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AGRICULTURAL CREDIT IN HONDURAS\*

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## AGRICULTURAL CREDIT IN HONDURAS

- Note -

The report which follows is preliminary. It is not suitable at this time to make a complete analysis of the situation of agricultural credit in Honduras, due to the fundamental changes in the Banking structure and the legislation of that country which are taking place. The ECLA/FAO Cooperative Unit is, at this time participating in the agricultural aspects of the reforms which are taking place, and later on will be in a position to submit a more detailed report.

### 1. INTRODUCTION

Honduras is the Central American country which has waited longest to provide for a complete organisation of its banking, monetary and credit systems. However, the country, which is now undergoing a period of banking reforms, has taken full advantage of the resources within its reach from the international organisations, as well as of the experience of its Central American neighbours.

Until 1950, Honduras had no Central Bank, nor any institutions suitable for the spreading of credit facilities to farmers. All banking, credit and monetary legislation was scattered in a series of decrees which did not constitute a whole. There was no special legislation covering agricultural credit.

At the end of 1949 the International Monetary Fund sent to Honduras, at the request of the Government, a mission to advise on new banking monetary and credit legislation, and to prepare a complete reform. Now that the basic laws have been passed, the Government of Honduras is making use of experts from El Salvador and Guatemala, as also from the Monetary Fund, the Organisation of American States, the Economic Commission for Latin America, the Food and Agricultural Organisation and the International Bank for Reconstruction and Development, with the object of constructing with their aid the suitable administrative structure.

Up to now, credit for farmers has been supplied in Honduras by two private banks which were not essentially interested in agricultural investments; under these circumstances the facilities placed at the disposal of the farmers were very scanty and operations were almost always carried out under onerous

/conditions,

conditions, such as heavy guarantees, high rates of interest and terms never exceeding one year, even for investments with slow recovery.

The credit from private moneylenders operated in a similar manner, and, possibly, even higher rates of interest were charged. They will probably continue to play an important role in the financing of the farmers of Honduras, particularly those in the isolated regions, at least until the new banking organisations extend their radius of action by means of branches and agencies.

The reform which has brought about the new structure is based on three laws:

1. The Law of the Banco Central of Honduras (Central Bank)
2. The Law of the Banco Nacional de Fomento (National Development Bank)
3. The Law for Banking Establishments.

In order to obtain a better knowledge of the most recent banking legislation in Central America, the principal regulations of these laws have been detailed in this report. In the same way, under Appendix B, the articles of the draft commercial code, which refer to Warehouses, crop loans and improvement loans and liens without Removal of Pledges are added.

## II. PRESENT BANKING ORGANISATION

Until 1950 Honduras had no Central Bank, nor any official Banking institution. Two private banks operated in the country, and until recently they had the privilege of issue. These were the Banco de Honduras (Bank of Honduras) with head offices in Tegucigalpa, and the Banco de Atlántida (Atlántida Bank) with head offices in La Ceiba.

The monetary unit is the LEMPIRA with a par of 50 cents to the dollar.

The currency in circulation from 1937-38 to 1948-49 may be seen in Table 1.

Table 1. CURRENCY IN CIRCULATION  
(In Lempiras)

Years	Annual average	Indices 1937-38 = 100
1937-38	5,749,733	100.0
1938-39	6,33,819	104.9
1939-40	6,61,800	107.2
1940-41	6,470,681	112.5
1941-42	6,940,493	120.7
1942-43	8,081,559	140.6
1943	11,900,000	191.1
1944	12,900,000	221.8
1945	15,200,000	
1946	16,500,000	
1947	15,600,000	
1948	16,025,000	
1949		

Sources: From 1937-38 to 1942-45, National Economy of Honduras by John Henessy Jr. 1943 on, International Financial Statistics published by the International Monetary Fund.

The movement of deposits from 1940 to 1949 may be seen in Table 2.

Table 2. BANK DEPOSITS

Years	Amount: (in million Lempiras)
1940	3.0
1941	3.2
1942	4.9
1943	7.6
1944	10.0
1945	11.3
1946	12.2
1947	12.2
1948	::
1949	::

Source: International Financial Statistics of the International Monetary Fund.

Tables 3 and 4 contain the Balances of the Banco de Honduras and the Atlántida.

There is a capitalisation institution called Capitalizadora Hondureña S. A.

