

AGRICULTURAL FINANCING IN ZAMBIA

- WITH PARTICULAR EMPHASIS ON

THE LEGAL FRAMEWORK

A Dissertation submitted in partial fulfilment
of the requirements for the Degree of Master of
Laws. (LL.M.).

UNIVERSITY OF ZAMBIA

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APPROVAL

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ABSTRACT

This thesis attempts to evaluate the legal framework for the provision of agricultural finance in Zambia. The post-independence era has witnessed a decline in resources from the mining sector and this has led to an effort by the Government to find ways to diversify the economy, in part through the promotion of agriculture. This has led to the government playing a greater role in the provision of agricultural credit to all categories of farmers. Agricultural credit has been channelled through specialised agricultural credit institutions in which the government has controlling shares. The legal framework of these institutions accounts, in part, for their inability to fulfill the role that they were intended to play. This legal framework and performance of these institutions is critically examined in the context of law in the development process.

The thesis is divided into six chapters. Chapter One is an introduction to the subject at hand i.e. agriculture and credit, the role of the peasant farmer, and the role of the law in facilitating agricultural financing. Chapter two is a historical

(ii)

account of the agricultural credit system in Northern Rhodesia which provided the base upon which the existing system was built.

Chapter three looks at Government policy and the legal provisions regarding credit from the time of Independence to date. The institutional framework which is presented in Chapter four covers all the institutions both before and after Independence. Chapter five is a critical review of the provision of agricultural credit in Zambia. It covers law and policy, the performance of the institutions, and comes to the conclusion it has stagnated for many reasons; not the least of which is the provision of inadequate and ineffective agricultural credit institutions and facilities. Chapter six is the concluding chapter and contains proposals for reform of the system of agricultural credit in Zambia.

ACKNOWLEDGEMENTS

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A special thank you goes to those special people who gave me the moral support and encouragement and to the ladies who typed and retyped this work to make it what it is today.

TABLE OF STATUTES

1. African Farming Improvement Funds Ordinance, Cap. 251, Laws of Northern Rhodesia.
2. Agricultural Credits Ordinance, Act No.28 of 1961, Cap. 349, Laws of Northern Rhodesia.
3. Agricultural Lands Ordinance, Cap. 101, Laws of Northern Rhodesia.
4. Appendix 5, Laws of Northern Rhodesia.
5. Companies Act, Cap. 686, Laws of Zambia.
6. Constitution of Zambia, Cap.1, Laws of Zambia.
7. Cooperative Societies Act, Cap. 689, Laws of Zambia.
8. Credit Organisation of Zambia Act, Laws of Zambia.
9. Credit Organisation of Zambia (Dissolution) Act, No.15 of 1970, Laws of Zambia.
10. Industrial Development Act, Cap. 674, Laws of Zambia.
11. Land and Agricultural Bank Ordinance, Cap. 249, Laws of Northern Rhodesia.

12. Land (Conversion of Titles) Act No.5 of 1975, Cap. 289, Laws of Zambia.
13. Land (Conversion of Titles) (Amendment) (No.2) Act No.15 of 1985.
14. Lands and Deeds Registry Act, Cap. 287, Laws of Zambia.
15. Native Reserves and Native Trust land (Adjudication and Titles) Ordinance, 1962, laws of Northern Rhodesia.
16. Northern Rhodesia Order in Council, 1947.
17. Public Land acquisition Ordinance, Cap.87, laws of Northern Rhodesia.
18. Zambia Agricultural Development Bank Act No.18 of 1979.
19. Zambia Agricultural Development Bank (Dissolution) Act of 1986.

TABLE OF ABBREVIATIONS

1. A.F.C. - Agriculture Finance Company Limited.
- 2a. B.S.A.Co. - British South Africa Company.
- 2b. A.F.R.A.C.A. - African Regional Agricultural Credit Association.
3. Cap. - Chapter of the Laws of Zambia.
4. C.C.S. - Cooperative Credit Societies.
5. C.F.C. - Cattle Finance Company Limited.
6. C.O.Z. - Credit Organisation of Zambia.
7. C.U.S.A. - Credit Union and Savings Association.
- 8a. D.B.Z. - Development Bank of Zambia.
- 8b. F.N.D.P. - First National Development Plan.
9. G.R.Z. - Government of the Republic of Zambia.
10. I.B.R.D. - International Bank for Reconstructions and Development.
11. I.M.F. - International Monetary Fund.
12. I.R.D.P. - Integrated Rural Development Programme.
13. Land Bank - Land and Agricultural Bank.
14. Lintco - Lint Company of Zambia Limited.
15. Namboard - National Agricultural Marketing Board.
16. N.C.D.P. - National Commission for Development Planning.
17. SIDA - Swedish International Development Agency.
18. S.N.D.P. - Second National Development Plan.
19. T.N.D.P. - Third National Development Plan.

20. U.N.I.P. - United National Independence Party.
21. Z.A.D.B. - Zambia Agricultural Development Bank.
22. Z.C.F. - Zambia Cooperative Federation.
- 22a. ZIMCO - Zambia Industrial Mining Company Limited.
23. Z.N.C.B. - Zambia National Commercial Bank Limited.
24. Z.S.I.C. - Zambia State Insurance Corporation.

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CHAPTER ONE

THE IMPORTANCE OF AGRICULTURE

The development of the agricultural sector of a country is one of the most important tasks facing any government. More so, in the developing countries where agricultural potential is not fully exploited. Firstly, agriculture is important because it feeds the nation. Secondly, if well developed it can provide a regular source of foreign exchange to enable the country to obtain its necessary imports.

In Zambia the importance of agriculture cannot be under-emphasized; although it was several years after independence before this was fully recognized. The great wealth coming out of the copper mines during the 1960's meant that the economy centred on the mining industry and scant regard was paid to anything else,¹ including Agriculture which was and still is at the heart of Zambia's economy - the majority of the Zambian people either live on or earn their livelihood from the land.² Further more, it is hoped that more people will move back to the land in future.

Agriculture holds importance in Zambia as a means of diversifying the economy and ending the dependence on copper.³ The reasonably favourable climatic factors, sufficient water and good soils can bring about self

sufficiency in food production and a diversified export economy.⁴ Self sufficiency in agricultural production can in turn lead to economic independence, the most sought-after goal by any developing country.⁵ The Operation Food Production proposed by the President to the people of Zambia recognized the importance of agriculture in the economy.⁶ The proposed programmes; the 'Lima' for peasants and subsistence farmers, producer cooperatives, rural Reconstruction Cooperatives, National Service Production Units, Commercial Farmers and State Farms were policy action programmes intended to boost the agricultural sector. For instance, the continuing reliance upon imports to meet the rapidly growing demand for food, the unabated drift of labour from the rural areas to the towns, the failure of the agricultural sector to generate its own investment finance and the high cost of agricultural produce indicate the serious problems that development of the agricultural industry is still facing despite spasmodic efforts to boost it.⁶

1.1 The Role of Agricultural Finance in Promoting Agriculture

Agricultural development is an expensive undertaking and in a country like Zambia where most

of the land is still virgin bush, development is difficult without adequate finance. What agriculture there has been in the past has failed to generate its own investment capital for two reasons. Firstly, most of it was subsistence farming. Secondly, the commercial farmers who were in a position to earn large profits simply remitted most of the profit overseas leaving very little for investment locally.⁹ Therefore, the availability of credit has remained as critical as it was when the pioneers moved in. The Federal Government's policy was to entice immigrants. However, most of them lacked the necessary capital and depended heavily on government assistance, the Land Bank and the Commercial Banks for credit facilities. These immigrants intended to make Northern Rhodesia their home, hence during the Federal Government's time, the commercial farmers reinvested some amount of their profits, and placed a lot of confidence in the Government. After independence, however, the confidence evaporated leading to very little capital investment in local agriculture and land development and increased dependence on credit. For example, while in 1954, the Land Bank lent out one million Kwacha in 1966 this figure had jumped to eleven million Kwacha. Of this, working capital consisted of six million Kwacha at the average cost of thirty five Kwacha per acre of maize.¹⁰

Credit facilities are at present more important than ever to the farmer in Zambia. The rate of inflation has meant that the costs of inputs are beyond the means of most farmers particularly the peasants whose surpluses cannot cover the entire costs for the season. Further, there is need for the available credit to be reasonably cheap¹¹ and for it to be available to a lot of farmers. For instance, the main objective under the Second National Development Plan was not only availability of credit, but its extension to cover increasingly large numbers of credit-worthy producers.¹²

In its objectives, the Third National Development Plan noted that available credit should be put to productive use; therefore, it should improve the productive base of the farmer, in particular the small-scale farmer by providing the means to acquire inputs and modern technology.¹³ The plan also took note of the fact that provision of credit to farmers needed to be backed up by other factors in order to be successful, that is, credit is only one of the factors for increased agricultural production.

1.2 The Role of the Peasant Farmer in Promoting Agriculture

A major part of this dissertation covers the position of the peasant farmer as a separate entity from the rest of the agricultural sector. Normally

a paper of this type would have concentrated on the commercial farmer whether large, medium or small scale to the exclusion of the peasant and subsistence farmers, since credit suppliers normally restrict their assistance to the former. In this case, the discussion leans quite heavily on to the peasant and subsistence farmers; not because they should have priority over commercial farmers with regard to credit but because their increased production of food crops in particular is expected to make the country self sufficient in the staple foods. Therefore peasant farmers should be able to grow enough food for their consumption as well as sell their excess crop for purposes of acquiring their other necessities.

In order for the farmers to change from purely subsistence to commercial farming they need to have not only the technology and advice but also the capital to start them off. Once they are able to generate a surplus which can be sold for a reasonable profit, they need to understand the importance of reinvestment as opposed to consumption.

One of the greatest incentives for villagers to go into cash crop farming is good prices for agricultural

produce... This leads to substantial increases in production and in turn the farmers earn the kind of money that enables them to provide a market for manufactured products. This is especially true in view of the fact that the rural population makes up at least half of the Zambian population and their lack of purchasing power means that the potential market for manufactured goods is reduced to half. With effective credit facilities among other requirements, it is assumed that the peasant farmer can lead the drive to self sufficiency in food production, reduced unemployment, increased import substitution and increased exports.

Despite early recognition of the role of the peasant farmer in increasing agricultural production, peasant farmers have had limited access to credit. This is due on the one part to the agricultural system and the other the land tenure policy formulated during the colonial days, under which traditional land was not the subject of registered title. Thus peasant farmers were unable to provide the security required by credit institutions. The financial institutions were reluctant to lend to subsistence farmers because they did not grow enough to sell. These farmers could not expand production

to levels where they could have substantial surpluses because they lacked the necessary capital.

1.3 Legal Problems of Agricultural Credit in Zambia

There is no doubt that agriculture is one of the most important economic activity in Zambia. There is also little doubt that agricultural development and expansion requires the provision of finance. Therefore, credit facilities can greatly enhance agricultural production. In order to provide a legal framework for the provision of agricultural credit, certain laws have been passed over the years regarding agriculture and agricultural credit.

These laws which are discussed in greater detail in chapter three may be divided into:

- (i) Land tenure laws,
- (ii) Laws creating Credit Institutions,
- (iii) Laws governing securities.

Land tenure laws are those laws pertaining to holding title to land usually in the form of a certificate of title or other documentary evidence acceptable to Western expectations of land ownership.

Under colonialism, African farmers lived in reserves and trustlands and as such, were not issued with Certificates of Title to the pieces of land which they owned. Their ownership of land was governed for all practical and legal purposes by customary laws of land tenure. Documentary title for Africans was never considered. In Nineteen forties the Land Tenure Committee recommended the formation of parishes for those Africans and ex-soldiers who were more advanced than the rest of the African population.¹⁵ These settlements which were meant to be located near the Copperbelt, the railway line and in the Eastern Province were to be blocks of farms properly demarcated and under strict agricultural control. The Committee, however, failed to recommend defined title to the farms.

Successive commissions drew attention to the need to provide an alternative system of land tenure to cater for agriculturally progressive Africans but it was not until 1960 that the Rural Development Working Party came in to argue against customary land tenure and emphasised the need for reform on the basis that the rules of inheritance and

and prohibition against sales under these laws rendered transactions in land insecure.¹⁶

Eventually the Native Reserves and Native Trust land (Adjudication and Titles) Ordinance, 1962 was passed. Its application was dependent upon the Native Local Authorities.¹⁷ Approved claims were to be granted Certificates of Title by the Governor which were as good as those issued by the Lands and Deeds Registry and superceded customary land rights. However, the Ordinance was only applied in one area in Eastern Province and was repealed by the Land (Conversion of Titles) Act 1975.¹⁸

For the immigrants the situation was completely different. They were entitled to obtain either freehold or leasehold title to land in the Crown Lands and upon special dispensation even in the Reserves. They could obtain Certificates of Title to their land.

Hence although the importance of increased agricultural production was clearly evident, the majority of the population were not governed by the land tenure laws which provided for documentary title to land acceptable to Western concepts and therefore, to potential agricultural financiers.¹⁹

The laws creating agricultural credit institutions were not blatantly discriminative even under Colonial rule. Thus while the Agriculture and Land Bank Act did not expressly bar Africans on the basis of colour, the rules and requirements for eligibility to loan facilities were too stringent for the African peasant. One of these rules was the need to have a formal Certificate of Title in order to offer land as security for a loan. Special institutions such as the Peasant Farming Scheme and the African Farming Improvement Scheme were set up to cater exclusively for Africans.²⁰ After independence credit institutions were set up under more liberal auspices. Institutions were created more as development organs than as profit making Banks. The institutions were encouraged to monopolise agricultural lending, undercutting the commercial Banks which were unable and unwilling to operate at loss making interest levels.²¹ The institutions also had special clauses enabling them to do away with the need for adequate security altogether.

The actual legal instruments governing securities remained much the same as under colonial days. The Lands and Deeds Registry Ordinance of 1943 and the Agricultural Credit Act of 1961 continued to define a farmer as a person cultivating land for profit and to provide

for the registration of securities as an essential requirement in the business of agricultural financing.

The question which is analysed in the following pages is whether the law, assuming it provides the skeleton framework for agricultural financing, has adequately fulfilled its function. Therefore, can and should the law be developed further to enhance and facilitate agricultural financing for development in Zambia, with regard to land tenure and the institutional framework.

FOOTNOTES

1. N.C.D.P., First National Development Plan for the years 1966 to 1970, Lusaka, 1966, p.21.
2. Sobi Industries Limited, Zambia Agricultural Development Bank Prospectus, Lusaka, 1985.
3. N.C.D.P., First National Development Plan, Op. Cit..
4. Ibid.
5. N.C.D.P., Agricultural Baseline Data for Planning Vol 1, Lusaka, 1983 p.(i).
6. Kaunda, K.D., (Dr) Operation Food Production, State House 23/5/1980.
7. N.C.D.P., Agricultural Baseline Data for Planning op. Cit., p. 320.
8. Elliot, C., Constraints on the Economic Development of Zambia (Oxford University Press, London, 1971) p. 269.
9. Ibid., p. 281.
10. Ibid.
11. Ceres, Food and Agriculture Organisation Review, 1986, 19, 109, 15.
12. N.C.D.P., Third National Development Plan for the year 1979 to 1983, Lusaka, 1979, p.168.

13. Ibid.
14. Documentary title was available only on the Crown Lands which were later known as state lands.
15. Concern for the African agriculture appears to have been limited to the problems of soil erosion.
16. Mulimbwa, A.C., Law and Agricultural Development in Zambia, Ph.D. Thesis, University of London, 1987, (unpublished) p. 58.
17. Ibid, p. 60 .
18. Land (Conversion of Titles) Act, Cap. 289.
19. Reserves and Trustlands were really occupied by Africans who continued to carry out agriculture within the terms of customary law.
20. They provided credit facilities to the better than average African farms.
21. Mulimbwa, A.C., op. Cit., pp 364 - 6.

CHAPTER TWO

THE DEVELOPMENT OF AGRICULTURAL FINANCING IN NORTHERN RHODESIA

Chapter Two covers the historical development of agricultural financing in Zambia or the then Northern Rhodesia. The period covered stretches from the pre-colonial era to the time of independence. During this period agricultural credit policy and agricultural credit law may be said to have been rather haphazard, particularly with regard to the African peasant farmers.

2.1 Pre-colonial Agricultural Financing

Before the arrival of the Europeans in Northern Rhodesia, the system of agriculture was almost entirely subsistence and production was largely dependent on land and labour limitations. Although the actual means of cultivation differed in many ways, among the different tribes of Northern Rhodesia, the main reason for cultivation was simply consumption. Very little produce was grown for commercial purposes, i.e. barter.

The Ngoni system of agriculture was, for instance, a system of shifting cultivation and intercropping.¹ The Ngoni had what were termed main gardens made in the shape of mounds consisting of soil and burnt uprooted vegetation

surrounding the Village. These mounds were reworked and replanted annually until they were exhausted whereupon the villagers moved to a new place leaving the old gardens to lie fallow for several years. Movement was frequent but did not cover a very large area due to the lack of adequate land.

The Ngoni system of land tenure was such that all land belonged to the chief² who retained the powers of allocation to members of his village. Once allocated, land belonged to the allottee provided he proclaimed his ownership through his presence or the presence of his relatives. Thus even when he left the village for a spell in town, only the chief could dispose of it. Land was assumed to have no monetary value and therefore it could not be sold or rented but it could be given away. According to the Land Utilisation Survey this system of land tenure was not a system of communal ownership, since the individual had too many rights despite the common grazing rights. For example, when a village moved, the inhabitants retained their gardens and their rights to fallow.

In Borotseland, the system of agriculture was similar to the Ngoni system in that it was also carried out on fertile mounds. These mounds remained dry when the

annual floods covered the plains. This system which proved unsatisfactory was later abandoned when the Lozis pushed to the edge of the flood plain and begun to cultivate margin gardens in which they grew fruit and vegetables.⁵ This produce was eventually sold to the early European settlers and missionaries in one of the earliest forms of commercial agriculture. However, it did not require capital or credit facilities since it was on a very small scale.

The Tonga living on the plateau of Southern Rhodesia were the earliest to respond to modern methods of farming. Under the stimulus of the missionaries they began to adopt new agricultural methods. By 1916 some of them already reportedly owned ploughs and trained oxen.⁵ However, the majority of the Tonga continued to cultivate with oxen and hoe for their own subsistence and there was only a slow increase in the sale of native grown maize. The family lived and worked as an independent unit and there was a low labour migration rate among the married so that women and children were not left alone to carry on the subsistence agriculture while the men went to work in the mines in Southern Africa. Thus even though there was a large number of Tongas making up the labour force of

of the mines in Southern Africa between 1897 and 1900 most of these were young unmarried men seeking adventure.⁶ Around 1906 local opportunities for work, arising from the railway and the settlement of European farmers alongside it, began to appear drawing the migrant workers back to Northern Rhodesia.

