and international financial position of that country.

In the same way, it may be reasonably justifiable to regard such international agreements as the Constitution of the Food and Agriculture Organization (FAO) and the various international commodity control agreements as subsidiary international law provisions which indirectly affect central banking.

From the foregoing we have seen that the distinction between basic and subsidiary sources is reflected in clauses which provide that the central bank shall be governed by the organic law of the Central Bank, by its by-laws, and by other pertinent legislation. Subsidiary sources of Central banking law are laws which are not addressed exclusively to the central bank or to the special relationship of the Central bank to other persons or institutions, but which are of general applicability like the law of negotiable instruments and the law governing securities and the securities market and the General Agreement on Tariffs and Trades.

THE GENERAL ECONOMIC AND SOCIAL OBJECTIVES SET BY GOVERNMENT

Immediate Matters that Influenced the Setting of the Objectives

We saw in Chapter 2 that the economies of the countries surveyed were merely appendages of the British economy and the financial and banking arrangements were no more than an integral part of the British financial system. The colonial experience in these countries was one in which private transnational commercial banks dominated the banking scene.

In Kenya before the establishment of the Central Bank on 23rd May, 1956, the National Bank of India (1896), the Standard Bank of South Africa (1910), the National Bank of South Africa (1916) which amalgamated with the Colonial Bank and the Anglo-Egyptian Bank Limited in 1926 to form Barclays Bank (Dominion, Colonial and Overseas) dominated banking until 1951 when an influx of other expatriate banks came into the country and the first locally-owned bank, the Co-operative Bank of Kenya Limited, was registered on 19th June 1965. In Tanzania, three major expatriate banks also dominated the banking scene. The first to open was the Deutsch-Ostafrikanisches Bank in 1905 and was followed in 1911 by the Handelsbank für Ostafrika. After the First World War the assets of these German banks were auctioned off and British banks replaced them and opened offices in the Territory. These were the National Bank of India (later National and Grindlays), the Standard Bank of South Africa and the National Bank of South Africa. As in Kenya, the big three expatriate banks dominated banking in Tanzania until they were nationalised in 1967. It was only after the attainment of independence in 1961 that three indigenous banks were established. The trend was the same in all the Commonwealth African countries: the position was aptly illustrated in a Kenyan Central Bank publication thus:

> "These banks were vital links with Europe, South Africa and Indian business. The effects of their operations opened new opportunities for the traders and settlers who had come to Kenya. This growing community provided initial sources of deposits for the banks not only with funds which they had brought with them but also in the proceeds from the country's growing trade in primary commodities. The banks were largely left to run their business according to dictates of external conditions. The outstanding characteristics of this phase of their development was that they soon became able to collect deposits locally in excess of what they reckoned they were able to utilise in Kenya and these surplus funds were invested in London. This was

> partly because there were few investment opportunities in the economy and partly because there was a communication gap between the bankers and the prospective borrowers. The result was that, for a long period of their history, these banks were actually involved in a process of exporting capital from Kenya, which is an underdeveloped country, for use in a developed country. Furthermore, the domination of the local banking system by supra-territorial commercial banks based upon London using the London money market meant that the conditions prevailing in the London money market were directly reflected in the Kenyan economy."[44]

The first indigenous banks sprang up at a much later date. In Nigeria it was the National Bank of Nigeria in 1933, the Agbonmagbe Bank in 1945 and the African Continental Bank Limited in 1947 and a host of other indigenous banks.

Before the Banking Ordinance[45] was promulgated in 1952 in Nigeria for instance, we observed at p. 141 that the applicable law in this regard was the Companies Ordinance 1906 and in that Ordinance the only references to banking as we had remarked earlier were the provisions that the Governor-in-Council might (after consultation with his Advisory Committee) call for books, accounts and documents, and might order the bank to refrain from banking or business and/or cancel its licence. The issue of notes was the responsibility of several note-issuing banks instead of a national bank. The number of banks in Nigeria was too few and the standard of

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44 The First Ten Years of the Central Bank of Kenya, p. 7.

45 See The Nigeria Banking Ordinance, 1952.

commercial banking was in its infancy and therefore below standard.

Regarding the standard required by the Companies Ordinance in Nigeria, as well as the Gold Coast, Mr. Paton makes the following comments in his Report in regard to the British West Africa Bank:

> "The standard is archaic in form and the required data would be of little value in any attempt to assess the financial condition of the Bank."[46]

The nominal capital of the bank was £100,000 in shares of £10 each, £4 paid. As £3,000 shares were issued, the paid-up capital was £12,000.00. The head office of the Bank was in Liverpool (with a staff of two) and it had one branch at Lagos with a staff of three Europeans and three Africans. A modest beginning, sufficient to satisfy the Colonial Office and Crown Agents,[47] but not the native population.

As David Patterson of the British Bank of West Africa said in 1912:

> "The Bank of British West Africa has aimed at being and in reality is the National Bank in British West Africa colonies. It has been supported by the Colonial Office and the different West African Governments, and now holds the confidence of the populations European and Native. It is in daily touch with trade and traders to whom it has introduced the existing currency. It is known to be the custodian of Government funds, and has played an important part in the

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46 The Paton Report, op. cit., p. 6.

47 Richard Fry, Bankers in West Africa. The story of the Bank of British West Africa Limited, Hutchinson Benham, 1976.

> development of business methods and the growing prosperity of the West Africa colonies."[48]

The prosperity was indeed in the hands of European traders for, as the Bank of Kenya stated above (p.155), the banks were largely left to run their business according to dictates of external conditions and so African enterprises could not for various reasons from their own resources generate finance for their growth, nor could they, standing alone, secure adequate financial assistance from expatriate banks. This was because in most cases they could not provide adequate collateral which would have enabled them to secure the much needed loans for their operations. Furthermore, the amounts of loans required were too small for the administrative effort and price involved. The result was that there was stagnation in business growth. The banks that borrowed short and lent long soon discovered their folly and this was one of the causes of bank failures in Nigeria before 1952, and of the failure in East Africa in 1949 of the Exchange Bank of India and Africa Limited (incorporated in Bombay in 1942). However, the position in East Africa was slightly different. Before the advent of independence there were no indigenous banks, and the established expatriate banks had it as their policy that no loan would be granted without security. As a consequence all the banks except the Exchange Bank of India survived.

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48 Op. cit., p. 73.

While the indigenous banks tried to provide capital necessary for economic growth through the small African business man the expatriate banks confined their lending transactions to the aliens. They were essentially concerned with the financing of trade and looked upon the encouragement of savings among Africans and the financing of African enterprises as an ancillary activity.

The presence of multi-national London companies like the UAC, the GBO, John Holts in Nigeria from around 1860 helped to boost trade and generate economic activities in the whole of the West Coast. These supra-territorial enterprises were however primarily interested in financing the export-import transactions of expatriate trading firms, in providing for the short-term financial needs of the colonial administration and seasonal loans for collection of primary export products. The financial needs of the nationals of the countries were neglected by these transnational firms thereby stifling their businesses.

One of the criticisms of colonial administration by African nationalists related to the institution and management of the West African Currency Board and the East African Currency Board from 1912 and 1919 respectively. The criticism stems more from the fact that these currency boards issued and redeemed the currency and invested resources in sterling securities, the profits going to the Colonial Office, for indeed:

> "In 1900 the Barbour Committee had concluded that some of these profits ought to be used to contribute to the cost of colonial administration, and the balance to build up

> a West African gold reserve, but the Imperial Treasury had brushed that advice aside."[49]

In 1912 the U.K. Colonial Office appointed Lord Emmott's[50] Committee, with its terms of reference as being to give an expert opinion on what would, in all the circumstances, be the best currency policy for the West African colonies and to enquire into the whole question of the issue of currency notes. Emmott's Report, dated 5th June, 1912, noted:

> "That the special arrangement with the Bank of British West Africa had been criticised for giving the Bank a monopoly of the supply of silver coin to merchants; and that the position of the Bank of Nigeria Limited, established in 1900, was prejudiced as a result. In fact the special arrangement was suspended at the end of 1911, pending the Committee's findings. The Report went on to examine two important criticisms of the existing currency system. First, all profits on the coinage accrued to the home Government. An earlier enquiry under Sir David Barbour, sitting in 1900, had recommended the continued use of United Kingdom coinage for West Africa but only on the assumption that a share of the profits would be made available to the Colonial Governments concerned. The 1912 committee fully accepted the argument, made previously in the case of Australia, that any division of profits, however logical and equitable, was impracticable. The second criticism was that although United Kingdom silver coinage was issuable against sterling it was not automatically redeemable in sterling. Neither the British Government nor the Royal Mint was under any redemption obligation."[51]

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49 Richard Fry, op. cit., p. 69.

50 Lord Emmot was then the Under-Secretary of State for the Colonies.

51 J.B. Loynes, The West African Currency Board, 1912-1962, p. 11.

Another source of irritation to Africans particularly from the 1940s when the agitation for independence gathered momentum was the method of operation of the Post Office Savings Bank. The Nigeria Post Office Savings Bank (now the Federal Savings Bank) was a financial institution during the colonial era that mobilised small savings through its network of branches through Nigeria.

The World Bank Mission had this to say on the expansion of the currency circulation as a result of the growth of the Post Office Savings Bank deposits:

> "This has increased eightfold since 1939, partly because of higher prices but largely because of the growing use of money as a medium of exchange and larger cash holdings in the hands of Nigerians. The growth of the Post Office Savings Bank deposits ... represents a significant change in the habits of the population as a whole."[52]

The liabilities of the Post Office Savings Bank were guaranteed by the Colonial Government, the bank being required by the Post Office Savings Bank Ordinance 1939 to ensure that "no more than one third" of its funds should at any time be or remain invested in securities of the government of the colony.

The effect of this was that not less than two-thirds of its funds should be remitted to London for investment by the Secretary of State. This practice which persisted until the grant of regional self-government in 1951 was a negation of the aim of setting up savings institutions

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52 Richard Fry, <u>op. cit.</u>, p. 198.

to mobilise capital for local investment in an under-developed economy.

Again, as in commercial banking and commerce, indigenous insurance companies were still in their rudimentary stages of development. The Royal Exchange Assurance and other expatriate insurance companies dominated the scene. The close connection with London firms or Head Offices meant that the premium collected by these companies and agencies in Nigeria were repatriated to London for investment to help in sustaining the metropolitan country's economy.

This type of financial arrangement in the pre-independence era did not find favour with the nationalist leaders who had become disenchanted with colonial financial administration. These leaders looked forward to the day when a financial system that was not open to these criticisms could be created.

It can be seen therefore from the foregoing that in Nigeria in the colonial period, as well as other African countries, government intervention in the management of economic and social growth took place for political, economic and social reasons, but primarily in response to the colonial monetary policy which ensured that the financial and transnational firms in the colonies geared their efforts and resources towards the achievement of Britain's national economic objectives. This is as it should be, for self-interest is the first law in international relations. One should however, not lose sight of the fact of the sacrifices the colonialists made in human and material resources. They built the roads, schools, hospitals, bridges and broke down the barrier and communication gap, physical and mental between the 'dark continent' and the developed world. Mungo Park, Clapperton, Cecil Rhodes and so on died in their efforts to develop these countries.

In the latter days of colonial rule, the Imperial government contributed substantially to the economic and social well-being of the Commonwealth African countries. The Colonial Development Corporation (CDC), which operated along commercial lines with funds provided by the British Treasury, participated actively in the promotion of a wide range of projects in these countries. This continues to the present day. Thus in Tanzania the CDC had an interest in Hallways Overseas Limited of London, which in turn has an interest in Hallmark Hotels (Tanzania) Limited; the latter, through its associate, the Tanzania Tourist Corporation, manages most of Tanzanian hotels.

One should also not lose sight of the fact that it was the imperial government that gave protection against external aggression and provided internal securities, provided Commonwealth scholarship programmes and above all offered grants and aids which were used to turn the first "sods" of our development.

However, British colonial administrations often sought to protect the interests of their own territories, even when these conflicted with imperial policy as generated in Whitehall. The question therefore would seem to be to what degree did exploitation surpass economic and social development.

It was therefore not surprising that, on the attainment of independence, those now in charge of the former colonial territories should aspire to establish their own Central Banks as an answer to the humiliation which they thought they had suffered. Consequently, central banks were established to give direction towards the achievement of national political, economic and social objectives.

THE OBJECTIVES SET BY GOVERNMENT FOR ESTABLISHING CENTRAL BANKS

On attainment of political independence nationalist governments have generally identified and set out some objectives which they have tried to adopt in their intervention in the financial system in the countries surveyed.

It did not take long for the young nationals to discover that the formulation of objectives of government economic policy was not an easy task and it was no simple task to match them to political and economic realities. They soon discovered that simultaneous promotion of major economic and social objectives was not always feasible. Thus rapid economic development may prove to be incompatible with exchange or monetary stability or full employment, while in some countries it may promote or maintain high levels of employment and real income. Where simultaneous pursuit of these objectives would hinder rather than ensure their attainment or realisation, the domestic authorities concerned may in their wisdom have to establish priorities favouring one objective of say exchange stability, over and above another of, say full employment.

The chances of realising shortly, or in the near future, these major economic and social objectives, of course, vary greatly from country to country and depend on many factors, including natural resources, population, technical training, management skills, capital equipment, and institutional setting and political ideologies. In the real world, once one puts aside fantasies and the comfortable static reality of the textbook, the practitioner finds the role of central banking rather complex because the role of a given central bank in a given country is a function of a number of constraints. These constraints are institutional, structural and human. J.B. Zulu, a former Governor in referring to the technical provisions in the Central Banking Acts as a constraint in the efficient performance of the functions of central banks had this to say:

> "But it will be readily appreciated that the technical provisions do not come from out of the blue. They are the product of some political authority, and reflect that authority's conception of the development and business needs of the country. It is, therefore, proper to add another set of critical constraints: that the role of central banking is also a function of the Government in power, the stage of economic development reached, the level of business activity, and the capacity of the existing capital market. The fact that these imperatives are never static, and that situations without precedent are constantly occuring, do not render the task of the central bank any easier; nor do they define that task more precisely."[53]

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53 "Central Banking and its role in the national economy", an address by J.B. Zulu to the Chartered Institution of Secretaries in Lusaka on 22nd February, 1968, published in <u>Money Banking and Economic Development in Zambia</u>, p. 19.

Despite the difficulties just mentioned, nationalist governments have been obliged to define their priorities in the light of their own special circumstances. Their starting point must be the identifiable economic and social problems (and in appropriate cases the overriding ideological perspectives) of their country. Methods of resolving these problems must be incorporated in planning and policy objectives, which have been given public expression by various means: presidential addresses and statements, development plans, budget speeches and so on.

The next step is to translate these more general objectives into specific policy prescriptions addressed to central banks which have been founded everywhere as the focal point of the national financial system. Accordingly, governments have issued guidelines or blueprints to central banks, which give them an overall direction for their operations as they affect economic and social development. They have done this in the realisation that banking legislation can provide the framework for facilitating development plans and objectives, if appropriately and comprehensively drafted.

On the eve of Nigerian independence, those responsible were already seised of the problems and the solutions. On the objectives of government in establishing the Central Bank of Nigeria the Federal Minister of Finance on 1st July 1959 had this to say:

> "As banker to the Federal Government, the Central Bank will provide general banking and agency services for the Government and it is permitted to make temporary advances to

> Government during those periods when the Government's resources are depressed prior to collecting taxes or other revenues. Such advances must, I repeat, be of a temporary nature and their extent and terms are strictly limited by the Ordinance. The Central Bank is about to start taking over the banking accounts of the Federal Government. It will then perform for Government similar functions to those a commercial bank does for its customers."

And he went on to say:

> "The Central Bank has an important role to play in raising both in Nigeria and overseas the funds necessary for development purposes and in fostering the growth of those institutions which will be needed to assist in the expansion of our economy. But we must avoid any action which would lay our economy open to the dangers of inflation and would result in a loss of confidence in our currency."[54]

Earlier in a parliamentary debate in the House of Representatives, an Honourable Member, Hon. K.O. Mbadiwe, had advocated the creation of a Central Bank for Nigeria which would, as its primary objectives, perform similar functions which he enumerates as follows:

"(i) undertake currency production;

(ii) act as a monetary authority to determine economic stability;

(iii) act as a lender of "idle resources" to banks for whom the Bank would also maintain reserves and undertake clearing;

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54 An address by the Federal Minister of Finance, Chief the Honourable F.S. Okotie-Eboh, M.H.R. at the Opening of the Central Bank of Nigeria Building on July 1, 1959.

(iv) float, buy and sell government bonds and also paper; and

(v) act as financial agent for the government."[55]

In the Nigeria third National Development Plan 1975-1980 Volume One, the broad long-term national objectives were set as follows:

"(i) increase in per capita income;

(ii) more even distribution of income;

(iii) reduction in the level of unemployment;

(iv) increase in the supply of high level manpower;

(v) diversification of the economy;

(vi) balanced development; and

(vii) indigenisation of economic activity."[56]

A look at the proposals of various governments in Nigeria[57] would show the main policy objectives to be the following:

"(i) efficient utilisation of limited resources through the re-ordering of government priorities;

(ii) reduced government expenditure:

(iii) re-engagement of the traditional resource base neglected because of the rich oil sector;

(iv) fight against inflationary pressure;

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55 House of Representatives Debates, First Session, 11th to 31st March and 1st to April 9, 1952, Vol. 2.

56 Central Planning Office, Federal Ministry of Economic Development, Lagos, p. 29.

57 e.g. The Six Budget Speeches by Honourable Minister of Finance, Chief Festus Sam Okotie Eboh 1958-1963.

(v) income re-distribution;

(vi) self-sufficiency in food through agricultural production;

(vii) greater incentives to local industries;

(viii) an increase in the export of traditional produce in order to influence the balance of payments position and release pressure on the dwindling external reserve level;

(ix) facilitation of vigorous and relentless implementation of government's priority programmes in the areas of agriculture, housing, industrialisation, etc; and

(x) encouraging the manufacturing sector to increase the use of local raw materials and thereby local value added."[58]

Domestic concerns and factors are not the only source of policy objectives in this area for African states; the formulation of governmental policies and objectives is also influenced by external factors and notably by international law.

As previously indicated, domestic law provisions on social or economic policy have in recent years been supplemented by corresponding clauses in international agreements, and in particular in the constitutional law of the major international organisations, such as the International Monetary Fund (IMF), the International Bank for Reconstruction and Development (IBRD), the Bank for

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58 Honourable Federal Minister of Finance, Prof. Sunday M. Essang - Statement on the 1980 Budget.

International Settlements (BIS),the International Labour Organisation (ILO), the Food and Agriculture Organisation (FAO) and the United Nations (UN), the overwhelming majority of the countries of the world have pledged to take joint or separate action to promote higher standards of living, full employment and conditions of economic and social progress and development.

By joining the IMF, members like Nigeria and other Commonwealth African countries subscribe to the purpose and objectives of the Fund, which include:

> "(i) promoting exchange stability (Article 1(iii));
>
> (ii) establishing a multilateral system of payments in respect of current transactions between members and eliminating foreign exchange restrictions which hamper the growth of world trade (Article 1(iv); and
>
> (iii) facilitating the expansion and balanced growth of international trade with a view to contributing to the promotion and maintenance of higher levels of employment and real income and to the development of the productive resources of all members (Article 1(ii)).

Articles 55 and 56 of the United Nations Charter states that:

> "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights

and self-determination of peoples, the United Nations shall promote:

(a) high standards of living, full employment conditions of economic and social progress and development;

(b) solution of international economic, social health, and related problems; and international cultural and educational co-operation:

and

(c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion ...

"Article 56: All members pledge themselves to take joint and separate action in co-operation with the organization for the achievement of the purpose set forth in Article 55."

The Association of African Central Banks, West African Regional Convention provides in Articles 1 and 2 that:

"The Association of African Central Banks (hereinafter called the "Association") is hereby established and shall operate and be governed according to the following provisions:

(a) to promote co-operation in the monetary, banking and financial sphere in the African region;

(b) to assist in the formulation of guidelines along which agreements among African countries in the monetary and financial fields shall proceed;

(c) to help strengthen all efforts aimed at bringing about and maintaining monetary and financial stability in the African region;

(d) to examine the effectiveness of international economic and financial institutions in which African countries have an interest and suggest ways of possible improvement."

Article~~s~~ 2 of the Charter of the Organisation of African Unity provides that:

"2(1) The Organisation shall have the following purposes:

(a) to promote the unity and solidarity of the African and Malagasy states;

(b) to co-ordinate and intensify their collaboration and efforts to achieve a better life for the peoples of Africa;

(c) to defend their sovereignty, their territorial integrity and independence;

(d) to eradicate all forms of colonialism from the continent of Africa; and

(e) to promote international co-operation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.

2(2) To these ends, the Member States shall co-ordinate and harmonize their general policies, especially in the following fields:

(a) political and diplomatic co-operation;

(b) economic co-operation, including transport and communications;

(c) educational and cultural co-operation;

(d) health, sanitation and nutritional co-operation;

(e) scientific and technical co-operation;

(f) co-operation for defence and security."

African governments have enunciated their policy objectives by way of synthesis of these various provisions and these objectives are now harmonised, summarised and reflected in the domestic organic laws controlling central banks. We see for example, that the Central Bank of Nigeria legislation was made to achieve the following stated objectives, which are to a large measure representative of the general format of the objectives found in the organic laws of the Central Banks:

> "The principal objects of the Bank shall be
>
> (i) to issue legal tender currency in Nigeria;
>
> (ii) to maintain external reserves;
>
> (iii) to safeguard the international value of that currency;
>
> (iv) to promote monetary stability and a sound financial system in Nigeria; and
>
> (v) to act as a banker and financial adviser to the Federal Government."[59]

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59 Cf. Report of Committee on the Working of the Monetary System (otherwise called the Radcliffe Report) 1959, pp. 17-23.

SPECIFIC OBJECTIVES OF CENTRAL BANK LAW

In the foregoing paragraphs we have tried to state the general legislative policy objectives of the governments in setting up central banks and now we shall focus attention on specific objectives as can be deduced from the material sources already considered.

TO CURB THE MONOPOLY OF BANKS THROUGH LEGISLATION

Before Central Banks were established in Nigeria and other Commonwealth African countries many expatriate banks had completely and fully entrenched themselves in these territories.

They monopolised all the banking services, they were banks of issue of currency and in all financial fields they dominated the operations. Central Bank legislation in those countries attempted to remove the inequities, defects and shortcomings and the monopolies enjoyed by these banks and particularly their freedom of operation without responsibility to any supervising authority. One of the first banks ever established in Nigeria (1894) was the Bank of British West Africa. "The very name 'Bank of British West Africa' was anathema to some Africans; the Bank itself was aware of this as Fry has told us in Bankers for West Africa. By 1956 the name of the Bank was becoming a liability. 'Bank of British West Africa' reflected the colonial relationship which was clearly ending. The Bank had made its historic decision a few years earlier to remain in West Africa after the establishment of independent African States and to expand its banking business in the whole area with all possible speed.

"British West Africa was not only an outdated concept but the term itself had begun to arouse political resentment."[60]

As at January 1964 the financial institutions registered under the Banking Act in Zambia comprised four commercial banks, one merchant bank and one hire purchase finance company. Of the commercial banks, three had their head offices in the United Kingdom while one was incorporated in Zambia with capital subscribed by banks in South Africa, Holland and the United States of America.[61]

As was observed in the previous Chapter since early colonial days the field of banking in the African countries surveyed has been the scene of jealous competition between indigenous banks and other banks, the British banks financed and directed from London, and referring to one of these banks J.B. Loynes pointed out that the British Bank For West Africa had a special position in the West African colonies as government banker. It was appointed the Currency Board's agent and except in the Southern Cameroons where, in 1948, the Board opened a sub-centre managed by Barclays D.C.O. the special position had up to that time not changed and even the Chairman and the 'Banking' member were then, appointees of the Colonial Secretary.[62] To the expatriate banks establishing a

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60 Fry, op. cit, p. 207.

61 Bank of Zambia, Report and Statement of Accounts for the period August 7th, 1964 to December 31st, 1965, p. 9.

62 J.B. Loynes, The West African Currency Board 1912-1962, pp. 17-18.

central bank was synonymous with the loss of government business to the central bank and to the more favoured indigenous banks. It was the fear of expatriate banks that their favoured position in the banking system would be reversed after 1951 when political power would virtually leave the Colonial Office on the introduction of the McPherson Constitution which granted internal self government to the Regions in Nigeria and according to Richard Fry:

> "The Bank of British West Africa was fully aware of the changes. Up to that time its resources had consisted largely of official deposits, and the great bulk of its loans were made to the European trading firms, though some long term commitments to African development had begun as early as 1947. It was obvious that the Government account could before long go to new African Banks, and that the care of the currency would be taken over by national central banks. These matters were then the subject of intensive study and argument. Experts from the Bank of England and other official bodies were visiting West Africa to advise on the regulation of the banking system and the setting up of central banks. At first their reports were still tentative. The Report on Banking in Nigeria by G.D. Paton of the Bank of England which was published at Lagos in 1948 (see page 217) dealt mainly with protecting the public from irregular banking practices."[63]

To the expatriate banks therefore a sort of unified and intelligent monetary control of the economy could be introduced as a first choice and the establishment of a central bank as the second.

What African nationalist governments did was to see to

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63 Richard Fry, op. cit, p. 182.

the introduction of central banking by the state as a means whereby the bankers' monopoly might be broken. They regarded the operations of the British banks as broadly anti-social, predatory and against the interests of the Africans. They believed that banks' control of credit, refusal to grant credit to private manufacturers and primary producers were detrimental to the Africans. The attitudes of civil and public servants towards banks in general was again one strong factor that also helped to mar the progress of private banks. These classes of people could not forget easily their dissatisfaction with the treatment that the banks had accorded them. They saw the attainment of independence as an opportunity for vendetta and to regulate the activities of the banks by legislation.

POLITICAL ADVANTAGES

The establishment of Central Banking was attractive to political leaders because its institution would be an eloquent testimony of their states having arrived, as it were, and also as a passport for joining the club of other countries who had already established their own central banks. It was argued further that a central bank law could establish the framework for the creation and management of a national currency, as in the United Kingdom and the United States of America have the sterling and the dollar respectively. A central bank law establishing a national currency could be an escape route out of the inferiority complex syndrome that some third world nations experience in the international economic scene.

Chief the Honourable F.S. Okotie-Eboh confirmed these views when at the opening of the Central Bank of Nigeria Building said:

> "When I was moving the Second Reading of the Bill to establish the Central Bank of Nigeria in the House of Representatives on the 17th March, 1958, I said that the Central Bank would be a cornerstone of the financial structure which we intended to build in an independent Nigeria. Today therefore we are witnesses of a further stage in Nigeria's triumphant march towards independence. The Central Bank of Nigeria forms an integral part of our programme for independence which, God willing, Nigeria will achieve in October 1960. By the foundation of the Central Bank we have met the criticism of those who have said that, close as Nigeria is to independence, she still lacks that degree of monetary autonomy essential to the working of an independent modern state."[64]

Central banks were therefore necessary for economic development and as a matter of prestige to countries who wished to sever their formal connection with the monetary systems of one or other of the colonial powers.

TO FACILITATE INTERNATIONAL CO-OPERATION

One of the objectives in central banking legislation is to provide an avenue for the international interaction of member nations. Today, no nation could be considered to have attained maturity in the international scene until

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64 An Address by the then Federal Minister of Finance, Chief, the Honourable F.S. Okotie-Eboh, M.H.R., at the Opening of the Central Bank of Nigeria Building in July 1959, p. 2.

it had "given birth" to a central bank which could represent it at international financial gatherings like the West African Clearing Association, the International Monetary Fund Meetings and at the Bank for International Settlements. Moreover, it is now an established custom that central banks abroad, and particularly the Bank of England, prefer to deal with others like themselves.

UNSATISFACTORY SYSTEM OF NOTE ISSUE

In East and West Africa before the establishment of central banks, all paper money was supplied by the commercial banks. These notes, in some cases, were not legal tender and had to be redeemed in gold. We saw in Chapter 2 that the currency in circulation in Nigeria and Ghana before and soon after political independence was the West African Currency Board currency. The notes and coins were respectively printed and minted in England. In East Africa, the East African Currency Board issued East African shilling notes and coins based on the sterling exchange standard, it issued local currency against sterling and redeemed local currency into sterling.

On the attainment of independence the new nations thought it was infra dig for them to use notes and coins printed and minted in England and bearing the Queen's effigy. They clamoured for a replacement of the currency for national pride and as a symbol of political independence, not necessarily economic independence.

In Nigeria, the Nigerian pound was in 1965 issued in replacement of the West African Currency Board currency on a one-to-one parity with the pound sterling. The objective of Government was to ensure that the local currency commanded at least the same respect and confidence at home and abroad as the West African Currency Board currency. Further, to ensure that the Central Bank of Nigeria was able to issue the local currency on the basis of their parity, the Bank was enjoined to maintain substantial sterling balances and other assets abroad as backing for the local currency.

These expectations of government were given effect to in sections 16-21 of the Central Bank of Nigeria Act 1958, whereby the Bank was given the sole right to issue of notes and coins and the parity of the Nigerian currency registered with the International Monetary Fund was stated to be the equivalent of 2.48828 grams fine gold. This section of the Central Bank Act was in 1971 amended by the Decimal Currency Act No. 21 of 1971, creating the Naira divided into 100 kobo as the unit of currency in Nigeria, and setting the parity of the Naira as equivalent to 1.24414 grams fine gold. The Act established a Decimal Currency Board and declared the notes to be legal tender in Nigeria. It is worthy of note that in the parallel Kenya and Tanzanian Act sections 19 and 25 of the respective Acts confer on the President the power to determine the par value of the shilling in terms of gold. By interesting contrast, however, the Bank of Zambia Act does not provide for the parity of the Kwacha and nowhere was the name of its currency mentioned in the Act.

In both government and political circles before independence argument for a central bank was supported by the fact of this unsatisfactory system of note issue whereby currencies were produced in England and balances maintained in sterling and the provision in the existing statute, the Nigerian Banking Ordinance 1952, which sought to perpetuate the existence and functions of the West African Currency Board. Kenya had a similar reason to justify the clamour for a central bank. There the Banks Ordinance of 29th April 1910 prohibited the issue of notes, but section 22 of the Kenya Central Bank Act 1966 gave full meaning to the provisions in the Act and gave wider powers to the Central Bank to have the sole right of issue of notes and coins in Kenya.

INTERNATIONAL FINANCIAL CONFERENCE 1920

The International Financial Conference, which was held in Brussels in 1920 under the auspices of the League of Nations, passed a resolution to the effect that all countries which had not yet established a central bank should proceed to do so as soon as possible, not only with a view to facilitating the restoration and maintenance of stability in their monetary and banking systems but also in the interest of world co-operation.

Since that time, commencing with the South African Reserve Bank in 1921, central banks have been established not only in the existing independent or self-governing countries which did not yet have a central bank, but also in the many new independent states which have been created during the past sixty years as shown in the following table culled from "Central Banking" by M.H. de Kock, pages 10-12.

Table 4 Central Banks in Independent Countries

1921	South African Reserve Bank
1922	Reserve Bank of Peru (reconstituted as Central Reserve Bank of Peru in 1931)
	Bank of Latvia
	Bank of Lithuania
1923	Bank of the Republic of Colombia
1924	National Bank of Hungary
	Bank of Poland
	Commonwealth Bank of Australia and Bank of the Republic of Uruguay converted into central banks
1925	National Bank of Albania
1926	National Bank of Czechoslovakia
	Central Bank of Chile
	Central Bank of Guatemala (reconstituted as Bank of Guatemala in 1946)
1927	Central Bank of Ecuador
	Bank of Estonia converted into a central bank
1928	Central Bank of China
	National Bank of Iran
	Central Bank of Bolivia
	Bank of Greece (in place of National Bank of Greece)
	National Bank of Iceland converted into a central bank
1929	National Bank of Yugoslavia (in place of former National Bank of Serbia)
1931	Central Bank of the Republic of Turkey
1932	Bank of Mexico converted into a central bank
1934	Reserve Bank of New Zealand

Central Reserve Bank of El Salvador

1935 Bank of Canada

Reserve Bank of India

Central Bank of the Argentine Republic

1936 Bank of the Republic of Paraguay (reconstituted as Bank of Paraguay in 1944)

1937 National Bank of Costa Rica

1939 Bank of Afghanistan

1940 Central Bank of Venezuela

1941 National Bank of Nicaragua converted to a central bank

1942 Central Bank of Ireland

Bank of Thailand

State Bank of Ethiopia

1945 National Bank of Poland (in place of Bank of Poland)

1947 Central Bank of the Dominican Republic

1948 State Bank of Pakistan

Bank of the German States - Bank Deutscher Lander (in place of Reichsbank in West Germany)

Central Bank of the Philippines

1949 National Bank of Iraq

1950 Central Bank of Ceylon

National Bank of Cuba

Bank of Korea

Central Bank of Honduras

Central Bank of Costa Rica (in place of National Bank of Costa Rica)

German Bank of Issue - Deutsche Notenbank (in place of Reichsbank in East Germany)

1952 Central Bank of Belgian Congo (replaced by Monetary Council in 1960 and by National Bank of Congo in 1964)

Union Bank of Burma converted into central bank

Central Bank of Paraguay (in place of Bank of Paraguay)

Bank of Issue of Associated States of Indo-China (split into the National Banks of Cambodia, Laos and Vietnam in 1955)

1953 Bank of Indonesia (in place of Bank of Java)

1954 Bank of Israel

1955 National Bank of Libya (renamed Bank of Libya in 1963)

1956 Central Bank of Syria

Central Bank of Iraq (in place of National Bank of Iraq)

Bank of Rhodesia and Nyasaland (split into Reserve Bank of Rhodesia, Bank of Zambia and Reserve Bank of Malawi in 1964)

Central Bank of Nepal

1957 German Federal Bank - Deutsche Bundesbank (in place of Bank Deutscher Lander)

Bank of Ghana

Central Bank of Surinam

1958 Central Bank of Nigeria

Central Bank of Malaya (renamed Central Bank of Malaysia in 1963)

Central Bank of Tunisia

1959 Bank of Morocco

Reserve Bank of Australia (Commonwealth Bank split into Reserve Bank and Commonwealth Banking Corporation)

Central Bank of Equatorial Africa and Cameroon

1960 Bank of Republic of Guinea

Bank of Sudan

Bank of Jamaica

National Bank of Somalia converted into a central bank

1961 Central Bank of Egypt (in place of National Bank of Egypt)

Central Bank of Nicaragua (in place of National Bank of Nicaragua)

Central Bank of Iran (in place of National Bank of Iran)

Central Bank of Iceland (in place of National Bank of Iceland)

1962 Central Bank of Algeria (in place of Bank of Algeria)

Bank of Republic of Mali

Bank of the Netherlands Antilles

1963 Central Bank of Cyprus

National Bank of Ethiopia (in place of State Bank of Ethiopia)

Central Bank of Jordan

Bank of Sierra Leone

1964 Bank of Lebanon

Central Bank of Trinidad and Tobago

Bank of Burundi

National Bank of Rwanda

1965 Central Bank of Brazil

Bank of Guyana

1966 Central Bank of Kenya

Bank of Tanzania

Bank of Uganda

1967 Central Bank of Uruguay (in place of Bank of Republic of Uruguay)

1968 Central Bank of Malta

Central Bank of Mali (in place of Bank of Republic of Mali)

1969 Central Bank of Kuwait

Central Bank of Republic of Equatorial Guinea

1971 Central Bank of The Gambia

This Conference decision of 1920 has favourably influenced African countries to establish central banks from 1957 when Ghana established its central bank and in the parliamentary debate in Nigeria on the question of establishing the central bank Honourable K.O. Mbadiwe invited attention to this Brussels Conference recommendation.[65]

INDIGENISATION OF THE BANKS

In the preceding paragraphs we have seen that the African businessman, trader, civil servant and the public did not take kindly to the monopoly of the expatriate banks nor did they forget the alleged discriminations in the services they provided. The African dissatisfaction rests upon allegations that the banks acted in combination regarding charges and, at the same time, adopted a racially discriminatory policy. The validity of these allegations is contestable in view of the very obvious weak financial positions of the African entrepreneur who lacked credit worthiness, managerial skill, and acceptable collateral. Sir Cecil Trevor mentioned this in his Report of 1951 when he said:

> "Generally speaking, the European, Levantine and Asiatic communities report that the facilities available meet their requirements and have no criticisms to make nor constructive suggestions to offer. It is from

65 House of Representatives Debate, op. cit.

> the indigenous population that all the complaints regarding the existing system and proposals for its improvement emanate, though some of these may be deemed to be unfounded and showing lack of knowledge of the basic principles of sound banking, there is a considerable weight of public opinion which appears to have some justification for feeling that conditions could be improved and a more progressive policy adopted.
>
> The criticisms and suggestions may conveniently be grouped under different interests."

and went on in paragraph 46 to say that:

> "The feeling was prevalent that the existing banking system favours the European, Levantine and Asiatic communities to the detriment of the African."[66]

The National Bank of Nigeria advertisement in Tribune says it all:

> "By a concerted and well planned process of discrimination the African Merchants were gradually eliminated from the position of middlemen between the big European firms and the African Consumer and in their place was substituted the alien immigrants. The Africans, according to plan became small retail traders and Civil Servants. This economic strangulation could not have been possible if the African had had a strong financial institution of his own.
>
> PATRONISE THE NATIONAL BANK OF NIGERIA and retrieve your lost birthright."[67]

No sooner therefore was independence granted than these nationalists clamoured for indigenisation of the banks.

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66 Report by Sir Cecil Trevor, C.I.E. on Banking conditions in the Gold Coast and on the Question of Setting up a National Bank, paragraphs 45, 46.

67 Tribune (Nigeria, 20 February, 1952).

At political meetings and in the gallery of the Central Bank of Nigeria for example appeals were made to establish indigenous banks. In order to be able to do this an enabling legislation was necessary and this they found in the enacting of the Central Bank and banking acts as soon as they had the legal capacity to do so. Through legislation therefore the art of banking has been introduced and brought home to African countries where the industry is now growing and flourishing. Indigenisation should therefore be seen as a natural consequence of the yearnings of Africans to control their economies and it would now seem that every Commonwealth African country has to a large extent indigenised its banking industry "in the national interest."[68]

By their own definitions of indigenisation the nationalists meant that they wanted banks that they could own, control and manage.

Various methods were adopted in trying to achieve the objective of indigenisation. Firstly, the expatriate banks had a premonition that sooner rather than later the nationalist governments would clamp on them either to control them effectively, stifle them out of business or have them nationalised. It turned out that their fears were well-founded for in 1967 the Government of Tanzania nationalised all banks in Tanzania and in countries like Nigeria, Zambia and Kenya the governments took controlling shares in the banks and in some cases appointed Chairmen

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68 S.39(ii) Central Bank of Nigeria Act, 1958.

and Board Members.

In order to avert such takeovers which they had foreseen the banks have of their own motion started to take initiatives for which see Richard Fry's comments in Bankers in West Africa:

> "By 1956 the name of the Bank was becoming a liability. 'Bank of British West Africa' reflected the colonial relationship which was clearly ending. The Bank had made its historic decision a few years earlier to remain in West Africa after the establishment of independent African states and to expand its banking business in the whole area with all possible speed. 'British West Africa' was not only an outdated concept but the term itself had begun to arouse political resentment. The question of a new name for the Bank was not settled easily as the final solution suggests. Leading African politicians were consulted in the course of 1956. The board set up a committee to study the problem. In February 1957 the committee recommended that the name should be changed to Bank of West Africa Limited, and this proposal was approved by an Extraordinary General Meeting in June 1957.
>
> Oddly enough, the same proposal had been made, and almost accepted, as long ago as 1909. At that time the Bank wanted to spread its branch network into the French African colonies and found that the word 'British' in its name was a handicap. A formal decision was in fact taken then to make the change but the matter was dropped."[69]

The first reaction of the Bank of British West Africa therefore was to effect changes in names that made the banks appear to be colonial institutions. The banks took steps to show that although the wine was still the same the bottles had changed. There was a spate of name

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69 Richard Fry, op. cit, p. 207. See also p. 60.

changes affecting practially all the expatriate banks. In Nigeria the Bank of British West Africa after several metamorphoses emerged as First Bank of Nigeria Limited, the Barclays Bank Dominion, Colonial and Overseas as Union Bank of Nigeria Limited, the British and French Bank founded on 31st January, 1957 as United Bank for Africa Limited. The National Bank of India and the Standard Bank of South Africa operating in Kenya and Tanzania changed their names to National Grindlays Bank and Standard Bank respectively.

Secondly, co-operative movements took the initiative of developing indigenous banks by establishing banks which provided a specialised banking service for members of the co-operative movements. Thus the Co-operative Bank of Kenya Limited opened for business in January 1968; while in Nigeria the Co-operative Bank of Western Nigeria, the Co-operative Bank for Eastern Nigeria, and the Kano Co-operative Bank were some of such banks established in the indigenisation process with a special aim of providing agricultural credit.

Thirdly, national governments have also sponsored the founding of commercial banks, co-operative banks and other credit institutions to provide for needs unsatisfied over the years by inadequate banking and credit facilities for which expatriate banks were blamed. Because the expatriate banks saw their primary role as the financing of imports of manufactured goods and capital goods into the African countries and the export of raw materials to Europe they tended to concentrate their banking activities in the urban centres. As a counter measure some Nigerian state governments have, as another way of indigenising the banking system, established state banks with branches in rural areas. The Pan-African Bank Limited in the Rivers State, the Mercantile Bank in Cross River State and the New Nigerian Bank in Bendel State are examples.

The statement by the then Premier of the then Western Nigeria[70] in a debate in the Western House of Assembly on 21st December, 1956, elucidates the position. He said:

> "I believe that it is generally known that one of the cardinal policies of this Government is the studied encouragement of indigenous banking institutions.... In the course of my speech on a Motion calling upon this Honourable House to approve the proposals in the Sessional Paper just mentioned, I said, The Government intends to pursue vigorously its policy of giving financial assistance to indigenous banks so that they may be better able to provide credit facilities to Nigerian businessmen and women and others who have profitable projects on which to invest the funds thus provided them.
>
> Guided by this principle, therefore, this Government always insists that the indigenous banks seeking assistance:
>
> 1. Must be one that is run on lines of sound and efficient arrangmeent.
> 2. Must show satisfactory evidence of stability and good reputation.
> 3. Must be licensed under the Banking Ordinance.
>
> ... So far three indigenous banks have passed the tests in different degrees and have been given one form of assistance or another...
>
> The three banks in question are the National Bank, the Merchants Bank and the Agbonmagbe Bank."

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70 The Western Region has been broken up into Ondo, Ogun, Oyo and Lagos States.

Fourthly, the Federal Government of Nigeria has tried to indigenise the banking system through equity participation by Federal and state governments.

As at the end of May 1983 there were 24 commercial banks with among them, 1,023 bank offices in the country, seven of the banks originally expatriate but now mixed, that is, banks which are jointly owned and managed by Nigerian and foreign interests, 583 branches; other banks are indigenous and had between them 440 bank offices or 43% of total bank offices or branches in the country.

Of the authorised and paid up capital of all the banks in Nigeria of ₦431,646,354.00, the mixed banks accounted for ₦220,067,731 or 50.98%.[71]

The Federal and State governments determined to change the imbalances between the foreign or mixed and indigenous banks in their number and strength and value of equity interests as a matter of policy stepped in aggressively to grab controlling positions in the industry. The result was that the state governments now own practically all the indigenous banks and where the Federal Government has intervened it has acquired 60% participation in the expatriate banks. This was in furtherance of the objectives which the Federal Government set out in the Budget Broadcast for 1972/73 wherein it recorded a "decision to negotiate with the commercial banks the extent of government participation in their ownership and to

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71 Figures from the Banking Supervision of Central Bank of Nigeria. The figure for Habib Nigeria Limited is not available.

establish Industrial and Commercial Credit Banks to give medium and long-term loans to investors so as to facilitate the indigenisation policy" and continuing the broadcast went on to emphasize that

> "The Federal Government has decided to start negotiation with the commercial banks for Government share participation in their operations in Nigeria. I sincerely expect that these negotiations will be conducted in the spirit of give and take and in the interest of all concerned. The Federal Government expects all the Commercial Banks to co-operate with the Central Bank by strictly complying with the Central Bank credit guidelines which are designed to extend credit facilities to indigenous businessmen and women. This is very important in view of the government's new indigenisation programme."[72]

The Government thus shares with the banks the inherent risks involved in the rapid expansion of banking activities and the proceeds of a booming industry and above all exercises some measure of control over commercial banking activities; thus unwittingly, Nigerianising the industry. The Government of Kenya took similar steps and acquired a 60% equity shareholding in the Kenya Commercial Bank Limited and 40% in the National and Grindlays Bank International (Kenya) Limited.

The 1968 Mulungushi Presidential announcement on economic reforms in Zambia transferred the general economic structure of Zambia from complete expatriate domination

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72 Budget Broadcast - 1972-73 by His Excellency General Yakubu Gowon, Head of the Federal Military Government, Commander-in-Chief of the Armed Forces on March 31, 1972, pp. 521-523.

to majority participation by Government. To implement the economic reforms, the National Commercial Bank was established in 1969 as the first indigenous bank and wholly state-owned commercial bank.

Fifthly, some Nigerians on their own initiative have taken the hazardous steps of attempting to found indigenous banks. A foremost nationalist leader and later Governor-General of Nigeria in the person of Dr. Nnamdi Azikiwe founded the African Continental Bank Limited in 1947 in order to call the bluff of the Bank of British West Africa Limited which had refused to grant him £2,000 overdraft facilities in order to be able to finance his chain of businesses. And as a Commission of Enquiry stated:

> "We believe that Dr. Azikiwe's primary motive was to make avaliable an indigenous bank with the object of liberalising credit for the people of this country, but we are satisfied that he was attracted by the financial power his interest in the bank gave him."

The Commission went on to report that:

> "The policy formulated by the Government of the Eastern Region is stated to be based on the following principles:
> (1) to discourage monopoly of monetary transactions by any one bank;
>
> (2) to liberalize credit facilities for Nigerian entrepreneurs;
>
> (3) to encourage the development of indigenous Nigerian banking;
>
> (4) to plan for the eventual establishment of a State bank,

and in their Manifesto for the Federal election of 1954 the policy is further amplified by the following passages appearing therein:

> "Banking. Although the NCNC believes in the development and expansion of Nigerian banking, yet it is uncomprisingly opposed to the use of such banks for the furtherance of party interest particularly where public funds form part of its resources."[73]

The African Continental Bank Limited started as a private company under the name of Tinubu Properties Limited in 1937. In January 1947 it became Tinubu Bank Limited. Towards the end of the same year (in November) the Tinubu Bank Limited was registered as the African Continental Bank Limited with an authorised capital of ₦20,000.00. The Dohertys, the Majas and the Subairs had earlier in 1933 entered the venture and founded the National Bank of Nigeria Limited in 1933 and Chief Okupe established the Agbonmagbe Bank as early as 1945. Before these periods, however, there had been two other pioneering efforts in Nigeria to establish indigenous banks which ended in liquidation.

The first was the Industrial Commercial Bank which was originally incorporated in England in May 1914, but by 1929 was entirely owned and managed by Africans before it went into compulsory liquidation in 1930. The second African bank to be formed was the Nigerian Mercantile Bank. It was registered in March 1931 and had previously been registered as the Nigerian Industrial Co-operative

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73 Foster-Sutton Tribunal of Inquiry (1962), p. 11.

Society.[74]

In Zambia the first indigenous bank, the National Commercial Bank, was established as late as 1969, as the first indigenous and wholly state-owned commercial bank. And in Tanzania there were three indigenous banks - the National Co-operative Bank had been founded by the Co-operative movement in 1962 as the Co-operative Bank of Tanganyika, the Tanzania Bank of Commerce was established in 1965 when it took over the majority share-holding of the Ottoman Bank, and the People's Bank of Zanzibar established in 1966 to transact commercial banking operations for the Zanzibar government outside mainland Tanzania. In spite of the early establishment of a commercial banking system in Kenya, the first locally owned bank was established after half a century of banking on 19th June, 1968 and on the 30th September, 1968, opened for business. The bank, the National Bank of Kenya Limited, is fully owned by the Government of Kenya.

Sixthly, some Commonwealth African nations used nationalisation as a tool for Africanising the banking industry. The Government of Tanzania considered bank nationalisation as a logical and necessary move in its efforts to control the economy. Under the National Bank of Commerce (Establishment and Vesting of Assets and Liabilities) Act, 1967, all commercial banks except Jetha

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74 The following indigenous mushroom banks in Nigeria collapsed: The Nigerian Farmers and Commercial Bank, Pan Nigerian Bank, Premier Bank, Onward Nigerian Bank, Berini Nigeria Bank (Beyrut Ruyad, Lebanese-Nigerian), Bank of Lagos (Swiss-Nigerian), etc.

Lila Bankers in Zanzibar, were nationalised and closed for business on 6th February, 1968.

Seventhly, the foreign owned banks had been manned predominantly by expatriate personnel with only a few indigenous people mainly employed to carry out menial jobs. In Zambia, for example, of the 100 employees in the Bank of Zambia only 6 clerks and 9 auxiliary subordinate staff were Zambians. After the exodus of banking personnel as a result of severance of banking connections with the Reserve Bank of Rhodesia and Nyasaland in 1965 following the political independence of Zambia the Bank of Zambia had only a few hands to run the Bank. However, full Zambianisation of the Bank was achieved in 1972.

To be able to have Africans to take over from the expatriate bankers the banks engaged in full-time training of staff at home and abroad. To this end the Bank of England, the Federal Reserve Bank of New York, the International Monetary Fund and other overseas banks have assisted in a very large measure to train thousands of African bankers for the eventual take-over of the African banking scene from expatriates.

To what extent these measures and initiatives and the various governments' interventions have enabled the countries to achieve the objectives of Africanisation, control, management and participation will make interesting case study.[75] However, one thing is certain and that is,

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75 For an appraisal see Financial System Review Committee and the Federal Military Government views on it. (Federal Ministry of Information, 1977) see also G.O. Nwankwo, the Nigerian Financial System, Chapter 11.

that the indigenous African Banks have to a very great measure successfully forced a dramatic change of banking policy, procedure and system among the expatriate banks and but for them indigenisation after political independence would have been very painful and expensive as in Tanzania.

LICENSING OF BANKS

One of the objectives of central banking legislation is to protect the customer and the general public at large so that public money entrusted to bankers should be safe and thus avoid the pitfalls of banks "going bubble". Central bank legislation tries to give this protection. Sections 1 and 2 of the Banking Act 1969 of Nigeria, inter alia, stipulate that no banking business shall be transacted in Nigeria except by a company duly incorporated in Nigeria and which has been licensed.

By incorporating a company the advantages of a limited liability company and of possessing different legal personality from that of the shareholder will be enjoyed both by the company and the shareholder as enunciated in the well-known cases of Foss v. Harbottle[76] and Salomon v. Salomon and Company Limited,[77] the facts of which are well known to all lawyers.

Furthermore, by the grant of a licence a bank has undertaken to comply with the provisions of the Banking

76 (1843) 2 Ha. 461.

77 (1897) A.C. 22.

Act 1969. Such provisions include the requirement:

> "To compel banks maintain a minimum holding of cash reserves, specified liquid assets, special deposits and stabilization securities.
>
> To restrict licensed banks from undertaking certain activities, e.g. granting loans above 33 1/3 of paid-up capital, engaging in import and export trade, purchase, lease real estate.
>
> To exercise the powers of examination, control and winding-up of licensed banks, revoking their licences and assuming, control of their business.
>
> To restrict persons from the use of the word 'bank' for carrying on business and
>
> To protect Government, CBN and officers against adverse claims for things done or omitted to be done.

All these provisions make for the protection of the interest of the customers and are insurances against insecurity of their deposits and they are meant to promote mutual confidence between banker and customer which is very essential for a healthy banking system.

OBLIGATIONS BY THE CENTRAL BANK

In the preceding paragraphs we considered the objectives which governments intended to achieve through central banks which in summary was that the banks shall issue legal tender currency in their countries, to maintain external reserves in order to safeguard the international value of that currency, to promote monetary stability a sound financial structure in the economy and to act as banker and financial adviser to the Federal Government.[77]

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77 The preamble to the Bank of Zambia Act provides for contd...

In order to be able to achieve these objectives central banking Acts have been enacted to facilitate the attainment of the objectives by central banks. The Acts therefore provide, inter alia:

> "To use legislation to achieve economic growth through Open Market Operations, Banking Supervision Provisions e.g. S.29 of the Banking Act and Credit Guideline.
>
> To control Bank Lending generally.
>
> To open accounts for and accept deposits from the Federal Government, State Governments, the funds, Institutions, Corporations and Banks.
>
> To undertake the issue and management of loans publicly issued.
>
> To promote the establishment of banking systems.
>
> To compel banks to maintain cash reserve and hold a minimum amount of specified liquidity assets.
>
> To compel banks to prepare and deliver true and correct statement of deposit liabilities.
>
> For the purposes of maintaining monetary stability of the economy to issue, sell or redeem stabilization securities and impose sanctions on banks.
>
> To facilitate the clearing of cheques and other credit instruments for banks carrying on business in the country.
>
> To restrict the sale or disposal of banking business by amalgamation.
>
> To prescribe the minimum ratio which banks shall maintain between their respective paid-up capital and statutory reserves on the one hand and their loans and advances on the other.
>
> To compel directors to disclose their interests when they are in any manner interested in an advance, loan or credit facility from the bank.

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contd...

similar objectives. No objectives are specified in the Reserve Bank of Rhodesia Act, and the objectives for the Ugandan and Zambian banks are specified only in the preamble.

POWER OF REFORM

The respectable profession of banking has been ashamedly debased by bad eggs in the profession. Cases of forgery, stealing, exchange control malpractices and various other frauds have been rampant. The incidence of exchange control malpractices and trafficking in foreign currencies was so high that the Federal Military Government in Nigeria had to promulgate the Anti-Sabotage Act of 1977 in order to stem the upsurge of the offences. Early in 1983 the President of the Federal Republic of Nigeria launched an Ethical Revolution and appointed a National Committee to study the problem of moral decadence and corruption in Nigeria.

Some bank managers are fond of demanding 10% of the value of loans or overdrafts they grant to customers. Some of them conspire with importers to inflate invoice values, submit exchange control applications with forged papers, and grant unsecured loans.

The Nigerian Banking Act 1969 contains penalty provisions against abuse of office by bank officials. Section 29 of the Act is directed towards the Manager and other officials of banks with a view to eliminating the bad eggs in the industry and all those with propensity to steal or abuse their office. The section prohibits the receipts of commission or anything or value for the personal benefits of a director, officer or employee of a licensed bank, for procuring facility or for permitting the customer to overdraw his account. The Section provides that such officer shall be liable, on conviction to imprisonment for a term not exceeding three years, or to a fine not exceeding ₦2,000.00 or both.

The objectives of the section are two fold. One is to enable the law to catch up with criminals in the banking industry and secondly to be a tool for central banks in their efforts to reform the banking system by removing obstacles to progress and success.

Section 22 of the Central Bank Act[78] empowers it to undertake periodic examination of banks and if it is established that a bank is carrying on its business in a manner detrimental to the interest of depositors and other creditors, or where the bank has insufficient assets to cover its liabilities or contravening the Act, the Commissioner may require such a bank to rectify the matter and unless satisfied that the bank is taking adequate measures to put its affairs in order, may, on the direction of the Federal Executive Council, revoke the bank's licence or the Central Bank assumes control of the licensed bank.

In reforming the system in a defaulting bank, the central bank is expected to be in control until the finances of the commercial bank have improved. The above provisions show the extent of the controls exercised over the commercial banks under the Banking Act and there can be no doubt that these provisions have been beneficial to customers who patronise commercial banks, especially the indigenous ones which very often face problems of

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78 Central Bank of Nigeria Act, 1958.

inefficient and corrupt staff and management.

Section 39(ii) of the Central Bank Act requires the Central Bank to "promote and maintain adequate and reasonable banking services for the public; to ensure high standard of conduct and management throughout the banking system; and to further such policies not inconsistent with the Act as shall be in the national interest.

Section 29(2)(t) of the Central Bank Act provides that the Bank may "subject as is expressly provided in this Act, generally conduct business as a bank, and do all such things as are incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act." The scope of this implied power was considered in Chapter 4, page 241.

Section 29 is loaded with power to reform the banking system in Nigeria. An aggressive Central Bank can therefore make effective use of the discretionary powers conferred by this section not only to correct the ills in the industry but also to improve it for the economic growth and welfare of that nation.

Similarly, section 3(c) of the Banking Act 1969 is highly potent with powers which the Central Bank can employ to advantage. The section provides that the Minister of Finance may, at any time on the recommendation of the central bank, vary or revoke any of the conditions of a licence or impose such conditions or additional conditions as he may deem necessary.

These powers to impose conditions for a licence, like its powers to ensure high standard of conduct and management throughout the banking system,[79] described above, are extremely wide-ranging. Under these powers the Central Bank can give any conditions that are necessary in order to secure the protection of the depositor and may require a defaulting bank to take certain steps or to refrain from adopting or pursuing a particular course of action or to restrict the scope of its business in a particular way.

The powers can be used where the institution's affairs are in a state of confusion as a result of a failure of its internal control systems and the Central Bank considers it necessary in the public interest to ascertain the true position.

It would seem from the foregoing that central banking Acts have as a legislative objective adequately provided an armoury for central banks to combat corruption and pitfalls in the banking system and to make necessary reforms.

This chapter has attempted to identify the objectives of central banking legislation as conceived by governments, politicians and legislatures. In doing so efforts were made to try to identify the scope and sources of law as they apply to banking for the economic and social development of Commonwealth African countries. It was found that although customary law is unwritten it is also a source of banking law in Nigeria. It was also submitted that received English law including the doctrines of equity and the principles of common law are vital sources

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79 Section 29(ii) Central Bank Act, 1958.

of the law of banking.

The question that now arises is: to what extent does the available legislation help to achieve the objectives set out in the identified sources of law? In the succeeding chapters attempts will be made to answer the following and other questions:

1. Section 8 of the Central Bank of Nigeria Act provides that the Board of Directors shall be composed of twelve members and shall be responsible for the policies and general administration of the affairs and business of the Bank. Will the ends of Government or the authorities of the Bank be adequately served by appointing, for example, a politician, a geographer, a librarian, an historian, a carpenter and a chemist or other persons who are neither economists, nor lawyers nor accountants to serve on the Board of the Central Bank to consider monetary and fiscal policy matters affecting domestic and international economies?
2. Has the system succeeded in harnessing all available sources of credit for capital formation necessary for economic and social development?
3. Why are the countries surveyed poor in spite of elaborate control mechanisms?
4. How can the gaps and the mischiefs, if any, in the existing legislation be filled?
5. Is legislation a guarantee against bank failures and economic growth?
6. What reforms are necessary and what forms should they take?

CHAPTER 4

THE LEGAL STRUCTURE OF CENTRAL BANKS

SCOPE

The basic structure of all central banks in anglophone Africa comprises a Board of Directorsand staff directed by the Chief Executive or General Manager at the apex. The organisational structure may differ from one country to another but in general the functions are basically the same. All central bank laws provide for a Board of Directors, though under varying names, to act as the chief policy-making and directive organ of the central bank. Below the Chief Executive, there are other top executives who are placed in charge of specific areas of the Bank's operations. They may be referred to as or called executive directors, who are also members of the board of directors and who also supervise the work of a group of departments or operations placed under them.

Then there are departments of the bank such as the economic research, issue, banking, banking supervision, administration and personnel departments, each charged with responsibilities often defined in the organic laws setting up the central banks.

Sometimes there are other extraneous bodies that assist management in the running of the affairs of the bank. Trade union movements and staff joint consultative councils play such roles. They help, where there is goodwill and mutual understanding, to smooth and oil the machinery of management. These bodies are sometimes set up by Acts of Parliament or by delegated legislation or other instruments.

The thesis will examine in this chapter the membership, terms of office and powers of the board, decisions and special committees of the boards (with special refernce to Nigeria) to see whether the provisions in the various Acts are conducive in these respects to economic growth. To further assess growth or stagnation we will examine the influence which the provisions relating to independence or autonomy of central banks have on the system and whether economic growth would thrive better in a federated central banking system.

We will also take a look at the principles laid down by the Nigerian courts in: Doherty v. Sir A. Tafawa Balewa 1 W.L.R. 949 and see what effects they have on the ability of central banks to carry out certain functions that are incidental to their main objectives.

THE BOARD OF DIRECTORS

Under the Central Bank of Nigeria Act, 1958, the Bank is administered by a Board of Directors which is responsible for "policy and general administration of the affairs and business of the Bank."[1]

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1 Central Bank of Nigeria Act, 1958, S.8. There are similar provisions in the Kenya, Tanzania and Zambian Acts. See Ss. 10-11 Kenya; S.6 of Tanzania; and S.5 of Zambian Act.

The policies of a central bank are generally formulated within a distinct institutional framework. This will include:

the government and its departments;

the governing board of the central bank;

the central bank staff;

financial institutions (both banks and non-banks);

and the public at large.

However, the ultimate decision-making body within the central bank is typically a governing board which in Commonwealth African Central Banks is chaired by the central bank's governor in accordance with the Acts establishing them. In the more advanced countries, particularly in Europe and Japan, there is a separate monetary board[2] (including the central bank governor) which decides broad policy, and an adjunct board which supervises detailed implementation.

In Anglophone African central banks where there are no monetary boards, the policy boards are advised by management acting through the staff of the central bank. The staff reviews to the board the state of the economy and of the financial markets and provides policy recommendation.

MEMBERSHIP

The Board which determines policy may include people from a variety of fields including business and academic.

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2 See Bank of Indonesia Act No. 13 of 1968, Articles 8 and 9 which provide for a Monetary Council as well as Board of Directors (Act 15).

The board may also include an official from one or the other policy branches of government - typically the Ministry of Finance. That official may or may not have a vote. He represents the Cabinet Minister who is answerable for government policy in Parliament and is subject to cabinet decisions.

In central banks, as in all statutory corporations, the government stands in the position of shareholders of a limited liability company. The arguments that follow relate to directors generally; surely a fortiori to central bank directors.

A comparison of the provisions of central bank laws relating to the composition, decisions, qualifications and meetings of the board of directors indicate that they frequently follow the pattern of the corresponding provisions of corporations, parastatals and company law and memorandum of association. Thus, for example, sections 168, 190(1) of the Nigerian Companies Act 1968 provide that:

> "168 Every company registered on or after the commencement of this Decree shall have at least two directors; and every company registered before this date, whether or not a private company shall have at least one director.
>
> 190(1) Subject to the provisions of this section, it shall be the duty of a director of a company who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the company to declare the nature of his interest at a meeting of the directors of the company."

While sections 12(2) and 18 of the Central Bank of Kenya Act provide that:

"12(1) The Governor, as Chairman of the Board, shall convene meetings of the Board not less than once in every two months, or whenever the business of the Bank so requires, or whenever he is so requested by at least two Directors, or by the representative of the Treasury.

14(2) The President shall terminate the appointment of a Governor, Deputy Governor or a Director who:

(a) becomes subject to any of the disqualifications described in subsection (1) of this section;

(b) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors.

(c) is convicted of an offence involving dishonesty or fraud or moral turpitude; or

(d) becomes for any reason incapble of properly performing the functions of his office.

18 The Governor, the Deputy Governor and any Director shall declare his interest in any specific proposal being considered or to be considered by the Board."

Usually central bank laws provide for a fixed number of directors as in the case of the Central Bank of Nigeria Act 1958, section 8(2) of which provides that:

> "the Board shall consist of a Governor, a Deputy Governor and five other Directors."

Some of the laws also contain provisions requiring the chairman and other members of the board of directors to be chosen from various disciplines or that such members should be experienced in or represent specified fields or areas of knowledge or possess certain qualifications. Thus as in Canada the Chairman of the board of directors of the Bank of Canada may be expressly required to be a person of tested banking or financial experience.[3] Back home in

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3 The Bank of Canada Act, 1954, s.6(2).

Africa, before the break-up of the Rhodesia and Nyasaland Federation, the Bank of Rhodesia and Nyasaland Ordinance section 6(1)(c) provided for at least two of the nine members of the board of directors "to be persons who have been actively and primarily engaged in commerce or finance; at least two shall be persons equally qualified in industry; and at least one shall be a person concerned with agriculture". A few examples of functional representation will illustrate the points more vividly:

The Bank of Korea Act, 1950, provides in Article 8(c) to (f):

> "8(c) Two titular members and two alternatives shall be appointed annually for a term of one year by the President of the Republic of Korea with the approval of the State Council from a panel of eight persons elected by banking institutions. For the election of these persons, each of the banking institutions shall have equal voting power.
> (d) A titular member and an alternate shall be appointed for a term of four years by the President of the Republic of Korea with the approval of the State Council from a panel of four persons submitted by the Korea Chambers of Commerce and Industry.
> (e) A titular member and an alternate shall be appointed for a term of four years by the President of the Republic of Korea with the approval of the State Council from a panel of four persons submitted by the Ministry of Agriculture and Forestry.
> (f) A titular member and an alternate shall be appointed for a term of four years by the President of the Republic of Korea with the approval of the State Council from a panel of four persons submitted by the Economic Board of the Office of Planning."

Similarly, Article 23(c) of the Central Bank Law of Cuba where the law specifies that there shall be five members on the board of directors, it is stated that:

> "One member shall represent the domestic bank and another shall represent the foreign banks."

Such functional representation has some advantages, one of which is that specialised experience or qualifications of a director or chairman enables such members to take competent and expert decisions on the complex matters that face the board very frequently. Secondly, in a heterogeneous society like Nigeria with diverse religions, cultures, values, tribes and so on, the board-room provides a common platform for conflicting interests among different and competing economic or social groups to be mutually and satisfactorily resolved. Thirdly, a core of experts would be available to provide, where necessary, counter-points to the views of management. Fourthly, a wide spread of representation will minimise influence of vested interests and political intimidation and manoeuvres.

Paradoxically, the Central Bank Acts of the countries covered by our survey (Nigeria, Kenya, Tanzania and Zambia) either do not contain such clauses, or where they are provided at all, the clauses are merely in vague general terms, as in the examples below:

> "10(1) The five other directors of the Bank shall be appointed by the Head of the Federal Military Government of the Federation.
>
> 10(2) A director shall be a person of recognised standing and experience in affairs, but as a director of the Bank he shall not be regarded or act as a delegate on the Board from any Federal or, State Authority, or from any Commercial, Financial, Agricultural,

> Industrial, or other interests with which he may have been connected."[4]

Of the Governor and Deputy Governor the Act says that the Governor and Deputy Governor shall be persons of recognised financial experience.[5]

Similarly, the Bank of Zambia Act, 1964 provides that:

> "7(1) The six directors of the Bank, other than the director appointed under subsection (4), shall be appointed by the Minister, and may be removed by the Minister for just cause.
>
> (2) A director shall be a person of recognised standing and experience, but, as a director, shall not be regarded or act as a delegate of any interest with which is or has been connected, and he shall not accept directions from any such interest, save as provided by subsection (4)."[6]

The Kenya Act and the Tanzania Act made no provisions for functional qualifications of directors.

What this brief survey shows is that members of the board are appointed by Ministers or political heads from party members or supporters and the various central bank Acts provide the legal backing for the Ministers of Finance to so appoint the directors. The effect of this method of appointment is to make the offices political. When appointments are politicised, their reasonableness or criteria will pass the realm of objectivity and suitability to that of political convenience. Such appointments

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4 S.10(1) and (2), Central Bank of Nigeria Act, 1958,

5 <u>Ibid</u>, S.9(1).

6 S.7(1) and (2).

are usually made to compensate politicians who failed to win elective political posts. In Africa the appointees (sycophants and party hacks) see their appointments as avenues for the amassing of wealth leading to ostentatious living rather than as opportunities for them to serve their fatherland faithfully and loyally to improve the lot of the generality of the people.

Nigerian law, or for that matter Commonwealth African law, like English law, has consistently adopted the attitude that directors need not have special qualifications at all for office; the view held is that the question of appointment of directors is a matter for the shareholders who are entitled to choose whom they like. The courts have taken the view that the matter of a director's qualification is that if shareholders, whose province it is to appoint directors, choose to appoint bad directors, they must take the consequences. As Hatherley L.C. said in Turquand v. Marshall:

> "It was the misfortune of the company that they choose such unwise directors."[7]

or Lindley, M.R. in Lagunas Nitrate Company v. Lagunas Syndicate:

> "No one need join a company unless he likes, and if a person knows that if he becomes a member he will find as directors persons who, in his opinion, ought not to be directors, he should not join the company. If he does he has no right of redress on the ground that improper persons

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7 [1869] L.R.4, Ch.App. 376, 386.

> were appointed trustees. Volenti non fit injuria applies in such a case to the members of the Company, and Salomon's Case shows that the company in its corporate capacity is in this respect in no better position."[8]

Chitty J. in Grimwade v. Mutual Society said:

> "Directors are not bound to be wiser than those who have appointed them."[9]

Where nitwits, persons of no qualifications or talents are appointed, the bank and the country should expect to reap the whirlwind and lament, as did Lord Hatherley, L.C. in Turquand v. Marshall, where, in relation to a loan made by the board, he said:

> "Whatever may have been the amount lent to anybody however ridiculous and absurd their conduct might seem, it was the misfortune of the company that they chose such unwise directors; but as long as they kept within the powers of their deed, the Court could not interfere with the discretion exercised by them."[10]

Commonwealth African central banks seem to have adopted the practice of company law in this respect by appointing politicians and non-experts onto boards of central banks. Of the eight directors in one central bank one is an economist, one a politician, one a medical practitioner, another is a legal practitioner, one is a

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8 [1899] 2 Ch. 426.

9 (1885) 52 L.T. 409, 416.

10 [1869] L.R. 4 Ch. App. at p. 386.

teacher, one is an accountant, one a pharmacist and a librarian. There are two executive directors with adequate financial or banking experience. It is to the credit of the bank that there has never been a serious disagreement on the board and that there has always been a spirit of give and take. Such a board composed of eminent members of the society will no doubt take rational decisions so far as they understand the problems facing them. If they take any decisions that turn out to be disadvantageous they will not be held liable, for as Neville J. held in Re Brazilian Rubber Plantations and Estates Limited:

> "A director is, I think not bound to bring any special qualifications to his office. He may undertake the management of a rubber company in complete ignorance of everything connected with rubber, without incurring responsibility for the mistakes which may result from such ignorance."[11]

This is not a position that should be encouraged or supported in an economy that desires to grow. The impact on the economy of such a country will be disastrous. While the effects arising from such a position may be tolerated or contained in a private company, the consequences to a nation's economy may be irreparable and calamitous. For considering such questions as whether a particular bank should employ a certain category of workers, or increase the salaries of staff generally, or award the printing of an annual report to a particular contractor or whether a particular commercial bank should open a rural branch in

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11 [1911] 1 Ch. 425.

one place or the other, the directors will 90% of the time take rational decisions. They cannot reasonably be expected to display the same degree of competence in all of these matters, because they cannot be reasonably expected to possess the same degree of knowledge and experience in all. Nevertheless, by reason of their position as board members, each must necessarily make a decision of his own on every matter presented to the board whatever his competence in it. So in our examples above the director has to decide whether to increase the salaries of the workers and whether to open new rural banking branches. But the economists among them may not see it as sound or economically sensible to revise salaries which may raise the inflationary spiral. In the same manner a commercial bank may argue that rural banks are generally run at a loss, and so it would be economically suicidal to embark on opening more and more branches without calculating the costs. When the economist argues on the economic effects of the decisions, the director who professes no specialised expertise, but who by his appointment must be taken to profess at least general business competence of a degree appropriate to his position as a director, may consider the social advantages of such decisions as overriding and may be tempted to give priority attention to them. However, directors who are in this category can provide useful expertise in matters of administrative policy in the internal running of the bank and they are therefore likely to accept hook, line and sinker the economists postulates without offering counter postulates.

Our view is confirmed by M.J. Trebilock when he stated that:

> "It is a fair comment on the attitude taken by English courts in most of the situations canvassed above that the standards of diligence and competence demanded of directors are far from high. It is unfortunately the case that the fewer a director's qualifications for office, the less time and attention he devotes to his office and the greater the reliance he places on others, legally the less responsible he is. As any sort of assurance of protection to investors against mismanagement, the present law on a director's liability for negligence is wholly inadequate."

He went on to say:

> "Moreover, there is no doubt that the law in its present state falls far short even of the perhaps more limited objective of giving effect to the standards demanded by current, prudent business practice. The reasons which emerge from the cases for the general attitude which the courts seem to have taken are mostly legacies of outmoded economic and social philosophies from another age. It is submitted that the case for reform of the law on a director's liability for negligence is undeniable."[12]

The position would however, seem to be different if the board had been composed of eminent economists and financial experts knowledgeable in the country's financial and economic position. The board so composed will, in all probability, provide its views and variables, some agreeing with the management viewpoint or emphasising the management stand; and in appropriate circumstances such a

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12 (1969) 32 MLR 308-309.

board will offer a counter-point to the views of the in-house economists. What emerges from expert discussions and considerations and exchanges of views by the acknowledged experts are more likely than not to be thorough and well thought-out solutions. This is not to say that in the final analysis the decision taken by a less expert-oriented board may produce a less practical solution to a current economic problem. On the balance of probability an inexperienced board or one composed of mainly lay men and women or in some cases, some square pegs in round holes, as it were, will be more incompetent in the management of the economy of a nation than one in Japan, for example, where the Bank of Japan Law No. 67 of February 1942 as amended by Law No. 135 of May 1957 specifies that two of the seven members of the board shall be persons of superior experience in financial matters: one experienced in a country bank, the other in a large city bank.[13] And as Romer put it in Re City Equitable Fire Insurance Company Limited:

> "a director need not exhibit in the performance of his duties a greater degree of skill than may reasonably be expected from a person of his knowledge and experience."[14]

Our case is therefore that the absence of functional qualifications clauses in the various central bank Acts and the appointment of directors without regard to

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13 Article 13.4.

14 [1925] Ch. at p. 428.

specialised experience or functional qualification can have serious repercussions on the efficient management of the economy and promotion of economic growth in Africa. In Australia it was found that:

> "Several hundred million dollars of investors' money has been lost in unsuccessful public companies. The consequences of losses of these proportions, on both a personal and national plane, have of course been very serious. In most of those cases where formal investigations have occurred, inspectors have attributed company failure to managerial incompetence. In very few cases has fraud been found to be a significant factor. Moreover, these failures have occurred in an economic climate generally regarded as prosperous and expansionary.... It is submitted that part at least of the explanation for this fact is probably to be found in the present law relating to the liability of directors for negligence."[15]

As we have seen, it is now a cardinal feature of central bank laws in Europe and America to provide for functional representation of almost all the sectoral, regional, and financial interests of the community in central bank boards.

It is therefore submitted that one of the causes of the failure of central banks in Commonwealth Africa to attain optimum economic and social growth is the inadequacy of the representation on the board of directors. In Chapter 10 we will attempt to offer suggestions as to how to improve the legislation on this subject.

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15 M.J. Trebilock, "The liability of company directors for negligence", (1969) 32 MLR 499.

TERMS OF APPOINTMENT, ELIGIBILITY AND TENURE

In many countries the governors of central banks are appointed on terms fixed by the Act or by the respective governments or even by shareholders. In Portugal[16] and Greece,[17] for example, a majority of the members of the boards of central banks are selected by private shareholders while the reverse is applicable in some European countries like the United Kingdom, France and West Germany, where all the members of the managing boards of central banks are appointed by the respective governments, who also have powers to remove or re-appoint them.

In the United States, provision is made for State participation in the administration of the Federal Reserve System through the appointment of the members of the Federal Reserve Bank by the President of the United States, and then through the appointment by the Federal Reserve Board of three out of nine directors of each Federal Reserve Bank, including the Chairman. The other six directors are usually to be elected by those commercial banks which became members of the system in their respective districts, and while three of these could be bankers, the other three were to be representatives of the commercial, industrial and agricultural interests of the community.

A peculiar case is that of the Bank of England, where the Governor and the Deputy Governor are appointed for five years by the Crown on the Prime Minister's recommendation; their emoluments are fixed in accordance with

16 Central Bank of Portugal, Art. 46.

17 Central Bank of Greece, Art. 21.

the Charter of the Bank of England. The other members of the Board of the Bank of England are selected by the Government, and their remuneration is fixed by the Bank of England without the knowledge of the Treasury.

The appointment of the titular or non-executive members of the board of directors of the Commonwealth African countries are governed by the central bank laws. In Nigeria[18] and Zambia[19] the Governors and the Deputy Governors are appointed by the President (in Zambia after consultation with the Minister), the former for a term of 5 years and the latter for 3 years. In the case of Kenya,[20] with the exception of the Permanent Secretary to the Treasury, all members of the Board of Directors including the Governor and Deputy Governor, are appointed by the President to serve for terms of four years.

In Tanzania a Governor or Director-General can occupy his office for as long as it pleases the President. Section 7(2) empowers the President to appoint the Governor and the Director-General to hold office for the period specified in the instrument of appointment. On the other hand, it is the Minister responsible for financial matters who appoints the directors for a term of three years.

While in Nigeria the President appoints the directors, in Zambia it is the Minister who can appoint and remove directors. He also approves the terms and conditions under

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18 Central Bank of Nigeria Act, 10.

19 Bank of Zambia Act, 1964, 6.

20 Central Bank of Kenya Act, 1966, 11(2).

which the Governor and Deputy Governor are appointed. The Act is silent as to which Minister exercises such important powers but it may be assumed from practice that the relevant Minister is that of Finance.

From the brief survey, it is clear that the appointments of governors and other members of the board of directors of African Commonwealth central banks are highly politicised, thereby leaving them open to party directives, unwarranted influence and political manipulation. The system of appointing, dismissing and remunerating governors and directors can lead to the curbing of independent exercise of their powers as free agents in the determination of policy decisions. A central bank board that persists in delivering economic decisions that are tainted with politics is on the way to chaos. A warning was given by the Nigerian Concord on its back page issue of the 31st October, 1983, when it said:

> "In the wake of media revelations on the known blemishes in the records of some ministerial nominees, (NPN), the party with the most Federal legislators, has discretely [sic] clamped down on its elected and appointed office holders.
>
> The crack-down, according to reliable sources, centres on a directive that all political office holders should sign undated letters of resignation. Worst-hit by the directive, are the party's senators now engaged in battles with their inner selves over how not to tread on powerful toes within the NPN and at the same time, do the nation a service by approving only ministers the nation could be proud of.
>
> The scheme, which caught the fancy of NPN decision-makers as an ideal way to enforce party discipline, is quite common in the United States of America. However, in that country, it only applies to

> appointed office holders.
> In effect, senators who sign such letters of resignation and refuse to toe party line face the risk of being shown the way out.
> All that would need be done is put a date on such letters of resignation.
> Senators spoken to on the issue were evasive, as none of them wished to be quoted on the issue.
> National Concord learnt that some party lords have even started exploiting the situation to their advantage by boasting at informal party gatherings in Lagos that any erring senator would be dealt with.
> The fear of the party's might had last week caused the withdrawal of some powerful motions initiated earlier in the Senate to guide screening of the nominees.
> It was replaced by the watered-down package which virtually all the nominees would scale without effort while the two senators earlier associated with it, have backed down."[21]

It is submitted that this canker worm of political interference in central bank boards is one of the factors leading to poor performances of African Commonwealth central banks in their effort to achieve economic growth. Central bank Acts should therefore have entrenched in them procedural safeguards against removal and instability of tenure of governors and directors in the same way as judges' tenure of office is secured. Section 256(1) of the Constitution of the Federal Republic of Nigera, 1979 dealing with the removal of judicial officers from office, stated that:

> "256(1) A judicial officer shall not be removed from his office or appointment before his age of retirement except in the following

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21 Issue of October 31, 1983.