Table 3. Balance of the Banco de Honduras  
at 31st December 1949  
(In lempiras)

ASSETS

Cash and Banks

Cash	L 3,000,988.19	
Less own bills	<u>14,265.00</u>	L 2,986,723.19
Foreign correspondents	" 3,630,119.42	
Correspondents, Deposits in Custody	<u>" 2,007,589.80</u>	L 7,714,432.41
Government Obligations to the United States of America	"	1,240,000.00

Debtors

In Current Account	L 2,007,378.24	
Accounts receivable	" 1,814,517.34	
Discounts	" 252,624.98	" 4,074,520.56

Letters of Credit		" 54,708.64
Bank buildings		" 285,000.00
Real Estate		" 49,555.86
Furniture		" 1.00
Sundry Debtors		" 12,640.75
		<u>L 13,430,859.22</u>
Securities and other documents		" 116,150.00
		<u>L 13,547,009.22</u>

LIABILITIES

Capital		L 1,000,000.00
Reserve		
Statutory	L 844,151.29	
Voluntary	" <u>149,003.16</u>	" 993,154.45
Creditors in Current Account		" 219,783.60
Sight Deposits		" 7,518,016.67
Long-term Deposits		" 418,791.08
Savings Deposits		" 235,899.04
Exchange Fund for the Lempira		" 1,186,129.80
Creditors in dollars	US. \$ 100,527.90	" 201,055.80
Sundry creditors		" 106,514.46
Interests due and unpaid		" 60,163.40
Letters of credit		" 86,117.20
Issue of bills	L 1,419,498.00	
Less own bills	<u>14,265.00</u>	" 1,405,233.00
		<u>L 13,430,859.22</u>
Deposit of securities and other documents		116,150.00
		<u>L 13,547,009.22</u>

Table 4. Balance of the Banco Atlántida  
At 31st December 1949  
(In Dollars)

ASSETS		
Cash in hand and in Banks .....	\$ 765,283.63	
Cash in hand .....	<u>3,752,186.25</u>	\$ 4,517,469.88
Government obligations to the United States of America .....	1,086,000.00	
Bonds and shares .....	<u>437,759.74</u>	1,523,759.74
Loans .....		6,167,389.08
Current accounts (with guaranty) .....	984,560.32	
Current accounts (without guaranty) .....	107,735.71	
Interests due to be collected and other Assets .....	<u>49,382.65</u>	1,141,678.68
Bank buildings and real estate (After amortization) .....		2.00
Clients' responsibility for Letters of Credit .....		<u>148,469.61</u>
		\$13,498,768.99
Securities and other documents .....		<u>2,178,220.27</u>
		<u>\$15,676,989.26</u>
LIABILITIES		
Capital .....	\$ 1,000,000.00	
Reserve .....	1,000,000.00	
Undistributed profits .....	<u>984,898.35</u>	\$ 2,984,898.35
Dividends payable .....	30,055.00	
Interests payable .....	535.52	
Unpaid Interests .....	11,226.90	41,817.42
Bills in Circulation .....		898,975.75
Deposits .....		9,367,286.37
Banks and Correspondents .....		454.56
Letters of Credit .....		187,096.87
Items in transit .....		<u>18,239.67</u>
		\$13,498,768.99
Deposit of securities and other documents .....		<u>2,178,220.27</u>
		<u>\$15,676,989.26</u>

### III. THE BANKING REFORM OF 1950

#### The State Banks

At the end of 1949 the International Monetary Fund, at the request of the Government, sent to Honduras a mission to advise the Government concerning banking, monetary and credit reform. As a result of this, there arose the proposal to organise the Central Bank and the National Development Bank as autonomous State Institutions.

#### A. The Central Bank

Capital and Administration: The Central Bank has a capital of 500,000 lempiras paid in by the State. The private Banks already in existence did not provide any contribution. The utilities of the Bank will not be paid to the Government but will serve to increase the capital until this equals ten per cent of its assets, and in order to form a Fondo de Valores (Securities Fund).

The Board of Directors is composed as follows:

- a) The President
- b) The Ministro de Hacienda (Minister of the Treasury) (ex-officio member)
- c) A representative of the Banco Nacional de Fomento (National Development Bank)
- d) A representative of the private banks
- e) A representative of the economic forces of the country; agricultural, stockbreeding and commercial associations.

The President and Vice-President of the Board are appointed directly by the President of the Republic.

Chart I. Organisation of the Central Bank

#### BOARD OF DIRECTORS

		PRESIDENT		
	Superintendency of Banks	Manager	Loan Committee	Internal Auditing
Issuing Department	Foreign Exchange Department	Department of Credits and Securities	Department of Economic Research	

The Board has the power to:

- a) Determine and direct the monetary, credit and exchange policy of

the Bank in accordance with the precepts of this law, constituting itself into commissions for the study of concrete problems when this should prove necessary.

b) Dictate the regulations which may be necessary for the functioning of the Bank, submitting them in the cases specified under this Law, to the approval of the Executive.

c) Prepare the annual budget of the Bank's income and expenditure.

d) Approve annually the Report, the balance sheet and the profit and loss account, as well as approve the amortisations of assets.