Migration necessitated by the introduction of a tax economy had a much more devastating effect upon the agricultural system of the Bemba in Northern Province.

Their system of agriculture was known as 'Chitemene' and was really a slash and burn type of cultivation.⁷ Burnt vegetation was used to fertilise beds on which to grow millet. The system involved heavy work and women and children left in the villages when the men migrated to the mines, were unable to cope. They were forced to cultivate exhausted soils resulting in ever dwindling yields. Due to the remoteness of their province, the Bemba were not as lucky as the Tonga who had the plough and use of oxen introduced to them by the missionaries.⁸ Furthermore, they used little initiative to improve on existing systems in order to neutralise the effects of migration.

Studies of the agricultural systems practiced in the pre-colonial era indicate that agricultural finance and credit did not exist during the pre-colonial era. Farming was a way of life and cultivation was merely

for subsistence purposes. The inputs for cultivation were produced by the individual farmers i.e. burnt ash to enrich the soils, or else depended upon nature i.e. the rains and the revegetation of fallow land. The limited production could be carried out without the need for credit facilities. Surplus arising from good fortune or extra effort was used for barter.⁹ - since there was no compulsion to reinvest it during the following season. In any case, not only was the surplus normally very little but according to tribal customs an increase in the crop surplus achieved by an enterprising individual increased his obligation to support the less fortunate family members.¹⁰

Land tenure was secure but not evidenced by documents. The Economic Survey Mission stated that "The security of tenure provided under tribal customary law is almost equivalent to the security provided under freehold. Any individual who established his residence in a village can acquire customary rights over land although nobody can lay claim to land over which another individual has established rights. The rights are permanent unless they are extinguished by abandonment or death."¹¹

Generally this high degree of security of tenure should have been conducive to high production and improved land use; however it was not, since the land had no commercial value and there was no formal title for purposes of obtaining credit facilities.

2.2 Colonial Land Policies

The arrival of western culture brought a great many changes to the agriculture of Northern Rhodesia. The Europeans knew the need for commercial agriculture taking precedence over subsistence and their financial policies reflected this attitude. The system of land tenure created and imposed by the European settlers and the Colonial Government was intended to promote commercial agriculture rather than subsistence.

The first settlers in Northern Rhodesia crossed the Zambezi in 1890¹² and they consisted of missionaries and a few traders. They were closely followed by the British South Africa Company trying to secure mineral rights in Northern Rhodesia and Katanga. It was not until 1904

that the BSA Company obtained authority to make grants of land, through a Treaty signed between the Company and Lewanika Chief of the Lozi.¹³ The Treaty granted the Company the right to alienate land outside the then Barotseland, i.e. the area which became known as North-Western Rhodesia.¹⁴

The area later known as North-Eastern Rhodesia was annexed sometime after 1891 when Mpezeni granted land and mineral rights to Carl Wiese, a German trader, who later sold this concession to the North Charterland Exploration Company, large shares of which belonged to the BSA Company. North-Eastern and North-Western Rhodesia were fused together in 1911 to form Northern Rhodesia which was handed over by the BSA Company to the British Government in 1924.¹⁵ Land policy was unclear but most settlers moved into the area along the line of rail. By 1927 approximately twelve million acres comprising about six point five percent of the territory of Northern Rhodesia and covering the area along the line of rail from Livingstone to the Copperbelt, Abercorn (Mbala) and Fort Jameson (Chipata) was technically European land.¹⁶ Of this only seventy thousand acres was actually under cultivation and due to the thinness of population throughout the territory

land did not become a prime issue. The white population also remained small despite efforts to attract as many immigrants as possible.¹⁷

The greatest attraction for farmers coming north of the Zambezi was the cheap land. By 1911, these farmers totalled one hundred and fifty-nine and most of them permitted Africans to remain on the farms since they needed their labour; where they did not, compensation of a pound or two for the huts and ten shillings per acre of cultivated land was enough inducement for the Africans to move to unalienated land.¹⁸ The question of creating reserves arose much later.

The BSA Company did consider the creation of native reserves in 1913 in the areas around Fort Jameson and in particular the area along the line of rail occupied by the Tonga in order to prevent the Tonga from competing with the Europeans for the local market. As one writer put it "The same factors which have made European agriculture a commercial possibility - fertile soil and proximity to the railway with resulting low transport costs - enabled the Tonga to become cash crop farmers".¹⁹ The Tonga did not only discover the advantages of farming with better implements and technology from the missionaries but they discovered

the possibilities of cash cropping and adopted it. The BSA Company's efforts to push the Africans out and make way for incoming Europeans were deterred by the first World War which broke out before the final delimitation which was awaiting a report by the Rhodesian Native Reserves Commission headed by Lord Coryndon.²⁰ After the war, the land was taken over by the Crown leaving only mineral rights in the hands of the BSA Company and the North Charterland Exploration Company.²¹ Hence the issue of reserves was left to the colonial office headed by Sir Herbert Stanley. He set up Reserves Commissions between 1924 and 1927 to increase the provisional reserves established in the three white settlement areas, i.e. along the line of rail, Northern and Eastern Provinces.²² There followed a series of Orders in Council between 1928 and 1963 creating the Native Reserves and Native Trust Lands of Northern Rhodesia.²³ The first Order, i.e. the Northern Rhodesia (Crownlands and Native Reserves) Order in Council of 1928 divided the territory into Native Reserves and Crownlands, Native Reserves were defined as "The lands set apart by this Order for the sole and exclusive use of the natives of Northern Rhodesia and any lands which may hereafter be constituted Native Reserves by any Order in Council amending or adding to

this Order". 'Crown Land' on the other hand was defined as "all lands and rights or interests in any lands in Northern Rhodesia other than (1) the three freehold areas hereinafter referred to vested in the company (2) lands and any rights or interests therein vested in any person deriving title from the company (3) any mineral rights of which the Company has been recognized as the owner by the Crown under the hereinbefore cited Agreement of September 29, 1923, (4) any land or mineral rights to which the Paramount Chief and people of the Barotse are entitled (5) lands granted in perpetuity to any person by the Governor of Northern Rhodesia between April 1, 1924 and the coming into operation of this Order (6) Native Reserves and (7) Native Trust land".²⁴ A schedule attached to the Order listed the reserves which were located in the east Luangwa Reserve (Provisional) as Msondili, Ngoni, Chewa, Zumwanda, Nsenga, Lusandwa, Petauke, Wambo and Chilinga Reserves. The Commission set up in 1924 had advised certain improvements to the nine reserves but these could not be effectively carried out due to objections raised by the North Charterland Exploration Company.²⁵ The objections were later overruled on account of the fact that the Company's rights were subject to the

native rights.²⁶

In 1929, another Order in Council, i.e. The Northern Rhodesia (Native Reserves Supplemental) Order in Council, 1929 was passed creating additional reserves in Northern and Southern provinces.²⁷ The Order was based on the findings and recommendations of two commissions set up in 1926 and 1927 to look into the areas along the line of rail and the area south of Lake Tanganyika in Northern Province.

The Trustlands were created by a later Order - The Northern Rhodesia (Native Trustland) Order in Council 1947 which created thirty trustlands. The same Order defined "Native Trustland" as "all land set apart by this Order for the sole use and benefit direct or indirect of the natives of Northern Rhodesia and any land which may hereafter be constituted native trust land by any Order in Council amending this Order".²⁸ Native Trustland was vested in the Secretary of State but administered and controlled by the Governor for the use or common benefit direct or indirect of the Natives of Northern Rhodesia while the Native Reserves were simply vested in the Secretary of State. All the same, the Governor was still entitled to grant leases of not more than a thousand acres or one two

hundredth part of the total area in the reserves for periods not exceeding 99 years to any persons other than a native.²⁹ The Governor also retained the right to grant land to natives from any part of the country within the reserves although the reserves aimed at following the tribal boundaries as far as possible.³⁰

Crownland also had its problems with regard to tenure. Farmers had a choice of freehold or leasehold and it took a great deal of debate in the legislative Council between 1930 and 1931 to eliminate the former policies of only alienating land in freehold and the charging of quit rent.³¹ Farmers could henceforth acquire land within twenty-five miles of the railway line in "fee simple" after five years of occupation and the fulfillment of certain development conditions. In the rest of North-Western Rhodesia, land was granted on nine hundred and ninety-nine years leasehold and in North-Western Rhodesia which was considered to be native territory leaseholds were limited to one hundred years.

The policy of introducing native reserves was based on the need to keep the Africans off land which would be required by the European settlers to carry out commercial farming. However, the whole policy proved

to be unjustified since there was never any influx of settlers to take up the remaining Crown land. So while the reserves became overcrowded the "silent lands" from which the Africans had been removed became filled with nothing but tsetse flies.³² Furthermore, there were no actual improvements to land in the reserves. Finally, a commission set up in 1944 recommended that land purchased under threat of compulsory acquisition by the government from the North-Charterland Exploration Company which was three point six million acres be set aside as Native Trust Land and the rest one hundred and twenty thousand three hundred and twenty-six acres be retained as Crown land. Although the creation of Native Trustland did much to ease pressure in the reserves, it was clear that the whole idea of demarcation had been unnecessary. In fact, the Pim Commission appointed in 1938 had already concluded that the whole issue of reserves was a documentary mistake. The effect of putting Africans in reserves without titles meant that for Africans it was not possible to acquire agricultural credit to enable them to increase production. The leases which were offered in the reserves were to European settlers just as in the Crownlands. There were no real improvements such as dams and other capital investments.

Under the colonial land policy of trustlands and reserves African owned lands had as little commercial value as it did before colonialism.³³

In their report, the land commission, appointed to look into the reserves in 1946, stated that, "..... it is difficult to appreciate why such movement (moving of the Africans into the reserves at Mkushi) should have been regarded as necessary in a district which contained only three European farmers and in which there was no demand for land on the part of Europeans.... The result is what might have been anticipated. In some of the areas there have been actual famine conditions, and in many others the land has degenerated to such an extent that it will be useless for many years to come".³⁴ Haphazard effort to provide some financial assistance to African farmers was on a very small scale and covered under Section 2.4.

2.3 The Financial Institutional Framework of Commercial Farming Policy

A discussion of commercial farming before independence covers mainly the European settlers. European settlers occupied what is known as Crownland parts of which could be alienated under the Agricultural Lands Ordinance.³⁵

Title was either in fee simple, ninety-nine or nine hundred and ninety-nine year leases. European farmers enjoyed security of tenure since they held title deeds to the land, they occupied. They could sell, mortgage or charge their properties. However, security of tenure did not protect these early commercial farmers from the many problems arising from pioneering agriculture. Firstly there were few sources of credit. The other problems were getting to markets, maintaining high prices, improving the standard of agriculture and obtaining capital to clear virgin land for commercial farming.³⁶ The government did not take the necessary surveys or plan proper settlements and one farmer put the problems most succinctly when he said "...I have sunk all my capital into my farm but now am sunk myself, I cannot get a long..."³⁷

It was well into the thirties before the government took a more active role in commercial agriculture. The haphazard supply and demand for maize as the principal crop meant that in some years there were large shortfalls while in other years huge harvests dropped maize prices drastically. An example may be taken from the years 1930 when there was a short-fall of one hundred and thirty-two thousand bags as compared to 1932 to 1933 when bumper harvests led to a severe drop

in price from the previous years.³⁸ Then in 1934 there was a poor harvest and an increase in demand leading to a sharp rise in the price. In order to bring some uniformity to the situation the Maize Control Ordinance was passed in 1935.³⁹ The Ordinance provided fixed prices for maize which led to increased commercial maize production even by the Africans. European and African maize sales were in the ratio of three to one.

In the meantime, the farmers were still obliged to put a lot of pressure on the government to do more for the country's agriculture industry; of particular importance in our case being the call for the provision of credit facilities. Initially, farmers were expected to generate their own capital. Firstly unimproved land had to be bought at between seven shillings and six pence to ten shillings per acre.⁴⁰ Then they were expected to raise the money for clearing the land. The Land Board offered some basic financial assistance to new farmers but the first real effort was in the form of the Land and Agriculture Bank of Northern Rhodesia,⁴¹ abbreviated to the Land Bank. The Land Bank was a statutory corporation formed under an Ordinance and came into being in 1953 to administer all loans to farmers and farmers' organisations.

Its organisational structure is discussed in Chapter 4 and in order to avoid repetition that aspect of it has been left out here. The bank was authorised to lend out as much as five thousand pounds for any direct farming related purposes: the amount actually lent out had to be not more than sixty percent of Bank's valuation of the property offered as security. Therefore, the Bank required security consisting of a mortgage over land except in the case of Government guaranteed loans. The government normally guaranteed loans to new settlers to enable them to clear their land. These settlers were entitled to a maximum of four thousand five hundred pounds repayable over fifteen years.⁴² Although the bank did not specifically exclude Africans from its benefits, in practice, Africans did not receive any benefits since they were not qualified to do so, i.e. they did not have title deeds to land to offer as security.

Other forms of indirect financial assistance to European farmers by the government included a cattle production bounty; a livestock improvement scheme, subsidising the purchase of approved bulls; and a subsidy on approved works carried out under regional planning schemes e.g. dams.⁴³

2.4 The Problems of the Peasant Farmers

Under the colonial land tenure system, almost ninety-five percent of Northern Rhodesia was either Native Reserve or Native Trust land by 1961. Of the ninety-five percent, thirty-five percent of it was Reserve land while the remaining sixty percent was Native Trustland.⁴⁴ According to Wilson, in 1961, the government recognised the need for Africans to have individual leaseholds or documentary title to land in order to enable them to meet modern farming conditions and enter the cash economy effectively. In the past lack of individual title deeds had prevented the African farmers from seeking substantial credit facilities. The African sources of credit were pretty adhoc in comparison to the Land Bank. Official credit policy with regard to the peasant farmers was fragmentary and decentralised, causing the Rural Economic Development Working Party to state that "Hitherto the approach to provision of credit to the rural African has been adhoc; as a result, there is a multiplicity of government sources of credit which overlap whilst at the same time leaving some requirements unprovided for..... except in the Northern Province... there is no qualified staff dealing with the day to day operation of credit arrangements, and none of

the present schemes is large enough to afford the cost of engaging the necessary staff....."⁴⁵ Credit to peasant farmers was channeled through various schemes of which the most important were The African Farming Improvement Scheme, the Peasant Farming Scheme and the Cooperative Credit Association.

The African Farming Improvement Scheme

This scheme was set up by the government of Northern Rhodesia to encourage the adoption of improved farming systems through the provision of financial assistance and certain incentives. The scheme was to operate in those areas where cash crop production was well established. It was administered by the African Farming Improvement Fund created by the African Farming Improvement Funds Ordinance.⁴⁶ The scheme was available in Eastern, Central and Southern Provinces. The African Farming Improvement Funds were administered by a Chairman who was the Provincial Commissioner, a Provincial Agricultural Officer and an executive officer. The funding for the scheme was generally raised from levies imposed on African produce which was sold to the Grain Marketing Board. The cash balances from the produce levies formed the Native Maize Fund which

was operated by the Maize Control Board. Financial Assistance to the farmers was in the form of subsidies on the purchases of ox carts, machinery agricultural implements, tractors and so on as well as the payment of bonuses to those farmers who maintained approved agricultural methods and standards. An example of the Southern Province African Farming Improvement Fund Scheme illustrates the operations of the scheme.⁴⁷ In the first year a bonus was paid on the bags sold while in subsequent years the bonus was paid on the number of acres farmed under improved methods. By dividing the farmers into improved and unimproved with the improved being further divided into Grades A and B, a sample count taken by the Monze Agricultural Station in 1951 showed that the average Grade A farmers cultivated an area of twenty-two point eight acres and owned capital improvements to the value of over hundred and thirty-six pounds. The unimproved farmer on the other hand farmed only two to three acres and his capital improvements were below fifty pounds.⁴⁸ This picture of prosperity arising from the schemes is neutralised by the total numbers of farmers affected by the scheme. In 1962

fourteen years after the Central Province African Farming Improvement Scheme was introduced, it covered only a total of nine hundred and sixty-six farmers.⁴⁹ The figure dropped in 1963 to eight hundred and thirty-seven out of which three hundred and nine qualified for first class bonus, two hundred and twenty, second class bonus and three hundred and eight were termed failures. The report goes on to say that due to poor loan repayments fewer loans were granted in 1963 as compared to 1962. Thus in 1963, it was decided to terminate the Improvement Fund (even though it was the only source of credit for African farmers in Southern Province) and introduce the Rural Credit Societies.⁵⁰

The Peasant Farming Scheme

In 1948 the Peasant Farming Scheme was set up to assist peasant farmers to become established small scale cultivators. The idea was to assist only those farmers who were willing to do away with subsistence agriculture which made insignificant contributions to the market economy and move into 'semi-commercial' farming.⁵¹ The loans offered were in the form of grants (soft loans) since the loanees were not considered to be credit worthy and unable

to use the money to generate enough to repay the loans and interest.

Thus the scheme sought to attract farmers who were already producing for the market, but whose market contribution was a small amount of the total production. The scheme provided funds for stumping and clearing land, purchase of livestock - oxen for draft purposes, ox-drawn implements and certain services. It was originally funded by a revolving fund of three hundred thousand pounds financed jointly by the United Kingdom through the Colonial Development and Welfare Funds and the Northern Rhodesia government.

The scheme was administered by the Peasant sub-committee of the Board of African Agriculture. It was operational for fourteen years since it was also terminated at the inception of the cooperative credit societies in 1963. An example of the operations of this scheme may be taken from the first one opened at Kawaza in Eastern Province.⁵² Here "... groups of Planned African farms were established on a form of leasehold tenancy from the Native Authority; farmers received help through a newly appointed Commissioner for Native Development, supervision and training being provided by the Agricultural Department a District Officer organised the land clearing; the farms were

contoured and divided into plots for crop rotation; the peasants used cattle for draught purposes and spread the kraal manure out on the fields; the average size of the farms in Eastern Province ranging from eighteen to thirty acres of which about half was kept under the plough at a time".⁵³

Since the loans had a two year grace period and were repayable over a ten year period thereafter, it was thought possible to check the effectiveness of the scheme after twelve years. In 1960-61 a Peasant Farming Survey was conducted to do just this.⁵⁴ The terms of reference of the survey indicated that the scheme had been set up to: (a) improve methods and variety of crops and (b) lead the transition from a subsistence to a money economy through normal extension work and the introduction and fostering of impact schemes where by groups of farmers are lifted to the level of advanced commercial farming.

The survey identified the disadvantages of subsistence agriculture as being (a) failure to generate money incomes and hence purchasing power, (b) requirement of too much land for shifting purposes and (c) soil destruction.

It claimed that the scheme should have brought about advantages of:

- (a) capital and credit facilities necessary to modern agriculture,
- (b) technical assistance and advice on improved farming methods,
- (c) farming on a permanent basis.

