THE NBC (1997) INCORPORATION ACT, 1997

ARRANGEMENT OF SECTIONS

THE UNITED REPUBLIC OF TANZANIA

NO. 21 OF 1997

I ASSENT,

Benjamin W. Mkapa

President

5th September, 1997.

An Act to facilitate the incorporation of the NBC (1997) Limited, and its establishment as a commercial bank, to provide for issuance of its shares to the public and for other relevant matters.

[....]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title Commencement and Application

1.—(1) This Act may be cited as the NBC (1997) Limited Incorporation Act, 1997.

(2) Subject to section 3(1), this Act shall come into operation on the 1st day of October, 1997.

(3) This Act shall apply to Tanzania Zanzibar as well as to Mainland Tanzania.

(4) Upon attainment of privatization of the Company and upon the Government becoming a minority Shareholder, or no longer a shareholder, the provisions of this Act, other than the provisions of sections 1, 2, 3, and 4, shall cease to apply to the Company.

Interpretation

2. In this Act unless the context requires otherwise—

"assets" means property, real and personal, of every kind including—

(a) rights under contract and agreement;
(b) money books, books of accounts records and goodwill;
(c) all other rights, interest and claims in or to, real or personal property, whether liquidated or unliquidated, certain or contingent, accrued or accruing;

Act No. 1 of 1997

"Bank" means the Bank of Tanzania established by the Bank of Tanzania Act, 1995;

Act No. 12 of 1991

"the banking law" means the Banking and Financial Institutions Act, 1991;

"Board" means the Board of Directors of the Company established pursuant to section 9;

Act No. 2 of 1992

"Commission" means the Parastatal Sector Reform Commission established by the Public Corporations Act, 1992;

"Committee" means the Transition Management Committee established by the National Bank of Commerce (Reorganization and Vesting of Assets and Liabilities) Act, 1997;

"Company" means the National Bank of Commerce (1997) Limited which is required by section 3 to be established;

"Corporation" means the NBC Holding Corporation established by the National Bank of Commerce (Re-organisation and Vesting of Assets and liabilities) Act, 1997;

"effective date" means the 1st day of October, 1997;

Act No. 1 of 1967

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

"instrument" includes a contract, a guarantee, an agreement including a mortgage, charge, bill of exchange, promissory note, bank draft, bank cheque, letter of credit or any other security;

"liabilities" means debts, charges, duties and all obligations of every description under contract or agreement including savings and deposits of all kinds, whether present or future, actual or contingent, and whether payable, to be observed or performed in the United Republic or elsewhere; but does not include any liability in respect of taxation under any law in force in the United Republic or elsewhere;

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

"rights" means all rights, powers, privileges and immunities, whether actual, contingent or prospective;

"securities includes-

(a) debentures, stock, shares, bonds or notes issued or proposed to be issued by the Company and any rights, warrant or option in respect of it;

(b) treasury bonds or other loan instrument of the Government;

(c) rights or interests, whether described as units or otherwise under any unit trust;

(d) such other instruments as the Minister may, by notice published in the *Gazette* prescribe;

"specified branches" means the branches of the former bank specified in the Schedule to this Act which are to constitute the Company;

"transition period" means the transition period prescribed by the National Bank of Commerce (Re-organisation and Vesting of Assets and Liabilities) Act, 1997;

"Vesting date" means the date on which assets, and liabilities in respect of banking business, to which the former bank was entitled or subject to, are transferred to and vested in the successor Company.

PART II

THE NBC (1997) LIMITED

Requirement to establish company and to have it licensed as a bank

3.-(1) This section shall come into operation on the date on which the President assents to this Act.

(2) The Minister shall not later than the 25th day of September, 1997 cause to be incorporated, subject to this Act, a company to be known as the National Bank of Commerce (1997) Limited or NBC (1997) Limited.

(3) The Minister shall, not later than the 30th day of September, 1997, procure the Company to be licensed as a bank under the banking law.

(4) The assets, rights and liabilities in respect of the banking business of the specified branches to which the former bank was entitled or subject to, immediately before the vesting date, shall be vested into the Company in accordance with the provisions of the National Bank of Commerce (Re-organisation and Vesting of Assets and Liabilities) Act, 1997.

(5) The Company shall, with effect from the effective date, subject to this Act, take over the assets, and the banking business of the former bank in the specified branches.

(6) The Minister may, upon advice by the Committee and at anytime not later than the end of the transitional period, by order published in the *Gazette*, amend, vary or alter the disposition of the contents of the Schedule to this Act, including whether or not a specified branch shall be part of the Company.