e) Appoint, suspend or remove the Manager, and, on his proposal, the heads of department and advisers.

f) Appoint the members of the Loan Committee and fix the limits of its operations.

g) Dictate the rules, limits and general conditions for the carrying out of the Bank's operations and to designate, on the Manager's proposal, the employees who may authorise these.

h) To consider and resolve credit applications from the Government, municipalities and District Councils, as well as official institutions, and to authorise the operations on the open market which may be carried out, either for account of the Bank or for the Security Fund after hearing the report of the Loan Committee.

i) To appoint correspondents abroad and to establish or close branches, agencies and correspondents within the country.

j) To revise periodically by means of a commission from among its members, the re-discounts, discounts, advances, credits and other operations effected by the Bank.

k) To exercise the other functions and faculties accorded to it under the Law and Regulations.

#### Departments

The Central Bank shall have the following departments:

- a) Superintendency of Banks
- b) Issuing Department
- c) Foreign Exchange Department
- d) Credit and securities department

/e) Auditing department



- e) Auditing department
- f) Economic research department

Each of these departments have the functions indicated by their denomination.

### Operations

The Central Bank law contains provision with relation to:

- a) Bank notes and coinage issues
- b) Foreign Exchange operations
- c) Credit operations

The credit operations that the Central Bank can perform are the following:

Article 37. The current credit operations that the Central Bank can perform with the banking institutions of the country are the following:

a) Rediscount, discount, buy and sell bills of exchange, promissory notes and other credit documents, provided they are related directly to the production or processing of agricultural (including livestock) and industrial products, or to the importation, exportation, buying, selling or transport of primary products, of semi processed products, processed products, and marketable products; or to warehousing in authorized warehouses or in warehouses that present conditions of safety, of agricultural (including livestock) products, industrial products, primary commodities and import and export goods, which can be easily kept, provided they are **duly insured**.

b) Grant advances with guarantees in the form of documents enumerated in a), or with the guarantee of deposits in current account, provided that the products of the loan are destined according to the provisions of paragraph a) above. The balance shall be certified by the accountant and the manager of the respective institutions and by the superintendent of banks.

In cases of emergency the Central Bank can grant temporary advances to the Banks with such guarantees it deems appropriate.

The bank may buy government bonds up to 15% of the entries of the Treasury and provided they are accepted by the Board of Directors. The Bank may issue "Frozen currency certificates" of national or foreign currencies for sale to the public or to the banks with a view to stabilizing the currency. In order to maintain the liquidity and stability of these certificates, the Bank shall have a "Fondo de Valores" (Securities Fund) which will have the following entries:

/a) The profits

- a) The profits of the bank which, according to article 50 can be used to this effect.
- b) The profits of issue as provided for under article 50.
- c) The sums that the government earmarks to this effect in the Budget.
- d) The profits that are derived from the operations made with the Financial means of the Fund.

The Bank can use the Securities Fund for the following purposes:

- a) To buy and sell in the open market government bonds at a fixed rate of interest issued and guaranteed by the government. These operations will be done either directly or through agents with the express end of insuring at all times a liquid market for the holders of these bonds at rates that protect the latter.
- b) To **cooperate** in the production activity of the country buying mortgage securities representing the promotion of those activities when they have been issued and are guaranteed by banking institutions of the country, up to a maximum amount of 40 per cent of the mortgage loans of the issuing banks.
- c) To **coordinate** policies with respect to issues of securities of the State, public entities and State and semi-governmental banking institutions, as well as of private enterprises, in order to make sure that these issues are in proportion to the market's absorption capacity.
- d) To stimulate savings by the public and their productive investment in liquid securities, for which purpose it shall promote the formation of a broad market with uniform and moderate commissions, and publicize the quotations.

The Central Bank may, also, act as agent for marketing the debentures which it is **authorized** to acquire with the Fund's resources, and shall at all times be ready to sell to the public the securities which it has acquired.

#### Control of Bank Credit

The Central Bank is under the obligation of controlling the volume of bank credit in order to avoid inflationary or deflationary tendencies and thus guarantee the economic stability of the country. To this effect the Bank may:

- a) Establish maximum rates of interest and commissions which the banks may pay or charge for their lending or borrowing operations.

/b) Establish the

- b) Establish the percentages which the banks must maintain among the different types or categories of loans and investments and their own capital and surplus.
- c) Set maximum percentages of increase over time for portfolios of the different categories of loans or investments which the Central Bank may establish.
- d) Establish ceilings or general limits for portfolios or for the different categories of loans or investments which may not be less than the amount of the portfolios of the banking institutions involved on the date the measures enter into effect.

