

Tanzania

Bretton Woods Agreements Act Chapter 363

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Bretton Woods Agreements Act
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Tanzania

Bretton Woods Agreements Act

Chapter 363

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[Acts Nos. 22 of 1962; R.L. Cap. 469; 3 of 1968; 7 of 1969; 7 of 1978]

An Act to make provision with respect to acceptance by the Government of the Agreements for the International Monetary Fund and the International Bank for Reconstruction and Development and to provide for matters related thereto.

1. Short title

This Act may be cited as the Bretton Woods Agreements Act.

2. Interpretation

In this Act, unless the context requires otherwise—

"Minister" means the Minister responsible for finance.

3. Approval of Agreements

Acceptance by the Government of the Fund Agreement and the Bank Agreement is hereby approved and that acceptance shall be signified by the Minister on behalf of the Government.

4. Acceptance of amendments to the Fund Agreement

Acceptance by the Government of the proposed amendments to the Fund Agreement for the purpose of establishing a new facility based on special drawing rights in the Fund and of giving effect to certain changes in the present rules and practices of the Fund is hereby approved and that acceptance shall be signified by the Minister on behalf of the Government.

5. Approval of participation in special drawing rights department

Participation by the United Republic in the special drawing rights department is hereby approved.

6. Acceptance of Second Amendment to the Fund Agreement

The Acceptance by the Government of the proposed Second Amendment to the Fund Agreement is hereby approved, and that acceptance shall be signified by the Minister on behalf of the Government.

7. Financial and other provisions

- (1) The subsequent provisions of this section shall come into operation on the date on which the acceptance of the Fund Agreement and the Bank Agreement is signified by the Minister on behalf of the Government.
- (2) There shall be charged on and paid out of the Consolidated Fund without further appropriation than this Act all sums required for making on behalf of the Government any of the following payments—
 - (a) payments in respect of subscriptions payable to the Bank under section 3 of Article II of the Bank Agreement;
 - (b) payments under section 9 of Article II of the Bank Agreement (which relates to falls in the par or foreign exchange value of currencies of members of the Bank); and;
 - (c) payments under subparagraph (iv) of paragraph (c) of section 4 of Article VI of the Bank Agreement (which relates to the cessation of membership of the Bank).
- (3) The Minister may, on behalf of the Government, create and issue to the Bank, in such form as he thinks fit, any non-interest-bearing and non-negotiable notes or other obligations which are provided for by section 12 of Article V of the Bank Agreement, and any payments in respect of any such notes or obligations so created and issued shall be charged on and paid out of the Consolidated Fund.
- (4) For the purpose of providing any sums required for making any payments under this section, the Minister may, on behalf of the Government, raise loans by the creation and issue of securities bearing the rates of interest and subject to the conditions as to repayment, redemption or otherwise which he may think fit and the principal and interest of those securities and the charges and expenses incurred in connection with their issue shall be charged on and paid out of the Consolidated Fund.
- (5) Any moneys received by the Government from the Bank or raised under subsection (4) shall be paid into and form part of the Consolidated Fund and shall be available in any manner in which that Fund is available.
- (6) The provisions of the Fund Agreement and the Bank Agreement set out in the Schedule to this Act shall have the force of law in Tanzania:

Provided that nothing in section 9 of Article IX of the Fund Agreement or in section 9 of Article VII of the Bank Agreement shall be construed as—

- (a) entitling the Fund or the Bank to import goods free of customs duty without any restriction on their subsequent sale in the country to which they were imported;
- (b) conferring on the Fund or the Bank any exemption from duties or taxes which form part of the price of goods sold; or
- (c) conferring on the Fund or the Bank any exemption from taxes or duties which are in fact no more than charges for services rendered.

8. Financial provisions relating to membership in the Fund

- (1) It shall be the function of the Bank of Tanzania to pay the amounts from time to time payable to the Fund on account of the United Republic under the provisions of the Fund Agreement.
- (2) The Bank of Tanzania may, if it thinks fit, create and issue to the Fund any such non-interest bearing and non-negotiable notes or other obligations as are provided for by section 5 of Article III of the Fund Agreement (which section relates to the acceptance by the Fund of notes or similar obligations in place of currency).

- (3) The Bank of Tanzania is hereby authorised to receive from the Fund any sums relating to the United Republic's subscription and any sums to be received by reason of operations or transactions between the United Republic and the Fund under Article V of the Fund Agreement.
- (4) The Bank of Tanzania is hereby authorised on behalf of the United Republic of Tanzania to acquire or dispose of special drawing rights and to receive or make payments in or in respect of any use of special drawing rights.
- (5) Notwithstanding the provisions of subsection (1) or subsection (2) the Bank shall not make any payment under subsection (1) or create or issue any notes or other obligations under subsection (2) without the authority of the Minister.

Schedule (Section 7(6))

Provisions of Agreements which are to have the force of law

The Fund Agreement

Article VIII – General obligations of members

2. Avoidance of restrictions on current payments

- (b) Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member.

Article IX – Status, immunities and privileges

2. Status of the Fund

The Fund shall possess full juridical personality, and in particular, the capacity—

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

3. Immunity from judicial process

The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

4. Immunity from other action

Property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

5. Immunity of archives

The archives of the Fund shall be inviolable.

6. Freedom of assets from restrictions

To the extent necessary to carry out the operations provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature.

7. Privilege for communications

The official communications of the Fund shall be accorded by members the same treatment as the official communications of other members.

8. Immunities and privileges of officers and employees

All governors, executive directors, alternates, members of committees, representatives appointed under Article XII, section 3(j), their advisors, and officers and employees of the Fund—

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity;
- (ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements, and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members; and
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials, and employees of comparable rank of other members:

Provided that, if the Fund declares, pursuant to section 1 of Article XII of the Fund Agreement, that the provisions of Schedule D shall apply, section 8 of Article IX shall apply to councillors, their alternates and associates, and to any other person entitled to attend a meeting of the Council.

9. Article XXVII (b). Immunities from taxation

In addition to the privileges and immunities that are accorded under Article IX of this Agreement no tax of any kind shall be levied on special drawing rights or on operations or transactions in special drawing rights.

- (a) The Fund, its assets, property, income and its operations and transactions authorised by this Agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liability for the collection or payment of any tax or duty.
- (b) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to executive directors, alternates, officers or employees of the Fund who are not local citizens, local subjects, or other local nationals.
- (c) No taxation of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held—
 - (i) which discriminates against such obligation or security solely because of its origin; or
 - (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

The Bank Agreement

Article VII – Status, immunities and privileges

2. Status of the Bank

The Bank shall possess full juridical personality, and, in particular, the capacity—

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

3. Position of the Bank with regard to judicial process

Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

4. Immunity of assets from seizure

Property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

5. Immunity of archives

The archives of the Bank shall be inviolable.

6. Freedom of assets from restrictions

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

7. Privilege for communications

The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

8. Immunities and privileges of officers and employees

All Governors, Executive Directors, Alternates, officers and employees of the Bank—

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

9. Immunities from taxation

- (a) The Bank, its assets, property, income and its operations and transactions authorised by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty.
- (b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to executive directors, alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals.
- (c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held—
 - (i) which discriminates against such obligation or security solely because it is issued by the Bank; or
 - (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.
- (d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held—
 - (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or
 - (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.