> circumstances - in the case of Chief Justice of Nigeria, by the President acting on an address supported by two-thirds majority of the senate; (ii) chief Judge of the High Court of a State Grand Kadi or a Sharia Court of Appeal of a State by the Governor acting on an address supported by two-thirds majority of the House of Assembly of the State, praying that he be so removed for his inability to discharge the functions of his office or appointment (whichever arising from infirmity of mind or of body) or for misconduct or contravention of the Code of Conduct;
>
> (8) in any case, other than those to which paragraph (a) of this subsection applies, by the President or, as the case may be the Governor or the State Judicial Service Commission that the Judicial officer be so removed for his inability to discharge the functions of his office or appoint (whether arising from infirmity of mind or body) or for misconduct or contravention of the Code of Conduct. (2) Any person who has held office as a judicial officer shall not on ceasing to be a judicial officer for any reason whatsoever thereafter appear or act as a legal practitioner before any court of law or tribunal in Nigeria."

Section 16 of the Bank of Sudan Act 1959 gives a similar protection to the Governors and other members of the Board. It said:

> "The power to determine whether a case of ineligibility as defined in Section 14, or of vacation of office as defined in Section 15, has actually occurred is vested in the Council of Ministers."[22]

Other countries like Sweden[23] and Finland[24] have seen the necessity of protecting directors against arbitrary

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22 Bank of Sudan Act, 1959, S.16.

23 Sveriges Riksbank Act, 1934, Article 28.

24 Bank of Finland, 1925, Art. 32.

appointments and dismissals by the chief executive as a result of his direct control over the directors. Such appointments are made by the legislature and in the Netherlands[25] it is the Crown that exercises such powers.

INDEPENDENCE AND AUTONOMY OF CENTRAL BANKS

The concept of the independence of central banks developed in a gradual process and evolved in three stages marked by four important historical landmarks, namely, the First World War, 1914-18; the Brussels Conference Resolutions of 1920; the Great Depression of the 1930s; and the World War II, 1939-45.

Before World War I, it was fashionable for the statutes of central banks to provide for the control of state banks, as they were called, by the state. In the war and immediate post-war years the world witnessed hyper-inflation which upset the economic balance of most nations. The shattered economies as a result of the inflation invoked sharp reaction of economists against state control and management of central banks. It used to be argued that the independence of the central bank was a necessary safeguard to prevent irresponsible governments financing themselves by resort to the printing press. It will be recalled that at page 54 of our Chapter 2 we found that at the end of the 19th century A.D. most countries in Europe had already established national banks which, except for the Bank of France and South African Reserve Bank, were

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25 Netherlands Bank Act, 1948, Art. 23.

wholly state-owned. Since most of the national banks were state-owned it was not strange at that time that governments should control state banks. The practice of state control of central banks by these governments continued until 1920 when under the auspices of the League of Nations the Brussels Conference Resolutions of 1920 directed that:

> "banks, and especially Banks of Issue, should be freed from political pressure and should be conducted solely on the lines of prudent finance."[26]

The concept of independence of Banks of Issue now evolved and developed, according to S.K. Basu,[27] was the central feature of the reconstruction schemes initiated by the League of Nations and was enshrined in the statutes of most of the central banks established at the time, as in Austria, Hungary, Estonia, Greece and so on.

This new concept of independence of central banks continued to apply until the Great Depression of the 1930s when it was discovered that the concept could no longer provide an answer to the world's economic woes. An alternative concept or system had to be found and the world had to go back to the pre-1920 concept, under which central banks' monetary and fiscal policies were integral parts of the overall economic policy of state governments. Thus,

> "the imposing facade of complete political independence that central

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26 Resolution 111, proposed by the Commission on Currency and Exchange and adopted by the Brussels Conference 1920. See also S.K. Basu, Central Banking in the Emerging Countries, p. 69 in International Financial Conference, 1920 (Brussels, 1920), p. 18.

27 S.K. Basu, op. cit, p. 69.

> banks in many parts of the world had so assiduously built up crumbled to pieces by the impact of the great Depression."[28]

As a commentator had aptly observed:

> "the fate of the independent central banks came to be sealed and the mirage that was fostered so carefully in the 1920s that finance and politics should be kept segregated in troubulous times was shattered to pieces."[29]

An example of the application of the new concept of subordination was to be found in New Zealand, where an amendment in 1939 to the Reserve Bank Act provided:

> "In the exercise of their functions and powers under the principal Act the Governor and the Board of Directors shall have regard to any representations that may be made by the Minister of Finance in respect of any functions or business of the Reserve Bank, and shall give effect to any decision of the Government in relation thereto conveyed to the Governor in writing by the Minister of Finance."[30]

This trend of state ownership and control gathered momentum in the post-depression years and thus was made manifest in the organic laws of central banks enacted particularly after the World War II. An example is section 50(3) of Central Bank of Kenya which provides as follows:

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28 Ibid, p. 69.

29 G.G. Johnson, The Treasury and Monetary Policy, 1933-38, p. 6.

30 G.R. Hawke, Between Governments and Banks, A History of Reserve Bank of New Zealand, p. 62.

"The Minister may request the Bank to give its advice on any particular measures, situations or transactions, or on monetary, banking and credit conditions in or outside Kenya, and the Bank shall give its advice accordingly."

The Bank of Zambia Act also provides in Section 10(1) and (2) that:

"10(1) The Minister may, after consultation with the Governor, give directions to the Bank, and the Bank shall comply with such directions.
(2) Any direction given by the Minister under subsection (1) shall be in writing, and open to the inspection of the Board."

Similarly, Section 61(1) and (2) of the Bank of Tanzania state that:

"61(1) The Bank may advise the Government on any matter relating to its functions, powers and duties under this or any other law and shall advise the Government which, in the Bank's opinion, any such matter is likely to affect the achievement of the principal objectives of the Bank as set forth in section 5.
(2) The Government may require the Bank to give its advice on any matter relating to the functions, powers and duties of the Bank and credit conditions in Tanzania or any proposals, measures or transactions relating thereto, and the Bank shall give its advice accordingly."

Also 58(3)(1) of the Central Bank of Nigeria provides that:

"The Board shall keep the Commissioner informed of the monetary and banking policy pursued or intended to be pursued by the Central Bank."

The Bank of England also did not escape being infected by the new trend. The Bank was in effect nationalised in

1946, soon after the end of World War II. The idea of nationalisation reflects the intention that a central bank should not pursue a policy that runs counter to the objectives of the national economic policy fashioned to achieve the targets set by governments and to ensure that its policies are not at variance with those of the government. Prevailing opinion in the United Kingdom and most countries has generally supported Montague Norman's dictum, that the elected government ought to have the final say in the implementation of policies for which it is politically answerable.[31] This is the position today.

We see therefore that the modern concept recognises the fact that central banks should to a certain degree be independent in their policy formulations as well as in the manner in which they carry out their technical operations in implementing the policies. At the same time they should work in close harmony with their governments. So, while conceding the fact that it is desirable for central banks to be independent to a certain extent of government, we might infer from the practices of central banks and from the provisions in the various Acts that independence of the central bank should be seen as independence within the government rather than of the government. Concerning independence within the government, a former Governor of the Central Bank of Nigeria had this to say:

> "Many advantages have been associated with Central Bank independence within

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31 Andrew Crockett, Money: Theory, Policy and Constitutions 1981, p. 114.

> the Government. One of them is that an independent Central Bank will be able to operate with greater flexibility, speed and business efficiency. Another is the fact that monetary affairs are highly technical and deserve to be managed independently and objectively. However, the most important reason for giving autonomy to a Central Bank is that monetary management based primarily on political considerations carries a danger of hyper inflation.
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> If the operation of a Central Bank is to be in the best economic interest of the people, monetary and banking policy would have to be as unbiased and detached as possible but based on economic realities. As a former Chairman of the U.S. Federal Reserve System (Mr. William M. Martins) put it, 'when the Federal Reserve System succumbs to the pressures of political expediency or the dictates of private interest the groundwork of sound money is undermined.' In other words the capacity of a Central Bank to maintain a meaningful anti-inflation posture is greatly enhanced when it enjoys considerable degree of independence."[32]

It is also pertinent to recall the apt description of the relationship between the government and the Central Bank provided by Montague Norman, the then Governor of the Bank of England. He said:

> "I look upon the Bank (of England) as having the unique right to offer advice and to press such advice to the point of 'nagging'; but always of course subject to the supreme authority of the Government."[33]

Under the Monetary Law Act of Sri Lanka, where there

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32 O. Ola Vincent, Address at the Dinner Given in Honour of Participants on the Symposium to Mark the 20th Anniversary of the Central Bank of Nigeria on June 29, 1979, p. 5.

33 Quoted in R.S. Sayers, Modern Banking, 5th ed., p. 65.

is a difference of opinion between the Minister in charge of Finance and the Central Bank the Minister can give directives to the Central Bank. In the United Kingdom all policy measures are first discussed with the government and announced in consultation with the Treasury.

In trying to operate within the ambit of their independence, some central banks have incurred the displeasure and odium of governments. The system inherently generates conflicts. However, some of the Acts make adequate provision for resolving any possible conflicts. Thus Section 115(1) and (2) of the Monetary Law Act (No. 58 of 1949) of the Central Bank of Ceylon, now Sri Lanka, provides that

> "115(1) On or before the fifteenth day of May in each year the Monetary Board shall submit to the Minister of Finance for use in preparation of the Budget speech a confidential report describing and analysing the monetary situation in Ceylon and the current monetary policy of the Board, and examining the effect of the current fiscal policy of the Government upon the ability of the Central Bank to achieve the objects specified in section 5.
>
> (2) In the event of any difference of opinion between the Minister of Finance and the Monetary Board as to whether the monetary policy of the Board is directed to the greatest advantage of the people of Ceylon, the Minister of Finance and the Board shall endeavour to reach agreement. If the Minister of Finance and the Board are unable to reach agreement, the Minister may inform the Board that the Government accepts responsibility for the adoption by the Board of a policy in accordance with the opinion of the Government and direct that such a policy be adopted by the Board. Where a direction is so given by the Minister of Finance, the Board shall carry out that direction."

Similarly, section 10 of the Commonwealth Bank Act 1945-53, of the Reserve Bank of Australia states inter alia that:

> "10(2) In the event of a difference of opinion between the Government and the Board as to whether any policy referred to in the last preceding subsection is directed to the greatest advantage of the people of Australia, the Treasurer and the Board shall endeavour to reach agreement.
>
> (3) If the Treasurer and the Board are unable to reach agreement, the Board shall forthwith furnish to the Treasurer a statement in relation to the matter in respect of which the difference of opinion has arisen.
>
> (4) The Treasurer may then submit a recommendation to the Governor-General, and the Governor-General, acting with the advice of the Federal Executive Council, may, by order, determine the policy to be adopted by the Commonwealth Bank or the Trading Bank, as the case may be."

Section 8(3)(2)(3) of the CBN Act 1958 has almost identical provisions for the resolution of differences of opinion on questions of policy.

Thus when there is conflict or difference of opinion between central banks and governments, the boards have to submit their views in a written statement which the governments or parliaments have to consider and make a ruling. From a survey of the Commonwealth Central Banks' Acts we can identify the following areas of control and conflict.

APPOINTMENT OF GOVERNOR AND MEMBERS OF THE BOARD

The Governor and Deputy Governor and directors are appointed by the President or the appropriate Minister for specific terms of years as the case may be.[34] In the case

34 See p. 222 above.

of the Bank of Zambia it is the Minister who determines what stipends and allowances to pay the Governors and the directors.[35] He who pays the piper calls the tune. The general effect of political appointments in Africa is that the incumbents become stooges and lackeys of government or their political masters. They become glorified megaphones of their political mentors only to embarrass central banks with outrageous decisions even in what would appear to be non-contentious policy matters. The effect of political appointments to the board is to weaken the operation of central banks, and as a result of political pressure reduce their effectiveness in their efforts to achieve economic growth. This area of control should be relaxed.

GOVERNMENT REPRESENTATION ON THE BOARD

Section 11(1)(c) of the Central Bank of Kenya Act 1967 provides that the Board of Directors shall consist among others, of "the Permanent Secretary to the Treasury, or in his absence an official of the Treasury nominated by the Minister." Section 7(1)(c) of the Bank of Tanzania Act 1966 provides for the Principal Secretary to the Treasury to be a member of the Board of Directors. But in the case of Bank of Zambia Act 1964, the government representative (the Permanent Secretary Ministry of Finance) so appointed under section 7(4) "shall not have a vote at meetings of the Board, and he shall not be counted for a quorom of directors." The Central Bank of Nigeria

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35 Bank of Zambia Act, 1964, Ss. 6(2) and 7(3).

Act 1958 has no provision for government representation on the Board.

The inclusion of competent government representatives on the managerial boards of central banks ensures the government's active participation in policy decisions.

If because of the powers and presence of the government representative the balance of power tilts in favour of government, the position of the central bank to offer an independent, frank, objective and impartial view on policy matters is greatly diminished, and the bank plays the role of a subordinate institution. The mere presence of a government representative can adversely affect objective analysis and deliberations and frank expressions of views by the directors. He could be looked upon as a government spy good to be avoided in order not to incur any odium. His position on the board is made more suspect if he has power to veto the decisions of the board. Such a power can be found in the Organic Law of the Bank of Mexico of June 1960 which states that:

> "... The Board shall be empowered to delegate others of its powers to committees composed of Directors or to the Director General, with the exception of those that under this law are subject to the veto of the Minister of Finance and Public Credit."[36]

In such a situation the boards cannot give accurate and precise decisions; the implementation of decisions is unduly delayed, sometimes with disastrous economic

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36 Article 52.

consequences. The Nigerian Guardian in an editorial opinion sums up the position and invites the National Assembly to promulgate a law to give the Central Bank of Nigeria "more teeth". It said:

> "In many ways, our Central Bank is not what it ought to be. It neither positively effects monetary policy nor does it properly address its role as the bank for bankers. Where it ought to be a regulatory power-house of the economy, it is often enmeshed in the contradictions of a government that has no clear direction of where it is going and no stomach to follow through its economic policy decisions.
>
> The bank is not necessarily at fault. For a start, it does not have the necessary statutory powers to perfom its role effectively. It is too closely tied to the apron strings of the Ministry of Finance with the result that policy decisions and their implementation get too often lost in the bureaucratic labyrinth.
>
> Secondly, the bank is desperately short-staffed in specialist areas and the governor consequently takes on far too much. With the enormous pressures exerted on him by politicians and businessmen who seek to ride roughshod over normal processes in the scramble to get Form Ms and the clearance of letters of credit, little time is left for working out policies to keep the bank on course.
>
> Such pressures need to be reduced. Commercial Banks should handle several of the processes leading to award of Form Ms and letters of credit with the Central Bank having the final say on who gets what. The Commercial Banks will of course be closely monitored to ensure they keep within the policy parameters laid down by government."

It went on to say:

> "Its governor ought to be in a position to check the excesses of politicians and businessmen of whatever hue who have to do business with the bank. For instance, not many would have quarrelled with a Central Bank Governor who at a time of

> austerity put his foot down on the approval of foreign exchange for such a dubious pastime as the acquisition of private jets and at a time when parents found it nearly impossible to remit school fees to their wards overseas. The Governor of the Central Bank should be far more important than to be consigned to the role of just another civil servant taking orders.
>
> With the country's sinking into unprecedented economic peonage, the bottom line for measuring the success of any administration now and in the future is unquestionably how far it is able to cushion the ordinary citizens from the harsh economic winds brought about by years of rampant official corruption, administrative bottlenecks and plain inefficiency. The centrality of the Central Bank's role will now come increasingly to the fore."[37]

This area of control should also be relaxed.

POWER OF GOVERNMENT TO ISSUE DIRECTIVES TO CENTRAL BANKS AND TO RESOLVE CONFLICTS

Some of the central bank laws state in unmistakable terms the powers of the government or minister to issue directives to the bank and how to resolve any conflicts that might arise between the central bank and government. Such provisions over-emphasise the superior powers of government and the subordinate position of the central banks. A few examples of such banking laws will illustrate the point. Section 7(1) of the Reserve Bank of India Act, 1934 provides that:

> "The Central Government may from time to time give such directions to the bank as it may, after consultation with the Governor of the Bank, consider necessary

37 The Guardian, October 31, 1983, p. 8.

in the public interest."

By Section 30(1) the Central Government can declare the Central Board to be superseded and the general superintendence of the Bank entrusted to an agency.

Similarly, section 20 of the Bank of Sudan Act 1959 stipulates that:

> "The Minister, with the approval of the Council of Ministers, and after consultation with the Board, may from time to time give the Board directions of a general character as to the exercise by the Board of its functions in matters which appear to the Council of Ministers to affect the national interest; and the Board shall carry out such direction."

The subordinate status of the Bank of England is written into the 1946 Bank of England Act which states that the Treasury may from time to time give such directions to the Bank as, after consultation with the Governor of the bank, they think necessary in the public interest.

There are similar laws in Nigeria and Kenya: section 8(3) 1-3 of the CBN Act, 1958 referred to above and section 12(6) of the Central Bank of Kenya Act 1966 which also states that:

> "The Governor and the representative of the Treasury shall each have the right to suspend a vote by the Board and refer the matter to the Minister for a decision, and the decision of the Minister as to whether the vote shall stand or shall not stand shall be binding on the Board."

Section 10(1) and (2) of the Bank of Zambia Act 1964 provide that:

"10(1) The Minister may, after consultation with the Governor, give directions to the Bank, and the Bank shall comply with such directions.

(2) Any direction given by the Minister under subsection (1) shall be in writing, and open to the inspection of the Board."

The provision to issue directives to central bank boards has the effect of bringing the bank under the direct influence of the government while at the same time removing their "teeth". A toothless bulldog can only bark and not bite and so it is with a central bank that is not "a regulatory power-house of the economy", in the words of the Concord.

GOVERNMENT-ACCELERATED DEVELOPMENT PROGRAMMES

Another area of possible conflict between central banks and governments is in the development programme of government. Governments are concerned and impatient over the slow pace of economic development, the low living standards, low employment rate, high rate of population growth. In their eagerness to combat these shortcomings, they have sought to achieve economic growth objectives within the shortest possible time even if in the process this will destabilise the economic development equilibrium. The central bank board has the overall fundamental responsibility for monetary management and international stability of the domestic currency, and therefore has a duty to prescribe its techniques and harmonise the intents of government and private sector. A harmonious relationship between the board and government is not only necessary but essential. Open disagreement and fundamental division not only obstruct the development process but would act adversely on the environment for mobilisation of goodwill and support from the outside world as well. To avoid conflicts there should be regular dialogues and consultations between the central bank and the Treasury.

CONCURRENT POWERS OF THE BOARD AND THE GOVERNOR

A comparison of section 8(1) and section 8(4) of the Central Bank of Nigeria Act brings out clearly some of the conflicts and ambiguities in some central bank Acts:

> "S8(1) There shall be a Board of Directors of the Bank which shall be responsible for the policy and general administration of the affairs and business of the Bank.
> (4) The Governor or, in his absence, the Deputy Governor shall be in charge of the day-to-day management of the Bank and shall be answerable to the Board for their acts and decisions."[38]

The Acts do not make it clear what are matters of day-to-day management, which fall within the competence of a Governor and on what matters the Governor must obey the directions of the board of directors. It is questionable for instance whether the limits of the Governor's powers will be confined within the walls of Clause 10 of the Central Bank of Nigeria By-Laws 1959[39], which lists the duties of Governor and Deputy Governor of the Bank. It is

38 For similar provisions see S.5 and S.6(4) of the Bank of Zambia Act, 1964.

39 Clause 10 lists the duties for which the Governor and the Deputy Governor have special responsibilities.

equally not clear which of the responsibilities of the board are in the "general administration of the affairs and business of the bank", nor how the board can carry out this responsibility. The process of the board to delegate should be made flexible and clear to avoid ambiguities.

THE INHERENT OR IMPLIED POWERS OF THE BOARD

The statutory powers of the board of directors may not be completely enumerated in the organic law of a central bank. Some central bank laws invite the inference that the board not only has the enumerated powers but also has implied powers to take all action that appear to it necessary and proper to discharge its functions in an effective manner. The extent of the powers of the Board of Directors as well as the legality of their actions therefore can be measured and appreciated by taking into account the implied as well as the express powers conferred on the board by the applicable law.

Section 23(s) of the Bank of Zambia Act, 1964 is an example of implied powers and it provides that in addition to the duties and powers imposed and conferred by that Act, the Bank may:

> "subject to the express provisions of this Act, generally conduct business as a bank, and do all such things as are incidental to or consequential on the discharge of its duties and the exercise of its powers under this Act."

Section 29(2)(t) of the Central Bank of Nigeria Act, 1958 almost in identical language provides that the Bank may:

> "subject as is expressly provided in this Ordinance, generally conduct business as a bank, and do all such things as are incidental to or consequential on the discharge of its duties and the exercise of its powers or the discharge of its duties under this Act."

The doctrine of implied powers is a principle of interpretation of the organic law of central banks or of the statutes or charters governing statutory or chartered corporations or companies. What the doctrine means is that powers expressly granted are construed to include all other powers reasonably incidental to them; according to Chief Justice Marshall of the United States Supreme Court[40] the doctrine is based on the nature of a constitution which:

> "should not partake of the prolixity of a legal code. It should not attempt to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution. Its nature requires that only its great outlines should be marked, its important objects designated, and the minor ingredients which compose those objects be deduced from the nature of the objects themselves."[41]

The doctrine has found its way from the United States into the statutes of some recently established central banks as in the examples given above. It originated from an inquiry whether the establishment of a central bank in

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40 McCulloch v. Maryland, 4 Wheat 316 (1819) 421.

41 (1963) 1 MLR 949, McCulloch v. Maryland, 1407.

the United States would be compatible with the U.S. Constitution.

This question was answered in the affirmative in a famous memorandum by Alexander Hamilton. Starting from the propositions "that there are implied, as well as express powers, and that the former are as effectively delegated as the latter", he stated that the doctrine of implied power yields "a criterion of what is constitutional, and of what is not so" and summarised his findings as follows:

> "this criterion is the end, to which the measure relates as a mean. If the end be clearly comprehended within any of the specified powers, and if the measures have an obvious relation to that end, and is not forbidden by any particular provision of the Constitution, it may safely be deemed to come within the compass of the national authority".[42]

In a provision in the Nigerian Constitution similar to section 29(2)(t) of the Central Bank of Nigeria Act, 1958, the Constitution lists the following as an item under the Exclusive Legislative List:

> "Any matter incidental or supplementary to any matter mentioned elsewhere in this list."[43]

This phrase was examined by the Judicial Committee of the Privy Council in the case of Doherty v. Balewa.[44] In

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42 For the full text of Hamilton's paper, dated February 23, 1971, see Richard B. Morris, ed. The Basic Ideas of Alexander Hamilton, 1957, pp. 214-219.

43 Federal Republic of Nigeria Constitution, 1963 Second Schedule Part I, Exclusive Legislative List Item 67.

44 [1963] I WLR 949.

this case a commission of inquiry appointed under the Commissions and Tribunals of Enquiry Act, 1961, by the Prime Minister to investigate the affairs of the National Bank of Nigeria was stopped on an ex parte motion for an injunction, on the ground that such an inquiry constituted "an inquisitorial harassment" of the subject, the plaintiff Managing Director of the Bank having been alleged to have diverted large sums of money to his own purposes as well as those of a political party. On appeal, the Supreme Court held[45] the Act in question ultra vires only to the extent that it purported to give wider powers to a commission than Parliament could grant under the Constitutions; in particular, the power to investigate certain matters that might possibly be outside the field of legislative competence of Parliament and also the power to compel witnesses to give evidence before a commission. On the further appeal to the Judicial Committee of the Privy Council,[46] their Lordships made it clear in their judgement that much of the Act was valid and that only a few of the powers disallowed by the Supreme Court were in fact ultra vires, since the Supreme Court incorrectly held that the provision of compulsory powers could not be regarded as an incidental or supplementary matter.

As stated above the Nigerian Constitution speaks of "any matter incidental or supplementary to any matter

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45 (1961) 1 All N.L.R. 604.

46 (1963) 1 W.L.R. 949.

mentioned elsewhere in this list." Unlike the Nigerian Constitution or the Central Bank of Nigeria Act, the Australian Constitution speaks only of matters incidental to the EXECUTION of the powers of the federal government.[47]

In an Australian case[48] the High Court tried to draw a distinction between matters which are incidental to the ACTUAL EXECUTION of a power and those that are incidental to the ACTUAL LEGISLATION on particular subject matters. The Court said:

> "It has often been pointed out that the paragraph confers power to make laws with respect, not to matters incidental to the subjects which are confided, by sec. 51 or elsewhere, to the Parliament, but to matters which are incidental to the execution of the legislative power. The distinction between a matter incidental to the execution of a power, something which attends or arises in its exercise, and a matter incidental to a subject to which the power is addressed, is material."

Earlier in 1913 the Privy Council held that the wording of the Australian provision referred to above required that there should be actual execution by means of legislation before the power to discharge its duties under the provision can be attached as incident. It went on to say that "if in order to render the powers given by Royal Commissions Acts intra vires it is sufficient that they should be ancillary to possible subjects of present legislative capacity, as distinguished from being incidents in actual legislation about such subjects, it is not easy

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47 S.51, para. XXIX, Australian Constitution.

48 Le Mesurier v. Connor (1929) C.L.R. 481, p. 497.

to say that the questions proposed in the present case to be put, and the documents sought be obtained, are not relevant as throwing light on possible legislation".

In the Nigerian case of Balewa v. Doherty it would appear therefore that the Judicial Committee of the Privy Council no longer countenanced the distinction and it would therefore be safe to regard the ruling in that case as the leading authority. In that case the Privy Council had held that in the absence of express authorisation conferred upon Parliament to establish a tribunal of inquiry into any matter about which it would legislate in the future, "there must be actual legislation[49] in being or a function of the Federal Government actually being discharged;[50] only then can the connection between the two matters be examined to see whether it is sufficiently close."

This decision appears to cover all the grounds in the Zambian and the Nigerian provisions quoted above. The phrases underlined above taken together would appear to be interchangeable with similar phrases in the Zambian and Nigerian provisions which are: "discharge of its duties" and "exercise of its powers under this Act". The Australian case related only to matters which are incidental to the execution of a power.

From the foregoing it would be seen that the doctrine of implied powers can be invoked by central banks for the

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49 The emphasis is mine.

50 The emphasis is mine.

purpose of extending the scope of legal powers provided in a constitutional instrument beyond those that have been expressly granted. Some advantages flow from the application of this doctrine. The courts are enabled by this principle to delimit the powers and functions of an organ and identify those that are compatible with the substantive law; and, further, they are thereby placed in a position whereby they can declare an exercise of power arbitrary or ultra vires because it is at variance with this doctrine.

As applied to banking in Nigeria the Supreme Court ruling would have had the effect of throwing overboard in Nigeria the benefits of the doctrine. By the Privy Council ruling the doctrine of implied powers is now deeply entrenched in the case law; if put into proper use by boards of directors the doctrine will in the words of Alexander Hamilton yield "a criterion of what is constitutional, and of what is not so" and will be a beacon to guide directors in their search for constitutionality.

In assessing the central bank board system it was observed from the foregoing paragraphs that a central bank board need not be in open confrontation with the Government. The bank should not only be neutral and impartial in its operations and advice, but it should be seen to be detached from political machinations. It should provide the business community and the government with advice and management that are technically excellent and which will be capable of raising the stature of the bank, its standing and reputation in the community it serves.

Long tenures of office should be given to directors so that the lure of frequent reappointment or fear of arbitrary removal may not influence their actions. Government should avoid the temptation of "inquisitorial harassment" of boards and confine their powers to investigate banks to the express and implied powers and no more.

In the developed world the techniques of the central bank board system have facilitated the achievement by central banks of outstanding success in the growth of the national economy. They have appointed members of the board on a functional qualification basis in order to harness all the expert manpower available for high productivity and for the good order and management of the economy.

In Commonwealth African countries political appointments are made with a view to compensating party supporters who failed to secure elective political offices. These cronies, sycophants and other assortment of hangers-on and boot-lickers do not see their appointments as challenges to them to improve the standard of living of Africans. Probably it is only God or a "violent" ethical revolution that will redeem Africans from these maladies. So long as these maladies live with Africans, so long will economic progress elude them.

DEPARTMENTAL STRUCTURAL ORGANISATION OF CENTRAL BANKS

The structural organisation of Commonwealth African Central Banks has been influenced by the practice inherited from the colonial masters, the British. The central banks are therefore modelled after the Bank of England. In Chapter 2, page 118 it was observed that Sir Roy Fenton, Sir Cecil Trevor, J.B. Loynes, J.L. Fisher, W.T. Newlyn and G.D. Paton, who in different ways each played a part in the establishment of Commonwealth Central Banks as Governors, advisers or Report Commissioners were British-groomed by the Bank of England in the art of banking. It is no wonder then that these central banks inclined to the Bank of England traditions in their administrative arrangements.

The classification, name, number and functions of the departments of the Banks are generally fixed by law. Section 10(e) of the Central Bank of Nigeria Bye-Law 1959 names one of such departments, the Banking Operations, and goes further to list some of the functions of the department. Typical statutory departments found in Commonwealth African Central Banks are:

Economic Research and Statistics Department
Banking Supervision Department
Domestic Banking Department
Administration Department
Foreign Operations Department
Exchange Control Department
Accounts Department
Personnel Department
Internal Audit Department[51]

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51 See for example the Monetary Law Act No. 58 of 1949 of the Central Bank of Ceylon.

These departments and their divisions are usually grouped into directorates and as a matter of routine and practice report to their respective executive directors. It is therefore to the executive director that lie the responsibility to supervise and co-ordinate the work of the departments in each directorate. He reports to the management daily or as regularly as the regulations or convention may determine.

Economic Research Department

The Economic Research Department performs the function of collecting and compiling statistical information relating to banking and financial sectors of the economy. It publishes comprehensive reviews and annual reports and helps in the formulation of monetary guidelines and credit policies.

Banking Supervision

The organic laws of most central banks usually provide for the establishment of banking supervision departments with express powers to deal with the licensing, establishment, supervision and periodic examination of the books and affairs of each and every licensed bank.[52] There are also provisions which entrust banking supervision departments with special powers of sanction and of reporting on other non-bank institutions.

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52 See for example, Central Bank of Nigeria Act, S.29A; and the Banking Act, 1969, S.20.

Domestic Banking

The domestic operations of the central banks relate to the issue of currency, management of public debt, provision of banking services to the government, designated domestic financial institutions and corporations and the commercial banks. The Central Bank of Nigeria Bye-Laws 1959 sums up the functions of this department in these words:

> "the supervision of arrangements relating to the issue and redemption of notes and coins and all matters connected with the form, design and composition of notes and coins. (The Chief of Banking Operations shall be charged with direct responsibility under the Governor, for these matters)."[53]

Administration and Personnel Departments

These departments provide the administrative support services and personnel policies. The support services include inter alia, transport, travel arrangements, housing and furniture, office accommodation and equipment, secretarial services and security arrangements.

The personnel functions cover subjects like recruitment, promotion, transfers of staff, manpower planning and training, industrial relations, welfare and pension schemes, staff performance appraisals and discipline.

Exchange Control and Foreign Operations

It is the function of the Exchange Control Department

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53 S.10(e).

of a central bank to be responsible for the regulation, in accordance with the provisions of the country's exchange control Act, of all foreign exchange transactions. The main objectives are to ensure that foreign reserves are used for the country's economic development by channelling resources into productive activities and that all foreign exchange receipts are accounted for and surrendered to the central bank in accordance with regulations.[54]

Foreign Operations Department

The Foreign Operations Department, as the name implies, is responsible for the international banking transactions of the central bank. It therefore buys, sells and invests in overseas countries its earned foreign exchange for the government and other customers. It has the responsibility for the prudent management of the foreign reserves in order to maintain stability of the local currency.

Accounts and Audit Department

The accounts departments of central banks maintain the books of accounts of the banks and in some banks manage the sale and purchase of government stocks and securities. They also prepare the profit and loss account and the balance sheet of the banks.

The internal audit department is a watchdog, as it

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54 Ten Years of Banking in Zambia, p.8.

were, of the bank and ensures that every department complies with the rules, regulations, procedures and working instructions for efficient performance.

GEOGRAPHICAL ORGANISATION

Apart from the functional organisation of central banks just discussed there is also the aspect of geographical organisation. When the West African and East African Currency Boards were in existence they operated at the capitals of the different countries. In appropriate cases the Boards appointed other commercial banks as their agents using their offices and facilities and personnel to run currency centres. In Tanzania, for instance, the Bank of Tanzania between 1966 and 1977 opened sub-centres at branches of the Standard Bank Limited in Moshi, Mwanza, Tanga, Arusha, and Mbeya. In some of these places the East African Currency Board had already had such arrangements. In Nigeria, every state capital of the 19 states has had established in it a branch of the Central Bank or a Currency Centre for the Central Bank of Nigeria Act provides in section 5 that the Bank shall have its head office in Lagos and may open branches in Nigeria and appoint agents and correspondents in accordance with decisions of the Board. In the case of Kenya the spread is extra-territorial. Section 5 provides that:

> "S(5)1 The Bank shall have its head office in Nairobi: provided that during a time of national emergency the Bank may, unless the President otherwise directs, establish its head office temporarily or permanently

in any other place within Kenya or elsewhere.

(2) (a) The Bank may establish or close branches in any place within Kenya.

(b) The Bank may, with the prior approval of the Minister, open or close branches outside Kenya."[55]

By geographical spread the central banks are able to expand the spheres of their operations and bring service nearer to the people. The research department and the agricultural finance departments of central banks use the branches and currency centres as collecting centres for statistical data and for the dissemination of information. These centres have proved useful in times of currency exchanges and redemptions. They also provide essential machinery for tapping savings from the rural population and providing necessary backing for rural development and industrialisation of economies.

STAFF MANAGEMENT AND WELFARE

An enlightened board of directors and an articulate and dynamic management are compatible partners for successful and efficient performance by a central bank. Another important factor is industrial peace without which the machinery of management will grind to a halt. If labour in central banks is well organised and if the unions are in constant dialogue with management, consensus, mutual understanding, efficiency and high productivity may be expected. Unions act as a bridge or go-between between

55 Central Bank~~ing~~ of Kenya Act, 1966.

labour and management and are therefore vehicles for promoting industrial harmony and improving efficiency of labour. Unions therefore form an essential part in the structure of any central bank.

Trade unionism is an armour against discrimination, job insecurity and exploitation by employers of labour and it strengthens the weak bargaining power of the workers. In Nigeria it is compulsory under the Trade Unions Act, 1973, that all trade unions are registered with the Registrar of Trade Unions.[56] The Act defines a trade union to mean "any combination of workers or employers, whether temporary or permanent, the purpose of which is to regulate the terms and conditions of employment of workers, whether the combination in question would or would not, apart from this Decree [Act], be an unlawful combination by means of any of its purposes being in restraint of trade whether its purpose do or do not include the provision of benefits for its members."[57]

Under section 12 of the Act no person who is otherwise eligible for membership of a particular union may be refused admission to that union by reason only that he is of a particular community, tribe, place of origin, religion or political opinion.

The Constitution of the Federal Republic of Nigeria, 1979 incorporates a Bill of Rights which guarantees every person's right freely to assemble and associate with other

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56 S.2(1).

57 Trade Unions Act, 1973, S.1(1).

persons:

> "Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests."[58]

Sub-sections 37(a) and (b) contain the exceptions which derogate from the fundamental right of the individual to join a union of his choice by excluding political parties and persons elected to a legislative house.[59] The denial of the exercise of this right as enshrined in the 1963 Constitution was examined in the case of Basorun v. Industrial Arbitration Tribunal & Ors.[60]

In that case the plaintiff asked for a declaration of the court that paragraph 1(b) of the schedule to the Trade Disputes (Central Bank of Nigeria Arbitration Award) Confirming Order, 1971 was unconstitutional as being an infringement of section 26 of the 1963 Republic Constitution.

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58 S.37.

59 Cf. Ss.18-33 of the 1963 Republic Constitution which contain the rubric "reasonably justifiable in a democratic society" by which the Nigerian courts can measure the validity or otherwise of legislation limiting any of the fundamental rights for certain specific purposes, viz:
(a) In the interest of defence, public safety, public order, public morality or public health;
(b) for the purpose of protecting the rights and freedom of other persons; or
(c) imposing restrictions upon persons holding office under the state, members of the armed forces of the Federation or members of a police force.

60 Suit No. LD/105/71, High Court of Lagos, Unreported.

The plaintiff was a deputy manager with the Central Bank of Nigeria and was the President of the Central Bank of Nigeria Employees' Union, a duly registered union. A trade dispute arose between the Bank and the Union and this was referred to the Industrial Arbitration Tribunal under the provisions of the Trade Disputes (Emergency Provisions)(Amendment) (No. 2) Decree 1969. In its award the Tribunal recommended, inter alia, that "no member of the staff above the rank of supervisor may join a trade union of any of the junior staff or participate either directly or indirectly in the activities of such union. The senior staff in their own right may form an association or a trade union of their own to protect their rights". That award was confirmed by the Commissioner for Labour under powers conferred on him by the Decree. The Plaintiff a deputy manager, was above the rank of supervisor. Had his constitutional rights been violated? Adesanya, J., thought so. "The terms of the award are wide enough to invite the intervention of the court in normal times". But the times were not normal; so the learned judge refused a declaration. What made the times abnormal was this: as a result of a Supreme Court decision in 1970 in Lakanmi v. Attorney-General[61] in which Decree No. 45 of 1968, the Forfeiture of Assets etc., (Valuation) Decree, 1968 of the Federal Military Government was declared ultra vires the government issued the Federal Military Government (Supremacy)(Enforcement of Powers) Decree, No. 28 of 1970. It provides that:

61 Suit No. SC 58/69, Supreme Court, Unreported.

> "any decision, whether made before or after the commencement of this Decree by any court of law in the exercise of purported exercise of any powers under the constitution or any enactment or law of the Federation or of any State which has purported to declare or shall hereafter purport to declare the invalidity of any Decree or any Edict as not inconsistent with the provisions of a Decree or the incompetence of any of the governments in the Federation to make same as or shall be null and void and of no effect whatsoever as from the date of the making thereof."

Similarly, the same grounds were contested in 1960 in Cheranci v. Alkali Cheranci[62] in which the plaintiff was convicted of inciting a young boy to participate in politics and sentenced to a term of imprisonment. He challenged the validity of Part III of the Northern Nigerian Children and Young Persons Law, 1958, on the ground that it was contrary to the provisions of the Constitution which guarantees freedom of expression, freedom of conscience and freedom from discrimination. Bate, J. held that the provisions of the law impunged was valid and constitutional, since the restriction it contained was reasonably justifiable in the interest of public morality and public order.

The Trade Unions Act, 1973, prohibits outright central bank employees and certain other persons from joining unions, thus restricting the individual's constitutional rights, outlined above, to form or join a union.[63]

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62 (1960) N.N.L.R. 24.

63 S.11.
The following persons employed in the following
contd...

This is in direct conflict with the Labour Decree, 1974 which states that no contract shall:

> "(a) make it a condition of employment that a worker shall or shall not join a trade union or shall or shall not relinquish membership of a trade union, or
> (b) cause the dismissal of, or otherwise prejudice, a worker:
> (i) by reason of trade union membership, or
> (ii) because of trade union activities outside working hours or, with the consent of the employer, within working hours, or
> (iii) by reason of the fact that he has lost or been deprived of membership of a trade union or has refused or been unable to become or for any other reason is not, a member of a trade union."[64]

The 1973 Act also offends against section 37 of the 1979 Nigerian Constitution as shown above. On the international scene the Act is inconsistent with the International Labour Organisation Conventions No. 98 which reads as follows:

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contd...

establishments are prohibited from combining organising or becoming members of a trade union:
(a) the Nigerian Army, Navy or Airforce;
(b) the Nigerian Police Force;
(c) the Prisons Department of Nigeria;
(d) the Customs Preventive Service;
(e) the Nigerian Security Printing and Minting Co. Ltd;
(f) the Central Bank of Nigeria;
(g) the Nigerian External Telecommunications Ltd;
(h) Every Federal or State Government establishment the employees of which are authorised to bear arms; and
(i) Such other establishments as the Commission may from time to time specify by order.

64 S.9(6).

> "Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
> Such protection shall apply more particularly in respect of acts calculated to:
> (a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
> (b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participating in union activities outside working hours or, with the consent of the employer, within working hours."

It is submitted that section 11 of the Trade Unions Act, 1973, which sought to exclude central banks from trade union activities contrary to section 37 of the Constitution of the Federal Republic of Nigeria is null and void.

Whether the restrictions in section 11 of the Trade Unions Act 1973 are justifiable in a democratic society is for the Nigerian courts to determine. A worker or any person who thinks his constitutional right to form or belong to a trade union has been violated may apply to the High Court for redress and the court 'may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement... of any rights to which the person who makes the application may be entitled...[65] The remedies would normally, therefore, include both the common law and equitable remedies of damages, injunction or declaratory judgements.'

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65 S.32, Constitution of the Federal Republic of Nigeria, 1979.

As stated earlier, trade unions act as liaison bodies between labour and management and they have the following identifiable functions to play in the economy:

> "(a) they substitute collective bargaining for individual bargaining with employers, particularly on wages and conditions of service, including hours, safety, health and welfare facilities.
>
> (b) they provide their members with legal aid in cases against their employers and to some extent with subsistence payments in cases of sickness, accidents and strikes; they organise education courses, grants and scholarships for members and their children in appropriate cases.
>
> (c) they aim to secure adequate representation and participation of labour at local, national and international level in the general formulation of policy and measures which may affect their members.
>
> (d) they work for the reduction of uneconomic wage differentials and towards raising the general level of wages in the country.
>
> (e) they intervene in disputes between labour and management and generally co-operate to secure minimum standards of safety, and conditions of service, which by fostering industrial harmony improve labour security and efficiency."[66]

From the advantages of trade unionism enumerated above, it would be seen that it will be a disservice to industrial harmony and improved productivity for central banks to be precluded from forming their own trade unions. In the Central Bank of Nigeria where employees of the bank are statutorily denied the fundamental right to freely associate by banning trade union activities, the alternative step it has taken was to establish staff junior and senior consultative councils whose duty it is:

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66 G.O. Nwankwo, Basic Economics, 1977, p. 50.

"(a) To provide a regular procedure for consultation between the management and employees on matters of mutual interest in order to minimise friction and misunderstanding, and to promote the objectives of the Bank.

(b) To secure the fullest measure of co-operation for the prosecution of measures and policies undertaken in the mutual interest of both parties.

(c) To promote in the employees a wider interest and participation in the design of the environment in which their work is performed.

(d) To promote throughout the bank a spirit of co-operation so that performance efficiency may be secured, and the contentment of the employees ensured.

(e) To promote the diversification of employees' interest in directions other than normal office duties so that employees may develop a sense of civic responsibility and self-fulfilment."[67]

Apart from the pious hopes to achieve these objectives the constitutions of the Joint Consultative Councils (J.C.C.) do not in any way give protection against discrimination, job insecurity and exploitation of the staff by management. In such circumstances and in any central bank where such conditions prevail, the sword of Damocles would surely hang over an employee or joint consultative council staff member who steps out of line. They would be regarded as intransigent and are likely to invite the wrath of a ruthless central bank management. Although the Central Bank of Nigeria management and the Consultative Councils have worked reasonably well in close co-operation, there have been instances where some vocal and articulate members were transferred out of the head office apparently

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67 Central Bank of Nigeria Senior Staff Joint Consultative Council Constitution, S.2.

to humiliate such members and weaken the council under veiled reasons that transfers were necessitated by exigencies of duties.

The experience of India, where the right to form associations or unions[68] is enshrined in the Constitution and in the Industrial Disputes Act, 1947,[69] should be considered as a model and adopted by emerging central banks. Mr. V.G. Hegde, the Legal Adviser to the Reserve Bank of India and his Deputy, Mr. R. Srinivasan, with whom the present writer had useful sessions of discussions when he visited the Reserve Bank in the course of his work, observed that trade unionism as practised in the Reserve Bank of India has been of mutual benefit to both employees and employers. Paragraphs 168 to 170 of the Reserve Bank of India Annual Report 1982-83 supports this observation:

> "168 A meeting was held between the Bank and the All India Reserve Bank Workers' Federation in March 1983 to discuss some outstanding issues of the last charter of demands of Class IV staff of the Bank. Meetings were also held between the Bank and the All India Reserve Bank Employees' Association to sort out some current problems relating to Class III staff.
>
> 169 During the year, apart from a joint consultation council meeting with the Reserve Bank of India Officers' Association the annual conciliation meeting with each of the two Officers' Associations was also held when several matters affecting the interests of the officers and liberal-isation of facilities for them were

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68 The Constitution of India, 1949, Article 19(1)(a).

69 S.2(bb) and (j).

discussed. The relations of the Bank with its officers continued to be cordial throughout the year.

170 A conference of the managers and departmental heads was held in December 1982 during which the industrial relations situation in various offices of the Bank, problems of currency management, etc., were discussed."

It is not therefore in the best interest of the Central Bank of Nigeria that the advantages and opportunities offered to workers by Section 37 of the Nigerian Constitution, Section 9(b) of the Labour Decree, 1974 and the International Labour Convention No. 98 are denied them. As earlier stated it will be left to an aggrieved worker who thinks that his constitutional rights to form or belong to a trade union has been violated to have recourse to the Nigerian Courts to test the validity of Section 11 of Trade Union Act, 1973.

CENTRAL BANKING IN A FEDERAL STATE

Federalism is usually defined as the system of government under which the federal and the state legislatures are supreme within their respective spheres of competence. Because legislative powers are shared within a federation between the states[70] and the federation,

70 In Texas v. White 7 Wall 700 (1869) p. 720 Chief Justice Chase of the U.S. Supreme Court defined the word "State" to mean "a people or community of individuals united more or less closely in political relations, inhabiting temporarily or permanently the same country; often it denotes only the country or territorial region, inhabited by such community; not infrequently it is applied to the government under which the people live; at other times it represents the combined idea of people, territory and government.
contd...

the federal government is usually referred to as a government of enumerated powers. India, the United States and Nigeria are examples of federation and in their constitutions powers of the federal and state legislatures are enumerated in a legislative list.

As in India, banking in Nigeria is a federal subject. The Seventh Schedule of Article 246 shows the following items in the Indian Union List, the Exclusive Legislative List;

Item 36, Currency, coinage and legal tender - foreign exchange.

Item 38, Reserve Bank of India

Item 45, Banking.

The Exclusive Legislative List of the Constitution of the Federal Republic of Nigeria, 1979 has the following items on the List:

Item 6, Banks, banking, bills of exchange and promisory notes.

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contd...

It is not difficult to see that in all these senses the primary conception is that of a people or community. The people, in whatever territory dwelling, whether temporarily or permanently, and whether organised under a regular government or united by looser or less definite relations, constitute the state."

In Nigeria, in three consolidated cases A-G of Ogun State v. A-G of the Federation, Suit No. SC53/1981 of 5/2/83 the Supreme Court of Nigeria appears to hold that "State" refers to government only since it is not clear "how an autonomous state as a geographical expression could bring an action in its name against the whole of the Federation - a sovereign nation - also in the latter's name" per Udo Udoma J.

Item 14, Currency, coinage and legal tender

Item 24, Exchange Control.

In India and Nigeria the federal government has the same power over the establishment, licensing, supervision, winding-up and so on of state government-owned banks as it has over privately-owned and indigenous banks. The position is not the same in the United States where, the control of banks and banking is a matter exclusively for the states. However, in one case it was held that the American Congress has the power to charter by legislation a bank of its own as means necessary and proper for carrying into execution the powers of the federal government.[71] And indeed by the International Banking Act of September 17, 1978, the 95th Congress provides for Federal Regulation of participation by foreign banks in domestic financial markets:

> "The Congress hereby declares that it is the purpose of this section to provide for the establishment of international banking and financial corporations operating under Federal supervision with powers sufficiently broad to enable them to compete effectively with similar foreign-owned institutions in the United States and abroad: to afford to the United States exporter and importer in particular, and to United States commerce, industry, and agriculture in general, at all times a means of financing international trade, especially United States exporters; to foster the participation by regional and smaller banks throughout the United States in the provision of international banking and financing services to all segments of United States agriculture, commerce and industry.[72]

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71 McCulloch v. Maryland, 4 Wheat 316 (1819).

72 Sec. 3(b) Section 25(e) of the Federal Reserve Act.

While the federation has exclusive power with respect to banks, banking and so on, the Indian constitution did not make it clear whether the Union has exclusive power over banks - the institutions where the business of banking is transacted - with regard to their control, ownership, incorporation, management and so on as opposed to the regulation of transactions between banker and customer. In Australia this problem has arisen and in Melbourne Corporation v. Commonwealth[73] the High Court of Australia held that the word "banking" includes the regulation of transactions between banker and customer as well as the control of the institution and went as far as to say that "banking" also includes central banking.

In India, as in United States, there is a Reserve Bank that is at the apex of the banking system whose functions involve the formulation of monetary policy and the regulation of the operations of commercial banks. The Reserve system of the United States consists of 12 Reserve Banks.

India, the United states and Nigeria in that order are the three largest democracies in the world. They command about one-third of the World population. The following table shows the dominating banking positions (see overleaf).

From a comparison of the set-up and the total number of banks and bank branches it will be seen that the United States, India and Nigeria which are federations, have each a central bank - the United States Board of Governors, the

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73 (1947) 74 C.L.R. 69.

Table 5: Bank Density

Country	No. of States	No. of Banks or Branches	Ratio per % of population	Zonal Boards
India	18 + 5 Union Territories	17 Foreign	1:52,000	14 Branches excluding Agencies, Western, Eastern, Northern and Southern Areas with headquarters in Bombay, Calcutta, Madras and New Delhi respectively.
U.S.A.	49	member Banks 6000 Branches	1:6,000	12 Boards at New York, Boston, Philadelphia, Richmond, Cleveland, Chicago, Atlanta, Dallas, St. Louis, Minneapolis, Kansas City, and San Francisco Washington Board co-ordinates.
Nigeria	19	35 Banks 1077 Branches as at 31/10/83	1:83,000	19 Branches. No. co-ordinating zonal boards.

Reserve Bank of India and the Central Bank of Nigeria. The Organisation of the 3 systems are charted at pages 272-274 While the United States has twelve Federal Reserve Banks as regional boards India has four Local Boards. The Central Bank of Nigeria Board has no zonal offices or branches from where to co-ordinate the activities of central bank branches and currency centres or where to represent, as far as possible, territorial and economic interests and the interests of co-operative and indigenous banks. The telecommunication system in Nigeria is in no way near efficient. Because of the very frequent cuts in electricity supply to the nation communication system equipment cannot perform efficiently. They break down ever so often and in their trail expensive electronic equipment get damaged. The transport system is very inefficiently organised and run. The terrains and the long winding roads hamper free flow of traffic on the Nigerian network of roads, the postal system is grossly mismanaged and it has been repeatedly reported that some postmen in different parts of the country had formed the habit of dumping mail in the bushes. All these factors make regular and frequent contacts between Central Bank branches and head office and between branch and branch almost impossible. The lack of contact between branch and head office, a situation beyond its control, has contributed immensely to the failure of the Central Bank of Nigeria to balance its books for several years. This in turn creates a favourable climate for fraudulent practices and forgeries which could involve substantial losses of sums of money that could have been utilized in the country's development efforts.

It is submitted therefore that because of the large and unwieldy population of Nigeria, the poor telecommunication system, the inefficient postal system and the lack of a network of good roads, the Central Bank of Nigeria has not fully succeeded in monitoring and supervising efficiently the work in the branches and currency centres. To minimise the effects of these handicaps, zonal boards should be established whose functions would be to advise the Central Board of Directors on such matters as may be generally or specifically referred to them or on various matters of local importance, on which the members can contribute by virtue of their specialised knowledge of the region they represent. The Central Board of Directors in Lagos can delegate some of its powers to the zonal boards. The Zonal Board system has succeeded in the United States through the operations of the Federal Reserve Banks and in India through the Local Boards. Central Bank of Nigeria branches and currency centres could be grouped into contiguous zones for efficient and effective co-ordination and output of work as follows:

Table 6 Suggested Zonal Boards

Zone	Areas	Headquarters
A	Kano, Bauchi, Maiduguri	Kano
B	Sokoto, Kaduna, Niger, Abuja	Kaduna
C	Jos, Yola, Makurdi	Jos
D	Akure, Benin	Benin
E	Owerri, Enugu, Calabar, Port Harcourt	Enugu
F	Ibadan, Ilorin, Abeokuta, Ikeja	Ibadan

Officers of sufficient authority of the level of departmental directors should head the zonal offices. By this arrangement only major matters and reports should be referred to the head office for their information or determination.

Having examined the structure of central banks particularly the Central Bank of Nigeria, we will now in the next chapter examine further to what extent the Bank in its various functions has attempted to attain the objective of economic growth.

Table 7 Organisation Charts

ORGANISATION OF THE FEDERAL RESERVE SYSTEM

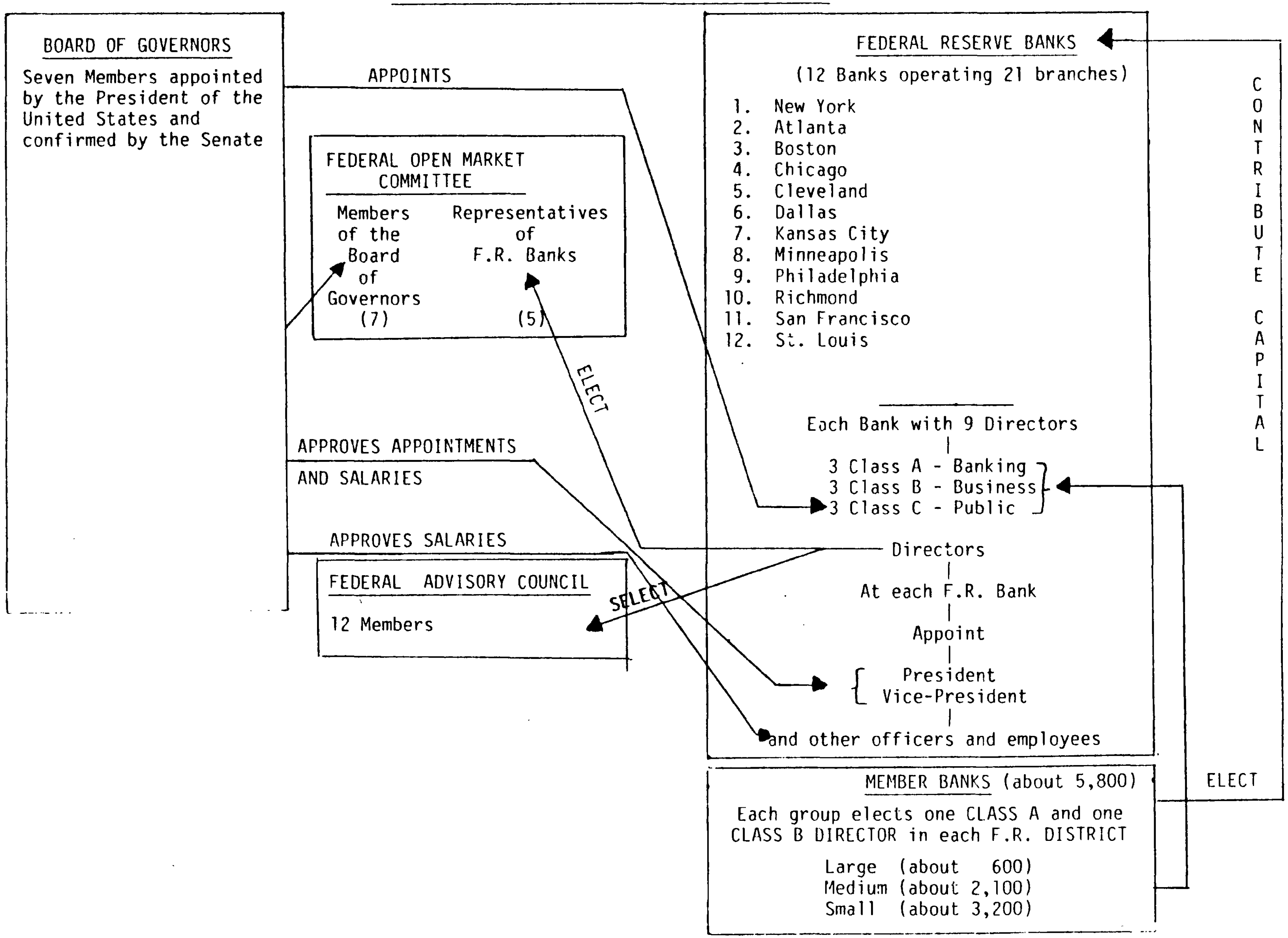
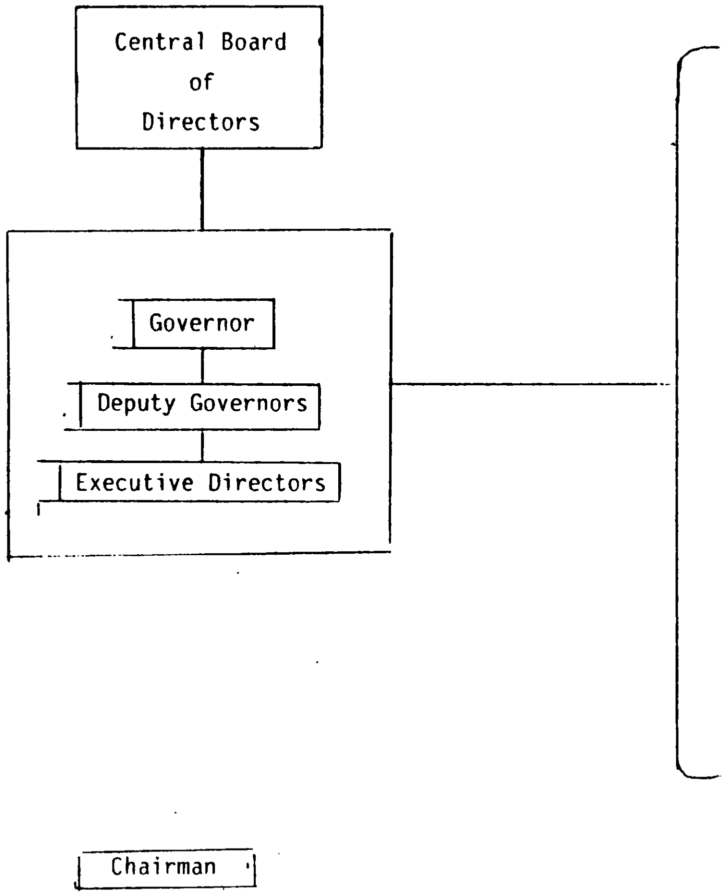


Table 7

RESERVE BANK OF INDIA

ORGANISATIONAL SET-UP



Central Office Departments

Secretary's Department
Department of Banking Operations and Development
Industrial Credit Department
Rural Planning and Credit Department
Exchange Control Department
Department of Currency Management
Department of Expenditure and Budgetary Control
Department of Government and Bank Accounts
Department of Non-Banking Companies
Department of Economic Analysis and Policy
Department of Statistical Analysis and Computer Services
Credit Planning Cell
Department of Administration
Personnel Policy Department
Management Services Department
Legal Department
Inspection Department
Premises Department

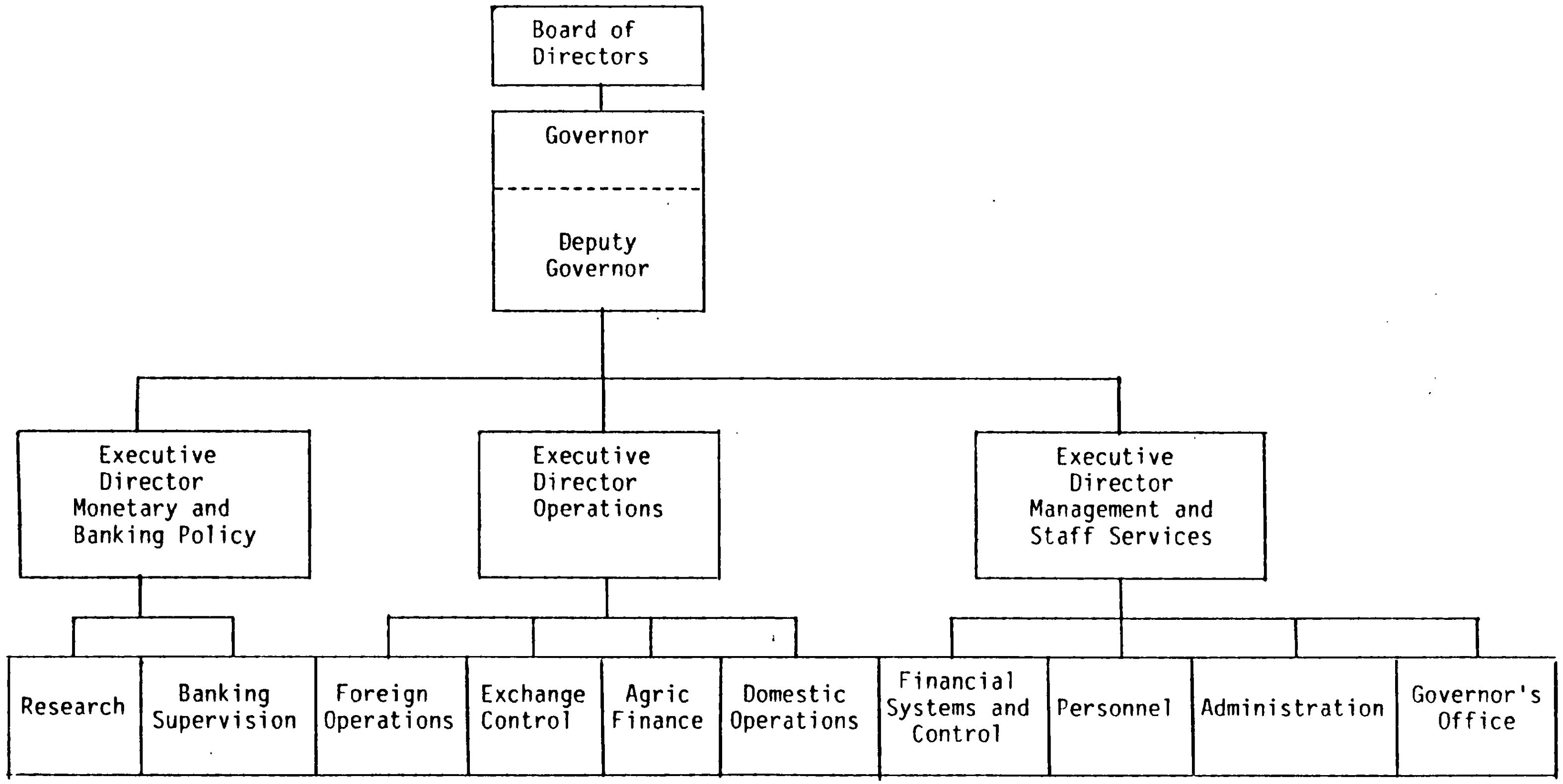
Training Establishments

Bankers Training College, Bombay
College of Agricultural Banking, Pune & Coop
Reserve Bank Staff College, Madras

Reserve Bank of India Services Board

Table 7

CENTRAL BANK OF NIGERIA



CHAPTER 5

SERVICE FUNCTIONS OF CENTRAL BANKS

SCOPE

In this chapter we shall consider the provisions in the various Acts of Commonwealth African Central Banks dealing with the service functions of Central Banks. We shall examine how the banks carry out these statutory functions and then will attempt to determine to what extent these provisions have proved adequate or inappropriate as instruments for the management of the various economies. We shall therefore consider the following service functions:

Issuing of Currency

Banker to the Government

Management of Public Debt

ISSUING OF CURRENCY

Traditionally, the Central Banks of Commonwealth Africa have the sole right to issue bank notes and coins in and for their respective countries. This power to issue notes and coins is regulated by central bank laws, and is expressed in various ways in the applicable organic laws. Section 18 of the Central Bank of Nigeria Act 1958 states that the Bank shall have the sole right of issuing notes and coins throughout Nigeria and neither the Federal Government nor State Governments nor any other person shall issue currency notes,[1] bank notes or coins or any documents or tokens payable to bearer on demand being documents or tokens which are likely to pass as legal tender. Among other things, the Bank shall also arrange for the printing of notes and the minting of coins.

The Kenya Act provides[2] that the Bank shall have the sole right to issue notes and coins in Kenya and, subject to subsection (4) of section 22, only such notes and coins shall be legal tender in Kenya. In identical words, section 26 of the Bank of Tanzania Act 1965 grants the Bank the sole right of issue of the country's currency.

It is not clear why the Bank of Zambia Act 1964 does not directly confer the right of issue of currency on the Bank. Section 36 of the Act[3] merely states that currency notes and coins, other than coins of denominations of three pence, one penny and one half penny, issued by or for which liability was assumed by the Bank of Rhodesia and Nyasaland, shall cease to be legal tender in December 1967. It is doubtful therefore whether the 'incidental clause', section 23(5) of the 1964 Act, confers such sole right on the Bank of Zambia. It may be noted however that section 15(1) of the Bank of Rhodesia and Nyasaland Act, before the

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1 Currency notes here may refer to those notes supplied by a central government as in India, Reserve Bank Act 1974, 6.22(1) and Pakistan, State Bank of Pakistan, 5.24(1) in contradistinction to bank notes.

2 Central Bank of Kenya Act 1966 s.22.

3 Legal Notice No. 59 of 1967.

union was broken up, conferred on the Bank the sole right to issue notes and coins.

However there are some regimes under which the authority to issue notes is not formulated as the sole or exclusive right of the Central Bank. In Australia, section 47 of the Reserve Bank Act provides that the Commonwealth Bank shall not issue bills or notes (other than Australian notes) intended for circulation as money. In the United Kingdom the Bank of England has the exclusive right of note issue[4] only in England and Wales; but in Scotland and Northern Ireland certain banks also have a limited right to issue their own bank notes.

In Chapter 2 it was noted that, before the establishment of central banks in West and East Africa, the notes and coins in circulation were the West African currency notes issued by the West African Currency Board and the East African Currency Board respectively, each covering all the British colonies in the area of jurisdiction. With the attainment of national political independence the newly independent countries' central banks issued their own currencies and redeemed all the Currency Boards' notes and coins and thereafter assumed their proper place in the management of the money supply.

The various Acts provide that the central banks shall arrange for the printing of notes and the minting of coins and that the denominations of notes and coins will be

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4 See Halsbury's Laws of England, 3rd edition, vol. 2, pp. 153-4, and Halsbury's Statues of England, 2nd edition, vol. 2, pp. 261-6.

determined in the future by action of designated organs. In Nigeria, the authority is the Commissioner or the Federal Minister of Finance who approves the prescribed denominations on the recommendation of the Central Bank.[5] Further, on the recommendation of the Central Bank of Nigeria the Minister approves the forms and designs of notes and coins and also the standard weight and composition of coins issued by the bank. Similarly worded are the provisions in the Bank of Tanzania Act 1965, which state that the bank notes and coins issued by the Bank:

> "(a) shall be in such denominations of the shilling or fractions thereof expressed in cents; and
>
> (b) shall be of such materials, forms and designs, shall bear such inscriptions and devices, and shall have such other characteristics as the Bank, with the approval of the Minister, shall determine.
>
> (2) The Bank shall give notice in the Gazette of the denominations and other characteristics of the bank notes and coins which it issues."[6]

In the Bank of Zambia Act provisions governing the denominations, forms and designs are not provided. Thus, in the central bank Acts of Commonwealth Africa the dimension, design and inscriptions of notes and coins are prescribed in the various Acts and determined by the appropriate Minister. The type and colour of notes, and the printing techniques used, are important for easy identification by the illiterate masses and for notes and

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5 Central Bank of Nigeria Act, 1958 s.20(1)(a).

6 Bank of Tanzania Act 1965, s.27.

coins to be lawful money, they must be of the prescribed weight, fineness and metallic content, not impaired, diminished or lightened otherwise than by fair wear and tear.[7]

Money Supply and Currency Exchange

Every day, whether in the market, canteen, shopping centre or office, people at one time or another pay money to a creditor or receive money from a debtor. Money changes hands from one person to another and in different volumes and velocity. In Chapter 1,[8] it was remarked that money has several important uses. It is used as a means of payment and as a medium of exchange. In addition it is used as a store of value. In order to make money available to fulfil these objectives central banks have the duty of putting money into circulation for use to meet obligations as they arise and mature.

Two elements make up the money supply, as narrowly conceived, viz the currency in the hands of the public (i.e. hand-to-hand currency outside the banks) and demand deposits held by the banks. Several factors affect the money supply, the major determinants being international trade balances and net borrowing and net gifts and grants from abroad; and to some extent money supply may be determined by the public's propensity to hold currency outside the banking system.

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7 Central Bank of Nigeria Act 1958, s.22.

8 Above, p.27.

As pressure arises from one or more of the functions of money, the central bank is obliged to regulate and control the changes in the volume of credit provided by the banking system to the public and to the government.

The tables below show the money supply, as defined above, in the banking systems of Nigeria, Tanzania and Zambia.

The central banks have as their function therefore the duty to manage the money supply. They have to estimate and determine how much currency (notes and coins) they have to issue and maintain in circulation. This control is crucially important for the stability of the national currencies and for the control of inflation. The Nigerian businessman carries on most of his business transactions with hand-to-hand currency. He keeps ready cash in his house or office for quick transactions that may arise at short notice. He blames this necessity on the inefficiency of banks where he would have to queue for hours on end before cashing his cheque, so that by the time he can collect his cash the business transaction would have fallen through. As a result Nigerians have lost confidence in their banks and are reluctant to trust them with their money on deposit.

Nigeria and other anglophone African countries basically operate a cash economy in which cheques and credit cards are seldom used. Commmenting on this type of problem an eminent economist, Dr. PNC Okigbo, said[9]

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9 Nigeria's Financial System. Structure and Growth, 1981, p. 240.

Table 8: Nigeria

Money Supply and its Determinants (₦ million)

Category	December 1981(1)	December 1982(2)	December 1983(3)	Change between (1) and (2)		Change between (2) and (3)	
				Absolute	Percentage	Absolute	Percentage
Credit to Domestic Economy (net)	16,261.4	21,899.7	28.178.4	+5,638.3	+34.7	+6,278.7	+28.6
Credit to Private Sector	9,654.2	11,371.5	12,353.9	+1,717.3	+17.8	+ 982.4	+ 8.6
(1) Central Bank	910.4	918.0	1,062.8	+ 7.6	+ 0.8	+ 144.8	+15.8
(2) Commercial Banks	8,743.8	10,453.5	11,291.1	+1,709.7	+19.6	+ 837.6	+ 8.0
Credit to Government (net)	6,607.2	10,528.2	15,824.2	+3,921.0	+59.3	+5,296.3	+50.3
(1) Central Bank	4,580.9	7,557.0	10,528.2	+2,976.1	+64.9	+2,971.2	+39.3
(2) Commercial Banks	2,026.3	2,971.2	5,296.3	+ 944.9	+46.6	+2,325.1	+78.3
Foreign Assets (net)	2,597.3	1,066.9	894.8	+1,512.4	-58.6	- 172.1	-16.1
(1) Central Bank[1]	2,451.0	1,051.5	813.8	-1,399.5	-57.1	- 237.7	-22.6
(2) Commercial Banks	128.3	15.4	81.0	- 122.9	-88.0	+ 65.6	+425.9
Other Assets (net)	-3,299.7	-6,079.8	-9,708.0	-2,780.1	-84.3	-3,628.2	-159.7
Total Monetary Assets	15,541.0	16,886.8	19,365.2	+1,345.8	+ 8.6	+2,478.4	+14.7

contd...

Money Supply and its Determinants contd

Category	December 1981(1)	December 1982(2)	December 1983(3)	Change between (1) and (2) Absolute	Change between (1) and (2) Percentage	Change between (1) and (2) Absolute	Change between (1) and (2) Percentage
Quasi Money[2]	5,796.1	6,838.3	8,082.8	+1,042.2	+18.0	+1,244.5	+18.2
Money Supply	9,744.9	10,048.5	11,282.4	+ 303.6	+ 3.1	+1,233.9	+12.3
(1) Currency outside banks	3,861.1	4,222.4	4,824.8	+ 360.5	+ 9.3	+ 620.4	+14.7
(2) Private sec. demand deposits	5,883.0	5,826.1	6,439.6	- 56.9	- 1.0	+ 613.5	+10.5
Total monetary liabilities	15,541.0	16,886.8	19,365.2	+1,345.8	+ 8.6	+2,478.4	+14.7

1 Includes Federal Government External Assets

2 Excludes Federal Savings Bank Deposits

Source:

CBN 1983, Annual Report, p. 48.

Table 9: Tanzania

Monetary Survey

Millions of Shillings

End of period		Currency in circulation outside banks	Demand deposits	Time deposits	Savings deposits
1969		605.0	867.4	230.7	176.4
1970		818.4	860.5	338.6	202.1
1971		986.4	1,072.0	352.1	213.9
1972		1,201.1	1,125.7	494.1	268.8
1973		1,198.6	1,576.1	547.0	331.3
1974		1,517.3	1,939.0	601.2	404.5
1975		1,755.8	2,528.0	789.8	479.1
1976		2,071.2	3,260.5	1,048.3	566.7
1977		2,379.7	4,003.1	1,252.7	711.2
1978		2,915.2	3,911.7	1,724.3	845.1
1979		4,055.4	6,380.0	2,308.0	1,063.2
1978	March	2,219.3	3,786.2	1,312.3	728.2
	June	2,214.4	3,879.9	1,425.7	770.0
	September	2,772.3	3,919.4	1,540.3	804.3
	December	2,915.2	3,911.7	1,724.3	845.1
1979	January	2,782.8	4,786.0	1,823.4	850.6
	February	2,767.9	5,023.9	1,851.4	867.1
	March	2,726.9	5,159.4	1,742.0	879.0
	April	2,713.9	5,087.9	1,801.7	891.7
	May	2,728.6	5,333.1	1,992.2	908.5
	June	2,846.7	5,614.7	2,010.9	941.4
	July	3,152.6	5,553.5	2,015.4	955.0
	August	3,519.1	5,865.7	2,065.5	983.2
	September	3,754.2	6,111.0	2,097.8	999.5
	October	3,863.5	6,490.8	2,174.6	1,027.9
	November	3,939.8	6,335.5	2,269.2	1,055.0
	December	4,055.4	6,380.0	2,308.0	1,063.2
1980	January	4,027.3	6,556.6	2,452.8	1,080.4
	February	3,968.9	6,509.7	2,488.1	1,099.7
	March	3,981.6	6,404.6	2,384.0	1,121.0
	April	4,015.2	6,403.4	2,457.7	1,129.5
	May	4,301.8	6,655.3	2,467.7	1,144.2
	June	4,175.5	7,174.3	2,489.6	1,191.2
	July	4,461.1	7,258.9	2,618.3	1,209.1
	August	4,684.5	7.424.8	2,699.3	1,221.3
	September	4,838.6	7,517.4	2,532.3	1,250.9
	October	4,924.6	7,638.7	2,556.1	1,271.0
	November	5,035.1	8,152.4	2,591.1	1,289.0
	December	5,245.5	8,100.5	2,872.7	1,301.2
1981	January	5,170.3	8,106.2	3,025.7	1,320.2
	February	5,010.8	8,271.1	2,990.6	1,351.6
	March	4,959.6	8,274.6	2,865.2	1,392.0
	April	4,963.7	8,190.6	2,894.8	1,406.9
	May	4,986.7	8,108.0	2,977.2	1,426.9
	June	5,195.1	8,574.7	3,047.6	1,461.5

Source: Bank of Tanzinia, Economic and Operations Report, 1981, p. 59.

Table 10: Zambia

Money and Quasi-Money

(Amount in K'000 and percentage over the corresponding period of the previous year)

End of period	Currency outside banks (1)	Demand deposits at banks (2) (b)	Money supply (3)=(1)(+2)
1970	42,844	143,100	185,954
1971	58,279	140,309	198,588
1972	61,350	139,991	210,341
1973	69,396	173,493	242,889
1974	79,642	186,031	265,673
1975	102,354	219,732	322,086
1976	121,107	255,645	376,752
1977	118,434	268,033	386,467
1978	130,859	260,823	391,682
1979	126,165	387,122	513,287
1980	151,068	358,342	509,140
1981	191,758	371,288	563,046
1980			
January	120,777	371,963	492,740
February	126,606	342,737	469,343
March	123,746	33,379	457,125
April	125,672	356,081	481,759
May	125,703	365,750	482,453
June	125,445	347,712	473,157
July	126,837	344,370	471,207
August	132,961	298,194	431,155
September	137,007	328,912	465,919
October	141,901	359,125	501,026
November	138,807	339,830	478,637
December	151,068	358,342	509,410
1981			
January	153,614	373,981	527,595
February	152,907	348,200	501,107
March	150,539	371,608	522,147
April	142,128	344,201	486,329
May	159,273	363,904	523,177
June	159,922	369,056	528,978
July	165,746	371,135	536,881
August	183,287	355,340	538,527
September	192,150	345,631	537,681
October	362,612	560,649	560,649
November	194,881	405,912	600,793
December	191,758	371,288	563,046

contd...

Money and Quasi-Money Contd

End of period	Currency outside banks (1)	Demand deposits at banks (2) (b)	Money supply (3)=(1)(+2)
January	184,130	349,253	533,383
February	183,912	341,114	525,026
March	173,986	364,511	538,497
April	180,696	389,145	569,842
May	177,020	373,723	550,743
June	175,146	410,575	585,721

Source: Bank of Zambia

(a) From July onwards, excludes Government and non-resident deposits. Prior to July 1971, Government and non-resident deposits, based on incomplete data, have been excluded from demand deposits only;

(b) Including Merchant Bank up to December 1971;

See Quarterly Financial and Statistical Review, Dec. 1982, Vol. 12, Number iii/iv.

> "The heavy reliance of the Nigerian consumer and businessman on hand-to-hand currency for transactions tends to raise the ratio of currency to the money supply in an economy like ours beyond the level expected in economies with higher banking densities and more entrenched banking habits. For this reason currency management in Nigeria poses graver problems than in some other advanced countries".

Mr. E.C. Akamobi held a similar view when he said:[10]

> "In conclusion, I will like to point out that the liquidity preference of our people is abnormally high particularly among sole traders and rural dwellers. As a result of valuable time usually wasted in collecting money from the bank and lack of faith in the chequeing system our market men and women prefer to hold large quantity of cash for quick and easy replenishment of stock in trade."