After conducting the survey, Hadfield made the following findings: In 1955 there were one hundred and one peasant farms in Luapula and Northern Provinces, none in Southern, four hundred and eighteen in Eastern Province, one hundred and twenty-one in Central and Western Provinces, eleven in North-Western and Barotseland Provinces, making up a total of six hundred and fifty-one. Six years later in 1961 there were two hundred and forty-nine peasant farms in Northern and Luapula Provinces, seventy-eight in Southern, one thousand, nine hundred and thirty-one in Eastern, two hundred and seventy-six in Central and Western Provinces, thirty-one in North-Western and Barotseland Provinces making up a total of two thousand five hundred and sixty-five.⁵⁵ The figures show a substantial increase in the numbers of peasant farmers over the six year period. However, this number, like the total number of improved farmers, is insignificant in view of the fact that there were roughly four hundred thousand farm families in Northern Rhodesia at that time.

It may be assumed then that one of the major failings of the scheme was that it affected only a very small number of the population. Unfortunately, the survey did not compare the incomes of the peasant farmers with that of the non-peasant farmers in order to gauge whether the scheme had brought substantial benefit to the farmers it assisted. However, the table below showing the average income of peasant farmers in various parts of the country and illustrates the point that there was a high percentage of low cash incomes despite the scheme.⁵⁶

TABLE I

Average Net Incomes of Peasant Farmers in Certain Areas

<u>Area</u>	<u>Av. Net Income</u>			<u>No. of Farms</u>
	ƒ	S	d	
Southern	102	15	0	47
Central	54	14	0	102
Serenje District	62	18	0	53
Northern	63	12	0	102
Kawambwa District	54	3	0	41
Chadiza/Lundazi Districts	36	15	0	242
Fort Jameson/Katete				
Petauke Dis.	64	8	0	362
Chapangali	36	6	0	34

Source: Hadfield J. Peasant Farming Survey, 1960-1961, p.9.

Note: The average incomes were highest in Southern Province where the marketing opportunities were good enough to enable the farmers to realise appreciable incomes.

In the final analysis the survey recommended that in order to be more successful the scheme needed to cover a much wider credit area and have a more intensive extension department. The problem of staff to carry out the programmes is highlighted by Mr. Sokota's request, in Parliament in 1954 for a Peasant Farming Scheme in Balovale, which was turned down by the Member for Agriculture and Natural Resources - Mr. Worth on account that there was a shortage of staff.⁵⁷

Thus at the beginning of the sixties there was a total of two thousand five hundred peasant and two thousand seven hundred improved farmers out of a total of four hundred thousand farm families indicating that the impact of the scheme on the African farmers could not be assessed since it barely reached them. As Gann concluded, most of the farmers remained subsistence cultivators, not only because of lack of initiative but also because of lack of material necessities.⁵⁸

He gives an example of the Tonga (the most advanced under the schemes) of whom in the late 1940's, only

fourteen percent were small holders cultivating twice as much land as they would have cultivated under subsistence agriculture. Less than one percent were significant landowners of ninety acres or more. Colson also citing the Tonga showed that in 1951 the number of registered farmers stood at only five hundred and fifty-six out of a population of some eighteen thousand to twenty thousand families.⁵⁹ The great majority of them had neither the capital nor the labour resources to farm on any extensive scale or even to maintain high standards of cultivation. Their incomes varied from year to year, depending on the harvest and from family to family. For instance in 1945 it was estimated that eight-five percent of the Tonga producers were subsistence cultivators selling less than ten bags of maize per year. The fourteen percent small holders sold between eleven and one hundred bags of maize per year and less than one percent sold over one hundred bags.

Thus there was no solid class of landed gentry created to carry out commercial farming and lay a solid foundation for the agricultural industry. There was not even a penny packet production of small scale

farmers in multitudes to form a basis of self sufficiency. And those farmers who were more advanced were unable to secure title deeds to their land to enable them obtain credit facilities and improve their production.

Native Reserves Fund⁶⁰

At the time of the creation of the reserves, a Native Reserve Fund was also formed. Its purposes among others was the improvement and development of agriculture including the experimental introduction of new agricultural products for native cultivation. The Fund was to be administered by the Ministry of Finance in consultation with the Ministry for Native Affairs, subject to the directions of the Governor, for the benefit of natives occupying the reserves in respect of which the money was received.

The source of income for the Fund were: (1) rents, royalties and fees paid to the government in respect of land situate in Native Reserves, (2) grazing fees in respect of Native Reserves, (3) fees and royalties arising from fuel, timber and any forest produce in Native Reserves, (4) any other public moneys which the governor in council directs shall be credited to the Fund.

Unfortunately, the Fund seems to have been forgotten as soon as it was set-up. There is a dearth of information on record as to its operations if any.

2.5 The Situation on the Eve of Independence

A United Nations Economic Survey described the agricultural situation in Northern Rhodesia in 1961 as follows: "Subsistence farming is the mode of life of about four hundred and fifty thousand families who comprise seventy percent of the population and who generate a total annual agricultural output estimated at only twenty-five million pounds of which approximately five million pounds represents cash income. This is supplemented by an estimated three point five million pounds remitted by the absentee male wage earning members of the family. The farms are small, frequently fragmented and often consist of little more than a garden. Shifting agriculture is still the rule in most provinces and the hand hoe is the only cultivation implement used by tens of thousands of farmers. A number have reached the oxen stage of development but less than forty farmers (inclusive of Europeans) own a tractor."⁶¹ This picture which implied poor agricultural development during the colonial era is

substantiated by the preceding discussion.

On the question of credit the Economic Survey Mission was of the opinion that it was unobtainable for African farmers except through the credit cooperatives which were virtually a department of the Ministry of Agriculture and was endeavouring to administer lending operations as if it were a bank.⁶² As a matter of convenience and due to their inception on the eve of independence, these cooperative credit associations are discussed in Chapter 3.

FOOTNOTES

1. Pristley, M.J., Ngoni land utilisation survey for the year 1954 - 1955 (Government Printer, Lusaka, 1956), p.15.
2. Ibid., p. 21.
3. Ibid., p. 22.
4. Gann, L.H., A History of Northern Rhodesia - Early Days to 1953 (Chatto and Windus, London, 1964) p. 296.
5. Colson, E., Marriage and the Family Among the Plateau Tonga of Northern Rhodesia, University Press, Manchester Publishers, (1958) p.70.
6. Ibid., p.66.
7. Gann, L.H., op.cit., p. 108.
8. Casset, A., "The Chikuni Mission", Zambezi Mission Record, 1910, 4, 49 pp. 92-94.
9. Carpenter, F., "Introduction of Commercial Farming into Zambia and its Effects" Occasional Paper No.2 (National Archives) Lusaka, 1973.
10. Report of the United National Economic Survey Mission on the Economic Development of Zambia, UN/ECA/FAO, (Falcon Press Limited) Ndola, 1964, p. 59.
11. Ibid.

12. Shaw, J.R., "The First European Settlement on the Kafue and the First Copper Mine" Northern Rhodesia Journal, 1952, 1, 4, pp 49 - 51.
13. Lewanika was at this time the Lozi Paramount Chief i.e. the Litunga.
14. BSA Company to R. Codrington Paper A3/16 (National Archives of North-Western Rhodesia, 1905).
15. Gann, L.H., op.cit., p.20.
16. Palmer, R., "Land in Zambia" (Occasional Paper No.2, National Archives), 1973 p.56.
17. Hellen, H.A., Rural Economic Development in Zambia from 1890 to 1964, London 1968, p.155.
As much land as possible was kept for the expected influx of white settlers.
18. Palmer, R., op.cit., p.57.
19. Colson, E., op.cit., p.65.
20. Palmer, R., op.cit., p.57.
21. Ibid., p.58.
22. Ibid.
23. Appendix 5, Laws of Northern Rhodesia section 24.

24. Ibid.
25. Gann, L.H., op.cit., p.215.
26. The improvements consisted of demarcating as part of the reserves more arable land formerly under company control to enable the Africans to grow more commercial crops.
27. Appendix 5, op.cit.
28. Northern Rhodesia Order in Council, (1947) section 2(1).
29. Ibid., Section 6A.
30. Report of the Native Reserves Commission, Tanganyika District, 1927, National Archives of Zambia, ZP/1/3/3, p.37.
31. Gann, L.H., op.cit., p.215.
32. Palmer, R., op.cit., p.60.
33. Report of the Commission Appointed to Enquire into the Financial and Economic Position of Northern Rhodesia Colonial No.145 (Her Majesty's Stationery Office, London, 1938), p.65.
34. Northern Rhodesia, Report of the Land Commission, (Government Printer, Lusaka 1946), p.19.
35. Cap. 101, Laws of Northern Rhodesia.
36. Palmer, R., op.cit., p.64.
37. Gann, L.H., op.cit., p.215.
38. Fisher, N.H., Livingstone Mail of the 10th June, 1926.

39. Carpenter, F., op.cit., p.5.
40. Ibid.
41. Wilson, J., A brief Guide to Northern Rhodesia (Government Printer, Lusaka, 1960), p.86.
42. Northern Rhodesia Legislative Council Debates, 1952, No.73, paras 13 - 14.
43. Wilson, J., op.cit., p.95.
44. Ibid.
45. Ibid., p.97.
46. Government Printer, Lusaka, 1961, p.96.
47. Cap. 251, Laws of Northern Rhodesia.
48. Colson, E., op.cit., p.70.
49. Ibid.
50. Ministry of African Agriculture Annual Report for the year 1963, (Government Printer, Lusaka, 1964) p.10.
51. Ibid., para. 301.
52. Ministry of African Agriculture, Annual Report for the year 1963, op.cit.
53. Gann, L.H., op.cit. p.374.
54. Ibid.
55. Hadfield, J., September, 1962, p.9.
56. Ibid. p.26.
57. Northern Rhodesia Legislative Council Debates of 1954, Supplementary Estimate No.5, No. 84, p.242.

58. Gann, L.H., op.cit. p.375.
59. Colson, E., op.cit.
60. Government Notice No.26 of 1930.
61. Report of the United Nations Economic Survey Mission on the Economic Development of Zambia, op.cit., p.53.
62. Ibid., p.61.

CHAPTER THREE

THE LEGAL FRAMEWORK FOR AGRICULTURE CREDIT POLICY IN ZAMBIA

This chapter combines policy and agricultural law in Zambia after independence. The discussion of policy is in rudimentary chronological order from 1964 to date while the law is divided into the land tenure laws which determine land holding and the laws relating to agricultural credit. Thus this chapter sets out the framework within which agricultural credit has been provided to date, by tracing the legal and policy changes which have tried to facilitate its provision over the years.

3.1 The existing Policy and the Law at Independence

At the time of Independence most of the Zambian people lived on the land and as much as three-quarters of the total population was dependent on the land for its livelihood! The Transitional Development Plan therefore emphasised the importance of decreasing the disparity between the rural and urban standards of living and increasing the rate of integration of rural families into the cash economy. Thus the plan recommended the allocation of one million pounds for the improvement of credit facilities for traditional farmers as one of the most important means of improving the lot of the peasants.

Agriculture fell into two distinct types, i.e. subsistence and commercial. Commercial agriculture was mainly carried out by around one thousand expatriate farmers who owned land along the line of rail and around Chipata in the Eastern Province. This was the best farming land in Zambia. Under the existing laws relating to land, the expatriate farmers retained title to land either on freehold or leasehold terms. The farmers could also get loans from the commercial banks particularly seasonal loans which were in high demand. The expatriates maintained a high demand for credit facilities despite the substantial profits which they made in the mid nineteen sixties because unlike in the federal days, the profits were not reinvested in the agricultural industry.²

The reason for the lack of agricultural investment was mainly the lack of confidence that the farmers had in the new government. Therefore, they did not have the assurance that the price policies followed by the government would ensure a reasonable return to the average farmer.³ Further, many farmers left the country to go to Southern Rhodesia, South Africa and Europe so that by 1968, there were only seven hundred registered European farmers.

The subsistence farmers on the other hand made up a total of between four hundred thousand to five hundred thousand farm families, hence forming the bulk of the agricultural population in Zambia.⁴ The majority of the subsistence farmers lived far from the line of rail where they were relocated at the time when the reserves and trustlands were created. They had difficulties with transport and markets and very limited access to agricultural finance. During the independence period, the source of finance for the peasant farmer was mainly the cooperative credit society. Six Cooperative Credit Associations were set up in 1963 and located in Southern (which had two), Northern, Eastern, Central and Western Provinces. The Associations which operated independently from each other were administered by local advisory panels consisting of four or five persons selected by farmers in the area.⁵ Originally the Associations were set up on principles of self-help and the farmers were required to raise twenty to twenty five percent of the total investment funds needed. Eventually the requirement fell away since the government saw no need to insist on the payment of a deposit.

The 1964 Annual Report of the Ministry of Agriculture reporting on the operations of the Associations found that in 1964 the Association in Central Province lent out a total of eighty-three thousand five hundred pounds as compared to the Southern Province which lent out only fifty-seven thousand pounds.⁶ Seventy-five percent of these loans were seasonal with a recovery rate of eighty-four point seven percent. A specific example of an Association's activities is that of the Mazabuka Farmers Credit Association (Cooperative) Limited which was registered on September 23, 1963 and operated through thirteen Advisory Panels, to approve two thousand two hundred and fifty loan applications valued at forty-seven thousand pounds and recovered ninety percent of disbursed funds. In comparison to the large numbers of peasant farm families interest in credit, the Credit Associations reached only a nominal number of them. For instance in 1964 the Association approved a total of less than twenty thousand loan applications out of over four hundred thousand farm families. The distribution of the loans was irregular in that some areas received only hundreds while other areas had several thousand. Therefore, while Eastern Province approved five hundred loans and Western with

North-Western approved two hundred and fifty, the Southern Province approved three thousand seven hundred loan applications separately from the Mazabuka Farmers Credit Association.

Subsistence farmers were not completely bereft of cash. However, they were reluctant to invest the little they had since it was considered a form of contingency insurance, and they were ignorant of the costs and returns associated with the use of improved seed or fertiliser.⁷ Government loan money was considered to be a welcome grant. Loans were misunderstood and their purpose misconcieved, loans were not used for increased production and the value of production did not exceed the value of the loan. This led to high default rates which probably exceeded the ten percent reported experienced by the Cooperative Credit Associations. Perhaps the Associations avoided extremely high default rates because of the small number of farmers that they dealt with, and the fact that most of the approved loans went to farmers who were already producing a small surplus and were emerging into small scale farmers.

At the time of independence, agricultural credit policy was aimed at taking credit facilities to those farmers who could be moved into the cash economy and creating a larger base for the production of staple food crops; maize in particular. There was much emphasis on the need to provide credit facilities to African farmers. The Land Bank Ordinance⁸ was amended to provide for credit to African farmers without documentary title to land and efforts were made to look into the creation of a unified credit organisation. In April, 1964, a Food and Agriculture Organisation Credit expert was brought in to look into the possibilities of one central credit institution.⁹ As a result an Interim Management Committee was set up to run some of the Credit Cooperative Associations and thus pave the way for the phasing out of the Associations after only a few years in operation.

The emergent farmers, peasant farmers who had passed the subsistence level, were constrained by the quality rather than the quantity of credit they had access to. These had easy access to¹⁰ credit facilities, particularly after independence.

The Credit Organisation of Zambia was giving credit facilities on very liberal terms and very often to non-viable projects and without technical assistance. Furthermore, few farmers had adequately assessed production programmes and loan arrangements often proved difficult. Land tenure for the emergent farmers was governed by customary law under which they did not have documentary title. Expansion of farms was hampered by the need to create fields much further from the original fields; under shifting cultivation and scarcity of unoccupied land around the villages. This led to fragmentation and inefficiency.

3.2 The Development of Agricultural Policy

Zambia inherited a dual economy in which there was great emphasis upon the dominant position occupied by the copper mining industry to the detriment of agriculture. An important result of the dominant position of the copper industry was that the level of copper production was sufficient to earn foreign exchange and generate tax revenues on a scale that was in excess of the absorptive capacity of the economy as a whole until 1968-9 while the situation of the agriculture industry, on the other hand, was

summed up by Elliot when he stated that "by far the essential feature of the economy which must be emphasised.....is the fact that Zambia is still a rural society. Over eighty percent of the population live in the rural areas and of these the vast majority earn their living in either cash or subsistence terms, from the land.... by any definition Zambian agriculture is inefficient."¹¹

Elliot criticised agricultural industry in no uncertain terms when he went on to say:

....."the fact that in 1966 over twenty percent of Zambia's food was imported... owes less to the natural environment for agriculture than to ineffective agricultural policies before and after independence. The structural inefficiency of this sector is reflected in its inability to provide a large and rapidly growing market for home produced goods, its over supply of labour to the urban sector, its absorption of private and public capital, often with very little effect on output and consequently its inability to generate either from cash savings or from direct labour input adequate productive assets to ensure a satisfactory rate of growth

and a flexible pattern of agricultural output."¹²

The inherited agricultural system favoured European agriculture as compared to African subsistence farming in terms of government and private financial assistance. The new government sought to make this assistance available to all farmers in an adequate and effective manner. It was assumed that this would develop agriculture and integrate the rural masses into the modern economy.

Thus the Transitional Development Plan¹³ stated that it was important to decrease the disparity between rural and urban standards of living and increase the rate of integration of rural families into the cash economy. The long term policy objective being self-sufficiency in food production and the eventual export of agricultural produce. The plan, further, allocated a million pounds for the improvement of credit facilities for peasant farmers but contained no firm recommendations on how it would be used; but plans to use some of this money to increase African production by mounting a large scale rural credit exercise were only conditionally approved due to the enormity of the

exercise.

Another document, the Report of the Economic Survey Mission on the Economic Development of Zambia¹⁴ proposed the diversification of the Zambian economy through (among other means) the transformation of African agriculture by the application of modern techniques and the infusion of substantial investments in the rural economy to make credit more readily available, accelerate mechanisation and improve marketing and extension services.

The idea of diversifying the economy was perpetuated in the First National Development Plan in 1966. In the following table, it is indicated that there was a larger increase in the percentage of expenditure on agriculture as compared to mining; although agriculture fares badly in comparison to other industries such as manufacturing, construction and commerce which had over a hundred percent increase:¹⁵

Projected Expenditure From FNDP (Kwacha Million - 1964 prices)

INDUSTRY	1964 Km	1970 Km	% INCREASE
Agriculture	18.2	31.2	+ 71
Mining	237.6	386.2	+ 63
Manufacturing	26.2	64.4	+146
Construction	20.4	60.6	+198
Commerce	45.0	97.6	+117
Transport	20.6	39.2	+ 90
Services	69.0	170.2	+147

Source: First National Development Plan, Lusaka, 1966

⑩ In real terms, the FNDP indicates that agriculture continued to receive the smallest investment as compared to other industries. Therefore, the total investment over the four year period was only forty-three million pounds including investments amounting to over six million pounds in processing and distribution of agricultural products. With regard to financial assistance, the plan makes a clear distinction between grants and the subsidies on the one hand and credit on the other. Subsidies and grants are limited to those farmers who cannot finance their operations from normal credit and cover such items as fertiliser and seed in the less developed farming areas. With regard to credit, the

plan considered that there ought to be a single organisation administering all credit, and drawing its loan (equity) capital from several sources i.e. government, private investors, international agencies and small savers.