Objects and functions of the Corn-pany

4.-(1) Notwithstanding the provisions of any other law, as from the effective date, the objects and functions of the Company shall include the duty to-

(a) provide in accordance with the conditions appropriate in the normal and proper conduct of banking business, adequate and proper commercial banking services and facilities throughout the United Republic;

(b) conduct its business without discrimination except on such grounds as are appropriate in the normal and proper conduct of banking business;

(c) adhere to the rule of not divulging any information relating to, or to the affairs of a customer of the Company, except in circumstances in which it is, in accordane with any writtein law or the practices and usages customary among bankers, necessary or proper for the Company to divulge that information.

(2) In particular and without prejudice to the generality of paragraph (a) of subsection (1), the Company may, within the United Republic and elsewhere-

(a) carry on the business of commercial banking in all its branches and departments, including borrowing, raising or taking upon money, lending or dealing in bills of exchange, promissory notes, coupons, drafts, bills of lading, warrants, debentures, certificates, scrip and other instruments and securities, whether transferable or negotiable or not; granting and issuing letters of credit and circular notes; buying, selling and dealing in bullion and species; acquiring, holding and issuing on commission underwriting and dealing with stocks, funds, shares, debentures, debenture stock, bonds, obligations, securities and investments of all kinds, the negotiating of loans and advances; receiving money and valuables on deposit, or for safe custody, or otherwise; collecting and transmitting money and securities; managing property, and transacting all kinds of agency business commonly transacted by bankers;

(b) undertake and execute any trusts the undertaking of which may seem desirable, and also to undertake the office of executor, administrator, receiver, treasurer, registrar or auditor, and to keep for any company, Government authority or other body, any register relating to any stocks, funds, shares or securities, or to undertake any duties in relation to the registration of transfers and the issue of certificates;

(c) take or concur in taking all such steps and proceedings as may seem best calculated to uphold and support the credit of the Company, and to obtain and justify public confidence, and to avert or minimize financial disturbances which might affect the Company.

(3) The discharge of the duties and the performance of the functions of the Company as specified in this Act or in its memorandum and Articles of Association shall at all times, subject to this Act, be governed by the provisions of the banking law.

Authorized capital

5.-(1) The initial authorised share capital of the Company to be registered shall be ten billion shillings divided into one million shares of ten thousand shillings each.

(2) The Company shall have power in general Meeting to increase the level of the authorised capital, subject to the prior approval of the Minister, save that no such prior approval shall be necessary if the Company ceases to be wholly or majority owned by the Government.

issued capital

6.-(1) As a consequence of the vesting in the Company of the assets and liabilities of the former bank relating to its banking business in the specified branches, the Company shall issue such shares and other securities as shall be decided by the Company in general meeting and after prior approval of the Minister; save that no such approval shall be necessary where the Company ceases to be wholly or majority owned by the Government.

(2) The issued share capital as determined under subsection (1) shall be allotted to:

(a) the Treasury Registrar; or

(b) any person entitled to require the issue of shares following their initial allotment to the Treasury Registrar;

in the proportions and on the terms determined by the Minister from time to time; and shall be divested to the other shareholders at such times and in such manner shall be determined by the Minister upon recommendation by the Company; save that, at no time after such divestiture shall the shares held by the Treasury Registrar be less than such percentum at the issued share capital as may be determined by the Minister.

(3) Share issued in pursuance of this section, shall be issued or alloted as fully paid and treated for the purposes of the Companies Ordinance as paid up by virtue of payment to the Company of their nominal value in cash.

(4) The Minister shall, in exercising any power conferred on him by this section, or disposing of any securities issued or of any rights to securities initially allotted to the Treasury Registrar in pursuance of this section, hold prior consultations with the Commission.

(5) Any dividends or other sums received by the Treasury Registrar in right of or on the disposal of any securities or rights acquired by virtue of this section, shall be paid into the Consolidated Fund.

PART III

ADMINISTRATION OF THE COMPANY

Annual General Meetings

7.-(1) The Company shall in each year hold an Annual General Meeting in addition to any other meeting in that year, in the manner and within specified times as shall be set out in the Articles of Association.

(2) The Articles of Association shall provide for the role, the procedure and other matters with respect to the Annual General Meeting.

Board of Directors

8.-(l) There shall be a Board of Directors which shall, subject to the provisions of this Act, be responsible for the carrying out of the functions and management of the affairs and business of the Company.

(2) All directors of the Company shall be natural persons and shall be not less than two and not more than such number as shall be determined by the Company in general meeting and, where the Government is still the majority shareholder, after obtaining prior approval of the Treasury Registrar.