In a recent talk, the Director of Research of the Central Bank of Nigeria, Mr. C.E. Enuenwosu, revealed that the amount of Naira outside the Nigerian territory was some 40% of the currency in circulation. Chief Cletus N. Nwagwu, the Director of Banking Operations of the Central Bank of Nigeria, surprised Nigerians when in a television interview of 29th June, 1984, he said that the Central Bank of Nigeria had lost track of the amount of currency in circulation in Nigeria. Continuing, he said ₦3.6 billion (75 per cent of ₦4.8 billion old notes redeemed during the exchange) had been put back into circulation. He said the difficulties resulting from the exchange were not only due to the short fall of 25% but also to "some

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10 The Nigerian Daily Times, May 7, 1984, p. 7.

unavoidable occurrences" which he attributed to payment of wages, salaries and bank overdrafts to customers.[11] Mr. Chuma Adichie confirms this confusion when he writes:[12]

> "The change of the colours of the naira was long overdue. In several cities of the world, the naira which is not a convertible currency, was being accepted from Nigerians and non-Nigerians for purchases and other illegal transactions. By this process more than ₦1 billion naira, for example, found its way into the United States of America alone.
>
> At home the currency black market was booming alarmingly. Very heinous and machiavellian methods were being employed to sabotage the economy. By September last year it was estimated that ₦4.5 billion of ₦11.2 billion in circulation was floating outside the banking system. The Central Bank of Nigeria was thus unable to keep track of the naira. It had long lost the trail."

Further

> "Questions were raised why the Government decided to release money piece-meal to banks. According to the Director, Domestic Operations, CBN, Mr. Cletus Nwagwu, the CBN by last Monday (30 April 1984) had distributed ₦1.6 billion representing half the notes (3.6 billion) in circulation. Lagos alone, he said, had got ₦250 million".[13]

That the Central Bank of Nigeria had lost track of the money in circulation is true from the apparent contradiction in figures published in the Federal Government Gazette No. 19, vol. 71, p. 249 of March 8, 1984. Therein it was

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11 The Guardian, 30 June 1984, p. 7.

12 Nigerian Sunday Concord, May 6 1986, p. 7.

13 Ibid, p. 13.

stated that ₦5.3 billion was in circulation as at 31 December 1983. Explaining the reason for the Central Bank's handicap, Chief Nwagwu said it was because the Nigerian Naira had become a trading currency in the ECOWAS countries and because it was freely traded and quoted in Liverpool Street and London Banks and some banks in New York and everywhere in Saudi Arabia. He said the currency exchange of 24 April to 6 May, 1984 was designed to correct the disturbing position and to enable the Bank to determine at any given time the amount of currency in circulation.

This goal was not immediately achieved because the Bank later discovered that the amount of currency printed and delivered to it was by no means adequate to go round all the banks in the country in exchange for old notes deposited by the public and institutions in billions all over the country. The result was that school fees and workers' salaries could not be paid, business transactions came to a standstill and many people could not take three square meals a day not because they could not afford to but because the banks were not liquid and were not in a position to pay cash and honour cheques. The amount of damage done to the economy was incalculable and economic life in the country nearly came to a stop. One hopes that the Central Bank will in the future adopt a more realistic and painless method of currency redemption and exchange in furtherance of its control of money supply.

The hardship experienced by the public during the currency exchange could have the negative effect of eroding the already minimal confidence Nigerians have in their banking system. Traders and businessmen, particularly in the private sector, must therefore be encouraged to develop the banking habit and to create a structure and an environment in which the use of cheques becomes more usual and acceptable. To this end central bank laws have a role to play in minimising the too frequent instances of Central Bank cheques, issued by Governments, not being honoured because of insufficient funds.

The activities of unscrupulous big-time smugglers who unconscionably smuggle the national currency to overseas countries to exchange it at unbelievably low rates should be checked through stricter controls at air, port and border posts. Since the smuggled naira is sold abroad on the cheap in exchange for hard currency (principally dollar and sterling) foreign investors are understandably more inclined to procure the naira they need for their daily economic transactions in Nigeria from abroad, instead of bringing hard currency into the country and exchanging it for the naira at the higher official rate. In effect, the Central Bank has been systematically denied substantial amounts of foreign exchange which it would otherwise have earned from the activities of foreigners in the economy. One may add that the multiplier effect of the periodic influx of cheap naira into the country from abroad is the heightening of domestic inflation. Currency exchange exercises provide only temporary and stop-gap solutions; the effective solution is to take measures that will not allow naira to make its way abroad in large numbers.

Another group of saboteurs who must be restrained by law are the ECOWAS travellers, workers and ignorant and itinerant petty traders who do not even know the process of obtaining foreign exchange through the banks. They patronise mainly the professional petty 'money-changers' found in market places and hotels in all capitals of West African countries.

Smuggling and currency trafficking make mockery of the ECOWAS protocol relating to re-exportation, within the ECOWAS, of goods imported from these countries. These activities render useless efforts made by member states of ECOWAS and the West African Clearing House to monitor and determine trade trends and volumes within the region. These subversive activities of smugglers and currency traffickers operating in West Africa could be controlled if there were a co-operative effort to eradicate smuggling and currency trafficking. Joint border patrols and supervision would also yield effective results. The Nigerian Security Organisation (NSO) should endeavour to monitor the activities of currency forgers, who as in the case of the Central Bank 1984 exercise saw the injection of forged notes two days after the exercise started.

Legal Tender Status

The Central Bank laws usually provide that notes and coins may be legal tender for the settlement of debts of any amount in the territory of the issuing country.

The Central Bank of Nigeria Act 1958[14] provides that:

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14 s.21(1).

> "Notes issued by the Bank shall be legal tender in Nigeria at their face value for the payment of any amount."

The Kenya Act also provides that:[15]

> "The Bank shall have the sole right to issue notes and coins in Kenya and, subject to subsection (4) of this section, only such notes and coins shall be legal tender in Kenya."

Under these Acts the creditor is obliged to accept legal tender money and the debtor is entitled to settle the debts he incurs in legal tender money unless another lawful method of settling debts has been prescribed or agreed by the debtor and creditor as provided, for example, in section 21 of the Kenya law:

> "All monetary obligations or transactions entered into or made in Kenya shall be deemed to be expressed and recorded and shall be settled in Kenya currency unless otherwise provided for by law or agreed upon between the parties."

In some systems, only notes are to be of an unlimited amount while the coins have limited legal tender. Therefore notes in central banks in those systems are legal tender for their face value without limitations as to the amount of the payment.

Except for the Bank of Zambia all the central banks surveyed have provisions prescribing territorial limitations on the use of notes and coins as legal tender, irrespective of whether there is a limitation on the amount

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15 s.22(1).

accorded legal tender status. Where a central bank law expressly provides that the right to issue notes may be exercised only within the territory of that particular country, it is legitimate to infer that the scope of this power is confined to that territory in which the central bank has its seat.

Such assumption may be based on the general principle of law that public laws of a country are normally not intended to have extraterritorial effect. Thus notes and coins may be legal tender throughout the country as in Tanzania[16] or in certain designated areas of the country, as in England and Wales.[17] On the other hand, in places like Australia the right to issue currency outside the territorial boundaries is shared by the Central or Reserve Bank and some commercial banks. In South Africa the Reserve Bank notes were legal tender in Basutoland, Swaziland and Bechuanaland Protectorates and also notes issued by the Reserve Bank of India were legal tender in the Persian Gulf. In a majority of cases therefore central banks issue notes that are legal tender only within the territorial boundaries of that country.

The first function assumed by the Bank of Tanzania when it commenced operations on 14 June, 1966 was that of a 'bank of issue', a function it took over from the East African Currency Board. It will be recalled[18] that the

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16 Bank of Tanzania Act 1964, s.26.

17 See Note 4.

18 See Chapter 2, at p. 80

Board was established in 1919 to provide a new currency for the Kenya Colony and Protectorate and the Uganda Protectorate. Tanganyika was added in the following year after the United Kingdom was given a mandate by the League of Nations to administer the then territory.

The East African Currency Board ceased as the issuing authority in East Africa after the three independent central banks of Kenya, Tanzania and Uganda had been established. The legislation establishing the three central banks gave each the sole right to issue legal tender currency in its own country. Each country adopted the Shilling (divided into 100 cents) at par with the East African Shilling which was replaced. The par value of each currency was fixed with the International Monetary Fund in terms of grams of fine gold. The notes of the Board ceased to be legal tender in East Africa on 14 September, 1967 and its own coin on 10 April, 1969. Earlier the Currency Board had issued in 1964 notes which bore East African features in place of the British monarch's head.

The first issue of notes in the Central Bank of Kenya was on 14 September, 1966. The par value of the Kenya Shilling is determined in terms of gold and is defined as equivalent to 0.11459 grams of fine gold.

<u>Bank of Zambia Issues</u>

It will be recalled that the Bank of Zambia came into being after the break-up of the Federation of Rhodesia and Nyasaland and was established on 7 August, 1964 under the

Bank of Zambia Ordinance, 1964. During the decade preceding independence Zambia, then Northern Rhodesia, was a member of a major economic and monetary union with Southern Rhodesia (now Zimbabwe) and Nyasaland (now Malawi) known as the Central African Federation of Rhodesia and Nyasaland.

During the first three years of Federation the Central African Currency Board, first founded in 1939, was the sole issuing authority of notes and coins which were legal tender within the three federal states. In March 1956 the Bank of Rhodesia and Nyasaland was established to replace the Currency Board.

Prior to independence, notes and coins in denominations of £10, £5, 10s and 5s, 2s6d, 2s, 1s6d, 3d and ½d circulated in the country as legal tender. After independence the Bank issued the first Zambian notes and coins in similar denominations, although different in design. In order to allow for a smooth change-over the two currencies circulated alongside each other until 15 December, 1965 when the old currencies were withdrawn from circulation for subsequent demonetisation.

A 5s proof coin to commemorate Independence was issued and it was later followed by an ordinary 5s coin for circulation purposes.

In 1967 the Government decided in favour of decimalisation and designated the Kwacha as the main unit comprising 100 ngwee. The Kwachawas equivalent to the old shilling. On the promulgation of the Currency Act 1967 the legal tender status on the Zambia £sd currency was withdrawn and the new Kwacha note and Ngwee coin introduced and put into circulation. On 16 January, 1968 the £5 note became K10, the £1 note K2, the ten shilling note became K1 note and a new 50 ngwee note introduced to correspond to the old 5s, 2s became 20 ngwee, one shilling coin became 10 ngwee and 6d became 5 ngwee. A change-over period was allowed to complete the withdrawal of Zambian £sd notes and coins from circulation, and these ceased to be legal tender on 31 January, 1974.

In commemoration of the Food and Agricultural Organisation Day (FAO) the Bank issued a 50 ngwee FAO proof coin for numismatic collection. Later as the need arose to bridge the gap between 20 ngwee and K1 note, an ordinary 50 ngwee FAO coin and 50 ngwee coin of new design were simultaneously put into circulation in the middle of 1971. A K20 note was also introduced during the same period.

With the advent of the 'One Party Participatory Democracy' the Bank issued a comemorative K1 note to join the rest of the nation in celebrating the birth of the second Republic on 13 December, 1973.

Finally the Bank changed the colour of the 50 ngwee note in order to eliminate the confusion which appeared to exist between the 50 ngwee and the new K5 note, thus the multi-coloured 50 ngwee note making its first appearance in April 1974.[19]

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19 Ten Years of Banking in Zambia, p. 10.

Central Bank of Nigeria Note Issues

The Central Bank of Nigeria has between 1959 and 1984 issued five legal tender currencies, in 1959, 1965, 1968, 1973 and 1984. One of the first functions of the Central Bank when it commenced business on 1 July, 1959 was to issue the first Nigerian currency. This issue replaced the West African Currency Board notes and coins then circulating in the country.

The change-over was completed in December 1962 and a total of £65.0 million (₦130.0 million) notes and coins of the West African Currency Board was redeemed and the equivalent in sterling was subsequently paid at par by West African Currency Board to the Central Bank of Nigeria.

When Nigeria became a Republic in 1963 the decision was taken to replace the existing Federation of Nigeria notes. The exchange exercise began on 1 July, 1965; when it ended in June 1966 a total of £68.5 million (₦137.0 million) was redeemed.

By the Central Bank (Currency Conversion) Decree No. 51, 30 December, 1967, the Bank was empowered to undertake another currency exchange exercise during the war years with the aim of achieving the following objectives:

(a) ensuring the success of the trade embargo imposed on the 'still-born' Biafran Republic [20] which was at war with Nigeria;

(b) forestalling the use of unissued currency notes

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20 The Biafran Republic consisted of the 4 eastern states of Imo, Anambra, Rivers and Cross River states which made up the former Eastern Region of Nigeria.

that were burgled from the Central Bank vaults in Enugu, Port Harcourt and Benin City;

(c) frustrating the flourishing illegal trafficking in the Nigerian currency known to be going on in some foreign countries.

A total of £86.5 million (₦173.0 million) was redeemed, £20.0 million of which was paid out as ex-gratia awards to depositors in the Biafran states.

The fourth issue of notes was the second to be provided for under an enactment. The issue took the form of a conversion to decimal currency and this took place on 2 January, 1973. Before this date a decree had been promulgated in 1971 under which a 15-member Decimal Currency Board was constituted to work out the modalities for the introduction of decimal currency. On 20 December, 1972 all banks were closed to the public to enable them to balance their books and convert balances to the new units in readiness for 1 January, 1973.

The exchange of new for old currency notes which came in four denominations - 50K, N1, N5 and N10 respectively - began on 2 January, 1973. At the end of the exchange exercise an estimated ₦349.4 million or 95.2% of all coins had been exchanged. In February 1976 a fifth denomination of the Nigerian currency was issued, a 20 Naira note.

The fifth issue of notes took place on 25 April, 1984. In announcing the change of Nigeria's currency in a television broadcast, the Chief of Staff Supreme Headquarters, Brigadier Tunde Idiagbon, said[21]

21 The Nigerian Guardian, 25 April, 1984.

> "Fellow Nigerians, you are aware that one of the main objectives of this administration is to revive the battered economy of this great nation.
> The head of the Federal Military Government and Commander-in-Chief of the Armed Forces, Major General Muhammadu Buhari and the Minister of Finance have informed you recently of the stark realities of the financial predicament in which we have found ourselves as a result of the mismanagement of the economy by the defunct civilian administration.
> After painstaking analysis of the factors which have contributed to the present state of affairs, this administration has come to the conclusion that drastic measures must be applied. It has been established beyond any doubt that one of the major causes of our economic malaise is the deliberate sabotage of the economy through large scale illegal trafficking of the Naira notes across our borders within and beyond our beloved country. This administration has, therefore, decided in the interest of our beloved nation to effect a change in our currency immediately.
> As from Wednesday 25 April, 1984 the existing Nigerian currency notes of N20, N10, N5 and N1 denominations will be issued in exchange." (sic)

The Impact on the Economy of the Changes in the Legal Tender Status of the Issues

In Nigeria the five currency exchanges, viz. those of 1959, 1965, 1968, 1973 and 1976, differ significantly from the 1984 exercise. The 1984 exercise resembled that of 1967 in the desired result and in the fact that both exercises were backed by enactments.

As explained by the Chief of Staff, the motivating reason for the 1984 currency change was to stem the blatant sabotage of the economy by currency traffickers within and outside the country.

Another reason for the change was that many unpatriotic

Nigerians with the active connivance of some foreign collaborators had printed millions of naira notes and successfully integrated them into the spending network.

The third reason was that some people had actually amassed naira far beyond their legitimate source of livelihood. They feared exposure if they were to deposit such large amounts with their bankers.

Finally the Federal Military Government convinced itself that if it were to re-establish a strong economy for the nation, it should do so on a clean slate by knowing exactly how much money it had in circulation. Having done this it could then steer the economy in the desired direction. If it wanted to pump more money into circulation it could embark on the purchase of securities, while if it wanted to reduce the quantity of money in circulation it could, among other things, embark on sale of securities and floating of loans.

One cannot recall within living memory, when the dollar, the yen, the sterling or the Deutsch mark was withdrawn from circulation and old issues exchanged for new. Even in the developing countries examples are hard to find of frequent and complete withdrawal of legal tender currencies for new issues. However, the Reichmark was exchanged during the Depression in Germany and after World War II. Withdrawal of currency from circulation is a very expensive and time consuming exercise to contemplate, and it is wasteful of resources.

On the other hand it is a frequent practice in Nigeria to withdraw legal tender status in the country's currency and in a manner contrary to the provisions of the relevant Act. The Central Bank of Nigeria Act, 1958 provides, for example, that[22]

> "Notwithstanding the provisions of sub-section (1) and (2) the Bank shall have power, on giving not less than three months' notice in the Gazette, to call in any of the notes and coins on payment of the face value thereof and any such notes or coins with respect to which a notice has been given under this clause shall, on the expiration of the notice, cease to be legal tender, but subject to the provisions of section 23 shall be redeemed by the Bank on demand."

In Tanzania, the Bank of Tanzania Act 1965 provides:[23]

> "The Bank shall have the power, on giving reasonable notice in the Gazette, to call in any notes or coins issued by it on payment (subject to the provisions of section 29) of the face value thereof; and any notes or coins with respect to which a notice shall have been given under this sub-section shall, on the expiration of such notice, cease to be legal tender."

The Central Bank of Kenya Act 1966 has a similar provision in section 22 and in s.22(3)(c) which states that the period of notice 'shall be of reasonable duration.' The Bank of Zambia Act 1964 does not provide for withdrawals nor for giving of notice.

The rationale for giving reasonable notice to citizens of the intention of central banks to withdraw the legal tender status of a currency is to ensure, among other things, that every holder of the country's notes had the

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22 s. 21(3).

23 s.28(2).

opportunity of exchanging them at their face value without incurring financial loss in the process.

In Nigeria, of all the five withdrawals of legal tender status from currency, only two have had the force of law behind them. The Central Bank (Currency Conversion) Decree, No. 51 of 30 December, 1967, was an instrument of strategy for prosecuting the Nigerian-Biafran War of 1967-70 which enabled Nigeria to impose a trade embargo on the secessionist Biafra. Ample notice was also given of the 1973 exchange which was aimed at giving effect to decimalisation. The Decimal Currency Decree was promulgated in May 1971 and the advance action was undertaken to provide a practical public education in the new system. All other currency exchange exercises have taken Nigerians by surprise.

Surprise keeps an opponent off-guard leaving him unprepared for defence or counter-attack. In the same way the world was indeed confounded at the announcement on 23 April, 1984 that the exchange of the currency would commence the following day and last for 12 days. The announcement caused much panic among citizens, international finance institutions, and currency hoarders and traffickers. As a result the outside world will not have confidence in the naira and the way in which the country runs its economy. Flight of capital can ensue as investors seek a safe environment for their money. Investors can also be frightened off and be reluctant to finance the establishment of trade or industry in such a country.

While it may be admitted that a sudden change of any currency may be a powerful weapon against trafficking and hoarding of currency, the long term effect of an economic exercise of this nature should not be overlooked and needs serious consideration. The strength of this argument is buttressed by the fact that a few days after the announcement of the exchange exercise forged new currencies were discovered and it was reported that the culprits were arrested by security agents. Besides, an Indian shopowner in Liverpool Street market of London was widely reported to have said that within a few weeks of the exchange of currency the naira would certainly find its way to London, New York, Saudi Arabia and the ECOWAS countries. So it was for

> "About four days (sic) to the end of the exercise, black markets for the new naira had sprung up in Lagos. According to reports, ₦3 new notes exchanged for $1 (US) as against ₦3.70 old notes, while ₦4.50 new notes exchanged for £1 against ₦5.50 old notes. The traffickers were said to be capable of exchanging up to ₦15,000 on the spot and up to ₦50,000 if given two hours' notice."[24]

It was not clear why the Government had decided to release money to the banks piece-meal. According to the Director, Domestic Operations of the Central Bank of Nigeria, Mr. Cletus Nwagwu, the Central Bank of Nigeria had by 30 April, 1984 distributed ₦1.6 billion representing half the notes (₦3.5 billion) in circulation. It is however difficult to understand the inconsistencies in the figures of money in circulation. In Government Gazette

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24 Sunday Concord, 6 May 1984, p. 13.

No. 19, vol. 71, p. 249 of 8 March, 1984 it was stated that ₦5.3 billion was in circulation as at 31 December, 1983. By releasing only ₦1.6 billion of 5.3 billion, there was bound to be not enough money to go round.

Section 21 of the Central Bank of Nigeria Act and section 22 of the Kenya Act as well as s.28 of the Bank of Tanzania Act all provide for the calling in of any notes and coins on payment of the face value thereof and in respect of notes, for any amount. In compliance with these provisions the Central Banks of Zambia and Kenya exchanged new notes for old at par. In Nigeria the contrary was the case.

When the Biafran and Nigerian notes were exchanged after the war £25 was paid to every depositor irrespective of whatever higher sum deposited. This is clearly a breach of section 21 of the Central Bank of Nigeria Act which as stated above stipulates that notes should be exchanged at their face value. When the Nigerian Chief of Staff made his announcement in April 1984, he said that "individuals can exchange up to a maximum of ₦5000 over the counter. Any amount in excess of ₦5000 will have to be deposited with the bank, which will issue the depositor with a proper acknowledgement to that effect."[25] Once again, section 21 of the Central Bank of Nigeria Act had been breached.

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25 The Guardian, 15 April, 1984.

Appraisal of the Note Issuing Function

From the foregoing it would be seen that the function of the central banks in issuing bank notes is vital to the economy. If the function is carried out properly and efficiently business will flourish and the economy will ultimately grow. We have observed that economically advanced countries do not withdraw legal tender status in their currency because the exercise is not worth the trouble. It is an expensive and wasteful exercise that offers only short-term solutions to economic woes. There is a well-known theory that, by reducing the amount of currency in circulation, prices may be depressed. This argument is defective because the problem is manifestly on the supply side. There is no scientific basis for this approach to deflation, which was put forward as one of the reasons for currency exchanges. It can be counter-productive. A realistic way to bring down prices is to flood the market with essential commodities and work harder at correcting the inflation-fuelling defects in distribution channels which one finds in the Nigerian economy.

As noted above, in Nigeria there have been far too many incidents of central bank cheques returned unpaid by banks. Certainly this does not give cause for encouragement to the public particularly those who have had to do business for the government or its agencies. In order to bolster confidence the ultimate aim of central banks should be to encourage development of an atmosphere and structure in which the use of cheques becomes more prevalent and acceptable. Governments themselves must show a good example. The National Concord of 2 June, 1984 supports this view:

> "An economist in Calabar, Dr. John E Udoh Ndebbio, told the National Concord that the Federal Government should make enough money available to commercial banks to restore people's confidence in our banking system, otherwise they would resort to the primitive way of banking.
>
> Dr. Ndebbio, who is a lecturer at the University of Calabar, said that from what he had learned so far in his profession he had never come across the kind of 'primitive' monetary control currently being imposed on Nigerians."

Continuing on the objective of the 1984 Currency Exchange exercise it said:

> "A top management staff of a commercial bank in the city told me that the Central Bank was releasing money piece-meal. In fact we requested for a total of ₦8 million and the Central Bank of Nigeria doles out ₦20,000 today, ₦50,000 tomorrow and nothing the following day, he said.
>
> He also said the Central Bank's tactics were eroding the confidence of Nigerians in the banking system and crippling banking operations in the country."

The Nigerian experience of the currency exchange which lasted 12 days (25 April - 6 May) highlighted several problems in the management of money supply. The Federal Military Government decision was designed to restore confidence in the naira, determine accurately the actual quantity of currency in circulation, put an end to the illegal trafficking in naira and block the naira in circulation outside Nigeria. The exercise has underlined the need for the authority to streamline the laws, design appropriate measures in order to minimise the use of cash in the Nigerian economy. In addition to reforming the existing relevant laws the following proposal would promote a more buoyant economy.

1. All bank transactions beyond a certain specified amount should be done by cheques, bank drafts or certified cheques.

2. The payment of wages, pensions and other forms of income should be made into bank accounts rather than by cash. Payment to manual workers may continue to be in cash in the same way as the 1960 Payment of Wages Act operates in the UK under which payment by cheque of manual workers' wages requires their individual consent, which can be withdrawn at 4 weeks' notice. It will be recalled that the Act was the descendant of the 1931 Truck Act which was aimed at protecting workers from the attempt by employers to pay workers in kind. The change in payments behaviour could bring benefit to account holding institutions in the form of deposits and increased sales of other services.

3. Payment for utilities such as telephone, electricity, gas and water should be made by cheque. This system could benefit employers and other income payment bodies in facilitating the efficient and economical execution of such payments; it should bring benefits to consumers in the form of convenience in handling their financial affairs; and it could benefit all those bodies in

receipts of payments - local authorities, bill collectors and retailers.

4. The Central Bank and the commercial banks should evolve an efficient cheque clearing system through the creation of zonal clearing centres - as propounded in Chapter 4[26] - to minimise delays identified and inherent in cheque clearing procedures.
5. Banks should undertake to honour cheques up to a certain specified amount drawn on them, depending on the credit-worthiness of the customer.
6. Appropriate steps should be taken to protect the Nigerian borders against traffickers in smuggled goods and illegal currencies.
7. Appropriate legislation should be enacted to regulate these proposals.

MANAGEMENT OF PUBLIC DEBT

In the management of public debt anglophone African countries usually adopt three categories of debt instruments which constitute the mechanism by which the countries' central banks mobilise financial resources on behalf of governments. The three instruments are:

The Treasury Bill

The Treasury Certificate

The Development Stocks

In Nigeria the management of these instruments is regulated

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26 See p. 270.

by:

1. The Treasury Bills Ordinance of 1959
2. The Treasury Certificate Decree No. 40 1968
3. The Finance Decree No. 32 of 1969

In Nigeria before the Central Bank was established in 1959, the Accountant-General of the Federation was charged with the responsibility for public debt management. Subsequently when the Central Bank was established it was vested with authority to float the country's internal debt in consultation with the Ministry of Finance or the Treasury. This power was provided for in section 35 of the Central Bank of Nigeria Act:

> "The bank shall be entrusted with the issue and management of Federal Government loans publicly issued in Nigeria upon such terms and conditions as may be agreed between the Federal Government and the Bank."

Similarly section 10 of the Treasury Bills Act 1959 provides that the Minister of Finance, after consultation with the Central Bank, may make regulations to prescribe or provide for:

(a) the preparation, form, mode of issue, mode of payment and cancellation of Treasury Bills;

(b) the issue of a new Bill in lieu of one defaced, lost or destroyed;

(c) such other matters as may seem to him necessary for the purpose of carrying this Ordinance into effect.

In Kenya the Central Bank Act provides that the Bank may purchase, hold or sell negotiable securities of any maturity issued by the Government or issued by any other public entity and guaranteed by the Government.

Similarly the Tanzania Act 1965 provides that the Bank, in its capacity as banker and fiscal agent of the Government or of any public authority, may act as agent of the government for servicing the public debt, including the issuance of, payment of interest on, and the redemption of, bonds and other securities of the Government.

> "1) Subject to the provisions of the section the Bank may -
> a) purchase, hold and sell negotiable securities issued by the Government which mature not later than twelve months from the date of acquisition by the Bank;
> b) purchase, hold and sell negotiable securities issued by the Government or with the guarantee of the Government, by a public authority which mature later than twelve months from the date of acquisition by the Bank."[27]

In Zambia the Bank of Zambia Act 1964 provides inter alia that in addition to the duties and powers imposed and conferred by that Act the Bank may

> "(d) buy, sell, discount and rediscount:
> i) inland bills of exchange and promissory notes drawn for commercial purposes or for financing the movement marketing or processing of agricultural produce or minerals and in all cases bearing two or more good signatures; and
> ii) treasury bills of the Government;
> (e) buy and sell securities of the Government maturing in not more than twenty-five years at the time of dealing which have been publicly offered for sale."[28]

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27 Section 40.

28 Section 23.

The various Acts have each created an avenue for investment of short and long-term funds. From the way the sections are worded it is clear that the Ministries of Finance and the Central Banks are partners in debt management in the broadest sense. The ultimate responsibility for public debt management would appear to reside in the Treasury, which uses the central bank as the instrument for administering government debt policy.

In their management of the public debt the Commonwealth African central banks carry out the following functions:

(a) advising the government as to the timing of flotation of the debt instruments and the terms of issue;

(b) advertising for public subscriptions to the issues;

(c) collecting the proceeds of issues on behalf of the government; supervising the issue of certificates and accounts and maintaining proper books of accounts in respect of receipts and disbursements;

(d) payment of interest and principal on due dates and managing the sinking fund set up to facilitate the redemption issue.

<u>Treasury Bills</u>

Treasury Bills are the main instruments of short-term borrowing by the government and serve as a convenient gilt-edged security for the money market. The qualities of high liquidity, absence of risk of default and negligible capital depreciation in case of sale before maturity make them an ideal form of short-term investment for banks and other financial institutions.

In certain countries, unlike in India for example, treasury bills are an important tool for the Central Bank in influencing the level of liquidity in the money market through market operations. Sale of treasury bills helps to absorb any excess liquidity in the money market and, conversely, their purchase by the central bank has the effect of relieving stringency. Since neither the government nor the money market wishes to hold surplus cash, the central bank steps in and restores the equilibrium by selling or purchasing from the money market treasury bills (and similar other securities) according as the government payments are larger than its receipts or vice versa. In this way, the government is able to borrow cheaply to meet its immediate needs and to use its temporary surplus to buy back some of its outstanding debt before maturity.

In Nigeria the Act provides that treasury bills will be issued in multiples of ₦2000 for 91 days and at a fixed discount; that subscription will be accepted from the general public but only through licensed banks in Lagos; that the issue will be monthly and that the total outstanding at any time shall not exceed 10% of the Federal Government's estimated revenue for the financial year. These were the conditions under which the first issue of ₦8m was made in April 1960 at a discount of 4½%. These issues constituted the first major step in establishing a money market in Nigeria. Subsequent issues have broadly followed the same basis but their sizes and frequencies have been extended. Thus, although the bills were initially issued monthly, fortnightly issues were introduced with effect from 19 April, 1962 and weekly issues from January 1963; the minimum unit of issue being later reduced from ₦2000 to ₦1000 in order to expand the coverage of holders.

In order to give effect to Nigerian federal government policies, several amendments to the Treasury Bills Act 1959 have taken place:

(a) the Treasury Bills (Amendment) Act, 1961 increased the upper limit of issue to 30% of government revenue;

(b) the Treasury Bills (Amendment No. 2) Act 1961 gave the Minister the right to loan the proceeds from treasury bills to regional governments;

(c) the Treasury Bills (Amendment) Act 1962 repealed the Treasury Bills (Amendment) Act 1961, and increased the upper limit of treasury bills to 40% of expected government revenue;

(d) the Treasury Bills (Amendment) Decree 1967 inc-reased this limit further to 50%;

(e) the Treasury Bills (Amendment) Decree 1968 repealed the above and extended the limit to 85%/

(f) the Finance Decree 1969 made the outstandable amount of treasury bills equal to the estimated revenue of the Federal Government in the year current but not exceeding it; i.e. 100% of it. This decree repealed the 1968 Decree;

(g) the Treasury Bills (Amendment) Decree 1970 amended this provision further by substituting 150% of the estimated revenue retained by the Federal Government and gross revenues of the states.

The Central Bank holdings of treasury bills increased rapidly throughout the 1960s and part of the 1970s. In the early sixties the increase in size of the Central Bank of Nigeria holdings was partly due to the repatriation of overseas assets and partly to Central Bank of Nigeria persuasion of government to issue an increasing volume of bills as an impetus to the development of the money market, even if this meant that Central Bank of Nigeria had to take up the unsubscribed issues. In the early seventies (1971-3) the increase in the size of Central Bank of Nigeria holdings of treasury bills was due to government financial requirements occasioned by the need for post-war reconstruction and development. The yearly average of holdings of treasury bills by the Central Bank of Nigeria in that period represented about 10% of the total in conformity with the statutory limit for that period. However in the period of the oil boom, 1974-6, the Central Bank of Nigeria holdings fell drastically as government had the least need to borrow. The proportion of Central Bank holdings stood at 0.8% in 1975 and 1976. The re-emergence of financial pressure on the government, and consequently the increase in volume of bills issued, raised the Central Bank of Nigeria's proportion of bills outstanding to 5.4% in 1977 and 4.5% in November 1978. The main investor in treasury bills is the commercial banking system and this is partly related to the fact that these bills form part of the assets statutorily specified for liquidity ratio purposes.[29]

The following table gives details of treasury bill issues for the years 1961 to 1977. A casual appraisal of the statistics would show that an unprecedented amount of money has been injected into the economy and thus no doubt has had disastrous consequences to the economy by way of inflation. It can also be seen that in the more recent years the public have not been buying many of the bills. This is due to very hard times, poor interest rate structures and poor performance of the economy.

Table 11

Holdings of Outstanding Treasury Bills (%)

Year	Total outstanding (thousand Naira)	Central Bank	CMF	Commercial banks	Federal and Regional Government	Others
1961	308000	15.8	-	52.1	-	32.0
1962	518000	20.8	-	36.0	-	43.2
1963	564000	21.7	9.4	18.8	9.3	40.3
1964	754000	12.9	6.0	24.1	23.2	33.8
1965	882000	18.4	6.3	28.1	15.3	31.7
1966	1130000	23.7	2.4	26.5	14	33.4
1967	1736000	42.7	2.2	26.9	12.7	15.5
1968	2372000	7.2	2.4	76.1	2.8	11.5
1969	3346000	4.4	2.0	70.0	3.5	20.0
1970	5314000	11.4	2.9	56.4	6.2	23.0
1971	7336000	24.5	1.7	32.4	22.1	19.4
1972	7392000	6.9	1.8	27.8	46.8	16.6
1973	7392000	11.5	2.2	38.9	30.9	17.2
1974	7392000	2.5	2.6	62.2	16.3	16.5
1975	7392000	0.8	-	81.4	3.0	13.3
1976	7392000	0.8	-	80.3	1.9	15.1
1977	9073000	5.4	-	71.4	2.0	19.4

Source: Central Bank of Nigeria

29 Twenty Years of Central Banking in Nigeria, 1979, p. 82.

Treasury Bills and Securities Instruments in Tanzania

As in Nigeria the Bank of Tanzania is by law endowed with all these functions. The Government of Tanganyika first obtained financing from the East African Currency Board in 1957, when the latter took up 20 million shillings' worth of medium and long-term public securities. The first subscription of treasury bills followed in 1960. The bills were held by the Board, until June 1966 when the Bank of Tanzania took over. Between 1964 and 1967 the position in Tanzania was in most respects similar to Nigerian experience. After the February 1967 Arusha Declaration the Government of Tanaania felt it was incompatible for a socialist country to encourage dealings in such borrowing pastimes.

This is in consonance with the arguments of Lenin that the road to socialism begins with the destruction of the existing institutions. In spite of this policy however the borrowing continued as can be seen in the tables below. As stated in Chapter 10,[30] President Nyerere was reported to have said that Tanzania was making use of capitalist firms to build a socialist state. Although under the Bank of Tanzania Act 1965 the Central Bank "may with the approval of the Minister [of Finance] promote, and subscribe to, hold, and sell shares in any corporation established by, or with the approval or under the authority of the Government for the purposes of promoting the development of a money market, a securities market in Tanzania or of improving the financial machinery for the

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30 Below, p.589.

Table 12

Government Borrowing From Banks, 1966 to 1973 (end-month figures in million shillings)

Year	Direct advances	Treasury Bills	Govt. Stocks & Treasury Notes	Total	Treasury Bills	Stocks & Treasury Notes	Total	Total
1966 December	-	35.8	48.0	83.8	6.0	10.1	16.1	99.9
1967 December	19.0	3.5	41.6	64.1	30.0	12.7	42.7	84.3
1968 June	-	27.7	38.7	66.4	37.0	30.5	67.4	133.9
December	-	12.5	19.3	31.8	104.0	39.6	143.6	175.4
1969 June	-	43.8	9.4	53.2	73.1	93.3	166.4	219.6
December	-	133.8	14.5	148.3	41.0	142.7	183.7	332.0
1970 March	-	98.1	11.1	109.2	19.8	162.1	181.9	291.1
June	-	222.7	15.0	237.7	19.9	152.3	172.2	409.9
September	162.0	228.7	11.2	401.9	-	152.4	152.4	554.3
December	216.0	190.0	10.2	416.2	-	152.4	152.4	568.6
1971 March	117.0	240.1	14.7	371.8	-	194.9	194.9	566.7
June	128.0	293.5	16.7	438.2	-	250.1	250.1	827.6
September	233.0	316.8	27.7	577.5	-	250.1	250.1	827.6
December	274.0	333.9	30.1	638.0	15.0	279.6	294.6	932.6
1972 March	257.0	291.0	30.2	578.2	99.0	296.9	395.9	974.1
June	203.0	238.4	118.5	559.9	99.0	313.3	412.3	972.2
September	254.0	224.6	118.3	596.9	99.0	333.0	432.0	1,028.9
December	202.0	234.4	118.2	554.6	99.0	360.2	459.2	1,053.8
1973 March	178.0	205.1	127.6	510.7	99.0	383.9	482.9	993.6

Sources: Bank of Tanzania, Economic and Operations Report, various years, and Economic Bulletin, March 1973, p. 23.

Table 13

Treasury Bill Issues By Holders, 1961 to 1973 (end-month figures in million shillings)

Year and month	Bank of Tanzania or EACB (1)	Commercial Banks	Public Authorities	Others	Total
1961 - June	46.0	-	-	-	46.0
1962 - June	54.0	-	28.0	-	82.0
1963 - June	62.0	-	24.0	-	86.0
1964 - June	56.0	-	33.7	-	90.7
1965 - June	90.0	-	53.7	-	143.3
1966 - June (1)	-	-	102.2	-	102.2
September	40.0	-	35.3	-	75.3
December	36.1	6.0	18.8	1.3	62.2
1967 - March	14.3	1.4	36.2	1.6	53.5
June	2.0	30.0	35.6	1.9	69.5
September	1.6	30.0	33.6	1.8	67.0
December	3.7	30.0	27.0	6.2	66.9
1968 - March	25.2	36.9	37.6	44.0	143.7
June	28.0	37.0	28.4	43.8	137.2
September	63.0	20.0	34.5	44.9	162.4
December	12.6	104.0	15.7	4.3	136.6
1969 - March	0.1	78.0	17.6	4.6	100.3
June	44.0	73.1	17.0	4.9	139.0
September	84.4	43.0	17.6	5.8	150.8
December	134.3	41.0	14.8	7.0	197.1
1970 - March	98.1	19.8	12.0	7.1	137.0
June	222.7	19.9	17.4	4.1	264.2
September	228.6	-	32.9	6.1	267.2
December	190.0	-	83.2	6.6	279.8

contd...

Treasury Bill Issues By Holders, 1961 to 1973 contd.

Year and month	Bank of Tanzania or EACB (1)	Commercial Banks	Public Authorities	Others	Total
1971 - March	241.8	-	79.2	9.3	330.3
June	296.0	-	81.2	3.9	381.1
September	318.9	-	74.5	5.9	399.3
December	336.7	15.0	51.5	3.9	407.1
1972 - March	289.3	99.0	41.3	6.4	436.0
June	238.8	99.0	49.3	9.2	396.3
September	225.6	99.0	40.6	9.2	374.4
December	235.5	99.0	26.1	6.6	382.7
1973 - March	205.4	99.0	43.4	11.4	359.2

(1) Until June 1966 Treasury Bills held by the East African Currency Board, thereafter by the Bank of Tanzania.

Sources: Bank of Tanzania, Economic and Operations Report, various years, and Economic Bulletin, March 1973, Table 20.

financing of economic development in Tanzania",[31] all in all, the Bank of Tanzania has done little to help develop a money and stock market.

In a capitalist state the main borrower in the money market is government whereas in the capital market specialised financial institutions like investment trusts and investment banks act as intermediaries between individuals whose savings they mobilise and government, industry and business in whose securities they invest them for medium or long-term.

In a socialist economy most of the medium and big industries are in the public sector. When the government is the sole owner of the financial institution, there is no scope for others to contribute to their equity capital. Money markets therefore do not exist in socialist countries because all enterprises in the productive and distributive sectors have to deposit only with the central banking institutions.

> "Capital markets also do not exist because all productive and distributive sectors being in the socialist sectors individuals cannot own a debenture which is a financial claim on enterprises on this sector or a preference or ordinary share in their capital. Individuals can own real assets like house or durable consumer goods for their own use. As to financial assets they are limited to bank deposits and currency only."[32]

So after the Arusha Declaration of February 1967 Tanzania

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31 s.59.

32 Bank of Tanzania, Central Banking in Socialist Transformation of Tanzania, 1976, pp. 23-6.

adopted the socialist system of controlling money and credit. The three instruments generally employed are:

the banking system

state budget

foreign trade and exchange control system.

According to the system these three instruments

> "work in harmony with the socialist prices and incomes policy for the development of the country. Thus banks influence production, sales, consumption, investment and foreign trade through credit policy. The state, through the budgetary policy - running the administration, making investments, and for expenditure in connection with social benefits like maternity and other assistance, refund and subsidies. The foreign trade and exchange control system enables the country to realise the advantages of international division of labour... In the socialist countries the instruments are used in a planned manner with the definite object of the development of the country along socialist principles."[33]

In Tan~~z~~zania therefore the Bank of Tanzania is required like all socialist banks (see Table below) to collect all information necessary for the preparation of the annual Finance and Credit Plan, the Foreign Exchange Plan and other monetary plans and to participate in their preparation, implementation and monitoring. It has

> "to submit at least one report every three months to the Minister on the implementation of these plans and/or general developments in the economy. Furthermore, if the bank finds that in actual practice there are significant deviations from the targets set in the plans, it must recommend to the

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33 Ibid, p. 23.

Banking Organisation in Certain Socialist Countries

Table 14

Country	Central Bank	Responsible to	Investment	Other Banks for Productive/ Distributive Sectors	Individual	Special Purpose
BULGARIA	National Bank This is a Central, Commercial and Investment Bank for all sectors except foreign trade	Council of Ministers	None Work done by National Bank	Foreign Trade Bank	State Savings Bank	None
CHINA	People's Bank of China Central and Commercial bank for all business sectors excluding foreign trade. It is also the bank for individuals. It gives only short term credit to business sectors.	State Council	Peoples Bank for Construction	1. Bank of China 2. Chartered Bank 3. Hong Kong and Shanghai Banking Corp. 1 to 3 for foreign Trade & Exchange	1. People's Bank of China 2. Rural Credit Co-operatives	None
CZECHOSLOVAKIA	State Bank Central Commercial and Investment Bank for all sectors except foreign trade.	Council of Ministers	Investment Bank defunct since 1958. Looks after administration of past investments only.	Commercial Bank does foreign trade work.	State Savings Bank	Trade Bank handles foreign currency deposits of individuals

CONTD...

Banking Organisation in Certain Socialist Countries Continued

Country	Central Bank	Responsible to	Other Banks for: Investment	Productive/ Distributive Sectors	Individual	Special Purpose
HUNGARY	Hungarian National Bank Central, Commercial and Investment Bank for all sectors except foreign trade and for investment projects which have official support.	Council of Ministers	State Dev. Bank for projects which enjoy official support	External Trading Bank	National Savings Bank	General Bank handles administration of securities legacies etc.
POLAND	National Bank of Poland Central, Commercial and Investment Bank for all sectors except agriculture and foreign trade.	Ministry of Finance	None. Work done by National Bank	1. Agricultural Bank 2. Commercial Bank of Warsaw for foreign trade	General Savings Bank, Savings & Loan Cooperatives	Bank P.K.O. foreign currency deposits of individuals
ROMANIA	National Bank of Romania Central & Commercial Bank for all sectors except agriculture.	Council of Ministers	Investment Bank	1. Agricultural Bank 2. Romania Bank of Foreign Trade	State Savings Bank	None

Source - Bank of Tanzania
Central Banking in Socialist Transformation of Tanzania, 1976, p. 27.

> Government such measures to remedy the situation as it (the Bank) considers desirable."34

In Tanzania, in place of the money market and capital market there are four financial plans:

- the Annual Budget of the Government
- the Capital Programme for the Ministries and Parastatals
- the Finance and Credit Plan
- the Foreign Exchange Plan

To mobilise deposits therefore Tanzania has two sets of financial institutions: one to meet essentially the short-term credit needs and the other the medium and long-term credit to industry, commerce and agriculture. The Tanzania Investment Bank (TIB) specialises in meeting the medium and long-term credit needs of industry.

As stated above therefore Tanzania's attitude is of course, in line with the economic philosophy of the country since the Arusha Declaration in 1967: an economic system in transition towards socialism has no need to develop a capital market in the traditional sense, for example a stock exchange. Its chief problem is the mobilisation and allocation of available financial resources through appropriate institutions and planning machinery.

Treasury Certificates

The Treasury Certificate is a medium-term government security which matures after a period of one to two years

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34 Bank of Tanzania, its Role and Functions, 1979, p. 46.

and is intended to bridge the gap between Treasury Bill and long-term government securities. It was introduced into Nigeria during the civil war to facilitate prosecution of the war. It was created by Treasury Certificates Act 1968 (Decree No. 40) which provides inter alia:

> "The Commissioner is hereby authorised to borrow by the issue in Nigeria of Federal Government Treasury Certificates, and the Central Bank of Nigeria, when authorised in writing by the authority and subject to any direction given by him, such Federal Government Treasury Certificates together with such further Treasury Certificates as shall be required to pay off at maturity Treasury Certificates already lawfully issued."[35]

The Finance Act 1969 amended the provisions of s.1(2) of the Treasury Certificates Decree 1968 by substituting the word 'sixty' for 'fifty' with effect from 16 March, 1969. There were no other amendments to the Decree until 1975 when the Federal Government decided to phase out the treasury certificates outstanding in the market. Consequently from April 1975 there have been no more issues.

As a result of the over-liquidity which this policy and other similar policies (such as keeping the issue of the treasury bills fixed at ₦2,464,000 per annum and the abolition of the call-money scheme on 1 July, 1974) caused among commercial banks and other investors in the market as well as the fall in oil revenues in 1976, treasury certificates were reintroduced in 1976 to help solve the problem of idle cash in the hands of investors.

Development Stocks

In 1946 the Colonial Government of Nigeria issued the first Nigerian Government Registered Stock 1956/61 amounting to £300,000 (₦600,000) 3½% discount, the management of which rested with the Accountant-General. When the Central Bank of Nigeria took over the function of debt management from the Accountant-General the first major assignment in this connection was the flotation on behalf of the Federal Government of the Federation of Nigeria First Development Loan of £2 million (₦4 million) in May 1959. Since 1961 the issue of Federal Government stocks has become an annual event. The Central Bank has the obligation or the undertaking to underwrite the issues of all development stocks. The unsubscribed proportion of any issues is automatically absorbed into its portfolio of government securities from which sales are made to meet the subsequent demand of investors.[35]

Private demand for government stocks comes mainly from institutional investors - pension and provident funds, commercial banks, insurance companies and other intermediary institutions. The Central Bank has persistently remained the major investor in stocks.

There are various reasons for the establishment of Treasury Bills, Treasury Certificates and Development Stocks which form part of the country's financial market. We will examine further in Chapter 6 to what extent the objectives have been attained.

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35 20 Years of Central Banking in Nigeria, op. cit., p. 83.

Financial Adviser to Government

The special function of the central bank as 'financial adviser' to the government is expressly provided for in several central bank laws. Some of these provisions refer in general terms to the role of the central bank in this field; others indicate in some detail the subject-matter on which the Central Bank is expected to render advice. Thus, in Zambia the Minister of Finance must request the opinion of the Central Bank whenever the Government intends to engage in any foreign borrowing operation; and the Government or its agencies must seek the advice of the Monetary Board whenever they intend to contract loans within the country. In Nigeria the Government seeks the advice of the Central Bank on its current and contemplated financial operations. It is the duty of the Central Bank to advise the Government particularly on the monetary implications of fiscal developments and of internal or external borrowing by the Government, and to suggest remedial measures if there is an unfavourable development in the country's international reserves.

The board of directors of a central bank may, from time to time, make recommendations to the Minister of Finance or to the Treasury acting on behalf of the government on the measures or policies to be adopted with a view to co-ordinating its policy within the policies of the bank. Also the Minister of Finance, or the agency concerned, if in agreement with the recommendation, may adopt the measures necessary to give effect to the bank's recommendations, provided such measures are lawful.

As financial advisers the central banks co-operate with the government in co-ordinating the government's economic and fiscal policy with the monetary policy of the central bank as one of the primary functions of the bank when it is acting as adviser to the government; for example, the bank may render advice on domestic and foreign operations to the state, the municipalities and public enterprises or public utilities.

The central banks manage the public debt on behalf of their governments and they are in addition entrusted with a wide range of statutory functions such as buying and selling of foreign exchange, administration of exchange control and provision of rural credit. The central banks also maintain close co-ordination with the government at all levels, especially with the Ministry of Finance both in the day-to-day affairs and through participation in the official committees.

The fiscal operations of the government exercise a direct and significant impact on the monetary and credit system which the banks are required to regulate. It follows that the monetary and credit policies can be implemented more effectively if there is co-ordination between them and the economic policies of the government. Hence the central banks take an active interest in the formulation of fiscal and other policies of the government and tender advice calculated to promote the attainment of the national economic goals.

Daily operations in the gilt-edged and foreign exchange markets and close contacts with the commercial banks and other financial institutions and with the business world in general have equipped the central banks with the technical knowledge of and practical experience in these spheres which contributed greatly to the bank's competence to give financial advice to government. The banks act as advisers to government not only on policies concerning banking and financial matters but also on a wide range of economic issues including those in the field of planning and resource mobilisation. The Central Bank of Nigeria, for example, has a special responsibility in respect of policies and measures concerning new loans, agricultural finance, industrial finance and legislation affecting banking and credit. The Bank's advice is sought on certain aspects of formulation of the country's Development Plans, such as the financing pattern, mobilisation of resources and institutional arrangements with regard to banking and credit matters.

As the agency for administration of exchange control, the Bank's intimate knowledge of the exchange markets and the trade and balance of payments position places it in an advantageous position to offer sound technical advice to government in evolving policies on international finance and regulations regarding foreign trade and exchange.

The central banks are the main channel of communication between the government on the one hand and the banks and financial institutions on the other. The central banks also keep the governments informed of developments in the financial markets from time to time.

For the effective discharge of this advisory role the central banks have built up research and statistical organisations through which they periodically publish reviews of the financial and economic scene. It is a matter for regret that central bank authorities in anglophone Africa have not realised how potent their powers are with particular regard to their power to give advice and formulate policies.

BANKER TO GOVERNMENT

Central banks of Commonwealth Africa usually act as fiscal agents and bankers to the government. The laws of these banks usually expressly provide that the central bank shall act in the capacity of fiscal agent or banker for the government or both. In some cases where these functions are not expressly stated the law often implicitly confers such powers on the bank by specifically authorising transactions or operations of the type which central banks usually carry out in their capacity as fiscal agent or banker for the government, e.g. the Kenya Central Bank Act provides:

> "the Bank shall be the fiscal agent for all of the Government's transactions with international financial institutions of which Kenya is a member or with which Kenya is associated."[36]

Traditionally three functions in the domestic sphere are recognised as 'fiscal agent' functions:

1) administrator of Federal, State governments and

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36 Section 32.

parastatals' accounts;

2) depository for government funds; and

3) manager of the public debt.

The Central Banks of Commonwealth Africa handle cash transactions on behalf not only of the central governments and the ministries, but also by arrangement of any other public authority. To this end they hold public deposits as, for instance, those deposits originally taken over by the Bank of Tanzania from the Standard Bank. The central banks likewise act as the government's official agents in transactions with international organisations such as the World Bank, the International Monetary Fund and the African Development Bank.

The role as administrator of certain government accounts is clearly marked out, for example, where the central bank is required to open a general cash account for the Treasurer of the country in which the liquid funds of the government shall be deposited. Transfers of funds from this account may be made only upon order of the Treasury.

The function of the central bank as depositor for government funds is expressly prescribed in a considerable number of central bank laws. In a unitary state the central bank may expressly be required to be the official depository of the government and its political subdivision and instrumentalities; in federal states, the central bank may be expected to act as depository both for the federal government and the constitutent units of the federation as in Nigeria. The Central Bank of Nigeria Act 1958 authorises the Bank to act as banker to any fund, institution or corporation of the Federal Government or of a State Government.[37] Under several laws the board of directors may authorise one or more commercial banks to accept government deposits[38] and central bank laws declare the central banks free from obligation to pay interest to the government deposits.[39]

Before the establishment of the Central Bank of Nigeria and other East African central banks, the financial transactions of these governments were handled by nominated commercial banks. In Nigeria it was the then Bank of British West Africa. The Commonwealth African central banks when they were each established became automatically bankers to their governments statutorily.

Sections 4 and 29 of Central Bank of Nigeria Act, sections 44 and 45 of the Kenya Central Bank Act, sections 37-40 of the Bank of Tanzania Act and sections 23-4 of the Bank of Zambia Act form the statutory basis for these functions. Section 4(1) of the Central Bank of Nigeria Act for example provides that

> "The principal objects of the Bank shall be to issue legal tender currency in Nigeria to maintain external reserves to safeguard the international value of that currency, to promote monetary stability and a sound financial structure in Nigeria and to act as banker and financial adviser to the Federal Government."

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37 Section 36 CBN Act 1958.

38 Section 32(3) CBN Act 1958.

39 Section 30(h) CBN Act 1958.

The central banks also provide banking services for state governments as well as the various quasi-government institutions. Another important banking service which the central banks are required by law to render to their central governments is the granting of 'ways and means' advances to meet temporary budgetary deficits.[40]

The central banks are not entitled to any remuneration for the conduct of the ordinary banking business of central governments, other than the advantage accruing to it from holding the government's cash balance free of interest.[41]

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40 See e.g. s.34(1) of CBN Act.

41 Section 32(3).

CHAPTER 6

DEVELOPMENTAL FUNCTIONS OF CENTRAL BANKS

We shall examine in this chapter how the Commonwealth African Central Banks (using Central Bank of Nigeria as a model) promote economic development through the operations of financial markets, the operations of government-sponsored financial institutions and the roles the central banks play in these activities. We shall also consider the effects which political expediency and social, economic and cultural factors have on the developmental functions of these banks in their efforts to enhance the growth of savings and investments.

The Financial Markets

In the complex economic and financial relations of the modern world, financial markets exist to facilitate the intermediation of funds between savers and investors in financial institutions.

A financial market can be defined as simply a place or mechanism for the exchange of financial assets. These financial assets are sold for or bought with money. In contrast with goods and services, financial assets are not consumed. They are simply claims which the holders can use at a future date to obtain consumable goods and services; but the holders must first of all dispose of them for money, before or at maturity of the financial assets, in order to finance consumable goods.[1]

A financial institution may be defined as any institution whose portfolio of assets consists largely of claims rather than inventory and plant and equipment. Financial institutions serve as intermediaries in the financial markets. They provide borrowers with loanable funds in exchange for bonds, promissory notes and other financial assets.

The price paid by the borrower for loanable funds is the interest rate which also represents income or inducement for the supplier of such funds. The rate of interest attracted by any loan is determined by several factors such as the duration of the loan, the risk of default and the size of the loan. The rate of interest is the rate charged to obtain present funds in exchange for future funds. It can be alternatively stated as the rate of discount on future funds required in order to obtain them now. Interest rate is usually expressed as an annual rate which may be simple or compound. In the case of compound interest rate, the interest payment is added to the principal amount and both continue to earn interest. The compounding is done at regular intervals which may be annually, quarterly, monthly or even continously.

Financial markets can be classified in many different ways. The classification schemes presented below are

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1 The Central Bank of Nigeria Bullion, v. 7, no. 3, July/September 1982, p. 22.

analytically useful but it should be noted that no fine dividing line can be drawn among them. One broad classification of the financial markets involves the separation of the markets into the new issues or primary markets and the secondary markets. When the borrowers offer new securities for subscription, the initial trading or exchange is carried out in the primary market. When outstanding securities are offered for sale by any of the holders and bought by other securities holders who want to replenish their stock of financial assets, a secondary market activity is said to have taken place. A well functioning secondary market gives liquidity to financial assets.

The commonest classification of financial markets draws a distinction between a money market and a capital market. The market for short-term loans and securities, that is those maturing in one year or less, is called the money market. The capital market deals in long-term debt instruments or equity shares. It should be emphasized that there is no fine dividing line between these two markets. When the financial market is efficient, funds flow freely and rapidly among its various markets and uses. We shall now consider these two broad classifications: the money market and the capital market.

The Money Market

The money market is a place or mechanism for obtaining short-term funds or exchanging financial assets representing short-term claims. Individuals as well as institutions lend and borrow money in the market. The primary sector of the market makes funds available while the secondary sector provides liquidity for the lenders and thus induces them to lend at lower rates than otherwise they would have done in the absence of secondary markets. Although not all money market assets have secondary markets, the secondary market sector plays a very important role. In the primary market, short-term funds are offered at varying rates of interest depending on the sources of funds, the credit standing of borrowers and the maturity of the loan. The rates at which short-term claims are traded in the secondary markets also vary and depend upon the demand for and the supply of short-term financial assets, assuming that government intervention in the market is negligible.

The secondary sector of the money market is largely an over-the-telephone market. In the USA the core of the market machinery consists of a selected number of commercial banks, which trade heavily in money market instruments; a number of government security dealers, some of whom are banks; a few commercial paper dealers and brokers who specialise in assisting borrowers to obtain funds and lenders to place funds; and the Federal Reserve Bank of New York, which intervenes in the market to implement monetary policy. Although the market has no specific location its ready accessibility by telephone makes it possible for lenders and borrowers in all parts of the country to lend and borrow funds promptly. The principal money market instruments, using America again as an example, include Treasury Bills, Federal Funds (i.e. a member-bank excess reserves on deposit at the Federal Reserve system), negotiable certificates of deposits (CDS), bankers acceptances, commercial paper and Eurodollars or Eurocurrency. Most of these instruments are liabilities of banks and the government and consequently have a very low risk of default.

The principal borrowers in the money market in the countries surveyed are the Treasury, Commercial banks, Securities Dealers and some non-bank financial institutions and business firms. The major lenders include commercial banks, corporations and other firms, non-bank financial institutions, state and local governments, foreign governments, central banks, private institutions and the governments.

In Chapter 5 we dealt with some of the instruments of the anglophone African money markets which were identified as Treasury Bills, call money funds, Treasury certificates and government stocks. It was noted that governments employ Treasury Bills and other instruments to borrow money from the public and the banking system for short periods of three months to two years; and further that, through the use of these instruments, central banks have pumped more money into circulation than is ideal for the systems.

Objectives of Setting Up of Money Markets

Before the political independence of Nigeria, Kenya, Zambia and Tanzania there were no money markets available to governments for use for the purpose of mopping up idle funds in the banking system and in the hands of the public and for mobilising and channeling them into more productive investment. Institutions and persons who had funds surplus to their needs had no market for them in these countries. Such surplus funds were therefore invested in London markets as the answer to the lack of effective machinery for mobilising resources. As the countries' independence drew near, it was only natural that nationalist governments should want to establish markets for mobilising short and long-term capital in these countries. However, in East Africa prior to the break-up of the East African Currency Board the Government of Tanganyika first obtained financing from the East African Currency Board in 1957 when the latter took up 20 million shillings' worth of medium and long-term public securities. The first subscription of Treasury Bills followed in 1960.

The development of the money market in Tanzania and other anglophone African countries was on an extremely small scale because of the scarce supply of Treasury Bills and commercial bills of exchange, and because there were hardly any instutitional investors or financial intermediaries (e.g. insurance companies, building societies and Post Office Savings Bank) whose business rested on the circulation of short-term credits instruments. Furthermore, inter-bank relations within the countries were infrequent and weak since the expatriate banks had few dealings with each other and preferred to turn instead to their London head offices.

One may thus see that one of the main reasons for the establishment of these African money markets was the Africanisation of the credit base. By creating a credit base the governments would be able to stem the outflow of surplus funds into investment outlets in the London money and capital markets. Another vital reason for setting up money markets has been the desire of nationalist governments to provide the machinery necessary for government short-term financing requirements. As practically all the governments indulge in deficit financing, the development of a money market provided the avenue for financing contracts and development projects.

Thirdly, setting up money markets was seen as one of the essential steps which any new nation should take to express nationhood. African countries consider the money markets as part of a financial and monetary system which "will enable them to establish the monetary autonomy which is part and parcel of the workings of an independent, modern state".[2]

Fourthly, in most banking systems the commercial banks are required to maintain a cash ratio which is the percentage of total deposits that is held in cash. In some countries the central banks' organic laws statutorily stipulate the ratio.[3] In Nigeria, no cash ratio was prescribed until 1976, following the Report of the Anti-

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2 F.S.Okotio-Eboh, The Six Budget Speeches, 1958-63, p. 48.

3 See s.47(2) Bank of Tanzania Act, 1965.

Inflation Task Force, when it was fixed at 5% and 12.5% depending on the size of deposits. The call money scheme, treasury bills, commercial bills and so on are used to support banks when they run short of cash. In other words, if banks are short of cash and then need cash to balance their books at the end of clearing or close of business, their first reaction is to draw on money at call and if need be to discount other bills. The same process is follwed when the liquidity ratio or the proportion of deposits held in cash or near cash assets against depositors' demands for cash payments is threatened. In order to provide these services to the commercial banks the mechanism of money market was established.

The fifth objective of establishing money markets in Africa is that money markets should perform for the countries all the usual functions which a money market performs in developed countries.

The following policy statement brings out very clearly the typical objectives of establishing a money market in an African setting:

> "The issue of Treasury Bills will enable the Government to even out seasonal variations in the normal flow of revenue. They should also enable us to release for capital expenditure some of the funds now deployed as working capital. Furthermore they will enable us to finance expenditure in anticipation of the receipt of loan monies. These are the immediate advantages of Government. For the country at large they provide one means of hastening the establishment of a local money market. Hitherto there has been no opportunity for the banks, commercial houses, and other institutions to employ within Nigeria funds which are temporarily surplus to their requirements. Because of the lack of facilities in Nigeria it has been necessary for them to

> remit such funds overseas for investment in London. The issue of Nigerian Treasury Bills should make these remittances unnecessary. Such surplus funds can henceforth be invested locally to the undoubted benefit of the Government and indeed of the whole country."[4]

The Money Market in Nigeria

In Chapter 5 we considered the instruments we identified to be in common use in African money markets as treasury bills, treasury certificates and development stocks. Each of these constitutes a market within the overall umbrella of the money market. The fifth instrument in use in money markets which we did not deal with is the commercial bill-of-exchange.

In Nigeria the most important commercial bills were the Marketing Board Bills. These originated with the inception of the Bill Market Scheme in 1962. The background to the scheme derived from the need for the Central Bank of Nigeria to be prepared to provide the seasonal expansion of credit required to fill any gap between credit which the banks could provide and the larger amount usually required to finance the major export crops. As a result of discussions with the banks, the marketing boards and the Minister of Finance, the Central Bank of Nigeria sponsored a bill market scheme late in 1961. The scheme came into effect at the onset of the 1962-3 season. It involved the Northern Nigeria Marketing Board and a consortium of banks and acceptance houses in an arrangement for financing the export of produce by means of inland bills of exchange which were eligible within defined limits

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4 Ibid. p. 48.

for refinancing or rediscounting at the Central Bank. Similar arrangements for financing the needs of other marketing boards were introduced as from the 1963-4 season for the Mid-Western Nigeria Marketing Board. Under the scheme the Marketing Board met its requirement for cash by drawing a 90-day commercial bill of exchange supported by sales contract on the Nigerian Produce Marketing Company Limited, the sole exporter for all the Markerting Boards. Upon acceptance by the company the Board then rediscounted the bills with the participating commercial banks with the Central Bank of Nigeria. Three separate consortia of banks and other financial institutions operated the scheme for the three marketing boards; and at the height of the scheme, nearly all the commercial banks were involved.

The scheme worked well up to 1964. Besides ensuring the provision of adequate credit for the marketing of the crops concerned, the bills so created provided a further important vehicle for short-term investment. Unfortunately the scheme began to crack at the beginning of the 1964-5 cocoa season when Nigeria and other members of the Cocoa Producers Alliance withdrew from the World Cocoa Market in an effort to get the cocoa produce manufacturers to increase the price of cocoa to at least N380 per ton. With this withdrawal, sales contracts which formed the basis on which bills were drawn under the finance scheme were no longer available. Consequently, the members of the consortium became unwilling to grant advances against, or discount bills drawn on, the security of the stocks of produce. This put the Western Nigeria

Marketing Board into serious financial difficulties. To relieve the pressure, the Central Bank of Nigeria granted direct advances to the Western Nigeria Marketing Board to enable it to maintain the purchase of cocoa from that which had been produced locally. The advances amounted to N20m plus a further N21m. In the 1965-6 season and again in 1966-7, the Central Bank of Nigeria gave direct advances to the Northern States Marketing Board, the banks having again refused to give loans to finance groundnuts purchased in the absence of a sales contract in the first instance; and in the second because of falling prices and lack of faith in the country's ability to transport crops to the ports in the face of the political crisis which complicated the transportation difficulties. In order to remove this uncertainty of finance in such a vital sector of the economy, the Central Bank of Nigeria took over the responsibility for Marketing Board crop finance. At the close of 1968 the Central Bank of Nigeria's credit to the various marketing boards in the country stood at N69.2m. And so ended the dream of a flourishing bill market in the country.[5]

The Bill Market Scheme brought the Central Bank of Nigeria into direct financing of the marketing boards thereby breaching the Central Bank's set guidelines which stipulated that the "Central Bank should not, indeed cannot, provide such essential short-term credit direct

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5 G.O. Nwankwo, The Nigeria Financial System 1980, p. 126. We are grateful to the authors for this part of our work.

to the borrower. It must at all times operate through the commercial banking system and on a sound banking basis as a lender of last resort."[6]

From the foregoing it would be seen that African countries' money markets developments were due to several factors. One was the need to Africanise the credit base, secondly the economic demand to repatriate investments in London and thirdly the government's financial requirements. Indeed this overriding concern, the determination of the Government to provide the necessary machinery not only to finance itself but also to moblise resources for development, explains the reason for the africanisation policy mentioned above. It also explains the introduction of the Call Money Scheme in 1962 and of the Treasury Certificate in 1968. This factor has had a particularly dominating influence in the growth and development of the money market, especially during the revenue deficit years from 1962 through the political crisis and the Civil War

An Appraisal of the Nigerian Money Market

From the foregoing analysis of the functions and objectives of an African money market it can be seen that the establishment of the markets has not significantly helped to encourage economic growth. The main reasons have been:

1 One of the functions of a money market is to

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6 Mobilisation Budget in The Six Budget Speeches, p. 125.

provide a channel for the injection of central bank cash into the banking system as a leverage for the operation of open market operations. With the abolition of the Bill Market scheme in Nigeria in 1968 and the stoppage of the issues of Treasury Bills and treasury certificates during the Nigerian oil boom of 1973-6 there were virtually no more instruments in the market. The position reverted almost to what the financial market was at the establishment of the Central Bank of Nigeria.

2 Similarly, in its functions as borrower and lender of short-term funds, a money market should ensure that no loose funds lie idle. It should therefore, when properly organised, promote an efficient allocation and utilisation of resources in the economy. In Nigeria the market is not discharging this function effectively. Idle funds lie about and various merchant banks have been known to refuse deposits with interest for lack of investment outlets.

3 It is also the function of a money market to provide a line of defence against cash shortages for banks. The practice with commercial banks is that when they realise that their balances at the central bank are about to fall below the minimum statutorily permitted they would draw on call money first and as the next line of defence would discount available bills for cash. As pointed

out earlier, the call money scheme has been discontinued and treasury bills have not been in sufficient supply. As excess idle funds are still lying side by side with extreme liquidity shortages among the Nigerian banks, it could be seen that the money market has not been a successful institution for economic growth in Nigeria. An efficient money market should be able to maintain an equilibrium between idle funds and extreme liquidity shortages.

One way in which the Central Bank of Nigeria has tried to make the most effective use of these idle resources and close the gap between illiquidity and idle funds is the directive to commercial banks to establish 200 new branches in rural areas. The savings from rural banks can be employed by banks to purchase money market instruments. Regrettably, for the reasons advanced at page 410, the rural banking programme has not been very successful in the total mobilisation of funds.

4 The City of London money market as well as the money markets in Tokyo, Hong Kong and New York, are well known for the specialised money market knowledge they have accumulated over the years. Because of the poor performance of the Nigerian money market, the acquisition of such knowledge is painful and elusive.

5 The creation of an indigenised credit base that a money market was meant to achieve as an

objective cannot materialise in an economy where there is a dearth of investment instruments.

6 There is always a preference for the banks to maintain a low cash revenue if they hold sufficient funds in treasury and other bills and in call money funds. Where these instruments are not available, banks tend to hold higher cash revenues than they would have employed in short-term bills. With the abolition of the call money scheme, the Nigerian money market does not any longer provide this service for the banks.

It may be recalled that the Nigerian money market flourished and grew rapidly during the 1960s. However, this rapid growth was short-lived because of the phenomenal buoyancy of government revenues following the big increase in oil prices since 1973. Indeed this was a very serious threat to the existence of the money market. As a result of the increase in the price of oil and the consequent increase in Federal Government revenues, the Government began announcing record budget, each year's budget far exceeding the preceding year's. The consequent highly increased government spending and expenditure pumped a great deal of money into the economy. On top of this came the Udoji salary awards early in 1975 with retrospective effect to 1 April 1974. Most of these funds found their way back into the banking system and thereby increased the excess liquidity. With such amounts of cash holdings, short-term investment instruments became inadequate to absorb the excess liquidity. On the other hand, the fact that the government itself had surplus funds meant that the Government had no need to increase Treasury Bills and Treasury Certificate issues. As a result of this shortage of money market instruments, the Central Bank of Nigeria abolished the Call Money Scheme in July 1974, as there were not enough Treasury Bills in which to invest the funds.

With the abolition of the Bill Market scheme in 1968 and of the Call Money Scheme, the money market was left with only two instruments - Treasury Bills and Treasury Certificates. In the 1975-6 Budget speech it was announced that:

> "Treasury Certificates will henceforth be retired as they mature. There is no further justification for the Federal Government to continue to hold these instruments which it does not actually need in view of its own favourable liquid position. It was also decided that the volume of Treasury Bills will remain unchanged for the time being. With the Treasury Certificate abolished and Treasury Bills stagnant, the Nigeria money market became virtually dead."

At page 117 it was stated that the Fisher Report on the Desirability and Practicability of establishing a Central Bank in Nigeria as an instrument for Promoting Economic Development of the country had rejected the idea of establishing a central bank for Nigeria because of the absence of a Nigerian money market and good access to the London money market. When the issue was debated in the Nigerian Parliament on a motion by the Hon. K.O. Mbadiwe on 21 March, 1952, the then Financial Secretary stated that the government was opposed to the idea for various reasons, one of which was the absence of a stock and money market.[7] If Mr. Fisher had an opportunity to report in 1984 on his subject he would probably hold the same view, as did the Financial Secretary, the Hon. E. Hunsworth CMG, that a central bank without a financial market is a non-starter. Dr. Mars[8] was of the opinion during the Second World War that a central bank in Nigeria could play a significant role in establishing the economy. He cautioned however that a central bank could only be effective if a market for government securities existed. Such a market takes a long time to develop. Newyln and Rowan in their study of 1953 rejected Mars' argument in favour of a central bank in Nigeria. In their comments they say, "The view that a central bank can (in Nigerian circumstances) promote economic stability by monetary management is, to put matters tersely, nothing but an illusion."[9] They argued strongly that a central bank in Nigeria would not be able to achieve economic stabilisation since the Nigerian economy was a dependent one where destabilising forces frequently originated abroad and where lack of developed financial

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7 House of Representatives Debates, First Session 1952, v 1 p. 377: "That as a practical means of consolidating the financial resources (including regulation of Gold and Currency) of this country for the purpose of rapid economic development in all its phases, and as well as strengthening the existing African Banks, that the government should initiate, organise and establish a Central Bank of the Nation within two years from the passage of this motion."

8 For Mars' view see C.V. Brown, The Nigerian Banking System, 1966, p. 128.

9 Ibid, p. 128.

institutions made central bank control ineffective. They argued further that private investment in Nigeria was low and that the expatriate banks in Nigeria would not depend on the Central Bank as the lender of last resort since they had access to the London money market. They therefore advocated the establishment of an economic development-oriented central bank in Nigeria, i.e. without a money market.

All financial, economic and banking experts appeared from the above analysis to agree on one thing, viz: that it is an illusion to hold that a central bank can promote economic stability by monetary management without regard to a well-developed money market. It is our view therefore that the time was not ripe for the establishment of a Central Bank of Nigeria when it was set up, and that it would have been adequate if the central bank in Nigeria had been established with limited powers which would help a smooth economic development and an early establishment of a money market.[10] J.K. Onoh is therefore, it is submitted, correct when he said:

> "The money market, by nature, is an indicator of the degree of monetary stability in an economy, and contributes significantly to the achievement of such stability. The Nigerian money market therefore has still a major role to play in this direction."[11]

As the Governor of the Central Bank of Nigeria put it:

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10 See Report of the Mission from the International Bank Of Reconstruction and Development (IBRD), 1954.

11 J.K. Onoh, The Foundations of Nigeria's Financial Infrastructure, p. 134.

> "The importance of an active and efficient securities market in ameliorating a country's financial strain is worth emphasising and it should be a matter of great concern to us that so far the role played by the capital market in reducing Nigeria's financial strain has not been very impressive. It is my fervent hope that by the end of this seminar we would have identified the salient features of the market, pinpointed major areas of bottlenecks or imperfections and suggested feasible methods to make the capital market an effective boost to economic development."[12]

Legislation should be enacted to control the amount of Treasury Bills on issue weekly in Nigeria. 150% of the estimated resources of the Federal Government and the State governments is monstrous and inflationary and counter productive. A level of 25% would seem to be adequate.

The Capital Market

The capital market is part of the financial market. It is concerned with long-term investments. While the money market provides funds for those who need to borrow for short-term purposes, capital market is primarily for those who are short of funds but want to borrow for the long-term. In a wide sense capital market embraces all services that are rendered by institutions and the facilities that are provided for mobilising long-term funds and for channelling such funds to ultimate users. A capital market may therefore be defined as a financial market in which lenders provide long-term funds in exchange for financial assets issued by borrowers traded by holders of

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12 The CBN Bulletin Vol. 8, No. 1, Jan/March 1983, p. 2.

outstanding negotiable debt instruments. The securities offered in the capital market may be classified into debt securities and equity (ownership) shares or the market may be analysed in terms of its primary and secondary segments. Two distinct types of capital markets exist in Nigeria: one segment of the capital market deals with new issues of long-term securities in which titles to productive assets (e.g. stocks and shares) are sold and bought. The other segment of the capital market deals with old issues of securities in which existing securities are re-sold.

Objectives for the Establishment of Capital Markets in Anglophone Africa

The financial markets in Nigeria as well as in other Commonwealth African countries are of recent origin. There are both political and economic reasons for this. As politically independent nations, the countries concerned were barely over two decades old. Although commercial banking activity started in these countries in 1892, in the case of Nigeria, this was dominated by a few expatriate banks whose main preoccupation was the finance of external trade which was also monopolistically undertaken by expatriate trading companies. The colonial governments were never seriously concerned with the pursuit of accelerated economic development which would have necessitated the active mobilisation of financial resources, among other productive inputs. Thus the active development of the financial system beyond commercial banking and the foundation of organised and modern financial markets had to wait for the nationalist governments of post-independent Nigeria and those countries.

By 1960 12 commercial banks were operating in Nigeria with 160 offices and branches established to spread banking services beyond the capital cities. Other financial institutions including the central bank were established many decades after commercial banking activity had gained a foothold in the economy. One purpose for which the Central Bank of Nigeria (CBN) was established in 1959 was the fostering of the development of an efficient financial system in all its ramifications. Indeed the Central Bank of Nigeria actively pursued the development of the financial markets in order to facilitate not only the regulation of the economy through orthodox monetary and fiscal policies but also the mobilisation of financial capital to implement the national development plan of the Federal Republic of Nigeria. In what follows we shall analyse the evolution and growth of the capital markets, the attendant problems and the prospects for further development of the markets.

In addition to the reasons noted at page 344 for the establishment of money markets in Africa we can identify other main objectives which capital markets are expected to serve. They provide facilities and opportunities for the quotation and marketing of stocks and shares to raise fresh capital in the market. The markets provide opportunities for co-operation of indigenous and foreign entrepreneurs to pull resources together for mutual advantage. Another reason for establishing capital markets is to enable the authorities to mobilise long-term capital for the economic development of the country. Apart from providing local opportunity for borrowing and lending for long-term purposes through their operations, the markets introduce a code of conduct for operators in the markets, thus checking abuses in the system.

Composition of the Capital Market

The major participants in the Nigerian Capital Market are:

the Nigerian Stock Exchange

the Specialised or development banks

the Securities and Exchange Commission (SEC)

The major sources[13] of funds to the primary segment of the market are the Central Bank of Nigeria, the development banks, the Mortgage Bank, non-bank financial institutions and individuals. The minor sources of funds include commercial and merchant banks, state and local governments, individuals, etc. The development banks include the Nigerian Industrial Development Bank (NIDB), the Nigerian Bank for Commerce and Industry (NBCI) and the Federal Mortgage Bank of Nigeria (FMBN) which specialises in real estate finance. These institutions supply largely medium and long-term financial capital and are designed to concentrate their lending and investment operations in different sectors of the economy ranging from agricultre, industry to construction.

In Kenya and Zambia the capital markets are similarly

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13 See also Chapter 9.

composed. However in Chapter 5[14] it was remarked that in line with the economic philosophy of socialist states, Tanzania did not develop her capital market. It is not surprising therefore that there is no stock exchange in Tanzania. It is also of common knowledge that in almost all socialist countries nationalisation of the banking system has been followed quickly by the creation of a single large bank combining the functions of issuing bank, commercial and control of plan implementation.

The Stock Exchange

A stock exchange is an organised auction market for the purchase and sale of securities. Many of the exchanges buy and sell on their customers' orders and charge a commission. Not all stocks are traded on a stock exchange. Stock exchanges will list or admit a stock to trading only after the company meets certain requirements. These often include a minimum size, publication of financial information, assurance of adequate facilities for transferring stock certificates, the guaranteeing of certain rights to stockholders, and so on.

Once a company's stock is outstanding its price will fluctuate in accordance with the changes in expectations about future earnings of the firm. Unlike a bond, a share has neither a fixed maturity value nor a fixed interest payment. The earnings per share and the price per share will therefore tend to move up and down together.

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14 Above, p. 315.

In Nigeria the Stock Exchange was established by the Lagos Stock Exchange Act, 1961, following the Report of the Committee Appointed to advise on Ways and Means of Fostering a Share Market in Nigeria. The Committee was appointed in 1958 and headed by Professor R.H. Barback. The Report was published in 1959 and among other things recommended:

(a) the creation of facilities for dealing in shares;

(b) the establishment of rules regulating transfers;

(c) the reduction or elimination of stamp duties on transfers and the elimination of tax deductions at source, including measures to encourage savings and issue of securities of Government by the Government and other organisations.

The Functions of Stock Exchange

In Anglophone Africa stock exchanges are in general expected to perform very vital functions in the countries' economies. They are expected to provide a central meeting place for members to buy and sell existing stocks and shares and for granting quotations to new ones and to provide opportunities for raising new and fresh capital.

In addition stock exchanges provide the machinery for mobilising private and public savings and making them available for productive investment through stocks and shares. By providing the market they facilitate the purchase and sale of securities, thereby helping to reduce the risk of illiquidity which some companies run. The exchanges provide opportunity for attracting foreign capital for the countries' development. In Nigeria for example the exchange provides channels for the Government's implementation of the Indigenisation Decree. The indigenisation programme presented opportunities to Nigerians to buy foreign businesses which implied heavy capital expenditure. In addition to these functions a stock exchange is established to perform the following functions:

(a) to provide appropriate machinery to facilitate further offerings of stocks and shares to the general public;

(b) to promote increasing participation by the public in the private sector of the economy;

(c) to encourage the investment of savings as soon as it is clear that stocks and shares are readily available.