(17) The plan, further, provided for the creation of a revolving fund to administer long term credit which was to be fully recoverable despite the acknowledgement of widespread defaulting revealed by the provisions for writing off bad debts. This fund was expected to include about two million pounds of private loan capital. Under the plan, short term credit was to be provided from short term borrowing on the money market. Under direct government investment in agriculture, there were state supported enterprises commercial crops and a tractor mechanisation scheme which covered the purchase of tractors for cooperatives.

(18) Unfortunately, the plan proved to be unviable - under the effects of U.D.I. it was not possible to meet the targets of the plan either in real or financial terms since considerable resources had to be diverted from the objectives of the plan to surviving as a nation.¹⁶ In a state of panic,

the government paid very little attention to agriculture (apart from recognition of the non-viability of mechanisation) in the Mulungushi Reforms announced in 1968 to bail the country out of its economic difficulties, and during the nationalisation of the mines in 1969.¹⁷

The Second National Development Plan effective from 1972 to 1976, stated that the production targets for the rural sector under the FNDP were not only unduly ambitious but the Plan failed to forecast accurately the conditions necessary for their achievement.¹⁸ The SNDP further illustrated through the table on Marketed Production of Main Agricultural Commodities 1964 - 71 that despite a projected target of three hundred and sixty one thousand one hundred metric tons of maize by 1970 (from one hundred and ninety-four thousand and ten in 1964), production came to only one hundred and twenty-four thousand three hundred and seventy metric tonnes in that year. A similar picture is painted by the figures on # the other crops. The SNDP points out that the FNDP did not take into account the extent of the exodus of expatriate commercial farmers; furthermore,

both peasant and commercial farmers did not respond to the calls for increased production as the returns were relatively unattractive with prices received for produce comparing poorly with the rising costs of inputs and consumer goods; and finally credit under the Credit Organisation of Zambia was readily available only for a brief period.¹⁹

#7 Under the SNDP the principal objectives of the rural sector were:

- (a) to improve rural standards of living and create self-reliance.
- (b) create employment and income opportunities in the rural areas and discourage rural-urban migration.
- (c) promote diversification and increase agriculture's contribution to the gross domestic product.
- (d) develop self-sufficiency in staple foodstuffs.
- (e) improve nutritional standards.

One of the means of achieving these was listed as the development of family farms as the basis of production supported by viable marketing and supply cooperatives. Therefore, under the SNDP the policy

was to establish schemes to encourage people from the subsistence sector to settle in more productive areas. It was also intended to draw peri-urban squatters living in the so called shanties into agricultural production. With regard to the provision of credit facilities, the government no longer felt compelled to give out money regardless of credit-worthiness and sought to supply credit on a much more business-like footing through the Agricultural Finance Company.²⁰ This policy presented certain contradictions. As Ollawa points out, the "paradoxical aspect of this agricultural development strategy (is) that it combined capital intensive approaches with an ideological orientation that emphasises the promotion of peasant or small scale farming....."²¹ Both the FNDP and SNDP which besides envisioning the stimulation of large scale indigenous and expatriate commercial farmers stated that governmental inputs in such items as credit, fertiliser, and extension services were to be considerably expanded to cover neglected rural provincial capitals and districts. However, implementation of envisaged programmes has been very difficult and results have not been encouraging.

For instance, ten years after independence statistical data presents the following:

- (a) Estimated marketed production (when compared to actual production) fell by thirteen percent in 1973,
- (b) Agriculture contribution merely seven point six percent to the G.D.P.,
- (c) The Agricultural sector accounted for as much as thirteen to fourteen percent of total imports while contributing only one percent to exports.²²

Far from reaching the desired goals of self sufficiency, Zambia became increasingly dependent upon food imports. In 1964 she imported fourteen point three million Kwacha worth of food. By 1974 the figure had more than trebled to forty-three point eight million Kwacha. Further, in its review of the Second National Development Plan, the Third National Development Plan (TNDP) indicated that GDP from the agricultural sector which was targeted at five to six percent by 1976 increased at a rate of only three point six percent between 1971 and 1976.

Under the objectives of the TNDP, it was clearly stated that the plan intended to give the highest priority to rural development in order to create a strong economy with major emphasis on: (a) the adoption of investment and production programmes, (b) creation of credit, marketing and extension facilities which would benefit directly subsistence producers and small scale farmers, (c) expansion of the base in the agricultural sector in order to achieve self sufficiency and promote exports.²³

Total investment under the TNDP on agriculture was five hundred and five million Kwacha, a figure exceeded only by the mining, and the transport and communications, sectors which had well over six hundred million Kwacha each. These figures indicate that the agriculture industry was by 1976 a very important section of Zambia's economy. Low copper prices meant that Zambia's foreign exchange earnings in this sector had been drastically reduced over the years and it was then vital to look to other sectors of the economy. With regard to agricultural credit the TNDP noted that the extension of credit facilities under the

SNDP to cover as wide an area as possible had resulted in the creation of a large number of AFC offices, ninety percent of which were non-viable. The plan further noted that implementation of agricultural credit programmes had suffered because of lack of training facilities in agricultural credit, lack of coordination between lending and marketing institutions and among lending institutions themselves and lack of problem oriented research in agricultural financing as well as inadequate supervision of loans. The TNDP then proposed to:

- (a) improve the productive base of farmers assisting them in acquiring inputs and modern technology;
- (b) improve loan repayment through the use of existing local administration;
- (c) increase production through increased lending;
- (d) concentrate credit facilities in accordance with crop and livestock priorities.

The means for achieving the proposals were short-listed as extension and marketing services, and the formation of an agricultural development bank to

take over the function of the AFC and the Cattle Finance Company. The following indicates the expected changes in harvest area over the period covered by the plan.²⁴

CATEGORY	1974 ESTIMATED AREA (1000)HA.		1983 ESTIMATED AREA (1000)HA.		CHANGED AREA (1000)HA.	197 198 %
		%		%		
1. Traditional farmers	1578	78	1136	51	442	-2
2. Emergent farmers	356	18	944	43	+588	+16
a. Improved village farmers	215	11	637	29	+422	+19
b. Organised small-holder schemes	68	3.4	130	6	+ 62	+ 9
c. Emergent middle farmers	73	3.6	177	8	+104	+14
3. Large scale commercial farmers (including parastatals)	81	4	135	6	+ 54	+ 6
TOTAL	2015	100	2215	100	+200	+9.9

Source: Third National Development Plan 1979 - 1983, N.C.D.P. Lusaka, 1979.

It was hoped that a substantially increased harvest area would shift the trend from traditional farming to small scale levels.

By the early eighties, agriculture was considered to be the foundation of a strong and self sustaining economy.^{25 #7} Government policy was to make the agriculture industry into a foreign exchange earner. Thus while in 1981 the actual government investment in agriculture came to twenty-nine point two million Kwacha in addition to five point six million Kwacha for lands, a figure which was only exceeded by the investment into public roads, in 1982, the government planned to invest sixty-seven point two million Kwacha into agriculture and and five point seven million Kwacha into lands. An amount only exceeded by that awarded to road construction. Measures taken to streamline the provision of credit facilities included the establishment of the Zambia Agricultural Development Bank and the encouragement of commercial banks to continue to increase their share of credit to farming operations such as the Barclay's Lima Credit Programme. Other efforts at practical assistance, took the form of the Integrated Rural Development Scheme which was instituted in the North-Western Province to ensure that farmers were paid on delivery of produce, and able to obtain inputs in time.

However, it has been difficult to reach projected targets of production and shortfalls in production have meant continued imports of food crops to the present day. In conclusion it is generally agreed that the government has failed to break the economic dependence and the domination of the mining industry by replacing it with a vigorous and thriving agricultural industry.²⁵ The government's efforts shortly after independence to expand the agricultural base which centred on a few expatriate commercial farmers, and even fewer Africans, through the creation of producer cooperatives did not bring about increased production levels. Inadequate price incentives, uncertain supplies of agricultural requisites, poorly conceived and executed government production schemes, poor management skills and inappropriate technology transfer resulted in the failure of large numbers of the cooperatives.²⁷ Government efforts were then projected in a different direction. The government reviewed its policy towards small scale farmers in order to base it on individual households; through the provision of services rather than the sophisticated mechanisation programmes under the Producer Cooperatives.

In many instances these services were biased towards the emergent commercial farmers who were emerging from traditional farming into large scale farming for a profit. As a whole there has been no widespread agricultural development and agriculture has remained highly dependent on the few European and African emergent farmers for the production of most of the agricultural produce including food.²⁸

3.3 The Land Tenure Laws

Upon the attainment of independence, one of the first tasks was the handover of the Zambian land into the hands of the new government. This was done through a series of Orders contained in Statutory Instruments passed between 1964 and 1965.²⁹ The first of these - the Zambia (State Lands and Reserves) Order 1964, relating to the Orders passed from 1928 to 1964, and contained in Statutory Instrument No. 4 of 1964, meant that with effect from October 24, 1964, Crown Land, immovable property and native reserves in the territory would be vested in the President of Zambia. The Order further made provision for other necessary amendments to the Northern

Rhodesia (Crown Land and Native Reserves) Orders in Council, 1928 to 1963, and the continuation of existing estates, rights or interests derived from those Orders in Council. The effect of the Order was to change the name 'Crown Land' to 'State Land' and 'Native Reserve Land' to Reserve Land'. Legally the terms of tenure remained the same in the different areas other than that Africans were now practically able to own land in the new state land. Under Statutory Instrument No.5 of 1964, another Order was passed making provision for the vesting of Native Trustland in the territory in the President of Zambia with effect from 24th October 1964. As under Statutory Instrument No.4, there was provision for other necessary amendments, to the Northern Rhodesia (Native Trust Land) Orders in Council 1947 to 1963 and the continuation of existing estates rights or interests derived from those Orders in Council. In order to ~~re~~tain the confidence of the commercial farmers, it was important to maintain existing land rights.

This importance was reflected in section 5 of the Order which reads: "Nothing in this Order or in

the Zambia Independence Order 1964 (c) shall affect any estate, right or interest in or over any land or other immovable property which:-

- (a) "the Governor or any other officer or authority of the government of Northern Rhodesia acting in exercise of any power in that behalf conferred by or under the Northern Rhodesia (Crown Lands and Native Reserves) Order in Council, 1928 or any Order Amending that Order has at anytime before the commencement of this Order created, granted recognised or otherwise acknowledged or
- (b) is recognised or otherwise acknowledged by any provision of the Northern Rhodesia (Crown Lands and Native Reserves) Order in Council, 1928, or any Order amending that Order as an estate, right or interest of any person other than Her Majesty or the Secretary of State and accordingly those estates rights and interests shall continue to have the same validity as they have before the commencement of this Order and the Zambia Independence Order 1964."

The powers to make grants and dispositions of State Land, Reserves and Trustland which were vested in the President were delegated under Statutory Instrument No.7 of 1964, to the Commissioner of Lands. The authority being given on October 30, 1964 under K.D. Kaunda's name and seal.

It stated that:

"In exercise of the powers, conferred upon the President by Article 10A of the Zambia (State land and Reserves) Orders in Council 1928 to 1963 as amended by the Zambia (State lands and Reserves) Order 1964 and Section 10A of the Zambia (Trust land) Orders in Council 1947 to 1963 as amended by the Zambia (Trustland) Orders 1964, I hereby authorise the public officer for the time being holding the office or executing the duties of Commissioner of Lands the power subject to the special or general directions of the Minister charged with the responsibility for land matters, to make and execute on my behalf such grants and dispositions or state land, reserves, trust land, or any other immovable property vested in the President as I am empowered to make by virtue of Article 5 and 6A of the Zambia (Statelands and

Reserves) Orders in Council 1928 to 1963 as amended by the Zambia (State lands and Reserves) Order 1964, Section 5 of the Zambia (Trust land) Orders in Council, 1947 to 1963 as amended by the Zambia (Gwembe District) Order 1964".

The effect of the provisions was to put all land in the hands of the State to deal with as deemed fit. Although all existing land rights were retained i.e. the leases on Crown land, this land was no longer exclusively for European farmers in practical terms, and Africans could move into unoccupied areas more easily and acquire documentary title to their farms. However, few Africans were sufficiently interested in, or capable of farming the huge farms offered and the majority of them continued to grow very little for sale. They still did not hold documentary title to land and were unable to obtain sufficient credit to expand their operations. The colonial legacy prevailed much to the dismay of the legislators; there were many calls in Parliament for the government to purchase excess land which belonged to expatriate farmers but was not being used and redistribute it to those people who were still crowded into the reserves.³⁰

As a result the government eventually decided to attain much more control over agricultural land or what was formerly Crown land but left customary systems of land holding intact. Despite the great need to control agricultural land after independence, existing levels of control were not attained instantly. With regards to State land, there was already some control over leaseholds, according to the terms of the leases. Freehold land on the other hand was entirely free from any interference except, under the Public Lands Acquisition Ordinance.³¹ Under this Ordinance, the government had the powers to acquire land under freehold tenure for public purposes. In 1969 a referendum was held to allow for the amendment of the entrenched provisions in the Constitution among which was section 18 which protected property rights subject to the interest of state defence and community development. This facilitated the passing of the Lands Acquisition Act. These powers were later widened under the Lands Acquisition Act in 1970.³² which provided for compulsory acquisition of land which was unutilised and undeveloped. In passing this Act, the government hoped to motivate landowners to develop their land by threatening them with deprivation.

Leasehold land was divided into scheduled and non-scheduled. Scheduled leaseholds were controlled not only by the terms of their leases but also through the Agricultural Lands Ordinance.³³ In terms of the total agricultural land in Zambia, the Act covered a very small area and as a result its impact was very slight. Under the Act, control of land use was achieved through controlled allocation of land on the basis of criteria such as capital. In 1965 the Act was amended to provide for the Minister to declare any land State Land, and with the consent of the registered owner, any freehold land as agricultural land.³⁴ The declared land could then be alienated by the President by means of a state grant, or lease.³⁵ Allotment of the alienated land into holdings was executed by a Board created under the Act. Under the Act, leasehold terms were granted for a period of thirty years with an option to purchase upon fulfillment of the conditions of the lease. Having acquired an option to purchase the land comprised in his lease, the lessee was then entitled to obtain a state grant to his holding.

To retain the state grant, the farmer was obliged to maintain occupation of the land and attain a reasonable standard of agricultural production. Apparently security of tenure was dependent, to a great extent, on developing the land. Despite the freedom for indigenous Zambians to now acquire land anywhere within the Republic either by settlement on traditional land or on State land, huge tracts of land remained unutilised because they had been alienated to white farmers who were unable to farm the whole of the huge estates under the Colonial regime. The government found it necessary to acquire these areas and avail them to Zambian farmers, hence the passing of the Land Acquisition Act to provide for the compulsory acquisition of land and other property.³⁶ This Act gave the President the power to compulsorily acquire any property of any description whenever he is of the opinion that it is desirable or expedient in the interests of the Republic to do so. Most of the land in question was owned by the so called 'absentee landlords'³⁷ and if undeveloped or unutilised, could be acquired without any compensation being payable. Land was

defined under the Act as undeveloped if it was inadequately developed bearing in mind the national need in spite of it being fenced or hedged; cleared, levelled or ploughed; or partially cleared; or being used as deposit for waste or a parking lot. Agricultural land in particular was deemed to be undeveloped unless it had been used for cultivation, pasturage or mixed cultivation and pasturage during the two years immediately preceding the publication of notice to yield up possession. The agricultural land is then deemed to be unutilised if having regard to the character and situation of the land, the exploitation of the land is not in accordance with good estate management. Hence, in the case of an absentee owner, after October 22, 1969, any dispositions of or other dealing with undeveloped or unutilised land was deemed void unless undertaken by the President. In 1975 the Government went even further in tightening control on land holding and dealings in land by passing the Land (Conversion of Titles) Act.³⁹ The preamble stated that it was an Act to provide for the vesting of all land in Zambia in the

President, for the conversion of titles to land, for the imposition of restrictions on the extent of agricultural holdings, for the abolition of sale, transfer and other alienation of land for value. Thus the effect of the Act was to vest all land in Zambia in the President to be held by him in perpetuity for and on behalf of the people of Zambia. All land held absolutely, as a freehold in fee simple or in any other manner implying absolute rights in perpetuity or any leaseholds granted by or held of the President exceeding one hundred years, were from the date of the Act, converted to statutory leaseholds. These statutory leaseholds are renewable after one hundred years for a further term of one hundred years.

The effect of the Act was to render virgin land valueless and mortgages and other securities could no longer apply directly against it. Such securities could only apply against the unexhausted improvements upon the land.⁴⁰ Furthermore, there can be no dealings in land without the prior consent in writing of the President who is empowered to impose such terms and conditions as

he deem fit. One of these conditions is the payment of rent to the government. With regard to agricultural land, i.e. used exclusively or mainly for the purpose of agriculture, the Minister of lands and agriculture is entitled to prescribe the maximum area which may be held by any person at any one time for any specified purpose. A small section of the Act¹¹ provides that no person shall without authority occupy or continue to occupy any vacant land to which section 5 applies (the section converting all freeholds into statutory leaseholds) and if they do so, they are liable to eviction without notice and if necessary by the use of reasonable force. This clause clearly applied to squatters. Although the Act was apparently intended to apply to all land in Zambia it is uncertain how it can control land under customary law since most of the provisions within the Act cannot apply to unregistered title.⁴² The exclusion of land under customary tenure from the provisions of the Act causes problems such as absence of security, restricted alienation of land and the absence of control over landholding and usage, and it

may become necessary in future to provide for such land under statutory law. An important amendment to the Land (Conversion of Titles) Act was passed in 1985 in order to restrict the granting, alienating, transferring or leasing of land to non-Zambians. Thus the only non-Zambians who are exempted are those approved as investors under the Industrial Development Act.⁴⁴ The amendment indicates the growing concern by the government for a firm hold on the land and a strong agricultural base.⁴⁵

3.4 Legal Efforts to Facilitate Agricultural Credit ⁴⁷

Agricultural credit is an important pre-requisite to a successful agricultural sector and this point was recognised long before independence. Hence the Agricultural Credit Act⁴⁶ was passed in 1961 to facilitate the borrowing of money by farmers on the security of charges created upon farming stock and other agricultural assets. Under the Act, a farmer is defined as any person who, as the tenant or owner of agricultural land cultivates such land for profit. The act provides that a fixed or floating charge may be created in

favour of any person on all or any of the farming stock and other agricultural assets belonging to the farmer as security for sums advanced to him. The general effect of the charge is that upon the happening of a specified event; such as the failure of the farmer to repay the money owing, the holder of the charge can take possession of the subject property, dispose of it by sale and apply the proceeds to the discharge of the said loan. Under the Act, the farmer in turn is obliged to pay over to the holder the amount received by him by way of proceeds of sale in respect of the subject property, other agricultural assets under policies of insurance or by way of compensation. Frauds by farmers are criminal offences; conviction may result in a prison sentence.