(3) The directors shall initially be appointed by the Minister after consultation with the Treasury Registrar and after shares are alloted to other shareholders, in such proportion of their respective shareholdings as shall be provided by the Articles of Association of the Company.

(4) There shall be a Chairman of the Board who shall be appointed-

(a) if the Government is the majority shareholder, by the President;

(b) in any other case, in such manner as shall be decided by the Company in general meeting.

Employees

9.-(1) Subject to the provisions of this Act and to those of its Articles of Association, the management of the Company and the direction of its business and affairs shall be vested in the Managing Director who shall, in the exercise of such functions of management and direction, conform with the policy determined by the Board.

(2) The Managing Director shall be appointed-

(a) if the Government is the majority shareholder, by the President;

(b) in any other case, in the manner provided by the Articles of Association of the Company, on such terms and conditions as may be contained in the instrument of his appointment.

(3) The Company shall have such other employees, as-

(a) become employees of the Company in pursuance of the provisions of the National Bank of Commerce (Reorganisation and Vesting of Assets and Liabilities) Act, 1997, on the vesting date;

(b) may be employed by the Company after the vesting date.

(4) The terms and conditions of employment of, and other matters in relation to the service of employees of the Company shall, subject to any other relevant written law, be governed by the provisions of the Articles of Association of the Company.

Dividends

10. The Company shall where the Government is the majority shareholder, declare dividends only after prior approval of the Treasury Registrar, and the consent in writting of the Minister.

PART IV

MISCELLANEOUS PROVISIONS

Capitalisation of profits

11.-(1) The Company in general meeting and on the recommendation of the directors may resolve that it is desirable to capitalise any sum for the time being standing to the credit of any reserve account or profit and loss account or otherwise available for distribution to members, and that sum be applied in any of the ways that the profits of the Company may be properly applied.

(2) The ways in which any sum may be applied for the benefit of the members under subsection (1) are-

(a) in paying up any amounts unpaid on shares held by members; or

(b) in paying up in full unissued shares or debentures to be issued to members as fully paid.

Privatization outtook

12.-(1) It shall be the duty of the Minister to work towards the early privatization of the Company.

(2) All actions by all persons in relation to the Company in furtherance of its privatization, shall comply with the relevant provisions of the Public Corporations Act, 1992.

Accounts and audit

13.-(1) The directors shall ensure that, the Company maintains such accounting records as are required to comply with the requirements of the Companies Ordinance and of this Act.

(2) The Company in general meeting, shall appoint the Auditor, fix his renumeration and regulate his duties in accordance with the Companies Ordinance.

Winding-up.

14. If the Company is wound up, the liquidator may divide amongst the member of class of members any part of the assets of the company according to the value that the liquidator sets for those assets

SCHEDULE

Section 2 and 3(5)

Branches of the former bank which constitute the NBC (1997) Lintited

Region	*Serial No.*	*Branch*
Arusha	1.	Clock Tower
	2.	Uhuru
	3.	Namanga
Coast	4.	Tumbi
Dodoma	5.	Mazengo
Iringa	6.	Mshindo
	7.	Njombe
	8.	Mufindi
Kagera	9.	Jamhuri Road
Kigoma	10.	Obed Katikaza
Kilimanjaro	11.	Kibo
	12.	Nelson Mandela
Lindi	13.	Lindi
Mara	14.	Forodhani
Mbeya	15.	Karume Avenue
	16.	Mbalizi Road
	17.	Tukuyu
Metro	18.	Foreign
	19.	Samora
	20.	City Drive
	21	Kawe
	22.	Kichwele
	23.	Morogoro Road
	24.	Oysterbay
	25.	Pugu Road
	26.	Ubungo
	27.	Mnazi Mmoja
	28.	Mlimani
	29.	Muhimbili
Zanzibar Mjini Magharibi	30.	Zanzibar
Morogoro	31.	Mwere
Mtwara	32.	Shangani
Mwanza	33.	Nyerere Road
Rukwa	34.	Sumbawanga
Ruvuma	35.	Chabruma
Shinyanga	36.	Kizumbi
Singida	37.	Singida

SCHEDULE---contd.)

Section 2 and 3(5)

Branches of the former bank which constitute the NBC (1997) Limited.

Region	*Serial No.*	*Branch*
Tabora	38.	Isike
Tanga	39.	Bank Street
	40.	Madaraka House

Passed by the National Assembly on the 21st August, 1997

Clerk of the National Assembly

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