Dealings in the Stock Exchange

In Commonwealth Africa, stock exchanges have the power to make investments and in that regard can on behalf of the Exchange appoint a director or other directors for the discharge of the affairs of the Exchange; and to inform, discipline, hear disputes or complaints between members and they may adjudicate if they consider it fit to do so in disputes between members and non-members. The exchange is therefore usually vested with the powers of governing and administering the exchange. In that regard they may approve quotations of securities on the exchange after the companies have complied fully with the regulations and requirements of the securities and exchange applicable law. Dealing in the Stock Exchange takes three different forms:

Direct Issue or Offer for Subscriptions

One method of raising funds is by direct issue of a prospectus inviting the public to subscribe to shares. The money raised goes directly to the company. If this method is adopted the issuing company has no say as to who should subscribe to the shares. When allocations are made, those who have been allocated shares are issued with shares corresponding to the amounts and type that they have applied for or have been allocated.

The second method of raising funds in the exchange is in the nature of an offer of shares for sale by existing shareholders. It differs from direct issue in that the proceeds do not go to the company but to the selling shareholders. Again, unlike direct issues, offers do not result in new issues of securities. This method is in a sense technically a transfer of ownership of shares from exisiting shareholders to new holders.

The third method of seeking to raise funds in the exchange is by making available to brokers a block of shares or stocks of a company. As soon as the block is made available to the public the company is admitted to the official list.

All dealings on the exchange are made through brokers and jobbers who buy and sell securities and earn their living through profits made on such investments, such gains being called 'the jobbers' turn'. In Africa the same people are jobbers and brokers, unlike the position at the London Stock Exchange where all buying and selling orders received from clients are negotiated with the jobbers by the brokers; a jobber is not allowed to deal direct with the public except through brokers who also must pass all buying and selling orders through jobbers. A member cannot operate both as a broker and jobber at the same time.

Stock Exchange in East Africa

The institution of stock exchange in Anglophone East Africa was established by the British colonialists and modelled upon British tradition. After many years of independence the stock exchanges are in a precarious position. One factor responsible for this is the absence of clientele which was drawn almost entirely from European and Asian communities which never exceeded 3% of the total population. Another factor resulting in minimal African participation in most financial institutions until after independence was that some enactments prevented Africans from investing or taking part in financial institutions.[15] As independence approached expatriate personnel became uneasy and one company chairman remarked:

> "The full measure of the Government disastrous policy in Africa is slowly but surely whipping the winds into storms of hate, disaster and bloodshed which, with the

15 The Control of the Business of Life Assurance with Africans Ordinance 1945 prevented Africans from taking out life assurance. Credit to Natives (Restriction) Ordinance, 1931 in Tanganyika required Africans to obtain written permission from local administrators before entering into debt obligations with non-Africans. Kenya implemented a similar ordinance in 1948.

> passage of a very short time, will make Africa virtually impossible for prudent European investment. The losses that will accrue to British interests alone will in my opinion be calculated in millions. The wisdom of our decision to withdraw from Africa, which needs both courage and foresight, is clear to us all as every day goes by."[16]

The grant of Independence to the three British territories in East Africa had therefore a disastrous effect upon most monetary institutions. The commercial banks suffered a capital outflow of over £15 million; the building society movement completely collapsed for similar but more varied reasons, the Post Office Savings Bank and even hire purchase companies experienced losses of deposits as expatriates took their money and often themselves back to Europe.[17]

Stock Exchange in Kenya

In Kenya the Nairobi Stock Exchange was formally incorporated by six brokers in July 1954. In the early stages the Government showed great interest by offering to establish a support fund to encourage greater dealing in government securities and to finance a stock exchange building although the suggestion was later rejected by government. Government interest gradually waned and the exchange was left entirely in the hands of independent

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16 Director's Report, Lombard Bank Ltd., Chairman's Address for year ending 1961.

17 Private Enterprises and the East African Company, 1969, by P.A. Thomas, p. 136.

private brokers unsupervised and uncontrolled by legislation. The exchange continued to rely for growth on the wealthier Asians and Africans, insurance companies, National Provident Funds and the Post Office Savings Banks.

Failure to develop can be attributed to two other main factors. The first was that the industrial sector of the economy was developed mainly on foreign investment and local Asian and European private capital. There was also a highly developed European-owned farming industry. Naturally, the benefits of development were disproportionately reaped by the non-African communities. Much ill-will had been generated among the African and non-African communities and particularly because after independence more than 1 million acres of previously European-owned land was transferred to African smallholders. This radically changed the structure of Kenya agriculture and the system of investment in capital markets and the exchange. Small-scale purchases of shares on the stock exchange by smallholders cannot give any hope for the development of the exchange as the best that can be expected from mobilisation of their resources will only be of marginal significance.

Secondly, the initial success of Kenya in industrialisation and agriculture rested upon the belief among potential foreign investors in the stability of the government and the environment. Generally the more conservative the political and social climate the better for foreign capital investment. On the other hand, when governments pursue radical policies there is a decline in foreign commitment to the development of the host country. After Independence there were pressures on the private sector to Africanise with specific attention directed towards the displacement of Asian traders. The result was the flight of capital which Kenya needed very much for economic development.

It can be seen therefore that the capital market or the stock exchange in Kenya is in the hands of expatriates and is not well developed. The table below shows vividly that new issues have been negligible between 1952 and 1966. The Stock Exchange in Kenya has therefore not played any significant role in mobilising funds for economic development in Kenya. P.A. Thomas confirms this:

> "That the exchange is the only financial institution of any sophistication which is not governed by special legislation or controls is undoubtedly a reflection of its relative insignificance in the field of capital mobilisation and of the confinement of its activities until recently to a small well-educated and wealthy minority of the population which, many would say, had little need for such protection."[18]

He went further to conclude that:

> "As soon as any positive steps are taken to increase African participation in industry either on a skilled manpower or a capital ownership basis, demand on the Stock Exchange will fall rapidly and the importance of this institution in the mobilisation of new capital will once again become zero. The history of the exchange has shown that such a narrow market reacts violently to internal political factors. The next time it loses

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18 <u>Private Enterprise and the East African Company</u>, op. cit, p. 135.

> its principal clientele there will be no immediate substitute group ready to take over. The consolation for the Kenya Government would be that if the exchange collapsed because of Government policy, there would be no great loss since the exchange never has been successful in performing what should have been its most important function, that of raising new investment capital."[19]

The table below shows the stunted growth of the Nairobi Exchange from 1952-66.

Table 15 Nairobi Stock Exchange

	No. of Quoted Companies	Value of Issued Capital F.m.
1952	43	11.8
1955	50	18.3
1958	58	33.0
1964	58	33.0
1965	61	33.4
1966	64	41.4

The Stock Exchange in Zambia

On 19 April, 1958 the Government of Zambia announced that a Stock Exchange was to be established. It also announced plans to take a majority shareholding in 28 large privately-owned companies, most of them foreign. The plan included an arrangement under which all Zambian firms would have to go public as soon as they attained a certain size and thereafter such companies would have to offer their shares on the stock exchange. Subsequently when an

19 *Ibid*, p. 155.

expansion ceiling was reached the companies would be nationalised. The system would appear to be counter-productive. It is difficult to see how a stock exchange established to encourage private investment can succeed with a threat of nationalisation. The curious system of encouraging private sector companies to grow only to be nationalised has discouraged growth of the capital market in Zambia.

Stock Exchange in Tanzania

In February 1967 Tanzania nationalised all the major financial, manufacturing and trading concerns. As noted in Chapter 5[20] capital markets do not exist in a socialist state because individuals cannot own a debenture which is a financial claim on enterprise. Accordingly a stock exchange in Tanzania is another instrument of oppression of the masses by the capitalist elite.

However as Dr. J. Loxley remarked[21]

> "Even then, a scheme is under consideration whereby small investors can purchase shares in a finance company, the assets of which are National Development Corporation shares. So far however the only purchasers of the shares have been financial institutions and this is a very far cry from establishing a stock exchange. In the Tanzania situation, with major emphasis on socialist expansion of the public sector, an exchange is neither needed or desired."

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20 Above, p. 319.

21 Private Enterprise and the East African Company, op. cit, pp. 152-3.

The Lagos Stock Exchange

As stated above, the Lagos Stock Exchange was incorporated under the Companies Ordinance as an association limited by guarantee in 1960 and reconstituted into the Nigerian Stock Exchange in 1977. It now operates two branches at Kaduna and Port Harcourt. Activities in the market cover both the issue of primary securities and trading in secondary securities belonging to the government as well as the private sector.

The first Nigerian Government Registered Stock 1956/61 amounting to ₦600,000 at 3½% discount was issued by the Treasury under the colonial government in 1946. This was followed in 1959 when the Central Bank of Nigeria at its establishment took over responsibility for the floating of government debt instruments and accordingly issued the Federation of Nigeria First Development Loan of ₦4 million. This was a very successful operation resulting in over-subscription and hence the allocation of ₦4.7 million which exceeded initial issue by ₦700,000. The Second Development Stock was issued in 1961 with maturity spread of 6-25 years and thereafter the issue of stocks became an annual event. The initial secondary market in Development Stocks was provided by the Central Bank of Nigeria until in 1961 when the Lagos Stock Exchange took over from the Central Bank of Nigeria all secondary market transactions in government stocks.

In Nigeria as well as East African countries two types of securities are dealt with on the stock exchange. One is the Government Loan Stocks and the other is the industrial securities. Foreign securities are not quoted on the exchange. The attached tables show the number of transactions at the Lagos Stock Exchange and the value of the transactions.

In terms of the number of transactions each year from 1961-77 it can be seen that the rise has not been phenomenal. Table 16 illustrates the yearly growth of the Nigerian Stock Exchange since inception. Between 1961 and 1977 listed companies on the Exchange increased from 3 to 13, while between 1971 and 1982 the number increased from 13 to 93. At the end of 1982 168 securities were listed on the Exchange, composed of 92 equities, 16 industrial loans and 57 government securities with a total market capitalisation of ₦4.03 billion. The Central Bank of Nigeria is the underwriter and registrar of the Federal Government Stocks which accounted for 75.7% of the total market capitalisation as at end of 1982. As the underwriter, initial take-up of the Central Bank of Nigeria for the past five years has been between 90.6% and 98.8% except in 1982 when it took 72.5% owing to the upward revision of interest rates (details are set out in Table 18). It is necessary to point out that of the 93 listed companies in the Exchange only 5 are 100% indigenised one of which is a wholly-owned Nigerian-promoted enterprise. This strange feature should be eliminated in order to widen the indigenous credit base of the economy.

The influence of the government - and its pre-eminent financial agency the Central Bank of Nigeria - over the financial markets in Nigeria is far-reaching and pervasive.

Table 16

Growth of Securities on the Nigerian Stock Exchange Since 1961

Year	Number of Government Securities	Equities	Preference Shares and Debentures	Total
1961	5	3	-	8
1962	3	1	3	7
1963	4	1	1	6
1964	3	-	-	3
1965	3	-	1	4
1966	3	1	1	5
1967	4	-	-	4
1968	4	-	-	4
1969	3	1	-	4
1970	4	1	2	7
1971	3	5	-	8
1972	3	6	3	12
1973	6	4	-	10
1974	3	10	-	13
1975	3	-	1	4
1976	5	1	-	6
1977	3	-	4	7
1978	4	8	3	15
1979	5	39	1	45
1980	4	10	2	16
1981	4	2	2	8
1982	4	-	7	11
Total	83	93	31	207
%	40.1	44.9	15.0	100

Note: Government Securities, Preference Shares and Debentures which may have specified existence would have part of their numbers redeemed within the years.

Source: Central Bank of Nigeria, Nigerian Stock Exchange and Nigerian Securities and Exchange Commission

Table 17

Value of Transactions at Lagos Stock Exchange

Year	Government (1000₦)	%	Industrial (1000₦)	%	Total (1000₦)
1961	1420.8	93.4	99.6	6.6	1520.4
1962	4231.8	92.8	330.6	7.2	4562.4
1963	9736.6	93.8	646.2	6.2	10382.8
1964	11819.0	84.5	2173.2	15.5	13992.2
1965	14389.8	90.7	1469.6	9.3	15859.4
1966	15226.2	92.9	1169.4	7.1	16395.6
1967	12103.4	96.9	300.0	3.1	12493.4
1968	12582.8	98.4	210.8	1.6	12793.6
1969	16190.0	98.9	180.0	1.1	16570.0
1970	16396.0	98.6	238.0	1.4	16634.0
1971	16342.3	90.3	1753.8	9.7	18096.1
1972	26190.0	96.4	982.6	3.6	27172.6
1973	91858.0	99.4	527.8	0.6	92385.8
1974	48374.2	97.4	1298.5	2.6	49672.7
1975	62830.0	98.6	903.0	1.4	63733.0
1976	111282.0	99.5	560.0	0.5	111842.0
1977	178783.0	99.3	1223.0	0.7	180006.0

Source: CBN, Lagos

Table 18(a)

Structure of Interest Rates 1970-1980

Year	Minimum Rediscount Rate	Treasury Bill Rate	Time Deposits for 6 months	Time Deposits for over 12 months	Savings
1970	$4\frac{1}{2}$	4	$4\frac{1}{2}$	$3\frac{1}{2}$	5
1971	$4\frac{1}{2}$	4	$3\frac{1}{2}$	4	3
1972	$4\frac{1}{2}$	4	$3\frac{1}{2}$	4	3
1973	$4\frac{1}{2}$	4	$3\frac{1}{2}$	4	3
1974	$4\frac{1}{2}$	4	$3\frac{1}{2}$	4	3
1975	$3\frac{1}{2}$	$2\frac{1}{2}$	3	4	4
1976	$3\frac{1}{2}$	$2\frac{1}{2}$	$3\frac{1}{2}$	$3\frac{1}{2}$	4
1977	4	3	3	2	4
1978	5	4	$5\frac{1}{4}$	$5\frac{1}{2}$	4
1979	5	4	$5\frac{3}{4}$	$5\frac{1}{2}$	5
1980	6	5	$6\frac{3}{4}$	$6\frac{1}{2}$	6

Source: Central Bank of Nigerian Annual Reports

Table 18(b)

Interest Rate Structure in Nigeria

	1978	1979	1980	1981	1982
1 Minimum Rediscount Rate	5	5	6	6	8
2 Treasury Bill Issue Rate	4	4	5	5	7
3 Treasury Certificate (1 year)	$4\frac{1}{2}$	$4\frac{1}{2}$	$5\frac{1}{2}$	$5\frac{1}{2}$	$7\frac{1}{2}$
4 Treasury Certificate (2 years)	$5\frac{5}{8}$	$4\frac{5}{8}$	6	6	8
5 Federal Government Dev. Stock	6-7	6-7	7-8	7-8	$9-9\frac{3}{4}$
4-8 years maturity	6	6	7	7	9
9-14 years maturity	$6\frac{1}{2}$	$6\frac{1}{2}$	$7\frac{1}{2}$	$7\frac{1}{2}$	$9\frac{1}{4}$
15-20 years maturity	$6\frac{3}{4}$	$6\frac{3}{4}$	$7\frac{3}{4}$	$7\frac{3}{4}$	$9\frac{1}{2}$
21-25 years maturity	7	7	8	8	$9\frac{3}{4}$
Deposit Rates					
Savings Deposits	4	5	6	6	$7\frac{1}{2}$
Time Deposits with 7 days notice	$4\frac{1}{2}$	$4\frac{1}{2}$	5	6	$6\frac{1}{2}$
" " for 1 month	$4\frac{1}{2}$	$4\frac{1}{2}$	$5\frac{1}{2}$	$5\frac{1}{2}$	7
" " for 1-3 months	$4\frac{3}{4}$	$4\frac{3}{4}$	$5\frac{1}{2}$	$5\frac{1}{2}$	$7\frac{1}{4}$
" " for 3-6 months	5	5	6	6	$7\frac{1}{2}$
" " for over 12 months	$5\frac{1}{2}$	$5\frac{1}{2}$	$6\frac{1}{2}$	$6\frac{1}{2}$	8
Lending Rates					
Minimum	7	7	$7\frac{1}{2}$	$7\frac{1}{2}$	$9\frac{1}{2}$
Maximum	11	11	$11\frac{1}{2}$	$11\frac{1}{2}$	13
1 Preferred Sectors Maximum	9	9	$9\frac{1}{2}$	$9\frac{1}{2}$	$11\frac{1}{2}$
2 Less Preferred Sectors Maximum	8-12	8-11	$11\frac{1}{2}$	$11\frac{1}{2}$	13
3 Agricultural Credit Guarantee Scheme	4-6	4-6	5-6	5-6	6-7
4 Residential housing costing not more than (₦100,000.00)	6	6	6	6	7
5 Agricultural Production		6	6	6	7

1978 Revision upwards for most instruments
1979 Same as 1978
1980 Revision upwards
1981 Same as 1980
1982 Revision upwards by 2 percentage point in April but slight reduction by 1 percentage point from 1st

The Central Bank of Nigeria's control and regulation of the money market determines to a large extent the volume and cost of credit in the market. Interest rates are administered and insulated from the forces of supply and demand in the credit markets and thereby kept relatively low.

Of particular importance is the increasing role played by the government in influencing the volume and prices of private securities in the capital market. This is associated largely with two developments - an institutional and a legislative development. The institutional development concerns the establishment of the Capital Issues Commission (CIC) in 1973, which was converted into the Nigerian Securities and Exchange Commission (NSEC) in April 1978. The CIC was itself reconstituted from an Ad hoc Committee (Capital Issues Committee) established in 1962. The CIC was empowered to assume responsibility for the following:

(a) determining the price at which shares or debentures of a company are to be sold to the public either through offer for sale or by direct issue;

(b) such other matters incidental or supplementary to the foregoing as the Commission may at its discretion determine.

The second development is the indigenisation of scheduled enterprises and shares formerly owned by expatriate businessmen by enacting the Nigerian Enterprises Promotion Act in 1972 and expanding its coverage in 1977. To underline the interrelationship of these developments it should be noted that the CIC (now NSEC) has and will continue to play the major role in determining the price of shares and in controlling the securities market as noted below.

The Nigerian Securities and Exchange Commission

Historically the Nigerian Securities and Exchange Commission is the apical regulatory organ of the capital market. It is the institution that fixes the price at which issues can be made and determines the timing and volume of such issues. The Commission had its origin in the 'ad hoc' Capital Issues Committee with no legal backing which was set up in July 1962 as an integral arm of the Central Bank of Nigeria. The Commission was replaced in 1973 by the Capital Issues Commission, which again was a department within the Central Bank. It was set up to help accelerate the indigenisation of the economy and had powers:

(a) to determine the price at which shares and debentures of public companies were to be sold

(b) the timing and amount of sale.

Emphasising the role of the Capital Issues Commission, the Chairman of the Commission said:[22]

> "In a sense the Capital Issues Commission Decree was designed in 1972 to moderate the more extreme forms of capitalism, particularly in circumstances in which the level of awareness of the investing public is on the average rather than modest. Large business organisations are relatively new

22 S.O. Asabia, Share Valuation: The Nigerian Experience. Paper at the Symposium of the Nigerian Economic Society, 9 November 1974. Mr. Asabia was at the time Deputy Governor of the CBN and Chairman of CIC.

> to Nigeria and the stock market is barely fourteen years old. Indeed the structure of business organisations and the pattern of share ownership have until recently been such that Nigerian individuals and to some extent Nigerian institutions were effectively excluded from participation. It has been one of the main objects of public policy in recent years to reverse this trend."

In a speech by the Federal Commissioner for Finance at the inaugural meeting of the Capital Issues Commission in May 1973 he said:

> "While accepting the universal principle that market forces should be given free play in the determination of prices, we must by the same token give due weight to the fact that as of now there are relatively few stocks on issue. Furthermore once stocks are purchased they hardly ever change hands ... we must bear in mind that some of the purchasers of these debentures and shares will be relatively unsophisticated. It is important therefore that their interests are protected. Apart from the direct interests of individual investors, if the market operates such that the public loses confidence in it, the market would collapse, leading to a chain of reactions in the financial system which would adversely affect our economic development."

The question of timing of issues is equally important because, given the relatively low level of mobilisable savings, if issuers of debentures and shares are left to approach the market in a disorderly manner, it may well turn out that the market would be flooded by more issues than it can sustain. Thus it is necessary that various issues be timed to go on the market at periods when it is judged that they will be most successful. This Commission, the Nigerian Securities and Exchange Commission (NSEC) was replaced in 1978 by the Securities and Exchange Commission which we will now examine.

The Securities and Exchange Commission

Following the report of the Financial System Review Committee[23] and its subsequent acceptance by government the Securities and Exchange Commission Act of 27 September 1979 was enacted with retrospective effect to 1 April 1978. This Act established the Securities and Exchange Commission as an autonomous body which was charged with the following functions:

1. to register all securities proposed to be offered to, or for subscription by the public or to be offered privately with the intention that they would be held ultimately other than by those to whom the offers were made;
2. to maintain surveillance over the securities market so as to forestall or take steps or reprimand or otherwise punish, any persons responsible for the creation or emergence of a false market in securities;
3. to register stock exchanges and securities dealers and the agents of the latter with a view to maintaining proper standards of conduct and professionalism in the securities business;
4. to act as the regulatory 'apex' organisation for the nation's stock exchanges to which it would be at liberty to delegate a wide range of powers

23 The Report of the committee on the Nigerian Financial System, 1976, pp. 26-7.

comparable with those delegated to, and the prerogatives conferred on, any recognised stock exchange under the provisions of the Companies Decree, 1968;

5. to approve share allotments prior to publication and ensure that the spread of the securities is fair and equitable;

6. to ensure that small investors are given the maximum allotment of shares and that the allotment should not vitiate the active interest of some equity holders in the management of the enterprise whose shares are being issued.

Appraisal of the Nigerian Securities Market

Institutionally the Nigerian financial markets have made some progress over a relatively short period of two decades since the political independence of the country. There has been some measure of success in the attempt to diversify the assets in the money market segment but government securities remain predominant. There is therefore a need for the private sector to take up the challenge and develop attractive short-term assets to redress the present imbalance between government and private securities in the market. The Nigerian capital market owes its existence largely to official initiatives and support. The private loan market is dominated by official capital supplied by government owned development and mortage institutions while the market in government development stocks leans also heavily on the CBN as the major lender. There is also a need for the private sector to increase its participation in the market. The commercial as well as the merchant banks can do much more to support the market, by investment.

An examination of the Nigeria Securities market shows some disconcerting facts. After over two decades of existence of the Nigerian Stock Exchange the Nigeria Capital Market had only six merchant banks for corporate finance activites, underwriting and investing banking, 65 insurance companies and 10 stockbroking firms, 19 commercial banks and specialised banks were overseeing savings, mortgages, agricultural, commercial and industrial devleopment. The following problems have been identified for the poor performance of the markets.

The first is the interest rate structure which was static until 1978 when it was marginally reviewed upwards. Fixed interest-bearing securities are relatively unattractive to private and non-institutional investors. This explains why it is mainly the Central Bank of Nigeria that absorbs most of the unsubscribed low interest government instruments. Table 18 shows at a glance the interest structure.

Another factor that militates against the securities market is the inadequacy of financial intermediation. The level is still very low. There are only 21 commercial banks with 1132 branches to over 94 million population; that is, one commercial bank to about 2.8 million people, or one bank branch to about 83,000 people. Evidently the country is under-banked hence the inadequate banking services provided for customers especially the small savers. As in many sectors of the economy, banking is a sellers market where customers have to accept a 'take-it-or-leave-it' form of service.

The Nigerian market has not the advantage of an efficient telecommunications system that could facilitate the dissemination of market information. The delay in delivery service by the Ministry of Communications and the often non-delivery of mail and share certificates discourages would-be investors. The imperfections of the market are diverse and many and serve only to isolate would-be investors or issues from the market.

Suggested Improvements

To make the securities in the market attractive to investors, it is suggested that the interest rate structure be reviewed upwards.

The problem of paucity of shares in the market will dwindle into insignificance if investment trust institutions are established. The level of financial intermediation should be increased to add a new dimension to the market. The public would then have the opportunity to invest or disinvest at will. Government majority ownership of the equity and capital market militates against the objective of reducing government control of the economy or of improving capital formation.

The infrastructure inadequacies that stand as a cog in the wheel of progress of the capital market should be removed. Postal and telecommunications facilities should be improved to enable the market operators to have a near perfect market.

The Nigerian Companies Act of 1968 needs to be amended in line with what obtains in Britain under the 1980 Companies Act. This could take one of two forms: the amendment would stipulate either that a company which has a specific capital base or a specified turnover or a specified net asset could automatically become public. Once it becomes public it follows that the way to stock exchange is open and such companies would fall within the purview of the Commission. At the moment the Commission has power over all public companies whether quoted or not, and also all private companies which have alien interest. The Commission does not monitor the activities of 100% Nigerian-owned private companies.

Some Nigerian fiscal measures have tended to discourage investments in the financial market. For instance one investor can reap from the proceeds of the premium on his life assurance policies; he can also receive interest on premium government bonds, but he cannot receive the full benefit from the dividends on his shares. Under current regulations only 30% of the dividends can be paid to investors while 70% is ploughed back into the business.

There are similar bodies in other parts of the world, created by their governments. The Commission Bancaire performs this function in Belgium as distinct from the Comite de la Cote of the stock exchange. In some other countries the Minister of Finance has the final word of approval or veto: in Italy, for example, the Minister of Finance and of Economics and the Governor of the Bank of Italy have to give their approval prior to subsequent approval for listing by the chambers of commerce of the town where the stock exchange is located. In France, a mixed committee of the Stock Exchange and of the government vets applications, but the Minister of Finance has the final word. In Nigeria the decree establishing the Commission gives the Minister/Commissioner of Finance the final word, since aggrieved companies can appeal to him.

There should be a legal framework to correct the inadequacies and to promote the realisation of the following objectives:

(a) mobilisation of savings for economic growth;

(b) diversion of capital from less productive sectors such as industries;

(c) augmentation of the credit facilities in the banking system and the dependence of government on taxation for economic development;

(d) decentralisation of the ownership of assets and the creation of a healthy private sector;

(e) avoidance of excessive concentration of economic power in the hands of government;

(f) avoidance of excessive concentration of power in the hands of a small private group;

(g) encouragement of a more even distribution of wealth;

(h) facilitation of co-operation between indigenes and aliens in fostering economic development. The burden of achieving these objectives lies on the Central Bank of Nigeria as a statutory duty to promote "the development of a money market or securities market in Nigeria or of improving the financial or economic development."[24]

The Exchange operates independently but to ensure that it pursued the defined objectives the Central Bank should demand a report of the activities on a quarterly or monthly basis. The Bank should therefore analyse the reports on a continuous basis for the purpose of monitoring development in the capital market and for policy guidance of the government.

As to the realisation of the objectives in creating financial markets for the economic development of anglophone African countries and Nigeria in particular, it is evident that not much has been achieved in this direction. In the words of the Governor of the Central Bank of Nigeria:

> "An examination of our securities market reveals some disconcerting facts. Whereas the Nigerian Stock Exchange (formerly the Lagos Stock Exchange) is as old as the Stock Exchange of Malaysia and Singapore and its level and pace of activity fall behind that of the two Far Eastern countries which had 300 equity issues after only a decade of development compared with only 30 equity issues during the same period on the Nigerian Stock Exchange. Despite the Nigerian Enterprise Promotions Acts of 1972 and 1977 which facilitated more companies going public we still find that total securities on the exchange are only 168 comprising 93 equity issues, 58 government stock and 17 industrial

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24 Central Bank of Nigeria Act, 1958, s.29(2)(a).

loan and preference stocks. The volume of trading on the Nigerian Stock Exchange is very much below the market value of securities on the exchange. For example, the volume of trading in equity issues in the past few years has remained at less than one per cent of total market value of the equity listed stocks on the exchange, only two are wholly Nigerian-owned. The investment behaviour of Nigerians is to buy and hold on to their securities virtually for life, while speculation in securities is non-existent. Trading in debentures or bond market is regimented. The ownership pattern of development stocks outstanding shows that the Central Bank continues to be the largest holder. As at the end of 1981, out of the total of ₦3.35 billion stocks outstanding, the Central Bank held 45.6 per cent. Also in 1980 it held about the same proportion. The conclusion is that there are some structural distortions that make government stock relatively unattractive to individuals and private enterprises. Other factors that affect the securities market include inadequate level of financial intermediation, infrastructural inadequacies such as the drag and delays in postal and telegraphic services, and allegedly restrictive requirements for listing on the Nigerian Stock Exchange. The imperfections of the market are diverse and many and serve only to insulate would-be investors or issues from the market."

He concluded by saying:

"The benefits of an efficient market are more in terms of the stability added on to the economic system - the availability of a strong domestic financial base and source of funds, the ability of the market to attract foreign funds thereby reducing some of the foreign exchange problems and the possibility of providing a virile African Capital Market (comparable to the Singapore experience in Asia) able to compete in international markets. It is high time Nigeria put her money where her mouth is or vice versa, that is developing a strong domestic financial base. This is a sure catalyst for achieving self-reliance and meaningful diversification in economic development."[25]

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25 CBN Bulletin, Vol. 8, No. 1, Jan/March 1983, pp. 3-4

CHAPTER 7

SERVICE FUNCTIONS TO COMMERCIAL BANKS

This Chapter discusses some Central bank functions to the commercial banks and are treated under five headings, viz: the supervisory function of the banking system, inter-bank clearing, call money scheme, Rural banking and finally the Agricultural Credit Guarantee Scheme.

BANKING SUPERVISION

A major responsibility of Commonwealth African Central Banks is the supervisory function which the central banks exercise over the banking system. This power is derived from the organic laws of the banks which entrust them with the functions of supervision and periodical examination of all banking institutions. The Central Bank of Nigeria Act 1958 specifies in section 39 that:

"The bank shall wherever necessary seek the cooperation of and cooperate with, other banks in Nigeria to:

(a) promote and maintain adequate and reasonable banking services for the public;

(b) ensure high standard of conduct and management throughout the banking system;

(c) further such policies not inconsistent with this Act as shall be in the national interest.

The Bank also derives its power of examination from sections 20-25 of the Banking Act, 1969 (otherwise called Decree No. 40 section 20(1) which stipulates that:

"(1) There shall be an Examiner, who-

(a) shall be an officer of the Central Bank appointed by the Bank with power to examine periodically, under conditions of secrecy, the books and affairs of each and every licensed bank;

(b) shall have a right of access at all times to the books and accounts and vouchers of the bank; and

(c) shall be entitled to require from the officers and directors of the bank such information and explanation as he thinks necessary for the performance of his duties,

and the Examiner shall be given and shall have access to any accounts, returns or information regarding banks licensed under this Decree that are in the possession of the Federal Ministry of Finance.

The Central Bank of Kenya Act 1969 in sections 19-20 and the Central Bank of Zambia Act 1964, in section 35 also have similar provisions.

Supervision Philosophy

The philosophy behind the creation of this department rests on manifold elements, to wit; in several countries there were numerous and serious losses and liquidations suffered by mushroom banks which led to the idea of controlling the banks. Between 1947 and 1952 some 185 banking companies were registered in Nigeria of which 145 were registered in 1947 and 40 in 1952.[1] Most of these banks failed and many depositors lost millions of Naira (then pounds). In Nigeria, this led to the appointment of Mr. Paton to review the banking system with the terms of reference to investigate banking conditions in the country and to stipulate conditions for healthy banking operations and particularly to "enquire generally into the business of banking in Nigeria and make recommendations to the Government on the form and extent of control which should be introduced.[2]

Although the 1952 Ordinance provided for bank examination and supervision, there were hardly any examination at all and the few inspections carried out were generally ineffective. In most cases, banks were able to circumvent the law by window-dressing, as the following letter clearly

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1. C.V. Brown, The Nigerian Banking System 1966 reports at p.25 that no less than 18 indigenous banks were registered between February 1951 and May 1952.
2. *Ibid.*, pp.7-9.

shows:[3]

"Dear Sir,

Reserve of Liquid Assets

We are drawing near the end of the financial year. As you are aware many returns covering banking transactions for the year will be forwarded to the Government, and, as we have since emphasised, they will be required to give an accurate picture of the general situation of our enterprise. As far as the accounting aspect is concerned, we have endeavoured in the past to secure uniformity among branches and geared out policy to the end of meeting the accounting requirements of the Banking Ordinance. The need for accuracy in branches' returns cannot therefore be overemphasised.

The main purpose of this letter is to draw the timely attention of branches to the absolute need for conserving sufficiently large reserves of liquid assets (cash) at the end of March, particularly on the 31st March, so that our overall percentage of cash on hand to the total of current deposit and other accounts will, if not conform to the requirements of the Banking Ordinance, at least meet them half way.

To this end, branches are advised to conduct vigorous house to house campaigns for cash deposits by customers against the end of the month. Reliable and wealthy customers should be especially approached to deposit, even for one day on the 31st March, a substantial sum of money which can be withdrawn by them after that date as soon as they desire. In the course of the campaign for funds, special care should be taken to avoid playing into the hands of those whose sole motive is to see the bank ruined. Not an inconsiderable number of them are customers, their intrusion should be vigilantly guarded against.

Branch managers are reminded of their responsibility in this important subject. Their future will depend largely upon the measure of efforts directed towards accumulating substantial cash balances on the day in question, for the purpose of our statutory returns. Redoubled efforts should be employed to treat all outstanding entries in the Inter-Nigerian Branches Account before the end of the month so that all adjustments may be taken into the books.

Please acknowledge receipt.

Sincerely yours
A.K. Blankson
General Manager

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3. See the Foster Sutton Tribunal Report for the ACB and the Coker Commission of Enquiry into the Affairs of Certain Statutory Corporations in Western Nigeria, Sessional paper no 4. (1962) p.8.

The above letter was written on 19 March 1954 by Mr. Blankson, the then General Manager of the African Continental Bank Ltd., to each of the fourteen branches of the bank, and marked 'strictly confidential'.

A similar deliberate attempt to deceive the Banking Examiner was also embarked upon by the National Bank. It was for instance, found that:

> in making substantial amounts of money available to the Action Group, the National Bank embarked on a process of operating a Suspense Account and a Sundry Persons Account in order to hide the name of the Action Group as the true recipient of these sums of money ... but the Bank nevertheless proceeded to prepare two paying slips for £670,000 (₦1.34m.) and £5000 (₦10,000), respectively to make it appear that the Bank had recovered the sum of £675,000 (₦1.350m.) in cash when no such payment was in fact made or received. This was a deliberate attempt to deceive the Bank Examiner of the Federal Ministry of Finance when he paid a visit to the Bank early in 1960.[4]

The deposit-taking institutions in any country help to mobilise the nation's savings and make funds available to finance commerce and industry. The deposits of commercial banks and thrift institutions provide a means by which hard-working individuals can safely set aside the funds they wish to hold for future needs. The failure of one or more major depository institutions can have repercussions that go far beyond the individual institution, producing damage to public confidence in banks and thrift institutions and disrupting commerce and trade. For these reasons, most countries today recognize that sustainable

4. See comments of the Federal Government on the Report of Coker Commission of Inquiry into the Affairs of Certain Statutory Corporations in Western Nigeria, 1962, p. 5.

economic growth requires a strong and resilient system of commercial banks and thrift institutions and banking supervision departments have been set up to ensure the attainment of these ideals. The various pieces of legislation were therefore designed to eliminate the severe problems arising from periodic waves of financial panic when bank deposits contracted sharply.

2. Another factor contributing to supervision has been the growing sensitivity about the protection of depositors. It is our contention that when a bank is involved in international trade the fact of its association with another bank overseas places its reputation inevitably at stake.

3. There has been a great increase in the number of banks and branches in the countries surveyed and it is only natural that the range of institutions should be placed under the purview of the banking supervision departments of central banks for supervision.

4. As the economies of the countries surveyed developed and prospered, it became increasingly apparent that some regularisation of banking practices was needed if the banking systems were to develop strong financial controls. For this reason the principle of protecting the public interest became increasingly important as a rationale for regulating and supervising banks. It is increasingly difficult with the complications of modern banking for other banks and institutions or individuals to form a completely dependable assessment of banks with which they

may wish to trade. They therefore need to be assured that someone or an organisation is regularly examining their potential trading partners in depth.

5. The increasing involvement of central banks in international trade and operations in foreign exchange has become an important factor for creating banking supervision offices whose responsibility it is to monitor effectively the inflows of foreign currencies and the way and manner these currencies are allocated to ensure judicious disbursement.

Objectives of Banking Supervision

The various enactments in Commonwealth African central banks were intended, in places like Nigeria, to avoid a repetition of certain perceived evils, such as excessive grants of loans without collaterals, which were believed to have been instrumental in the widespread banking failures between 1947 and 1952.

The constant growth and increasing sophistication of banking and the proliferation of mushroom banks in the financial field have made it imperative that some measure of control should be exerted on the banks. The enactments had the effect of strengthening the powers of the central banks to stop unsound banking practices, curb violations of laws and regulations, and deal with weak or incompetent management and at the same time, it enables the Commonwealth African central banks to protect the safety and soundness of commercial banking.

The task of examiners is therefore to evaluate the soundness of a bank's assets, the skill of its management, the quality of the bank's internal audit controls and procedures, and its compliance with laws and regulations.

The supervisory function of the central banks over the banking system has two facets namely:

(a) bank examination, or the periodical overseeing of the books and affairs of licensed banks; and

(b) bank scrutiny, which involves the appraisal of the operations and financial position of the banks based mainly on the statutory returns and annual balance sheets.

To this end, a special department of bank supervision has been set up by each of the Commonwealth Central Banks.

In Nigeria a banking supervision department was established in January 1967 when the Banking Examination Division of the Ministry of Finance merged with the Central Bank's Scrutiny Office. The department was to carry out these two broad functions of examination and scrutiny which in outline comprise:

1. Periodical routine examination of the licensed banks and other affected financial institutions under section 20 of the Banking Decree, 1969.

2. The special examination of licensed banks and other financial institutions under section 21 of the Banking Decree, 1969.

3. The scrutiny of the monthly returns and annual accounts of the licensed banks and other financial institutions obliged to render returns to the Central Bank.

4. Processing of all applications for banking licence, branch expansion, bank's purchases, sales or leases of property and bank's advertisements.

5. Investigation of bank accounts in accordance with the provisions of the Banking Amendment Decree No. 5 of 1966.

6. The determination of residual balances of the bank accounts under Banking Obligations (Eastern States) Decree No. 56 of 1970.

7. General supervision of the licensed banks and other financial institutions in order to ensure that:

   (a) they operate their businesses in compliance with the provisions of the Banking Decree;

   (b) directives in respect of financial and monetary policies issued to the banks by the Central Bank are complied with;

   (c) the practices and conventions of banking, particularly in relation to dealings by the banks amongst themselves and the dealings between the banks and their customers and other foreign banks, are observed

8. Continuous review of policies, laws and regulations relating to the operation of licensed banks; research into the banking system in order to modify existing procedures, practices and law with a view to introducing new services to suit the changing needs of the Nigerian economy.

9. Training and Manpower development: for the proper and efficient discharge of these functions, the department is organised into three divisions, viz: (a) Field Examination; (b) Central Supervision; (c) Financial Sector Development.

The two functions of bank examination and bank scrutiny were initially carried out by two separate sets of functionaries of the government machinery. While the former was undertaken by the examination division of the Federal Minstry of Finance between 1960 and 1965, the latter was allocated to the Central Bank of Nigeria. In January 1966, the Central Bank took over the entire function of bank supervision. It will be seen therefore that supervision of banks was a recent phenomenon in Nigeria. For the proper and efficient discharge of these functions, the Banking Supervision Department of the Central Bank of Nigeria was organised into three divisions, viz:

(a) Field examination;

(b) Central Supervision; and

(c) Financial Sector Development.

Techniques of Bank Supervision

Different central banks adopt different approaches to supervision. At one extreme is the Bank of England. In the Bank of England Act 1946, which nationalised the Bank of England, the power to issue directives to banks was given to the Banking Supervision Department. The exercise of close and continuing supervision and the acceptance by the Bank of wider responsibilities in this field have, according to Mr. George Blunden of the Bank of England, been gradual and have been in response to market requirements or to events recognized, sometimes grudgingly as necessary or at least as tolerable by the organisations affected. Explaining the approaches to supervision which the Bank has adopted said:

> "The natural evolution of our supervisory role has conditioned the nature of our approach to it and has given it four essential characteristics. First, it is flexible, we have never tried to make banks conform to rigid patterns. The absence of a legislative sanction and the need to carry the supervised with us have made this inevitable. But this flexibility is also welcome to us. We believe that each bank is a unique institution which must be judged individually. We do not accept the sort of system found in some other countries in which legislation lays down rigid standards and ratios with which all banks must comply at all times. We accept that such standards and ratios are of value but only as yardsticks not as categorical imperatives. We believe, for example, that a particular relationship between capital and reserves and deposit liabilities

may be a danger signal for one bank but can be accepted with equanimity for another. And a ratio which at one time in one set of market circumstances may be imprudent may be perfectly acceptable at another time in different circumstances. So we will not accept a system of supervision which puts banks into a strait-jacket. Each bank needs to be looked at as an individual entity and the criteria by which we judge banks must be adaptable to changing circumstances."[5]

Continuing, he said:

"Secondly, and this follows very much from what I have just said about each bank being judged individually, our approach is personal. The (staff) have thus been able to establish friendly, personal relationships over time with senior management in the banks which have helped the Bank to form effective assessments of them and have enabled them to talk to us with trust and confidence.

Thirdly, our approach has always allowed for progression. We believe that a bank of the highest quality does not suddenly emerge like Venus from the waves. It attains that status only after a long period of growth.

Fourthly, our system of supervision has been participative, especially in judging when a bank was ready for further recognition. We do not believe that the man in Threadneedle Street knows best and we are

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5. Bank of England Quarterly Bulletin, Vol. 15 No. 2 June 1975 p.189.

very well aware that central bankers are not commercial bankers. So we have always taken note, in assessing a bank, of the opinions held about it by other banks and of the recognition given to it by other banks."[6]

In the United States of America, the Federal Reserve, along with two other supervisory authorities (the Comptroller of the Currency and the Federal Deposit Insurance Corporation), employs the following basic supervisory tools:[7]

1. Establishment and publication of regulations and regulatory policies which provide banks with explicit guidance as to their responsibilities under the banking laws;

2. Receipt of regular financial reports. Under the law, banks must submit periodic balance sheets and income statements. Much of the information in these periodic reports is made available to the public on the premise that investors, stock holders and depositors are entitled to accurate information about the financial condition of banking organisations in which they invest or with whom they place these funds.

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6. Ibid., p.190.

7. See"Philosophy, objectives and Techniques of Bank supervision Remarks to the Central Banking Seminar, October 16, 1979, Leon Korobow, Assistant Vice President, Federal Reserve Bank of New York.

3. Conduct of regular on-site examinations during which commercial examiners review all aspects of a bank's domestic and international deposit-taking and lending activities, trust procedures and computer operations.

4. Continuous in-house analysis, where the task of the examiners is to evaluate the soundness, of a bank's assets, the skill of its management, the quality of the banks internal controls and procedures, and its compliance with operating rules. The examination process is an in-depth study of the bank's condition and management rather than an audit to verify the bank's assets and liabilities.

In Nigeria and other East African anglophone central banks the techniques of supervision are rudimentary quite different from those obtaining in the more advanced countries. The reason is not far to seek. The legislative backgrounds against which the systems operate (Federal and/ or state laws), the banking systems (state and private ownerships, computerisation), the political structures (for instance unified or federative) of the different countries, are all vastly different from those obtaining in the UK and USA. However, the systems in various Commonwealth countries are basically similar in structure and organisation.

In Nigeria, for example, the procedure for routine examination starts at the head office of the bank with a discussion on recent developments within the banking industry and the bank, and on policy matters raised in the previous examination report. Such discussions are usually held with the bank's chief executive. After the discussion the examiners proceed to examine the books and records at the head office.

According to the Central Bank of Nigeria Manual of Banking Supervision Department[8] the procedure involved in the exercise is as follows:

1. Examination of the books and records at the Head Office.

(a) Read the Board of Directors minute book and note the Board's decisions regarding the operations of the bank;

(b) Read the bank's inspectors and/or external auditor's reports and note the deficiencies highlighted therein;

(c) Obtain the Head Office statement of position and check the balances therein to the Head Office general ledger. Agree the balances in the general ledger with the corresponding balances in the respective subsidiary books/ ledgers;

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8. At p.5.

(d) Scrutinise the subsidiary books to ensure that items therein are properly classified in the general ledger;

(e) Ensure the books are neatly kept, and all cancellations or alterations are duly initialled by a responsible officer;

(f) Obtain list of senior staff showing experience, qualifications, status, salary and responsibilities, etc.;

(g) Verify the assets and liabilities shown in the Head Office statement of position in the same way as detailed for the branches. It is usual to collect returns from branches at the Head Office for cross-checking with copies of such returns kept at the respective branches.

Examination at the Branches

While at the branch, the examination team holds preliminary discussions with the Branch Manager who is the de facto executive at the branch level in the same way as is done at the Head Office before commencement of examination work. During the inspection the examination team makes an assessment of the financial position and methods of operation of the bank concerned. The inspection covers the bank's organisational set-up, investment, credit portfolio management, credit appraisal, mobilization of deposits and other facets of the operations of the bank that contribute in achieving social and developmental objectives and protecting the interests of the bank's depositors. Whereas the Bank of England adopts the procedure of a "relaxed two-way exchange not for an inquisitorial examination" and sends advance notice to the bank to be examined, the African central banks have adopted the procedure of springing surprise inspections by taking up the inspection of certain controlling offices or branches of a bank at different places simultaneously on the day on which the inspection of the head office is commenced.

In terms of section 21 of the Banking Act, 1969, the Bank can conduct ad hoc investigations into banks in respect of serious complaints, reported major irregularities and frauds. The central bank can also conduct sample studies to examine compliance with the selective credit control guidelines and various instructions issued by them from time to time relating to credit policy.

The various central Banks' Acts empower the central banks to inspect the branches of their countries' banks situated outside their countries. During these inspections besides the usual scrutiny of assets and liabilities and the internal control systems, the more advanced countries usually pay attention to the assessment of the extent to which these branches have succeeded in exploiting the business potential, and assisted in promoting exports from their countries. Such initiatives are lacking in the methodology adopted by African countries particularly Nigeria. Nigeria should take advantage of the presence of those banks in foreign countries to promote Nigerian business, trade and exports.

Methods of Enforcing Policies and Correcting Violations

At the conclusion of the examination of each bank the team leader summarises the salient points for discussion by the Head of the Banking Supervision department with the chief executive of the bank examined. Thereafter, a report of the examination is compiled with appropriate examiners' comments. Appropriate recommendations based on the examiners' findings and contained in the report are made and distributed to the governors' of the central banks, the appropriate ministry, usually finance, and the chief executive of the bank concerned drawing attention to important problems or weaknesses.

Depending upon the nature of the findings of the inspection, suitable steps are taken or suggested by the central banks to bring about the desired degree of improvement in the working of the bank or changes in its management. If, for example, the examination discloses serious violations of law or regulation or in cases where the policies and practices of the bank present a threat to the safety and soundness of the bank, the bank's board of directors and management are urged to make the required changes without delay.

If in the opinion of the Finance Minister, an examination shows that a licensed bank is carrying on its business in a manner detrimental to the interests of its depositors and other creditors, or has insufficient assets to cover its liabilities to the public, or is contravening the provisions of the Act the Finance Minister may, in addition to the steps stipulated above, appoint a person who in his opinion has had proper training and experience to advise the licensed bank in the proper conduct of its business and fix the remuneration to be paid by the licensed bank to such person. The Minister of Finance may also report the circumstances to the Federal Executive Council which, unless satisfied that the bank is taking adequate measures to put its affairs in order, may direct the Commissioner to make an order:

(i) revoking the bank's licence and requiring its business to be wound-up; or

(ii) requiring the Central Bank to assume control and carry on the business of the licensed bank

except that the Commissioner shall not so report the circumstances without giving the bank reasonable prior notice of his intention to do so and an opportunity of submitting a written statement in reply.[9]

Sections 3 and 8 of the Nigerian Banking Act 1969 prescribe the punishment for violation of the prescribed conditions and regulations. Where the licence is revoked that bank shall within 14 days after making of

9. The Nigeria Banking Act 1969 sections 3 and 22; section 6 of Kenya Banking Act 1969.

the order apply to the High Court for an order winding up the affairs of that bank under supervision of that court.[10]

Since in Tanzania and Zambia, the commercial banks have been nationalised it is doubtful whether these provisions would be relevant. The central banks resort to such extreme measures only where the affairs of a bank are observed to be beyond redemption, with a view to safeguarding the interests of the depositing public.

Appraisal of Banking Supervision

In Nigeria examinations have in general been carried out on each bank every two years and these entail visits to the head offices and a number of selected offices or branches of the bank at various locations in the country. In between examinations, the banks are appraised on the basis of statutory monthly and annual returns. Due to shortage of trained and suitable personnel in the Banking Supervision Department, it has not been possible to undertake comprehensive annual examination.

The major weaknesses and problems identified through the procedure system of bank supervision are many, including:

1. Deficiencies in accounting and internal control systems are rampant.

10. The Nigerian Banking Act 1969, section 25.

2. Incidence of unsatisfactory, sometimes precarious financial conditions, unwholesome lending practices.

3. Questionable investment policies.

4. Transgressions of the Banking Act.

5. Breaches with impunity of the Central Bank credit guidelines.

6. Heavy losses arising from increase in bad and doubtful debts reflecting inefficient investment portfolio management.

7. Complex organised fraudulent practices and swindling involving bank employees.

To organise, arrange and operate a comprehensive and effective system of bank examination in the African Central Banks would appear to be beyond their scope and capability for the reasons given below. Since the examination teams come once in a very long while, the banks have a field day to operate in any manner they choose. In an interview with the Deputy Director, Banking Supervision Department of the Central Bank of Nigeria, Mr. Mike Udom, gave some of the following reasons as the factors responsible for the extremely poor performance of the banking supervision departments of central banks particularly the Central Bank of Nigeria:

1. The departments lack a sufficient number of trained staff to carry out the bank examinations.

2. Due to the difficult terrains,waterways and bad roads, it is difficult for the examination teams to undertake long and tedious journeys, particularly during the rainy seasons.

3. The land area of Nigeria, for instance, is too large and as a result it would be a herculean task to be able to visit all the banks' branches as required by law for the purposes of examinations.

4. Lack of other basic infrastructures like telephone and communications system, electricity supply, pipe-borne water, medical facilities and hotel accommodation.

5. The bank-person ratio of 1:83,000 is high, and besides there are still many bank offices across the countries to examine.

6. The bank staff are poorly supervised, their attitude to work is poor, outmoded facilities and non-functional equipment are provided.

In a situation where central banks have not the facilities and capability to supervise the banking system as a statutory duty imposed on them, one would obviously expect poor results and minimum economic growth.

To help promote economic growth through the services rendered by the banking supervision the following steps should be taken by them as appropriate.

1. There is need for the banking system to evolve positive policies aimed at encouraging banking habits beyond media advertisements.

2. The Banking Supervision Department of the Central Bank of Nigeria should be decentralised in its field examination activities such that each Central Bank branch in each state of the Federation will have a unit which will be responsible for the field examination of the Head Office operations of licensed banks, in addition to central supervision. The arrangement will be in consonance with the zonal system suggested in Chapter 4.

3. In the exercise of the powers conferred on it by section 20 of the Banking Act 1969, the Central Bank of Nigeria should examine each bank at least once a year. The breach of this section of the law should no longer be condoned or encouraged.

4. The management of the central bank of Nigeria should publish a Bank Examination Manual for the guidance of the staff and the commercial banks.

INTER-BANK CLEARING

Inter-bank clearing is another type of service which central banks render to commercial banks in their bid to promote economic progress. All anglophone central banks in Africa have a clearing system which makes available to the clearing banks a means of exchanging, and obtaining payment for, the millions of cheques drawn on other clearing banks that are paid in by customers to branches throughout the countries. Under this system each member bank sends to the clearing house every morning clerks who deliver cheques to representatives of the banks on which they are drawn. The net balance only, to be received or paid, is settled by means of transfers between the accounts maintained with the central bank by each of the clearing banks. The various central bank Acts of the countries surveyed gave powers to the central banks to organise a clearing house. The Central Bank of Nigeria Act 1958 provides that:

> "It shall be the duty of the Bank to facilitate the clearing of cheques and other credit instruments for banks carrying on business in Nigeria. For this purpose the Bank shall, at any appropriate time and in conjunction with the other banks, organise a clearing house in Lagos and in such other place or places as may be desirable in premises provided by the Bank."[11]

Section 29(2)(s) provides that the Bank may promote the establishment of bank clearing systems and give facilities for the conduct of clearing business in premises belonging to the Bank.

11. Section 42.

The central banks of Kenya, Tanzania and Zambia have provisions in sections 34(4), 43(2) and 23(q) of their Acts respectively to the same effect.

In Nigeria before the first clearing house was established in Lagos in 1961 each bank operated its own reciprocal arrangements with every other bank. Under this arrangement bank clerks would make a round of other banks to pay into the bank's clearing accounts with other banks, the cheques drawn on each of those banks which had been paid by customers the day previous. The position was similar to what it was in England from around 1770 before the first clearing house was built in 1833 on part of the site in Lombard Street occupied by the present modern building "when clerks from the private banks had met daily at a central point in the city to exchange drafts drawn on each others Houses."[12] The system as it was in Nigeria before 1961 proved to be inefficient, costly and time wasting. As a result, the Central Bank of Nigeria established in Lagos the first Clearing House. Other clearing centres were established as quickly as new Central Bank branches were established in Kano (1963), Port-Harcourt (1964), Ibadan (1966), Enugu (1966), Benin (1967), Kaduna (1969), Jos (1972) and Maiduguri (1977). The Central bank assumes the responsibility for providing all clearing facilities as one of the services it renders for the development of an efficient banking system. The efficiency of the clearing

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12. Thomson's Dictionary of banking by F.R. Ryder and D.B. Jankins, 1980, p.144.

mechanism is measured by the speed at which the system operates. This in turn depends on the efficiency of the telecommunication and transportation systems which in Nigeria are in themselves very inefficient. This is one of the reasons why Nigerians are reluctant to accept payment by cheques regardless of the integrity of the drawer and particularly if the cheque is an upland one. The reluctance of Nigerians to accept cheques has led to a slow development of the clearing system. The table below shows this stagnating progress as vividly portrayed by Dr. P.N.C. Okigbo:

> "What is in fact more disturbing is not the length of lead time but the slow growth of the system of clearing and the relative decline in the procedure. The picture of Lagos, the financial capital of Nigeria, is certainly disturbing:

Rate of Growth of the Clearing System

Table 19

	Year					
Number of Cheques Cleared	1973	1975	1976	1978	1979	1980
Daily ('000)	8.8	19.8	12.7	14.7	14.0	15.9
Amount (₦'m)	13.4	31.2	46.2	82.7	32.7	22.9

> Between 1973 and 1980, the number cleared had risen from 8,800 to 15,900 or only 1.8 times in seven years. But look at the value which had risen in the same period from ₦13.4 million to ₦82.7 million in 1978, only to decline to ₦22.9 million in 1980. This trend should indicate to the authorities that the banking experience needs considerable stimulus. It betokens, to an alarming degree, a radical loss of confidence in the banking system as a whole.
>
> In the other centres, the picture is perhaps worse: in Enugu, for the same period, the number of cheques has remained below 1,000 daily at between 800 and 1,000 for 1973 to 1979; at Ibadan, between 1,700 and 2,200 from 1974 to 1977, falling below 2,000 most of 1978 and 1980; even in Kaduna and Kano, the picture is at best static. It is extraordinary that over a period of seven years, there is no improvement in the use of this facility which exists for bankers and that therefore the general public

> either have not raised their use of cheques (it having declined in Lagos) or that the bankers have not gained any speed and efficiency in the use of a clearing system. This failure must be placed squarely at the door of the Central Bank which has the obligation placed on it by section 29(1)(s) of the Central Bank Act to 'promote the establishment of bank clearing systems and give facilities for the conduct of bank clearing business in premises belonging to the Bank.' Bank clearing systems represent one major aspect of reform that should be imaginatively and vigorously tackled by the Central Bank for the 1990's."[13]

We agree with Dr. P.N. Okigbo that the failure of the system must be placed squarely at the door of the Central Bank of Nigeria.

CALL MONEY FUND

The call money scheme is yet another service which central banks render to the commercial banks whereby the participating banks and finance houses invest monies for which they have no immediate need on an overnight basis with interest and withdrawable on demand. In the United Kingdom two separate institutions, the London Discount Market and the Inter Bank Market (for non clearing banks) organise and run each a call money system; in the U.S. the arrangement is organised by the banks themselves and the markets are called "Federal Funds".

In Nigeria the arrangement was introduced in July 1962 under which the commercial banks and later other financial institutions were able to lend their surplus funds to a "Call Money Fund" administered by the Central Bank of Nigeria. Participators were required to maintain a prescribed minimum

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13. Lecture on Reforming the Banking System Given to the Nigerian Institution of Bankers on 10th June, 1983 by Pius Okigbo.

cash balance with the Central Bank for clearing purposes. Balances in excess of the required minimum constituted the financial resources which the Fund invested on behalf of the depositor banks or institutions and any deficits were made up by borrowing from the fund. The funds were generally invested in treasury bills. As a result of the unprecedented buoyancy of government revenue arising from the oil boom of 1973-76, the Central Bank abolished the Scheme in July 1974 for lack of investment outlets for idle funds.

With the abolition of the Scheme, the Central Bank and the banking system have lost the ability and the opportunity to absorb immediate liquidity pressures on the market through overnight investments. From the foregoing it is clear that the objective for establishing a call money fund, which is to satisfy an overnight need which short-term treasury bills are not geared for, has not been achieved and there again another road that leads to economic growth has been closed and sealed.

RURAL BANKING

This important aspect of the Banks' supervisory function relates to the control exercised over expansion of banks' branches. The genesis of the control may be traced to the indiscriminate branch expansion which tended to accentuate the concentration of bank offices in the urban centres while leaving large areas of the country either inadequately served or not served at all. The objectives of establishing the rural banks are to create awareness on the part of the rural communities of the benefits which the banks can bestow, and to help them cultivate good banking habits. The banks will thereby be in a position to mobilise savings and provide credit for small-scale ventures, as well as to offer rural employment opportunities. The rural banking programme has as its main objective the extension of banking facilities to rural and semi-urban areas.

The major services provided by rural banks include deposit-taking, the granting of loans and advances, opening of letters of credit, money transfers, advisory services, issue of drafts and collection of bills. In some of the rural areas it could be observed that many banks do not open the rural branches for business on a daily basis. This is attributed to low level of business at the branches. One of the factors responsible for the low level of business at the rural branches is the failure of the rural people to avail themselves of the banking services provided by the banks.

In operating the rural programme banks in Nigeria have encountered various other problems in addition to those enumerated above at page 402 such as:

(a) Inadequate trained staff because of the banks' unwillingness and unpreparedness for the take-off of the scheme;

(b) inadequate publicity on the role and functions of the rural banks;

(c) Lack of suitable accommodation both for office and staff as well as difficulty in obtaining land and certificates of occupancy thereof;

(d) High cost of renting properties if it is known that the prospective tenant is a bank;

(e) Lack of security, e.g. Police Stations not available in rural communities.

In Nigeria at the beginning of the Rural Banking Programme in 1977 the bank:person ratio was 1:170,000 but at 31st December, 1983 when a total of 1,132 bank branches were in existence in Nigeria, the bank:person ratio came down to 1:80,000. Compared with the developed countries of the world, Nigeria is still seriously under-banked. Britain has a ratio of 1:4,000; USA 1:6,000 and India with its large population has a ratio of 1:52,000. With the 1984 population figures (94,000,000) announced in September 1984, the ratio is now 1:83,000, showing that the rate of providing the services does not catch up with the rate of population growth. In addition from the rural banking scheme returns rendered as at 30th September 1983 by 15 of the 20 banks that participated in the scheme, the rural branches accounted for ₦350,853,853.00 or 3.0% of the ₦13,475,600,000.00 deposits generated within the banking system (Tables attached). In effect the country has not realised the objectives of establishing rural banks, particularly the need to harness savings and extend banking services to the people.

TABLE 20

ANALYSIS OF RURAL AND URBAN BRANCHES

AS AT 31ST DECEMBER, 1983

No.	BANKS Commercial Banks	Total	Urban	Rural	% (Rural)
1.	African Continental Bank Ltd	89	56	33	37
2.	Allied Bank (Nigeria) Ltd	23	10	13	56
3.	Bank of Credit & Commerce Int.(Nig)Ltd	18	14	4	22
4.	Bank of the North Ltd	60	46	14	23
5.	Co-operative Bank Ltd	35	24	11	31
6.	Co-operative & Commerce Bank Ltd	34	23	11	32
7.	Commercial Bank (Credit Lyonnais)(Nig) Ltd	1	1	-	-
8.	First Bank of Nigeria Ltd	208	133	75	36
9.	Habib Nigeria Bank Ltd	3	3	-	-
10.	International Bank for West Africa Ltd	51	33	18	35
11.	Kaduna Co-operative Bank Ltd	10	6	4	40
12.	Kano Co-operative Bank Ltd	10	1	9	90
13.	Lobi Bank (Nigeria) Ltd	2	2	-	-
14.	Mercantile Bank of Nigeria Ltd	21	14	7	33
15.	National Bank of Nigeria Ltd	82	62	20	24
16.	New Nigeria Bank Ltd	33	22	11	33
17.	Nigeria-Arab Bank Ltd	21	10	11	52
18.	Owena Bank of Nigeria Ltd	9	9	-	-
19.	Pan African Bank Ltd	26	19	7	27
20.	Progress Bank of Nigeria Ltd	5	5	-	-
21.	Savannah Bank of Nigeria Ltd	27	9	18	67
22.	Societe Generale Bank (Nigeria) Ltd	13	7	6	46
23.	Union Bank of Nigeria Ltd	184	127	57	31
24.	United Bank for Africa Ltd	115	64	51	44
25.	Wema Bank Ltd	28	19	9	32
	SUB-TOTAL	1,108	719	389*	35
	Merchant Banks				
1.	Chase Merchant Bank Ltd	4	4		
2.	ICON Ltd (Merchant Bankers)	3	3		
3.	INDO-Nigeria Merchant Bank	1	1		
4.	International Merchant Bank Ltd	3	3		
5.	NAL Merchant Bank Ltd	4	4		
6.	Nigerian-American Merchant Bank Ltd	3	3		
7.	Nigeria Merchant Bank Ltd	3	3		
8.	Merchant Banking Corporation (Nig) Ltd	1	1		
9.	Merchant Bank of Africa (Nig) Ltd	1	1		
10.	First City Merchant Bank Ltd	1	1		
	TOTAL =	1,132	743	389*	34

* Includes Branches that do not form part of the Rural Banking Scheme.

TABLE 21

ANALYSIS OF DEPOSIT AND LOANS AND ADVANCES OF RURAL BRANCHES

AS AT 30TH SEPTEMBER, 1983

Name of Banks	No. of Branches	Deposits	Loans and Advances	%	Average Deposits	Average Loans & Advances
A.C.B. Ltd	33	75,772,055	27,643,710	36	2,296,123	837,688
Bank of the North Ltd	14	5,171,461	1,862,948	36	369,390	133,068
National Bank Ltd	19	19,504,245	11,502,024	59	1,026,539	605,370
First Bank Ltd	49	60,884,268	17,795,409	29	1,242,536	363,172
Union Bank Ltd	51	35,944,827	15,716,321	44	704,801	308,163
U.B.A. Ltd	50	30,156,567	6,012,948	20	603,131	120,259
Savannah Bank Ltd	13	69,476,299	62,059,833	89	5,344,331	4,773,833
New Nigeria Bank Ltd	11	34,374,476	4,373,557	13	3,124,952	397,596
Pan Africa Bank Ltd	7	17,009,412	6,274,479	37	2,429,916	896,354
Mercantile Bank Ltd	5	9,470,301	1,772,436	19	1,894,060	354,487
Co-op Bank Nig. Ltd	6	10,817,852	581,223	5	1,802,975	96,871
Co-op & Comm. Bank Ltd	7	9,491,676	728,194	7	1,355,954	104,027
I.B.W.A. Ltd	17	27,415,197	9,028,686	17	1,612,659	531,099
Kaduna Co-op Ltd	4	2,926,160	850,144	4	731,540	212,536
Nigeria-Arab Bank	10	5,949,840	2,754,272	10	594,984	275,427
Total (Rural)	15	350,863,863	110,029,650	31	23,390,924	7,335,310
Total (All Commercial and Merchant Banks)	1,132	13,475,600,000	9,877,241,521	73	11,904,240	8,725,478
% of Rural to Total		3%	1%			

In the words of the Central Bank:

> Over 80% or 751 bank branches are urban-based. In spite of this significant number, it is common knowledge that the urban branches are congested and the 'waiting time' for a simple banking transaction like obtaining bank balances is enormous. Various reasons including shortage of staff, inadequate accommodation, poor attitude to work, out-moded facilities have been advanced in the process as being responsible for this poor state of affairs. Whatever the causes are, the situation is disgusting and intolerable. There is an urgent need to improve the situation in the interest of the banking system and the public. For this reason, emphasis should be placed on the training of staff, acquisition of functional equipment and provision of incentives to staff. Other ways of improving the system will include the opening of more urban branches to decongest the existing ones."[14]

AGRICULTURAL CREDIT GUARANTEE SCHEME

By Section 29(2)(a) and (b) of the Central Bank of Nigeria Act 1958 the Central Bank is obliged, as one of its major objectives of promoting economic development and a sound financial structure capable of mobilising and allocating resources for rapid economic transformation, to promote or undertake financial, industrial, agricultural and public utility enterprises.

The Central Bank has, therefore through its monetary and banking policy over the years introduced measures by which the financial institutions are encouraged to allocate a good part of their resources to the productive sectors of the economy, of which agriculture is an important sub-sector.

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14. Board Memorandum on the Review of the Rural Banking Programme and over all Branch Expansion of the Banks by Banking Supervision Department, 1983, p. 7.

TABLE 22 NIGERIA: EXPORT OF PRINCIPAL PRODUCTS

	COCOA		PALM KERNAL		PALM OIL		GROUNDNUT	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
1950	100	37,060	410	33,383	173	24,144	317	30,474
1951	121	622,763	347	40,118	150	25,898	141	18,642
1952	151	57,352	374	45,534	167	24,182	260	44,228
1953	105	40,716	403	44,370	207	26,040	327	48,836
1954	98	78,522	464	45,482*	208	26,862	428	59,800
1955	88	52,374	453	38,392	182	26,302	397	46,268
1956	177	47,970	451	40,880	185	25,732	443	55,528
1957	135	52,072	406	35,918	166	27,602	302	40,278
1958	87	53,356	441	40,900	171	25,326	513	53,896
1959	143	76,578	430	51,942	184	27,616	407	54,944
1960	154	70,114	418	50,170	183	26,362	352	43,912
1961	188	134,984	419	79,556	163	32,912	504	128,932
1962	199	133,388	374	67,548	120	34,948	541	128,704
1963	179	129,436	406	83,272	129	37,460	626	146,376
1964	201	160,400	402	83,852	137	43,016	555	137,028
1965	266	170,764	424	106,164	153	54,364	522	151,220
1966	194	113,040	402	89,720	146	43,844	584	163,260
1967	249	218,752	165	31,485	16	5,040	551	141,652
1968	210	206,964	162	40,092	3	568	651	151,812
1969	174	210,384	180	39,024	8	1,732	527	143,244
1970	197	266,148	186	43,480	8	2,268	293	86,916

contd.

TABLE 22 contd.

	COCOA		PALM KERNEL		PALM OIL		GROUNDNUT	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
1971	272	286,228	243	51,832	20	6,776	137	48,600
1972	4,569	202,268	213	31,336	2	492	106	28,268
1973	213,897	224,732	137	37,728	N.A.	18	198	90,792
1974	1,901	158,970	160.6	43,722	N.A.	11	25.7	11,376
1975	2,021	175,534	168.8	18,437	N.A.	3,900	N.A.	160
1976	2,311	217,843	233.1	25,854	N.A.	N.A.	N.A.	N.A.
1977	1,654	293,754	148.4	28,911	N.A.	N.A.	N.A.	N.A.
1978	2,052	384,336	62.8	9,926	N.A.	N.A.	N.A.	N.A.

* Quantities and Values are in thousand metric tons respectively.

TABLE 22 NIGERIA: EXPORT OF PRINCIPAL PRODUCTS CONTD

	BENNI SEED		RUBBER		COTTON		HIDES & SKIN	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
1950	14.4	1,406	13,652	3,638	12,623	5,950	-	-
1951	11.3	1,304	20,865	8,686	15,394	9,900	-	-
1952	13.3	2,266	18,351	8,278	19,296	13,468	-	-
1953	12.3	1,594	21,260	7,364	17,707	11,036	-	-
1954	15.2	1,958	20,820	4,914	25,959	14,700	-	-
1955	13.0	1,766	30,380	11,154	33,174	18,760	-	-
1956	22.2	2,784	38,149	12,818	27,174	14,206	-	-
1957	19.2	2,732	39,992	14,044	25,196	12,674	-	-
1958	42.2	1,780	41,206	14,254	33,705	15,690	-	-
1959	18.0	2,314	53,374	22,216	36,884	14,602	-	-
1960	27.3	3,666	57,217	28,508	26,865	11,810	-	-
1961	-	-	-	-	-	-	-	-
1962	24,452	7,492	60,591	45,424	23,609	23,428	7,474	2,976
1963	15,718	4,824	64,152	47,152	40,607	28,064	1,080	5,468
1964	18,208	3,420	73,226	48,664	25,722	22,420	1,734	7,312
1965	20,878	5,804	63,963	43,952	13,746	13,092	2,180	7,068
1966	2,035	8,360	71,398	43,996	15,187	13,688	1,806	7,468
1967	3,295	1,194	48,646	25,388	33,929	26,044	2,120	5,372
1968	14,310	4,668	52,807	25,244	14,273	13,068	1,608	5,260
1969	16,358	5,484	57,288	58,376	14,256	13,424	4,166	12,646
1970	12,084	5,542	59,286	35,136	28,288	26,264	1,305	3,083

contd.

TABLE 22 contd.

	BENNI SEED		RUBBER		COTTON		HIDES & SKIN	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
1971	7,449	3,252	51,072	24,812	22,794	22,188	1,237	2,984
1972	3,000	1,316	41,802	14,700	19,246	1,212	1,547	3,824
1973	1,042	460	49,385	30,782	8,228	9,410	1,802	5,106
1974	N.A.	N.A.	42.6	32,838	N.A.	N.A.	5.6	10,554
1975	N.A.	N.A.	55.8	15,104	N.A.	N.A.	3.6	6,914
1976	N.A.	N.A.	39.3	14,007	N.A.	N.A.	1.6	5,713
1977	N.A.	N.A.	17.8	10,006	8.2	9,932	1.7	5,745
1978	N.A.	N.A	29.1	11,938	8.3	5,686	1.0	3,023

Source: Central Bank of Nigeria, Lagos, Economic and Financial Review, Monthly Report.

F.O.S.; Lagos, Annual Abstract of Statistics.

TABLE 23 PRODUCTION OF MAJOR CROPS AND LIVESTOCK IN NIGERIA FROM 1960-1980 (CROPS IN '000 TONNES)

YEAR	RICE	GROUND-NUT	COCOA	PALM OIL	PALM KERNEL	RUBBER	COTTON	POULTRY (HEADS)	CATTLE (HEADS)
60/61	155	747	198	552	430				
61/62	133	878	194	541	437				
62/63	257	976	179	560	372	60.1			
63/64	195	1145	219	511	406	64.2			
64/65	220	1180	298	516	409	72.2			
65/66	231	1180	185	531	463	69.0			
66/67	199	1177	267	509	436	71.0			
67/68	385	1104	239	325	250	70.2			
68/69	353	1160	190	349	225	52.8			
69/70	325	1222	218	425	265	56.7		6688000	
70/71	n.a.	408	308	490	300	55.3			4480000
71/72	268	439	255	n.a.		50.2			
72/73	448	792	241	104		41.2	220	87870000	
73/74	486	140	215	119		49.3	140	94500000	8410000
74/75	787	130	214	134		31.0	286.4	148830000	11000000
75/76	643	82	216	178		52.7	333.5	110643000	5980000
76/77	232	n.a.	165	121		32.5	456	59950000	4038000
77/78	400	n.a.	205	125		37.5	200	65940000	3360000
78/79	417	n.a.	138			31.1	206	72530000	2790000
79/80	n.a.	n.a.	160			24.0	185		

Source (1) & (2) Agricultural Development - Nigeria 1973-1985 F.M.A.N.R. Lagos 1974 and Nigeria Groundnut Board Information Kano Nigeria.
(3) Cocoa Marketing Board No. 288 by Gills and Duffs.
(4) & (5) F.A.O.
(6) Nigerian Rubber Board
(7) Nigerian Cotton Board
(8) & (9) F.O.S. Agric. Survey

TABLE 24 FOOD IMPORTATION IN NIGERIA

A.

Year	Value in (₦Million)
1962	46,986
1963	43,804
1964	41,240
1965	46,076
1966	51,568
1967	42,560
1968	28,392
1969	41,372
1970	57,694
1971	87,910
1972	95,104
1973	126,260
1974	155,708
1975	277,863
1976	438,927
1977	702,013
1978	1,108,662
1979	1,105,901
1980	not available

Note that Food includes
Cereals, Meat, Dairy,
Dairy Products, Fish, etc.

RICE IMPORTATION IN NIGERIA

B.

Year	Value in (₦Million)
1974	1.5
1975	2.3
1976	20.14
1977	154.94
1978	194.76
1979	212.72
1980	not available

Without any enabling law the Central Bank in the late 1960s assumed responsibility for financing part of the operations of the Marketing Boards (now known as Commodity Boards) when it became apparent that commercial banks were no longer willing to continue with their discounting of the Boards' commercial paper under an agreed financing arrangement.

As a sideline, the Central Bank of Nigeria in a subsidiary law (Agricultural Credit Guarantee Scheme Fund Act 1977) has added another developmental function which goes beyond those conventionally ascribed to it.

The Bank initiated the setting up of an Agricultural Credit Guarantee Scheme, which it also administers,[15] with an initial capital of ₦100m. It also identified itself with the aspirations of the Federal Government on the various governments' policies of "Operation Feed the Nation" 1976 and "Green Revolution" April 1980 aimed at achieving agrarian reform and self-sufficiency in food production in the country. In a bid to reactivate agriculture on which the country once depended but which has now slipped to an insignificant position (as tables 22-24 show) the Central Bank undertook a series of visits to India, Pakistan, the Phillipines and Brazil to assess the institutional arrangements for financing agriculture in those countries.

Nigeria is still typically a country of a peasant agriculture. About 90-95% of total agricultural production

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15. Agricultural Credit Guarantee Scheme Fund Act 1977, s.4.

is by peasants. Livestock are in the hands of nomadic herdsmen; the small-scale fishing is done by local fishermen who spend all day fishing with hooks and baits without motorised canoes or fishing trawlers; the fishing sector is therefore predominantly artisanal. Agriculture still provides employment for most Nigerians. In spite of the difficulties the industry faces, some of which are man-made, it provides the bulk of the food for the country. It used to be the major foreign exchange earner for the country before the growth of crude oil exports.

The causes of the slow growth of Nigerian agriculture are many and complex and many are avoidable. One of the greatest institutional problems facing the agricultural sector is the collapse and failure of the agricultural extension service. Before the era of the oil boom in Nigeria, each local government area had agricultural offices and a host of subordinate staff who maintained regular contacts with the farmers to help them carry out successfully many farm programmes. Apart from the effect of the oil boom very few senior staff were available to direct the affairs of the extension service because the career prospects were very limited and unattractive.

The second institutional problem is the state of the social infrastructure available to the rural majority who are disadvantaged in terms of accessibility to the essentials of life, i.e. access to roads, good education, and telecommunications facilities. The lack of physical and social infrastructure has fuelled the well-known rural to urban migration and made it difficult for rural peasants and extension workers to remain in rural areas.

Because there is no institutionalised system of reporting food stocks; gluts sometimes occur in scattered localities, especially soon after harvest. Government intervention in storing and marketing has not been forthcoming. The Nigerian Grains Board and the National Grains Production Company have also not been helpful to the farmers in the task of storing, processing and marketing the grains.

Akin to this problem is that of ineffective entrepreneurship. The supply of effective entrepreneurship to Nigerian agriculture is almost at zero point because of the conditions inherent in traditional production and agriculture's inability to compete with the industrial sector. The vital catalyst in any agricultural development is the management factor. The manager must innovate, adapt, plan and possess sufficient technological knowledge and competence to manage. In Nigeria and the African countries surveyed these attributes are lacking.

In an effort to increase output through technological innovation gained from the experiences of the advanced countries, some Commonwealth African countries like Nigeria introduced Western mechanised systems (fertilization etc) in ecological and edaphic conditions that are totally different from what they are in the advanced countries. The government or the central Bank should arrange research on our agricultural land with a view to determining the side effects of using chemical fertilizers on the texture, fertility and composition of our soils.

Research and soil tests would also determine what fertilizers would be most suitable for a particular land area and whether the right types are imported. Proper study of the operations and adaptability of imported modern farm equipment which are beyond the reach of the average African must be undertaken. As T.W. Schultz pointed out:

> "Economic growth from the agricultural sector of a poor country depends predominantly upon the availability and price of modern (non traditional) agricultural factors. The principal source of high productivity in modern agriculture are reproduceable sources. They consist of particular material inputs and of skills and other capabilities required to use such inputs successfully ... But these modern material inputs are seldom ready made. They can rarely be taken over and introduced into farming in a typically poor community in their present form ... They are very few reproduceable agricultural factors in technically advanced countries that are ready-made for most poor communities. In general, what is available is a body of useful knowledge which has made it possible for the advanced countries to produce for their own use of factors that are technically superior to those employed elsewhere. This body of knowledge can be used to develop similar and as a rule, superior, new factors, appropriate to the biological and other conditions that are specific to the agriculture of poor communities."[16]

The emphasis of governments and farmers should shift from the use of sophisticated machinery and equipment to the introduction of simple and cheap hand tools which would be appropriate to African social, economic and geographical conditions. The more advanced tools and

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16. Q.B.O. Anthonia, 1971, Proceedings of the Agricultural Society of Nigeria, vol. 8, July 1971.

machinery should be introduced to the corporate farmers and organised extension farms for large-scale production of food and agricultural commodities. Mechanisation is good in itself but the questions of cost, adaptability, reliability, availability of spare parts and so on are some of the problems associated with it. Other problems identified in the agricultural system in Nigeria may be summarised as follows:

1. Inadequate agricultural incentives system, especially the absence of certain types of subsidies (e.g. on seeds) and insurance against risk.

2. Planning problems as reflected in lack of data, shortage of technical personnel, little ex-post policy evaluation and lack of a strategy in overall agricultural policy.

3. Inadequate provision and untimely release of funds in the national budget and bureaucratic delays in commercial banks and the central bank in giving approvals to projects and releasing funds.

4. Lack of adequate pre-project studies and appraisal before granting loans.

5. Counter productive government fiscal policies, e.g. encouraging increase in the production of poultry and at the same time banning poultry feeds and also allowing the importation of frozen chicken while the locally produced ones cannot be sold.