Since any farmer, being a tenant on agricultural land has the right to create an agricultural charge notwithstanding any provision in his lease or contract of tenancy to the contrary, he has, therefore, an alternative means of obtaining credit. This has often proved to be the means of securing loans to peasant farmers who lack

title deeds; i.e. a charge is registered on the farmers' crops or farming implements and machinery, where available. Where a farmer has absolutely nothing to charge then the only security available is often a stop order on the proceeds of the sale of the crop. Mortgages, the most reliable security are often available from commercial farmers who have documentary title to well developed properties. Mortgages are recognised as securities under the Lands and Deeds Registry Act Cap. 287 of the Laws of Zambia which states that:

"A mortgage of any estate or interest in land shall have effect as security and shall not operate as a transfer or lease of the estate or interest thereby mortgaged but the mortgagee shall have and shall be deemed always to have had the same protection powers and remedies (including a power of sale, the right to take proceedings to obtain possession from the occupiers and the persons in receipt of rents and profits or any of them, and in the case of land held in leasehold, the right to receive any notice relating to the land the subject of the mortgage which under any law or instrument the mortgagor is entitled to

receive) as if the mortgage had so operated as a transfer or lease of the estate or interest mortgaged."⁴⁷ The Act goes on to provide that: "A power of sale of the whole or any part or parts of any property subject to a mortgage shall become exercisable by a mortgagee if the mortgage is made by deed and the mortgage money payable thereafter has become due and the mortgage is not redeemed before sale."⁴⁸

Over the years, the different institutions set up to extend credit facilities to farmers have made various efforts to ease the burden of security. After independence "Ordinance No.53 of 1964 was passed to amend the Land and Agricultural Bank Act enabling the Bank to lend to a larger clientele) by extending the definition of the word 'farmer' to include....." a person who normally produces crops in quantities sufficient only for the subsistence level use of himself and his family or from time to time produces a surplus of such crops in quantities sufficient to enable him to sell such surplus for his own profit.⁴⁹ Provision was further made to the effect that the Bank may make loans without security to such farmers

or classes or groups or types of farmers as may be specified by the Minister.⁵⁰ As a result successive institutions created by Parliament i.e. Credit Organisation of Zambia, and Zambia Agricultural Development Bank gave loans to farmers who lacked the necessary security or whose security was nominal in order to comply with government directives to afford access to peasant farmers.

FOOTNOTES

1. Transitional Development Plan 1965 - 1966.
2. Elliot, C., Constraints on the Economic Development of Zambia, (Oxford University Press, London, 1971) p.281.
3. Ibid., p.276.
4. It was believed that this sector, if improved, could bring about a great increase in the total production and make Zambia self-sufficient in staple food crops.
5. Ministry of Agriculture and Water Development Annual report for the year 1964, (Government Printer, Lusaka, 1965) p.24.
6. Ibid., p.25.
7. Elliot, C., op.cit., p.293.
8. The amendment is contained in the Chapter on Legal Efforts to Facilitate Agricultural Credit.
9. N.C.D.P., First National Development Plan 1966 to 1970, Lusaka, 1966, p.2.
10. Ibid., p.286.
11. Elliot, C., op.cit., p.3.
12. Ibid., p.9.
13. 1965, Lusaka.

14. Report of the United Nations Economic Survey Mission on the Economic Development of Zambia, op.cit.
15. N.C.D.P., First National Development Plan, op.cit.
16. Elliot, C., op.cit., p. 14.
17. Fortman B., After Mulungushi, The Economics of Zambia Humanism, East Africa Publishing House, Nairobi, 1969.
18. N.C.D.P. Second National Development Plan 1972 - 1976, Lusaka 1971, p.14.
19. The Credit Organisation of Zambia was set up in 1966 and dissolved in 1969.
20. This was a Limited Company set up under the Company's Act Cap. 686 as a subsidiary of the Rural Development Corporation
21. Ollawa P.E., Policies, Institutions and Participatory Development in Rural Zambia, University of Zambia, 1976, p.5.
22. Ibid., p.11.
23. N.C.D.P., Third National Development Plan 1979 - 1983, Lusaka, 1979, p.22.
24. Ibid., Table VIII (iv), p.151.
25. NCDP, Annual Plan for the year 1982 Lusaka, 1982, p.28.

26. Klepper, R., "Zambia Agricultural Structure and Performance, ." in Turok, B., (ed.) Development in Zambia, (Zed Press, London, 1979), p.137.
27. Quick, S.A., "Bureacracy and Rural Socialism, the Zambian Experience", in Turok, B., (ed.) Development in Zambia (Zed Press, London, 1979).
28. Klepper, R., op.cit., p. 143.
29. Crown Land, Native Reserves and Native Trustlands were to be known as state land, Reserves and Trustland, respectively.
30. Parliamentary Debates for the year 1965, Volume 2, pages 67 - 78.
31. Cap. 87, Laws of Northern Rhodesia.
32. Cap. 296, Laws of Zambia.
33. This was later changed to the Agricultural Lands Act, Cap. 292, Laws of Zambia.
34. Statutory Instrument No. 65 of 1965, section 10.
35. Cap. 292, section 11. The tenancy fell within the terms of the Tenancy Schemes.
36. Cap. 296., op.cit.
37. An 'absentee owner' as applied to the owner of any estate or interest in or right over

land or other property meant:

- (a) in the case of an individual, a person who is not ordinarily resident in Zambia;
- (b) in the case of a partnership, a co-ownership, or a body corporate, one in which the effective control lies directly or indirectly, in the hands of individuals who are not ordinarily resident in Zambia.

- 38. After the 1969 referendum, the provisions could be amended in the same way as the rest of the constitutional provisions.
- 39. Cap. 289, Laws of Zambia.
- 40. Ibid., section 10(1).
- 41. Ibid., section 20(1) and (2).
- 42. Mulimbwa, A.C., op.cit., p.206.
- 43. Land (Conversion of Titles) (Amendment) (No.2) Act No. 15 of 1985.
- 44. Cap. 674, Laws of Zambia. This was repealed by Act No.5 of 1986.
- 45. Mulimbwa, A.C., op.cit., p.231.
- 46. Act No. 28 of 1961, Laws of Northern Rhodesia.
- 47. Cap. 287, Laws of Zambia.

48. Ibid., section 66(1).
49. Northern Rhodesia Government Gazette Ordinances, Government Printer, Lusaka, section 2.
50. Ibid., section 33a.

CHAPTER FOUR

THE INSTITUTIONAL FRAMEWORK OF AGRICULTURAL FINANCING IN ZAMBIA

4.1 Introduction

The financing of agriculture is generally accomplished by setting up some financial institution to channel funds to the industry. Over the years, the size and policies of the different institutions set up have varied a great deal.¹ Some of the institutions were created in the form of limited companies while others were statutory corporations. Providing credit facilities alongside these development organs are the commercial banks which have played a supplementary role. Agricultural development banks may be defined as finance companies providing agricultural credit to individuals and companies. Their major sources of funds include bank loans, commercial paper, long term debt (bonds) and equity capital (internal and external).² These funds are then lent to farmers. Therefore agricultural development banks perform both banking and development functions by providing short, medium and long term capital to projects related to the development of agriculture.³ Due to the shortage of private capital equity capital for the agricultural development

bank's is normally provided by the Central Bank and the government as shareholders or subscribers to bonds and through refinancing of the banks loans from commercial banks or even simply guaranteeing their obligations.⁴ Basu sums it up when he says: "The *raison d'être* for the establishment of development finance institutions in the under-developed countries lies principally in their (developing countries) capital shortage..... Development Banks have been sponsored by the State and the Central Bank in these countries to provide this scarce capital along with technical advice and enterprise".⁵ On ~~o~~ states that it is only in recent years that African governments have concentrated on agricultural production. In the early years of independence the quest for rapid industrialisation led to the neglect of agriculture in many African countries. It took time and experience to teach African governments that agriculture constitutes the base upon which any meaningful industrialisation squarely rests. Furthermore agricultural development of any significance, requires the mobilisation and channeling of funds into the sector.⁶ The experience of past institutions will in this chapter illustrate that in the early stages

of their operations, the objectives and scope of the agricultural financing institutions are unknown to their potential customers and this often limits the extent of loan issue and inhibits the institutions' effectiveness.⁷ The existence of viable projects requiring financial assistance is also not encouraging since difficulties of assessment are not eased by the numerous small units and many small loans to administer. Again it is well illustrated in the following discussion that farmers in developing countries have difficulty offering tangible security movable or immovable and where such security is offered, its appraised value is insufficient for the required statutory margin - leading to many rejections on grounds of security.

4.2 The Historical Development of Agricultural Financial Institutions in Zambia

In Zambia, agricultural financing institutions were first introduced before independence, beginning with the Land and Agricultural Bank of Northern Rhodesia established in 1953. Over the last thirty-five years there have been several different institutions but the general aim has always been the same, i.e. the

provision of working and investment capital for agricultural development. In order to get a clear understanding of the operations of these institutions, they are set out in chronological order. Issues touched on include the provision for agricultural credit under the national development plans in terms of amount of capital to be allocated, terms and conditions under which it is made available and the way in which it is used for balanced production and economic efficiency, otherwise known as the aspect of macrofinance. The main discussion however, relates to the issue of microfinance which is the actual acquisition from the institution of finance, the sources of the finance, (institutions) the terms and conditions under which finance is obtained and its allocation to the project in terms of consumption and investment for greater returns.⁸ It is well worth keeping in mind the fact that the credit provided by the institutions is for investment and business purposes rather than consumption. The difficulty of drawing the line between the two in every individual case has meant that the advantages of convenient purchasing power for development arising from credit is often

neutralised by the over extension of promises to pay caused by extravagance and inefficiency.⁹ Hence the necessity for finance being provided with the aim of raising more money, so that what is consumed is profit and the farmer is, at the end of the day in a position to repay his loan.

4.2.1 The Land and Agricultural Bank of Northern Rhodesia (Land Bank)

Although it is generally accepted that the Land and Agricultural Bank of Northern Rhodesia was the first Land Bank to operate in Northern Rhodesia, this is technically untrue. Between 1912 and 1923, loans were granted to farmers in the territory by the Rhodesia Land Bank Limited, the share capital of which was wholly owned by the B.S.A. Company Limited. However, little business appears to have been done, and the Bank was liquidated and removed from the Register of Companies on January 7, 1948.¹⁰

The Land and Agricultural Bank referred to in this paper as the Land Bank was created by an Act of Parliament in 1953.¹¹ The said Land and Agricultural Bank Ordinance provided for the creation and powers of the Bank. The Bank took over the functions of the

Land Board, a section of the Department of Lands.

The Bank itself was set up as a body corporate with perpetual succession and a common seal, capable of suing and being sued, and of purchasing or otherwise acquiring, holding and alienating real or personal property subject to the provisions of the enabling statute.¹² This meant that although the Bank was set up to promote government policies, it was not a branch of government despite the fact that most of its funding came from the government. The Ordinance specifically provided that the funds of the Bank should consist of such monies as the National Assembly would from time to time authorise the Permanent Secretary to the Ministry of Finance to pay the Bank. However, the Bank had the authority to raise funds by other means; namely, discounting with other banks, bills of exchange of cooperative agricultural societies, obtaining overdrafts from other banks, receiving monies on deposit, or any other method approved by the Minister.

The Northern Rhodesia Land and Agricultural Bank was set up on the same lines as its Southern Rhodesia counterpart which began operations in 1924.¹³

It was aimed at supporting farmers, and generally promoting the agricultural industry. As a development bank, it was not expected to make large profits. In fact the members of Parliament who passed the bill creating the Land Bank acknowledged that the Bank was expected to take the kind of risks which no other lending institution, existing at that time, had to take.¹⁴ The then financial secretary, R.M. Taylor, in moving the Bill stated that ".....The whole object of having a Land Bank was because it had to take certain risks which were not acceptable to private enterprise, and.... fill a vacuum."¹⁵ Generally, there were plenty of misgivings about the whole venture. Some people felt that unless it was clearly understood that the basic policy of a Land Bank is indeed to fill that function which is not normally filled by formal commercial banking practices, then the Bank was doomed to failure.¹⁶

The business of the Bank was set out in the Ordinance as:

- "(a) to lend money to farmers for all or any of the purposes contained in section 23, which covered most rural activities designed to make a living from the land.
- (b) to lend money to cooperative agricultural societies for any one or more of the objectives which

such society is legally competent to pursue.

- (c) to lend to farmers associations or unions, etc. which may further the farming industry.
- (d) to lend money for the purchase or building of a dwelling house."¹⁷

For the said purposes, the Bank could grant loans of upto ₹5,000. The purposes of the agricultural loans being mainly:-

- (a) improvements of buildings and other structures, tanks, and other storage facilities, land clearing, damming of rivers, planting of trees, crops, etc.,
- (b) purchase of stock or plant and other agricultural requirements,
- (c) discharge of existing liabilities on land,
- (d) costs incidental to subdivisions of land,
- (e) establishment, promotion and carrying on of agricultural and allied rural industries and cultivation, sale, and export of fruit and other agricultural produce,
- (f) construction of irrigation works,
- (g) furtherance and promotion of any other developments, works or projects.

Loans were granted upto a maximum of thirty years and secured by appropriate securities contained in the Ordinance and enforced by the Board. The Table below indicates the purposes for which loans were granted in 1954, the amounts and percentages for each purpose.

<u>Details</u>	<u>Amount</u>	<u>% of Total</u>
- Acquisition of an interest in or title to land	91 400	16.16
- Redemption of mortgages and other debts	57 205	10.11
- Purchase of farm machinery	20 076	3.55
- Purchase of livestock	12 640	2.23
- Buildings and dipping tanks	10 455	1.85
- Land clearance and establishment of orchards	10 730	1.90
- Fencing	10 040	1.77
- Dams, boreholes and water supplies	15 100	2.67
- Other conservation works	1 720	.30
- General farming expenses	2 030	.36
- Loans for crop production individual farmers	64 292	11.36
- Cash credit advances to cooperative societies	270 000	47.74
Pounds Sterling	<u>565 688</u>	<u>100.00</u>

From the table above, it appears that priority was given to land acquisition either through direct purchases or redemption of mortgages. Apart from credit facilities to cooperative societies, the only other significant investment was crop production. The requisite security under the Ordinance consisted of a mortgage on land valued at at least sixty per cent of the loan granted, charges on land, stop orders on crops and other farm produce, bills of sale and charges over vested articles created under the provisions of the Agricultural Credits Ordinance, and any other security approved by the Board.¹⁸

The government was in addition obliged to underwrite any loans which were inadequately secured. They were further required to guarantee loans to new applicants, loans meant to cover the huge costs of clearing virgin farmland. These loan applicants who were required to have at least two years experience of local farming conditions or be willing to employ a man with the necessary experience, could get loans of four thousand five hundred pounds repayable over a fifteen year period provided they were adequately trained and their project plans had a reasonable prospect of success. Unexpectedly,

during the years of operation of the Land Bank most of its long term loans were apparently given to house owners; and fewer loans actually went to agricultural projects, i.e., directly to farmers. This situation was probably caused by the larger number of immigrants who were not necessarily interested in farming. Over the years the numbers of loans to farmers increased proportionately in comparison to those to house owners but up to 1963 the overall totals for farmers were still lower than those for house owners. The Table below illustrates this conclusion.¹⁹

Long term Loans	1954	1963
Farmers	2.8	6.7
Houseowner	5.7	7.6
Total	<u>8.5</u>	<u>14.6</u>

Source: R.A. Sowelem, p.18

N.B. The figures represent millions of pounds sterling.

Originally the Land Bank was under the authority of the Northern Rhodesia government despite the formation of the Federal Government of Rhodesia Nyasaland in 1953.

In 1961, however, the Bank became the responsibility of the Federal government which, as in the case of Southern Rhodesia, assumed the responsibility for non-African agriculture. A major part of the funds for the Bank was obtained from government sources; with long term funds taking the form of fixed capital obtained through regular parliamentary appropriations and redeemable loans which were provided by the Federal Pensions Fund for the purpose of making loans to civil servants to enable them to purchase houses.²⁰ Seasonal loans were funded by government loans obtained through the sale of Treasury bills and loans from commercial banks. Under the Federal government there continued to be very little acceptance of deposits from the public.²¹ The table below illustrates the funding of the Bank originally as compared to its funding after the Federal Government took over.²²

Sources of funds : Long term	1954	1963
Government	7.8	12.1
Federal Pension Fund	-	2.5
Total long term capital	<u>7.8</u>	<u>15.0*</u>

Short Term

Government	-	3.4
Deposits	0.3	0.2
Bank Overdrafts	1.1	0.4
Total	1.5*	4.0

Source: Land Bank Consolidated Table of Assets and Liabilities.

*The figures have been rounded off to the nearest unit or half a unit.

Due to the stringent conditions attached to obtaining a loan from the Land Bank, Africans were not in any position to obtain loans directly until 1964 when the Land and Agricultural Bank Act was amended to give them access.²³ The Members of Parliament at that time were particularly anxious to pass Ordinance Number 53 of 1964 which provided that the definition of farmer as it existed under the Act be deleted and altered to read: "farmer" means person who devotes his attention to farming in the territory, either exclusively or together with some profession, business or other occupation and includes a person who normally produces crops in quantities sufficient only for the subsistence level use of himself and his family or from time to time produces a surplus of such crops in quantities sufficient to enable him to sell such surplus for his own profit."²⁴ The amendment finally enabled African peasant farmers to have access to the Land Bank credit facilities without

raising the question of the category of farmers they belonged to. An additional section was also inserted after Section 33 of the Land and Agricultural Bank Ordinance stating that the Bank may, subject to such general and specific directions as may be made by the Minister, make loans, without security to such farmers or classes or groups or types of farmers as may be specified by the Minister.²⁵

It is notable that for purposes of the farmers debt adjustment programme under the Farmers Debt Adjustment provisions, there was an amendment excluding the new definition of farmer from application. The definition of farmer under this part meant; "..... a person who for the purpose of business and profit devotes his attention to farming in the territory either exclusively or together with some other profession, business or occupation but does not include:

- (a) a person who devotes his attention to farming in the territory but who normally produces crops in quantities sufficient only for the subsistence level use of himself and his family;
- (b) a person who devotes his attention to farming

in the territory, who normally produces quantities sufficient only for the subsistence level use of himself and his family, but who from time to time produces a surplus of such crops in quantities sufficient to enable him to sell such surplus for his own profit."²⁶

The exclusion of peasant or subsistence farmers from enjoying the benefits of the farmers debt adjustment programme probably stemmed from their lack of security and the means to repay adjusted loans to any substantial extent. Therefore the Farmers Debt Adjustment Board which passed to the Land Bank in 1963 continued to benefit only the commercial farmers who were almost all expatriates,²⁷ by providing a means of clearing debts due, upon the farmer signing a deed of adjustment vesting all his estate to the Bank. This property would then be revested in the farmer only upon completion of the adjustment.

In short, any benefits available under the Land Bank Ordinance, were enjoyed by the commercial farmers. African peasant or subsistence producers were excluded simply because under the land holding systems, they held no documentary title deeds to land to offer as security.

The Africans were only able to benefit indirectly from loans from the cooperative societies which received cash credit advances from the Land Bank.²⁸

The Land Bank continued to operate for only three years after independence; when it started lending to non-white farmers. Lending to small scale farmers commenced in October, 1965, when the Bank gave out six hundred and thirty-two long term loans, three hundred and forty-five thousand three hundred and twenty-seven medium term loans and three hundred and four thousand six hundred and seventy three seasonal loans....²⁹ of these the largest numbers were granted to farmers located in the Eastern province. Bank operations were then extended to Kasama, Fort Roseberry, Fort Jameson, Ndola/Solwezi, Mongu and Mazabuka.³⁰ The expansion in business was not profitable; the annual report indicates that the Banks financial affairs were very unhealthy at this time. Lending to small scale farmers without a clear picture of repayment and with no security other than the stop order made it difficult to assess the effect of credit on the peasant farmers;³¹ however, the note on the provision for bad debts in future, contained in the report gives some indication that the programme was expected to be unsuccessful. The projected

large harvest of three point five million bags of maize can probably be attributed to the large scale farmers who had discovered at an early stage that credit was very important for their farming operations.³²

By 1966, there were strong rumours that the Land Bank would be replaced by the Credit Organization of Zambia and its poor operations during that year were in part blamed on the confusion arising from these rumours. Further confusion was caused by the illegal commencement of operations by the Credit Organization of Zambia, alongside the Land Bank.³³

The Land Bank was in fact dissolved by the Credit Organization of Zambia Act since the Credit Organization of Zambia Act provided for the repeal of the Land and Agricultural Bank Ordinance, under Section 88(21) of the Credit Organization of Zambia Act. The Act specifically provided that "all property real and personal and all rights to and over property and all liabilities arising out of the ownership, possession or occupation of property and all liabilities in tort and all statutory liabilities which were subsisting

Immediately prior to the commencement of this Act and which were vested in, held, enjoyed, incurred or suffered by the Land Bank shall by virtue of this paragraph be transferred and assigned to and vested in the Credit Organization of Zambia at the same time as the said property and rights were vested in or inured to the benefit of and to the same extent as the said liabilities were inured or suffered by the Bank".³⁴ Therefore upon the commencement of the Credit Organization of Zambia Act the Land Bank was dissolved and ceased to exist except for purposes of implementing certain provisions of the Act.

4.2.2 The Credit Organization of Zambia (COZ)

The First National Development Plan contained the embryo of the Credit Organization of Zambia. It stated that while there was some doubt as to the form of credit organisation to be finally agreed upon, it was considered that there should be a single organisation administering all credit and drawing its loan or equity capital from various sources, i.e., government, private investors, international agencies, and small savers through investment bonds.³⁵ The Credit Organization of Zambia unlike the Land Bank,

was meant to provide credit facilities to peasants and emergent farmers who made up a large percentage of the agricultural community in Zambia. When the Credit Organization of Zambia Act was finally passed in 1967,³⁶ its preamble stated that it was set up for purposes of promoting and providing financial assistance for agricultural and commercial purposes. As a statutory corporation the COZ was very similar to the Land Bank in structure and scope but it had a very different out-look. From the very first, a farmer was defined as a person actively engaged in farming in Zambia exclusively or together with some other occupation including a subsistence farmer, producing no saleable surplus or producing a surplus occasionally for sale.³⁷

The COZ as a body corporate was to be controlled by a statutory board, and its activities were facilitated by District Advisory Committees who screened all individual loan applications and passed them on to the Board with recommendations for approval or otherwise.³⁸ Section 25(1) provided that the COZ would be funded out of monies authorised by the National Assembly. Interest on the said monies was payable to the Permanent Secretary of the Ministry of

Finance. Other funds could be raised on the security of the assets and revenue of the COZ by discounting with commercial banks the bills of exchange of cooperative societies; obtaining overdraft facilities from commercial banks; receiving monies on deposit and any other method approved by the Minister under section 26(1).

The objectives of the COZ under the Act were to lend money to any one falling within its definition of farmer for any of the following purposes:

- (a) improvements including construction, erection, alteration, purchase or repair of buildings, sewerage works, fences, tanks and other structures.
 - (b) purchase of stock or plants of all kinds and agricultural requirements generally.
 - (c) the discharge of existing liabilities on land.
 - (d) payment of costs incidental to the subdivision of land.
 - (e) establishment, promotion and carrying on of agricultural and allied rural industries including exporting.
 - (f) construction of irrigation works and schemes.
- Loans were limited to sixty percent of the value of the security offered or ten thousand

pounds and could not exceed a term of thirty years.

Generally it appears that the COZ could lend money to anyone provided they were involved in an agriculture-related activity and could provide the required security.³⁹ The required security was mortgages on land, charges on land, i.e., where there was a registered memorandum of agreement as opposed to a mortgage deed, stop orders (which were written undertakings entered into by a borrower in which he pledged his right in or over growing or future crops or the proceeds thereof), bills of sale or charges over vested articles. Only those farmers who fell within section 40(1) were exempted from the application of the security clause. These persons were to be specified by the Minister and were in part peasant farmers. As peasants made up the majority of Zambian farmers, this meant that security was actually available from very few loanees. And the power to seize securities in case of default and sell them could only be exercised in a minority of the cases.

From the Credit Organization of Zambia Act, it is apparent that the general idea was to operate

a liberal and soft credit and subsidy policy in order to bring about agricultural progress. Loans were issued on very little security generally and there was no requirement for equity contribution. Furthermore, insufficient care was taken to keep 'tabs' on the loanees through proper physical or postal addresses. The application form asked for little information beyond the specification of crop and acreage to be planted; upon which data the COZ supposedly assessed the likely profitability of the investment. The operations of the COZ were further jeopardised by politics. From the time of its inception it caused constant quibbling in Parliament between the governing United National Independence Party (UNIP) and the African National Congress (ANC) Members of Parliament. Problems arose because initial COZ operations appear to have been furtive and certainly illegal since it started lending operations in 1966 while its enabling statute was not passed until 1967.⁴⁰ Most people were ignorant as to the COZ set up and even the existing Land Bank lacked information as to what was really going on.⁴¹ This bred suspicion that the COZ was an instrument for the government to woo support for UNIP.

ANC members claimed that loans were only given out to UNIP supporters who were told that the money they were getting was their reward for winning the struggle for independence.⁴² As such the loanees did not understand the purpose of credit and used the funds for consumption making recovery a problem; as illustrated by the figure stated below. The initial funding of the COZ came from an allocation under the Transitional Development Plan for the improvement of credit facilities for traditional farmers.⁴³ By the end of 1965, the COZ had lent out to the Northern, Luapula and Barotse provinces, about four hundred thousand pounds which increased to ten point eight million Kwacha in 1966. Of this only thirty-six percent was recovered. By 1968, a total of nineteen point seven million Kwacha had been paid out of which thirty percent was repaid. Operations continued to be so poor that efforts to revitalise the COZ such as the government loans to it (which by 1967 totalled eighteen point eight million Kwacha) were ineffective. The COZ losses between 1967 and 1969 were over twenty-two million Kwacha.⁴⁴

Technically the COZ was the sole supplier of agricultural credit but it was beset by administrative problems.⁴⁵ In 1969 the COZ was moved from the Ministry of Agriculture to the Ministry of Finance in a bid to make the institution more financially sound.⁴⁶ Lending policy was hardened and there was a substantial reduction in the amount of credit issued to peasants, while attempts were made to entice commercial farmers, (who preferred to borrow from commercial banks), to borrow from the COZ. However, there was no notable improvement and its operations are well summed up in the report of the Second National Development Plan: "The operations of the Credit Organization of Zambia (COZ) during the period of its existence, from the beginning of the FNDP to 1970, were characterised by a high rate of default in loan repayment. The purpose of credit was apparently misunderstood and abused, and the administrative structure proved inadequate to allocate, distribute and recover loans efficiently. By 1969, it had become clear that a substantial overhaul of the credit machinery was necessary."⁴⁷ In actual fact another institution was set up -

the Agricultural Finance Company Limited (AFC) to take over the function of the COZ. In 1970, the Credit Organization of Zambia (Dissolution) Act was⁴⁸ passed to make provision for the winding up of the affairs of the COZ at a later date. In due course a statutory instrument was enacted providing for the vesting in the Agriculture Finance Company Limited, of:

- "(a) all property real and personal and rights and liabilities arising out of the ownership, possession or occupation of property;
- (b) the benefit of all deeds contracts bonds securities mortgages or things in action and all liabilities arising therefrom, which items were vested or inured to the benefit of, or were suffered or incurred by the Organisation (COZ).

In the case of property in respect of the transfer of which the written law provided for registration, the property officer of the appropriate registration authority would upon application made by the Agricultural Finance Company Limited in that behalf make such entries in the appropriate register as would give effect to such transfer and,

where necessary would issue to the Agricultural Finance Company Limited a certificate of title in respect of the said property or as the case may be, make the appropriate amendments to the register and if presented therefore make the appropriate endorsements on the deeds relating to title right or obligation concerned and no registration or transfer fees, stamp or other duties would be paid in respect thereof."⁴⁹ The schedule to the same instrument provided that the transferred property was to be subject to the same conditions and covenants as pertained thereto immediately before the transfer.

4.2.3 The Agricultural Finance Company Limited

Unlike its predecessors, the Agricultural Finance Company Limited (AFC) was not a statutory corporation but a limited liability company. Therefore, it was incorporated under the Companies Ordinance in ⁵⁰ 1970 as a company limited by shares. Under the Memorandum of Association, the main objects for which the company was established were to carry on the business of lending money and providing any form of credit facilities to any person, company, statutory corporation,

government, municipal or body politic, any association or cooperative society for any agricultural purpose, including any business or commercial enterprise in the rural areas.⁵¹ Thus the company could carry on any business such as manufacturing and so on which could be conveniently carried on in connection with the agricultural industry. Operations of the company were not limited to Zambia and the Company was empowered to carry out its objectives anywhere in the world.⁵² The AFC commenced operations with a share capital of eight thousand Kwacha divided into eight thousand shares of one Kwacha each, under the auspices of the Ministry of Rural Development and as a subsidiary of Rural Development Corporation of Zambia Limited.⁵³ While at the time of its inception in 1970, the share capital of the AFC was eight thousand kwacha divided into eight thousand one kwacha shares at the time of winding up business, it stood at no less than fifty-six million, nine hundred and sixty-two thousand, seven hundred and fifty-three kwacha.⁵⁴ The government was the majority shareholder; which meant that although

the institution was conceived as a purely business concern it was run on the same lines as any parastatal organisation. The AFC was financed mainly by the government. Finance from the government included interest free loans and grants.⁵⁵ That is the government's equity participation took the form of grants and soft loans.

As the country's major lending agency the AFC set up a network of offices to cover the whole of Zambia. Main offices were situated in each province. Thus the Central Province had offices in Kabwe, Mkushi and Serenje; Eastern Province had offices in Chadiza, Chama, Chipata, Katete, Lundazi and Petauke; Southern province had offices in Mazabuka, Monze, Namwala, Choma, Kalomo and Livingstone; Western province had offices in Kalabo, Kaoma, Lukulu, Mongu, Senanga, and Sesheke. Due to this large network its operating expenses were extremely high since there was a concentration of seasonal credit to large numbers of small individual farmers.⁵⁶ The staff required to man these offices eventually reached a figure of six hundred and eighty-three out of an

establishment of seven hundred and fifty-eight.⁵⁷

The AFC operating system offered three different types of loans i.e. seasonal, medium and real estate loans.⁵⁸ Seasonal loans were normally extended for purchasing agricultural inputs such as seeds and fertilisers and were to be repaid within one year. These loans were secured only by stop orders against marketed crops. Thus successful recovery of the loans depended substantially upon marketing unions; exercise of proper controls and debt collection procedures. The stop order evasion which was a common practice among peasant farmers meant that the system depended equally heavily upon the willingness of the farmer to repay his loan.⁵⁹

The provision of seasonal loans in the form of loan packages maybe illustrated by a look at the AFC's operation in North-Western province.⁶⁰ The package loans were based on assessed general needs of the community and consisted of mostly LPOs because at that time all marketing was handled by the National Marketing Board. The packages were based upon predetermined support levels. The maximum credit for the principal inputs

was stated and with the exception of the contingency the farmer could only use the credit for the specific purposes determined by the package and could not transfer unutilised credit from one to another input. Different packages were made for the different crops based on three levels of farm management expertise, i.e., learner, improved, and top, and were based on one hectare. Hence the minimum loan facility available from the AFC was for one hectare, effectively cutting off large numbers of subsistence farmers who were farming only an acre or two. The loan application, allocation, and disbursement were organised to fit the rainy or farming season. Loan application forms were therefore distributed in February and March. Individual loan applications were channelled through the local party leadership, namely Ward development committees who were considered to be in a position to know whether the farmers had the knowhow, capacity and ability to use loan funds effectively. Application forms duly screened by the Ward Development Committees were in the District Offices by the end of June and their data transferred to appraisal sheets which were a cumulative records of the farmers' past

performance. Credit needs were then aggregated on the provincial and national level for purposes of allocation. Individual loan applications were approved by the end of September when loan agreements were signed at the district offices. Loans of upto four hundred Kwacha could be approved by District Managers, from four hundred to one thousand Kwacha by District Credit Committees (formed by the District Managers and the appropriate loan supervisor,) from one thousand to ten thousand Kwacha by the provincial management committees and exceeding ten thousand Kwacha by the AFC headquarters in Lusaka.

At the time of signing loan agreements the farmers were obliged to sign stop orders authorising the National Agricultural Marketing Board (Namboard) to deduct the amounts due to the AFC from the proceeds of the sale of the farmers' crops. The AFC then issued local purchase orders authorising Namboard to supply specific quantities of seeds, fertilisers and pesticides to the farmer ensuring that there was no involvement of cash in the dealings, except to cover labour costs. Credit control cards were then maintained for each

borrower at the AFC district office. Since loan recovery was effected by Namboard, the AFC did not make any regular follow up visits to farmers to verify the use of the loans and quantify real credit needs. Appendix 1 indicates the seasonal loan recovery performance from the commencement of operations in 1970 upto 1985.⁶¹ (See Appendix 1)

Medium term loans were available from the AFC for purchases of machinery and equipment and covered periods of three to five years depending on the amount involved.⁶² An evaluation of the borrowers ability to repay was made without definite projection or cash flow analysis prior to approval. Loans were secured by charges on the equipment and machinery acquired for the entire amount of the loan, which were registered at the Lands and Deeds Registry to make them legally binding and ensure that the farmer did not sell the equipment without facing prosecution. The AFC normally provided the entire financial requirements without demanding equity capital from the farmer. This substantially increased the risks to the company particularly in view of the fact that the

useful life of the equipment was often shortlived. Appendix 2 gives the medium term loan recovery performance from the time of the AFC's inception to 1985.⁶³ (See Appendix 2.)

The third type of loan available from the AFC was real estate loans which were normally extended for a ten year period and covered the purchase of real property. As such the loans were secured by registered mortgages and were thus considered to be the most secure with a high probability of recovery. Appendix 3 indicates the real estate loan recovery performance for the period of operation of the AFC.⁶⁴ (See Appendix 3.)

It is apparent from the appendices presented so far on the AFC loan recovery performance that in view of the large sums lent out the recovery rate has worsened over the years. The early years of operation apparently had good recovery records but in the latter years only nominal sums were recovered leading to the large losses which at the time of the winding up of the AFC, stood at around seventy million Kwacha.⁶⁵

Many reasons were advanced for the declining recovery rates, including the poor assessment of project viability, ineffective follow up and fixed lendings which did not take into account the real and differing needs of the farmers. Other reasons included the high administrative costs and the poor security on the loans. Other reasons were that stop orders were easily avoided by the farmers who sold in unauthorised markets; security documentation was poor and securities were not often perfected in good time. The table below illustrates the low percentages of mortgage-secured loans by 1984 - fifteen years after the AFC commenced lending operations.⁶⁷ (See Appendix 4.)

By the late 1970's the idea of forming a new institution to take over the function of the AFC was already being considered. This time instead of a limited liability company it was proposed that once again, a statutory corporation be created.⁶⁸ Under the Third National Development Plan, it was noted that, although the expansion of operations of the AFC was intended to fulfil the main objective of the

Second Development Plan, i.e., to ensure that credit services were extended to cover an increasingly large number of credit worthy producers; the massive expansion was not as a result of an economic analysis of the viability of operations in most districts. Hence over ninety percent of the AFC offices were not viable and the operations of the company had to be subsidised by the government through an administrative grant provided annually.⁶⁹ The cost of running remote offices with few loan disbursements, processing small loans and providing for bad debts, led to the AFC suffering enormous losses.⁷⁰ In 1975, the loss totalled one point three million Kwacha in comparison to the half a million Kwacha recovered from the COZ loans and the half million Kwacha government administration subsidy since total expenditure was over one point seven million Kwacha. Hence the Third National Development Plan proposed the creation of a statutory corporation, i.e., the Zambia Agricultural Development Bank to take over the functions of the AFC and make agricultural credit more effective by strengthening the

supporting services.

4.2.4 The Zambia Agricultural Development Bank

The institution set up to take over the functions of the AFC was the Zambia Agricultural Development Bank (ZADB). The ZADB was a statutory corporation established by the Zambia Agricultural Development Bank Act NO.18 of 1979 and authorised to commence business by statutory Instrument No.85 of 1981. The ZADB had an authorised share capital of seventy-five million kwacha, fifty-one percent of which was to be subscribed to by the government, nineteen percent by local institutions and the remaining thirty percent by international sources. However, the actual paid up share capital was only twenty-eight million kwacha most of which came from the government.⁷¹ These payments were made in instalments over a long period of time leading to a severe problem of under capitalisation for the ZADB.⁷² In addition to equity capital the Banks charter enabled it to raise additional funds by:

- (a) obtaining overdrafts from commercial banks,
- (b) receiving moneys on deposit,
- (c) obtaining loans from other financial institutions, and

(d) Issuing bonds.