6. Unjustifiable insistence on the following particular types of collaterals which are not within the reach of the peasant farmers for the purposes of a loan under the scheme:

    a. a charge on land in which the borrower holds a legal interest or a right to farm or a charge on assets on the land including fixed assets, crops or livestock;

    b. a charge on the movable property of the borrower;

    c. a life assurance policy, a promissory note or other negotiable security;

d. stocks and shares;

e. any other security acceptable to the bank;

f. a personal guarantee."[17]

7. Bio-physical problems e.g. unpredictable weather, soil, water, heat and other environmental factors like pests and diseases and other natural hazards.

8. Misconception about bank loans being regarded as national cake instead of depositors' money.

"From 1977 to this year (1983) the Bank has advanced the Board up to ₦2.06 Billion out of which ₦390 million is being regarded as a loss."[18]

Recommendations

These problems may be interpreted as reflections of the failure of the Central Bank agricultural credit scheme to guarantee the realisation of self-sufficiency in foods. It is not clear to what extent loans to African farmers have resulted in incremental production of agricultural produce because of lack of data, but it is common knowledge that poor results have been achieved by approaches which ought to be promising if the scheme were supported by adequate physical and institutional infrastructure, supervision and management.

In many large cities of Nigeria, both the state governments and private sectors should acquire areas of land which could be developed and laid out as industrial estates. These could then be leased on a long-term basis to various

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17. Agricultural Credit Guarantee Scheme Fund Act 1977, section 10.

18. A Paper on the Desirability of Incorporating a National or Federal Commercial Bank in Nigeria by the Banking Supervision, 1983, p. 3.

corporate industrialists, foreign and indigenous. In the same vein, such an exercise could be carried out for farmers, and let out plots of land on leasehold basis on terms favourable to indigenous farmers without discrimination.

The idea here is this. After mapping out possible areas within the country suitable for farming, the federal and/or state governments could acquire vast areas of unused land around towns and then divide them into plots of varying sizes of several hectares. These will be serviced with the usual infrastructure and leased out to farmers. Admittedly the cost of this exercise may be enormous but it could be done in stages; part of the cost of such programme can be met by advance payment by lessees in full or in part as the case may be.

Direct labour through the Ministry of Works of various governments could be used while the expected balance of expenses to be incurred can be provided in the budget of the respective governments.

The private sector should be encouraged to participate in the acquisition, clearing and leasing of farmlands also in such a way as would be complementary to government efforts in this direction. Here too, individual owners of private smallholdings in villages will be encouraged and given incentives and subsidies to enable them to cultivate their small holdings.

The best way to bring this about is the extensive use of agricultural extension workers. Through them the results of various agricultural research centres could reach every farmer. The nation-wide application of these extension services requires recruitment and training of several thousands of these experts, but the benefit derived from this exercise far outweighs the costs involved and produces better results than the present indiscriminate loans to small-scale farmers which often either never get to the right end user or are spent unwisely on taking more wives or acquiring Mercedes Benz cars.

Farmers and investors with limited resources who are not able to afford large sums of money to buy land from villagers and to develop it for farming can do so under the lease-hold arrangement. This suggestion implies also a better control of the growth of each town as well as land usage; for instance, a federal or state government law could be introduced to determine the proportion of land within any town that will be built up and that which must be reserved for farming. Another obvious consequence of this national-wide land-lease system will be the disappearance of urban and rural, advanced and backward areas, because every corner of the country would have been able to enjoy the basic amenities of life.

Nigeria should take a cue from Kenya. In Kenya, there was no credit guarantee scheme for small-scale farmers although one was planned for the plan period ending 1983. The Central Bank of Kenya pursues a policy of promoting rural development by encouraging banks and other credit institutions like the Cooperative Savings Scheme and the

Cooperative Production Credit Scheme to increase their lending to farmers. The Cooperative Bank of Kenya which serves as the apex financial organisation in the cooperative credit structure lends to the Cooperative Production Credit Scheme (CPCS) for crop finance, coffee factories and cotton ginneries; it runs also, under the Ministry's supervision, Small-holder Production Services and Credit Project (SPSCP) Programme which is intended to provide comprehensive production and marketing services for increasing their production. The Cooperative Bank also runs the Integrated Agricultural Development Programme (IADP) under which the cooperative movement, supervised by the Department of Cooperatives, channels production loans to farmers, distributes farm inputs, procures storage and markets produce.

The Central Bank of Kenya also runs a crop-refinancing scheme under which promissory notes related to the sale of crops are rediscounted at the Bank at the rate of 8½% per annum. In its monetary policy directive issued in July 1975 it directed banks to increase their lending to agriculture to 17% of their net deposits. The result in Kenya, according to J.D. Von Pischke and John Rouse, is that the Cooperative Savings Scheme (CSS), which provides short and medium-term loans to cooperators who are primarily small coffee farmers, has been successful, having expanded beyond the initial pilot operation and accumulated more savings balances than outstanding loans.[19]

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19. Selected Successful Experiences in Agricultural Credit and Rural Finance in Africa., Proceedings of a seminar organised by Central Bank of Nigeria, April 27-30, 1981, p. 489.

On the achievement of the agricultural sector of the Kenya economy, Hon. Tom Mboya late Minister for Economic Planning and Development had this to say:

> "In the field of agriculture, considerable efforts have been made, and are continuing, to identify appropriate crops for the wide variety of soils and climatic conditions that exist in Kenya. These opportunities are transmitted to our many small farmers through our extension services and Farmers Training Centres and are supported through development loans, crop loans, support prices, tractor services and the like. Special crop programmes apply to sugar, tea, coffee, maize and cotton among others, some extending to assistance with plantation development and infrastructure such as tea and sugar roads and nucleus estates.
>
> Our programme to consolidate and register land holdings provides mortgageable titles and influences land use in the areas concerned. We are initiating studies on land tenure policy and hope to establish a firmer basis on which to make major land use decisions as between, for example, tourism, agriculture, forestry, and infrastructure."[20]

Other steps that should be taken to improve agricultural production in Nigeria are as follows:

1. Bridging of the gap between urban and rural incomes by creating better environment in rural areas and increasing employment opportunities.

2. Establishment of a network of functional agro-services centres in each state of the federation.

3. Making the small-scale farmer the centre piece of increased production rather than government agencies.

4. Expansion of agricultural manpower training.

5. Creating virile, dynamic and viable research institutions and development of appropriate and viable innovations in technology.

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20. The role of the private sector in Kenyan National Development, see Private Enterprise and the East African Company, op.cit., p.197.

6. Development of practices, technologies and methods for better conservation management and utilization of our natural resources.

7. Provision of adequate funds in the budget and timely release of such funds.

8. The establishment of a crop/livestock insurance policy.

9. The Organisation of farmers into co-operatives.

10. There should be adequate pre-project planning on the part of the farmers, including where need be, consultation with agricultural specialists.

11. Credit policy must be coordinated with other measures, that is, through the package approach which must include an efficient marketing system, an incentive price structure, adequate supply of farm inputs, provision of infra-structural facilities and creation of strong farmers' organisations. Realistic prices must be set, and surplus farm output, after normal sales, must be bought by government agencies in order to ensure enhanced profitability.

12. Government parastatals engaged in agricultural production to be self-accounting and to sell to well established markets and not to Ministry officials.

13. The Central Bank should channel funds to research for the aid of agricultural development.

14. Efforts should be made by the Central Bank to get the banks to avoid a lopsided lending. At present, there seems to be over-emphasis on poultry and livestock financing by banks.

15. Traditional rural institutions, such as the extended family and village provide a basis for organizing financial services to particpants in these institutions.

16. The Central Bank as the managing agent for the Agricultural Credit Guarantee Scheme should take appropriate steps, including legislation, to correct the anomalies identified in the scheme.

As noted above, the Agricultural Credit Guarantee Scheme Fund Act was enacted in 1977. It provides for a

Board of six members to manage the Scheme. Two of the members represent the Central Bank of Nigeria, while the remaining four are appointed by the Federal Ministry of Finance. Of the four the Federal Ministry of Finance and the Federal Ministry of Agriculture and Water Resources are represented each by one member and two non-government officials, one of whom is the Chairman of the Board. Under section 3 of the Scheme the Board, under the direction of the Minister, has responsibility for policy-making while the Central Bank of Nigeria under section 4 is appointed the managing agent responsible for the day to day affairs.

Section 2 of the Act established the Board and is silent as to the qualifications and experience of Chairman and members of the Board. Apart from the two representatives from the Central Bank, other members of the Board are appointed by the Minister of Finance. We had argued in Chapter 4 that some of the causes of the failure of central banks in Commonwealth Africa to attain optimum economic and social growth are:

a. the appointment of Governors and members of the Board of Directors who have no functional qualifications;

b. the appointment of politicians who failed elective political posts to the boards of directors who see such appointments as opportunities to recoup themselves from campaign expenses;

c. the appointments, tenure of office and stipends of governors and directors which are determined by the minister tends to induce them to dance to the tune of politicians thereby weakening the effectiveness of central banks.

We saw that the presence of government representatives on central bank boards weakens the independnece of central banks which should be seen as independence within the government rather than of the government.

In the Marquis of Butes Case (1892) 2 Ch. 100 where the Marquis became president of the Cardiff Savings Bank when he was six months old inheriting the office from his father and attended one board meeting in 38 years, he was held not liable for irregularities which occurred in the Bank's lending policy.

In a similar case, Re Denham & Co. (1883) 25 Ch.D. 752, the director had not attended any meetings for four years. The director was exonerated for not detecting the frauds of the Chairman in contriving the accounts to show fictitious profits because "he was a country gentleman and not a skilled accountant."

In the case of the Agricultural Credit Guarantee Scheme there are two Boards of Directors it has to contend with; one is the Fund's Board and the other, the Central Bank of Nigeria Board. It is a double jeopardy and the failure of the Scheme to make an impact is not surprising.

CHAPTER 8

MONETARY MANAGEMENT FUNCTIONS

TECHNIQUES OF MONETARY MANAGEMENT

In Chapter 1 we enumerated the roles money can play in the economy and stated that money is used as a medium of exchange, store of value, standard of deferred payments and unit of accounts. For money to perform effeciently and effectively these vital roles, it rquires skilful management through monetary policy formulation and implementation. In this chapter therefore we shall examine how the central banks have performed these functions in dealing with the four broad objectives of monetary management, to wit, price stability, high rate of employment, a desirable or sustainable rate of economic growth and balance of payment equilibrium. We shall therefore examine some of the techniques available to the central banks, their applicability and the extent to which they have been an instrument of economic growth. The tools generally applied are: open market operations, discount rate mechanism, direct regulation of interest rate, reserve requirements, moral suasion, stabilisation securities and exchange control measures.

Open Market Operations

Open Market Operations as an instrument of credit control is employed by central banks to alter the liquidity position of banks by dealing directly in the market. The central banks do this by purchases and sales of a variety of assets such as government securities and commercial bills of exchange. When the central bank purchases government securities from the banks, the banks' deposits with the central bank tend to increase, thus adding to the cash reserves of banks. This increase in the reserves enables the banks to expand credit. Conversely, the banks' deposits with the central bank would get reduced if the central bank sells securities to them. The net result would be a contraction of credit and a reduction in money supply.

The efficacy and effectiveness of open market operations as an instrument of monetary control will depend on two factors, namely, the type and amount of assets or securities the central bank has in its portfolio and secondly on the size of the gilt-edged market.

In Chapter 5 at page 307 et seq we stated the main objectives of setting up of markets for securities as, among other things, to mobilise idle funds and to provide a machinery for government short term financing requirements.

The Bill Market scheme in Nigeria was abolished in 1968 and the Call Money scheme in 1974. Abolished also was the use of Treasury Certificates of Deposits. The use of Treasury Bills did not expand, indeed the reverse: there were virtually no longer any instruments in the market.[1]

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1 See Chapter 6, p. 348.

The Government in explaining why the issue of treasury bills had not been increased and other bills abolished, stated that it had no need for the money in view of its excess liquidity. If this is so, it only follows that money markets could not operate since there can be no market if there are no instruments to trade in. According to G.O. Nwankwo, Executive Director, Central Bank of Nigeria, although the Central Bank of Nigeria right from its inception had been buying and selling securities, these were not open market operations in the traditional and technical sense of the word, since the aim of those operations had always been to raise funds for the government and to service government debt. He goes on to say that the Central Bank had never undertaken open market operations as a deliberate policy and with the objective of influencing the cash base and lending power of the commercial banks and the rest of the financial system. He concludes:

> "In its refusal or inability to use open market operations as an instrument of monetary control, the Central Bank of Nigeria tends to have been influenced and guided by the traditional argument that exercise of the instrument will be inoperative in a developing economy without developed money and capital markets. As we indicated in Chapter 1, this was one of the arguments against the establishment of central banks in developing countries in the 1950s".[2]

Although the instrument of open market operations was available to Commonwealth central banks in Africa it was

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2 The Nigerian Financial System, op. cit, p. 30.

not generally utilised in pursuit of the general objectives for which these instruments are created by Commonwealth central banks. In the absence of a Treasury Bill market, open market operations in Nigeria will be entirely confined to government bonds; in Nigeria their holders refuse to release them, with the result that to that extent the potency of open market operations as an instrument is reduced to nothing.

Discount Rate Mechanism

A central bank's discount rate (bank rate) is the rate at which it is prepared to lend to the banking system when the latter is short of funds. The discount rate is the bank rate, it is the peg on which the spectrum of interest rates is structured; other rates rise and fall as the minimum rediscount rate is raised or lowered. This is a last resort lending function of central banks under which central banks honour demands for financial accommodation from the commercial banks, but only at penal rates, since banks are not expected to resort to it unless it becomes absolutely necessary to borrow to meet a temporary imbalance in their portfolio of assets and liabilities. In sophisticated financial markets an increase in the minimum rediscount rate is a signal to the banks to raise the cost of obtaining credit. In the developing countries like Nigeria, the possible advantage of this instrument is that the threat of a penalty may be just as effective in inducing the banking system to behave in the desired way as the use of the penalty. Apart from this, this instrument for monetary regulation has not in any way advanced economic development in Nigeria. For example, credit institutions have never raised their cost and hence restrain credit availability to potential borrowers. About the failure of this instrument as a technique of monetary control the Central Bank of Nigeria had this to say:

> "The discount rate policy has not played a significant role in influencing the cost and availability of credit in Nigeria. Although an amendment to the CBN Act in 1962 required bank lending rates to have a specified and defined relationship with the discount rate, the rigidity inherent in the administered structure of the Nigerian interest rates make it an ineffective tool of monetary control. Perhaps a more fundamental limitation to the effectiveness of interest rate changes as a technique of demand management in Nigeria, as in several developing countries, arises from the fact that investment decisions are more dependent on the expected rate of returns on investment than on the cost of borrowing. In Nigeria, the returns on investment are so high that the restraining rates of interest might be too high for the monetary authorities to contemplate.[3]

Direct Regulation of Interest Rates

Central Banks derive their authority to regulate the interest rates of banks from various Acts. In Nigeria section 14 of the Banking Act 1969 stipulates that:

> "(1) The rate of interest charged on advances, loans or credit facilities or paid on deposits by any licensed bank shall be linked to the minimum rediscount rate of

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3 Central Bank of Nigeria, Twenty Years of Central Banking in Nigeria, 1979, p. 101.

> the central bank subject to stated minimum and maximum rates of interest, and the minimum and maximum rates of interest when so approved shall be the same for all licensed banks; provided that differential rates may be approved for the various categories of banks to which this decree applies;
>
> (2) The interest rate structure of each licensed bank shall be subject to the approval of the Central Bank."

The Central Bank of Kenya Act s.39 provides that:

> "The Bank may, from time to time, acting in consultation with the Minister, determine and publish the maximum and minimum rates of interest which specified banks or specified financial institutions may pay on deposits and charge for loans or advances provided that the Bank may in consultation with the Minister determine different rates of interest:
>
> i) for different types of deposits and loan; and
>
> ii) for different types of specified banks and financial institutions".

The power to stipulate the rates of interest covers both the deposit and the lending rates. The main purpose of controlling rates on loans and advances is to influence the demand for credit and to introduce an element of discipline in the use of credit. This central banks generally do by stipulating minimum rates of interest. Minimum lending rates are with the same objective prescribed for extending credit in accordance with selective credit control. Furthermore, ceiling rates of interest are made applicable to advances to certain sectors in order to reduce the interest burden on the borrowers from those sectors. The objective behind fixing the rates on deposits is to avoid unhealthy competition amongst the banks for deposits and the charges in rates are, in a majority of instances, to encourage deposit mobilisation.

Direct controls operate by placing limits on the commercial banks' freedom to undertake certain activities; if left free of control it is feared that other methods of control, e.g. moral suasion, would not work sufficiently quickly or produce the desired result. If, for example, it is desired to check quickly the growth of a bank lending it is necessary to increase the rate of interest so as to reduce demands from borrowers.

In Nigeria, as in other developing countries according to the authors of the 20 Years of Central Banking, "the interest rate structure is directly managed by the government under the expert advice of the monetary authority. The reason for this is not far to seek. The underdeveloped nature of the financial markets coupled with the relative scarcity of capital resources in the economy, are important factors which could make market determined interest rates incapable of producing the most desirable pattern of resource allocation."[4] This conclusion appears apt, not merely for Nigeria but for other Commonwealth African countries.

Special Deposits and Stabilisation Securities

Section 40 of the Central Bank of Nigeria Act requires the Bank to employ the instrument of special deposits as a tool of monetary management. As in the case of most other

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4 Ibid, p. 102.

instruments in the Act, this power has been exercised on only one occasion. In 1971 the Central Bank required all importers to deposit with their bankers the local currency equivalent of the amount of the foreign currency value of their imports for which foreign exchange had not been allocated. ₦400m in local currency was deposited which inflated the banks' liquidity. As a result of the over liquidity in the banking system the Central Bank on 10th June, 1971 ordered that banks whose level of short-term external liabilities was above ₦20m should deposit the excess with it on or before 30th June, 1971. The table below shows the percentage of the compulsory advance deposits on categories of imports:

Table 25

Percentage of the Compulsory Advance Deposits on Categories of Imports

Items	Per cent
Raw materials	10
Spare parts	15
Food (except rice)	50
Medicaments	50
Building materials	50
Capital goods	50
Books	50
Motor vehicles and trucks	200
Motor cars	250
Other goods	250

Similarly, section 40(7) of the Central Bank of Nigeria Act and section 12 of the Banking Act 1969 give the Central Bank of Nigeria powers to use stabilisation securities as an instrument of control. Section 40(7) for example, provides that:

> "The Bank may for the purposes of maintaining monetary stability of the economy of Nigeria, issue, place, sell, repurchase, amortize or redeem securities to be known as 'stabilization securities' (which shall constitute its obligations) and the securities shall be issued at such rate of interest and under such conditions of maturity, amortization, negotiability and redemption as the Bank may deem appropriate."

By subsections 9 and 10 the Bank has the power of sanction over a bank that refuses to buy the securities. These subsections provide:

> "If any institution fails to comply with any direction issued under the provisions of this section, the Bank shall have power to:
>
> (a) Prohibit the institution concerned from extending new loans and advances, and from undertaking new investment, until full compliance with the direction has been obtained by the Bank;
>
> (b) levy fines, which shall be a civil debt, against the institution, but such fines shall not exceed fifty pounds for the default or, as the case may be, for every day during which the default continues.
>
> Any institution which furnishes false information to the Bank shall be guilty of an offence and liable to a fine not exceeding £100 (two hundred Naira) for the first offence, and for a second or subsequent offences the fine shall be £200 (four hundred naira)."

This instrument was introduced on the recommendation of the Anti-Inflation Task Force in 1976 when it concluded that,

> "We believe that the Central Bank was given power to issue stabilisation securities precisely because of the situations (serious inflation) like the one that now exists. We believe that there is now some evidence that the banks are using their excess liquidity positions in a manner that is further aggravating monetary instability. We therefore recommend the issue of stabilisation securities to neutralise the excess liquidity of the commercial banks."[5]

In a White Paper the Federal Government accepted the recommendation and directed that the "Bank should exercise now its power of issuing stabilisation securities and determine how much of such securities to issue to each bank." It was in 1976 that the first and the only one issue of stabilisation securities was made by the Central Bank of Nigeria.

Another instrument of monetary control usually employed by central banks is the cash reserve ratio requirement by which every commercial bank should maintain at all times in the form of cash reserve with the Central Bank a sum equal to a ratio of the bank's deposit liabilities.[6] For this purpose the Central Bank has the power to prescribe different cash reserve ratios to be maintained by each of the following categories of institutions in relation to their sizes:

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5 First Report of the Anti-Inflation Task Force, October 1975, Federal Ministry of Information, December 1975, p. 3.

6 S.40(1)(a) of Central Bank of Nigeria Act, 1958.

Table 26

Cash Reserve Ratios to be Maintained by Banks in Categories (A)

Class of Bank	Amount of Deposit	Reserve Ratio %
A	₦30m or more	25
B	₦10m but less than ₦30m	25
C	Less than ₦10m	25[7]

The cash ratio is designed to raise or reduce the liquidity of the banking system by determining the level of cash reserve balances (the credit base of the system) which the Central Bank system should maintain. The Act as we said earlier gave the Central Bank the power to prescribe[8] the liquidity ratio for the commercial banks and specified a ratio of 25% (as the Table above shows) which according to the Central Bank had remained unchanged ever since. But according to G.O. Nwankwo this instrument was utilised in 1976 when

> "For the first time in history, each commercial bank was required to maintain with the CBN a cash ratio expressed as a ratio of its total demand deposits plus time deposits on which it pays its depositors interest of less than 2½ per cent per annum."[9]

The stipulated cash reserve ranges from 2 to 5% and varies with the size of banks' deposit liabilities as follows:

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7 *Ibid*, s.40(2).

8 *Twenty Years of Central Banking*, op. cit, p. 103.

9 *The Nigerian Financial System*, op. cit, p. 32.

Table 27

Cash Reserve Ratios to be Maintained with CBN (B)

Class of Bank	Amount of Relevant deposits	Stipulated Cash Reserve Ratio (%)
A	₦300m or more	5.0
B	₦300m or more but less than ₦300m	4.0
C	₦30m or more but less than ₦100m	3.0
D	Less than ₦30m	2.0

Appraisal of the Use of the Monetary Tools

It will be seen that the Central Bank of Nigeria is fully equipped with authority by the various Acts to control and regulate the monetary system and it thus possesses an armoury of tools or techniques to meet the demands of the system. Standard tools have been devised, according to the authors of Twenty Years of Central Banking in Nigeria,[10]

> "to facilitate monetary management but the major problem here again is that the tools are not universally applicable. There is a strong need for selectivity depending on each country's circumstances and stage of development. There has to be the right financial environment and conditions conducive to the use of any package of instruments selected. Perhaps enough has been said to sound a note of warning that the state of the art of monetary management has not attained the desired level of perfection and hence much experimentation and ad hockery still remain as would be evidenced in the following review of the Nigerian case."

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10 Twenty Years of Central Banking, p. 99.

In assessing the performance of the monetary tools in Nigeria the Central Bank of Nigeria had this to say:

> "In the context of the overall objective of accelerated economic development, monetary policy has had to grapple with two major problems, namely, the maintenance of a healthy balance of payments and relative price stability. The relative success or lack of it, in the attainment of such demand management objectives should not be arrogated to or blamed on monetary policy because other policies and factors simultaneously influence the macro-economic goals of income, employment, prices and balance of payments equilibrium...
>
> For the future, there are obvious indications that the CBN would continue to face complex financial situation featuring, among other things, a destabilising monetary expansion from factors largely outside its direct control. This being the case, there is a critical need to employ monetary policy more flexibly to counteract the destabilising effects of exogenous factors and steer the economy along the desired path of socio-economic progress. The persisting practice of annual frequency in monetary policy formulation as if it were a mere component of the Federal Government annual budgetary exercise, is not only peculiar but also represents an inadvertent compounding of the problem of action lag in policy formulation. This is clearly unsatisfactory in a dynamic and rapidly changing society such as Nigeria. In advanced and more financially sophisticated societies monetary policy changes of varying scope have a frequency of as small as one week. For instance, in the United States of America, the 'fine tuning' of the economy usually calls for weekly open market operations. Although the Nigerian financial and economic conditions do not as yet admit of such frequency of monetary regulation, there is obviously a convincing case for taking an immediate monetary policy action as soon as the need is recognised rather than wait for the beginning of every fiscal year before formulating monetary policy."[11]

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11 Ibid, p. 127.

Sections 23-25 of the Bank of Zambia Act 1964 and sections 47-52 of the Bank of Tanzania Act 1965 as well as sections 35-41 of the Central Bank of Kenya Act, make provisions for the monetary control of the economies of the different countries. As in the case of the Central Bank of Nigeria, each country is faced with the problem of illiquidity in the banking system and the effects of the world-wide economic recession. There are large external debts to pay, there are the dwindling foreign reserves, there are unemployment, wage freezes and so on. Each country in recent years has had surplus funds which were allowed to be frittered away. All the omens were favourable, but the disadvantages were dissipated, both in the case of Nigeria or Kenya and Zambia. The Central Bank of Nigeria, between 1973 and 1976, as noted in Chapter 5, had enormous reserves and the banking system was very liquid. This was due to the oil boom of that period. As these developing countries were trying to adjust to the shock-waves brought about by the oil crisis, Kenya's economy also had a boost. The severe frost of July 1975 destroyed a large part of the Brazilian coffee crop. This resulted in a sharp reduction in world coffee production from 79.2m bags in 1974 to 63.9m and 60.9m in 1975 and 1976, respectively. World coffee prices escalated and Kenya benefitted from the rise in price. As the price of coffee increased, some consumers were induced to substitute tea, which, in turn, led to a higher world price. Kenya as a result benefitted from the 'two worlds' of coffee, her most important export, and tea, her second most important export crop. Kenya recorded a balance of payments surplus in 1976 and 1977.[12]

In Zambia also, a boom was recorded during the same period. Copper prices improved considerably in 1973 and reached an all-time high in 1974, thereby putting the Zambian economy in prosperity. Copper contributes about 90% of the country's total exports in terms of value and about 75% of the recurrent revenue of the government. The prosperity, again as in the previous cases reviewed, was short-lived as copper prices declined again in 1975. The economy suffered because of this and other factors. There was the severe transportation crisis which resulted from Zambia's closing of the border with Rhodesia in 1973. The Benguela Railway passing through Zaire to Angola's Lobita Bay and the road route through Tanzania were used. In addition, the Mufulira, the largest copper mine in Zambia, caved in; this and the deteriorating foreign exchange position, greater mining depths and loss of skilled manpower, resulted in an 8% fall in production in 1981.

It has been noted above that oil, coffee, tea and copper contribute over 90% of the countries' total exports and over 70% of governments' recurrent revenue. In a situation such as the countries found themselves, where there was dependence on the fortunes of a single export

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12 Sources and Uses of Foreign Exchange in Kenya 1974-1979, 1981, pp. 11-12.

commodity, any wide fluctuation in the world demand for the commodity would have serious consequences on the economy. Some of the obvious consequences have been a fall in the revenue from the exporting companies, and a fall in government revenue because less tax will be collected; there will also be a reduction in wages and employment opportunities; there will be disequilibrium in the balance of payments; and there will be increased external debt burden coupled with budget deficits.

As domestic money incomes fall as just noted, economic activity will invariably slow down. As the banks and other financial instititutions are no longer sufficiently liquid to provide assets for the financial markets, the use of sophisticated monetary instruments in such underdeveloped economies will be a misplaced strategy which can hardly achieve the desired goals. For example, in cases of "a very sharp fall in export earnings, deficit financing of government expenditure may reduce considerably the impact on the domestic economy of an export slump".[13]

From the foregoing it will be noted that the anglophone central banks can, under their various Acts, require commercial banks to maintain minimum cash balances on deposits with them against their total liabilities, to maintain liquid assets ratio, apply open market operations and stabilization securities and so on. In spite of all this copious legislation, most of these monetary instruments have not been applied by the various central banks.

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13 Money Banking and Economic Development in Zambia, op. cit, p. 9.

Explaining the reason why it was that only once and for a brief period at the beginning of 1972 the commercial banks were required to deposit with the Central Bank 5% of their net deposit liabilities in order to reduce excessive expansion of credit, and why the lack of use generally of these monetary instruments, the Central Bank of Kenya said:

> "In practice, the Bank has relied on the effectiveness of a liquidity ratio and its powers of selective credit control as the main instruments. It has not made use of the classical mechanisms like the Bank Rate and open market operations in view of the underdeveloped nature of the Kenya money and capital markets. Indeed, the Bank has not hitherto felt that official changes in interest rate would be a useful instrument to influence economic acitivity and the flow of credit inthe economy."[14]

It is our conclusion therefore that these monetary instruments are not being used nor can they be effectively used in Nigeria and the other countries surveyed because of the level of development of the economies and the underdeveloped nature of the financial systems.

EXCHANGE CONTROL

Objectives of Exchange Control

Foreign exchange is the act of converting the currency of one country into the currency of another. Exchange Control prevents or controls payments to persons abroad,

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14 Money and Banking in Kenya, op. cit, p. 10.

and is designed primarily to mobilise and control a country's liquid resources abroad and the international movement of currency owned by residents of that country. In African central banks it is a means of adjusting the demand for foreign exchange to the current supply, conserving reserves as well as maximising the use of foreign exchange reserve by ensuring that essential imports are given priority over other imports. Exchange control becomes necessary when the country's external reserves are not adequate for meeting its current and potential requirements. It, therefore, involves a rationing of foreign exchange among various competing demands for it. It may be imposed only on payments or only on receipts, more usually on both. The purpose of introducing exchange control on receipts is to centralise a country's means of external payments in a common pool in the hands of the monetary authorities to facilitate its judicious use, while the purpose of imposing exchange control on payment is to restrain the demand for foreign exchange broadly in consonance with the national interests, within the limits of available resources. Exchange control is managed by a country's central bank acting on behalf of the Treasury or the Ministry of Finance as in Commonwealth Africa. The commercial banks and hotels known as "Authorised Dealers" or "Authorised Buyers" are appointed subagents of the central banks to whom wide powers have been delegated to approve, inter alia, the purchase of exchange for transfer abroad.

Exchange Control Techniques

Whatever technique a country may adopt depends on the decision of the Government as to whether to have a restrictive system of control or a relatively free one. A country that is in persistent balance of payments disequilibrium or fears a fundamental disequilibrium in its balance of payments may adopt very strict exchange control measures. On the other hand, if the deficit is considered only as a temporary measure and can be corrected easily, a country may have a liberal exchange control policy. In some cases, countries adopt control measures mainly to ensure that certain formalities are completed for example, the payment of tax on profits or dividends, before funds are transferred abroad. Regardless of the degree of control, exchange control system involves control over the resources or the supply of, and the demand for foreign exchange, including:

(a) imports and exports of goods

(b) capital and capital service items, and speculative transactions.

The moderate type of exchange restrictions is committed to the prevention of sharp fluctuations of the exchange rates through the prohibition of abnormal capital flows and speculation in the exchange markets. It is obvious that any capital movement of sizeable proportions can easily become of a dimension not easily susceptible to any but the most drastic and comprehensive restrictive measures.

Historical Development of Exchange Control in Nigeria

Exchange control was first introduced in Nigeria under the Defence (Finance Regulations) 1939 as a war measure to protect the pound sterling. In 1947 the Exchange Control Act, 1947 was enacted by the U.K. Parliament and it sought to codify all exchange control orders made under the Defence Finance Regulations. Under the Act the world was divided into two parts. The first consisted of the United Kingdom and the Scheduled Territories; the second comprised the remaining countries. Before 23 June, 1972, the Scheduled Territories were defined by the First Schedule of the Act - as amended - as the British Commonwealth (except Canada and Rhodesia), Bahrain, Bangladesh, Iceland, the Irish Republic, the Hashemite Kingdom of Jordan, Kuwait, Pakistan, Qatar, South Africa and South West Africa, United Arab Emirates, the People's Democratic Republic of Yemen.

In December 1950, the Exchange Control Ordinance 1950 was enacted for the Colony and Protectorate of Nigeria. When Nigeria assumed the status of independence in 1960 the need arose to replace the 1950 Ordinance to reflect the sovereign status of the country and to impose certain exchange control restrictions. Consequently, the Exchange Control Act 1962 was enacted and ever since has remained the principal source of authority for all foreign exchange transactions between Nigeria and other countries. Other subsidiary laws include the Exchange Control Anti-Sabotage Decree 1977, repealed and re-enacted as Exchange Control Anti-Sabotage Decree 1984, the Pre-shipment Inspection of

Imports of Goods Act 1978 and the Exchange Control Manual.

Until 1962, exchange control policies and practices were based on a complete body of rules derived from the Bank of England which were circulated to all Exchange control departments in the Sterling Areas. Under the system, exchange control practices were such as to allow free payment to scheduled territories for all genuine transactions. However, special permission was required for payment for imports from non-scheduled territories. Under the Act, all currencies other than the Nigerian pound were defined as foreign currencies. Hitherto, other scheduled territory currencies had not been so defined. All persons resident outside Nigeria were classified as non residents, and three types of non-resident accounts were created, viz:

(i) The Scheduled Territory Accounts for residents of the Scheduled Territory countries other than Nigeria;

(ii) External Accounts for residents of non-scheduled territory countries;

(iii) Rhodesia Account, introduced for accounts maintained for residents of Rhodesia following that colony's unilateral declaration of independence in 1965.

In Tanzania, the Exchange Control Ordinance Cap 294 and the subsidiary legislation and rules and regulations made under it together form one of the most important means for the management of the Tanzanian economy. Control was introduced in 1951 to regulate transactions between

Tanganyika (which was then a part of the Sterling Area), and the rest of the world. Transactions within the Sterling Area were without restrictions.

On the attainment of political independence in 1961, a number of people who had dual loyalties migrated, taking out all their assets to other Sterling Areas like Canada, U.K., India and Pakistan. The flight of capital was most noticeable during the break-up of the East African Currency Board in 1965 and this necessitated imposing in the same year control on transactions with other Sterling Area countries, except for Kenya and Uganda, which also took similar action. In 1967 the Treaty for East African Co-operation was signed under which Article 25(1), Partner States were required to give without undue delay all the permission required for making bona fide payments. In March 1971 this arrangement came to an end and exchange transactions with Kenya and Uganda were brought under restrictions.

As in all other East African Commonwealth countries, the Minister of Finance has delegated the administration of exchange control to the Bank of Tanzania but exercises the discretionary powers in the Ordinance which have over-all national implications by the issue of orders.

Tanzania has an import control mechanism which predates the similar one in Nigeria - the Preshipment of Import of Goods Decree 1978. Import control in Tanzania, then Tanganyika, was first introduced in 1942 under the Defence Regulations in a manner similar to the system we described earlier in this section. The purpose was to protect the

British Government's balance of payments and to facilitate it in its prosecution of the Second World War. Import control is administered through import licences. The legal basis for issuing of licences is the Import Control Ordinance of 1951 (cap. 292) as amended by the Finance Act, 1973.

Administration of Exchange Control in Nigeria

As stated earlier, the Exchange Control Act, 1962 vests an overall authority in the Federal Minister of Finance, with power to delegate. In exercise of the powers conferred by section 32(4) and the Exchange Control Delegation of Powers Notice, Legal Notice No. 82, 1962, the Minister has appointed the Central Bank of Nigeria as the principal administrative agent of exchange control. The Bank is therefore responsible for the day-to-day administration of the law.

The Minister has also appointed licensed banks and hotels to act as "Authorised Dealers" and "Authorised Buyers" respectively. The three arms of the Minister, the Bank, and the authorised dealers share powers of approval in exchange control matters in Nigeria.

The Minister is still responsible for the determination of applications concerning some aspects of policy. As it concerns authorised dealers, they are required to carry out their appointed duties in accordance with such instructions and directions as are contained in the Exchange Control Manual and Circulars. The division of powers between the 3 arms is as in the appended table.

Table 28

Foreign Exchange Approving Authorities

ITEMS	APPROVING AUTHORITY
Imports	Central Bank and Authorised Dealers
Education, Students etc.	Central Bank and Authorised Dealers
Membership & Subscription	Authorised Dealers (including Federal Savings Bank)
Books & Correspondence Courses	Authorised Dealers
Commission and Brokerages	Central Bank
Miscellaneous	Central Bank and Federal Ministry of Finance
Shipping	Central Bank
Airlines	Central Bank
Insurance Trade	Central Bank
Insurance Non-Trade	Central Bank
Fishing	Central Bank
Nigerian Embassies	Federal Ministry of Finance
(i) Commercial Imports	Central Bank
(ii) Others	Federal Ministry of Finance
Ministry of Defence	Federal Ministry of Finance
Statutory Corporations Including Universities	
(i) Commercial Imports	Central Bank
(ii) Others	Federal Ministry of Finance
Official Tours:	
(i) States	Central Bank
(ii) Federal)	Federal Ministry of Finance
(iii) Leave)	
Business Travel	Central Bank
Basic Travel Allowance	Authorised Dealers
Leave and Medical Tours	
(i) Public	Federal Ministry of Finance
(ii) Private	Central Bank
Educational Tours	Central Bank and Autorised Dealers
Pilgrims	Central Bank and Authorised Dealers

Foreign Exchange Approving Authorities contd

ITEMS	APPROVING AUTHORITY
Home Remittances	Central Bank
Pension	Central Bank
Cash Gifts	Central Bank
Profits & Dividends	Federal Ministry of Finance
Loans Repayment - Public	Federal Ministry of Finance
Loans Repayment - Private	Federal Ministry of Finance
Others - (including indigenisation)	Federal Ministry of Finance
Copyrights, Patent, Management, Royalties, Technical and other fees	Federal Ministry of Finance
Contingency	Federal Ministry of Finance
Strategic Reserves	Federal Ministry of Finance
External Account	Federal Ministry of Finance & Central Bank
Offshore Costs	Federal Ministry of Finance
Consultancy & Service Fees	Federal Ministry of Finance & Central Bank

Source: Central Bank of Nigeria

Obligations Under the Exchange Control Act 1962

The Exchange Control Act 1962 was a precautionary measure, designed to provide the legal and administrative framework for an orderly and effective imposition of controls when the balance of payments situation necessitated such control measures. Therefore, to achieve the objectives behind the Exchange Control Act, certain obligations are imposed on all residents of Nigeria in respect of transactions in foreign currencies and securities which they may own or acquire, and in respect of payments which they may wish to make abroad. The nature of these obligations is as follows:

(a) It prohibits all payments outside Nigeria by residents of Nigeria except with prior Exchange Control approval.

(b) Certain foreign currencies have been declared "Specified Currencies" in which transactions must be effected through Authorised Dealers.

(c) Accounts of all non-residents of Nigeria are designated as non-operated as prescribed by law.

(d) Proceeds of goods exported from Nigeria are to be repatriated within three months.

(e) It prohibits compensation deals, i.e. the setting off transactions by means other than those prescribed by law.

(f) It also prohibits all payments in respect of pools and betting arrangements.

The pattern of control is, however, not static. It continues to be revised to reflect the changing circumstances of the economy.

Impact of the Exchange Control Act 1962 on the Economy

In spite of the 1962 Act the impact of the new regulation was not felt in the economy by the authorities because of the pressure on the reserve and because the authorised dealers lacked the necessary experience and the importers and general public could not adjust quickly to the new order. The Nigerian civil war, 1967-70, and the immediate post-war reconstruction programme raised the import bill to an unprecedented level; as a result foreign exchange earnings could not keep pace with the expenditure on war armaments and reconstruction hardware. The events of the early 1970s showed that the 1962 Act was grossly inadequate to deal effectively with the foreign exchange abuses of the time. The decade witnessed the promulgation of the Nigerian Enterprises Promotion Decree, which caught most foreign nationals operating in the country offguard. Schedule 1 of the Decree exclusively reserved certain types of business enterprises to Nigerians and foreign operators were given a definite period within which they had to move to other lines of business. Most of the affected companies were making excessively large profits; but, in order to pay less tax, they were in the habit of declaring a low turnover and therefore a low profit for the year. How to transfer such undeclared profits then became a problem. In an effort to siphon such funds abroad, some of them resorted to various forms of exchange control malpractices.

One may cite an item in the Nigerian Daily Times of Thursday 15th November, 1984, page 1 as an example:

> "About ₦300 million was illegally transferred out of the country for a construction company - Soleh Boneh by a Swiss National, the Exchange Control (Anti-Sabotage) Tribunal heard yesterday.
>
> It also heard that Nicholas Johannes, standing trial in a ₦7 million 'arranged' deal with two others, also helped some other companies for the same illegal deal.
>
> Testifying for the prosecution, a deputy commissioner of police, whose name was not disclosed, said he knew Johannes last March when he received an information that an expatriate had a large sum of money in foreign currency to sell for naira.
>
> 'I arranged to meet him at 46, Balogun Street, Lagos about 10 am on March 31, this year. He was introduced to me as Nicholas and I introduced myself as Ibrabim Isa, a businessman from Maiduguri.
>
> 'I told Johannes that I was enquiring about someone who has foreign currency to sell for naira and he immediately said he and his company - inter Swiss Trust of Zurich Switzerland - have large sums of dollars or any other foreign currency to sell for naira.
>
> 'When I asked how possible it was and the guarantee that I will get the money he said that it was a simple matter and that he had just concluded a similar business for Soleh Boneh Construction Company in Nigeria, where he successfully transferred ₦300 million and at that time, he was about to do another business worth ₦7 million using a bank at Ikoyi.
>
> 'He said he had reliable collaboration in a local bank in Nigeria.'"

Some unscrupulous Nigerians also joined in the foreign exchange malpractices for various other reasons. The high level of liquidity circulating in the economy in the early '70s, fed the appetite of Nigerians generally for imported goods. The Government's monetization of its oil revenue further reinforced the already pent-up demand for imported goods. However, the re-activation of the war damaged economy continued to put strains on the balance of payments position. Nigeria therefore adopted a system of obligatory deferred payments system for various categories of imports. This in effect meant a discontinuation of the system of pre-payments for imports. On the other hand, some foriegn suppliers of items like made-to-wear dresses, books, professional articles, etc., insisted on full payment on order, or at least a substantial part as deposit. Local banks were unwilling to open Letters of Credit for these classes of importers as they were considered not credit-worthy. Some therefore connived with the exporters to inflate their invoices so as to use the excess as a buffer against future importation. Others resorted to other kinds of malpractice, so as to enable them to use the funds to supplement their annual basic travel allowance to purchase personal effects when visiting Europe. Affluent Nigerians following the pattern of "Conspicuous Consumption" bought themselves homes in Europe for their summer relaxation rather than stay in hotels. For these and other reasons, individuals resorted to various forms of exchange control malpractices which the 1962 Act was ill-equipped to deal with. There was a consequent and drastic decline in the level of external reserves as the attached Table 29 vividly shows.[15]

A basic shortcoming of the Exchange Control Act, 1962

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15 Exchange Control - Government View, a lecture to Management Staff of U.A.C. Nigeria Ltd. on 29 November 1978, by S.D. Dambo, p. 7.

Table 29

Nigeria's Level of External Reserves in Relation to Imports and Balance of Payments 1960-1979

	Total External Reserves (₦'Million) (a)	Average Monthly Imports (₦'Million) (b)	Months Reserves Can Sustain (c)	Balance of Payments (₦'Million) (d)	
1960	343.3	35.1	9.3	-	138.6
1961	305.5	37.1	8.2	-	126.2
1962	250.6	33.9	7.4	-	100.2
1963	195.4	34.6	5.6	-	103.2
1964	193.5	42.3	4.6	-	184.0
1965	197.1	45.8	4.3	-	127.4
1966	184.6	42.7	4.3	-	118.4
1967	101.2	37.3	2.7	-	166.0
1968	105.3	32.1	3.3	-	168.2
1969	114.6	41.5	2.8	-	108.6
1970	180.4	63.0	2.9	-	50.0
1971	302.7	89.9	3.4	-	229.4
1972	270.6	82.3	3.3	-	322.7
1973	438.6	102.1	4.3	+	174.4
1974	3,471.6	144.8	23.9	+	3,102.2
1975	3,702.6	309.8	12.0	+	157.5
1976	3,482.5	427.7	8.1	-	339.9
1977	3,040.0	608.1	5.0	-	447.0
1978	1,078.5	654.2	1.6	-	1,382.4
1979	3,150.0	493.4	5.32	+	1,900.0*

- Deficit
+ Surplus
* Estimated

Source: C.B.N. Annual Reports and Statement of Accounts

Table 30 Foreign Exchange Expenditure 1975-1979 (₦'Million)

	1974	1975	1976	1977	1978	1979	Difference Between 1978 and 1979
IMPORTS	1,342.576	3,369.852	4,263.526	6,342.579	7,273.397	6,099.409	- 1,173,988
OTHERS	626.556	1,147.665	1,180.589	1,139.532	1,001.427	1,106.671	- 105,244
TOTAL	1,969.132	4,517.517	5,444.115	7,482.111	8,274.824	7,206.085	- 1,068,739

Exchange Control Department,

Central Bank of Nigeria,

Lagos.

was that it failed to specify adequate penalties for infringements of the Act. Law not backed by force cannot be effective. As Hobbes has aptly expressed it in his "Leviathan" "Convenant without sword is but words, and of no effect in yeilding man". Therefore to make the enforcement of the law effective, Government decided to promulgate the Exchange Control Anti-Sabotage Decree 1977 prescribing detailed legal rules as well as stiff deterrent penalties for those convicted of offences under the Decree.

Section 1 of the Decree spelt out the conditions under which a person may be convicted under the Decree. In the words of Section 1 -

> "1(i) Any person who whether or not before the commencement of this Decree but not earlier than 29th July, 1975 does any of the following, that is to say -
>
> (a) without the permission of the appropriate authority -
>
> (i) makes any payment to or for the credit of any persons resident outside Nigeria; or
>
> (ii) makes any payment to or for the credit of any persons resident in Nigeria by order or on behalf of a person who is resident outside Nigeria;
>
> (iii) makes any payment whatsoever in respect of any loan, bank overdraft or other credit facilities outside Nigeria; or
>
> (iv) places any sum to the credit of any person resident outside Nigeria.
>
> (b) without the permission of the appropriate authority, and being a person resident in Nigeria, makes any payment outside Nigeria to or for the credit of a person resident outside Nigeria, or takes or accepts any loan, bank overdraft or other credit facilities... shall, nowithstanding anything to the contrary in any law, be guilty of an offence under this Decree."

An important feature of the Decree is that even where a person may not have directly committed an offence under the Decree but has merely aided, abetted, counselled or procured someone to commit an offence under the Decree, this makes the person a party to the crime.

It will be pertinent to point out here that most of the offences created by the Decree are also provided for in Part 2 of the Exchange Control Act of 1962. The difference between the 1962 Act and the Decree is mainly in the severity of the punishment provided for in the Decree and the determination to enforce the provisions of the Decree. While a person convicted under the Exchange Control Act of 1962 is liable to no more than 3 months' imprisonment or a fine, a convicted person under the Decree faced a minimum of 5 years imprisonment without the option of a fine. A convicted person will in addition pay a fine of an amount not less than the amount or value of the currency, security payment, property or transaction in respect of which the offence was committed. A convicted corporate body will be liable to a fine of not less than five times the amount or value of the currency, security payment, property or transaction in respect of which the offence was committed or a fine of ₦100,000.00, whichever is higher.

It was noted above that the Exchange Control Anti-Sabotage Decree 1984 replaced the Exchange Control Anti-Sabotage Decree 1977 which was repealed on the eve of the handing-over of power by the Military to the civilian administration in September 1979. The 1984 Decree re-enacted most of the provisions of the earlier Decree but providing for greater severity in punishment of convicted persons.

Other Measures of Control

In spite of the stiff penalties provided in the Excahnge Control Anti-Sabotage Decree 1977 exchange control abuses and malpractices continued unabated. The excesses of importers took new turns. Foreign suppliers shipped to Nigeria old but reconditioned machinery and plants and goods of inferior quality. In some cases certain items were short-supplied while in others containers arriving in Nigeria arrived at the Ports empty or containing only sand and stone, and yet applications were made to pay for the "goods" they were supposed to carry. Some old and empty vessels were intentionally sunk at sea and inflated claims submitted for payment of goods said to be contained in them.

During this period the Federal Government Executive Council at its meeting on 19th May, 1976 appointed a Study Group on Buying Commission, of which the present writer then Deputy Exchange Controller of the Central Bank of Nigeria was a member to:

(i) examine the role of buying commission in international trade in all its forms and categories;

(ii) examine the existing rates of buying commission on the various categories of Nigeria's Imports;

(iii) recommend rates of buying commision that are payable according to categories of imports where necessary;

(iv) suggest areas, ways and means of eliminating or reducing the payment of buying commission where necessary.

The Study Group, at pages 30 and 31, reported, inter alia:

> "As a further check against the over-invoicing of import bills we suggest that the General Superintendence Company should be employed for the general policing of our import trade. This Company which has its headquarters in Geneva, now acts in such a capacity for a number of countries, including Ghana. The Company should, for imports exceeding some specified value, say ₦50,000 be empowered to scrutinize f.o.b. prices, freight charges and buying commission (if any) to ensure that they are consistent with international competitive rates. The Company should also have to verify the quality of procured merchandise before they are shipped to Nigeria. Approval for payments of imports should be conditional on a Clean Bill of Report from the General Superintendence Company, attesting to the quality of the imports and reasonableness of the price."

Arising from this, visits were paid to many European countries and to Ghana where the services of the Societe Generale de Surveillance S.A. of Geneva have been employed, in order to study the operation of the scheme. Pursuant to the study an appraisal of the findings was made which formed the basis of a Memorandum submitted by the present writer to the Central Bank and thence to the Federal Government on the subject-matter along with the Foreign Exchange Budget Proposals for the 1978/79 fiscal year.

Following the submission of this memorandum by the Central Bank of Nigeria to the Government in February 1978, entitled "Commodity-Price Intelligence: General Import Superintendence Scheme", a decision was taken and an announcement was accordingly made during the Budget Speech on 1st April, 1978 to install such a scheme in Nigeria.

In that speech, the former Head of State among other things made the following statement:-

> "One of the measures to be taken to ensure adherence to this new budget is the introduction of Import Supervision before shipment. This is a scheme whereby a competent company and reputable international institution will be retained by the Federal Military Government to examine all shipments of certain categories of goods destined for the Nigerian market before shipment from the countries of manufacture. The task of the company will be to confirm that the goods are in accordance with the specifications of the importer and that the prices being charged are reasonable and competitive."

The present writer and the Federal Ministry of Justice then drafted the Decree which was promulgated as Pre-shipment Inspection of Imports Decree No. 36, 1978. Under the Decree all imports into Nigeria after the 1st January, 1979 were subject to compulsory quality and quantity inspection and price comparison by the Societe Generale de Surveillance S.A. (SGS) before shipment was made.

Assessment of the Exchange Control System in Nigeria

Notwithstanding that the pre-shipment inspection scheme has helped to check the disorderly and reckless manner of importation of a wide range of luxury and non-essential goods and the deterrent effect is served, delay is inherently built into the system. The delay arises from the ineffective internal communication system and the massive land area of the country.

The Scheme failed also because of the highly publicised allegation of bribery levelled against the SGS and some members of the defunct Nigerian National Parliament who visited the SGS Geneva offices. The crude oil glut was another debilitating factor in the failure of the exchange control system.

Oil in the Nigerian economy is the major source of Federal Government revenue constituting about 98% of Nigeria's total export earnings. Federal Government oil revenue rose sharply from ₦166.4m or 26.3% of total revenue in 1970, to ₦510.2m or 43.5% in 1971. In quick succession, it rose to ₦1 billion and ₦3.7 billion representing 60 and 82% of Federal revenue in 1973 and 1974 respectively. With the exception of 1978, oil revenue increased rapidly to a peak of ₦11 billion in 1980 and declined to ₦9.2 billion in 1981[16] and has steadily declined to ₦7.3 billion in 1982. Foreign exchange receipts dropped by over ₦1 billion in 1982 to a total of ₦8.4 billion, while foreign exchange payments were more than the receipts and stood at ₦8.7 billion.[17] Coupled with the reported setback in the oil sector, non-oil sector export maintained a declining trend, while merchandise imports rose by leaps and bounds. Non-oil exports fell successively from ₦670.0 million in 1979 to a meagre ₦189.8 million in 1981. The end result was that total export earnings fell from ₦14.1 billion in 1980 to ₦10.5 billion in 1981. In the same period,

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16 C.B.N. Annual Report, 1983, p. 86.

17 Address by the Governor of Central Bank of Nigeria at the Quarterly Luncheon of the Industrial group of the Lagos Chamber of Commerce and Industry, on Thursday 30th September, 1982.

however, imports rose from ₦9.7 billion to ₦12.0 billion. Thus the substantial over-all balance of payments surpluses recorded in 1979 and 1980 turned into a heavy deficit of ₦3.0 billion in 1981. It is not surprising therefore that the unfavourable developments in the Nigerian economy have been dominated by the vicissitudes of the oil sector.

Cumulative public sector external loans commitments including outstanding payments arrears were estimated at ₦18.5 billion at the end of 1983. In 1983 also, public debt service (i.e. repayment of principal and interest) rose to ₦1.3 billion.[18] It is therefore evident that the mounting debt problems of the country have had a major impact on the Nigerian economy and on the ability of the Central Bank to manage the economy.

Other factors responsible for the ineffectiveness or failure of Exchange Control regulations and practices other than those enumerated earlier are:

1. As stated earlier, power of approval of exchange control applications is shared by the Federal Ministry of Finance, the Central Bank and the Authorised Dealers. Control over the activities of the Federal Ministry of Finance and the 1132 branches of commercial banks has been an impossible and cumbersome task. In the result, huge sums of foreign exchange are remitted through the system (e.g. by travellers' cheques) without the fore knowledge of the Central Bank.

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18 C.B.N. Annual Report, 1983, p. 95.

2. The activities of the Federal Ministry of Commerce are outside the control of the Central Bank on the question of the issue of licences for imports. In the same way Customs officials are not answerable to the Bank and the degree of corruption in that sector of the international trade has worried successive Nigerian governments. The police on their part cannot cope with reported cases of malpractices.

3. The exchange control system in Nigeria is over-regulated. Apart from the enacted legislation and delegated regulations, circulars are issued in such quick successions, sometimes twice a day, so that the system involves keeping importers and bankers, investors and all involved in foreign trade in a state of confusion. Backdating of laws adds to the confused state of the law and scares off investors.

4. Nigerians have, after the civil war, appeared to lose confidence in their ability to live together as a nation. This has given rise to the flight of capital to Europe where Nigerians maintain huge bank accounts on which they can draw should the country get into ethnic troubles.

5. During the periods of civil rule, political manoeuvres and influence directed at bank authorities and the Central Bank weighed heavily on them and led to mismanagement and misapplication of scarce foreign exchange.

6. Corruption in high and low places was rampant and its existence was acknowledged by everyone, including bank officials. Fraudulent sales of foreign exchange, particularly travellers' cheques, helped to reduce the pool of available foreign exchange.
7. Some aliens came to Nigeria to dig, as it were, the gold mine. They stopped at nothing to transfer by hook or crook any available foreign exchange. Some aliens have been convicted for fraudulent exchange control practices and for transferring money illegally out of Nigeria. As in Kenya, some aliens make false declarations on export forms (Form NCD3 in Nigeria and CD3 in Kenya), giving wrong addresses and so on and bribing bank clerks to withdraw the export forms. Before the end of the statutory period (90 days) for the return of the export proceeds some of the aliens often disappear and flee the country.
8. In 1974 the scope of the Bank's functions widened when it started to open letters of credit for Federal Government agencies and parastatals. It started with the opening of letters of credit for cement which resulted in what was described as the "Cement Armada". The <u>Trendtex</u> case[19] and other cases in Europe and America against the Bank gave it a very poor image and cast doubts on

19 See Chapter 3, page 143.

the ability of the Bank to honour credits and agreements.

9. The malpractices practised by importers, Nigerians and aliens considerably weakened the efficacy of the comprehensive Import Supervision Scheme. The major malpractices were:

a Vague description of goods in pro-forma invoices and Form M in the hope of obtaining exemption from pre-shipment inspection.

b The use of words "spare parts" where in fact the imports consist of prohibited items of machinery - CKD equipment - SKD equipment.

c Licence splitting with the aim of obtaining Forms M of a value below ₦10.000 in order to avoid pre-shipment inspection.

d The use of descriptions in all import documentation suggesting the purchase of Spare Parts or Raw Materials, but where the intention was to ship items of a completely different nature, banned from importation, or were prohibited luxury items.

e Over-invoicing on transactions that have been exempted from pre-shipment inspection.

f Forgeries of shipping documents and SGS Clean Reports of Findings.

g The cumbersome systems of import licensing and the inefficiency and corruption of their administration have discouraged imports for long-term capital investment in industry and agriculture, in favour of consumers' goods and materials for luxury and unessential goods.

Suggestions as to How to Improve the System of Exchange Control

From the foregoing it becomes obvious that political and other pressures on the system left the economy depressed, prices of goods have sky-rocketed, domestic production has shrunken; there is increased unemployment aggravated by mass retrenchment of workers and the conscious reduction on the working strength of the public and private sectors. In retrospect the Governor of the Central Bank lamented that:

> "Frequent recurrence of depletion in foreign exchange and the introduction of stringent measures cannot be dissociated from the immediate and haphazard dismantling of such economic measures. Consequently, the structural shifts necessary to move the economy onto a path of self sustaining growth were not allowed to take place. The end result is that we find ourselves in a vicious cycle of stop-go policies and the much talked about objective of economic self-reliance becomes increasingly elusive."[20]

In the face of dwindling foreign exchange reserves, huge outflows and rapidly falling inflows and the gloomy prospect of crude oil, the over ₦5 billion known merchandise import commitments demonstrate vividly the critical situation which the economy is facing. The gloomy economic

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20 Address by the Governor of the Central Bank of Nigeria, Alhaji Abdulkadir Ahmed at the Quarterly Meeting/ Luncheon of the Industrial Group of the Lagos Chamber of Commerce and Industry, September 30, 1982, p. 11.

scene dictates that stringent measures must be taken to revamp the economy. One of such measures should be the judicious allocation of scarce foreign exchanges to areas of the economy that need it most. The foreign exchange plan employed in Tanzania, Zambia and Kenya should be adopted in Nigeria. Under the scheme, the plan determines the total amount of foreign exchange that can be spent on imports during a financial year. Applications for import licences are invited by the Central Bank from importers before the beginning of each half year. On receipt they are examined from various angles such as Governments' policies concerning industrialisation, protection to indigenous items competing with imports, avoidance of non-standardised items and so on.

The following guidelines are followed by an inter-ministerial Committee which in Kenya, according to Mr. Wanjohi Muriithi, head of the Exchange Control Department comprises the Ministries of Industry, Finance, Planning and the Central Bank:

(a) Licences for imports of goods the like of which are produced locally or which are capable of being easily manufactured locally are not ordinarily issued. Applicants have first to contact indigenous manufacturers and only if these or the Ministry of Industries confirm in writing that the goods are not available can they apply for an import licence.

(b) Importation of used machinery equipment and spares whether reconditioned or not is ordinarily not allowed.

(c) Application for importation of goods which are confined to any parastatal institution have to be submitted through the respective confinee.

(d) Applicants wishing to import technical equipment and machinery for stocking and resale have first to ensure that they have the necessary servicing facilities and technical know-how for the after sales back-up of such equipment.

Generally, the Central Banks in East Africa consider applications for essential imports by traders with already established importing experience or records. In granting licences the Banks endeavour to ensure a satisfactory regional or geographical spread of importers.

After such examinations and scrutiny, the demand for import licences for each licensing period is consolidated according to the main categories of imports and considered in the light of the availability of foreign exchange by the Import Licensing Advisory Committees in these countries which make appropriate allocations for these categories. Those allocations are then sub-divided amongst the different importers according to such factors as size of business, past performance, etc. Import licences are ordinarily issued with initial validity period of 6 months.[21] Government itself must impose on itself a number of austerity measures to check the growth in public expenditure. The measures proposed to put the economy on the right path leading to a glorious tomorrow have been outlined in Chapter 10.

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21 Bank of Tanzania: Its Role and Functions, 1979, p. 76.

CHAPTER 9

GAPS IN THE FINANCIAL SYSTEM

It has been generally observed that the activities of financial houses other than banks and of non-banking and non-financial institutions, have been expanding strikingly, and they have been collecting huge deposits from the public, sometimes offering attractive rates of interest without any sort of control or regulation by the central banks of their deposit acceptance and intermediation activities. Basically central banks and commercial banks provide short-term capital and no adequate provision is made for medium and long term-financing. This leaves the gap in the banking and financial system at its most critical point where it has the most serious implications for long-term economic growth. There is also a gap in the law.

In this chapter we shall attempt to determine the gaps that exist in the law and in the banking system so far as these institutions are concerned and to what extent this is significant for the economy. This review will entail an assessment of the performance of the financial institutions in question; it will be complemented by some suggestions for plugging the loopholes identified.

The Roles of Development Banks and Non-Banking Institutions

The financial institutions variously referred to as financial intermediaries, financial institutions, non-banking and non-financial institutions usually provide long term and medium-term finance for industry, commerce, agriculture and other developmental projects. They provide financial assets that will attract and meet the interests of savers, thereby inducing them to invest their savings. These institutions also help to stimulate their countries' capital markets by selling or buying stocks and bonds. In their role as financial intermediaries, they help to facilitate the transfer of funds from surplus spending units to deficit spending units. In economies with an inadequate financial infrastructure (i.e. money market and securities for example), funds may remain sterile or are offered at excessive rates or at differentials that may ultimately lead to unfavourable or unproductive investment. The African Commonwealth countries have tried to encourage and capture national savings by establishing or licensing institutions that accept deposits from the public for investments which may conduce towards economic growth.

Non-Bank Financial Institutions in East Africa

Under section 2 of the Central Bank of Kenya Act, 1966 the Central Bank may specify certain institutions as "specified financial institutions" falling under the regulatory provision of sections 39-43 of the Central Bank of

Kenya Act, 1966. By Legal Notice No. 159 of July 27, 1971, the Governor of the Central Bank of Kenya specified the financial institutions set out below as "specified financial institutions" for the purposes of enabling it to pursue effective monetary policy over these institutions.

Credit Finance Corporation Ltd
Diamond Trust of Kenya Ltd
East African Acceptances Ltd
Grindlays International Finance (Kenya) Ltd
Housing Finance Company of Kenya Ltd
National Industrial Credit (E.A.) Ltd
Savings and Loans Kenya Ltd
Ismailia Corporation Ltd
Kenya Commercial Finance Company Ltd
Akiba and Finances Ltd

All the institutions are licensed under the Banking Act, 1968, the same statute under which commercial banks are licensed in Kenya. Although they can accept deposits they are not allowed the use of cheques. From the funds deposited by the public in them, these institutitions are able to finance a range of credit requirements. For example, Savings and Loans Kenya Ltd specialises in mortgage lending for the purchase or erection of houses and office buildings. These financial intermediaries compete actively with commercial banks; they offer higher interest rates, and accounts are opened with as little as K£5 compared to K£15-25 with most commercial banks.

Data from the consolidated balance sheets of these institutions show that as at June 30, 1971, total assets/

liabilities amounted to K£23.1 million, which was 10.7% of the total assets of commercial banks. Their private deposits in proportion to private time and savings deposits with commercial banks were 8% while their loans and advances were 14.4%. Private deposits with these institutions as at June 30, 1971, accounted for 60% of their total assets compared to 33% for commercial banks (excluding current account deposits). Deposits, supplemented by issued capital and reserves, and a modest amount of loans and advances from the commercial banks, are the main sources of funds for these institutions.

The asset side of the consolidated balance sheets of these institutions shows that loans and advances to private enterprises and households amounted to K£13.9 million at 30 June, 1971. This represented 60% of total assets. Deposits with commercial banks amounted to K£5.1 million or 22% of total assets.[1]

Other important intermediaries in Kenya for mobilising long-term savings are Life insurance companies licensed under the Insurance Companies Act. Their importance lies in the fact that they have the ability to accumulate considerable funds which are invested in credit instruments such as bonds and long-term loans.

Apart from these private sector intermediaries, there are also the following public sector institutions:-

National Social Security Fund

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1 Money and Banking in Kenya by the Central Bank of Kenya on the Occasion of the Official Opening of the New Headquarters, n.d., p. 23.

Post Office Savings Bank

The Agricultural Finance Corporation

Cereals and Sugar Finance Corporation

Industrial and Commercial Development Corporation

Development Finance Company of Kenya

Kenya Tourist Development Corporation

National Housing Corporation

Housing Finance Company of Kenya

Although sections 35-41 of the Central Bank of Kenya Act have provided a range of instruments to: prescribe the minimum holdings of liquid assets; regulate the rate of interest payable on deposits; control the volume, terms and conditions of credit; these statutory instruments are dead letters in the books. Since its establishment the Central Bank has resorted only once to its statutory powers to control the volume of credit extended by financial institutions. During the first six months of 1971, credit extended by specified institutions expanded by 36.3%. Concurrently, there was an upsurge in credit extended by commercial banks to the private sector. The major portion of the increased credit by the financial system went to finance the importation of capital and consumer goods, which increased the import bill by more than 20% during the first half of 1971. As a result, there was a sharp decline in Kenya's overseas reserves.[2]

The Governor of the Bank, in exercise of the powers conferred by section 41(1) of the Central Bank of Kenya

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2 *Ibid*, p. 25.

Act, issued instructions on July 27, 1971, to all specified financial institutions restricting the volume of credit they might extend in future. The banking supervision services of the Bank did not cover the activities of these financial intermediaries.[3]

In Tanzania, most voluntary savings are held in the form of deposits with financial intermediaries. There are 9 institutions besides the Bank of Tanzania, four of these being:

National Bank of Commerce
People's Bank of Zanzibar
Tanzania Housing Bank
Post Office Savings Bank

These are in the public sector and account for the overwhelming part of deposits collected. The other five are:-

Diamond Jubilee Investment Trust
Tanzania Rural Development Bank
Tanzania Investment Bank
Tanganyika Development Finance Co. Ltd.
Karadha Company Ltd.

Besides those institutions there are:-

National Insurance Corporation
National Provident Fund

The last two institutions mobilise long-term savings through premium incomes and provident fund contributions.

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3 Personal interviews with Mr. G.K. Kinyua, Financial Controller and Mr. J.M. Kiama, Principal Bank Inspector of the Banking Supervision Department of the Central Bank of Kenya confirmed this statement.

The appended Table shows the forms in which the savings are mobilised and the types of credit given by these institutions.

Tanzania today has a remarkably sound and efficient credit system, well structured from the institutional point of view, with good coverage and a high degree of functional specialisation. But according to Clara Caselli, "the result is not that the savings of the population are at all thoroughly mobilized; on the contrary this multiplicity leads to useless duplication of effort and waste of resources. The whole system stands in need of rationalisation."[4] The Bank of Tanzania concurred when it said that "there are several inadequacies in the present strucµ ture of financial institutions in the country."[5]

As in Kenya, these multifarious financial institutions mobilise a great deal of capital without adequate control and supervision by the Bank of Tanzania and in the case of Tanzania the Banking Supervision Directorate had 12 officials only in the unit at the time the present writer visited the Bank. Agreeing with this lapse, the Bank has said[6]

> "Thus as regards savings mobilization while the commercial banks, the POSB and the THB between them accept all types of deposits; the first two have a good geographical spread of offices for the purpose,

4 Clara Caselli, The Banking System in Tanzania, 1975, op. cit., p. 323.

5 Bank of Tanzania, its Role and Functions, 1979, p. 84.

6 Ibid, pp. 84-85.

Financial Institutions in Tanzania   Table 31

Institution	Form of Saving Mobilisation	Type of Credit	Sector Receiving Credit
Bank of Tanzania	Currency Issue	Short, Medium and Long Term	Government, Commercial Banks and DFI's
National Bank of Commerce & People's Bank of Zanzibar	Acceptance of Demand, Savings & Time Deposits	Short, Medium and Long Term	Productive & Distributive Sectors of Government Economy
Tanzania Housing Bank	Savings & Time Deposits	Medium and Long Term	Building Construction & closely allied Industries
Post Office Savings Bank	Savings & Time Deposits	Medium and Long Term	Government
Tanzania Rural Development Bank	None	Short, Medium and Long Term	Rural
Tanzania Investment Bank	None	Medium & Long Term Credit & Equity Investment	Commercial Agriculture and all types of Industry
Tanganyika Development Finance Co. Ltd.	None	Medium & Long Term Credit	Industry
Karadha Company	None	Hire Purchase Finance	Transport
National Insurance Corporation	Premium Income	Short, Medium and Long Term	Government
National Provident Fund	Provident Fund Contribution	Short, Medium and Long Term	Government

> there are no arrangements whereby the long term lending institutions like the TIB and the TRDB can mobilise the types of local savings they need. The result is that these institutions are heavily dependent on the Government for local resources. Secondly, all the three development banks are limited as regards geographical spread because of limitation of manpower and other resources. Thirdly, because of the restrictions of NBC to confine its operations to the provision of only short term credit to the productive and distributive sectors, it cannot step in the breach and take over the functions of providing medium or long term credit to those sectors which happen to be inadequately served by the development banks. All this means that a good deal of co-ordination is needed among these institutions if the financial structure is to serve the country's requirements of credit and exchange in an appropriate manner. And since the Bank has the overall responsibility to promote the conditions necessary in this area, it has to take the lead in the matter and devise ways and means by which such inadequacies can be remedied."

In Zambia the striking feature of the non-banking financial institutions is the complete state monopolisation of this field of financing. There are 4 credit institutions viz. the Development Bank of Zambia which was established in December 1972 to provide medium and long-term loans to finance industrial and agricultural projects; the Agricultural Finance Company and the Industrial Finance Corporation which had the Rural Development Corporation as their holding company also provide seasonal, medium and long-term finance.

Other savings institutions include the Zambia National Building Society, the Zambia State Insurance Corporation (which took over 17 insurance companies with a fund of K47.6m as at the end of 1973) the National Savings and

Credit Bank of Zambia. The fourth savings institution is the Zambia National Provident Fund, which has accumulated financial assets amounting to K100 million, making it one of the two largest non-bank financial institutions in Zambia. In 1973, the Fund introduced funeral and maternity grants and has started a home ownership scheme.[7]

As in Kenya and Tanzania, the financial institutions are not directly and effectively controlled by the Bank of Zambia in the same way as commercial banks are supervised by the Banking Supervision arm of the Bank.

Nigerian Financial Houses

Before 1970 one development bank and two specialised banks were operating in Nigeria. These were the Nigerian Industrial Development Bank (NIDB), the Post Office Savings Bank (POSB) and the Nigerian Building Society (NBS). By the end of the decade, two other development banks, the Nigerian Bank for Commerce and Industry (NBCI), and the Nigerian Agricultural and Co-operative Bank (NACB), were set up in 1973. The establishment of these specialised financial institutions was aimed at filling existing credit gaps and to mobilise long-term finance for the development of the economy. The two specialised institutions, the Post Office Savings Bank and the Nigerian Building Society named earlier were transformed into the Federal Savings Bank and the Federal Mortgage Bank respectively.

Some of the financial institutions will now be

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7 10 Years of Banking in Zambia, op. cit, p. 18.

examined in greater detail to see how far they have been able to fill the gap of providing long-term capital necessary for development.

The Nigerian Industrial Development Bank

The Investment Company of Nigeria Limited otherwise called ICON, and established in 1953, with the approval of the World Bank, was reorganised in 1964 to form what is now known as the Nigerian Industrial Development Bank (NIDB). NIDB started with an authorised capital of ₦10 million of which ₦4 million was issued and fully paid. In 1976, the Federal Government acquired 94.2% of the shares and in 1977 the authorised share capital was increased to ₦40 million.

The Bank according to its memorandum and Guides to Applicants has as its objective the primary concern of providing medium and long-term finance to enterprises in Nigeria which are privately owned and managed. In the First National Development Plan, 1962-1968, the Bank was expected to:

> "Join foreign skills and experience and foreign private capital with Nigerian skills and capital in the development of new industries and the expansion of existing ones;
>
> evaluate proposals on commercial principles but stand ready to finance enterprises which cannot get funds through regular commercial channels either because such channels do not exist or because the risks are deemed unattractive for private financing;
>
> create attractive opportunities for investment in Nigerian savings;
>
> and work closely with the various regional

> governments and regional development corporations. Although it would be concerned primarily with medium- and large-scale enterprises, it was expected to provide some facilities for smaller scale industries through other expanded credit institutions."

In addition to all these objectives, the Bank was to undertake promotional activities by assisting entrepreneurs to prepare well articulated projects and to find managerial and technical staff.

The Performance of NIDB

It is the view of Professor G.O. Nwankwo that the NIDB made a serious effort to live up to expectations, as can be seen from the attached Table, but it has been beset by a number of problems. One of these is that the formative years of the Bank coincided with the political crises in Nigeria and the resulting civil war followed by rehabilitation and reconstruction of the battered economy. The other major problem that rendered the activities of the Bank ineffective related to its operational constraints. It was prohibited from engaging in trade and commerce, and from financing small-scale business and financing government projects. It could not advance loans that were below ₦20,000.00. With these operational constraints the Bank found it could not play any effective role in postwar reconstruction and development without a change in these restrictions.[8]

As a result of the poor performance of the NIDB, the

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8 The Nigerian Financial System, op. cit, p. 104.

The Nigerian Industrial Development Bank: Operations 1964-1977 Table 32

	(1)		(2)		(3)	(4)	(5)
Year	Sanctions: No. of Projects		Sanctions: Cost of Projects		Disbursements ₦'000	Employment Generated	Savings in Foreign Exchange* ₦'000
	Total	Indigenous	Total (₦'000)	Indigenous (percentage)	Total		
1964	26	10	19,526.6	n.a.	2,765.4	3,588	n.a.
1965	18	5	13,430.5	n.a.	1,946.5	4,154	3,256.0
1966	7	6	1,150.8	n.a.	451.0	592	1,340.0
1967	9	3	5,221.6	n.a.	1,250.0	820	2,269.6
1968	8	2	4,988.2	0.04	1,000.5	695	2,496.0
1969	20	7	27,907.2	27	2,267.8	7,832	10,066.0
1970	28	20	33,664.6	58	2,192.6	4,551	10,358.8
1971	40	35	64,243.5	64	4,149.1	10,657	21,236.5
1972	14	13	16,731.3	82.4	5,590.9	1,716	23,817.6
1973	32	28	91,386.9	77	4,801.2	5,985	26,104.9
1974	22	19	213,183.0	92	7,361.7	5,185	58,318.4
1975	40	29	360,000.0	74	12,832.7	12,997	71,370.7
1976	28	25	429,700.0	97	31,384.9	9,147	71,617.9
1977	27	24	229,500.0	91.8	42,100.0	7,000	10,000.0
TOTALS	319	226	1,510,634.2	-	120,094.3	74,919	312,252.4

* Estimates when projects were fully operational

Source: (1) NIDB (a) Operations Statistics
(b) Annual Reports and Accounts (various issues)
(c) Bulletin (various issues)

Table 33 NIDB Ltd: Amount of Investments Approved (₦m.)

Year		Foreign Controlled	%	Nigerian Controlled	%
1965					
1966					
1967					
1968	1.4	1.35	96.4	.05	3.6
1969	4.8	3.50	72.9	1.30	27.1
1970	6.4	2.68	41.9	3.72	58.1
1971	11.4	3.91	34.3	7.49	65.7
1972	4.0	0.7	17.5	3.3	82.5
1973	17.80	4.10	23.0	13.70	77.0
1974	19.3	1.5	7.8	17.8	92.2
1975	59.8	15.6	26.1	44.2	73.9
1976	51.4	0.7	1.4	50.7	98.6
1977	74.2	6.1	8.2	68.1	91.8

Source: NIDB Ltd

Industrial Enterprises Panel was appointed by the Federal Government to find the causes. The Panel was not happy that the Bank's loans of government funds to alien enterprises exceeded those to indigenous enterprises (see attached table). The Panel went further to say that:[9]

> "Even if the low volume of NIDB sanctions and disbursements or its propensity to provide funds for alien enterprises were to be excused on grounds of absence of suitable projects in general and indigenous projects in particular, no excuse can be seen in the equally poor showing of the NIDB as regards projects promotion and development. Though authorised by its board on 18th March 1974 to promote suitable projects and often spoken about by its management, the Panel could not identify concrete results of NIDB's projects promotion effort. On the contrary, its style of management seems to have been to sit and wait for business to come, whereas the country's requirement and the NIDB's expected role was and still is for a dynamic development bank.
>
> NIDB has thus not measured up to expectation in terms of overall impact. It will be necessary for it to play a completely new role. The desired new role should be that of a dynamic institution taking the initiative effectively to promote and finance new enterprises in strategic areas of the economy. However, as much as the new role of the NIDB is desirable and indeed mandatory the Panel is of the view that given existing organisational structure, management's lack of aggression in the past, its limited vision of what development banking is all about and the low level of performance and impact on the economy, the NIDB in its existing form cannot successfully undertake the new role expected of it without a complete reorganisation."

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9 Federal Military Government's views on the Report of the Industrial Enterprises Panel, Federal Ministry of Information, 1976, p. 26.

The gap of providing medium and long-term capital which NIDB was conceived to fill is thus as wide as ever.

The Nigerian Bank for Commerce and Industry Ltd (NBCI)

The Nigerian Bank for Commerce and Industry was established by Decree No. 22 of 1973 to:

> "Provide equity capital and funds by way of loans to indigenous persons, institutions and organisations for medium and long-term investments in industry and commerce at such rates and upon such terms as may be determined by the Board in accordance with the policy directed by the Federal Executive Council."[10]

Section 2(2) of the Decree further authorised the Bank to:

(a) engage in all aspects of merchant banking, particularly, confirmation of bills and financing obligation of third parties, and acceptance discounting of bills;

(b) underwrite such stocks, shares and debentures as are issued in furtherance of the policy of the Government;

(c) purchase and sell stocks and shares quoted on the Lagos Stock Exchange;

(d) provide guarantees, including guarantees in respect of export credit and letters of credit issued by licensed banks;

(e) accept term deposits from the public, financial

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10 Decree No. 22 of 1973, s.2.

institutions, trust funds, the Post Office and such other bodies as the Board may direct; and

(f) provide cheque facilities for its customers.

The intention of government was to close the gap created by the ineffective operations of the existing financial institutions in Nigeria and to speed up the rate of economic development in the country. The government granted the Bank an authorised capital of ₦50m, ₦35m of which was fully paid up towards achieving this goal.

Appraisal of the Operations of the NBCI

One of the objectives of government in setting up the NBCI was to facilitate the provision of finance for the first phase of the indigenisation exercise. The Bank could not achieve this objective because it commenced business some six months before the end of the compliance period in 1974 having been conceived in a hurry and established without adequate ground work preparation as to what precisely the Bank's functions and policies would be. To finance indigenisation can hardly be a valid reason to establish a bank and a casual look at the National Development Plan 1970-74 would show that the Bank was not mentioned anywhere.