Apart from obtaining overdrafts from commercial banks, the ZADB failed to utilise any of the other means open to it to raise funds. Under Section 18 of the Act, the business of the Bank was to extend credit facilities to any person or organisation approved by the Board for any agricultural, fishing, agro-industrial projects or anything else along these lines. Hence the Bank's business was to fulfill its objective of increasing agricultural and fisheries output by improving the productivity of its eligible borrowers. By eligible borrowers, was meant small scale farmers and fishermen, large scale farmers and fishermen, cooperative unions, public organisations and agro-industries. Thus it appeared to exclude peasant farmers except when loans were made directly to cooperative unions for on lending to producer-society members.⁷³

The ZADB had powers to extend three types of loans. Firstly, short term loans which covered a period of six to twenty-four months and were used for the purchase of production inputs such

as seed, agricultural chemicals, etc. to meet cultivation costs, irrigation and water charges; any variable costs which arose from the farming/fishing operations approved by Bank management. Medium term loans had a two to six year maturity and were used for the purchase of livestock, farm implements and other machinery; land improvement schemes such as clearing, breaking, drawing, leveling or fencing of land; construction of farm storage facilities; refinancing of outstanding liabilities where deemed necessary for farm improvement; setting up of poultry, fishery and related activity; and the purchase of fishing equipment. Long term loans extended for a period of six to twenty years with a grace period before repayment of up to three years. Long term loans were extended for the purchase and/or development of farmers intergrated schemes for development of dairy, ranch, poultry, fisheries, etc; construction of farm buildings/structures; development of horticultural crops and other fruit crops; construction of dams, agro-industries and other items of a capital nature requiring long term pay back periods.⁷⁴ Besides the rules and regulations under the enabling statute, the ZADB also had a corporate plan which

provided for all operations of the Bank and the manner in which they were to be conducted.

Under the Corporate Plan, loans to medium and large scale farmers were to be secured by a pledge of realisable collateral divided into tangible and intangible assets. Tangible assets consisted of a pledge or mortgage on securities defined as real estate by law. A prospective borrower could offer property in his direct ownership or owned by a third party provided that the said party consented in writing to pledge his property. Other tangible assets covered a pledge of animals or a pledge of chattel and a mortgage on machinery and equipment. Intangible assets consisted of a bank guarantee, a personal guarantee or a pledge of financial securities i.e., bonds, promisory notes, bills, life insurance policies, company shares and negotiable commercial instruments. The idea behind the formation of a Bank to take over the functions of the defunct AFC was to have an institution which could generate its own operating capital. Therefore, the Bank could raise funds through deposit taking, bond issue and

loans, as well as the interest on money lent out. In actual practice the bank did not successfully employ any of these means to raise funds. A half hearted attempt was made to issue bonds but the venture was never approved by the Bank of Zambia.⁷⁵ As stated above, apart from overdrafts, which are an expensive source of funds for a development bank, the ZADB was entirely dependent on equity capital for finance, a situation which led to the ZADB's chronic financial difficulties since there were delays incurred in raising the share capital and the manner in which this was done.⁷⁶ Firstly, although the Bank was created in 1979, it was not until two years later in 1981 that any funds at all were made available to commence preoperating activities.⁷⁷ Furthermore, when this initial capital was made available it did not consist of equity but two point eight million kwacha's worth of interest free loans with an additional bridging loan financed by two commercial banks at market interest rates.

Thus when in 1984 the government recapitalised to equity the two point eight million kwacha in loans and contributed an additional four million kwacha to the Bank's capital, the bank had already incurred one point one million kwacha in interest expenses. This trend of raising debt instead of equity continued to dog the ZADB since equity was always subscribed to in inadequate amounts and the Bank was often obliged to obtain overdrafts from commercial banks both for administrative and for short term lending. Thus at the time of dissolution in 1986, the ZADB had suffered losses of several million kwacha.⁷⁸

The situation was not improved by the lending policy. Although, on paper, the ZADB had apparently, very sound lending policies the actual practice was not as good. Consequently as well as suffering accumulated pre-operating losses amounting to three point five million kwacha, during the first year of operation (1984) the ZADB incurred net losses of one point seven million kwacha.⁷⁹ The losses arose from the fact that few lending resources were applied towards higher

yielding revenue generating assets and the two point eight million kwacha disbursed in the same year was insufficient to recover even the general and administrative expenses. Furthermore, the bridging loans were left in low interest bearing deposits at commercial banks.⁸⁰ This neutralised the advantage of good recovery rate on the loans given out.

In this first year of operation 1983/1984 the Bank approved fifty seven loans to thirty five farmers totalling nine point eight million kwacha and disbursed four point one million kwacha. By the end of 1984, the Bank recovered one point six million kwacha or eighty-two percent of the total principal and interest due.⁸¹

Lending to small scale farmers did not commence until the 1985 season and then only on a limited scale since the bank's emphasis on equity participation, guarantees and project appraisal made it more difficult for peasant applications to succeed unlike under the AFC. In addition, the emphasis here on adequate security meant that many peasants could not qualify. For instance all loans lent out to small scale farmers were secured

not only by a stop order but also by a registered charge on the crop, any existing implements and any livestock.⁸² Furthermore, all long term and most of the medium term loans had to be secured by a legal mortgage.

At the time of its inception, the ZADB was meant to take over the AFC but by 1986 it was decided to merge the two institutions under a new name. Therefore, the ZADB and the AFC were to be dissolved and a new institution created to take over their functions, assets and liabilities. It was decided that the new institution should be known as Lima Bank Limited.

4.3 Existing and operational institutions

Existing institutions which have played substantial roles in the financing of agriculture are the Lima Bank Limited, the cooperatives, the Development Bank of Zambia and the commercial banks. The following discussion provides a brief introduction to these institutions.

4.3.1 Lima Bank Limited

Lima Bank Limited is the current agricultural

financing institution. It has taken over the defunct AFC and the ZADB. Its structure is that of a combined limited liability company and a development bank, and registered commercial bank with all the attributes and characteristics of any other commercial bank. The Lima Bank which was incorporated on September 3rd, 1986⁸³ had a very slow beginning since it could not officially commence operations until the AFC had been wound up and the ZADB dissolved accordingly. Thus although it finally commenced operations on June 1st, 1988, the staff were not effectively appointed until November, 1987, more than one year after the date of incorporation.

Besides taking over the AFC and the ZADB the objects of the Bank were firstly to carry on in Zambia the business of banking for purposes of purchase, development and improvement of land; improvements, construction, erection, alterations or repair of buildings; purchase of stock and plant of all kinds and purchase of agricultural requirements generally, and secondly to carry on the business of a commercial bank. Besides the general development banking provisions, the

Banks objectives covered almost any commercial activity possible within the terms of the Banking Act, Cap.700 of the laws of Zambia and the Companies Act, Cap.686 of the laws of Zambia.⁸⁴

The share capital of the bank is four hundred million kwacha divided into four million shares of one hundred kwacha each.⁸⁵ So far the paid up share capital providing the initial capital is fifty one million kwacha. Other sources of income include the issue of bonds, income notes; loans and overdraft facilities from other banks; receiving monies on deposits; grants, loans and funds appropriated by Parliament, normal business activity; and any other methods approved by the Board. These funds may then be loaned out for the purpose of:

- (a) crop production;
- (b) general farm development;
- (c) farm machinery and equipment;
- (d) farm and farm business;
- (e) fishing equipment;
- (f) other items and operations that could be established as relating to farming, forestry or fishery projects.

For purposes of these activities in form of loans, equity participation and guarantees.⁸⁶ The loans are divided into short term, medium term and long term. Short term loans cover a period of eighteen months and are for agricultural inputs. Medium term loans cover a period from eighteen months to six years and are for the purpose of livestock, procurement of machinery equipment and tools necessary for a new enterprise. Long term loans are from six to ten years and are for the financing of farm purchase, dam construction and procurements of machinery and equipment. Under the Bank's credit policy any Zambian of legal age or a corporate body which is at least fifteen percent Zambian owned, and interested in an agricultural venture may apply for a loan.⁸⁷ Non Zambians falling with the definition of investor under the Investment Act cite section may also qualify. Before approving an application for assistance however, the Bank will take into consideration the genuine need for the credit applied for and the viability of the programme to ensure the borrowers ability to repay the loan and interest. Any credit record is taken into account and

adequate security must be provided. Therefore the loans must be secured by a pledge of a realisable collateral which may be divided into tangible assets, intangible assets and state guarantees. Tangible assets include charges and mortgages on real estate, charges on chattels, machinery and equipment, charges on animals, goods and commodities in store. They are only acceptable provided they meet the conditions set by the Bank.

These conditions include the fact that the property must be free from all encumbrances. Intangible assets are also admissible only upon the fulfilment of the Bank's conditions. To be acceptable, a Bank guarantee has to be issued by a local bank without condition and confirmed by the signature of a guarantor. A personal guarantee is acceptable whenever the surety's credit worthiness is adequate to cover the full amount of the loan, with a safety margin of not less than twenty percent of the loan amount. Company shares, life insurance policies and other similar securities are acceptable on the approval of the Managing Director, the Credit Committee

or the Board of Directors. A state guarantee must be issued by the Ministry of Finance or an autonomous public agency authorised to offer such a guarantee.⁸⁸ Most of these conditions particularly the need for equity participation by the farmer and the emphasis on projects mean that loan facilities may be out of the reach of the peasant farmer. The Bank's policy precisely states that, "the Bank will apply.....its normal criteria for selection of small scale borrowers. In assessing the applications from small scale farmersthe Bank satisfies itself that the proposed farming programme is viable not only in terms of repaying the loan and its interest but also of providing a cash income for the farmer.....and his family after providing for their normal subsistence needs."⁸⁹ However, this policy may prove to be rather difficult to carry out in that the Bank needs to fully grasp its intended role as a development bank and as the main source of credit for the peasant and small scale farmer. Such a role seeks to promote the development of the agricultural industry with the understanding that this will

involve the financing of more risky and perhaps less profitable activities which are often shunned by commercial banks - which are much more interested in profit. More often than not the Bank may have to lend without any certainty at all that the proposed farming programmes are viable.

Lima Bank as the current agricultural development bank is in its infancy but may learn from years of experience gained from the many institutions which have preceded it. It is to be hoped that this will serve it well in recovering the huge debt that it is inheriting from the same institutions. The AFC had loaned out one hundred and fifty-nine million kwacha,⁹⁰ and the ZADB over thirty million kwacha which will need to be recovered by the Lima Bank Limited.⁹¹

4.3.2 Zambia Cooperative Federation

Cooperative Societies in Zambia are provided for by the Cooperative Societies act,⁹² which repealed the Cooperative Societies Ordinance. Under Section 35(1) the Act provides for the provision

of credit by societies to their members under the terms and conditions contained in their by-laws i.e., registered by-laws which satisfy the requirements under the Act. Cooperative Societies are entitled to give loans out of their own funds or from loans made to the societies by credit organisations or other persons. The loans which have a prescribed maximum amount and duration are made to members of the society of good standing for:

- (a) productive purposes such as seasonal loans or advances for financing the production and marketing of agricultural products, purchase of agricultural requisites, farm improvement, housing and building materials;
- (b) provident purposes including the purchase of consumer goods and household necessities for the use of the borrower and his family, consolidation and repayment of debts, payment of taxes, payment towards insurance, health and education.⁹³ The by laws of the Society also prescribe the type of security required although a mortgage of

of any description of immovable property must have the permission of the Registrar.

Under the Cooperative Societies Ordinance, the Cooperative Movement dates from as far back as 1914 when the early settlers created the North-Western Rhodesia Farmers Cooperative Society Limited.⁹⁴ It was not until 1947 that the Colonial authorities decided to allow Africans to participate in cooperative activities but they were few societies formed even in the basic form of economic or thrift society. After independence, the government decided that cooperative societies were the best means to develop the rural areas. Thus it encouraged the formation of a great number of societies⁹⁶ so that by 1969, there were one thousand one hundred and twenty-one societies. However, due to the lack of a firm base and farming skills many societies failed. In the early seventies the Zambia Cooperative Federation was set up to monitor the operations of cooperatives. At the same time, there were proposals to set up multipurpose societies enabling marketing and credit services to be provided by the same organisation.⁹⁷ and facilitate better credit management

through the application of deductions at source. In the mid seventies a Cooperative Credit Scheme was set up with its own funds of two hundred thousand kwacha. Its objectives were to finance the use of modern farm inputs and implements in order to provide members with a means of increasing their production.⁹⁸ The CCS policy therefore reads:

1. To provide credit facilities to members/ farmers of primary societies with special attention to small scale farmers living on subsistence farming.
2. To increase farm production, improve standard of living and make farmers more self reliant.
3. To provide members with agricultural advisory services.
4. To give credit to reliable societies and Unions with high economic repayment rates to maintain the flow of funds for re-lending.
5. To provide an effective well functioning credit machinery to assist in giving a comprehensive credit service.
6. To create an incentive to save part of the income in order to become self supporting.⁹⁹

CCS funding was provided by a GRZ/SIDA revolving fund which was channeled through the AFC, block loans from the AFC, and finance generated by the cooperatives themselves i.e., the cooperative unions. During its first year of operation, 1975/76 seasonal credit of two hundred and ninety-six thousand kwacha reached three thousand three hundred members through sixty-two local societies in four provinces.¹⁰⁰ An insignificant amount in comparison to the funding provided by the other credit institutions: as has been the case throughout the existence of the CCS. The table indicates the operations of the CCS during its first five years of operation. The operations were apparently on a very small scale.¹⁰¹

YEAR	DISBURSEMENT PER LOANEE K	UNRECOVERED LOANS PER LOANEE K	UNSUCCESSFUL APPLICANTS (PER CENT)
1975/76	89	10	7.2
1976/77	101	24	5.5
1977/78	139	42	8.2
1978/79	88	42	12.2
1979/80	118		10.8

Source: Ojermark P. Report on the Cooperative Credit Scheme at p.18.

The 1980/81 season saw a sizeable increase in the amount loaned out, for the average size of seasonal credit granted was two hundred and eight thousand kwacha. A total of one point five million kwacha was granted to six thousand small scale farmers of whom seventy percent owned a cultivated area of less than three hectares. The credit recovery rate in the same year was eighty-one percent as compared to fifty-nine percent in the 1979/80 season and fifty-two percent in the 1978/79. The total outstanding since 1976 was only one point one million kwacha and it was being followed up by means of enforcing stop orders, re-scheduling debts and where necessary by taking legal action.¹⁰²

The Cooperative Credit Scheme is now operating directly under the ZCF. It was transferred from the Department of Marketing and Cooperatives and it is now known as ZCF (Finance Services Limited), a subsidiary of ZCF. The company which commenced operations in February, 1983, officially took over the assets and liabilities of the CCS. At the time of the take over, the CCS annual disbursements were less than five million kwacha in the 1983/84 season.

The minor shareholders in the ZCF Finance Service are the cooperative unions. Grant funds as well as managerial assistance are provided through the Swedish development agency.

The ZCF Finance Services had by 1985 financed only thirteen per cent of the seventy-five thousand cooperative members.¹⁰³ Its expansion has been limited by tight control and monitoring due to the shortage of funds for technical assistance and training to strengthen the cooperative organisations. However, it is hoped that ultimately ZCF Finance Services will expand and diversify its scope of operations by financing larger cooperative farmers and by extending medium and long term loans for purchasing oxen, wagons and so on. Eventually it hopes to become a fully operational cooperative bank providing loans to farmers as well as accepting deposits. The fact that the scheme has been able to support about ten thousand peasant farmers cultivating plots of land ranging from point one to six hectares with a recovery rate of approximately eighty-nine percent is of great interest to larger financial organisations

who find it easier to channel their funding of small scale farmers through the ZCF Finance Services and the cooperative unions.¹⁰⁴

4.3.3 Commercial Banks and Agricultural Credit

Several other institutions provide financial assistance to farmers in Zambia. These include the Cattle Finance Company Limited, the Development Bank of Zambia, the Zambia National Commercial Bank Limited, the Standard Chartered Bank, Grindlays Bank (Zambia) Limited, Barclays Bank (Zambia) Limited, the Zambia State Insurance Corporation Limited, and the Credit Union and Savings Association of Zambia Limited.

4.3.4 Cattle Finance Company Limited

The CFC like the AFC, is a subsidiary of the Rural Development Corporation. It was formed in 1969 with a share capital of three million kwacha. It has eight branches and provides credit facilities for the purchase of animals for fattening and/or for breeding to medium and large scale farmers.¹⁰⁵ Peasant farmers do not qualify for assistance under this institution since their farms do not have plunge dips, sprays or bucket pumps, at least four

paddocks, crush pens, handling pens, boreholes or perennial streams or dams, and sufficient grazings.¹⁰⁶

4.3.5 The Development Bank of Zambia

The DBZ is a development financing institution whose primary objective is to stimulate economic growth through the provision of financial assistance to all sectors of the economy. Only large scale farmers qualify for capital investment since there is a minimum loan amount of twenty-five thousand kwacha. Such loans are secured by a first charge on the fixed assets of the borrower.¹⁰⁷

4.3.5 The Zambia National Commercial Bank Limited

The ZNCB is a commercial bank fully owned by ZIMCO. Its policy allows it to lend to large scale, medium scale and small scale farmers as well as potential or intending farmers. The loans are short term for recurrent projects like piggery and poultry enterprises which are treated as overdrafts and medium term for the purchase of machinery and implements. The security for the loans includes mortgages, agricultural charges, stop orders and life policies

with a surrender value.¹⁰⁸

4.3.7 Standard Chartered Bank

Standard Chartered Bank has financed agriculture only on a very small scale. In fact it has dealt mainly with emergent and small scale tobacco farmers through the Tobacco Board of Zambia. The area of concentration is the Southern Province where the Bank has several branches enabling Bank staff to monitor the progress of farmers in the areas of their responsibility.¹⁰⁹

4.3.8 Grindlays Bank (Zambia) Limited

Grindlays Bank provides loans funds exclusively for working capital mainly in the Mkushi block. Applications are considered only from farmers who understand agriculture, have farming experience and are of good financial standing. There are short term, seasonal and medium term loans - for cattle.¹¹⁰

4.3.9 Barclays Bank of Zambia Limited

Barclays has a special department established in 1980 and dealing with agricultural lending especially to small scale farmers. This Lima

loans scheme was aimed at supporting the agrarian revolution. The Bank prefers to give loan funds to people who are totally committed to agriculture upon security of mortgage, life policy, guarantee and cash. Seasonal and medium term loans are normally given.¹¹¹

4.3.10 Zambia State Insurance Corporation Limited

The ZSIC has an agricultural loans department which commenced lending operations in 1976.¹¹² The basic objective of the department is to grant medium and long term loans to selected farmers to enable them to carry on a successful system of farming, making efficient use of their land, labour and other resources, and to make needed improvements in their living conditions and economic situation. The corporation does not give out short term loans. Loans for development costs are treated as medium term and run up to five years. They cover purchase of farm machinery, purchase of cattle for breeding and fattening purposes, bush clearing, borehole drilling and deepening, repairs to farm buildings and equipment, construction of poultry houses, pig styes and staff houses on existing farms,

poultry/stock feed, irrigation systems, reservoirs and so on. Long term loans are then available for the purchase of farms, construction of farm buildings, fencing of farms, construction of dams and so on. To qualify for a loan, a farmer must be Zambian, experienced, full time on the farm and holding title deeds. Securities required by the corporation include mortgages, agricultural charges, stop orders, life policies worth surrender value, and liens on implements. However, recovery performance has averaged only forty-two percent and losses from agricultural lending total two hundred thousand kwacha, annually.

4.3.11 Credit Union and Savings Association of Zambia Limited (CUSA)

The CUSA started direct lending to small scale farmers in 1981 but its credit facilities are open to members of the primary producer societies and its operations are on a small scale concentrating mainly on Eastern province (Chipata district) and Southern province (Chief Macha's area).¹¹³

4.3.12 Lint Company of Zambia Limited

The Lintco was created in 1978 to be solely responsible for the promotion of the cotton

industry in Zambia. Its major role of promoting cotton production is limited to cotton growing areas of the Central, Southern and Eastern provinces.¹¹⁴ In order to achieve its desired goals Lintco provides commodity loans to cotton growers in the form of input packages comprising seed and agricultural chemicals such as pesticides and fertilisers. The funding for the packages is obtained from agricultural finance institutions in the form of seasonal credit facilities.¹¹⁵

4.3.13 Conclusion

There are no less than ten institutions currently dealing with agricultural credit in Zambia namely:

1. The Zambia Cooperative Federation;
2. The Lima Bank Limited;
3. Barclays Bank (Zambia) Limited;
4. The Zambia National Commercial Bank Limited;
5. Standard Chartered Bank (Zambia) Limited;
6. Grindlays Bank (Zambia) Limited;
7. Development Bank of Zambia;
8. The Lint Company of Zambia Limited;
9. The Zambia State Insurance Corporation Limited;
10. The Credit Union and Savings Association.¹¹⁶

This agricultural finance sector is made up of a number of private and public institutions including specialised agricultural finance companies, commercial and development banks, insurance companies and cooperative groups. It is estimated that at the end of December, 1984, total outstanding loans to the agriculture sector, after provisions for doubtful debts, totalled approximately five hundred million kwacha.¹¹⁷ Of this amount eighty percent was extended by the commercial banks. Total annual disbursements to agriculture being estimated at roughly one hundred and eighty-eight million kwacha. Appendices 5, 6, and 7 illustrate further the lending operations of these institutions. Appendix 5 in particular is a table showing the type of loan facilities offered by each institution, the clientele entertained and the type of security required. Appendix 6 is a summary of the same institutions placed in groups and showing which type of institution is financing which type of farmer by providing what type of finance. Appendix 7 provides the facts and figures of the different institutions lending

operations i.e., amounts lent out, recovered and profitability of the lending operations which is generally poor.

4.4 The Role of International Financing Organisations

International Organisations do not play a direct role in agriculture and have channeled their financial assistance through local financial institutions. Examples include the World Bank Fisheries Project funded through the ZADB.¹¹⁸ In fact, the loans and grants are administered through the government who then pass them on to the pertinent organisation. Institutions like the World Bank also send in experts to assist the local organisations with the administration of their funds.

FOOTNOTES

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CHAPTER FIVE

AGRICULTURAL CREDIT IN ZAMBIA - A CRITICAL REVIEW

This chapter is an assessment of the preceding discussion and attempts to put into perspective the problems of financing agriculture in Zambia; both from the financier's and the farmers view point. As such, this critical review is divided into policies and politics, legal facilities, implementing institutions and legal constraints. As in the earlier chapter, special emphasis is laid on the peasant farmer; his ability to make the country self sufficient in staple food crops and his relationship with the government and the financial institutions.

Due to many reasons, agriculture in Zambia is very far from realising its full potential and the economy is still heavily dependent on the export of minerals and the importation of large quantities of essential foodstuffs.¹ The major part of local food production, goes to feed the urban masses which are increasing rapidly in number as more and more people continue to desert the country side: comes from a few commercial and emergent farmers.² With regard to the financing of agriculture (as a major factor

in agricultural development) the present situation is that a new institution i.e., the Lima Bank Limited has been created to handle most of the agricultural credit facilities. Several other financial institutions provide supplementary credit facilities. Credit is, through these institutions available to commercial farmers, medium and small scale farmers and sometimes to the peasants; in the form of seasonal, medium term and long term loans, upon the provision of requisite securities such as liens on chattels, mortgages on real estates, intangible securities and stop orders. Chapter four has shown that credit facilities for farmers have for a long time been available from several institutions. Why then, is agricultural credit still considered to be a major constraint to the development of agriculture in Zambia? Why has credit been inadequate and often ineffective? This chapter examines these issues in order to identify the problems of financing agriculture in Zambia.³

5.1 Policies and Politics

Agricultural policy has always been closely linked to the prevailing political climate. Therefore, the ruling party's political views have a strong influence

on the agricultural policy expounded. Hence the provision of credit in Zambia is examined hereunder in the light of agricultural policy, both past and present.

5.1.1 Inherited Policy

Colonial agricultural policy was decided by the mining industries' requirements. Therefore, the development of copper mining led to the under development of agriculture, particularly African agriculture. Klepper describes the situation at that time, as follows:⁴ "European farmers were settled in Central, Southern and Eastern provinces in the areas of good soils and easy access to markets. In the process African farmers in these areas were resettled, frequently on poorer soils and in areas with more difficult access to markets. Hut and poll taxes were levied to drive African labour into the mining and urban sector. African farmers away from the line of rail and the transportation routes in Eastern province had no means of delivering output to markets even if they could produce a surplus, and large numbers migrated to the mines and urban areas in search of employment. In the period of the Great Depression when demand for foodstuffs for the mines plummeted, the reduced market was largely

reserved for European farmers, and for more than ten years in the 1930's and 1940s the colonial government paid African farmers less than Europeans for the same crops. Virtually no extension services were available to African farmers. Those few who adopted more advanced technology did so by imitating European methods, and these farmers were largely confined to the line of rail and Eastern province. Colonial development plans after World War II concentrated on infrastructure for the mining economy..." Klepper went on to add that:

"....The few agricultural programmes initiated specifically for Africans reached a very small fraction of all African farmers, and they were motivated mainly by concerns for deteriorating soil quality and erosion, not production levels and farm income. Government provided no formal training programmes for African farmers or agriculturalists. In short, colonial economic policy viewed Africans and the rural areas as sources of cheap labour for the mines and urban sector. Agricultural policy reinforced this goal, and its primary objective was the provision of cheap food for the mines." With regard to credit facilities, only a few insignificant

schemes such as the peasant farmers schemes were available to Africans who were unable to obtain credit from the Land Bank.

Thus at the time of independence in 1964, there was a marked dichotomy of commercial and traditional farming sectors.⁵ Most marketed agricultural produce came from about a thousand European farmers supplemented by the emergent or new developed African commercial farmers in the areas along the line of rail. The other areas which had been denied agricultural services and credit had remained subsistence units with little or no potential for surplus production.⁶

5.1.2 Secondary Role of Agriculture

After independence, the importance placed on European farmers was diluted somewhat by the need to improve the lot of the African peasants. The first National Development Plan recognised this need in stating that a key object of economic planning affecting the agricultural and lands sector was the increase of personal incomes and employment in the rural areas.⁷ The Plan further recognised that the dual structure of the economy had resulted

in a wide diversity of technologies within the agriculture industry, ranging from the large European commercial farmers to the subsistence/surplus, semicommercial and small scale commercial farmers; with the majority of subsistence farmers remaining virtually untouched by any of the advances in production techniques and therefore not constituting a viable market for the products of other sectors of the economy.

The plan then went on to emphasise that the agricultural sector should play a dominant role in the implementation of the strategies underlying the plan because the majority of the Zambian people were engaged in agriculture.⁸ Hence it was necessary to reduce the dependence on the copper mining industry. However, in terms of practical experience, agriculture continued to play a secondary role in relation to mining since the latter continued to be the major source of income for Zambia. Political and economic outlook continued to be largely capitalist, and the government control of agriculture was limited. Urban pressures for government subsidies overwhelmed rural pressures and government policy favoured commercial and emergent farmers in comparison to peasants in that

they produced enough food for the urban consumers.⁹ Even the organisation of peasant agriculture was more capitalist than socialist. Therefore, although the state owned all land under traditional tenure, a piece of land controlled by a peasant family was retained by them perpetually. Means of production were owned by the family and they were not obliged to reinvest profits or surpluses.¹⁰ The only real government control over the development of agriculture consisted of the various schemes set up such as the cooperative societies and state farms which catered for only a very small sector of the rural masses. It was not until the Third National Development Plan that agriculture and rural development were given the highest priority, in order to create a strong rural economy and reduce income disparities between the rural and the urban areas. " The provision of credit and other facilities did not improve. The copper mining industry continued to hold the most important place in the economy, if not in policy terms then certainly in practical terms."¹²

5.1.3 Credit

Credit is an important element in the promotion of agricultural production as long as it is effectively employed. As outlined in chapter two, credit for farming purposes was virtually unknown to the African farmers before the introduction of European systems of agriculture. Before the attainment of independence, credit was legally and practically available only to the European commercial farmers. Hence after independence, when credit facilities were liberalised through the amendment of the land tenure laws credit was not immediately understood by the new government and the indigenous farming community.¹³

Early attempts to provide credit reflect this misconception of credit and its use. Inadvertently perhaps, on the part of the government, credit was given to parties who did not qualify, i.e., influential citizens and promoters of non-viable agricultural projects. Politicians used credit as a means to win favour for the governing party - U.N.I.P., by giving credit facilities to staunch party members while denying it to members of the opposition parties.¹⁴ Therefore, farmers were given the impression that the

government was giving them grants and the question of repayment did not arise. Peasant farmers in particular believed that the supply of credit was limitless and repayment was unnecessary and to be avoided at all cost. Credit was used for consumption rather than investment. The government failed to grasp the complications of financing agriculture, particularly on such a wide scale as proposed and attempted. As a result, there was no proper project appraisal,¹⁵ there were inadequate extension services to advise on project implementation; there was no close supervision of projects,¹⁶ and inadequate project and security documentation meant that loanees could not be traced and repayment could not be enforced. The shortage of loan supervision and extension staff¹⁷ was a major shortcoming in that agricultural lending cannot succeed without careful investment and supervision.

The government also failed to immediately grasp that the costs of financing peasant farmers far exceed any returns to be gained from the many small loans provided.¹⁸ There was an attempt, by the AFC, to provide these loans in a standardised package form in order to reduce costs and simplify the

lending procedure.¹⁹ However, the package system often excluded the poorest of the peasant farmers since it required a minimum hectareage and it created a stereotype which did not cover the varying individual peculiarities and input requirements or even the management capacity.²⁰ An attempt to simplify lending procedures further is evident in the channelling of inputs and loan repayments through Namboard, the marketing organisation. This attempt was not wholly successful due to the delays in getting inputs to the farmers and the shortcomings of the marketing organisations which often lacked the cash to pay farmers in time for their produce. In later years, the National Agricultural Marketing Board lost its monopoly of crop marketing since farmers were able to sell directly to millers; rendering repayment through the marketing organisation very easily avoidable. Government control of financing institutions has in all cases led to bureaucracy too much patronage and too little funding. The government is often dependent on outside donors for equity capital which leads to delays in the commencement of operations of the financial institutions, particularly, where the government is unable to meet outside donor financing conditions.²¹ The high costs of lending borrowed funds means that the cost of credit

facilities has often been very high. A prime example is taken from the Zambia Agricultural Development Bank which was lending out as seasonal loans, funds obtained from the overdraft facilities with commercial banks. The Z.A.D.B. was charging an interest rate of twenty-five percent while the commercial banks were charging much lower rates particularly for peasant farmers. Barclays Bank for instance, under its Lima Scheme, was charging peasant farmers eighteen percent despite inflation and the fluctuation of the value of the kwacha.

High interest rates on agricultural loans were not off-set by high agricultural produce prices. Farmers returns for their produce were very low due to the unfavourable pricing policies of the government. The government policy favoured the urban consumers rather than the rural producers. Prices of agricultural produce were not only controlled at low levels, but the manufactured products were highly subsidised to enable the consumers to obtain them very cheaply. Therefore food prices were held down for the mining and urban sectors by paying low prices to farmers and by subsidising the transportation,

handling and processing of foodstuffs for urban consumers.²² As a result there was an exodus from the rural to the urban areas where it was cheaper to live as a wage earner rather than to eke out one's living on the land as a peasant farmer.²³ Furthermore, the pricing policy directed agricultural output; commercial farmers in particular moved away from grain to livestock production because while grain prices were controlled livestock prices were not.²⁴ The lack of cash in the rural areas meant that there was little purchasing power and little investment. The general view of the government was that peasant farmers, in particular, had no private capital for investment or banking purposes.²⁵ The peasant farmers themselves did not understand re-investment or the disadvantage of credit for small scale operations. They borrowed on the understanding that they were investing in agriculture but were unable to produce enough to pay back and hence there was little agricultural advancement.²⁶

5.2. Legal Provisions

The legal framework of agricultural credit refers to the laws which are aimed at facilitating the provision of agricultural finance in Zambia. Land tenure laws in particular have had a distinct role to play in that they

determine which landowners may have access to credit facilities. Under the current pro-agriculture policy the legal framework was meant to facilitate the creation of a wider agricultural base enabling the peasant farmers to make the country self-sufficient in staple foods and increasing agricultural production in general.²⁸ Other objectives were import substitution and the export of agricultural produce at levels high enough to reduce the country's dependence on copper exports.

This section of chapter five examines the legal framework in order to assess whether it has fulfilled its objectives. The apparent stagnation of the agriculture industry is evidence in itself of the inadequacy of the law to provide for the financing of agriculture effectively. And an examination of the law as it stands, following the removal of discriminatory provisions which applied before independence, indicates that the law is not perfect. The discussion is divided into agricultural credit law, securities and land tenure laws - both statutory and customary.

5.2.1 Agricultural Credit law

There is a general consensus that the use of capital

is an indispensable element to agricultural development. This capital comes from outside sources in the form of credit.²⁹ For credit to make its maximum contribution to capital requirements, it needs to be handled on a business like basis, both by farmers and by the lenders; hence the need for laws governing the dispensation of agricultural credit;³⁰ the Agricultural Credits Act cap. 349..... Its preamble states categorically that it would facilitate the borrowing of money by farmers.³¹

A farmer is defined by the Act to mean any person (not being an incorporated company), who, as the tenant or owner of agricultural land, cultivates such land for profit; cultivation being deemed to include horticulture and the use of the land for any purpose of husbandry including the keeping or breeding of livestock, poultry or bees, and the growing of fruit, vegetables and the like.³²

Taken literally, this definition excludes peasant farmers who cultivate for subsistence and not profit. Their produce is only sold when they have a windfall. Thus the call for peasant farmers to produce more through 'Lima' and 'Go back to the Land' programmes have not been

catered for in the Act. The Act applies to tenants or land owners, implying land tenure under statutory law rather than customary law. Most peasants hold land under custom and their ownership is not recognised for purposes of obtaining substantial credit facilities from financial institutions.

Credit facilities are extended by financial institutions upon the availability of some form of security by the farmers. Here again peasant farmers lack the requisite securities. Thus they are excluded by the provision in the Act which states that it is an Act to facilitate the borrowing of money by farmers on the security of charges created upon farming stock and other agricultural assets.³³

The poorest of peasants who need to expand their operations most urgently often lack the barest of security to offer in return for loan facilities. A major shortcoming of the Agricultural Credits Act is the fact that it has not been amended to cater for post colonial credit requirement.³⁴ At the time of its enactment, during the colonial era, it was aimed at facilitating agricultural credit for the farmers who occupied Crown land either as tenants or owners. At that time, peasant African farmers were

not encouraged to expand through the use of credit facilities because they were not entitled to documentary title under the statutes creating financing institutions, after independence the word 'farmer' was redefined in order to include subsistence farmers thus widening the application of the Agricultural Credits Act.³⁵ The same statutes further, allowed for the provision of credit to peasant farmers without security.

5.2.2 Securities

Valuable securities are normally given as a pledge for the repayment of a loan. Financial institutions are often dependent on securities to ensure repayment of loans. As a result they are reluctant to lend out money or make capital investments without adequate security.³⁶ Commercial banks in particular are extremely cautious in providing loans for agricultural development due to the high risk involved. Development Banks and institutions on the other hand are expected to take the kind of risks which commercial banks will not undertake and it is these institutions which have borne the major agricultural risk by lending to peasant farmers who lack adequate security. In such cases, the only security available is often a stop

order on the financed crop³⁷. However, loan facilities do not reach the poorest of the poor due to the requirement for a minimum hectareage; credit facilities are restricted to large, medium and small scale farmers. The peasant farmers who form the majority of the rural population and have the greatest need for credit since they have very little to invest on their own or do not understand the benefit of profits and are often unable to meet this minimum requirement of one hectare.

The shortcomings of the laws regarding securities in agricultural financing have led to problems for both the farmers and the financial institutions. Firstly, under the Agricultural Credits Act, loans may be secured by the registration of charges on the farming stock and other agricultural assets of the farmers.³⁸ For the farmer, this means that they risk what they already have; for small scale and peasant farmers this is often everything that they already own since financial institutions often demand security far in excess of what they are actually lending out.³⁹

Therefore, if a farmer fails to earn enough to live on as well as to repay his loan and interest, whatever property he has will be taken away and sold by the

financial institution to make good his debt, leaving the farmer poorer than he was before and without the means to continue farming or obtain further credit.

The financial institutions on the other hand, often hold securities which in the final analysis have either disappeared or have deteriorated to a nominal value far below the amount secured which is often higher than the original figure due to unserviced principal and interest.⁴⁰ Therefore the farmers who cannot maintain the equipment that they use as security very quickly allow it to deteriorate so that by the time the bank wishes to realise its security, the equipment is often in a non-working condition. With regard to livestock, these are very easy to dispose of and often disappear upon threat of seizure by the Bank⁴¹. The Act does provide for legal action against defaulting farmers in order to deter them from doing away with charged property and prevent foreclosure. However, the effective punishment in such cases is imprisonment for a period of not more than three years.⁴³ The institution has no other recourse than to write off the debt.