The NBCI has been criticised for not being able to take any initiative towards providing services demanded by section 2 of the Decree. Thus Professor G.O. Nwankwo says:

> "The real criticism is that having taken the initiative to identify the above deficiencies, management, in its attempt to 'carve out a place under the sun' for the NBCI, apparently copied carte blanche

> the operational policies and orientation of the only existing development bank in the country at the time - the Nigerian Industrial Development Bank Ltd(NIDB). A glance through the NBCI's Information Booklet and Guide to Applicants makes this abundantly clear.
> Not only is it of the same design and content as the NIDB's Information Booklet and Guide to Applicants, but also most of the paragraphs and phrases are copied verbatim. A few illustrations will suffice."[11]

In a way therefore the activities and functions of the NIDB we had earlier considered, have been duplicated in the NBCI. In accepting the fact of its ineffectiveness the NBCI argued in its memorandum to the Financial System Review Committee that: (Table 34 shows the poor performance)

> "This period has been quite hectic and perhaps rather short for the company to put on stream several of its intended functions. Besides the usual teething problems, lack of office and operational space in Lagos was a major deterrent from accomplishing more."[12]

One other criticism levelled against the Bank is that most of its investments is to finance government current spending instead of investing the idle funds in projects. This was the view expressed by a writer when he said:

> "The NBCI invests its idle funds in short-term, medium-term and long-term government and private sector securities. Treasury Bills and Treasury Certificates in its assets portfolio had a value of ₦11.7 million in 1976 and ₦17.3 million in 1978.

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11 The Nigerian Financial System, op. cit, p. 110.

12 Ibid, p. 111.

Table 34

Nigerian Bank for Commerce and Industry Sub-Sectoral Sanctions as at 6 February 1976 (Cumulative)

Sector	Number of Projects			NBCI Investment			
	Expansion	New	Total	Expansion (₦'000)	New (₦'000)	Total (₦'000)	% of Total
1 Food and Beverages	10	27	37	4,534.0	34,591.1	39,125.1	22
2 Iron and Steel Basic Industry	2	2	4	2,302.0	4,550.0	6,852.0	4
3 Machinery and Basic Metal Products	2	9	11	2,770.0	7,144.0	9,914.0	6
4 Chemical and Petro-Chemical Products	3	6	9	1,425.0	2,251.5	3,676.5	2
5 Non-Metallic Mineral Products	6	13	19	5,650.0	52,112.8	57,762.8	33
6 Wood and Wooden Products	5	5	10	2,856.6	9,237.5	12,094.1	7
7 Pulp and Paper Products	1	1	2	693.0	1,200.0	1,893.0	1
8 Transport	9	5	14	3,583.0	4,451.0	8,034.0	5
9 Textiles	3	1	4	4,200.0	1,350.0	5,550.0	3
10 Tourism, Hotels and Entertainment	3	3	6	1,070.0	10,731.0	11,801.0	7

contd...

Nigerian Bank for Commerce and Industry Sub-Sectoral Sanctions as at 6 February 1976 (Cumulative)

Contd.

Sector	Expansion	New	Total	Expansion (₦'000)	New (₦'000)	Total (₦'000)	% of Total
11 Footwear and Leather Products	1	-	1	152.0	-	152.0	0*
12 Electronics and Electrical Appliances	3	-	3	865.0	-	865.0	0*
13 Other Manufactured Products	1	6	7	195.0	5,442.0	5,637.0	3
14 Other Service Industries	9	3	12	3,468.0	8,372.0	11,840.0	7
TOTALS	58	81	139	33,763.6	141,432.9	175,196.5	100

* Less than 1 per cent

Source: NBCI

> The NBCI's investments in shares for these years (1976 and 1978) and amounted to ₦1.5 million and ₦8.8 million respectively. Nigerian Government Development Stocks also too ₦7.1 million of its resources in 1976 and ₦6.0 million in 1978. However, one would have expected that the NBCI would have invested the bulk of these idle resources in some concrete projects in the economy, rather than simply helping to finance the Government's current spending."[13]

The Federal Mortgage Bank

Another intermediary institution is the Federal Mortgage Bank which was established by Decree 7 of January 20, 1977. It took over the functions of the Nigerian Building Society which was incorporated in December 1956 and partly owned by the Commonwealth Development Corporation and the Government of the Federation of Nigeria. Following the dissolution of the Society the FBMN took over the assets and liabilities of the NBS. The authorised capital of the FMBN was at its establishment ₦20 million which was divided into 200,000 shares of ₦100 each. Under the Decree the Bank, among other things, has the following objectives:

1. the provision of long-term credit facilities to mortgage institutions in the country at such rates and upon such terms as may be determined by the Board in accordance with the policy directed by the Federal Executive Council...

2. the provision of long-term credit facilities directly to Nigerian individuals at such rates

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13 Ade T. Ojo, Banking and Finance in Nigeria, 1982, p. 121.

and upon such terms as may be determined by the Board...

Performance of the Mortgage Bank

The Bank was beset with myriad problems that affected its efficiency. Like other development banks already considered, it had the problem of inadequate capital for its lending commitments. At the end of June 1979, for example, total offers made by the Bank, without funds to meet such offers was in the region of ₦400 million. In order to ameliorate the position the capital base was raised from ₦20m to ₦150 million. There was also lack of control in asset management, cash flows and accounting operations which severely affected the Bank's financial position. As a result mortgage loans to the tune of ₦6 million were in arrears.

In addition to these problems there were other structural constraints. The Bank's offices were housed in five different locations, four of them hired, and each at least 5 kilometres away from the head office. The result is that there is considerable inefficiency in communication and transportation of files and documents and in some cases savings books get lost in transit.[14]

The Nigerian Agricultural and Co-operative Bank

The other development bank in the banking system in

14 For problem and prospects of the Federal Mortgage Bank see The Bullion Central Bank of Nigeria, Vol. 5, No. 2, April-June 1980, p. 18.

Nigeria is the Nigeria Agricultural and Co-operative Bank, established in 1973. Its main objective is "to enhance the level and quality of agricultural production, including horticulture, poultry farming, pig breeding, fisheries, forestry and timber production, animal husbandry and any other type of farming as well as storage, distribution and marketing connected with such production in the country".

Like the other development banks already dealt with the Agricultural Bank has the problems of inadequate capital base, disbursements falling short of total approvals of projects in all the years. The geographical spread of the bank is very narrow having only one branch in the whole country. It had acute managerial problems which led to a commission of enquiry into its affairs. Another reason for failure of the Bank is the requirement that peasant farmers should pay 25% of the project cost as owners' contribution. The attached tables show at a glance the poor performance of the Bank for the period 1974 to 1978 and G.D. Paton had a premonition of failure of such a bank when he said that "the fundamental prerequisite of such a bank - the availability of land, the title to which is clear and free of any restrictions - is conspicuous by its absence in Nigeria; that the complicated and ill-defined system of land tenure rules out an orthodox agricultural bank; and the consensus of opinion is that the economic position of the farmer is good at present and there is no shortage of funds at low rates of interest."[15]

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15 Reports on Banks and Banking in Nigeria, by G.D. Paton, 1948. paras. 10-11.

Table 35

NACB: Commitments by Type of Client, August 1973 - May 1977

Class	No. of Projects	Amount Commited	Percentage of Total Commitment	Cumulative Disburse-ment as at 31/5/77	% of Total
		(₦'000)	(%)	(₦'000)	
Companies	65	50,123	20	10,388	10
Individuals	58	40,220	16	29,953	28
State Agencies	25	99,027	39	42,301	39
Co-operatives	15	27,725	11	11,340	10
State-Owned Companies	7	36,412	14	13,858	13
TOTAL	170	253,507	100	107,840	100

Source: The Bullion, Vol. 2, Nos. 3 & 4, July-September/October-December 1977, p. 29.

Table 36

NACB: Volume of Business by Type of Projects August 1973 - May 1977

Type of Projects	No. of Projects	Loan Amount		Amount Disbursed	
		(₦'000)	% of total	(₦'000)	% of total
Poultry	52	5,670	2.2	2,878	2.7
Cattle	3	3,663	1.4	568	0.5
Piggery	4	717	0.3	469	0.4
Fisheries	8	41,209	16.3	31,369	29.1
Tree Crops	16	33,531	13.2	9,691	9.0
Arable Crops	44	61,028	24.1	18,329	17.0
Marketing	16	65,666	25.9	36,055	33.4
Integrated Projects	4	14,377	5.7	3,608	3.3
Mixed Farming	11	4,281	1.7	2,351	2.2
Agro-Allied	2	11,702	4.6	-	-
Forestry	1	3,224	1.3	630	0.6
Mixed Crops	6	6,894	2.7	858	0.8
Others	3	1,545	0.6	1,035	1.0
TOTAL	170	253,507	100.0	107,841	100.0

Source: The Bullion, Vol. 2, Nos. 3 % 4, July-September/October-December 1977, p. 29.

Table 37

NACB - Operations 1974-1979

Year	Sanctions: No. of Projects	Disbursements (₦'000)	Sanctions: Cost of Projects (₦'000)
1974	38	7,729	32,431
1975	52	31,447	62,329
1976	67	71,974	150,615
1977	66	40,500	162,800
1978	7	52,500	20,500

Note: All operations have been with indigenous persons and enterprises.

Source: NACB, Kaduna.

Causes of Ineffectiveness of Development Banks

The causes of failure or ineffectiveness of the development banks have been identified:

1. The low level of the activities of the development banks can be attributed to the low level of their funding (under-capitalisation) and their failure to "perform a major aspect of their expected banking function, namely, the mobilisation of financial resources."[16]
2. The poor performance of the banks can also be attributed to the general suitable manpower shortage in the economies. This problem affects not only the banks but also the proprietors of the businesses.
3. For efficient performance of their functions banks need a reliable supply of water, transport, telecommunication system, electricity and good roads. These basic infrastructural facilities are not in adequate supply in the countries surveyed.
4. Failure of central banks to supervise these banks as they do with respect to commercial banks is critical to the success of these intermediaries. The failure is more regrettable in Kenya and Tanzania, where the organic laws provide in sections 39-42 of Kenya Central Bank Act and sections 47-52 of the Bank of Tanzania

16 Banking and Finance in Nigeria, op. cit, p. 122.

Act 1965, for supervision of specified financial institutions.

5. The attitude of customers of the banks is rather cavalier towards the liquidation of loans granted. There is a poor repayment record. Tying up financial resources further limits the ability of the banks to venture into new projects or assist more clients.

6. Most of the idle resources of the banks are invested in governments' current spending instead of on concrete viable projects.

The function of the banks is essentially to provide medium and long-term funds which the Central Banks and the commercial banks could not provide. A vital way in which the central banks can influence the course and pace of development of the African Commonwealth economies is by the promotion of the establishment of the development banks, mobilising and channelling savings into productive investments. The same arguments hold for insurance companies which have enormous capital, as in the attached Table. It is not enough for central banks to control the development banks through participation in the equity base of the banks or outright nationalisation as in Zambia; more conscious efforts should be made to inspect and supervise them. It is the apparent lack of adequate control and the existence of the above named factors that have given rise to:

(a) gaps in the supply of medium and long-term finances necessary for economic development in the countries;

Table 38

Net Premiums Written by Nigerian Insurance Companies (1960-73) (thousand Naira)

	Life		Non-Life		Total
Year	Amount	% of Total	Amount	% of Total	Grand Total
1960	614	8.71	6438	91.29	7052
1961	964	11.5	7418	88.5	8382
1962	1276	13.87	7924	86.13	9200
1963	1970	19.89	7936	80.11	9906
1964	3284	25.54	9574	74.46	12858
1965	3764	28.66	9368	71.34	13132
1966	6642	40.03	9952	59.97	16594
1967	4866	36.04	8634	63.96	13500
1968	4262	37.16	7108	62.84	11470
1969	5300	39.90	7982	60.10	13282
1970	5646	33.97	10622	66.03	16086
1971	10956	41.04	15742	58.96	26698
1972	9935	29.12	24186	70.88	34121
1973	17311	38.70	27418	61.30	44729

(b) gap in the mobilisation process of idle funds in the hands of the public;

(c) gap in the law which has multiplied the effect of (a) and (b), and rendered the central banks (e.g. the Central Bank of Nigeria) impotent to take statutory steps to supervise the intermediaries.

As we have said elsewhere where there is a will a dynamic central bank can invoke the ancillary clauses in the organic law to promote economic growth. In the instant case the Central Bank of Nigeria could invoke section 39 of the Central Bank of Nigeria Act 1958 and section 41(1)(d) of the Banking Act 1969 to supervise the financial intermediaries in order to achieve ordered progressive economic growth. Although the Kenya Act provides for such control there was in fact only one occasion that the Central Bank applied the provisions of section 41 of the Act to give directives to the intermediaries. In Tanzania the intermediaries, in spite of the provisions of sections 48-52 of the Act do not come under the umbrella of the Banking Supervision Department. When interviewed by the present writer, Mr. Francis Mlozi, Head of the Banking Supervision Department and twice a fellow "coursant" at the Bank of England, confirmed this and regretted the inability of most central banks to inspect financial intermediaries.

Other Non-Bank Non-Financial Houses

Apart from the financial houses considered in the previous paragraphs, there are various other institutions that are deposit-taking and between them hold substantial amounts of funds. The political regime in Nigeria allowed the political parties to receive donations from persons and institutions. In a capitalist country like Nigeria, individuals and companies use the avenue of donations and gifts to political parties to gain favour with the political parties and the governments they control. In this way, they can win contracts worth millions of naira. It is also usually a condition of such awards of contract that between 10 and 20 per cent of the value of the contract should be paid into the political party funds. Such a huge accumulation of capital in the developing countries is used to bribe the electorate and enrich party hacks. In one instance, it was reported that the Lagos State Government gave ₦14,691,000 to the Unity Party of Nigeria. The report said that:[17]

> "Under the heading in respect of Lagos State, Chief Awolowo said that 'Donations paid to the Party by the Lagos State Branch of the Party, from 4 January to 2 September, 1983 - ₦14,691,000'. The leader of the banned UPN also listed the donations received from the other branches... General Buhari said that he was not aware of any law in Nigeria which allowed politicians to siphon public funds to run their parties."

Although there is no record to show the amount of money in party coffers and using the example of Lagos as a standard, the political parties must have had between themselves over a billion naira of idle funds (i.e. at ₦15m a year for each of the 19 States for 4 years). As General Buhari has remarked, public funds should not be spent that

17 Sunday Concord, February 19, 1984, p. 1.

way and if parties must do so then there should be some measure of control and directives given as to how such funds should be invested in the money market. In such cases the Central Bank can only give advice because such idle funds cause disequilibrium in the economy.

Apart from party funds there are also large sums in the chests of Hire Purchase Houses, Provident Funds and so on.

In Chapter 2[18] it was stated that traditional financial institutions perform functions which are similar to those performed by modern banks and financial institutions. They accept deposits and give credit and do provide long-term finance for development as well.

The most prominent and popular traditional financial institutions are Isusu, town unions, social clubs, women's societies, Igbe Oha (community chest), age-grade societies, or associations and local money lenders. Each is primarily concerned with matters of loans, savings, and mutual aid for the benefit of the group or the community. They aim to provide the necessary funds for marriage ceremonies, building community halls, building a home, buying a sewing machine or a bicycle, for money lending, for condolence purse to dependents of a deceased member. Such societies, such as the DIBUGO Club, the IBUSA PREMIER CLUB Nigeria, the PEOPLE'S CLUB and AKADUCHIEME Club, build houses for the deceased member if he dies without owning a house and in addition give to the dependents lump sums of money to the tune of ₦10,000 or more after burial expenses. Most

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18 Above, page 91.

people in Southern Nigeria therefore prefer joining social clubs to taking out life assurance policies.

Although there is no record of the total amount of money which these societies collect from their members and hoard, it is common knowledge that millions of naira are collected every week and these enormous sums revolve among the members.

There are no written laws or rules that guide the operation of the traditional financial institutions, nor do the provisions of the Banking Act cover their operations. They have no accounting system, nor experience of modern investing techniques. The result therefore is that the absence of legislation has made it impossible to harmonise their functions and control their activities.

Because of the existing gap in the banking laws, the enormous capital that is in the traditional financial system cannot be harnessed and channelled to priority areas in the economy. The failure of the Central Bank to do this is critical to the operations and success of the rural banking scheme and conversely the absence of banking facilities for the rural people will continue to encourage the proliferation of the traditional financial institutions. The Central Bank should establish a pilot scheme of mobile savings banks to enable rural people to deposit their savings into the national financial "grid". The inclusion of the traditional thrift system in the national "grid" should be by way of recognising the institutions as financial institutions and or organising them into co-operatives and to be subject to inspection and supervision by the

Central Bank in order to achieve economic growth.

We conclude with J.K. Onoh that:[18]

> "Non-bank financial institutions include insurance companies, hire-purchase companies, savings and loans companies, development finance companies, mutual funds, etc. In the past it was wrongly believed that the commercial banks alone were responsible for the excess liquidity of some economies. Excess liquidity breeds inflation. The Radcliffe Report of 1959 has revealed the possibility of monetary disturbances from sources other than the commercial banks. Empirical studies of the United States economy also confirm that non-bank financial institutions can contribute to excess liquidity.
>
> Non-bank financial institutions can cause monetary disturbances with the funds at their disposal through their lending or investment patterns, especially when such funds are large. Insurance companies, development finance companies, hire-purchase companies, and a number of other financial institutions, are now under the control of the central bank in many countries. The aim is to ensure that they invest their funds properly and that their lending practices do not run counter to general economic objectives. Monetary authorities have devised means for controlling the investment activities, maturity pattern and composition of investments of non-bank financial institutions. For example, the lending rates of non-bank financial institutions have been harmonised in some countries with those of commercial banks to ensure that the economy is not destabilised through excessive lendings."

Central Banking in a Military Regime

When the British Prime Minister Mr. Macmillan prophetically announced in 1960 that "the wind of change" was sweeping over the continent of Africa, he was saying that

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18 Money and Banking in Africa, op. cit, pp. 179-180.

most African states would gain political independence during the decade. Indeed, from the Table in Chapter 2 page 57 over 42 countries attained political independence between 1960 and 1970. Political independence was then thought to bring hopes and progress and economic growth to the new nations, but regrettably the "wind of change" has blown in a wrong direction accompanied by sufferings resulting from political and economic malaise on an unprecedented scale. In 1984 African countries are saddled with foreign debts of over ₦160 billion, and they have nothing by way of sufficient food, good shelter, good health care, good roads and other infrastructural facilities to show for these heavy external debts.

At independence the African countries particularly the Commonwealth countries chose democracy as their form of government and, in particular, the Westminster model. Things have fallen apart so much that within the past 25 years or so when the wind of change started to blow more than 70 leaders in 29 countries have been deposed by assassination, purges or coups. The Table below shows the distribution of military, one-party and multi-party states in sub-Saharan Africa.

Types of Governments in Sub-Sahara Africa Table 39

Military	One-Party State	Multi-Party State
Burundi	Angola	Botswana
Central Africa Republic	Benin Republic	Gambia
Chad	Cameroon	Lesotho (in practice one party)
Equatorial Guinea		

Military	One-Party State	Multi-Party State
Ethiopia	Congo	Senegal
Ghana	Djibouti	South Africa
Guinea		
Guinea Bissau	Gabon	
Liberia	Ivory Coast	Uganda (de facto one party)
Madagascar	Kenya	Zimbabwe (trying to be one party)
Mauritania	Malawi	
Niger	Mali	
Nigeria	Mozambique	
Rwanda	Sierra Leone	
Somalia	Swaziland	
Sudan	Tanzania	
Togo	Zaire	
Upper Volta	Zambia	
18	16	7

Source: Time Magazine - International Edition January 16, 1984.

The degree of military intervention is an indication of the level of economic growth in Africa. In Europe and America and other developed countries military interventions in government are unheard of and unthinkable.

The intervention of the military is only an indication of the extent by which democracy has failed to thrive in Africa. The claim of the military is usually that they intervene in order to save an African country from economic suicide and also to stop rapes on democracies. It is often alleged by each military junta that they are provoked to take over governments because of the failure of the successive leaders and political parties to practise democracy and rule fairly and justly. As one top military officer after criticising the government they toppled accused it of being inept and corrupt said:

> "I and my colleagues in the armed forces have, in the discharge of our national role as the promoters and protectors of our national interest, decided to effect a change of leadership of the government of the Federal Republic of Nigeria to form a Federal Military Government."[19]

The question poses itself, since the politicians and the military are products of the same culture will the performance of the military in government be any better? They are not insulated from the vices and malpractices of citizens of their countries and they are not endowed with special skills or techniques or expertise which in any case are in short supply in the larger society in which they live. On the question as to whether the military is a virtuous institution capable of leading their countrymen along the paths of economic growth, Mr. Olatunde Odetola in his book, Military Regime and Development arrived at the following conclusions:[20]

> "that there is a low level of professionalism in the armies of many African nations,
>
> that the assumed puritanical orientation of the military is called into question by evidence of corruption and indiscipline

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19 Sunday Times, January 1, 1984, p. 1.

20 The Nigerian Guardian, November 28, 1984, p. 13.

> found in the military organisation itself,
>
> that the military organisation in Africa has not in general been able to sustain the initial enthusiasm with which it came to power,
>
> that while the military has taken some drastic steps to correct the ills of the society in Africa, such steps are lightly moralistic and fragmented and do not add up to a real effort to discipline the society,
>
> that military nationalism cannot be divorced from military corporate interest,
>
> that the economic performance of the military has worked from country to country due to varying manner in which the national bourgeoisie has been brought into the process of development,
>
> that the military has probably recorded greater success in their performance in the political sector than in the economic sector, and
>
> that the military has been as benevolent in specific instances as have been the civilian politicians."

That democracy in Nigeria has been deposed in favour of military dictatorship is not a surprise given the poor performance of the economy and the manipulations and manoeuvres of political parties during the civil regime of 1979-1983. The central role that money, corruption and contractorship came to play in the operation of the Nigerian political system led Alhaji Balarabe Musa in a statement on June 29, 1982 to describe the situation as one in which:

> "instead of a democracy in which you have in operation, government for the people, by the people, and of the people; you have a contractors, by contractors and of contractors. Politics is being reduced to a fight between one gang of greedy tycoons, each backed by their foreign business masters, and others; and each waving some tribal, or sectional, banner to confuse and divide our people."

Further, a Ministerial Committee on the causes of the Excessively High Cost of Government Contracts for Works and Services in Nigeria reported in July 1980 "that the costs of government projects given to contractors are 200 per cent higher in Nigeria than in Kenya and 130 per cent higher than in Algeria, at that time".[21] A writer [22] illustrating the extent of damage this has caused to the economy said:

> "let us take seven contracts awarded by four state governments since 1982, all of which went to British construction companies. These are:
>
> 1 Alfred McAlpine - ₦65m, hospitals, clinics, a medical school and boreholes in Plateau State.
>
> 2 Balfour Beatty Construction ₦45m, Balanga Dam and irrigation project in Bauchi State.
>
> 3 Hispanic Construction ₦70m, Roads in Bendel State.
>
> 4 Costain Limited ₦120m, Water supply and irrigation in Oyo State.
>
> 5 Lilley Construction ₦52m, Water supply in Plateau State.
>
> 6 Balfour Beatty Construction ₦51m, A modern market in Bauchi State.
>
> 7 Biwater Group ₦151m, Water supply in Kwara State.
>
> The total is ₦439 million,"

and concluded that these seven contracts have involved inflation of costs amounting to about ₦250 million over Algeria, another major oil and gas exporter.

Speaking of such manipulation, the Academic Staff

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21 New Nigerian, February 1, 1984, p. 3.

22 Ibid, Bala Musa.

Union of Nigerian Universities (ASUU) meeting at the University of Nigeria Nsukka on 15th and 16th August, 1984 said inter alia:

> "ASUU submits that the crisis that has overtaken Nigeria, resulting in the retrenchment of hundreds of thousands of workers and in other so-called austerity measures is not simply a crisis of mismanagement petroleum glut or stealing on the part of a few people, very important as these factors are in creating the crisis. In short, we are in a great capitalist depression. A great capitalist depression, such as that which occurred in the early 1930s, and is for the umpteenth time repeating itself now, brings untold suffering to millions of people.
>
> Discussions at the Conference on the State of the Nigerian Economy organised by our Union at Benin from 9th to 13 April this year showed quite clearly that the suffering of the country arises from the capitalistic and parasitic pattern of development chosen for the country by its own bourgeois elite and their imperialist allies.
>
> Beyond any shadow of doubt we are running an economy that is parasitic, contradictory and unjust in all its facets: the capitalist employer exploits the worker to get rich, landlords exploit tenants to get rich, money lenders exploit the needy to get rich, monopolies and big contractors destroy small businessmen to grow richer, traders of all types hoard goods and collude against poor consumers to get rich and expatriates exploit Nigerian workers and ally with indigenous capitalists to cheat the government and the country in order to expand their financial empires. Hence no one can once and for all solve the problems of inflation, recurrent depressions, endemic poverty, and unemployment, stealing, kick-backs etc. within such an economy. Therefore the question before the Nigerian people, but especially patriots, whatever their profession or calling, is whether we can afford to retain a system which according to its very mode of working, which includes in-built stealing, fraud and graft, must, of necessity, subject millions of people to indescribable suffering. Nigerian academicians, by and large, have pointed out how the underdevelopment

> of the country arises from capitalist colonialist and neo-colonialist exploitation of the last one hundred years. Philosophically minded Nigerians, including academicians, have pointed out that we should not take-over from Europe a civilisation in which the acquisition of money is everything and the man sent to you is nothing."[23]

The military in Nigeria in attacking and finding solutions to the depressed economy and those who plundered and pillaged the economy employed the means familiar to them namely, decrees, detentions and corrective actions with military precision, assaulting the rule of law in the process. Decrees and edicts were promulgated without consultations, and some times back-dated with retrospective effect. One of such laws is the Exchange Control Anti-Sabotage Decree 1984 which is a source of Central Bank law under which Nigerians and aliens have been sentenced to various prison terms. Some of the Tribunals set up were headed by soldiers not versed in the law. Nigerian lawyers have refused under the circumstances to appear in what they called kangaroo courts and at the "emergency General Conference held in Lagos on the 5th of May, 1984, and which was widely publicised passed a resolution urging members not to be involved in the secret trials under Decree No. 3 of 1984".[24]

Whether a military dictatorship is better than a civilian government that attempted to impeach chief judges

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23 National Concord, September 5, 1984, p. 7.

24 Presidential Welcome Address by the President of the Nigerian Bar Association, A.N. Anyamene, S.A.N. to the Annual Conference held in Lagos on August 27, 1984, p. 5.

is a matter of opinion as the Chief Justice of Lagos State tried to put it when he said in a paper he presented on "An Independent Judiciary under a Military Government" at the Annual Bar Conference on 29th August, 1984 in Lagos:

> "The paper which I shall read is substantially a reproduction of another paper I had read on the 22nd February, 1979 on the theme 'Independence of the Judiciary in Nigeria' to the 8th General Assembly of the Magistrates Association of Nigeria held at Ibadan. The circumstances were quite similar to the circumstances in which we are gathered together today. At that time we were watching the end of a thirteen year old military regime and we were looking forward with great hope, to the advent and return of a civilian government. In the paper I had read then I was expressing thoughts such as the military in enacting their decrees consulted no member of the public but that under an Executive Presidential system of Government, Bills would be published in the papers and the Public would have an advantage of reading them and could express themselves on these bills and even lobby legislators on them. But we now know better. We had watched with great dismay the impeachment proceedings. They even threatened to remove Chief Judges by impeachment. In that spirit I want to give my address."[25]

The role of the Central Bank should be to take advantage of the speed with which the military works to solve most of the problems and shortcomings besetting the economy and identified in this thesis. In the four years of the past civilian regime, the Parliament passed a total of 34 laws during its first term of 4 years in office. The military regime, on the other hand, promulgated 31 decrees

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25 At pp. 1-2 of the Introductory Part by Justice J.A. Adefarasin.

between 31 December, 1983 and 31 December, 1984, that is after only one year in office. However, it is not the same thing as saying that the flurry and tempo of legislation which has characterised the first year in office will be maintained in the future. The notion that the turn-over of enactments of a government is necessarily an index of its performance is fallacious. There are of course other considerations and criteria, for example, how good, appropriate or necessary have the enactments been, and how well have the authorities been able to administer them. A central bank should therefore initiate reviews of its organic laws and the subsidiary legislation to remove clogs and fill lacunae in the law so that law will properly be a vehicle for reformation of the banking and financial system.

As delay is not conducive to effective monetary management, the Central Bank should use the opportunity of the presence of the military regime, which can potentially act with speed, to find solutions to those problems which the politicians could not tackle because of political and vested interests.

In order to provide a good climate for foreign investment, it is essential that there be political stability and rule of law.

The people generally do not object to military interventions, so long as they are only shock therapies. So it will not be misplaced enthusiasm for the Central Bank to advise the military that where incursion has to be made at all, it has to be exactly interventionist, brisk and short-lived. Entrepreneurs, both domestic and foreign, can participate in the economic development and growth of a country with confidence, if there is an environment of political stability. A military inter-regnum should ideally not last longer than the life of a Parliament.

The question of political appointments of governors and directors to the board of the Central Bank without regard to functional qualifications should be corrected and the law amended accordingly. Indeed all the reforms proposed in Chapter 10 hereof can be implemented by the Central Bank during the military rule.

As bankers and advisers to the government the Central Bank should take the opportunity of military rule to render incessant consistent advice as to how effective economic growth can be achieved. The experience with the military in Nigeria is that they are always willing to consider proposals presented to them. The following encounter with one of the military rulers shows the extent to which they can not only listen to advice but also put proposals into action:

> "Traditional medicine (otherwise known as 'juju' or magic) may be used in Ogun State to stop insects and other dangerous bugs from attacking crops and other agricultural products.
>
> Governor Oladipo Diya of Ogun State, who revealed this to the Daily Times in Abeokuta yesterday, said that government was consulting a man who had prepared native 'juju' that had scared insects and other dangerous insects away from a farm he the governor had personally visited.
>
> According to Brigadier Diya, reports reaching him proved that the elderly man was effective.
>
> An expatriate in charge of the farm where

the native juju was tested had also testified to its effectiveness, he said.

Still confirming his belief in the local 'juju' Brigadier Diya said: 'This has been tested in the presence of people, I have asked questions and people have told me that the medicine was responsible.'

The governor said that he had asked the Commissioner for Agriculture to invite the elderly 'juju' man for more discussions on the subject.

Such discussions, the governor told the Daily Times might provoke some other ideas that could assist government efforts to boost food production and vital agricultural products in the state.

Brigadier Diya was of the opinion that such adventure could complement government's efforts to boost agricultural production.

What was left after such a thing had been detected, the governor said was for our scientists to research into and develop it."[26]

Proposals can be made to government on the following matters:

Population Explosion and the effect on the economy

Birth Control

Health Care

Government Expenditure - the pumping of too much money into economy

Salary Increases and price policy

Over Reliance on oil as a source of foreign exchange earning

Promotion of Exports

Provision of basic infrastructural facilities to all parts of the country

Total commitment to Agricultural production

The rule of law

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26 Nigerian Daily Times, November 30, 1984, p. 1. Juju can be in the form of a ring or powder or other concoction. In this case the juju must have been tied to a stick at the entrance of the farm or buried.

At first sight it would look odd to suggest that a Central Bank should offer advice on such areas as the rule of law or population growth. When General Buhari came to power in Nigeria in 1983 he told the world that he would not countenance the meddling of lawyers in the country. This statement, probably made innocently and with the best of intentions, sent ripples across the world, particularly in the Commonwealth countries. We have argued above that where the law in a society is uncertain and unpredictable and changes with immediate effect and retrospectively, investors will be deterred from investing in such a country. Similarly, we have argued in Chapter 10 that the population explosion destabilises and distorts economic growth. In this situation the role of the Central Bank in a military regime must be to advise and counsel the military authorities on these matters even if they do not want to listen. Constant and persistent dialogue with them will certainly produce favourable results for as stated earlier, the military seem disposed to listen even to unusual suggestions. To further make their points the Central Bank should cultivate the habit of putting down their thoughts and proposals in writing in the form of memoranda. A memorandum containing well-argued points backed by statistics and data will not fail to make its mark. The Bank should also cash in on the speed and precision with which the Army carry out their operations and assignments. If these steps are taken, the Central Bank should be able to carry out most of the reforms recommended in the next chapter and in the result be properly placed in the path for economic recovery and growth for the progress and prosperity of the citizens of Nigeria today and for generations yet unborn.

CHAPTER 10

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDED REFORMS

Part I of this final chapter attempts to give a summary of the findings in the preceding chapters. Part 2 looks at the purpose of the thesis which is to investigate the following questions:-

1. What is the need, if any, for a central bank in the selected countries (Nigeria, Kenya, Tanzania and Zambia)?
2. If there is a need for a Central Bank, should it be a part of government, or an autonomous institution independent of Government?
3. A Central Bank has a fundamental role in collaboration with other financial institutions. Is co-operation with the financial institutions necessary?
4. Bearing in mind the critical position of most African countries in regard to terms of trade and balance of payments, how do external Central Bank operations contribute to national economic survival?
5. In short, has the central banking law promoted economic stability and growth, or the reverse?

Part 2 also attempts to answer the questions and draw conclusions from the factsalready presented in the previous chapters. Following this, a number of submissions have been made which is intended to summarise the reasons for the apparent failure of the central banking system in Commonwealth Africa.

Finally in Part 3, the thesis gives in a nutshell a number of recommendations for appropriate reform of the central banking system. The model is the Central Bank of Nigeria, but most of the recommendations made apply, mutatis mutandis, to the other central banks of Commonwealth Africa, viz. the Central Bank of Kenya, the Bank of Tanzania and the Bank of Zambia. It is hoped that the reforms proposed here will match the level of development of the countries surveyed and ultimately conduce to progressive economic growth and transformation of the present lethargic central banking system into an effective, dynamic and result-oriented system. This hope has been reflected in the Epilogue that caps the chapter.

PART I SUMMARY OF FINDINGS

Definition of Central Banking

Before a meaningful attempt can be made to ascertain the impact of central banking legislation on the economies of Anglophone African countries, one must define "central banking" as this will also facilitate a comparative analysis of similiar institutions elsewhere and their contributions towards promoting economic development. After examining the traditional definitions[1] of the concept of

1 Above, p. 12.

central banking by various authors and commentators, e.g. J.L. Fisher, J.G. Coates, Professor G.O. Nwankwo, who have tried to define central banking by reference to the classical and modern functions of central banks, our definition sees central banking as the science or art of banking in which a single bank at the apex of the monetary and banking systems has a complete or residuary monopoly of the regulation of credit, currency and the functions of money and control of the banking and financial institutions in a country in accordance with statute and in the national economic interest.

Central banking is a science in so far as it adopts the modern scientific and technological approach to banking; making periodical readjustments in the system. Central banking is also an art in that it has developed its own codes of rules, practices and procedures.

Evolution of Money

In view of the fact that money is central to the operations of a central bank and indeed to any form of banking, it is imperative to discuss the evolution of the concept of money and banking elsewhere and in Africa. This was discussed in Chapter 1. Prior to the advent of money, trade was by barter in its various forms, which included exchange of good for good, gift exchanges and silent or dumb trade. As society began to get more sophisticated with its complexities in commerce and growing internationalisation, trade by barter became an unsatisfactory medium of exchange, and accordingly money was evolved to overcome the difficulties of trade by barter. This forms a background to the emergence of banking, probably in the ancient Near East. So far as Africa is concerned, the historical development of banking in Africa before and after independence did not exactly mirror experience elsewhere. Banking as practised in Europe differed from AFrican traditional banking (cf. the Isusu, Igbe Oha and other similar systems). Modern banking was imposed on the traditional African monetary system by the colonial governments.

Historical Development of Central Banking

Having examined the evolution of money and banking, the thesis in Chapter 2[2] traces the historical development of central banking. Primarily attempts were made to ascertain whether the concept of central banking can be traced to Africa. It was noted that the traditional or classical concept of central banking had evolved going beyond currency stabilisation and prevention of inflation to extend its influence and functions to the relations of Central Banks with the government, the public, the financial and banking institutions. It is this new concept of central banking that is part of our colonial heritage.

Thus after tracing the evolution of the classical and modern concepts of central banking, it was submitted that, like the concept of banking, there is no tradition of central banking in Africa. It is an imposed system without a solid base. It is accordingly submitted that this new and now general concept of central banking is a product of

2 Above, p. 52.

financial evolution in the advanced countries, and is largely un-African, having emerged in mature, industrialised advanced countries with diversified economic structures and sophisticated money and capital markets.

Currency Boards

During the process of colonisation of West and East Africa, the colonial administrations felt the need for the services of a form of central monetary authority or central bank. Indeed, prior to the establishment of the West African Currency Board (1912), there were in existence in East and West Africa British private colonial banks that operated the banking system. The colonial governments assumed the responsibility of the issue of notes and currencies which was a classical function of the older central banks.

For example, a monopoly of the issue of silver coin and the right to open bank accounts for the governments were granted to the then Bank of British West Africa. The government of the West African colonies and the Bank of British West Africa thus together played the role of a central bank. However, the Emmott Committee set up by the Colonial Secretary in 1900 recommended inter alia the establishment of a currency board. In consequence a West African Currency Board was appointed in November 1912 with the function of the issuance of West African Currency Board notes and coins which were accorded full legal tender status in all the four British West African territories and the performance of other central bank functions.

An identical Board[3] was established for the East African sub-region in December 1919; and for the then Rhodesia and Nyasaland Federation the Central African Currency Board was established in 1939 in the same way. The East African Currency Board had the additional task of harmonising the conflicting situation in the exchange rates of sterling and the Indian rupee, which was then the standard coin in East Africa.

These Currency Boards operated as mere administrators of the monetary systems, and were not in a position to formulate a national monetary or credit policy. Thus they were by no means substitutes for central banks. Further they did not supervise the existing banking systems or act as banker to the governments, nor were they lenders of last resort to the banking system. Despite these shortcomings and limited functions, they represented a partial introduction of traditional central banking suited to the then level of economic development.

Sources of Law

In Chapter 3[4] the sources of Central Bank Law in Commonwealth Africa are set out. It comprises:

i domestic law and subsidiary domestic law sources

ii basic international law

iii subsidiary international law sources

iv received law (which includes the English common

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3 See p.80.

4 See p.125.

law, the doctrines of equity and statutes of general application)

Added to this list in some countries like Nigeria is indigenous customary law which regulates the operations of the traditional credit institutions.

Objectives of Legislation

An assessment of the general economic and social objectives adopted by government is important in determining the impact of the consequent central banking laws on Anglophone African countries. The immediate background to the setting up of central banks was the colonial experience, in which private British transnational commercial banks dominated the banking scene. The nationalists regarded the operations of the British banks as broadly anti-social and predatory and against the interests of the Africans. They believed that the banks' control of credit and refusal to grant loans to private manufacturers and primary producers were detrimental to the Africans' commercial activities and developments; they concluded that a central bank was the only remedy.

These expatriate banks, in our opinion, constituted a major tool with which the colonialists exploited the economies of Anglophone Africa. Indigenisation of the commercial banking system went a long way to provide the answer to this.

There were other motives - political maturity, national pride, the creating of a national currency and international financial co-operation.

The social and political reasons seem to have weighed more in the balance than the economic reasons for the setting up of the central banks. Thus from the outset central banks have been set on a false path leading to dismal failure.

Legal Structures of Central Banks

Generally speaking, the basic structure of the central banks surveyed comprises a Board of Directors and staff directed by the Chief Executive or Governor. Members of the Board of Directors are appointed by Ministers or political heads from party members, particularly as a consolation prize for those who have failed to obtain elective posts. In Nigeria there is also the idea of ethnic balancing and geographical spread underlying most of such appointments. The result is the politicisation of these offices, and their holders forfeit their independence and their consciences. There is an analogy with the attitude of English law to the appointment of directors, viz., that directors need not have any special qualifications for office. This attitude has been adopted in the appointment of directors to the boards of central banks. This is one reason why central banks in Commonwealth Africa have failed to promote optimum economic and social growth. Another reason is the lack of qualifications of board members.

Functional or professional qualification of board members is a sine qua non. In the advanced countries members with banking, financial, agricultural and other experience are appointed; whereas directors of African central banks can be librarians, secondary school non-graduate teachers. Square pegs cannot fill round holes, and decisions on central banking should be left to experts qualified in relevant fields.

Allowances to Incumbents

Similarly, it was noted at page 221 that Governors and Deputy Governors of central banks and Directors are appointed by the President or the appropriate Minister for a specific term of years, holding office at the pleasure of the government. In Zambia, for instance, it is the Minister who determines what stipends and allowances to pay to the Governors and the Directors. The results, once again, are lack of independence and the weakening of the operations of central banks generally, but especially in their efforts to achieve economic growth.

Government Representation on Boards and the Autonomy of Central Banks

In some Commonwealth African countries there is provision for government representation on the managerial boards of central banks. Their presence can adversely affect objective analysis and deliberations and frank expressions of views by the Directors. Conflicts can arise between governments and the boards; some of the central bank laws state in unmistakable terms the power of the government or the Minister to issue directives to the central bank which puts in question the independence of central banks. Central banks should be seen to be independent within the government rather than as an arm of the government.

Implied Powers of the Board

An overview of the institution of central banking shows that the Board of Directors is responsible for the general policy and administration of the bank, while the Chief Executive or the Governor is responsible for the day to day management of the bank.

All the Anglophone central banks have incidental clauses in their organic laws which provide in effect that the Boards not only have the expressly enumerated powers but also implied powers to take all action that appears to them reasonably incidental to their express powers. From the decision in Doherty v. Tafawa Balewa the Privy Council seems to say that the doctrine of implied powers can be invoked by central banks for the purpose of extending the scope of legal powers provided in their organic laws beyond those that have been expressly granted. A dyanmic Board or Governor can in theory initiate many actions on their own authority. However, in practice Boards have been reticent to invoke this clause, thus neglecting an opportunity to secure effective control of the banking system and the promotion of economic growth.

Organisation of the Central Banks

The structure and organisation of Commonwealth African central banks have been influenced by the practice of the Bank of England. Statutory departments typically found in Commonwealth African central banks include: economic research and statistics; banking supervision; domestic operation; personnel; and internal audit. Apart from this functional organisation, there is also the aspect of geographical organisation. Geographically, some banks have zonal offices which enable central banks to expand the sphere of their operations and bring their services nearer to the people. By way of contrast however, it was noted that the Central Bank of Nigeria has no zonal offices for the co-ordination of the activities of its branches and currency centres or from where to represent as far as possible, territorial and economic interests and the interest of local and indigenous banks. It was further noted that because of the large and unwieldy population and land mass of Nigeria, the poor and inefficient postal and telecommunications system, the lack of a network of good roads and other infrastructural facilities, the Central Bank of Nigeria has not fully succeeded in monitoring and supervising efficiently the work in the branches and currency centres and of the banking system as a whole.

Staff Management and Welfare

Trade unions form an essential part of the structure of any central bank. Trade unionism is a protection against discrimination, job insecurity and exploitation by employers of labour, and strengthens the weak bargaining power of workers.

In Nigeria, the 1979 Federal Constitution guarantees the right to belong to any trade union, yet section 11 of the Trade Unions Act, 1973, prohibits central bank employees from joining unions. This act is capable of causing disagreements between management and staff of the Central

Bank of Nigeria, as has happened several times, and the Bank may thereby fail to benefit from industrial peace and harmony, and improved productivity.

Central Banking in a Federal State

The US, India and Nigeria are the three largest democracies in the world. They contain between them about one-third of the world population. Each of the countries is a federation and has a central bank. While the US has 12 Federal Reserve Banks as regional boards, and India has 4 local boards, Nigeria has only one central board. The Central Bank of Nigeria has no zonal offices from which one might co-ordinate the activities of the 19 Central Bank branches and Currency Centres as well as commercial banks. This lack of contact contributes to the failure of the Bank to balance its books regularly and it creates a climate favourable to the perpetration of fraudulent practices.

Issuing of Currency and Money Supply and Legal Tender Status

In Chapter 5[5], an attempt is made to examine some of the service functions of central banks. One of the pioneer service functions is the issuing of legal tender currency.

Traditionally the central banks of Commonwealth Africa have had the sole right to issue bank notes and coins in and for their respective countries. Except for the Bank

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5 Above, p.275.

of Zambia, all the central banks surveyed have provisions prescribing territorial limitations on the use of notes and coins as legal tender. These are based on the general principle of law that the public laws of a country are normally not intended to have extraterritorial effect.

The central bank laws usually provide that notes and coins may be legal tender for the settlement of debts of any amount in the territory of the issuing country. However, notes and coins may be legal tender only in designated areas of a country, as in England and Wales.

In Nigeria the function of currency issue has been bedevilled with illegalities and intractable problems. Legal tender status is withdrawn without regard to law; the monetary authorities do not appear to know how much money there is in circulation; Nigerians carry on their business with ready cash; the country has to contend with currency smugglers and traffickers and other multifarious ways of sabotaging the economy.

Five currency exchange exercises in 25 years are too many; they waste resources and time, and can cause erosion of confidence of both the domestic and international communities in the monetary system; further, they may discourage investments and consequently diminish the prospect of rapid economic growth.

Public Debt

In the management of the public debt[6] Anglophone African central banks usually make use of three categories of debt

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6 See p. 307

instruments; Treasury Bills, Treasury Certificates and Development Stocks, which constitute the mechanism by which the banks mobilise financial resources on behalf of governments by short-term borrowing.

Central banks fuel the embers of inflation by pumping too much money into gilt-edged securities. Also high inflationary pressures arise from the high level of money supply as a result of high military expenditure, and government expenditure on projects with no direct capacity effect such as the Festival of the African Arts and Culture (FESTAC).

Banker and Adviser

Central banks have a duty to give informed advice to government on cardinal issues that affect the national economy, such as the population explosion. Accelerating population growth has aggravated the problem of capital shortage in Nigeria, which is one of the most important obstacles to economic development, and has made it difficult to save enough money for investment which will lead to economic development. The Nigerian Central Bank has conspicuously failed to take a lead in this and similar matters.

Financial Markets

In Chapter 6[7] the thesis examines how the Commonwealth African central banks promote economic development through

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7 See p. 333.

the financial markets. The establishment of money and capital markets has not significantly helped to encourage economic growth in Nigeria. It was observed that Nigerian markets are ineffective for various reasons: first, the static nature of the interest rate structure. Fixed interest rates are relatively unattractive to private and non-institutional investors. Another factor is the inadequacy of financial intermediation. There are only 21 commercial banks with 1132 branches to serve a population of over 94 million. Moreover, the markets do not have the advantage of an efficient telecommunications system which could facilitate the dissemination of market information.

The Fisher Report of 1953[8] on The Desirability and Practicability of Establishing a Central Bank in Nigeria, like previous and later reports, had rejected the idea of establishing a central bank for Nigeria because of the absence of a Nigerian money market. Similarly, Dr. Mars also warned that a central bank in Nigeria could only be effective if a market for government securities existed.

In Nigeria the position of the markets has not improved much. Between 1961 and 1971 companies listed on the Exchange increased from 3 to 13, and from 13 to 93 between 1971 and 1982. Only 5 companies were 100% indigenised, only one of which is a wholly-owned Nigerian-promoted enterprise. The Nigerian money market was established to perform for the country all the functions which a money market traditionally performs. One of these is to provide

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8 See p. 117

the basis for operating and exerting an effective monetary policy.

This has failed in Nigeria and it is one of the sophisticated functions of Central Banks that should be discarded as unsuitable in Africa for now.

Banking Supervision

Banking supervision of commercial banks has not been an easy task in Nigeria. The difficult terrains, waterways and bad roads inhibit the movement of personnel and make it an uphill task for the Banking Supervision Department of the Central Bank to supervise the banks effectively. The lack of a basic infrastructure, sufficient trained staff and the enormous land area make it impossible for the Department to fulfil their statutory duty of examining every bank office at least once a year.

Because of these problems of supervision there is ample room for bank malpractices. There are deficiencies in accounting and internal control systems and questionable investment policies. There are incidents of organised fraudulent practices and swindling by bank employees, and transgressions of the Banking Act. All these problems have contributed to the poor performance of the central bank.

Rural Banking

This important aspect of the Bank's supervisory function is surveyed in Chapter 7[9] and it relates to the

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9 Above, p. 409.

control exercised over expansion of bank branches. The history of the control may be traced to the uncontrolled branch expansion which led to the proliferation of bank offices in the urban centres while leaving large areas of the country either inadequately served or not served at all.

The main objective in establishing rural banks is to encourage the rural community to cultivate the habit of banking and to enable banks to mobilise savings and provide credit for small-scale ventures, as well as offer rural employment opportunities.

As stated in Chapter 7, in Nigeria, at the beginning of the Rural Banking Programme in 1977 the bank-person ratio was 1:80,000, but with the new population figure of 94 million the ratio is now 1:83,000, showing that expansion in the provision of services has not caught up with the rate of population growth. In effect the country has made no progress in this direction.

Agricultural Credit Guarantee Scheme

The Central Bank of Nigeria administers an agricultural credit guarantee scheme under which it guarantees the loans advanced by banks to farmers. This scheme has not succeeded because of (i) the problem of obtaining certificates of occupancy under the Land Use Act 1978 by farmers to meet the collateral requirements of the banks; (ii) failure of some borrowers to meet repayment schedules; (iii) absence of farmers' co-operatives; (iv) the fall in world commodity prices; (v) dearth of trained technical staff; and (vi) difficulties encountered by some farmers in disposing of their produce due to marketing bottlenecks and lack of processing and storing facilities. The failure of the Central Bank to formulate a viable dynamic agricultural policy is fatal to the objective of leading Nigeria towards self-sufficiency and self-reliance.

Techniques of Monetary Control

Generally, monetary policies in Africa are directed to achieving high levels of employment, stable prices, rapid growth of Gross National Product, a favourable balance of payments position, and mobilisation of funds and channelling them to priority economic activities. In Anglophone Africa, monetary policies have not on the whole been effectively applied to achieve rapid economic growth.

In Nigeria, such instruments as open-market operations, liquidity ratio, cash reserve ratio, moral suasion, special deposits, interest rate, stabilisation securities, etc. have been used little, if at all. Even if used, they could not, in the circumstances of Nigeria, work. The arsenal of instruments is thus illusory. They are theoretically provided for by the various Banking Acts, but without them monetary stability in the countries in question has not been, and cannot be, achieved.

It was also noted in Chapter 8[10] that in spite of the Nigerian Exchange control Anti-Sabotage Decree 1977 and the comprehensive import supervision scheme (CISS),

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10 Above, p. 467.

exchange control abuses continued. Political pressures on the administrators of foreign exchange gathered momentum towards the end of the civil rule and the result was that preferential treatment was given to foreign exchange transfers depending on who was the applicant and emphasis was no longer placed on the priority and economic development factors. Consequently, Nigeria soon became a beggar nation with a debt of ₦5 billion on import bills.

In short, monetary control as a function of central banking in Anglophone Africa has been a useless appendage, too sophisticated for the African Central Banks to operate.

<u>Gaps in the Law</u>

In Chapter 9[11] the thesis considers the three types of gaps which have been identified in the banking and financial system. One is the gap that arises as a neglect or failure on the part of central banks to provide medium and long term capital in the financial system. The commercial banks, as a rule, provide short-term capital for commerce, servicing industry and financing working capital. Central banks in Anglophone Africa, in accordance with general central banking tradition, also provide short-term capital, in addition to providing banking facilities of various kinds for government. This leaves a gap in the supply of long-term capital. This gap must be plugged in order to make capital available for financing industry.

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11 See p. 479.

Some steps have been taken in this regard by the establishment of a few development banks, e.g. the Nigerian Industrial Development Bank and the Nigerian Bank for Commerce and Industry, but their activities are very limited, both geographically and otherwise, so their performance has been disappointing.

A similar gap was identified in the UK banking system by the historic Macmillan Committee on Finance and Industry Report from which the 'Macmillan Gap' theory derives. As a result of the recommendations of this committee, specialist finance institutions were established, viz., the Industrial Commercial Finance Corporation and the Industrial Finance Corporation.

The second type of gaps in the law is in connection with other finance and credit associations, provident funds, insurance companies and so on, which have enormous capital collected from their customers. Such funds invariably lie idle or are invested in non-priority sectors of the economy. There is no government or central bank assistance, guidance or control afforded them; as a result, these bodies do not function in a consistent manner or keep proper records, so that it has been impossible to obtain from them adequate information about their operation.

The Central Bank's control over the financial system must cover the whole system to be effective. The Report of the Committee on the Nigerian financial system of 1976 fully endorsed this point when it recommended in its report to the Government "that if national objectives are to be effectively achieved, the Central Bank should be given power to control some relevant aspects of the operations of all financial institutions. The Bank should, therefore, assume the role of a supervisory authority over finance houses. Where there is a lacuna in the law a dynamic central bank board can invoke its implied powers to perform those functions that are not expressly stated; and in the present case section 41(1) which refers to companies "receiving monies from outside sources as deposits irrespective of the payment of interest...", can be applied to control finance houses.

The third gap observed in the system refers to the lack of control of political party funds and of the indigenous financial institutions like "Isusu". We have argued that these traditional financial institutions should be upgraded to the level of co-operative banks so that the capital coming from this source can be directed towards economic development. The failure to fill these gaps is detrimental to the achievement of economic growth.

PART 2 CONCLUSIONS AND SUBMISSIONS

At the beginning of this chapter[12] we set out in the form of questions the propositions that have formed the bedrock of this thesis. Although answers were given in the different chapters, this part of this chapter provides further answers to the questions posed.

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12 See p. 524.

The Need for a Central Bank

When we surveyed the objectives of establishing central banks in Chapter 3 it was clear from our analysis that some of the political, social and economic objectives set by governments for establishing central banks were sound, progressive, well-intentioned and achievable. To achieve these objectives and also promote economic growth there ought to be rules and regulations as well as operators whose duty it is to realise the set objectives by means of appropriate policy instrumets. Thus under monetary policy objectives, the structure of the liquidity ratio, credit ceiling, cash reserve ratio, moral suasion, interest rate restructuring, open market operations, credit measures of different types, stabilisation securities special deposits and so on, are to be carried out with appropriate policy instruments by a designated autority. The Radcliffe Report[13] summarised the traditional functions found in the organic laws of most central banks:-

The Report names them as:

(1) to issue legal tender currency

(2) to maintain external reserves

(3) to safeguard the international value of the currency

(4) to promote monetary stability and a sound financial system

(5) to act as a banker and financial adviser to the government.

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13 Committee on the Working of the Monetary System, Report Cmnd. 827, London, August 1959.

In order to be able to achieve these objectives it is imperative that a monetary authority should be superimposed on the machinery and instruments that would be customarily used to achieve them. The machinery is the banking system and according to our definition at page 14 of Chapter 1 the central bank is at the apex of the banking system. Policy makers have therefore had to employ the services the central banks can offer in order to achieve declared objectives. What form this central controlling body takes is another matter. It could be called the Treasury, the reserve bank, the central bank, or the monetary authority of Nigeria, for example, or the West or East African Currency Board. It is our conclusion that a central bank, by whatever name called, is necessary in an economy because of the vital role it has to play. In answer to our first question therefore our conclusion is that there is real need for the selected African countries to establish central banks in the countries.

Hong Kong - The Other View

The position in Hong Kong is an interesting one and runs counter to arrangements in other Commonwealth countries, but the arrangement supports our view that the institution of a central bank as generally understood is not an absolute necessity in an economy.

In Hong Kong the designated authority is neither the central bank nor the Treasury. Unlike most major economies Hong Kong has no central bank. Those functions which might typically be performed by one - such as supervising financial institutions, managing official foreign exchange reserves or providing banking services to the government - are carried out by various different government offices (the Monetary Affairs Branch of the government secretariat under the directives of the Financial Secretary) or by the two note-issuing banks. The Hong Kong and Shanghai Banking Corporation and the Chartered Bank, the two note-issuing authorities, issue notes in denominations of KS$10, HK$100, HK$500 and HK$1000 while notes and coins of low denominations are issued by government.

The counterpart of the banking supervision department of central banks is the Commissioner of Banking appointed under the Hong Kong Banking Ordinance. He exercises general supervision and control over banks. The most intriguing aspect of the control of the banking system in Hong Kong is the special position occupied by the Hong Kong Association of Banks. Under section 4 of Ordinance No. 76 of 1980, the Association has the following functions:

(a) to further the interests of licensed banks

(b) to make rules from time to time for the conduct of the business of banking

(c) to consider, investigate, and inquire into all matters and questions connected with or relating to the business of banking

(d) to promote, consider, support, oppose, make representations as to and generally deal with any law affecting or likely to affect the business of banking

(e) to collect, circulate and disseminate information relating to the business of banking or otherwise likely to be of interest to members and others

(f) to represent its members at and appear before any public body, committee or inquiry or before any court or tribunal

(g) to act as an advisory body to its members and to co-operate and maintain relations with other bodies and organisations in all matters touching or concerning the business of banking

(h) to provide a meeting place or places for its members and to adopt such means of publicising or making known its activities and information and opinions on matters touching or concerning the business of banking as may be thought fit

(i) to provide or procure, by means of a management agreement or otherwise, facilities for the clearing of cheques and other instruments, and for the processing of banking transactions presented by members

(j) to establish, subsidise, support, co-operate with or otherwise assist any person engaged in any artistic, cultural, benevolent, charitable, welfare or similar activity and to contribute money for and to take part in any such activities as the Committe may think fit

(k) to do or cause to be done all such other acts and things as may conduce to the progress, prosperity and advancement of the general body of members

Furthermore, under sections 18 to 21 the Committee of the

Association exercises all the banking powers exercised by Ministers of Finance in Commonwealth central banks. The Ordinance for instance provides that:

"21(1) The Committee may, following a recommendation by the Disciplinary Committee, in its discretion impose or procure to be imposed on a member any of the following penalties for breach of any rule made pursuant to section 12(1) -

(a) a reprimand

(b) after consultation with the Financial Secretary, the suspension of membership for any period not exceeding 3 months

(c) after consultation with the Financial Secretary, the suspension of facilities for the clearing of cheques and other instruments of a member for any period not exceeding 3 months

(d) with the approval of the Governor in Council, the expulsion of a member from membership of the Association.

Provided that any decision to impose or procure the imposition of any penalty shall be made by an affirmative vote of not less than three quarters of the members of the Committee present and voting at the meeting at which such decision is taken.

(1) No appeal shall lie against the decision of the Committee to impose or procure any penalty pursuant to subsection (1).

(2) Where a penalty is imposed pursuant to subsection (1), the Committee

(a) May cause notice of the imposition of such penalty to be published in the Gazette

(b) Shall give written notice to the Financial Secretary of such action and the reasons therefore

(3) Where the Committee, after consultation with the Financial Secretary, suspends or procures the suspension of clearing facilities pursuant to subsection (1)(c) then whilst such suspension is in force no member shall act as sub-clearer for the member whose clearing facilities have been suspended".

Hong Kong with a land area of only 1066 square kilometers and a total population of 5,344,000 at the end of 1983 has 136 licensed banks with a total of 1531 offices and 115 foreign banks representative offices. Hong Kong now ranks as the world's third largest financial centre and since 1973 there have been no restrictions covering the movement of funds into or out of Hong Kong for any purpose. Banks and other deposit-taking institutions, insurance companies, pension funds, unit trusts and similar functions, foreign exchange and money brokers, stock and commodity brokers, four stock exchanges, and other financial organisations combine to provide a wide range of financial services to both local and international customers - all without the services of a traditional central bank.

When interviewed by the present writer, Mr. A.J. Monk of the Chartered Bank and the Secretary of the Bankers' Association, and Mr. K.K. Wong, acting Assistant Commissioner of Banking, expressed the opinion that the arrangements for the central control of banking in Hong Kong were satisfactory and effective.

The institution in Hong Kong as we have just seen confirms our submission that while the institution or system of central banking or such arrangement is desirable, a central bank, so called, need not be the supervising authority.

The Nigerian banking industry has bottleneck problems infrastructural, administrative and human in nature to contend with and which ought to have been fought successfully to a reasonable measure before establishing a full-fledged central bank. This was the position as illustrated above taken by J.L. Fisher, IBRD, Sir Cecil Trevor, Erwin Blumenthal, W.T. Newlyn and Rowan. They all argued that a central bank or monetary authority was necessary but that it should be one with limited powers until the economies of the countries were ripe to assume in stages the traditional functions of central banks as envisaged by the Brussels convention of 1920 and 1922. The present writer respectfully concurs with the views of these eminent economists and bankers.

Should the Central Banks be Autonomous?

In Chapter 4 it was seen that there has been no settled view regarding the independence of central banks, the majority of countries, particularly those in the Commonwealth, appearing to adopt Montague Norman's dictum that the elected government ought to have the final say in the implementation of policies for which it is politically answerable. It was in that spirit and towards attaining this goal that some state banks were nationalised. This implies that central banks will be unable to pursue policies which run counter to the objectives of the national economic policy which are fashioned to achieve the targets set by governments.

On the other side of the scales, it must be recognized that there are many advantages associated with the independence of central banks from government.

An independent central bank will be able to operate with greater flexibility, speed and business efficiency. Another factor is that monetary affairs are highly technical and must be managed independently, objectively and professionally. However, the most important reason for granting autonomy to central banking is that political control of the currency carries a danger of inflation. This means that government control of a central bank may subject the bank to political pressures that could result in unsound monetary policy, and that the exigencies of government finance may conflict with the dictates of sound monetary management.

If the operation of a central bank is to be in the economic interests of the people proponents of central bank autonomy agree that monetary and banking policy must be unbiased and insulated from any type of external pressures. As a former chairman of the US Federal Reserve System (Mr. William M. Matins) put it, "When the Federal Reserve System succumbs to the pressure of political expediency or the dictates of private interest the groundwork of sound money is undermined".[14] A central bank is in a better position to carry out its functions more efficiently when it is independent within the structure of the government. This is further supported in a recent address given by Arthur F. Burns, Chairman of the Board of the Federal Reserve System that:

> "the capacity of the Federal Reserve to maintain a meaningful anti-inflation posture is made possible by its considerable degree of independence"

and that

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14 Report on the Role of the Central Bank of Nigeria and the Relation Between Government, 1979, pp. 3-4.

> "it is no accident that Germany and Switzerland which in recent years also have managed their economy better than most others happen to have strong and independent monetary authorities like ours".

In similar vein, a recent Royal Commission in Canada thought that protection from inflation and immunity from the influence of day-to-day political considerations, on money markets where these considerations are unrelated to the broad aims of monetary and fiscal policy, were the major reasons for retaining the independence of the Bank of Canada.[15]

It is our conclusion, therefore, in line with the modern concept of independence, that central banks should be independent to a large extent in their policy formulations as well as in the way and manner in which they carry out their technical operations in implementing the policies. While they could "press their points and advice to the point of nagging" (in the words of Montague Norman), their independence should be seen as independence within the government rather than of the government. The extent of the independence of central banks to governments has been set out below under "Reforms of the Law".

Is Co-operation with Financial Institutions Necessary?

Chapter 7 deals with some of the services which the central banks render to the commercial banks, it was seen that for central banks to succeed in their efforts to

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15 Ibid., p. 4.

promote good banking services they have to rely on four important instruments: (i) moral suasion; (ii) credit guidelines and other directives issued by them from time to time; (iii) the sanctions (e.g. fine or loss of licence) provided in the various laws governing banking in the countries; and (iv) the power granted to central banks to inspect and supervise the commercial banks. Above all, the various Acts make it statutorily obligatory for central banks to seek the co-operation of the banks. Section 39 of the Central Bank of Nigeria Act provides that

> "the Bank shall wherever necessary seek the co-operation of and co-operate with, other banks in Nigeria to promote and maintain adequate and reasonable banking services for the public to ensure high standard of conduct and management throughout the banking system and to further such policies not inconsistent with this Act as shall be in the national interest".

Without the co-operation of the banks, central banks would be seriously handicapped in implementing government policies and in applying the four major instruments mentioned above. It is therefore necessary for central bank laws to structure and maximise effective supervision of the system and offer effective leadership to the banking industry. In playing this role it has to provide for the educational and training needs of the banking industry as a whole.

Is Central Bank External Role Essential for Economic Survival?

In its external role a central bank performs the essential function of maintaining the external value of the national currency. Central banks have found it expedient to employ the technique of exchange control to restrict the use of limited foreign exchange resources in accordance with a scheme of priorities. The reasons for control of external payments include the need to adjust the demand for foreign exchange to the current supply, and the desire to conserve a country's foreign exchange reserves as well as maximise the use of reserves by ensuring that essential imports are given priority over other imports. Exchange control is one of the direct instruments for dealing with external payments problems. Various exchange control laws in the Commonwealth Africa and in Nigeria in particular give the overall responsibility for the administration of exchange control to the Ministry of Finance who usually delegates this function to the country's central bank. Commercial banks and some finance houses are sometimes appointed as authorised dealers with powers to engage in transactions involving the sale and purchase of gold and foreign currencies in accordance with the instructions and directives given by the country's central bank.

A centralised control of disbursements and earnings of foreign exchange is necessary for orderliness, certainty, confidence and ease of treatment of transactions. For this control the central banks also use foreign exchange budgeting, which tries to relate national aggregate expenditure to income. As with all budgeting exercises, this involves relating estimates of foreign exchange earnings from different sources to foreign exchange expenditure by category, thereby making it possible to know what accretion to or decrease from reserves could be expected at the end of a period. Foreign exchange budgeting and regulation are a sine qua non for an orderly movement of funds and a necessary operational tool to guide the officials handling the various foreign exchange applications submitted by those involved in international transactions. Without this type of central control there would be chaos in the international scene and in the external stability of the currency. The external stability of the currency is closely related to its internal stability - the inherent economic strength of the country and the way it conducts its economic and monetary affairs. Domestic fiscal and monetary policies have, therefore, an important role in maintaining the external value of the currency without which national economic survival will be in jeopardy.

It is our conclusion therefore that in its external role a central bank's operations are essential for national economic growth.

Has the Law Failed To Promote Economic Stability and Growth?

To the marxist, law is an instrument of oppression of one class by another, and therefore necessarily a coercive force, destined to disappear when society becomes socialist and thus classless. It is a mark of societal development therefore if there is movement away from law and legal instutions, and, as Lenin has argued, the road to socialism begins with the destruction of the existing institutions. The progressive capitalist, on the other hand, may regard law as being above sectional interests and embodying fundamental human values. Consequently, communities which have no law or weak law are regarded as backward, so that the strengthening of law and legal institutions becomes a way out of arbitrariness and towards development and progress. He understands law as a system of rules which are binding in society, either generally or over specified persons, the rules deriving their validity either from a special form of promulgation (statute) or by a general rule of the legal system which recognises their validity (customary law or practice). The rules have the sanction of the State behind them, and the state apparatus is available in a variety of ways to help the observance and enforcement of the rules.

It is in the second sense that we are looking at law to see if the body of rules governing the behaviour of central banks has failed to promote economic growth in Nigeria.

As A.N. Allott put it:

> "1. Economic growth in the developing African countries depends on capital accumulation and the stimulation of trade, investment and productivity. Hence the paramount importance of the laws in those countries governing investment, commercial enterprise and the grant of credit.
>
> 2. These policies and problems have legal significance, because (i) the law is the instrument by which new economic arrangements can be introduced, and (ii) the law, or its relevant branches, may stimulate or inhibit economic activity (as where the absence of

> legislation on bankruptcy restricts the supply of credit)."[16]

Except in Zambia, the organic laws of the central banks of the Commonwealth countries surveyed are voluminous in extent. In Nigeria, the Central Bank of Nigeria Act 1958, the Banking Act, 1969, the common law and the principles of equity and other domestic and international law sources appear to provide a strong armour for the Central Bank to administer and protect the principles of good banking in Nigeria. Sections 4, 29, 39, 40 and 41 of the Central Bank of Nigeria Act deal with the power to control the banking system and promote economic stability and growth. These formidable provisions can be effectively used to achieve desired goals. Principles laid down by the Privy Council in the Doherty v. Balewa case regarding the doctrine of implied powers mean that a bold Board can invoke its incidental powers under Section 29(2)(t) to discharge its duties more efficiently under the CBN Act. If the doctrine were put to proper use by boards of directors, it would in the words of Alexander Hamilton yield "a criterion of what is constitutional, and of what is not so", and will be a beacon to guide directors in their search for constitutionality. What is lacking is a strong conviction, sense of purpose, determination and firmness to determine what is right for the economy and to have courage to speak out and defend an opinion held

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16 "Credit and the law in Africa: a special study of some legal aspects of economic development" [1976] J.A.L. 73.

honestly.

However, despite the volume of existing legislation, there are still a number of gaps in the law which should be filled. In addition, there are some areas of "dead" law in the statute books that could be invoked in the interests of a better operation of the system. Sections 29(3)(t) and 39(c) of the CBN Act and section 3 of the Banking Act are among them. Before the advent of the Europeans in Nigeria each of the various ethnic communities in Nigeria had its own indigenous system of law. The English colonial administration came into Nigeria with a translocation of the English legal system and English notions of justice. The effect was that the Nigerian terrritorial legal system became an uneasy and uncertain amalgam of rules derived from the law of England, and rules elaborated on the spot by legislation or judicial interpretation.

The indigenous customary law and Islamic law became subjects of legislative regulation and courts were to give effect to rules of customary and Islamic law only if they were not repugnant to natural justice, equity, good conscience and public policy, or not incompatible with any piece of legislation. Twenty-four years after political independence one would reasonably expect that radical legislative changes in the laws as they existed during the colonial period would have taken place. That however is not the case. The legal system is still dualistic or multiple in character and compounds the uncertainties of the system. The locally enacted statutes, like the Central

Bank of Nigeria Act and the Banking Act, are nothing more than an uncritical copying of foreign statutes, a sort of legislative piracy and this explains why the various Anglophone countries' central banks Acts are similiarly worded.

There is therefore the need for the creation of a new system to replace the existing laws by way of a general overhaul of the substantive organic laws which will ensure legal simplification, legal certainty, social convenience and which will above all serve as a positive evidence of the truly independent status of the country and of its need to chart an independent course in the fields of finance and central bank organisation specially adapted to the peculiar needs of Nigeria. It is in this light that recommendations are put forward in Part 3 of this chapter as to the reforms that are necessary in the banking system in order to enable the Central Bank of Nigeria to work more efficiently and to promote economic stability and growth in Nigeria.

To the question whether the existing organic laws of Commonwealth African central banks permit or hinder the promotion of economic growth of the economies and the implementation of the traditional functions of central banks, the broad conclusion is that the pattern of organisation and administration of central banking in advanced countries is not well adapted to the needs and circumstances of these developing countries.

The central banks were not ripe for establishment at the time they were founded and it would have been adequate if these central banks were established with limited powers which would help to a smooth but gradual economic development.[17]

The following submissions show why the legislation and the central banking system have not succeeded in promoting economic stability and growth particularly in Nigeria.

PART 3 SUBMISSIONS

The following submissions attempt to recap some of the reasons for the inevitable failure of our model, the Central Bank of Nigeria, to achieve desired economic growth in spite of its determined efforts to contain even those factors that are beyond its control. It is respectfully therefore submitted that:

1. The art of banking as practised in Europe is different from the African traditional banking which was noted in Isusu, Igbe Oha and other similar systems. The Nigerian banking customary law cannot therefore be effectively applied to the classical or modern concepts of central banking which are alien cultures imposed on colonial subjects through imported foreign laws.
2. The concept of central banking is a product of financial evolution in the advanced countries with diversified economic structures and sophisticated

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17 See Chapter 2, p. 113

money and capital markets. It is also an imposed system that cannot work effectively in an underdeveloped economy.

3. The classical central banking provided by the West African Currency Board and the East African Currency Board at the dying years of their existence suited the level of economic development of the countries at Independence and the status quo should have been maintained or at best monetary authorities could have been established in each of the countries that came under the jurisdiction of the Currency Boards.

4. The immediate cause of the hasty establishment of central banks by nationalist governments were political and the domination of the banking scene by British transnational commercial banks which constituted a major tool with which the colonialists exploited the economies of Anglophone Africa. The foundation was weak as there were not available adequate manpower and facilities for an indigenous banking system.

5. In the process of indigenising the banking system reasons motivated by political and social expediency by far outweighed the economic reasons. Thus, from the outset central banks were set on a backward course that inevitably led to dismal failure.

6. Other institutional causes of failure of central banks in Commonwealth Africa to attain optimum economic and social growth are:

   (a) the appointment of Governors and members of the

Board of Directors who have no functional qualifications;

(b) the appointment of politicians who failed elective political posts to the Boards of Directors who see such appointments as opportunities to recoup themselves from campaign expenses.

(c) the appointments, tenure of office and stipends of governors and directors which are determined by the Minister tend to induce them to dance to the tune of politicians thereby weakening the effectiveness of central banks.

7. The presence of government representatives on central bank boards weakens the independence of central banks which should be seen as independent within the government rather than of the government.

8. The boards have been very timid to invoke the implied as well as the express powers conferred by the applicable laws particularly the incidental clauses thereby failing to initiate appropriate dynamic actions.

9. Because of the large ~~mass~~ land area of Nigeria, poor and inefficient postal and telecommunications system, lack of a network of good roads and other infrastructural facilities, the Central Bank of Nigeria has not fully succeeded in monitoring and supervising efficiently the work in its branches and currency centres and of the banking system as a whole. This failure has led to malpractices and inefficiency.

10. Five currency exchange exercies in 25 years, sometimes outside the processes of law, were too frequent, the

exercises were wasteful of resources, time consuming and were capable of causing erosion of confidence of both the domestic and international communities and discouraging investments and consequently diminishing the chances of rapid economic growth.

11. Central banks fuel the embers of inflation by pumping too much money into gilt-edged securities and high level of money supply as a result of expensive military expenditure and other projects with no direct capacity effect, for example, African Games.

12. The Central Bank of Nigeria was not ripe for establishment at the time it was set up, given the poor money and capital markets situation then. It would have been adequate if, as J.L. Fisher had recommended, the Central Bank was established with limited powers, taking on more and more functions as appropriate, which would lead to a smooth but gradual economic development.

13. The static nature of the interest rate structure, the inadequacy of financial intermediation, poor communication system, the unwillingness of the Nigerian investor to trade-in his stock, all contribute to the ineffectiveness of the capital market which is an indicator of poor economic growth.

14. Poor performance of the banking supervision and the supervised commercial banks have in some large measure contributed to the slow economic growth of the economy.

15. Compared with the developed countries the bank-person

ratio in Nigeria of 1:83,000 (Britain 1:4,000; Japan 1:14,500; USA 1:6,000 and India 1:52,000) is too low for effective mobilisation of savings necessary for development.

16. The level of sophistication of modern banking particularly as practised in the developed countries is not suitable nor beneficial to the poor developing countries and the institution in Nigeria has not performed satisfactorily because of the reasons already given and further because:

(a) The level of literacy is very low. In Nigeria this has affected the standard of banking generally. The poor peasant farmer and market woman still ties her money to the waist and does not understand the principles and advantages of banking. The 80% illiterates in Nigeria are therefore indifferent to banking and the services they provide.

(b) Infrastructural facilities are not available and where provided they are malfunctioning. Thus cheque clearing system, transfer of funds, and other banking transactions cannot be carried on. N.O. Odoh described the situation succinctly when he said:

> "Communication is the energiser and the appetiser in banking and it is of paramount importance in linking bank customers. Without effective communication, good banking is impossible. Until communication and the mechanisation of banks are improved the development of banking awareness will continue to be an illusion."[18]

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18 Fundamental Problems of Banking in Nigeria, see Foundations of Nigeria's Financial Infrastructure, 1980, op. cit, p. 77.

So indeed it is in Nigeria. As it is now so it was before the establishment of the central bank of Nigeria.

(c) Hard core of extreme poverty and destitution can be found in the shanty towns of big cities and also in the rural areas which are predominantly agricultural. The people live below the minimum standard of living consistent with human dignity. 80% of the working population is on farming and their ability to save is virtually nil. They cannot contribute to the development of a banking system due to extreme poverty particularly before the 60s.

(d) The population explosion which has resulted mainly from improved health services eats up a large part of the growth in national product. What is more, much of the increase in national income has gone into the pockets of a rather small section of the population, a prosperous middle and upper class in the cities, leaving a large mass of the population virtually untouched by the economic progress so far achieved. Life goes on at or near subsistence level. The population of Nigeria has risen astronomically from 30 million in 1962 to 94 million in July 1984, that is, at the rate of about 3 million every year.

(e) Skilled bank manpower was not available to undertake sophisticated banking. There was effluxion of the expatriate manpower on the attainment of independence and on promulgation of the Indigenisation Act 1972 which directed that management positions in industries revert to indigenous Nigerians.

(f) Lack of confidence in paper money particularly in the early days of currency notes of the West African Currency Board and the reluctance to accept cheques have contributed in no small way to the low development of banking habits in Nigeria even in the 80s.

(g) There was no financial market that would have enabled the authorities to mobilise short and long-term capital for the economic development of Nigeria and most Nigerian companies are family businesses and the families do not ordinarily want to share their business with other Nigerians. Properly conceived, financial markets should finance or service industry and commerce, the government and commercial banks, but regrettably this was not the case.

REFORMS

Traditional Credit Institutions

1. The traditional credit institutions like the Isusu which served the economic needs of Nigerians at local and inter-regional levels, by providing for institutional and local trade should be organised under a single enactment and upgraded to co-operative associations or banks for the purposes of mopping up the petty traders' and market women's idle cash.

The main characteristics of credit unions are given below, and should be noted by the Central Bank in drafting appropriate legislation:

i) Credit unions form an essential part of the co-operative system

ii) Credit unions teach village farmers:

(a) the need for systematic savings

(b) how to make their savings work for the benefit of their communities

(c) how to use short-term credit to increase their productive capacity.

iii) Credit unions are organised by people with a common bond.

iv) One becomes a full member of the union after subscribing at least one share and sometimes an entrance fee.

v) A full member of the union is expected to save regularly regardless of the amount being saved at a time.

vi) Credit union operations in some areas of the country are now guided by bye-laws, formulated by members.

vii) Members are encouraged to minimise consumption in order to save, thus creating capital for their socio-economic development.

viii) Credit unions' operations are controlled entirely by members and Co-operative Ministry should play only a supervisory role.

ix) Credit unions are run entirely by and for their members.

x) The common bond that exists between members implies that normally the members know each other and understand each other's problems.

xi) Interest charge to members for loans is much lower compared with that charged by financial institutions.

xii) Loan terms are very flexible.

xiii) Procedure is relatively simple to understand and the information demanded are usually readily available.

xiv) The usual collateral securities are not demanded.

Indigenous Banks

2. The existing indigenous banks with state government support should be handed over to the respective states. They should be called state banks and they should be commercially-oriented and will form part of the Nigerian National Commercial Bank proposed in "A Nigerian National Commerce Bank" below. This should be in line with the state Banks of Ghana. The state governments now own practically all the indigenous banks.

Composition and Functions of Central Banks

3. The Board of the Central Bank of Nigeria should have functional representation in such a manner that the Chairman and other members of the Board of Directors should be chosen from various disciplines and such members should be experienced in and represent specified fields and areas of knowledge or persons of relevant qualifications.

4. To remove ambiguity and conflicts between s8(1) and s8(4) of the 1958 Act and to define the responsibilities of the Board which are "for the policy and general and administration of the affairs and business of the bank" and the duty of the Governor who shall be in charge of the day-to-day management of the Bank and shall be answerable

to the Board for their acts and decisions.

Independence of Central Banks

5. Appointments of the Governor, Deputy Governor, and members of the Board of Directors should be made by the President or the Head of State to whom the Board should report directly.

6. Salaries of Governors and Deputies and Board Directors should be fixed by the Central Bank Bye-laws in order to shield them from party directives, unwarranted influence and political manipulation.

7. Central Bank Bye-laws should also provide an entrenched clause on procedural safeguards against removal and instability of tenure of Governors and Directors in the same way as judges' tenure of offices is secured under s.256(1) of the 1979 Nigerian Constitution.

8. S.8(3)(1) requiring the Board to inform the Commissioner of the monetary and banking policies pursued or intended to be pursued by the Central Bank of Nigeria should be amended so as to replace the word "Commissioner" with the word "President" or "Head of State". This will enhance the independence status of the Central Bank.

9. S.8(3)(2)(3) of Central Bank of Nigeria Act 1958 should be amended by deleting the following words: "may submit his (Minister of Finance) representation and that of the Central Bank of Nigeria to the Federal Executive Council" and substituting the words "the Central Bank of Nigeria shall submit its reports including monetary and banking policy reports direct to the Head of State or

Parliament" and such reports should not be lost in the bureaucratic labyrinth.

10. The salaries structure and perquisites of offices of central bank staff should be different from those of the civil service and not subject to an approval of the government particularly since central bank budgets are not included in the nation's Annual Budget and Estimates.

Rural Banking

11. Rural banking in Nigeria should be carefully and conscientiously organised in line with the system in Tanzania where almost every community has a rural bank. An enabling law should be enacted with the following objectives:

(a) Cultivation of banking habits amongst rural dwellers,

(b) Mobilisation of savings from the rural areas for the purposes of channelling same into profitable ventures,

(c) Creation of credit by way of equity and loans for small-scale industries.

(d) Development of agriculture and agro-allied industries in the rural areas with a view to achieving the objective of self-sufficiency in food production.

(e) Provision of a full range of banking services daily.

Licensing of Banks

12. Sections 2 and 3, 22-25 of the Banking Act 1969 regarding the licensing of banks should be amended to vest the powers of licensing on the Central Bank of Nigeria instead of the Federal Minister of Finance in order to

remove political control over licensing and to introduce more stiff penalties. The present ₦100.00 fine for example in sections 20 and 26 is a paltry sum.

Trade Unions and the Central Bank

13. S.11 of Trade Union Act 1973 offends against s.37 of 1979 Constitution and so void to the extent of the inconsistency. Section 11 should therefore be amended to remove the inconsistency, and to allow Central Bank of Nigeria staff to organise trade unionism for mutual benefit and to enjoy the opportunities offered to workers by s.37 and s.9(b) of Labour Act 1974 and the International Labour Convention No. 98.

Zonal Boards

14. Zonal boards should be established whose functions would be to advise the Central Board of Directors on such matters as may be generally or specically referred to them on various matters of local importance, on which the members can contribute by virtue of their specialised knowledge of the region they represent. The Zones should have their headquarters in Kano, Kaduna, Jos, Benin, Enugu and Ibadan. Major matters and reports should be referred to the head office for information or determination.

Control of Currency and Money Supply

15. Appropriate legislation should be enacted to control and regulate the issue of currency and money supply in the system as follows:

(a) The Nigerian borders should be guarded and protected

(b) An efficient cheque-clearing system should be evolved so that up-country cheques can be cleared as quickly as possible through the zonal centres suggested in Chapter 4.

(c) Payment for wages and utilities such as telephone, electricity, should be made by cheque to minimise the carrying of hand-to-hand currency.

Financial Markets

16. There should be a legal framework to correct the identified inadequacies and to promote realisation of the objectives for setting up financial markets:

(a) The interest rate structure should be reviewed upwards.

(b) Level of financial intermediation to be increased to add a new dimension to the market. Investment Trusts should also be established to solve the problem of paucity of shares in the market.

(c) The avoidance of excessive concentration of economic power in the hands of government and a small private group.

(d) The Nigerian Company Act 1968 should be amended to stipulate that a company that has a specific capital base or a specific turnover or a specified net asset should automatically become public.

Long-Term Economic Objectives

17. To achieve balanced economic growth the Central Bank should enunciate or formulate for the government long-term

national objectives matching the objectives with appropriate policy instruments. These objectives will include

(a) Reduction in the level of unemployment.

(b) Reduction of government expenditure.

(c) Increase in per capita income.

(d) Increase in the supply of high level manpower.

(e) Increase in the export of Nigerian commodities in order to increase foreign exchange earnings and release pressure on the meagre external reserve level.

(f) Even distribution of income.

(g) Self-sufficiency in food.

(h) Indigenisation of economic activity.[19]

Banking Supervision

18. To help promote economic growth through the services rendered by the banking supervision the following steps should be taken by the operators:

1. There is need for the banking system to evolve positive policies aimed at encouraging banking habits beyond media advertisements.

2. The Banking Supervision Department of the central bank of Nigeria should be decentralised in its field examination activities such that each central bank branch in each state of the Federation will have a unit which will be responsible for the field examination of the operations of licensed banks, in addition to central supervision and financial sector

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19 Third National Development Plan, 1975-80, Vol. 1 p. 29.

development. This arrangement will be in consonance with the zonal system suggested in Chapter 4.

3. In the exercise of the powers conferred on it by s.20 of the Banking Act 1969 the Central Bank of Nigeria should examine each bank at least once a year. The breach of this section of the law should no longer be condoned or encouraged.

4. The management of the Central Bank of Nigeria should publish a bank examination manual for the guidance of the staff and the commercial banks.

The Central Bank must see the powers conferred by s.39 as an instrument for the promotion of high standards and not for inquisitorial harassment. As with the Bank of England, the Central Bank must seek to persuade, educate, rather than to bully or destroy.

Gaps in the Law

19. S. 41(1) of the Banking Act defines "banking business" as: "Receiving monies from outside sources as deposits irrespective of the payment of interest and the granting of money loans and the acceptance of credits or the purchase of bills and cheques or the purchase and sale of securities for account of others or the incurring of the obligation to acquire claims in respect of loans prior to their maturity or the assumption of guarantees and other warranties for others or the effecting of transfers and clearings".

The same section of the Decree defines four categories of banks: Commercial bank by reference to acceptance of deposits withdrawable by cheques; acceptance house by reference to acceptance facilities; discount house by reference to trading in and holding commercial bills of exchange, treasury bills and other securities; financial institutions as any other banking business whose main activity is none of the previous three definitions.

From this definition companies seeking to engage in banking proper in discounting of bills, acceptances, dealing in securities or providing various financial services could be licensed so that they can come under the purview of companies doing "banking business". The Central Bank can then supervise them and channel their funds to desired sectors.

20. S.39 of the CBN Act requires the central bank to "ensure high standards of conduct and management throughout the banking system." The Central Bank has a duty to define for the banking and financial system criteria of standards to follow in accordance with the highest standards in the banking world.

21. An alternative to rural banking is the establishment of special institutions for rural credit (e.g. Land banks, co-operative banks) or the compelling of state governments to establish more branches of the banks owned by them without prejudice to reforms 2 and 24 hereof.

22. In a dynamic society like Nigeria, the law should be reviewed and updated at frequent intervals so that law can meet the social, economic changes that take place in the society. The Central Bank should therefore employ more legal staff, encourage them and use them not only to review

the laws but also to give professional opinions on the hundreds of activities and decisions the Central Bank takes daily that affect its relationship with the public, the business world and the staff. The few lawyers in the employment of the Bank are idle. A visit by them to the legal office, Federal Reserve Bank of India in Bombay would be helpful.

Dishonoured Cheques

23. In Nigeria dishonoured cheques fly about in their thousands; government cheques are frequently dishonoured for various reasons too. When Central Bank cheques issued by government departments are dishonoured very frequently as they do the harm done to the public confidence in the banking system can better be imagined than expressed. Since government has not laid good example it cannot have the moral courage to enforce the existing laws on this malady.

Inter-Bank Clearing and Commercial Bank Services

24. The system of bankers' clearing houses established some 23 years ago in Nigeria has not made any significant progress or impact on the economy. It takes upwards of three months to clear an up-country cheque. According to Dr. P.N.C. Okigbo:

> "What is in fact more disturbing is not the length of lead time but the slow growth of the system of clearing and the relative decline in the procedure. The picture of Lagos, the financial capital of Nigeria, is certainly disturbing".

Bank clearing systems represent one major aspect of reform that should be imaginatively and vigorously tackled by the Central Bank.

25. The quality of bank services rendered to the public should be improved in the following significant ways:

i) The clearances of cheques should be considerably accelerated.

ii) Bank staff that come in contact with members of the public should be trained in basic elementary courtesy.

iii) Bank halls and waiting rooms should be made much cleaner and more comfortable.

iv) Statement of accounts should be sent to customers much more frequently.

v) Inflation of interest charges on customers' accounts should be checked.

vi) Interest on savings should be credited much more promptly.

vii) Banks should consider offering their customers simple incentives such as personalised cheque books, special cheque books, special holders, etc.

viii) Urgent steps should be taken to reduce waiting time at bank halls.

Staff Training and Development

26. The Central Bank should invest massively in the training and development of its staff and those of the banking system generally at all levels.

A Nigerian National Commercial Bank

27. As private commercial banks may not find it profitable to open new branches in certain areas or in smaller towns, even under the rural banking programme, owing, inter alia,

to low deposit potential and the inability of borrowers to offer types of security which are really marketable, a Nigerian national commercial bank should be established with the important objective of widening and deepening of the banking system both in geographical and functional coverage. When established it should take over the illegal commercial functions of the central bank which have been weighing it down considerably. The emergence of the Nigerian national commercial banks may introduce an element of healthy competition among other commercial banks, this competition may reflect itself in the provision of better services, more vigorous efforts towards branch expansion and attraction of deposits. For instance, what is called the "pigmy deposit scheme" should yield the desired result of harnessing rural savings. Under this scheme, the idea is that if the small man does not come to the bank, the bank will go to the doors of the small man. This will therefore mean that the small and the medium trader, the new and struggling entrepreneur, the small farmer who is crossing the subsistence stage, will have to be brought into the fold of the banking system.

Agricultural Credit

28. The Central Bank Agricultural Credit Guarantee Scheme has run into some difficulties in its operation. These include the problem of obtaining certificates of occupancy under the Land Use Act 1978 by farmers to meet collateral requirements of the bank, failure of some borrowers to meet repayment schedules, absence of farmers' co-operatives

fall in commodity prices in the world markets, dearth of trained technical staff, and difficulties encountered by some farmers in disposing of their produce due to marketing bottlenecks and lack of processing and storage facilities. In this regard, therefore, the availability of credit from the banking system guaranteed by the Central Bank is not the panacea for Nigerian agricultural problems. On the contrary, available evidence according to the World Bank[20] shows that credit unaccompanied by other inputs, stands little chance of being used for productive purposes. The Central Bank should therefore overhaul the agricultural credit guarantee scheme and initiate appropriate policies and amendments to the Agricultural Credit Guarantee Fund Act No. 20 of March 1977, bearing all these problems in mind to ensure better performance of the agricultural sector of the economy. In particular it should formulate a scheme whereby the customary method of using land as a security will involve minimum of formality and the maximum of flexibility. In this regard, local agricultural credit committees should be established at local Government levels to offer assistance and directive to farmers. The Committee should include representatives from the local government, State Ministry of Agriculture, Central Bank State Branch, the state bank, some leading local farmers. If the Central Bank formulates a viable agricultural policy which is efficiently implemented, Nigeria would be heading towards self-sufficiency and

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20 World Bank, Bank Policy on Agricultural Credit; Agricultural and Rural Development, 1984.

self-reliance which is all economic growth is about.

Foreign Exchange Management

29. Government should begin early to restrict the manner in which our foreign exchange reserves are applied to conspicuous and luxury consumption. Policy measures should more consciously redirect the use of these reserves in favour of the import of plant and machinery necessary for our rapid economic development.

Government should therefore undertake a further careful screening of the import list with a view of curtailing more sharply in line with paragraph 41 hereof the import of prestige and luxury items, whose import so far seems unaffected by imposition of heavy import duties. In addition, the balance of payments and other related considerations, the exchange control machinery and regulations should be used as vehicles for channelling the flow of funds to the priority areas, as defined by Government from time to time.

30. The Central Bank of Nigeria should prepare at the beginning of each year a foreign exchange budget and make use of the powers conferred by section 4(1) of the CBN Act 1958.

Staff of the Central Bank

31. The process of decision-making is rather long and tedious and papers and applications are processed and passed from one cadre of staff to another in an unending hierarchy of powers. In most cases, all that one officer

does is simply to initial against his name or position. This circuitous way of taking decisions applies where there are no predetermined rules but a range of discretionary powers. The Central Bank should ensure that every official position carries with it a description of duties, method of carrying them out and rules governing approvals of applications and so on. As one writer said:

> "The preference for a rule is also based on the belief that authorities tend to make poor decisions, and even if they should make a decision that is right at the time it is made, the policy action may be inappropriate by the time it takes effect on the economy."[21]

32. The professional staff of the Central Bank should be strengthened to enable it to discharge its responsibilities both to the nation and to ECOWAS. The staff strength should be reduced to shake off the loafers and idlers. The bank is grossly overstaffed.

Monetary Policy

33. The major problem in achieving all our economic goals is that the policy action necessary to move toward one goal may conflict with the action required to move toward some other goal. The relation between price stability and full employment is a case in point. If there is excessive unemployment, easing credit is an appropriate policy action to stimulate demand as it was stated in Chapter 8.[22]

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21 Monetary Policy and the Financial System, 1983, by Paul M. Horvitz and Richard A. Ward, p. 492.

22 Above, at p. 434.

This increased demand, however, may have an inflationary effect on some segments of the economy. The Central Bank should therefore be very discreet in choosing policy options.

34. If national objectives are to be more effectively achieved, the Central Bank should be given power to control some relevant aspects of the operations of all financial institutions. The control which is necessary for the overall monetary policy objectives need not be of the same degree as that exercised over the commercial banks.

State Banks: Constitutional Position and Distribution of Functions

35. In order to prevent party political manipulation of the banking system and the board of directors. the present tendency towards statism in banking should be controlled. Banking in general should be on the Exclusive, instead of the Concurrent, legislative list.

Advisory Bodies

36. An advisory committee on monetary and financial policy should be established.

The committee should be located in the Federal Ministry of Finance and be composed of the Governor of the Central Bank, Permanent Secretaries of the Ministries of Economic Development, Trade, Industries and Agriculture, the Managing Director or Chief Executive of the following apex institutions: the National Industrial Development Bank, National Bank for Commerce and Industry, National

Bank for Agriculture and Co-operatives, the National Re-Insurance Corporation and the National Mortgage Bank.

This committee should serve as a sounding board, a clearing forum for monetary and financial policy-making. It should also be in a position to generate new ideas for monetary and financial policy.

In addition to these roles required of the committee during the annual major budgetary exercise, it should also play the same roles during the financial year, when adjustments are to be made in monetary and financial policy.

Additionally, the committee will be available to consider and advise on matters referred to it by the Federal Executive Council; such matters will include not only direct monetary and financial matters but also any other matters which have major monetary implication.

37. In addition to the Banker's Committee which has an official status, there is need for licensed banks to form an association as a forum for discussing common problems.

38. There is need for the establishment of a machinery for the monitoring of licensed banks in which the Federal Government beneficially owns the largest equity holding covering the following areas:

(a) Formulating operational policy guidelines for the banks in the context of national objectives for the banking system.

(b) Laying down performance criteria for the banks and ensuring their observance and generally keeping in check their operating costs.

(c) Evaluating the performance of the banks in the context of the approved operational policy guidelines and performance criteria.

(d) Recommending to the President candidates for appointments as Managing Directors/Directors/Chief Executives and Executive Directors of such banks.

Devolution of Functions

39. The Bank should delegate to commercial banks the following functions which over the years have weighed down the Bank:

(a) Monthly home remittance and gratuity
(b) Membership subscription, and Examination fees (private)
(c) Correspondence course fees
(d) Education (private) fees
(e) Business travel allowances
(f) Basic travel allowance
(g) Provident/pension fund contribution by non nationals
(h) Medical travel
(i) External accounts of missions abroad.

40. The Central Bank should rid itself of all commercial banking activities which it now undertakes, of opening of letters of credit; maintaining of accounts for parastatals and other companies; payment of pensions and national provident fund contributions; payments to military personnel; financing of Commodity Boards operations; sections 4(1) and 29(A) of the CBN 1958 to be amended accordingly.

Hiatus of 7 Years

41. It is now fashionable for almost all countries in the

western world to operate a central banking system in line with the Bank of England or USA Federal Reserve systems. In doing so they swallow, hook, line and sinker, both relevant and irrelevant aspects of the borrowed systems. The Commonwealth African countries should "boycott the boycottables" in the immortal words of the late Mazi Mbonu Ojike. To this end Nigeria should for the next 7 years look inwards for the solution of her economic problems, develop her agriculture, manpower, local credit, electricity, water and other infrastructure and look outside only for the essential. Importation of goods and trade with the outside world should be severely curtailed and limited to drugs, books, essential raw materials and machinery. This would have the effect of reducing to manageable proportions the ubiquitous functions of the Central Bank. Its relationship with the IMF, Bank for International Settlements and so on have not had any salutary effect on the economy. Aid, according to Teresa Hayter, "has never been an unconditioned transfer of financial resources. Usually, the conditions of aid are clearly and directly intended to serve the interests of the governments providing it"[23] and according to Peter Bauer: "If foreign aid were indispensable for emergence from poverty, the rich countries of today could not have developed because they did not receive foreign aid".[24]

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23 The Third World Problems and perspective by Alan B. Mountjoy, p. 121.

24 Ibid, p. 6.

Nigeria can afford in the next 7 years to do without them. During this moratorium economic commissions and study groups and workshops which should include lawyers with specialised knowledge and interest would come up with a blueprint on the ways of revamping the Nigerian economy.

At the end of this period it is likely that Nigeria would have discovered herself, her mistakes and miscalculations and with established infrastructure be ready for an economic take-off under dynamic financial and banking legislation and control.

An Ideology

42. Nigeria has no national ideology. Before capitalism engulfed Nigeria's political and economic systems, the dominant forms of ideology known to Nigeria were autocracy, communalism and welfarism which can still be found in the extended family system. With the coming of capitalism Nigeria appeared to have abandoned the native ideologies. America adopted capitalism, Russia communism, Britain democratic socialism, Sweden democratic welfarism, Cuba pragmatic communism, China reformed communism, Ghana conscientism, Tanzania African socialism or Ujaama, Senegal democratic socialism, Egypt Arab socialism, Zambia humanism and so on. Nigeria should like all countries adopt an ideology and stop flirting with various ideas and thoughts of other people which have given rise to importing foreign goods rather than to producing competing goods, adopting British and American systems of government, education, judiciary, culture fashion, rather than experimenting on her own. What matters

is not what ideology Nigeria adopts but how she can tailor any ideology to rhyme with the expectations of the people. In formulating policies the Central Bank should give serious thought to enunciating the ideology, preferrably pragmatic socialism. Whatever ideology is bred should find an entrenched position in the country's federal constitution.

<u>Borrowing From The IMF</u>

43. Since 1983 the Central Bank of Nigeria and the representatives of the Federal Government, have been negotiating a loan of about $2 billion from the IMF. The conditions under which the loan may be granted are: abolition or liberalisation of foreign exchange and import control; devaluation of the exchange rate, i.e. of the national currency; domestic anti-inflationary programmes including:

(a) Control of bank credit; higher interest rates and higher reserve requirement.

(b) Control of government deficits curbs in spending, increase in taxes and prices charges by public enterprises, abolition of consumer subsidies.

(c) Control of wage rises, in so far as this will not bring down the government in office.

(d) Dismantling of price controls.

(e) Greater hospitality to foreign investment, i.e. adoption of an investment code more profitable to foreign investors.

To request Nigeria to devalue when it has only oil to export and to demand liberalisation of trade when there is no foreign reserve or to remove subsidy on petrol when cost of transport would rise astronmically is undoubtedly to provoke a catastrophe in the country. As the Academic Staff Union of Universities (ASUU) put it, "From what we observe the military government is, without saying so, implementing the conditions of the International Monetary Fund. It is the view of the ASUU that to inaugurate wage freezes and retrenchment in the name of efficiency, to raise school fees or impose new taxes on the needy in order to enable parasitic capitalists to prosper is to sacrifice the majority to the selfish interests of a few. Hence, ASUU calls for an immediate stop to and a reversal of these anti-people measures."[25]

According to President Julius Nyerere, who is the current Chairman of the OAU, "the IMF and other international institutions were becoming consciously or unconsciously tools of the rich countries who control the economies of poor nations". President Nyerere made the statement, while addressing newsmen after signing a contract with an Islamic firm for the development of gold mines in Northern Tanzania. Denying that his country was closed to foreign investors, he said that he was using capitalist firms to develop socialism in Tanzania.[26]

On another occasion he said:

> "The IMF is an instrument of control and not of development in Africa and the Third

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25 National Concord, September 5, 1984, p. 7.

26 Daily Times, November 24, 1984, p. 1.

> World. The IMF is used by the rich countries of the World and, in particular, the powerful Western countries to control the economies of the World. The sooner the developing countries realised their situation the better. A few years ago, Tanzania rejected IMF pre-conditions of wage-freeze, abolition of price subsidies, removal of import controls and devaluation by 50% in return for aid.[27]

Indonesia, Chile under Allende, Mexico, Brazil, Sudan and Argentine have never survived the difficulties that led them to IMF loan package agreements. Once a country enters the vicious circle of the IMF, it finds it is impossible to live without it as to live with it, unless some radical action is taken by that country. For example, Sukarno restricted Indonesian imports from the West, placed some timid government controls over foreign oil companies, and, more importantly, announced the withdrawal of Indonesia from the IMF and of course from the World Bank.

The Central Bank should therefore advise against taking IMF loans, and join hands with the Academic Staff Union of Universities (ASUU) to advise against taking the IMF loan.

Reorganisation of Central Banks

44. The Central Bank of Nigeria should from time to time appraise the roles it had played in directing the banking system and re-examine the modalities it had employed to see if they were still relevant to the dynamic society and

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27 The Nigeria Punch, December 15, 1984, p. 16.

"purge itself of its own inefficiencies by means of a review of its organisation and operations using the framework provided by the McKinsey Report, 1976".[28] This is necessary because its operational efficiency is crucial to the efficient and effective management of the national economy particularly since it had been observed that:

> "in practice top management expend considerable part of their official time dealing with trivial matters, at the expense of their more important roles of Planning, Co-ordinating and directing the affairs of the Bank and ultimately the effective management of the national economy".[29]

If a review is carried out occasionally, say once every three years, it should be aimed at improving the scope and quality of its services and at addressing "itself to those problems which inhibit the efficient operation of the Banking System and the sound and healthy growth of Nigeria's financial system".[30]

We conclude this section on Reforms by reiterating that the legislation and the resulting practices of the Central Bank of Nigeria have not left a strong impact on the economy of Nigeria and a fortiori those of other Anglophone African countries. The Central Bank of Nigeria itself had said so when it was noted by the Board Committee on the Banking System that:

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28 Report of the Board Committee on the Banking System, November 1986, p. 6.

29 Ibid, p. 27.

30 Ibid, p. 28.

> "It is arguable whether the present unsatisfactory state of affairs in the operations of the Central Bank of Nigeria could have been avoided if the McKinsey Report had been fully implemented. At least, it could have mitigated the dynamic chaos which now exists and which is fast changing the enviable image of the Central Bank of Nigeria into one of those government organs where nothing works. The long daily queues of persons outside the Central Bank of Nigeria premises, waiting to see officials of the Bank, the delays in getting things done, the frustrations of the public in their interactions with the Banking System, the defective state of the Clearing System, the lackadaisical attitude of staff to their responsibilities and most disturbingly the mounting allegations of corrupt practices against officials of the Bank are only the agonising symptoms of the serious deterioration which has begun to set in the operational standards of the Central Bank of Nigeria."[31]

EPILOGUE

From the foregoing it would seem that the efforts of the Central Bank of Nigeria in the process of economic development and growth of the Nigerian economy do not seem to be bringing forth the expected fruits. Nigeria still feels overly dependent on the rich countries for the supply of capital and know-how, for the purchase of her exports, for the exploitation of local minerals particularly crude oil and other resources. The population explosion has eaten up a large chunk of the growth in national product, and failure to achieve economic growth at least as rapid as population growth has meant stagnation.

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31 *Ibid*, pp. 4-5.

The increase in national income has gone into the pockets of the new rich, a prosperous middle and upper class in the country. The large mass of the people are virtually untouched and unaffected by the economic progress achieved since Independence.

The measure of economic development of Nigeria is further compounded by the political constraints which have been noted as influencing many decisions that should have been considered as economic problems. The inefficiency and the ineffectiveness of the Central Bank to lead Nigeria to economic growth has been compounded by avoidable extraneous factors. The world recession, imported inflation and the inordinate scramble by some unscrupulous aliens to damage the economy through fraudulent importation practices and currency trafficking and forgeries are some of the debilitating factors. Other contributing factors are the intransigence of successive governments to heed economic advice particularly with regard to over-borrowing, uncontrolled government spending, prestigious uneconomic projects, external borrowing, widespread corruption in high and low places, the ineffectiveness of other arms of the economy, for example, the lame electricity corporation and other suppliers of infrastructural arsenal.

The technology which is available today in Nigeria and other African countries is capital-intensive but labour-saving. While, for instance industries and service occupations during the Industrial Revolution of the 19th century, were labour-intensive thus directly absorbing large numbers of unskilled workers, the technologies which were transplanted to Nigeria involved labour-saving techniques as we have noted above. The transference of such advanced technology consumes much of the developing world's scarce and expensive capital and offers little employment in countries where under- and unemployment are acute problems. The technology that Nigeria needs should be capital-saving. Those who industrialised during the 19th century had to invent their technologies as they went along, whereas Nigeria and other developing countries have at their disposal a range of technologies already in existence for which they require enormous capital. The pioneers had to find their investment capital entirely from their own savings; today the developing countries can obtain loans and grants from the rich countries at great cost to them. What Nigeria needs is to concern herself not with just economic growth alone but should also direct its attention to a combination of objectives, for example, full employment, equitable income distribution and so on. Growth for its own sake is not sufficient, economic growth must overcome poverty, perfidy, squalour, disease and ignorance.

Weighing up the pros and cons of our subject it is difficult to decide whether Nigeria and other Commonwealth African countries will find the road to economic development through the operations and practices of the central banks. This view is shared by the World Bank, as reported in the London Observer of 23rd September, 1984, when it said that "It [the World Bank Report] paints a stark picture of an entire continent [Africa] spiralling down towards disaster, with economies slumping, less food being produced and the population doubling by the end of the century". In the past three years Africa South of the Sahara had fallen back 15 years in development per capita.[32] Income and output were both lower than they were in 1970 while foreign aid was stagnating. The Report blames the policies of both African countries and aid givers. Unlike most international reports, it mentioned names, particularly Uganda, Ghana, Sudan, Zambia and Nigeria which despite having some of the best natural resources in Africa are among those with the worst economic records.

The problem posed by economic growth have to be solved mainly by the governments, the central banks and other key operators in the banking system; but these problems cannot be solved by the efforts of these countries alone.

They do not have capital markets, entrepreneurial and managerial expertise, technological knowledge. They also lack vocational skills and the capacity to impart them. The advanced countries have a duty to bail out Nigeria and other countries in a similar position so that the world would be a better place for all the inhabitants, and in the words of President H.S. Truman (January 20, 1949), "We must embark on a bold new program for making the benefits of our scientific and industrial progress

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32 The average standard of living of a country is vaguely measured by per capita income. In 1951 the United Nations attempted a definition of the developed and the developing countries. In 1951 therefore a country was considered undeveloped if the per capita income was less than a quarter of the per capita income of the USA which in 1951 was estimated at $2000 and a quarter of that sum was $500.

available for the improvement and growth of under-developed areas". The Central Bank of Nigeria that wears the mantle of leadership in this economic crusade should wake up from its slumber and redeem the "giant of Africa" from economic stagnation in which it finds itself.

The need for reform is important and urgent and the reforms must be undertaken by the key operators and to the extent that these far-reaching reforms are pursued and effected particularly by these operators can it be said that the Central Bank of Nigeria is ready and willing to stimulate economic growth in Nigeria. This it can do under the guidance of law as the instrument of change with which reformed economic arrangements can be introduced. As the President of the World Bank, Mr. Robert McNamara, said: "We are on the frontier of a new field of knowledge here, and we have far more questions than we have answers. But the urgency of the situation is such that we simply cannot wait until all the answers are in. We must begin now with what we know. And we clearly know enough to at least make a beginning. If we make mistakes we simply have to learn from them!"[33]

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33 Address to the Board of Governors, Washington (28 September, 1972), p. 16.

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APPENDIX I

CENTRAL BANK OF NIGERIA

(i) CENTRAL BANK OF NIGERIA ACT, 1958 (CAP. 30)
(as amended 1962-1969)

INCORPORATING ALL CENTRAL BANK PRINCIPAL LEGISLATIONS AMENDING THE 1958 ACT OF WHICH THE LATEST IS FINANCE DECREE.
(DECREE No. 32, 1969)

(ii) CENTRAL BANK OF NIGERIA BYE-LAWS, 1959

(iii) BANKING DECREE, 1969 (as amended by BANKING (Amendment) DECREE, 1970 - Decree No. 3)

CENTRAL BANK OF NIGERIA ACT, 1958
(AS AMENDED 1962-1969)

ARRANGEMENT OF SECTION

CONSTITUTION

CAPITAL AND RESERVE

ADMINISTRATION

CURRENCY

OPERATIONS

RELATIONS WITH THE FEDERAL GOVERNMENT

RELATIONS WITH OTHER BANKS

ACCOUNTS AND STATEMENTS

TRANSITIONAL PROVISIONS

MISCELLANEOUS

FEDERATION OF NIGERIA

IN THE SEVENTH YEAR OF THE REIGN OF HER MAJESTY QUEEN ELIZABETH II

SIR RALPH FRANCIS ALNWICK GREY, K.C.V.O., C.M.G., O.B.E.
Officer Administering the Government of the Federation.

AN act to provide for the Establishment of a Central Bank of Nigeria and to provide for its Constitution and Functions: to provide that it shall be a Bank of Issue and for such purpose to provide that its Notes and Coins shall be legal tender and at some future date shall be the sole legal tender in Nigeria: to provide that the Central Bank shall be Bankers to the Government and shall have certain powers in relation to other Banks: and for purposes ancillary to the purposes aforesaid. Title

(*By Notice*) Commencement.

BE IT ENACTED by the Legislature of the Federation of Nigeria as follows: Enactment.

1. This Act may be cited as the Central Bank of Nigeria Act, 1958, and shall come into operation upon such date as may be notified in the Gazette by the Governor-General after the signification of the pleasure of Her Majesty thereon, and different dates may be prescribed for the coming into operation of different section of the Act. Short title and Commencement.

INTERPRETATION

2. In this Act, unless the context otherwise requires— Interpretation.
"the Bank" means the Central Bank of Nigeria established by this Act.
"the Board" means the Board of Directors of the Bank "the Governor" and "the Deputy Governor" mean, respectively, "the Governor" and "the Deputy Governor" of the bank; "the Commissioner" means the Commissioner charged with responsibility for matters relating to finance in the Federation; "State" or "States" means appertaining to the States of Nigeria either individually or collectively as the context requires.

CONSTITUTION

Establishments and Incorporation of the Bank.

3. (1) A bank to be called the "Central Bank of Nigeria" shall be established in accordance with the provisions of this Act and shall commence business on a day to be appointed by the Governor-General by notification in the Gazette.

(2) The Bank shall be a body corporate and shall have perpetual succession and a common seal, and may sue and be sued in its own name, and subject to the limitations contained in this Act may acquire, hold and dispose of movable and immovable property for the purpose of its functions.

Objects. As amended by C. B. N. (Amendment) Act, 1962 and as amended by C. B. N. (Amendment) Decree 1967 Section 1 (a).

4. (1) The principal objects of the Bank shall be to issue legal tender currency in Nigeria to maintain external reserves to safeguard the international value of that currency, to promote monetary stability and a sound financial structure in Nigeria and to act as banker and financial adviser to the Federal Government.

(2) The objects of the bank shall include the issue of legal tender currency in the Northern and Southern Cameroons in accordance with any arrangements in that behalf between the Government of the Federation and the Governments of the Northern and Southern Cameroons.) *No longer applicable.*

Head Office and branches as amended by Section 1 (a) of C.B.N. Amendment Decree 1967.

5. The Bank shall have its head office in Lagos and may open branches in Nigeria and appoint agents and correspondents in accordance with decisions of the Board.

CAPITAL AND RESERVE

CAPITAL

6. (1) The authorised capital of the Bank shall be one million five hundred thousand pounds. There shall be paid up such amount as shall be resolved by the Bank and confirmed by the Commissioner and this amount shall be subscribed by and paid up at par by the Federal Government upon the establishment of the Bank.

(2) The paid-up portion of the authorised capital may be increased by such amount as the Board may, from time to time, resolve with the agreement of the Commissioner, and the Federal Government shall subscribe and pay up at par the amount of such increase.

(3) All the paid-up capital shall be subscribed and held only by the Federal Government.

7. (1) The Bank shall establish a general reserve fund to which shall be allocated at the end of each financial year of the Bank — General reserve fund.

(*a*) one-eighth of the net profits of the Bank for the year when, at the end of that year, the fund is less in amount than the paid-up capital of the Bank;

(*b*) one-sixteenth of the net profits of the Bank for the year when, at the end of that year, the fund is not less in amount than the paid-up capital of the Bank but is less in amount than twice the paid-up capital.

(2) After any allocation has been made in terms of subsection (1), one half of the remainder of the net profits shall be applied to the retirement of any outstanding obligations of the Federal Government to the Bank arising from the financing of the cost of the printing, minting and shipment of the initial stock of the Bank's notes and coins.

(3) The remainder of the net profits shall be paid to the Federal Government.

(4) The net profits of the Bank for each financial year shall be determined by the Bank after meeting all current expenditure for that year and after making such provision as it thinks fit for bad and doubtful debts, depreciation in assets, contributions to staff and superannuation funds, and all other contingencies.

ADMINISTRATION

8. (1) There shall be a Board of Directors of the Bank which shall be responsible for the policy and general administration of the affairs and business of the Bank. Board of Directors.

(2) The Board shall consist of a Governor, a Deputy Governor and five other directors.

Section 3 of C.B.N. Act (Amendment) Decree No. 3, 1968.

3. (1) The board shall keep the Commissioner informed of the monetary and banking policy pursued or intended to be pursued by the Central Bank. Direction as to policy.

(2) The Commissioner shall, from time to time if he disagrees with the Board on the monetary and

banking policy pursued or intended to be pursued by the Central Bank, so inform the board of his disagreement thereto, and the Commissioner may submit his representation and that of the Central Bank on the disagreement to the Federal Executive Council.

(3) The Federal Executive Council may in writing after considering the representations direct the Central Bank as to the monetary and banking policy pursued or intended to be pursued and the direction shall be binding on the board which shall forthwith take all steps necessary or expedient to give effect thereto.

Governor and Deputy Governor.

(4) The Governor or, in his absence, the Deputy Governor shall be in charge of the day-to-day management of the Bank and shall be answerable to the Board for their acts and decisions.

9. (1) The Governor and Deputy Governor shall be persons of recognised financial experience and shall be appointed by the Head of the Federal Military Government by instrument under the public seal on such terms and conditions as may be set out in their respective letters of appointment.

(2) The Governor and Deputy Governor shall each be appointed for a term of five years and shall be eligible for reappointment: Provided that the appointment, or first appointment, of the first Deputy Governor shall be for a term of three years.

(3) The Governor and Deputy Governor shall devote the whole of their professional time to the service of the Bank and while holding office shall not occupy any other office or employment whether remunerated or not:

Provided that they may by virtue of their office, be members of or advisers to the Loans Advisory Board or its successor: Provided also that they may, if so appointed with the approval by resolution of the Board,

(*a*) act as members of any Commission established by the Federal Government to enquire into any matter affecting currency or banking in Nigeria;

(*b*) become governors, directors, or members of the Board, by whatever name called, of any international bank of international monetary authority to which the Federal Government shall have adhered or given support or approval;

(*c*) become directors of any corporation in Nigeria in which the Bank may participate under paragraph (*i*) of section 29.

10. (1) The five other directors of the Bank shall be appointed by the Head of the Federal Military Government of the Federation.

(2) A director shall be a person of recognised standing and experience in affairs, but as a director of the Bank he shall not be regarded or act as a delegate on the Board from any Federal or, State authority, or from any commercial, financial, agricultural, industrial, or other interests with which he may have been connected.

(3) A director shall hold office for three years and be eligible for reappointment: Provided that, of the first five directors to be appointed under this section, one shall, or shall in the first instance, be appointed for one year, and two shall, or shall in the first instance, be appointed for two years.

Disqualification from and cessation of appointment.

(4) A director shall be entitled to fees and allowances in accordance with such rules as the Board, subject to confirmation by the Commissioner, may lay down.

(S. 11 as amended by S. I. of C.B.N. Amendment Act, 1962).

11. (1) No person shall be appointed or shall remain Governor, Deputy Governor or other director of the Bank who —

(*a*) Is a member of a Federal Legislative House;

(*b*) Is a member of a State Legislative House;

(*c*) Is a director, salaried official or shareholder of any bank licensed under the provisions of the Banking Act, 1958;

(*d*) Is an officer in the public service of the Federal or a State Government: Provided that this paragraph shall not render ineligible any person whose sole duties are those of economic adviser to the Federal Government.

(2) (*a*) The Governor or Deputy Governor may resign his office on giving at least three months' notice in writing to the Head of the Federal Military Government of his intention.

(*b*) Any Director may resign after a notice in writing of at least a month to the Head of the Federal Military Government of his intention.

(3) The Governor, Deputy Governor or any other director shall cease to hold office in the Bank, if—

(*a*) he becomes of unsound mind or incapable of carrying out his duties;

(*b*) he becomes bankrupt or suspends payment or compounds with his creditors;

(*c*) he is convicted of a felony or of any offence involving dishonesty;

(*d*) he is guilty of serious misconduct in relation to his duties;

(*e*) in the case of person on possessed of professional qualifications, he is disqualified or suspended (otherwise than at his own request) from practising his profession in any part of the Commonwealth by the order of any competent authority made in respect of him personally.

Appointment to fill a vacancy. As amended by Section 1 (*c*) of C.B.N.(Amendment) Decree 1967.

12. If the Governor or Deputy Governor or any other director of the Bank dies, or resigns or otherwise vacates his office before the expiry of the term for which he has been appointed.

There shall be appointed a fit person in his place for

(*a*) a period of five years if the vacancy is that of the Governor or Deputy Governor with the appointment being made in the manner prescribed by Section 9 (1) of this Act; and

(*b*) for the unexpired period of the term of the appointment if the vacancy is that of any other director with the appointment being made in the manner prescribed by Section 10 (1) of this Act.

Meeting of Board.

13. (1) Meeting of the Board shall take place as often as may be required but not less frequently than once in each of any ten months in every financial year of the Bank.

(2) The Governor, or in his absence the Deputy Governor, shall be chairman of the Board, and in the absence of both from any meeting the other directors attending shall elect a chairman for that meeting from among themselves.

(3) Four members of the Board shall form a quorum at any meeting and, unless otherwise provided, decisions shall be adopted by a simple majority of the votes of the members present. In the case of an equality of votes, the chairman shall have a casting vote.

(4) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the directors of the Bank.

(5) All acts done by any person acting in good faith as a director shall be as valid as if he were a director, notwithstanding that some defect in his appointment or qualification be afterwards discovered.

Appointment of officials.

14. (1) All appointments of officials and other employees of the Bank shall be only to positions created by decision of the Board and on such terms and conditions as shall be laid down by the Board.

(2) No salary, fee, wage, or other remuneration, or allowance paid by the Bank shall be computed by reference to the net or other profits of the Bank.

Advisory Committee.

15. (1) There shall be an advisory committee of the Bank which shall consist of —

(*a*) the Commissioner or his alternate;

(*b*) the Commissioner charged with responsibility for finance in respect of each State or his alternate;

(*c*) the Governor or Deputy Governor.

(2) The Committee shall meet not less than twice in each calendar year for the purpose of considering matters of common interest.

(3) Meetings of the committee shall take place in Lagos or in such other places as may be agreed from time to time. The Committee shall establish its own rules of procedure.

CURRENCY

Currency of Nigeria.

16. (1) The unit of currency in Nigeria shall be Nigerian Naira pound which shall be divided into ten shilling each shilling being divided into ten pence.

(2) Subject to the provisions of section 46, every contract, sale, payment, bill, note, instrument and security for money and every transaction, dealing, matter and thing whatsoever relating to money or involving the payment of or the liability to pay any money which, but for this subsection, would have been deemed to be made, executed, entered into, done and had, in and in relation to currency issued by the West African Currency Board shall in Nigeria be deemed instead to be made, executed, entered into, done and had, in and in relation to Nigerian pound: Provided that this clause shall not affect any obligation to pay any money in any country other than Nigeria where currency issued by the West African Currency Board is legal tender.

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17. Section 2 of C.B.N. Amendment Act, 1962 —

Parity of pound (S. 17 of the Principal Act repealed by S. 2 of C. B. N. Amendment Act 1962).

2. (1) Subject to the provisions of this section the parity of the Nigerian pound shall be equivalent to 2·48828 grams fine gold.

(2) The parity of the Nigerian pound may from time to time be changed by the Bank with the approval of the Federal Executive Council. Notice of the change shall as soon as possible thereafter be published in the Gazette.

(3) Section 17 of the Principal Act is hereby repealed.

Sole right to issue.

18. The Bank shall have the sole right of issuing notes and coins throughout Nigeria and neither the Federal Government nor any State Government nor any other person shall issue currency notes, bank notes or coins or any documents or tokens payable to bearer on demand being documents or token which are likely to pass as legal tender.

Provision for issue. As amended by Section 1 (d) C.B.N. (Amendment) Decree, 1967

19. The Bank shall —

(*a*) arrange for the printing of notes and the minting of coins;

(*b*) issue, reissue and exchange notes and coins at the Bank's offices and at such agencies as the Bank may, from time to time, establish or appoint;

(*c*) arrange for the safe custody of unissued stocks of currency and for the preparation, safe custody and destruction of plates and paper for the printing of notes and of dies for the minting of coins;

(*d*) arrange for the destruction of notes and coins withdrawn from circulation under the provisions of section 21 (3) of this Act or otherwise found by the Bank to be unfit for use.

Section 1 (*d*) of C.B.N. (Amendment) Decree 1967

Denomination and form of notes and coins.

20. (1) Notes and coins issued by the Bank —

(*a*) shall be in such denominations of the pound or fractions thereof as shall be approved by the Commissioner on the recommendation of the Bank;

(*b*) shall be of such forms and designs and bear such devices as shall be approved by the Commissioner on the recommendation of the Bank.

(2) The standard weight and composition of coins issued by the Bank and the amount of remedy and variation shall be determined by the Commissioner on the recommendation of the Bank;

Bank's currency to be legal tender

21. (1) Notes issued by the Bank shall be legal tender in Nigeria at their face value for the payment of any amount.

(2) Coins issued by the Bank shall, if such coins have not been tampered with, be legal tender in Nigeria at their face value up to an amount not exceeding ten pounds in the case of coins of denominations of not less than sixpence and up to an amount not exceeding one shilling in the case of coins of a lower denomination.

(3) Notwithstanding the provisions of subsections (1) and (2) the Bank shall have power, on giving not less than three months' notice in the Gazette, to call in any of its notes and coins on payment of the face value thereof and any such notes or coins with respect to which a notice has been given under this clause shall, on the expiration of the notice, cease to be legal tender, but, subject to the provisions of section 23, shall be redeemed by the Bank upon demand.

Tampering with coinage.

22. A coin shall be deemed to have been tampered with if the coin has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced by stamping, engraving or piercing whether the coin has or has not been thereby diminished or lightened.

Lost and damaged currency.

23. No person shall be entitled to recover from the Bank the value of any lost, stolen, mutilated or imperfect note or coin. The circumstances in which, and the conditions and limitation subject to which, the value of lost, stolen mutilated or imperfect notes or coins may be refunded as of grace shall be within the absolute discretion of the Bank.

Exemption from stamp duty.

24. The Bank shall not be liable to the payment of any stamp duty under the Stamp Duties Act in respect of its notes issued as currency.

External reserve. (S. 25 as amended by S. 3 of C. B. N. Amendment Act 1962). As amended by C. B. N. (Amendment) Decree 1967

25. The Bank shall at all times maintain a reserve of external assets consisting of all or any of the following —

(*a*) gold coin or bullion;

(*b*) balances at any bank outside Nigeria where the currency is sterling or is freely convertible into gold or sterling, and in such currency any notes, coin, money at call and where they bear at least two good signatures and have a maturity not exceeding ninety days exclusive of days of grace, any bill of exchange;

(*c*) Treasury Bills having a maturity not exceeding one year issued by the Government of any country outside Nigeria whose currency is sterling or is freely convertible into gold or sterling;

(*d*) securities of or guaranteed by a Government of any country outside Nigeria whose currency is sterling or is freely convertible into gold or sterling where the securities held under this paragraph will mature in a period not exceeding ten years from the date of acquisition.

(*e*) Securities of or guaranteed by international financial institutions of which Nigeria is a member if such securities are expressed in sterling or in currency freely convertible into sterling or gold and the maturity of the securities so held will not exceed five years.

New section 1 (*e*) (*iii*) added by CBN (Amendment) Decree 1967.

(*f*) Nigeria's gold tranche in the International Monetary Fund (operative as from 29th Nov., 1967).

New section 3 (2) of Finance Decree 1969 (Decree No. 32)

26. Repealed by Section 6 of the Central Bank Amendment Act; 1962

27. For which the following two sections are in

28. substitution:

Value of external reserve. As amended by Section 3 of C.B. N. (Amendment) Decree 1967.

The value of the reserve of external assets shall be not less than twenty-five per centum of the total demand liabilities of the Bank.

(Sec. 4 of the Amendment Act)

Obligation in respect of currency

OPERATION

(1) Unless otherwise prohibited by any law relating to the control of exchange the Bank shall, on demand at its head office in Lagos—

(*a*) issue and redeem Nigerian currency against sterling, and

(*b*) at its discretion issue and redeem Nigerian currency against gold or other currencies eligible for inclusion in the reserve of external assets under this Act: provided that the rates of exchange quoted by the Bank for spot transactions shall not differ by more than one per cent from the parity of the Nigerian pound with the parity of the other currency.

(2) Nothing in this section shall be construed to require the Bank to sell or buy sterling for an amount less than ten thousand pounds in respect of any one transaction.

(Sec. 5 of the Amendment Act)

General powers of Bank.
(S. 29 as amended by S.7 of C.B.N. Amendment Act, 1962), as amended by Section 1 (*f*) C.B.N. Amendment Decree 1967 and C.B.N. Act (Amendment) (No. 2) Decree 1968.

29. (1) The Bank may:

(*a*) issue demand drafts and effect other kinds of remittances payable at its own offices or at the offices of agencies or correspondents;

(*b*) purchase and sell gold coin or bullion;

(*c*) open accounts for and accept deposits from the Federal Government, the State Governments, the funds, institutions and corporations of all such Governments, banks, other credit institutions and, with the prior approval of the Commissioner, other persons in Nigeria;

(*d*) purchase, sell, discount and rediscount inland bills of exchange and promissory notes arising out of bona fide commercial transactions bearing two or more good signatures and maturing within ninety days, exclusive of days of grace, from the date of acquisition;

(*e*) purchase, sell, discount and rediscount inland bills of exchange and promissory notes bearing two or more good signatures, drawn or issued for the purpose of financing seasonal agricultural operations or the marketing of crops, and maturing within one hundred and eighty days, exclusive of days of grace, from the date of acquisition;

As amended by Section 4 of C.B.N. Act Amendment Decree 1968 (No. 3).

(*f*) purchase, sell, discount and rediscount Treasury Bills and Treasury Certificates of the Federal Government which have been publicly offered for sale and are to mature within ninety-three days;

(*g*) purchase and sell securities of the Federal Government maturing in not more than twenty-five years which have been publicly offered for sale or form part of an issue which is being made to the public at the time of acquisition: Provided that the total amount of such securities of a maturity exceedr ing two years in the ownership of the Bank (other than securities held in terms of paragraph (*h*) of held by the Bank as collateral under sub-paragraph (*ii*) of paragraph (*k*) shall not together at any time exceed seventy-five per cent of the total demand liabilities of the Bank.

As amended by Sec. 2 Finance Decree 1969 (Decree No. 32)

(*h*) invest in securities of the Federal Government for any amount, and to mature at any time, on behalf of staff and superannuation funds and other internal funds of the Bank;

(*i*) with the approval of the Commissioner, subscribe to, hold and sell shares of any corporation or company or debentures hereof set up with the approval of or under the authority of the Federal Government for the purposes of:

(*a*) promoting the development of a money market or securities market in Nigeria or of improving the financial or economic development; or

(*b*) promoting or undertaking financial, industrial, agricultural and public -utility enterprises, provided that in any such case the total value of the holdings of shares or as the case may be, debentures to which this paragraph applies shall not at any time exceed ten times the aggregate of the Banks paid up capital and the General Reserve Fund of the Bank;

(*j*) grant advances for fixed periods not exceeding three months against publicly issued Treasury Bills of the Federal Government;

(*k*) grant advances for fixed periods not exceeding one year at a minimum rate of interest at least one per cent above the Bank's minimum rediscount rate against—

(*i*) gold coin or bullion;

(*ii*) securities of the Federal Government which have been publicly offered for sale and are to mature within a period of twenty-five years: Provided that no advance so secured shall at any time exceed seventy-five per cent of the market value of the security pledged and that the total of such securities held by the Bank is within the limitation imposed by paragraph (*g*);

(*iii*) such bills of exchange and promissory notes as are eligible for purchase, discount or rediscount by the Bank up to seventy-five per cent of their nominal value;

(*iv*) warehouse warrants, or their equivalent (securing possession of goods), in respect of staple commodities or other goods duly insured and with a letter of hypothecation from the owner; Provided that no such advance shall exceed seventy-five per cent of the current market value of the commodities in question;

New Section 29 (1) (*k*) (5) added by C.B.N. Amendment Decree No. 3, 1968. Sec. 4 (*c*).

(*v*) Treasury Certificates issued by the Federal Government: Provided that no advance so secured shall at any time exceed seventy-five per cent of the market value of the certificate pledged;

(*l*) purchase and sell external currencies, and purchase, sell, discount and rediscount bills of exchange and Treasury Bills drawn in or on places abroad and maturing within one hundred and eighty-four days, exclusive of days of grace, from the date of acquisition;

(*m*) maintain accounts with the Central Bank and other banks abroad;

(*n*) purchase and sell securities of or guaranteed by any Government whose currency is sterling or is freely convertible into gold or sterling or securities issued by international financial institutions, of which Nigeria is a member, which are also expressed in currencies which are sterling or are freely convertible into gold or sterling;

(*o*) act as correspondent, banker or agent for any central bank or other monetary authority and for any international bank or international monetary authority established under governmental auspices;

(*p*) undertake the issue and management of loans publicly issued in Nigeria by the Federal or State Governments or by Federal or State public bodies;

(*q*) accept from customers for custody securities and other articles of value;

(*r*) undertake on behalf of customers and correspondents the purchase, sale, collection and payment of securities, currencies and credit instruments at home and abroad, and the purchase or sale of gold and silver;

(*s*) promote the establishment of bank clearing systems and give facilities for the conduct of clearing business in premises belonging to the Bank;

(*t*) subject as is expressly provided in this Ordinance, generally conduct business as a bank, and do all such things as are incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

(2) The Governor may at any time in his discretion by previous notice in writing lodged with the Board decide that the powers conferred by subsection (1) in accordance with the provisions of paragraphs (*f*), (*g*), (*h*), (*j*) or sub-paragraph (*ii*) of paragraph (*k*) of that subsection may be extended to the Treasury Bills and Treasury Certificates or the securities, as the case may be, of any State Government with which the Bank appears substantially to have established the relationship of banker, or to any specified Treasury Bills and Treasury Certificates or securities of such a State Government, subject to the same conditions as specified in those paragraphs and subject to the limitations specified in paragraph (*g*), which limitations shall then apply to the aggregate value of the Federal and State securities so dealt with.

NEW SECTION 29 (A) ADDED BY SECTION 2 C.B.N. (AMENDMENT) DECREE 1967

Power of Bank to require certain information.

29. A. (1) In addition to any other of its powers under this Act, the Bank may require persons having access theretc, at all reasonable times to supply to it information, in such form as the Bank may from time to time direct, relating to, or touching or concerning matters affecting, the national economy of Nigeria.

(2) The Board of Directors shall take account of matter of a confidential nature supplied to the Bank under this section; but where the Bank is satisfied it is in the national interest and the informant supplying the information does not object to a proposal to publish it within a reasonable time of becoming aware of it, the Bank may, from any information in its possession, compile and publish statistical data and anything relevant thereto, on the national economy.

(3) Where any person lawfully required to supply information for the purposes of this section —

(*a*) supplies information which he knows to be false, or supplies it recklessly as to its truth or falsity, or

(*b*) without reasonable excuse (the proof of the reasonableness to lie on him) fails to comply with any requirement of the Bank; the supply or failure to supply, as the case may be, as herein provided, shall be an offence under this section punishable upon conviction —

(i) by a fine of not less than £500 or more than £1000 for every false report, and

(ii) by a fine of not less than £50 or more than £100 for every day during which the failure to comply with a requirement of the Bank continues.

Commencement

NEW SECTION ADDED BY CENTRAL BANK OF NIGERIA ACT (AMENDMENT) No. 3 DECREE 1968, DECREE No. 50

Central Bank's power to finance purchasing and marketing operations, etc. Cap. 19.

1. (1) Without prejudice to so much of section 29 of the Central Bank of Nigeria Act as relates to the powers of that bank to grant advances and provisions for securities, the Central Bank shall to the exclusion of any other bank (within the meaning of the Banking Act), be responsible for granting advances to any authority to which this section relates—

(a) for fixed periods not exceeding one year at a rate of interest which shall be at least one per cent above the Central Bank's minimum rediscount rate; and

(b) except as prescribed in subsection (2) of this section, upon such conditions as the Central Bank may, after consultation with the Commissioner, specify or as prescribed to ensure repayment thereof with interest.

2. Such advances may be granted under subsection (1) above in any particular case where a guarantee in writing is given by the Federal Government to the Central Bank on behalf of any such authority, so however that —

(a) the total advances, which may subject to the provisions of this section be granted shall not exceed an amount considered by the bank to be adequate for the authority to commence its operations at the beginning of the season; and

Cap. 30.

(b) any such advances shall be secured, so soon after the advances have been granted as may be agreed by the Central Bank (either in part or in whole) as prescribed in Section 29 (1) (e) or (k) of the Central Bank of Nigeria Act and the said provisions shall be so construed.

As amended by Sect. 2 of Central Bank of Nigeria Act (Amendment) Decree 1969.

3. Any advances which may be granted by virtue of the foregoing provisions of this Decree shall be used solely for the purpose of financing—

(*a*) any purchasing and marketing operations authorised to be undertaken by any such authority by the law under which the authority was established or as may be approved by the Central Bank, and

(*b*) with the approval of the Central Bank, such other operations as may be incidental thereto:

"Provided that any such authority may, if it so wishes, make advances to any licensed buying agent (within the meaning of any law under which the authority was established) for the purchase of produce for sale to the said authority, and provided also that the quantity of produce to be so purchased is included in the estimated tonnage of crops against which total advances are to be made by the Central Bank."

(4) For the purposes of this Decree, every authority to which this section relates shall consult with the Central Bank in any given year before the opening of the relevant produce season for the purpose of determining prices to be paid by the authority during that season to local producers of crops under the authority's control and both the authority and the Central Bank shall jointly agree on the prices to be so paid.

(5) This section relates to any marketing board or authority of the Federation, or of a State or two or more States, including an interim marketing board, established for such purpose by any law in operation in the Federation.

(6) The reference in this section to the granting of advances includes a reference to the provision of credit facilities.

30. The Bank may not— Prohibited activities.

(*a*) engage in trade or otherwise have a direct interest in any commercial, agricultural, industrial, or, save as provided in paragraph (*i*) of section 29, any other undertaking, except such interests as the Bank may in any way acquire in the course of the satisfaction of debts, due to it, and provided that all such interests so acquired shall be disposed of at the earliest suitable moment;

(*b*) save as provided in paragraph (*i*) of section 29, purchase the shares of any corporation or company, including the shares of any banking company, (*c*) grant loans upon the security of any shares;

(*d*) subject to the provisions of section 34, grant unsecured advances or advances secured otherwise than as laid down in paragraphs (*j*) and (*k*) of section 29: Provided that in the event of any debts due to the Bank becoming in the opinion of the Bank endangered, the Bank may secure such debts on any real or other property of the debtor and may acquire such property, which shall be resold at the earliest suitable moment;

(*e*) purchase, acquire or lease real property except in accordance with the proviso to paragraph (*d*) and except so far as the bank shall consider necessary or expedient for the provision, or future provision or business premises for the Bank and its agencies and any clearing houses set up in terms of section 42, and of residences for the Governor, Deputy Governor, officials and other employees;

(*f*) draw or accept bills payable otherwise than on demand;

(*g*) allow the renewal or substitution of maturing bills of exchange purchased, discounted or rediscounted by or pledged with the Bank save in exceptional circumstances when the Board may by resolution authorise one renewal or one substitution only in either case of not more than fifty per cent of the original amount of any such bill for a period not exceeding ninety days;

(*h*) pay interest on deposits;

(*i*) accept for discount, or as security for an advance made by the Bank, bills or notes signed by members of the Board or by the Bank's officials or other employees;

(*j*) open accounts for and accept deposits from persons other than as provided in paragraphs (*c*) and (*o*) of Section 29.

Publication of rediscount rates.

31. The Bank shall make public at all times its minimum rediscount rate.

Functions regarding Federal Government, as amended by S. 4A (2) Finance Decree No. 32 of 1969

RELATIONS WITH THE FEDERAL GOVERNMENT

32. (1) The Bank shall be entrusted with the Federal Government's banking and foreign exchange transactions in Nigeria and abroad, (including payments to or in respect of the International Monetary Fund). (Amendment operative as from 16th March, 1969).

(2) The Bank shall receive and disburse Federal Government moneys and keep account thereof without remuneration for such services.

(3) In any place where the Bank has no branch, it may appoint another bank to act as its agent for the collection and payment of Federal Government moneys.

Federal Government's rights.

33. Notwithstanding the provisions of section 32, the Federal Government may—

(*a*) maintain accounts in Nigeria with other banks in such cases and on such conditions as may be agreed between the Commissioner and the Bank;

(*b*) use the services of the State Treasuries for the collection and payment of Federal Government moneys in places where it may be appropriate and convenient to do so.

Advances to Federal Government.

34. (1) Notwithstanding the provisions of paragraph (*d*) of section 30, the Bank may grant temporary advances to the Federal Government in respect of temporary deficiencies of budget revenue at such rate or rates of interest as the Bank may determine.

As amended by C.B.N. Act (Amendment) Decree No. 3 1968. Section 4(*d*).

(2) The total amount of such advances outstanding shall not at any time exceed twenty-five per cent of the estimated recurrent budget revenue as laid before the Federal Legislature for the Federal Government financial year in which the advances are granted.

(3) All such advances shall be repaid as soon as possible and shall in any event be repayable by the end of the Federal Government financial year in which they are granted. If after that date any such advances remain unrepaid the power of the Bank to grant further such advances in any subsequent financial year shall not be exercisable unless and until the outstanding advances have been repaid.

Issue and management of Federal loans.

35. The Bank shall be entrusted with the issue and management of Federal Government loans publicly issued in Nigeria, upon such terms and conditions as may be agreed between the Federal Government and the Bank.

Federal funds and institutions

36. The Bank may act as banker to any fund, institution or corporation of the Federal Government or of a State Government.

Agency for Federal Government.

37. The Bank may act generally as agent for the Federal Government or for a State Government—

(a) where the Bank can do so appropriately and consistently with the provisions of this Act and with its duties and functions as a Central Bank; and

(b) on such terms and conditions as may be agreed between the Bank and the Government concerned.

RELATIONS WITH OTHER BANKS

Nigeria and other banks.

38. The Bank may act as banker to other banks in Nigeria and abroad.

Co-operation with banks in Nigeria.

39. The Bank shall wherever necessary seek the co-operation of and co-operate with, other banks in Nigeria—

(a) to promote and maintain adequate and reasonable banking services for the public;

(b) to ensure high standard of conduct and management throughout the banking system;

(c) to further such policies not inconsistent with this Act as shall be in the national interest.

SECTION 2 OF C.B.N. ACT (AMENDMENT) DECREE No. 3, 1968

Regulation of advances, etc. to indigenous persons. Cap. 19

2. (1) The Central Bank may, after consultation with the Commissioner prescribe a minimum ratio of total loans, advances and discounts, granted to indigenous persons, to be maintained by each bank licensed under the Banking Act.

(2) Any bank which fails to observe the minimum ratio that may be prescribed in accordance with subsection (1) of this section shall be guilty of an offence and liable on conviction to a fine of one thousand pounds.

As amended by C.B.N. Act (Amendment) Decree No. 3, 1968 and C.B.N. (Amendment) Decree 1969. Cap. 19.

40. (1) The Bank may from time to time issue directions, which shall subsequently be published in the Gazette requiring each bank licensed under the Banking Act (hereafter in this section referred to as the "institution") to do the following, that is —

(a) to maintain at all times in the form of cash reserves with the Bank at its Head Office, a sum equal to a ratio of the institution's deposit liabilities;

(b) to hold a minimum amount of specified liquid assets which shall be expressed as a ratio of deposit liabilities of the institution; and (*c*) to maintain as special deposits with the Bank at its Head Office, a percentage of the institution's deposit liabilities and/or a percentage of any increase or the absolute increase in such deposit liabilities over an amount outstanding on a date, and for a period as shall be specified by the Bank.

(2) For the purposes of subsection 1 (*a*) above, the Bank shall specify —

(*a*) the class of deposit liabilities against which the cash reserves mentioned in that subsection shall be held; and

(*b*) a grace period, not exceeding fourteen days, within which any requirement under that paragraph must be satisfied by the institution concerned, and for prescribing the ratio of cash reserve which an institution shall so maintain, those institutions shall be classified into three categories, namely —

"Class A" —institutions with deposit liabilities of fifteen million pounds or more;

"Class B" —institutions with deposit liabilities of five million pounds or more, but less than fifteen million pounds;

"Class C" —institutions with deposit liabilities of less than five million pounds.

(3) For the purposes of subsection 1 (*a*) of this section—

(*a*) the Bank shall have power to prescribe different cash reserve ratios to be maintained by each category of institution specified in subsection (2) above: Provided that —

(*i*) "Class A" institutions shall maintain higher cash reserve ratios than "Class B" and "Class C" institutions; and

(*ii*) "Class B" institutions shall maintain higher cash reserve ratios than "Class C" institutions;

(*b*) the cash reserve of an institution shall be determined, within such periods as the Bank may from time to time specify, on the basis of the period balances of the institutions deposit liabilities;

(*c*) the Bank shall have power from time to time, to require each institution to prepare and deliver to the Bank in such form and within such period as the Bank may specify a true and correct statement showing the positions of the deposit liabilities of the institution; and the Bank may require such statement to be made at such periodical intervals, or as often as it may specify;

(*d*) the Bank shall have power to require any institution to furnish to it such information and statistics in such form and as often as the Bank may deem necessary for the purpose of satisfying itself that the institution concerned is in compliance with the provision of that subsection.

(4) For the purposes of subsection (1) (*b*) above the Bank shall have power to vary —

(*a*) the composition of any specified liquid assets; and

(*b*) the proportion of each category of specified liquid assets that may from time to time be held by an institution;

(5) The Bank shall also have power —

(*a*) to require that all applications to each institution for loans exceeding such amount as the Bank may specify, shall be submitted by the institution to the Bank for approval and no such loan shall be made without that approval.

(*b*) to fix ceilings on the volume of loans, advances and discounts outstanding at each institution and it may fix different ceilings for different categories of such loans, advances and discounts; and

(*c*) to fix ceiling on the aggregate amount of loans, advances and discounts granted by any institution and outstanding at any time; and the Bank may place limits on the rate of increase in the aggregate amount of such loans, advances and discounts within a specified future period of time.

(6) For the purposes of subsection (1) (*c*) above, the Bank shall have power to specify the class of deposits to which the provisions of that subsection shall apply, and any special deposits held in accordance with that subsection shall not count as specified liquid assets for the purposes of subsection (1) (*b*) of this section; and subject to the foregoing provision of this subsection, the Bank may, at its discretion, pay interest on such special deposits held by it;

but that interest shall at its highest be one *per centum* below the Treasury Bill issue rate.

(7) The Bank may for the purposes of maintaining monetary stability of the economy of Nigeria, issue, place, sell, repurchase, amortize or redeem securities to be known as "stabilization securities" (which shall constitute its obligations) and the securities shall be issued at such rate of interest and under such conditions of maturity, amortization, negotiability and redemption as the Bank may deem appropriate.

(8) The Bank shall have power —

(*a*) to sell or place by allocation to each institution any stabilization securities issued under subsection (7) above;

(*b*) to repurchase, amortize or redeem, in such manner as the Bank may deem appropriate, any such stabilization securities, and any stabilization securities repurchased by the Bank shall be extinguished, and shall not constitute the assets of the Bank.

(9) If any institution fails to comply with any direction issued under the provisions of this section, the Bank shall have power to — Cap. 19

(*a*) prohibit the institution concerned from extending new loans and advances, and from undertaking new investments, until full compliance with the direction has been obtained by the Bank;

(*b*) levy fines, which shall be a civil debt, against the institution, but such fines shall not exceed fifty pounds for the default or, as the case may be, for every day during which the default continues.

(10) Any institution which furnishes false information to the Bank shall be guilty of an offence and liable to a fine not exceeding £100 for the first offence, and for a second or subsequent offences the fine shall be £200.

41. The Bank may appoint one or more other banks in Nigeria to act as its agent for the issue, reissue, exchange and withdrawal of notes and coins, or for other purposes, on such terms and conditions as may be agreed between the Bank and each of such other banks. Other banks as agents.

Clearing house.

42. It shall be the duty of the Bank to facilitate the clearing of cheques and other credit instruments for banks carrying on business in Nigeria. For this purpose the Bank shall, at any appropriate time and in conjunction with the other banks, organise a clearing house in Lagos and in such other place or places as may be desirable in premises provided by the Bank.

ACCOUNTS AND STATEMENTS

Financial year.

43. The financial year of the Bank shall begin on the 1st day of April and end on the 31st day of March or shall be such other period as shall be prescribed by the Commissioner.

Audit

44. (1) The Accounts of the Bank shall be audited by an auditor appointed by the Bank with the approval of the Commissioner;

(2) Without prejudice to the provisions of subsection

(1) the Commissioner may at any time and from time to time request the Director of Federal Audit to make an examination of and submit a report on the accounts relating to the issue, reissue, exchange and withdrawal of notes and coins by the Bank as a whole, and the Director of Federal Audit shall do so accordingly, and the Bank shall provide all necessary and proper facilities therefor.

Publication of annual accounts and report

45. (1) The Bank shall, within two months from the close of each financial year, transmit to the Commissioner a copy of the annual accounts certified by the auditor and such accounts shall then be, as soon as may be, published in the Gazette.

As amended by section 5(*b*) of Finance Decree. Decree No. 32, 1969.

(2) The Bank shall, within four months from the close of each financial year, submit to the Commissioner a report on its operations during that year. Such report shall be published by the Bank.

(3) Both such annual accounts and such annual report shall be, as soon as may be, laid before the Federal Legislative Houses.

(4) The Bank shall, as soon as may be, after the fifteenth day and also after the last day of each month make up and publish a return of its assets and liabilities as at the close of business on that day; or, if either of those days is a holiday, as at the close of business on the last preceding business day. A copy of the return shall be transmitted to the Commissioner and shall be published in the Gazette.

(5) In the application of this section, the gold tranche position in the International Monetary Fund shall form part of the external reserves of assets of the Bank.

New Sub. Sect. (5) added by Sect. (1) of C.B.N. Act (Amendment) Decree 1968.

TRANSITIONAL PROVISIONS

Preparatory provisions for first issue.

46. (1) At any time after the enactment of this Act and before the coming into operation of section 19, the Commissioner may by writing under his hand authorise such persons or authorities as he may think fit to make such arrangements as he may expressly authorise for the printing of notes and minting of coins for the purpose of this Act, and for the safe custody of such notes and coins, and may provide for the method of reimbursement of the cost thereof.

(2) At any time after the establishment of the Bank and notwithstanding that section 19 may not have been brought into operation, the Bank may take up Treasury Bills of the Federal Government issued in respect of the expense incurred under the provision of this section whether or not the same have been first offered to the public.

Existing Currency.

47. Currency notes and coins of the West African Currency Board which are legal tender in Nigeria on the coming into operation of section 18 shall remain legal tender until such further day as the Bank, giving at least three months' notice in the Gazette, may specify, and shall then cease to be legal tender in Nigeria: Provided that —

(*a*) The Bank may so specify different days in relation to different denominations of such currency notes and coins;

(*b*) with effect from the coming into operation of section 18, and thereafter while coins of the West African Currency Board remain legal tender in Nigeria, such coin shall be legal tender at their face value up to an amount not exceeding ten pounds in the case of coins of denominations of not less than sixpence and up to an amount not exceeding one shilling in the case of coins of a lower denomination.

MISCELLANEOUS

Bye-laws.

48. The Board may with the approval of the Commissioner make bye-laws for the good order and management of the Bank. Any such bye-laws shall be authenticated by the Bank's seal and shall be published in the Gazette.

Income Tax Cap. 92.

49. The Bank shall be exempt from the provisions of sections 27 and 45 of the Income Tax Act.

Companies Act Cap. 38

50. The provisions of the Companies Act shall not apply to the Bank.

Prohibited banking names

51. Save with the written consent of the Commissioner on the recommendation of the Bank, no bank shall hereafter be registered under the provisions of any Federal or State legislation by a name which includes any of the words "Central", "Federal," "Federation", "National", "Nigerian", "Reserve" or "State".

"Nigeria'

Liquidation

52. The Bank shall not be placed in liquidation except pursuant to legislation passed in that behalf and then in such manner as that legislation directs.

CENTRAL BANK OF NIGERIA ACT, 1968 (CAP. 30) (No. 24 of 1968)

CENTRAL BANK OF NIGERIA BYE-LAWS, 1959 (CAP. 19)

COMMENCEMENT: 9th APRIL, 1959

In exercise of the powers conferred by section 48 of the Central Bank of Nigeria Act, 1958, the Board of Directors of the Central Bank of Nigeria have made the following bye-laws with the approval of the Commissioner for Finance of the Federation.

PART I

Citation.

1. These bye-laws may be cited as the Central Bank of Nigeria Bye-laws, 1959.

Interpretation.

2. In these bye-laws except the context requires otherwise

(*a*) "Director" means a member of the Board of Directors of the Central Bank of Nigeria.

(*b*) "Advisory Committee" means the Advisory Committee of the Central Bank of Nigeria constituted in accordance with section 15 of the Act.

PART II

Meetings of the Board.

3. (1) Ordinarily not less than three weeks' notice shall be given of each meeting of the Board and such notice shall be sent to every Director to his registered address. Should it be found necessary to convene an emergency meeting all reasonable steps shall be taken to give notice to every Director who is at the time in Nigeria.

(2) No person other than the Directors and the person appointed to record the minutes shall attend meetings of the Board, but the Chairman may request the presence of officials of the Bank when technical matters are under consideration.

Minutes.

4. (1) the Board shall cause minutes to be duly entered in books provided for that purpose—

(*a*) of all appointments of officers made by the Board;

(*b*) of the names of all Directors present at each meeting of the Board;

(*c*) of all resolutions and proceedings of each meeting.

(2) A copy of the minutes shall be circulated at that or succeeding meeting and, after approval by the Board, signed by the Chairman.

PART III

Use of Seal.

5. The common seal of the Bank shall be affixed under such conditions as may be determined from time to time by a resolution of the Board.

Declaration by Directors Schedule Form 1.

6. Every Director shall, on appointment or re-appointment, sign a declaration as in Form 1 in the Schedule affirming his allegiance and service to the Bank and pledging himself to observe strict secrecy respecting all transactions of the Bank.

Declaration of Interest.

7. Any Director having any interest, directly or indirectly in any dealing or business in which the Bank is concerned shall disclose such interest at the meeting of the Board at which the dealing or business is discussed and in no circumstances shall he vote on the matter. If required by the Board to do so, he shall withdraw from the meeting.

Indemnity of Directors and officials.

8. (1) Every Director, every official and other employee shall be indemnified by the Bank against all losses and expenses incurred by him by reason of any contract entered into or act or deed done in the proper and careful discharge of his duties. The Bank shall pay all such costs, losses and expenses.

(2) No Director, official or other employee shall be liable to the Bank for any loss or expense incurred by the Bank by the insufficiency or deficiency of value of, or title to, any property or security acquired or taken on behalf of the Bank or by the insolvency, bankruptcy or wrongful act of any customer or debtor of the Bank, unless due to wilful default in the execution of his duties.

PART IV

Duties of Board.

9. In consultation with the Board, the Governor and Deputy Governor shall be responsible for —

(*a*) consideration of monetary policy and the formulation and execution of the credit policy of the Bank.

(*b*) fixing the rate or rates of discount or rediscount and the rate or rates of interest on advances to Government or to other customers of the Bank:

(*c*) determining the rates of exchange at which the Bank shall buy and sell sterling under section 28 of the Act and other external currencies under subsection (1) of section 29 of the Act:

(*d*) the appointment of auditors in accordance with section 44 of the Act, the provision of the necessary facilities and the rates of remuneration:

(*e*) the establishment and closing of branches:

(*f*) the appointment of any currency agents:

(*g*) the appointment of officials and other employees: Provided that the Governor shall have authority to make such appointments as he deems appropriate without consultation with the Board in relation to officials and employees whose salaries do not exceed £1100 per annum.

10. The Governor and Deputy Governor shall have special responsibility for — Duty of Governor and Deputy Governor.

(*a*) the organisation of the management of the Bank at its Head Office, branches and agencies.

(*b*) causing—

(*i*) true accounts to be kept of all transactions entered into by the Bank and of the assets and liabilities of the Bank and of all valuables entrusted to the Bank:

(*ii*) the compilation, form and publication of accounts in accordance with section 45 of the Act:

(*c*) the safe-keeping of all the assets of the Bank and the valuables entrusted to the Bank:

(*d*) the discharge by officials and other employees of the Bank of the duties laid upon them:

(*e*) the supervision of arrangements relating to the issue and redemption of notes and coins and all matters connected with the form, design and composition of notes and coins. (The Chief of Banking Operations shall be charged with direct responsibility under the Governor, for these matters).

11. The books of the Bank shall be kept at the Head Office of the Bank or at such other places as the Board may from time to time determine. Books.

12. The Governor shall formulate, for the approval of the Board, general rules and any subsequent amendments thereto, providing for— General rules.

(*a*) the safe-keeping of the common seal of the Bank;

(*b*) the safe-keeping of the assets of the Bank and of valuables entrusted to the Bank;

(*c*) the safe-keeping of stocks of unissued or redeemed currency and the preparation, safe custody and destruction of plates and paper for the printing of notes and of dyes for the minting of coins:

(*d*) the protection of bank notes and coins in transit;

(*e*) the conditions under which any currency agents may be appointed.

(*f*) the conditions governing discounts and advances;

(*g*) the exercise of dual control and general security throughout the Bank;

(*h*) generally such additional arrangements which may be made to ensure the efficient working of the Bank, the proper observance of security and the accuracy of the internal accounts.

Signing powers.

13. The Board by resolution shall, for such purposes as they may from time to time decide, authorise the Governor, the Deputy Governor or any official of the Bank to give instructions concerning the Bank's affairs and to sign document relating to all aspects of the Bank's business, provided that such documents are not required by law or common practice to be given under seal. Any such authorisations shall forthwith be notified in the Gazette.

Central Bank of Nigeria (Amendment) Bye-laws, 1964.

Prohibition from employment on other duties.

Section 14 of the C. B. N. Bye-laws, 1959 as been replaced by this section.

14. (*a*) No official or other employee of the Bank shall occupy any other office or employment whether remunerated or not except with the approval of the Board embodied in a resolution and only in the following capacities, that is to say—

(*i*) as member of any economic research institution or of any commission established by the Federal Government to enquire into any matter affecting currency or banking in Nigeria or into such other subject as may be relative to the functions of the Bank;

(*ii*) as director or member of the Board, by whatever name called, of any international bank, international monetary authority or economic institution to which the Federal Government shall have adhered or given support or approval;

(*iii*) as director or alternate director of any corporation in Nigeria in which the Bank may participate under subsection (1) of section 29 of the Central Bank of Nigeria Act, 1958, as amended by the Central Bank of Nigeria (Amendment) Act, 1962.

(*b*) Any remuneration to which any official or other employee of the Bank is entitled in respect of any appointment made by virtue of the provisions of this bye-law shall be paid direct to the Bank.

(*c*) This bye-law shall not prevent the Bank from employing, at the Board's discretion and subject to such terms and conditions as shall be laid down by the Board, part-time advisers for particular purposes and for specific periods of time.

Declaration by officials and employees Schedule Form 2.

15. All officials and employees of the Bank shall be required to sign a declaration as in Form 2 in the Schedule affirming their allegiance and service to the Bank and pledging themselves to observe strict secrecy respecting all transactions of the Bank.

Legal questions.

16. (*i*) The appointment of an attorney to the Bank and any changes in that appointment shall be made by the Board on the recommendation of the Governor.

(*ii*) Plaints, written statements, affidavits and all other documents connected with legal proceedings may be signed and verified on behalf of the Bank by any officer empowered by or under bye-law 13 to sign documents for and on behalf of the Bank.

Security from officials and employees.

17. The Board may require any official or other employee to give to the Bank, in such manner as the Board may determine, such security as it may regard as reasonable for the faithful discharge of his duty.

Schedule Form I

(Bye-laws 6 and 15)

FORM OF DECLARATION OF ALLEGIANCE AND SECRECY BY DIRECTORS

I, ( ) being appointed a Director of the Central Bank of Nigeria, do solemnly declare that I will faithfully perform the duties of Director and that I will to the best of my ability uphold the interests of the Central Bank of Nigeria and that I will observe strict secrecy respecting all transactions of the Bank and all matters relating thereto and that I will not directly reveal any of the matters or any information which may come to my knowledge in the discharge of my duties except when required or authorised to do so by the Board of the Bank or by law.

Signature...

Schedule Form II

FORM OF DECLARATION OF ALLEGIANCE AND SECRECY BY OFFICIALS AND EMPLOYEES

I, ( ) being appointed to the staff of the Central Bank of Nigeria, do solemnly declare that I will faithfully perform the duties assigned to me and that I will to the best of my ability uphold the interests of the Central Bank of Nigeria and that I will observe strict secrecy respecting all transactions of the Bank and all matters relating thereto and that I will not directly or indirectly reveal any of the matters or any information which may come to my knowledge in the discharge of my duties except when required or authorised to do so by the Board of the Bank or by law.

Signature...

Made at a meeting of the Board held on the thirtieth day of July, 1958, and sealed on the eleventh day of March, rised, in the presence of:

R. P. Fenton	—	*Governor*
L. N. Namme	}	*Directors*
Chief J. A. Obahor	}	*Directors*
C. N. Isong	—	*Secretary.*

Approved this 24th day of March, 1959.

Chief F. S. Okotie-Eboh,
Federal Minister of Finance

APPENDIX III

Supplement to Official Gazette Extraordinary No. 8, Vol. 56, 11th February, 1969—Part A

THE BANKING DECREE 1969

ARRANGEMENT OF SECTIONS

Section

PART I

LICENSING OF BANKS

General

Supplemental

PART II

DUTIES OF LICENSED BANKS

General

Books of Account

PART III

POWERS OF THE CENTRAL BANK

Part IV

General and Supplemental

Part V

Miscellaneous

Arrangement of Sections--*continued*

Section

SCHEDULES

First Schedule :	Monthly Statement of Assets and Liabilities.
Second Schedule :	Report on Loans and Advances.
Third Schedule :	Accounts.
Fourth Schedule :	Matters to be expressly stated in Auditors' Report.
Fifth Schedule :	Auditors' Analysis of Doubtful Advances.

Decree No. 1

Commencement

(*7th February*, 1969)

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:

PART I

LICENSING OF BANKS

General

Banking business by licensed banks.

1. (1) No banking business shall be transacted in Nigeria except by a company duly incorporated in Nigeria which is in possession of a valid licence granted by the Commissioner authorising it to do so.

(2) The foregoing subsection (1) shall not apply—

(*a*) in relation to a bank (not being a bank to which paragraph (*b*) of this subsection refers), which was duly incorporated in Nigeria prior to the commencement of the Companies Decree 1968, and which holds a valid licence granted under the Act repealed by this Decree;

(*b*) in relation to a bank which was not, prior to the commencement of the Companies Decree 1968, incorporated in Nigeria, and which at the commencement of this Decree holds a valid licence, if—

(*i*) the Nigerian branch or branches of the said bank shall, on or before 18th February, 1969 become incorporated in Nigeria under the Companies Decree 1968 for the purposes of transacting banking business; and

(*ii*) the said bank has before that date applied to the Commissioner through the Governor of the Central Bank for a licence and such application has not been rejected by the said Commissioner.

(3) Any person who transacts banking business without a valid licence contrary to subsection (1) above shall be guilty of an offence and liable to a fine of £50 for each day during which the offence continues.

Licensing

2. (1) Any company which desires to carry on banking business in Nigeria shall apply in writing through the Central Bank to the Commissioner for the grant of a licence and shall submit the following, that is—

(a) a copy of the memorandum of association and articles of association or other instrument under which the company is incorporated duly verified by a statutory declaration made by a director, secretary, or other senior official of the company;

(b) a copy of the latest balance sheet of the company; and

(c) such other particulars as may be called for by the Central Bank.

(2) Upon receiving an application under subsection (1) of this section the Central Bank shall require the Examiner appointed under section 20 of this Decree to carry out a preliminary examination of the books and affairs of such company.

(3) The Central Bank shall consider the application and the report of the Examiner and make a recommendation to the Commissioner stating whether or not a licence should be granted and the conditions (if any) to be attached to the licence.

(4) Upon receiving an application under subsection (1) of this section and the recommendation of the Central Bank under subsection (3) thereof the Commissioner may in accordance with the recommendation of the Central Bank grant a licence, with or without conditions, or refuse to grant a licence.

(5) If the Commissioner, notwithstanding the recommendation of the Central Bank, is of the opinion—

(a) that it would be undesirable in the public interest that a licence should be granted; or

(b) that it would be desirable that a licence should be granted, he shall make a report of the circumstances to the Federal Executive Council who may direct him to refuse or grant a licence, as the case may require; and where an application is refused, the Commissioner need not give any reason for the refusal.

(6) Where a licence is subject to conditions, the licensed bank shall comply with those conditions.

(7) Any licensed bank which fails to comply with any of the conditions of its licence shall be guilty of an offence and shall be liable to a fine not exceeding £50 for each day during which the condition is not complied with.

Power to vary conditions of licences.

3. (1) The Commissioner may, at any time on the recommendation of the Central Bank, vary or revoke any of the conditions of a licence or impose such conditions or additional conditions as he may deem necessary.

(2) Where the Commissioner proposes to vary, revoke or impose conditions in accordance with subsection (1) of this section, he shall before exercising such power give notice of his intention to the licensed bank concerned, and shall give the bank an opportunity to make representations to him and to submit reasons why the bank's licence should not be so amended.

(3) Any licensed bank which fails to comply with any conditions as varied or imposed by virtue of subsection (1) of this section shall be guilty of an offence and shall be liable to a fine of £1000.

Supplemental

Opening and closing of branches.

4. No person licensed to carry on banking business in Nigeria may, after the coming into force of this Decree, open or close branch offices anywhere in Nigeria or outside Nigeria except with the consent in writing of the Central Bank.

Restriction as to amalgamation, etc.

5. Every licensed bank shall inform the Commissioner through the Central Bank of—

(*a*) any proposed agreement, or arrangement, for any sale or disposal of its business by amalgamation or otherwise;

(*b*) any proposal for reconstruction, and the Commissioner may on the recommendation of the Central Bank approve or withhold approval of such agreement or arrangement or proposal for reconstruction.

Requirements as to minimum paid-up capital.

6. (1) No bank shall hold or be granted licence, unless—

(*a*) as respects a bank which is not directly or indirectly controlled from abroad, its paid-up share-capital is not less than £300,000; and

(*b*) as respects a bank which is directly or indirectly controlled from abroad its paid-up share Capital is not less than £750,000.

As amended by S. 1 (a) Banking (Amendment) Decree No. 3, 1970

(2) The Central Bank may, in consultation with the Commissioner, prescribe the minimum ratio which licensed Banks shall maintain between their respective paid-up capital and statutory reserves on the one hand and their loans and advances on the other;

(3) In subsection (1) of this section, a bank shall be deemed to be controlled from abroad—

(a) if the composition of its board of directors consists wholly or mainly of persons who are not citizens of Nigeria; or

(b) where the majority voting rights of that company are held by persons who are not citizens of Nigeria.

(4) Any failure to comply with any of the foregoing provisions of this section shall be a ground for the revocation of the licence of the bank under this Decree.

Certain savings as to licences validly granted under the repealed enactment. Cap. 19.

7. (1) Where any person carries on banking business under a licence validly granted under the Act repealed by this Decree, and the licence was in force immediately before the commencement of this Decree, that person shall not later than 6 months thereafter comply with the provisions of section 6 of this Decree relating to the minimum paid-up capital required for the purposes of that section.

(2) Any failure to comply with the provisions of subsection (1) of this section shall be a ground for the revocation of the licence under this Decree.

Revocation of licences.

8. (1) The Commissioner may on the recommendation of the Central Bank by order published in the Federal Gazette revoke any licence—

(a) if the holder thereof ceases to carry on in Nigeria the type of banking business for which he was licensed or goes into liquidation or is wound-up or otherwise dissolved; or

(b) if the holder thereof fails to fulfil the prescribed conditions and regulations ; or

(c) in the circumstances and in the manner where under this Decree failure to comply with any provisions thereof is a ground for revocation of licence.

(2) Where the Commissioner proposes to revoke any licence in accordance with subsection (1) of this section, he shall before revoking any such licence give notice of his intention to the licensed bank and shall give the bank an opportunity to make representations and to submit reasons why its licence should not be so revoked.

PART II

DUTIES OF LICENSED BANKS

General

Maintenance of reserve fund.

9. Every licensed bank shall maintain a reserve fund and shall, out of its net profits each year and before any dividend is declared—

(*a*) transfer to the reserve fund, where the amount of the reserve fund is less than the paid-up share capital, a sum equal to not less than twenty-five *per centum* of such profits; or

(*b*) transfer to the reserve fund, where the amount of the reserve fund is equal to or in excess of the paid-up share capital, twelve-and-a-half *per centum* of the net profits of the bank, but no transfer under the fore-going provisions of this section shall be made until any past losses have been made good.

Restriction on dividends.

10. (1) No licensed bank shall pay any dividend on its shares until—

(*a*) all its preliminary expenses, organization expenses, shares selling commission, brokerage, amounts of losses incurred and other capitalized expenses not represented by tangible assets have been completely written off; and

(*b*) after adequate provision for bad and doubtful debts has been made to the satisfaction of the Central Bank.

(2) For the purposes of this section, an issue of bonus shares out of profits shall be deemed to be a payment of dividends.

Disclosure of interests by directors.

11. (1) Every director of a licensed bank who is in any manner whatsoever, whether directly or indirectly interested in an advance, loan or credit facility or proposed advance, loan or credit facility, from that bank shall as soon as practicable declare the nature of his interest to the board of directors of the bank, and the secretary of the bank shall cause such declaration to be circulated forthwith to all directors.

(2) The requirements of subsection (1) of this section shall not apply in any case—

(*a*) where the interest of the director consists only of being a member or creditor of a company which is interested in an advance, loan or credit facility from the licensed bank; and

(*b*) if the interest of the director may properly be regarded by the Central Bank as not being a material interest.

(3) For the purposes of subsection (1) of this section a general notice given to the board of directors of a licensed bank by a director to the effect—

(*a*) that he is an officer or member of a company or firm specified in the notice; and

(*b*) that he is to be regarded as interested in any advance, loan or credit facility which may, after the date of the notice, be made to that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any such advance, loan or credit facility, if—

(*i*) the notice specifies the nature and extent of his interest in a company or firm so specified;

(*ii*) such interest is not different in nature to or greater in extent than the nature and extent so specified in the notice at the time any advance, loan or credit facility is made; and

(*iii*) the notice is given at the meeting of the directors or the director takes reasonable steps to ensure that it is brought up and read at the next meeting of the directors after it is given.

(4) Every director of a licensed bank, who holds any office or possesses any property whereby, whether directly or indirectly, duties or interests might be created in conflict with his duties or interests as director, shall declare at a meeting of the director of the licensed bank the fact and the nature character and extent of the conflict.

(5) The declaration referred to in subsection (4) of this section shall be made at the first meeting of directors held—

(*a*) after he became a director of the licensed bank; or

(*b*) if already a director, after he commenced to hold office or to possess the property.

(6) The secretary of the licensed bank shall cause to be brought up and read any declaration made under subsection (1) or (4) of this section at the next meeting of the directors after it is made, and shall record any declaration made under this section in the minutes of the meeting at which it was made or at which it was brought up and read.

(7) Any director who contravenes subsection (1) or (4) of this section shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding £5000 or to both such imprisonment and fine.

Minimum holding of cash reserves, specified liquid assets special deposits and stabilization securities, by licensed banks. Cap. 30.

12. (1) Every licensed bank shall maintain a holding of cash reserves, specified liquid assets, special deposits in the Central Bank and stabilization securities as the case may be, not less in amount than as may from time to time be prescribed by the Central Bank by virtue of section 40 of the Central Bank of Nigeria Act.

(2) Where there are both assets and liabilities due by or to other licensed banks, they shall be offset accordingly, and any surplus of assets or liabilities shall be included as specified liquid assets or demand liabilities as the case may be:

Provided that in the case of long term advances to a licensed bank or by an overseas branch or office of a licensed bank, the advances may with the approval of the Central Bank be excluded from the demand liabilities of the licensed bank.

(3) Every licensed bank—

(*a*) shall furnish within a reasonable time any information required by the Central Bank to satisfy the Central Bank that the licensed bank is observing the requirements of subsection (1) of this section;

(*b*) shall not allow its holding of cash reserves, specified liquid assets, special deposits and stabilization securities to be less than as from time to time prescribed by the Central Bank; and

(*c*) shall not during the period of such deficiency, grant or permit increases in advances, loans or credit facilities to any person without the prior approval of the Central Bank.

(4) Any licensed bank which fails to comply with any of the provisions of subsection (3) of this section shall be guilty of an offence and shall be liable to a fine of £50—

(*a*) for every day during which a default under paragraph (*a*) thereof exists;

(*b*) for every day during which a deficiency under paragraph (*b*) thereof exists; and

(*c*) for every offence under paragraph (*c*) thereof, and the Central Bank may also during the period when the licensed bank fails to comply with any of the requirements of subsection (3) as aforesaid withdraw any privileges or facilities that are normally accorded to the licensed bank.

(5) For the purposes of this section "specified liquid assets" provided they are freely transferable and free from any lien or charge of any kind shall, without prejudice to the provisions of section 2 of the Central Bank of Nigeria Act (Amendment) (No. 3) Decree 1968, consist of all or any of the following, namely—

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(*a*) notes and coins which are legal tender in Nigeria;

(*b*) balances at the Central Bank;

(*c*) net balances at any licensed bank (excluding uncleared effects) and money at call in Nigeria;

(*d*) Treasury Bills and Treasury Certificates issued by the Federal Government;

(*e*) inland bills of exchange and promissory notes rediscountable at the Central Bank.

Restriction on certain activities of licensed banks

13. (1) A licensed bank shall not—

(*a*) grant to any person any advance, loan or credit facility or give any financial guarantee or incur any other liability on behalf of such person so that the total value of the advances, loans, credit facilities, financial guarantees and other liabilities in respect of such person is at any time more than thirty-three and one-third *per centum* of the sum of the paid-up capital and statutory reserves of the bank:

Provided that the provisions of this paragraph shall not apply to transactions between licensed banks or between branches of a licensed bank, or to the purchase of clean or documentary bills of exchange, telegraphic transfers or documents of title to goods the holder of which is entitled to payment for exports from Nigeria or to advances made against such bills transfers or documents; and for the purposes of this paragraph, all advances, loans or credit facilities extended to any person shall be aggregated and shall include all advances, loans or credit facilities extended to any subsidiaries and associates whatsoever of that person;

(*b*) grant any advances, loans or credit facilities against the security of its own shares;

(*c*) grant or permit to be outstanding unsecured advances or loans, or unsecured credit facilities, of an aggregate amount in excess of £500—

(*i*) to its directors, or any of them, whether such advances, loans or credit facilities are obtained by its directors jointly or severally;

(*ii*) to any firm, partnership or private company in which it is or any one or more of its directors is interested as director, partner, manager or agent, or to any individual, firm, partnership or private company of which any one of its directors is a guarantor;

(*iii*) to any public company in which it or any one or more of its directors jointly or severally maintains interest either directly or indirectly;

(*d*) grant or permit to be outstanding to its officials and employees unsecured advances or loans, or unsecured credit facilities, which in aggregate amount for any one official or employee exceed one year's salary of such official or employee; As amended by S. 1 (*b*) of Banking Decree No. 3, 1970.

(*e*) engage, whether on its own account or on a commission basis, in the wholesale or retail trade, including the import or export trade, except insofar as may exceptionally be necessary in the course of the banking operations and services of that licensed bank or in the course of the satisfaction of debts due to it;

(*f*) acquire or hold any part of the share capital of any financial, commercial, agricultural, industrial or other undertaking, except—

(*i*) such shareholding as a licensed bank may with the prior approval of the Central Bank acquire in the course of satisfaction of debts due to it which shareholding shall, however, be disposed of at the earliest suitable moment,

(*ii*) any shareholding approved by the Central Bank in any statutory corporation set up for the purpose of promoting the development of a money market or securities market in Nigeria or of improving the financial machinery for the financing of economic development,

(*iii*) all shareholdings approved by the Central Bank in other undertakings the aggregate value of which does not at any time exceed twenty-five *per centum* of the sum of the paid-up capital and statutory reserves of that bank;

As amended by S. 1 (*c*) Banking (Amendment) Decree No. 3, 1970.

(*g*) own any subsidiary company which is not carrying on a banking business; provided that the provisions of this paragraph shall not apply to any nominee company of a licensed bank which deals in stocks and shares for or on behalf of the bank's customers or clients;

(*h*) remit, either in whole or in part, the debts owed to it by any of its directors or past directors without the approval of the Central Bank;

(*i*) purchase, acquire or lease real estate, except as may be necessary for the purpose of conducting its business, including provisions for foreseeable future expansion or housing of its staff, or other exceptional circumstances, where the agreement of the Central Bank is obtained;

(*j*) sell, dispose or lease out any real estate, except with the prior approval of the Central Bank: Provided that a licensed bank may secure a debt on any real or other property, and in default of repayment may acquire such property and exercise any power of sale, or as may be provided for in any instrument, or by law prescribed, immediately upon such default or soon thereafter as may be deemed proper.

(2) In paragraphs (*c*) and (*d*) of subsection (1) of this section, the expression "unsecured advances or loans, or unsecured credit facilities" means advances, loans or credit facilities made without security, or in respect of any advances, loans or

credit facilities made with security, any part thereof which at any time exceeds the market value of the assets constituting the security, or where the Central Bank is satisfied that there is no established market value, the value of the assets as determined on the basis of a valuation approved by the Central Bank.

(3) In paragraphs (*c*) and (*h*) of subsection (1), the expression "director" includes the wife, husband, father, mother, son or daughter of a director.

(4) All directors of the bank shall be liable jointly or severally to indemnify the bank against any loss arising from any unsecured advances, loans or credit facilities, under paragraph (*c*) of subsection (1) of this section.

(5) Any licensed bank which after the commencement of this Decree enters into any transaction inconsistent with any of the provisions of paragraphs (*a*) to (*h*) of subsection (1) of this section shall be guilty of an offence and shall be liable to a fine of £50 for every day during which any such transaction continues.

(6) Nothing in this section shall be construed as permitting a licensed bank to grant to any marketing board established under any written law in Nigeria any advance, loan or credit facility, or to give any financial guarantee, or to incur any other liability on behalf of such board.

14. (1) The rate of interest charged on advances, loans or credit facilities or paid on deposits by any licensed bank shall be linked to the minimum rediscount rate of the Central Bank subject to stated minimum and maximum rates of interest, and the minimum and maximum rates of interest when so approved shall be the same for all licensed banks; provided that differential rates may be approved for the various categories of banks to which this decree applies;

Rates of interest on advance, etc.

As amended by S. 1 (*d*) Banking (Amendment) Decree No. 3, 1970.

(2) The interest rate structure of each licensed bank shall be subject to the approval of the Central Bank.

Books of Account

15. (1) Every licensed bank shall cause to be kept proper books of account with respect to all the transactions of the licensed bank.

Keeping of books of account.

(2) For the purpose of subsection (1) of this section, proper books of account shall not be deemed to be kept with respect to all transactions if such books as are necessary to explain such transactions and give a true and fair view of the state of affairs of the licensed bank are not kept by the bank.

(3) The books of account shall be kept at the principal administrative office in Nigeria of each licensed bank in the English language or any other language approved by the Federal Executive Council on the recommendation of the Commissioner.

(4) If any person—

(*a*) being a director or officer of a licensed bank fails to take all reasonable steps to secure compliance with any of the provisions of this section; or

(*b*) has by his own wilful act been the cause of any default by the bank therefor, he shall be guilty of an offence under this section and shall be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding £500 or to both such imprisonment and fine.

(5) In any proceedings against a person under subsection (4) of this section, it shall be a defence to prove that he has reasonable grounds to believe that another person was charged with the duty of seeing that any of the requirements was complied with and that that person was competent and in a position to discharge that duty.

Delivery of returns, etc. to Central Bank. First Schedule.

16. (1) Every licensed bank shall submit to the Central Bank—

(*a*) not later than 28 days after the last day of each month, a statement in the appropriate form set out in the First Schedule to this Decree;

(*b*) such other periodical returns as may be prescribed by the Central Bank; and

(*c*) on request, such information as may be required by the Central Bank.

Second Schedule

(2) Every licensed bank shall submit to the Central Bank a statement in the form set out in the Second Schedule to this Decree giving an analysis of advances and other assets of its office and branches

in Nigeria within such period following the end of each month as the Central Bank may from time to time determine.

(3) The Central Bank may require a licensed bank to submit such further information as the Central Bank may deem necessary for the proper understanding of the statements furnished by that bank under subsections (1) and (2) of this section, and such information shall be submitted within such a reasonable period as the Central Bank may require.

(4) Any licensed bank which maintains branches or offices outside Nigeria shall produce to the Central Bank such statements relating to its offices or branches outside Nigeria in such form and at such times as the Central Bank may require.

(5) Any bank which fails to comply with any of the requirements of subsections (1), (2), (3) and (4) of this section shall in respect of each such failure be guilty of an offence under this Decree, and shall be liable to a fine of £50 for each day during which the offence continues.

(6) It shall be the responsibility of the Central Bank to prepare and to publish consolidated statements aggregating the figures in the statements furnished under subsection (1) of this section for each class of banks licensed under this Decree.

(7) The statements submitted by each licensed bank under subsection (1) or (2) of this section and any information submitted under subsection (3) or (4) thereof shall be regarded as secret other than as between that bank and the Central Bank.

Provided that the Central Bank—

(*a*) shall furnish any such information required by the Commissioner, and shall inform the Commissioner if at any time in its opinion there is need for an examination of any licensed bank; and

(*b*) may in support of its opinion convey to the Commissioner such information as it possesses concerning the state of the affairs of that bank.

As amended by S. 1 (*e*) of Banking (Amendment) Decree No. 3, 1970.

Publication of profit and loss account and balance sheet.

17.—(1) Not later than 4 months after the end of any financial year of a licensed bank, the licensed bank shall—

(*a*) cause to be published in a daily newspaper printed in and circulating in Nigeria;

(*b*) exhibit in a conspicuous position in each of its offices and branches in Nigeria; and

(c) forward to the Commissioner and the Central Bank, copies of its balance sheet and profit and loss account duly signed and containing the full and correct names of the directors of the bank.

Third Schedule.
As amended by the Banking (Amendment) Decree No. 3. 1970

(2) The balance sheet and profit and loss account of the licensed bank shall bear on their face the report of an approved auditor and shall contain statements as to the matter mentioned in the Third Schedule to this Decree.

(3) For the purposes of subsection (2) of this section an "approved auditor" is an auditor who is approved for the purposes of section 19 of this Decree.

(4) Any licensed bank which fails to comply with any of the requirements of this section shall in respect of each such failure be guilty of an offence and be liable to a fine of £100.

Contents and form of account

18. (1) Every balance sheet of every licensed bank shall give a true and fair view of the state of affairs as at the end of every financial year of such bank and every profit and loss account shall give a true and fair view of the profit or loss of such bank for the financial year.

As amended by S. (1) (9) Banking (Amendment) Decree No. 3, 1970

(2) Every balance sheet and every profit and loss account of every licensed bank forwarded to the Commissioner and the Central Bank in accordance with the provisions of Section 17 (1) (c) of this Decree shall comply with the requirements of the Third and Fourth Schedules to this Decree.

As amended by S. (2) (h) Banking (Amendment) Decree No. 3, 1970.

(2a) Every balance sheet and every profit and loss account of every licensed bank shall be published or exhibited in accordance with the provisions of Section 17 (1) (a) and (b) may be so published or exhibited in abridged form agreed with the Central Bank;

(3) Any person being a director of any licensed Bank who fails to take all reasonable steps to secure compliance as respects any account required under the provisions of this section shall in respect of each offence be liable to imprisonment for a term not exceeding 2 years or to a fine of £500 or to both such imprisonment and fine.

(4) In any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable grounds to believe and did believe that another person, who is competent and reliable, was charged with the duty of seeing that the said provisions were complied with and was in a position to discharge that duty.

(5) A person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the court, the offence was committed wilfully.

Appointment and powers of auditors.

19. (1) Every licensed bank shall appoint annually a person approved by the Commissioner, in this section referred to as "the approved auditor" whose duties shall be to make to the shareholders a report upon the annual balance sheet and profit and loss account of the bank and every such report shall contain statement as to the matters mentioned in the Third, Fourth and Fifth Schedules to this Decree.

Third, Fourth and Fifth Schedules.

(2) No person—

(*a*) having an interest in a licensed bank otherwise than as a depositor; or

(*b*) who is a director, officer or agent of a licensed bank; or

(*c*) which is a firm in which a director of a licensed bank is interested as partner or director, shall be eligible for appointment as the approved auditor for any licensed bank, and any person appointed as such auditor—

(*i*) who subsequently acquires such interest ; or

(*ii*) becomes a director, officer or agent of that bank; or

(*iii*) subsequently becomes a partner in a firm in which a director of a licensed bank is interested as partner or director, shall cease to be such auditor.

(3) If any licensed bank—

(*a*) fails to appoint the approved auditor under subsection (1) of this section; or

(*b*) at any time fails to fill a vacancy for such person, the Commissioner shall after consultation with the Central Bank appoint "the approved auditor" and shall fix the remuneration to be paid by the bank to such auditor.

(4) Every auditor of a licensed bank shall have a right of access at all times to the books and accounts and vouchers of the bank, and shall be entitled to require from the directors and officers of the bank such information and explanation as he thinks necessary for the performance of his duties.

As amended by S. 1 (1) of the Banking (Amendment) Decree

(5) The report of the approved auditor shall be read together with the report of the board of management at the annual general meeting of the shareholders and two copies of each report together with the auditor's analysis of doubtful advances on the form provided in the Fifth Schedule

to this Decree shall be sent to the Central Bank who shall transmit a copy of such each report to the Commissioner;

(6) For the purposes of this section, the approved auditor shall be an auditor who is a member of one of the professional bodies for the time being declared by the Commissioner by notice in the Federal Gazette to be approved for such purposes.

(7) No auditor shall be approved for the purposes of this section unless—

(*a*) he is resident in Nigeria; and

(*b*) he is carrying on in Nigeria full-time professional practice as a public accountant and auditor.

PART III

POWERS OF THE CENTRAL BANK

Appointment and powers of Examiners.

20. (1) There shall be an Examiner, who—

(*a*) shall be an officer of the Central Bank appointed by the Bank with power to examine periodically, under conditions of secrecy, the books and affairs of each and every licensed bank;

(*b*) shall have a right of access at all times to the books and accounts and vouchers of the bank; and

(*c*) shall be entitled to require from the officers and directors of the bank such information and explanation as he thinks necessary for the performance of his duties,

and the Examiner shall be given and shall have access to any accounts, returns or information regarding banks licensed under this Decree that are in the possession of the Federal Ministry of Finance.

(2) There may in the same manner be appointed one or more fit persons as Deputy or Assistant Examiner who shall have and may exercise the powers of an Examiner under this Decree.

(3) In examining the affairs of any licensed bank in accordance with subsection (1) of this section, it shall be the duty of the Examiner at all times to avoid unreasonable hindrance to the daily business of that bank and to confine the investigation to matters strictly relevant to the examination.

(4) Every licensed bank shall produce to the examiners at such times as the examiners may specify all books, accounts, documents and oral information which they may require.

(5) If any book, account, document or information—

(*a*) is not produced in accordance with subsection (4) of this section; or

(*b*) is false in any material particular, the licensed bank shall be guilty of an offence, and shall be liable—

(*i*) in the case of an offence against paragraph (*a*) of this subsection, to a fine of £50 in respect of each day in which the offence continues, or

(*ii*) in any other case under paragraph (*b*) thereof, to a fine of £500.

(6) The Examiner shall forward a report of his findings to the Governor of the Central Bank, who shall forward a copy of the Examiner's report to the Commissioner and inform the Commissioner of any circumstances in which the Commissioner may exercise any powers under section 22 of this Decree.

Special examination.

21. (1) The Commissioner may at any time require the Governor of the Central Bank to require the Examiner appointed in accordance with section 20 of this Decree, or one or more other qualified persons whom the Governor shall appoint, to make a special examination under conditions of secrecy of the books and affairs of any licensed bank—

(*a*) where, after consultation with the Central Bank, the Commissioner has reason to believe that a licensed bank—

(*i*) may be carrying on its business in a manner detrimental to the interest of its depositors and other creditors, or

(*ii*) may have insufficient assets to cover its liabilities to the public, or

(*iii*) may be contravening the provisions of this Decree.

(*b*) where application is made—

(*i*) by shareholders holding not less than one-third of the total number of shares for the time being issued and paid-up, or

(*ii*) by depositors holding not less than one-half of the gross amount of the deposits of the bank:

Provided however that the applicants under this paragraph submit to the Commissioner such evidence as he may consider necessary to justify an examination, and provided also that they furnish adequate security for payment of the costs of the examination;

(*c*) where the licensed bank suspends payments or informs the Commissioner or the Governor of the Central Bank of its intention to do so.

(2) Where a licensed bank considers—

(*a*) that it is likely to become unable to meet its obligations; or

(*b*) that it is about to suspend payments,

it shall forthwith inform the Central Bank of its intention to do so, and any failure to make such report shall be an offence under this Decree.

(3) As soon as may be after the conclusion of an examination under this section, the Examiner shall submit a full report thereon to the Governor of the Central Bank who shall forward a copy of the report together with his comments to the Commissioner, and the Commissioner may at his discretion communicate to the Head Office of the licensed bank concerned or to the applicants such information arising from the report as the Commissioner deems fit.

(4) The Commissioner shall have power to order that all expenses of and incidental to an examination shall be paid by the bank examined, and shall also have power in respect of examination made under paragraph (*b*) of subsection (1) of this section to order that the expenses shall be defrayed by the applicants.

Power after Examination

22. If, in the opinion of the Commissioner, an examination shows that a licensed bank is carrying on its business in a manner detrimental to the interests of its depositors and other creditors, or has insufficient assets to cover its liabilities to the public, or is contravening the provisions of this Decree, the Commissioner may take such one or more of the following steps from time to time as may seem to him necessary, that is to say—

(*a*) require that the licensed bank shall, forthwith, take such steps as the Commissioner may consider necessary to rectify the matter, and these may include any or all of the following steps, that is—

(*i*) require that the bank shall call meeting of its directors for the purpose of considering any matter relating to or arising out of the affairs of the bank, or require that an officer of the bank shall discuss any such matter with an officer of the Central Bank,

(*ii*) require that the bank shall make, within such time as may be specified, such changes in the management as the Commissioner may consider necessary,

(*iii*) appoint a person who in his opinion has had proper training and experience to advise the licensed bank in the proper conduct of its business and fix the remuneration to be paid by the licensed bank to such person; or

(*b*) report the circumstances to the Federal Executive Council which, unless satisfied that the bank is taking adequate measures to put its affairs in order, may direct the Commissioner to make an order—

(*i*) revoking the bank's licence and requiring its business to be wound-up, or

(*ii*) requiring the Central Bank to assume control and carry on the business of the licensed bank,

except that the Commissioner shall not so report the circumstances without giving the bank reasonable prior notice of his intention to do so and an opportunity of submitting a written statement in reply.

Control of licensed banks.

23. (1) Where the Central Bank has assumed control of the business of a licensed bank in pursuance of paragraph (*b*) of section 22 of this Decree, the Central Bank shall, subject to subsection (2) of this section, remain in control of, and continue to carry on, the business of that bank, in the name and on behalf of the bank until such time as—

(*a*) the deposits with the bank have been repaid or the Central Bank is satisfied that suitable provision has been made for their repayment; and

(*b*) in the opinion of the Central Bank, it is no longer necessary for the Central Bank to remain in control of the business of the bank.

(2) Where the Central Bank has assumed control of the business of a licensed bank as aforesaid, the High Court may—

(*a*) upon application by the licensed bank; and

(*b*) if the High Court is satisfied tha it is no longer necessary for the protection of depositors of the bank that the Central Bank should remain in control of the business of the licensed bank, order that the Central Bank shall cease to control the business of the bank as from a date specified in the order.

(3) Where the Central Bank has assumed control of the business of a licensed bank as aforesaid or ceases to control the business of a licensed bank in accordance with this section, the Central Bank shall notify that fact in the Federal Gazette.

Licensed bank under control of Central Bank to co-operate with Central Bank.

24. (1) Where the Central Bank has assumed control of the business of a licensed bank in pursuance of paragraph (*b*) of section 22 of this Decree, the licensed bank shall submit its business to the control of the Central Bank and shall provide the Central Bank with such facilities as the Central Bank requires to carry on the business of that bank.

(2) Any licensed bank which fails to comply with subsection (1) of this section or with any requirements of the Central Bank under the said section 22 of this Decree shall be guilty of an offence and shall be liable to a fine not exceeding £100 for each day during which such default continues.

25. (1) Where by section 22 of this Decree, the Commissioner makes an order revoking the licence of a bank and requiring the business of that bank in Nigeria to be wound up, that bank shall within 14 days after the making of the order apply to the High Court for an order winding up the affairs of that bank under supervision of that court and the court shall take up the hearing of the application in priority to all other matters.

(2) If the bank fails to apply to the High Court within the time prescribed by subsection (1) of this section, the Commissioner may in his discretion—

(*a*) apply to the High Court for any necessary order; or

(*b*) without waiting for the expiration of the time prescribed, appoint the official receiver (within the meaning of section 395 of the Companies Decree 1968) or any other fit person to be a provisional liquidator, and the provisional liquidator shall have the powers conferred by and be deemed to have been appointed a provisional liquidator by the High Court for the purposes of that Decree.

(3) The provisions of this section shall have effect, and section 209 of the Companies Decree 1968 shall be construed, as if the making of an order under section 22 of this Decree to revoke the licence of a bank had been included as a ground for winding-up by the High Court under that section.

(4) The liquidator of a licensed bank shall forward to the Central Bank copies of all returns which he is required to make under the Companies Decree 1968.

(5) The Central Bank may, at any time by notice in writing require the liquidator of a licensed bank to furnish, within such time as may be specified in the notice or such further time as the Central Bank may allow, any statement or information relating to or connected with the winding-up of the bank, and it shall be the duty of every liquidator to comply with such requirements.

PART IV

GENERAL AND SUPPLEMENTAL

Use of the word "bank" in company's name. Section 26(1)(*b*) delete by virtue of Section 1 (*i*) of Banking (Amendment) Decree No. 3, 1970.

26. (1) Save with the consent of the Commissioner and subject to subsection (2) of this section, no person other than a licensed commercial bank shall—

(*a*) use or continue to use the word "bank" or any of its derivatives, either in English or in any other language, in the description or title under which such person is carrying on business in Nigeria;

(2) Every licensed commercial bank shall use as part of its description or title the word "bank" or some one or more of its derivatives, either in English or in some other language.

(3) Subsection (1) of this section shall not apply to any association of licensed banks formed for the protection of their mutual interests.

(4) Any licensed commercial bank which acts in contravention of this section shall be guilty of an offence and shall be liable to a fine of £50 for every day during which the offence continues.

(5) In this section, the reference to a "licensed commercial bank" is a reference to a bank that is licensed as a commercial bank within the meaning of this Decree.

General restriction as to advertisement for deposits.

27. (1) No person other than a licensed bank shall, after the commencement of this Decree, issue any advertisement inviting the public to deposit money with it.

(2) Where any licensed bank proposes, after the commencement of this Decree, to issue any advertisement for deposits of money with it, then the bank shall deliver to the Central Bank the text of the proposed advertisement and the bank's latest published accounts, and shall thereafter comply with such directives and conditions as the Central Bank may prescribe, and such texts shall be regarded as confidential information.

(3) Any person who issues an advertisement in contravention of any of the foregoing provisions of this section shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 2 years or a fine not exceeding £200.

(4) Any person who in the ordinary course of his business issues an advertisement to the order of another person, being an advertisement the issue of which by that other person constitutes an offence under this section, shall not himself be guilty of the offence, if he proves that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or by any other person under his direction or control.

(5) In this Decree "advertisement" includes any form of advertising, whether in publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph or by way of sound broadcasting or television or loudspeakers or other public address systems, and references to the issuing of an advertisement shall be construed accordingly; and for the purposes of this Decree, an advertisement issued by any person by way of display or exhibition in a public place shall be treated as issued by him on every day on which he causes or permits it to be so displayed or exhibited.

(6) For the purposes of this Decree, an advertisement which contains information calculated to lead directly or indirectly to the deposit of money by the public shall be treated as an advertisement inviting the public to deposit money.

(7) For the purposes of this Decree, an advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that other person; and for the purposes of any proceedings under this Decree, an advertisement inviting the public to deposit money with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued by that person.

Strikes

28. No licensed bank shall incur any liability to any of its customers by reason only of failure on the part of that bank to open for business during a strike: Provided that the said bank has, within 24 hours of the continuance of the strike, obtained the approval of the Central Bank for any continued closure of the bank.

Prohibition of receipt of commission by staff.

29. Any director, officer or employee of a licensed bank or other persons being persons receiving remuneration from such licensed bank, who asks for or receives, consents

or agrees to receive any gift, commission, emolument, service, gratuity, money, property or thing of value for his own personal benefit or advantage or for that of any of his relations, from any person other than from the bank—

(*a*) for procuring or endeavouring to procure for any person any advance, loan or credit facility from the licensed bank; or

(*b*) for the purchase or discount of any draft, note, cheque, bill of exchange or other obligations by that bank; or

(*c*) for permitting any person to overdraw any account with that bank, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding £1000 or to both such imprisonment and fine.

Exclusion of certain individuals from management of licensed banks.

30. (1) Any person who is a Director, Chief of Banking Operations, Secretary or other officer concerned in the management of a licensed bank shall cease to hold office—

(*a*) if he becomes bankrupt, suspends payments, or compounds with his creditors; or

(*b*) if he is convicted of an offence involving dishonesty or fraud.

(2) No person who has been a director of, or directly concerned in the management of, a licensed bank which has been wound up by a High Court shall, without the express authority of the Commissioner, act or continue to act as a director of, or be directly concerned in the management of, any licensed bank.

(3) Any person acting in contravention of subsection (1) or (2) of this section shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding 3 years or to a fine not exceeding £1000 or to both such imprisonment and fine.

Part V
Miscellaneous

Offences by companies, etc. and by servants and agents.

31. (1) Where any offence against any provision of this Decree has been committed by a company, firm, society or other body of persons, any person who at the time of the commission of the offence was a director, manager, secretary or other similar officer thereof or was purporting to act in such capacity shall be deemed to be guilty of that offence, unless he proves that the offence was committed without his consent or connivance and that he exercised all such

diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

(2) Where any person would be liable under this Decree to any punishment or penalty for any act, omission, neglect or default, he shall be liable to the same punishment or penalty for every such act, omission, neglect or default of any clerk, servant or agent, or of the clerk or servant of such agent:

Provided that such act, omission, neglect or default was committed by such clerk or servant in the course of his employment, or by such agent when acting in the course of his employment in such circumstances that had such act, omission, neglect or default been committed by the agent his principal would have been liable under this section.

Penalties: directors and managers.

32. Any person who, being a director or manager of a licensed bank—

(*a*) fails to take all reasonable steps to secure compliance by the bank with the requirements of this Decree; or

(*b*) fails to take all reasonable steps to secure the correctness of any statement submitted under the provisions of this Decree,

shall be guilty of an offence under this Decree and shall be liable to imprisonment for a term not exceeding 2 years or to a fine of £500 or to both such imprisonment and fine.

Penalties for offences not otherwise provided for.

33. Any licensed bank which contravenes or fails to comply with any of the provisions of this Decree for which no offence or penalty is expressly provided shall be guilty of an offence and shall be liable to a fine not exceeding £1000.

Powers as to offences and the Attorney-General's fiat.

34. (1) The Governor of the Central Bank may compound any offence punishable under this Decree by accepting such sums of money as he thinks fit, not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of the offence.

(2) Any monies paid to the Governor pursuant to subsection (1) of this section shall be paid into the Consolidated Revenue Fund of the Federation.

(3) No prosecution in respect of any offence under this Decree shall be instituted without the consent in writing of the Attorney-General of the Federation.

Jurisdiction.

35. Notwithstanding the provisions of any other written law, a Chief Magistrate's court shall have jurisdiction to try any offence against this Decree and to impose the full penalty prescribed.

Protection against adverse claims.

36. (1) Neither the Government of the Federation nor the Central Bank, nor any officer of that Government or body, shall be subject to any action, claim or demand by or liability to any person in respect of anything done or omitted to be done in good faith in pursuance or in execution of, or in connection with the execution or intended execution of, any power conferred upon that Government, the Central Bank or such officer, by this Decree.

(2) For the purposes of this section, a Commissioner and any public officer shall be deemed to be an officer of the Government of the Federation, and the Governor and the Deputy Governor of the Central Bank and any director or employee thereof and any person holding any office therein or appointed by the Central Bank under paragraph (*a*) of section 22 of this Decree shall be deemed to be an officer of the Central Bank.

Priority of local deposit liabilities

37. Where a licensed bank becomes unable to meet its obligations or suspends payments, the assets of such bank in the Federation shall be available to meet all deposit liabilities of the bank in the Federation, and such deposit liabilities shall have priority over all other liabilities of the bank.

Exemptions.

Cap. 30.
1961 No. 20.
Cap. 188. as amended by Banking Decree
Nigeria Housing Dev. Society Limited. Exemption Order 1970
L.N. 21, 1970

38. (1) The provisions of this Decree shall not apply to—

(*a*) the Central Bank established under the Central Bank of Nigeria Act;

(*b*) the fund established under the National Provident Fund Act 1961;

(*c*) the Nigerian Industrial Development Bank Limited;

(*d*) the Post Office Savings Bank established under the Savings Bank Act.

(*e*) the Nigeria Housing Development Society Limited.

(2) The list of exceptions in subsection (1) of this section may be amended, by such additions or omissions as may be deemed necessary, by the Commissioner by order published in the Federal Gazette.

Application: 1968 No. 51.

39. The provisions of this Decree are without prejudice to the provisions of the Companies Decree 1968, insofar as they relate to banks and to winding-up by the court:

Provided that where any of the provisions of that Decree is inconsistent with any provision of this Decree this Decree shall prevail.

Regulations.

40. The Commissioner may in consultation with the Central Bank make such regulations as may be required from time to time for carrying into effect the object of this Decree, and he may by order published in the Federal Gazette amend, alter or vary the Schedules to this Decree.

Interpretation.

41. (1) In this Decree, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, respectively, that is—

"bank" means any person who carries on banking business, and includes a commercial bank, an acceptance house, discount house and financial institution; and in this definition—

(*a*) "commercial bank" means any person who transacts banking business in Nigeria and whose business includes the acceptance of deposits, withdrawable by cheque,

(*b*) "acceptance house" means any person in Nigeria who transacts banking business and whose business mainly consists of granting acceptance facilities or whose operations are, in the opinion of the Central Bank, those of an acceptance house,

(*c*) "discount house" means any person in Nigeria who transacts banking business and whose business mainly consists of trading in and holding commercial bills of exchange, Treasury Bills and other securities, or whose operations are, in the opinion of the Central Bank, those of a discount house, and

(*d*) "financial institution" means any person in Nigeria who transacts banking business but who is not a commercial bank, an acceptance house or a discount house;

As amended by Section (1) (*k*) Banking (Amendment) Decree No. 3, 1970

"banking business" means the business of receiving monies from outside sources as deposits irrespective of the payment of interest and the granting of money loans and acceptance of credits or the purchase of bills and cheques or the purchase and sale of securities for account of others or the incurring of the obligation to acquire claims in respect of loans prior to their maturity or the assumption of guarantees and other warranties for others or the effecting of transfers and clearings.

and such other transactions as the Commissioner may, on the recommendation of the Central Bank, by order published in the Federal Gazette designate as banking business; Cap. 30

"Central Bank" means the Central Bank of Nigeria established under the Central Bank of Nigeria Act;

"Commissioner" means the Federal Commissioner charged with responsibility for matters relating to banking;

"deposits" means monies lodged by the general public with any person for safe-keeping or for the purpose of earning interest or dividends whether or not such monies are repayable upon demand, upon a given period of notice or upon a fixed date;

"director" includes any person by whatever name he may be referred to, carrying out or empowered to carry out substantially the same functions of a director in relation to the direction of a company registered under the Companies Decree 1968;

"licence" means a licence granted by or under Part I of this Decree authorising the carrying on of banking business in Nigeria;

"licensed bank" means a bank holding a valid licence by or under Part I of this Decree;

"prescribed" means prescribed by this Decree or by the Central Bank of Nigeria Act, or by regulations made under this Decree or that Act.

(2) For the purposes of this Decree, the following expressions, namely—

(*a*) "commercial bank" ;

(*b*) "acceptance house" ;

(*c*) "discount house" ; and

(*d*) "financial institution",

have the meanings given respectively in the definition of "bank" in subsection (1) of this section.

(3) For the purposes of this Decree, a person shall be deemed to be receiving monies as deposits—

(*a*) if that person accepts, from the general public deposits as a feature of its business or if it issues an advertisement or solicits for such deposits; and

(*b*) notwithstanding that it receives monies as deposit which are limited to fixed amounts or that certificates or other instruments are issued in respect of any such amounts providing for the repayment to the holder thereof either conditionally or unconditionally of the amount of the deposits at specified or unspecified dates or for the payment of interest on the amounts deposited at specified intervals or otherwise, or that such certificates are transferable.

(4) Notwithstanding anything contained in this section to the contrary, the receiving of monies against any issue of debentures offered to the public in accordance with any enactment in force within the Federation shall not be deemed to constitute receiving of monies as deposits for the purposes of this Decree.

Citation, extent and repeal
Cap. 19

42. (1) This Decree may be cited as the Banking Decree 1969 and shall apply throughout the Federation.

(2) The Banking Act 1958 is hereby repealed, and any reference in this Decree to "the Act repealed by this Decree" shall be construed accordingly.

SECOND SCHEDULE

Section 16 (2)

REPORT ON LOANS AND ADVANCES

(To be submitted in accordance with Section 16 of the Banking Decree 1969)

As at ______________ day of ______________________ 19____

Name of Reporting Bank ____

Address ____

SECTION A

Loans and Advances analysed by Sector Borrowers:

CODE Major	Minor				
0.		AGRICULTURE, FORESTRY, FISHING, ETC.			
	01	Agriculture (including live-stock, poultry, etc.) ...		£______	
	02	Other		______	
	03	Timber (logging)		______	
	04	Fishing		______	£______
1.		MINING AND QUARRYING			
	01	Coal		£______	
	02	Metallic mining (tin ore, iron, zinc and lead)		______	
	03	Crude petroleum and gas		______	
	04	Other non-metallic mining (including quarrying and sandpits)			£______
2.		MANUFACTURING			
	01	Flour milling and bakeries		£______	
	02	Meat and other food processing, canning and cold storage		______	
	03	Beverages, tobacco and tobacco products		______	
	04	Textile and apparel (including spinning, weaving, finishing textiles and tailoring)		______	
	05	Footwear (excluding rubber footwear)		______	
	06	Woodproducts (including furniture)		______	
	07	Paper and paper products		______	
	08	Printing, publishing, etc.		______	£______
3.	01	Manufacturing of rubber products (including rubber footwear)		______	
	02	Soaps, oils and detergents		______	
	03	Petroleum and coal products		______	
	04	Building materials, pottery, ceramics and glass ...		______	
	05	Other non-metallic products		______	
	06	Basic metal products (including smelting and fabricating)		______	
	07	Miscellaneous manufacturing and processing		______	£______
4.		REAL ESTATE AND CONSTRUCTION			
	01	Owner occupied property		£______	
	02	Commercial property:			
		02.1 Residential	£______		
		02.2 Non-Residential	£______	£______	
	03	Public construction		______	
	04	Other		______	£______

Major Minor

5.		PUBLIC UTILITIES		
	01	Electricity, water, harbour, etc.		£..........
		GENERAL COMMERCE		
		A. Exports		
	01	Cocoa	£..........	
	02	Groundnuts and groundnut oil	....	
	03	Palm produce	....	
	04	Cotton	....	
	05	Hides and skins	....	
	06	Rubber and products	....	
	07	Timber and products	....	
	08	Other agricultural exports	....	
	09	Non-agricultural exports	....	
		B. Imports and Domestic Trade		
	10	Imports	£..........	
	11	Domestic Trade	....	
	01	Wholesale merchant	....	
	02	Retail merchant	....	£..........
7.		TRANSPORTATION AND COMMUNICATIONS		
	01	Rail transport	£..........	
	02	Road transport	....	
	03	Water transport	....	
	04	Air transport	....	
	05	Other Communications	....	£..........
8.		CREDIT AND FINANCIAL INSTITUTIONS		
	01	Commercial banks and Acceptance Houses		
	02	Hire-purchase finance companies		
	03	Insurance companies		
	04	Building societies, finance co-operatives, real estate companies		
	05	Other financial institution		
9.		GOVERNMENT		
	01	Federal Government		
	02	State Governments		
	03	Local Governments		
10.		GENERAL		
	01	Personal and professional		
	02	Miscellaneous loans and advances		
	03	Total Section A.		

SECTION B

11.		MONEY AT CALL AND BILLS DISCOUNTED		
		A. Money at Call		
	01	Call money scheme	£..........	
	02	Finance companies	£..........	
	03	Commercial banks :		
		03. 1 In Nigeria	£..........	£..........
		03. 2 Abroad	£..........	£..........
	04	Other	£..........	£..........

Major Minor

B. *Bills Discounted*

05	Produce paper	£........	
06	Other commercial paper:		
	06.1 Payable in Nigeria	£........	
	06.2 Payable abroad	£........	£........
07	Total Section B		£........

SECTION C

12. LOANS AND ADVANCES BY TYPE OF SECURITY

01	Documentary bills	£........
02	Plant, equipment and other real estate	....
03	Time and savings deposits, life insurance policies and other cash deposits	....
04	Corporate, and government securities and other financial assets	....
05	Personal guarantee	....
06	Otherwise secured	....
07	Unsecured	....
08	Total Section C	£........

SECTION D

13. LOANS AND ADVANCES BY MATURITY

01	On Call		£........
02	Maturing within 3 months		....
03	Maturing between 3 and 6 months		....
04	Maturing between 6 and 12 months		....
05	Maturing between 1 and 5 years		....
06	Maturing after 5 years		* ....
07	Total Section D		£........
	07.1 *Of which past-due and uncollected	£........	

SECTION E

14. LOANS AND ADVANCES BY METHOD OF REPAYMENT

01	Overdraft	£........
02	Repayable by specifically agreed instalments	£........
03	Repayable in one single payment...	£........
04	Total Section E	£........

Major Minor

SECTION F

15. LOANS AND ADVANCES BY AMOUNT NUMBER AND TYPE OF BORROWERS

	Amount	*Total Amount to Indigenous Persons*	*Total Amount to Others*	*Total Amount £*	*No. of Borrowers Indigenous Others*
01	Up to £50				
02	Over £50 and up to £100 ...				
03	Over £100 and up to £500				
04	Over £500 and up to £1,000				
05	Over £1,000 and up to £5,000				
06	Over £5,000 and up to £10,000				
07	Over £10,000 and up to £50,000				
08	Over £50,000				
09	TOTAL				

Name and address of person to contact if questions arise concerning this report:

____

____

____

Signature of Authorised Officer

Title______________________

Date______________________

FIRST SCHEDULE

Name of Bank..

Monthly Statement of Assets and Liabilities as at..................day of..............................19.......

(To be submitted in accordance with Section 16 of the Banking Decree, 1969)

LIABILITIES

	£	£
1. CAPITAL		
Authorised		
Issued, paid-up and outstanding		
2. RESERVE FUND		
3. DEBENTURES		
4. BALANCES HELD FOR		
(a) Other banks in Nigeria		
(b) Offices and branches of this bank outside Nigeria		
(c) Other banks outside Nigeria		
5. DEPOSITS		
(a) Repayable on demand		
(b) Savings Accounts		
(c) Other deposits repayable as from the date of this return		
(i) within 3 months		
(ii) between 3 and 6 months		
(iii) between 6 and 12 months		
(iv) later than 12 months		
of which, in total, by Governments	( )	
6. LOANS AND ADVANCES FROM		
(a) Other banks in Nigeria		
(b) Offices and branches of this bank outside Nigeria		
(c) Other banks outside Nigeria		
(d) Other creditors		
(Contingent liability in respect of bills rediscounted)	( )	
(Other contingent liabilities)	( )	
7. Acceptances on account of customers (*as per contra*)		
8. Confirmed documentary credits (*as per contra*)		
9. Guarantees, endorsements and other obligations on account of customers (*as per contra*)		
10. Other liabilities		

Net External Assets £..................

Net External Liabilities £..................

Details should be given, on an attached sheet, of any assets which are not freely transferable to Nigeria or which are subject to a lien or charge of any kind.

N.B.—A company shall be deemed to be a subsidiary of a bank if that bank either is a member of it and controls the composition of its board of directors or holds more than half in nominal value of its equity share capital or if a company is a subsidiary of any company which is a subsidiary of that bank. (By equity share capital is meant the issued share capital of the company excluding any part thereof which neither as respects dividends nor as respects capital carries any right to participate beyond a specified amount in a distribution).

ASSETS

	£	£
1. CASH IN HAND		
(a) Notes		
(b) Coin		
2. BALANCES HELD WITH		
(a) Central Bank of Nigeria		
(b) Other banks		
(i) In Nigeria of which remittances in transit and uncleared effects		
(ii) Outside Nigeria (including foreign currencies and coins)		
3. MONEY AT CALL IN NIGERIA		
4. TREASURY BILLS IN NIGERIA/OUTSIDE NIGERIA		
5. TREASURY CERTIFICATES		
6. BILLS DISCOUNTED		
(a) Payable in Nigeria		
(i) From banks in Nigeria		
(ii) From non-bank sources		
Comprising bills		
(i) maturing as from the date of this return		
(a) within 3 months		
(b) between 3 and 6 months		
(c) later than 6 months		
(ii) past-due (unpaid and unaccepted)		
(a) Payable outside Nigeria		
7. LOANS AND ADVANCES FOR		
(a) Other banks in Nigeria		
(b) Other banks outside Nigeria		
(c) Other Customers		
(i) Subsidiary companies of this bank in Nigeria		
(ii) Governments in Nigeria		
(a) Federal		
(b) State		
(c) Local		
(iii) Other Customers		
Repayable from the date of this return		
(i) within 3 months		
(ii) within 6 months		
(iii) within 12 months		
(iv) later than 12 months		
Securities		
(i) Unsecured		
(ii) Secured against real estate		
(iii) Otherwise secured		
Total outstanding		
8. INVESTMENTS		
(a) Government Securities		
(b) Stocks Bonds		
(c) Public (Statutory Corporations)		
(d) Subsidiary of this bank		
(e) Others		
9. FIXED ASSETS		
(a) Bank premises (including land and buildings)		
(b) Furniture and Fixtures		
(c) Other Real Estate		
(d) Other Fixed Assets		
10. OTHER ASSETS INCLUDING GOLD		
11. CUSTOMERS LIABILITIES (PER CONTRA)		
(a) Liabilities of customers for acceptances		
(b) Liabilities of customers for confirmed documentary credits		
(c) Liabilities of customers for guarantees, endorsements and other obligations		
12. OTHER ASSETS		

We declare that this statement is made up from the books of the bank, and that, to the best of our knowledge and belief, it is correct.

General Manager

Chief Accountant

THIRD SCHEDULE Sections 17, 18 and 19

ACCOUNTS

Preliminary

1. Paragraphs 2 to 11 of this Schedule apply to the balance sheet and paragraphs 12 to 16 apply to the profit and loss account.

GENERAL PROVISIONS AS TO BALANCE SHEET AND PROFIT AND LOSS ACCOUNT

Balance Sheet

2. The authorised share capital, issued share capital liabilities and assets shall be summarised, with such particulars as are necessary to disclose the general nature of the assets and liabilities, and there shall be specified—

(*a*) any part of the issued capital that consists of redeemable preference shares and the earliest date on which the person has power to redeem those shares;

(*b*) the amount of the share premium account;

(*c*) particulars of any redeemed debentures which the person has power to re-issue.

3. There shall be stated under separate headings, insofar as they are not written off—

(*a*) the preliminary expenses;

(*b*) any expenses incurred in connection with any issue of share capital or debentures;

(*c*) any sums paid by way of commission in respect of any shares or debentures;

(*d*) any sums allowed by way of discount in respect of any debentures.

4. (1) The following shall be classified under headings appropriately itemised:

(*a*) Cash in hand,

(*b*) Balance due to and from other banks,

(*c*) Short-term investments falling within the terms of section 12 (5) (*d*) and (*e*) of this Decree,

(*d*) Other Investments,

(*e*) Loans and Advances,

(*f*) Fixed Assets,

(*g*) Other Assets,

(*h*) Deposits,

(*i*) Borrowings,

(*j*) Other Liabilities,

(*k*) Provisions and Reserves,

(*l*) Capital,

(*m*) Liabilities for Acceptances, Guarantees, etc.

(2) The method or methods used to arrive at the amount of each item of fixed assets shall be stated.

5. Loans and Advances shall be shown gross less the amount of provisions made in respect of debts doubtful or recovery. Where no provision is considered necessary a note to that effect shall appear on the balance sheet.

6. In respect of Balances due to and from other banks, a distinction shall be made between balances held in Nigeria and outside Nigeria.

7. Demand deposits, savings accounts and time deposits shall be itemised under the heading "Deposits".

8. In respect of investments shown under "Other Investments" in paragraph 4 (1) (*d*) above, a distinction shall be made between the quoted and unquoted investments.

9. (1) The method of arriving at the net amount of any fixed assets shall be the difference between—

(*a*) its cost or, if it stands in the person's books at a valuation, the amount of the valuation; and

(*b*) the aggregate amount provided or written-off since the date of acquisition or valuation, as the case may be, for depreciation or diminution in value.

For the purposes of this paragraph the net amount at which any assets stand in the person's books at the commencement of this Decree (after deduction of the amounts previously provided or written-off for depreciation or diminution in value) shall, if the figures relating to the period before the commencement of this Decree cannot be obtained without unreasonable expense or delay, be treated as if it were the amount of a valuation of the said asset made at the commencement of this

Decree, and, where any of those amount less the assets are sold, the said net amount of the sales shall be treated as if it were the amount of a valuation so made of the remaining assets.

(2) The foregoing sub-paragraph shall not apply—

(*a*) to assets for which the figures relating to the period beginning with the commencement of this Decree cannot be obtained without unreasonable expense or delay; or

(*b*) to assets the replacement of which is provided for wholly or partly—

(*i*) by making provision for renewals and charging the cost of replacement against the provision so made; or

(*ii*) by charging the cost of replacement direct to revenue.

(3) For the assets under each heading the amount of which in each case is arrived at in accordance with sub-paragraph (1) of this paragraph, there shall be shown—

(*a*) the aggregate of the amounts referred to in paragraph (*a*) of that sub-paragraph; and

(*b*) the aggregate of the amount referred to in paragraph (*b*) thereof.

10. The aggregate amounts respectively of statutory reserves, capital reserves, revenue reserves and provisions (other than provisions for depreciation, renewals or diminution in value of assets) shall be stated under separate headings:

Provided that the Central Bank may direct that a separate statement of the amount of provisions, shall not be required where the Central Bank is satisfied that such a statement is not required in the public interest and would prejudice the person, but subject to the condition that any heading stating an amount arrived at after taking into account a provision (other than as aforesaid) shall be so framed or marked as to indicate that fact.

11. The matters referred to in the following sub-paragraphs shall be stated by way of note, or in a statement or report annexed, if not otherwise shown—

(*a*) the amount of any arrears of fixed cumulative dividends, on the person's shares and the period for which the dividends, or if there are more than one class of them, each class of them are in arrears, the amount to be stated before deduction of income tax, except that in the case of tax free dividends, the amount shall be shown free of tax and the fact that it is so shown shall also be stated;

(*b*) the general nature of any other contingent liabilities not provided for and, where practicable, the aggregate amount or estimated amount of those liabilities;

(*c*) where practicable the aggregate amount or estimated amount of contracts for capital expenditure so far as not provided for;

(*d*) the basis on which foreign currencies have been converted into £N, where the amount of the assets or liabilities affected is material;

(*e*) the basis on which the amount, if any, set aside for Income Tax is computed;

(*f*) the amount of the net External Assets or Liabilities of the person;

(*g*) the amount of deposits, if any, held by persons not ordinarily resident in Nigeria;

(*h*) the total amounts respectively of loans and advances secured against real estate, otherwise secured and unsecured;

(*i*) except in the case of the first balance sheet of the person after the commencement of this Decree, the corresponding amounts at the end of the immediately preceding financial year for all items shown in the balance sheet;

(*j*) the market value of the investments.

Profit and Loss Account

12. There shall be shown—

(*a*) the amount charged to revenue by way of provision for depreciation, renewals or diminution in value of fixed assets;

(*b*) the amount charged to revenue by way of provision for debts doubtful of recovery;

(*c*) the amount of bad debts written-off where such amount is not charged to a provision created as in sub-paragraph (*b*) above;

(*d*) the amount of the interest on the person's borrowings, distinguishing between interest paid in respect of borrowings from banks and other creditors respectively in Nigeria and that paid in respect of borrowings from banks and other creditors respectively outside Nigeria;

(*e*) the amount of the charge for Nigerian income tax and other Nigerian taxation on profits, including, where practicable, as Nigerian income tax any taxation imposed elsewhere to the extent of the relief, if any, from Nigerian income tax;

(*f*) the amount, if any, provided for redemption of loans;

(*g*) the amount set aside or proposed to be set aside to, or withdrawn from, reserves;

(*h*) the aggregate amount of the dividends paid and proposed;

(*i*) the remuneration of the auditors if such remuneration is not fixed by the person in general meeting, the amount thereof shall be shown under a separate heading, and for the purposes of this paragraph, any sums paid by the person in respect of the auditors' expenses shall be deemed to be included in the expression "remuneration";

(*j*) (*i*) the aggregate amount of directors' emoluments;

(*ii*) the aggregate amount of directors' or past directors' pensions; and

(*iii*) the aggregate amount of any compensation to directors or past directors in respect of loss of office.

For the purposes of this sub-paragraph the expression "emoluments", in relation to a director includes fees and percentages, any sums paid by way of expenses allowance insofar as those sums are charged to Nigerian income tax, any contribution paid in respect of him under any pension scheme and the estimated money value of any other benefits received by him otherwise than in cash.

13. The earnings of the company shall be classified under the headings, "INTERESTS", "TRANSFER CHARGES", "FOREIGN EXCHANGE", "OTHER INCOME".

14. The matters referred to in the following sub-paragraphs shall be stated by way of note, if not otherwise shown—

(*a*) the basis on which the charge for Nigerian income tax is computed;

(*b*) except in the case of the first profit and loss account laid before the person after the commencement of this Decree, the corresponding amounts for the immediately preceding financial year for all items shown in the profit and loss account;

(*c*) any material respects in which any items shown in the profit and loss account are affected—

(*i*) by transactions of a sort not usually undertaken by the person or otherwise by circumstances of any exceptional or non-recurrent nature; or

(*ii*) by any change in the basis of accounting.

FOURTH SCHEDULE

Sections 18 and 19

MATTERS TO BE EXPRESSLY STATED IN AUDITORS' REPORT

The auditors' report shall indicate the following matters—

(*a*) whether they have obtained all the information and explanations which, to the best of their knowledge and belief, were necessary for the purposes of their audit;

(*b*) whether, in their opinion, proper books of account have been kept by the person licensed under this Decree, at Head Office, and at each of the person's branches, and in such form as explain, and give a true and fair view of, all the transactions of the person;

(*c*) whether they have examined the books of the person at Head Office, and at each of the person's branches, and whether proper returns adequate for the purposes of their audit have been received from branches not visited;

(*d*) whether, to the best of their knowledge and belief, there have been any contraventions of the Banking Decree 1969 and other related legislation during the period covered by the audited accounts and whether every such contravention has been reported to the Central Bank as required by law;

(*e*) whether, in their opinion, the assets of the person have been properly valued, and whether adequate provisions have been made for losses and diminution in the value of the person's assets;

(*f*) whether, in their opinion, and to the best of their information, and having regard to the explanations given to them, the audited accounts of the person are in agreement with the books of account kept and give the information required by this Decree in the manner so required, and also give a true and fair view—

(*i*) in the case of the balance sheet, of the state of the person's affairs as at the end of its financial year;

(*ii*) in the case of the profit and loss accounts, of the profit or loss for its financial year.

FIFTH SCHEDULE

Section 19

AUDITOR'S ANALYSIS OF DOUBTFUL ADVANCES (LIMITED TO ADVANCES OVER £2,000) AS AT..................

Name of Customer	*Date Advanced or Last Instalment of Advances Drawn*	*Original Amount of Advances*	*Rate of Interest (Insert X if Interest Stopped)*	*Date of Last Repayment*	*Balance Outstanding*		*Efforts made by the Bank to recover Advances*	*Realisable Value of Security Held (if any)*	*Estimate of Bad and Doubtful Debts*		*Remarks*
					Capital	*Interest Accumulated*			*Doubtful*	*Loss*	
SECTION 'A'											
SECTION 'B'											
SECTION 'C'											

NOTE:

SECTION 'A' Advances which have not been fully recovered because of insufficient efforts on the part of the bank.
SECTION 'B' Advances which may either be fully or partly irrecoverable by reasons of the known financial position of the debtors.
SECTION 'C' Others (Advances granted to deceased persons and defunct companies should be included here).

Made at Lagos this 7th day of February, 1969

MAJOR-GENERAL Y. GOWON,
Head of the Federal Military Government,
Commander-in-Chief of the Armed Forces,
Federal Republic of Nigeria.

PUBLISHED BY AUTHORITY OF THE FEDERAL MILITARY GOVERNMENT OF NIGERIA
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CENTRAL BANK OF NIGERIA (AMENDMENT) DECREE 1970

Decree No. 40

(6th August, 1969) Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows:

Sundry amendments of the principal Act. Cap. 30

1. The Central Bank of Nigeria Act (hereinafter in this Decree referred to as "the principal Act") shall be amended as prescribed in the following provisions of this Decree.

Approval required before award of certain contracts: amendment of section 3.

2. In section 3 of the principal Act (which relates to the power of the Board to acquire and dispose of movable and immovable property), immediately after subsection (2) thereof there shall be inserted a new subsection as follows:

"(3) Notwithstanding anything contained in subsection (2) above, any contract relating to any project of a value of not less than fifty thousand pounds shall be referred to the Federal Executive Council for approval through the Commissioner before any award of such contract is made."

Approval required for certain banking activities: amendment of section 5.

3. In section 5 of the principal Act (which refers to the location of the chief office of the Bank and power to open branches and appoint agents and correspondents), immediately after the word "may" there shall be inserted the words ",subject to the approval of the Commissioner,".

Issuing of directives: amendment of section 8. of the Principal Act and section 3 of 1968 No. 50.

4. In section 8 of the principal Act (which deals with the establishment and powers of the Board), in subsection (1) thereof, immediately after the words "which shall", there shall be inserted the words—

"subject to the provisions of section 3 of the Central Bank of Nigeria Act (Amendment) (No. 3) Decree 1968,"

and in section 3 of the Central Bank of Nigeria Act (Amendment) (No. 3) Decree 1968, immediately after subsection (3) thereof, there shall be inserted the following—

"(4) The foregoing provisions of this section shall apply in relation to any general policy pursued or intended to be pursued on any administrative matter (including staff, pensions, salaries and allowances and other similar matters) as they apply in relation to monetary and banking policy pursued or intended to be pursued by the Central Bank".

Determination of salaries and allowances: amendment of section 14.

5. In section 14 of the principal Act (which relates to appointments of officials and other employees of the Bank)—

(*a*) at the end of subsection (1) thereof, there shall be inserted the following—

"subject as prescribed by this section or otherwise provided for.";

(*b*) immediately after subsection (2) thereof, there shall be inserted the following—

"(3) The salaries of the employees of the Bank (other than those of the Governor or his deputy shall be as stipulated from time to time by the Federal Executive Council, and the board shall accordingly be guided in terms of the scales of salary provided therefor; and without prejudice to the generality of the foregoing the scales of salary set out in the Schedule to the Statutory Corporations (Salaries and Allowances, etc.) Decree 1968 shall apply in relation to the employees of the Bank (subject as aforesaid) as they apply in relation to the staffs of statutory corporations affected by that Decree and by the Statutory Corporations (Salaries and Allowances, etc.) (Extended Application) Decree 1969.

1968 No. 59.

1969 No. 11.

(4) The allowances and benefits, other than salaries and retiring benefits, as may from time to time be stipulated by the Federal Executive Council for members of the public service of the Federation shall in like manner apply to the employees of the Bank; and the words 'the public service of the Federation' shall have the same meaning as in the Constitution of the Federation 1963".

1963 No. 20.

Citation, extent and commencement.

6.—(1) This Decree may be cited as the Central Bank of Nigeria (Amendment) Decree 1970 and shall apply throughout the Federation.

(2) This Decree shall be deemed to have come into operation on 6th August, 1969.

MADE at Lagos this 24th day of June, 1970.

APPENDIX IV

REGULATIONS DEFINING THE CONSTITUTION, DUTIES AND POWERS OF THE WEST AFRICAN CURRENCY BOARD

1. The West African Currency Board has been constituted to provide for and to control the supply of currency to the British West African Colonies and Protectorates and Trust Territories (hereinafter referred to as the constituent Territories), to ensure that the currency is maintained in satisfactory condition and generally to watch over the interests of the constituent Territories so far as currency is concerned.

2. The members of the Board and the Secretary are appointed by the Secretary of State.

3. The Board will have power to appoint officers for the discharge of such duties in connection with currency in the United Kingdom or in British West Africa and at such rates of salary as the Board may think fit, subject in each case to the approval of the Secretary of State.

4. The Board is authorised to incur expenditure necessary for the due performance of such duties as are now or may be hereafter assigned to it.

5. The Board will have authority to make all necessary arrangements for the minting of any special coins authorised

for circulation in the constituent Territories and to comply with applications for the supply of any coins at the time being legally current in those Territories. Subject to the provisions of these Regulations any legislation from time to time in force in the constituent Territories the Board may provide and may issue and re-issue therein notes hereinafter referred to as currency notes.

6. The plates from which the currency notes are printed shall be of such designs and shall bear such devices as the Secretary of State shall approve and shall be prepared by a person selected by the Board. The Board shall be responsible for their safe custody.

7. The currency notes shall be printed on such paper as may be approved by the Board and shall be authenticated by facsimiles of the signatures of the members of the Board for the time being.

8. The Board shall make such arrangements as it may from time to time think necessary or proper for the cancellation of notes withdrawn from further use for the destruction of such cancelled notes and for recording the issue and cancellation of notes.

9. The Board shall issue at its main centres at Accra, Bathurst, Freetown and Lagos, in the constituent Territories to any person who makes demand in that behalf coin or currency notes equivalent to the value (at the rate of Twenty shillings West African curreny to One pound sterling) of sums in sterling lodged with the Board in London.

The Board shall pay to any person who makes demand in that behalf sterling in London equivalent to the value (calculated as aforesaid) of coin or currency notes lodged with the Board at its aforesaid centres in the constituent Territories.

Provided that:

(i) The Board shall be entitled to levy from any persons obtaining currency notes, coin or sterling under these provisions a commission at such rate or rates not exceeding three-quarters of one per cent as it may determine from time to time.

(ii) The Board may fix such minimum limits of values as it may think fit from time to time for the transactions referred to in this regulation.

(iii) No person shall be entitled to receive currency in the constituent Territories or payment in London unless the Board is satisfied that payment of sterling has been made in London of equivalent currency tendered in the constituent Territories as the case may be.

10. Proceeds of the sale of coin and currency notes and all over revenue of the Board shall, after the necessary deductions have been made for all expenses and for any contributions made to the revenues of the British West African Governments under section 16 of these Regulations, be credited to a fund hereinafter referred to as the Currency Reserve Fund. Any losses which may be incurred will be debited to the Fund.

11. The Board may invest its funds in sterling securities or the Government of any part of His Majesty's dominions, or in such other manner as the Secretary of State may approve. The extent to which investments may be made will be left to the discretion of the Board, whose duty it will be to hold, subject to any directions which may be received from the Secretary of State, a proportion of its reserve in a liquid form.

12. The Board shall submit half-yearly to the Secretary of State a statement of the position of the Currency Reserve Fund on the last days of June and December in each year including a Statement of Securities.

13. The Board shall cause to be made up half-yearly and published in the Government Gazettes of the constituent Territories an abstract showing: (a) the whole amount of the West African coinage and note circulations on the last days of June and December in each year, (b) the total amount of the Currency Reserve Fund on the said days, (c) the nominal value of, price paid for and latest known market price of the securities forming the investment portion of the Reserve Fund.

14. The accounts of all the transactions of the Board will be audited by the Colonial Audit Department.

15. The Board will submit annually for the approval of the Secretary of State a statement of its transactions during the preceding year.

16. The Board may, with the approval of the Secretary of State, pay any sum which it thinks proper out of its income by way of contribution to the revenues of the British West African Governments.

17. When the Board is satisfied and shall have satisifed the Secretary of State, that its reserves are more than sufficient to ensure the convertibility of the notes and the coins issue and to provide a reasonable reserve against possible depreciation, the Board may pay over the whole or part of the surplus amount in aid of the revenues of the British West African Government.

18. The Regulations defining the constitution, duties and powers of the Board dated 11th July 1924, are hereby revoked.

19. These Regulations may be cited as the West African Currency Boards Regulations 1949.

2nd September, 1949

A. CREECH JONES, Secretary of State

APPENDIX V

REGULATIONS DEFINING THE CONSTITUTION, DUTIES AND POWERS OF THE EAST AFRICAN CURRENCY BOARD AS REVISED AND APPROVED UNDER THE EAST AFRICAN CURRENCY BOARD REGULATIONS, 1955 AND 1961

1. The East African Currency Board will provide for and control the supply of currency to the Kenya Colony and Protectorate, the Uganda Protectorate, Tanganyika, the Zanzibar Protectorate, Aden Colony and Protectorate, and any other Territories which may be added by the Secretary of State, to ensure that the currency is maintained in satisfactory condition, and generally to watch over the interests of the said Territories so far as currency is concerned. Such Territories may be referred to as the Constituent Territories.

2. The members of the Board and the Secretary are appointed by the Secretary of State and may be paid such fees as in each case the Chairman will direct.

3. The Board will have power to appoint officers for the discharge of such duties in connection with currency in the United Kingdom or in the Constituent Territories and at such rates of salary as the Board may think fit.

4. The Board is authorised to incur expenditure necessary

for the due performance of such duties as are now or may be hereafter assigned to them.

5. The Board will have authority to make all necessary arrangements for the minting of any special coins authorised for circulation in the Constituent Territories and to comply with applications for the supply of any coins at the time being legally current in those Constituent Territories. Subject to the provisions of these Regulations and of any legislation from time to time in force in the Constituent Territories, they may provide, and may issue and re-issue therein, notes hereinafter referred to as currency notes.

6. The Board shall issue at their main offices in the Constituent Territories to any person who makes demand in that behalf currency notes or coin equivalent to the value (at the rate of Twenty East African shillings to One pound sterling) of sums in sterling lodged with the Board in London. The Board shall pay to any person who makes demand in that behalf sterling in London equivalent to the value (calculated as aforesaid) of currency notes or coin lodged with the Board at their main offices in the Constituent Territories:

Provided that:-

(i) the Board shall be entitled to charge and levy from any person obtaining currency notes, coin or sterling under the provisions of this paragraph a commission at such rate or rates not exceeding one half of one per cent, as they may determine from time to time.

(ii) the Board may fix such minimum limits of value as they may think fit from time to time for the transactions referred to in this paragraph.

(iii) subject to the provisions of the next succeeding paragraph of these Regulations no person shall be entitled to receive currency in the Constituent Territories or payment in London unless the Board is satisfied that payment of sterling has been made in London or equivalent currency tendered in the Constituent Territories as the case may be.

7. (1) The Board in their discretion may issue at their main offices in the Constituent Territories currency notes or coin in exchange for securities of or guaranteed by the Government of one of the Constituent Territories or of any authority established to administer services common to two or more of the Constituent Territories lodged with the Board at their main offices in the Constituent Territories, as part of such a transaction as is permitted by paragraph 14 of these Regulations.

(2) As part of such transactions as are permitted by paragraph 14 and 14A of these Regulations, the Board in their discretion may issue at any one of their offices in the Constituent Territories, currency notes or coinage in exchange for such securities, bills of exchange, and promisory notes as are eligible within the terms of those paragraphs and are lodged with the Board at such offices in the Constituent Territories.

8. Currency notes may be for such denominations as may be fixed by the Board.

9. The plates from which the currency notes are printed shall be of such designs and shall bear such devices as the Secretary of State shall approve, and shall be prepared by a person selected by the Board. The Board shall be responsible for their safe custody.

10. The currency notes shall be printed on such paper as may be approved by the Board, and shall be authenticated by facsimiles of the signatures of the members of the Board for the time being.

11. The Board shall make such arrangements as they may from time to time think necessary or proper for the cancellation of notes which have become unfit for use, for the destruction of such cancelled notes and for recording the issue and cancellation of notes.

12. Proceeds of the sale of coin and currency notes and all other revenue of the Board shall, after the necessary deductions have been made for all expenses and for any contributions made to the revenues of the Constituent Territories under paragraph 19 of these Regulations, be credited to a fund hereinafter referred to as the Currency Reserve Fund. Any losses which may be incurred will be debited to the Fund.

13. Subject to the provisions of paragraph 20 of these Regulations, the Board may at their discretion invest their funds-

(i) in sterling securities of the Government of any part of Her Majesty's Dominions or of any territory under

Her Majesty's protection or of any territory administered by the Government of any part of Her Majesty's Dominions under the trusteeship system of the United Nations or in such other manner as the Secretary of State may approve;

(ii) in such assets payable in East African shillings as are specified in paragraphs 14 and 14A of these Regulations and to the extent specified in those paragraphs:

Provided that it shall be the Board's duty to hold subject to any directions which may be received from the Secretary of State a proportion of their reserve in liquid form.

14. The Board may subscribe for or buy or sell and may hold publicly issued securities of or guaranteed by the Government of one of the Constituent Territories or of any authority established to administer services common to two or more of the Constituent Territories and payable in East African shillings in any of the said territories:

Provided that the cost of such securities so held shall not except with the approval of the Secretary of State at any time exceed an amount in East African shillings equivalent at par rate of exchange on London to £20 million (twenty million pounds) sterling.

14A. (1) The Board may-

(a) discount bills of exchange and promissory notes payable in East African shillings in any of the Constituent Territories bearing two or more good signatures, one of which shall be that of a Bank licensed to operate in any of the said territories, drawn or issued for the purpose of financing bona fide commercial transactions arising from processing, or marketing of crops, and maturing in not more than 90 days, exclusive of days of grace, from the date of acquisition;

(b) grant advances for periods not exceeding three months against promissory notes of banks licensed to operate in any of the Constituent Territories secured by pledges with the Board of-

(i) such assets payable in said territories as the Board is permitted to hold in terms of paragraph 13.

(ii) such sterling securities as the Board is permitted to hold in terms of paragraph 13;

(iii) such bills of exchange or promissory notes as are eligible for discount by the Board in terms of subparagraph (a) of paragraph (1) of this Regulation:

Provided that the Board may require such margin of security as they may from time to time stipulate over and above the value of any advances granted in terms of this paragraph.

(2) The total amount of bills and promissory notes discounted and of advances granted and outstanding shall not at any time exceed an amount in East African shillings equivalent at par rate of exchange in London to £5 million (five million pounds) sterling.

15. The Board shall submit half-yearly to the Secretary of State a statement of the position of the Currency Reserve Fund on the last day of the half-year, including a statement of securities.

16. The Board shall cause to be published half-yearly in the Government Gazettes of the Constituent Territories an abstract showing (a) the whole amount of the East African coinage and currency notes in circulation on the last day of the half-year; (b) the total amount of the Currency Reserve Fund on the said day; (c) the nominal value of, the price paid for, and the latest known market price of the securities forming the investment portion of the Reserve Fund.

17. The accounts of all the transactions of the Board will be audited by the Overseas Audit Department.

18. The Board will submit annually for the approval of the Secretary of State a statement of their transactions during the preceding year.

19. The Board may, with the approval of the Secretary of State, pay any sum which it thinks proper out of its income by way of contribution to the revenues of the Constituent Territories.

20. When the Board is satisfied that their reserves are more than sufficient for all the purposes for which such reserves may be required, they may, with the approval of the Secretary of State, pay over the whole or any part of the surplus amount in aid of the revenues of the Constituent

Territories.

21. The Regulations defining the constitution, duties and powers of the Board dated the 8th August, 1949, are hereby revoked:

Provided that the provisions contained in sub-section (2) of Section 38 of the Interpretation Act, 1899, shall apply to the effect of these Regulations as those provisions apply to the effect of an Act of Parliament.

R. MAUDLING,

Secretary of State for the Colonies

7th December, 1961