#### Minimum Reserves of Banks

Banks operating in Honduras will have reserves in proportion to the amount of deposits. Reserves will consist entirely or partly of sight deposits in the Central Bank. The Board will establish the minimum amounts for the different types of deposits, and with this object in view is **authorised** to:

- a) Determine the amount of minimum liquid assets between 10 and 50 per cent, determining likewise the proportion to be kept by the banks in their vaults and the proportion to be deposited in the Central Bank.

In the case of minimum liquid assets assigned in foreign currency, the percentage can be raised to 100.

- b) Determine the liquidity of the assets up to 100 per cent on any future increase of bank deposits on the date such a resolution is taken.
- c) Decide what kind of deposits and other obligations in national or foreign currency (either on account of banks as institutions authorised to deal in exchange), are subject to minimum liquid assets.

#### The Bank and the Government

The Central Bank will act as banker and fiscal agent, as well as economics and financial counsellor of the Government and of the State and semi-governmental bodies. It will also represent Honduras in the International Monetary Fund.

#### Superintendency of Banks

This will be directed by a Superintendent who will remain under the administrative control of the Manager of the Central Bank. He will be in charge of:

/a) Fulfilling and

- a) Fulfilling and enforcing all laws, regulations and resolutions taken by the Board affecting banks or other institutions authorised to deal in foreign exchange.
- b) Inspecting and controlling their activities by means of inspections and revisions, being fully authorised to request from them any information which is indispensable - in his opinion - for fulfilling his duty.
- c) Suggesting to the Manager of the Central Bank the appointment of the personnel he requires.
- d) Keeping the President of the Central Bank and through him the Board, up-to-date on the legal situation and all regulations and resolutions applicable to the institutions under his jurisdiction.
- e) Keeping in permanent touch with the directors of these institutions in order to inform them, warn them or demand from them the fulfillment of the legal requirements or regulations and Board resolutions.
- f) Compiling bank and exchange statistics by obtaining all essential data from the banks and institutions under his jurisdiction, in order to fulfill the task of the Central Bank and the Superintendent's office itself.

B. The Banco Nacional de Fomento (National Development Bank)

Finances

The National Development Bank is an autonomous State Institution whose duration is indefinite, the purpose of which is to contribute to the development of national production and to the raising of the standard of living of the people of Honduras. The principal object of the Banking reform has been to create a new source of credit for investments by means of this Bank, in order to take care of those aspects which are not served or are inadequately served at the present time.

The initial capital of the Bank is around one and a half million Lempiras, that had been collected by the Government. Moreover, the product of a surtax of 10 per cent on import duties, plus 15 per cent of the recently established income tax is to be used specifically for the purpose of increasing this Bank's capital.

Since the market for capital in Honduras is very limited, the Bank at the beginning will have to keep its activities within its own working capital in order to attend to the demand for those credits which technically cannot be discounted or re-discounted in the Central Bank. It is hoped in this way to

/avoid

avoid the Development Bank being obliged to exert pressure on the Bank of Issue, as is the case when banks operating on medium or long terms cannot attract private savings. In the course of time a propitious atmosphere will be formed, and this will provide the opportunity for developing the issue of long-term mortgage bonds. Moreover, private savings cannot be attracted by investments in bonds since high rates of interest are obtained by direct loans. However, little by little it will be possible to issue bonds as the number of direct operations are absorbed by the Bank.

The Bank's capital is divided up according to the following scheme:

CAPITAL	{	1. Account for the Department	{	1. Short-term Section.
		of Credit and Operations.		2. Medium-term Section.
	{	2. Account for the Department	{	3. Long-term Section.
		of Development.		

The proportion to be allotted to each account will be decided by the Board of Directors.

#### Board of Directors

It consists of ten members, as follows:

- a) A president appointed directly by the Government.
- b) The Ministre de Hacienda (Minister of the Treasury) (ex-officio member).
- c) The Minister of Agriculture and Development (ex-officio member).
- d) A member nominated by the Central Bank.
- e) A member nominated by the private banks.
- f) Five members nominated by the Government from candidates proposed by the agricultural, stockbreeding, commercial and industrial organisations.

Owing to the various functions given to the Bank by the law, it was considered more convenient to establish a numerous Board, which should include representatives of the live forces of the country.

The duties of the board are the following:

- a) To determine and direct the general operations of the Bank in accordance with the precepts of this Law and its regulations.
- b) To dictate the regulations which may be necessary for the functioning of the Bank, submitting them in the cases specified by this Law to the approval  
/of the Superintendent

of the Superintendent of Banks or of the Central Bank or of the Executive, as may be required.

c) To approve the Bank's annual budget of entries and disbursements.

d) To approve annually the Report of the Institution, the General Balance and the Profit and Loss Account, as well as to approve the distribution of profits in accordance with the Law.

e) To nominate, suspend or remove the Manager, and at the suggestion of the latter, the Heads of Sections and Divisions, the members of the Technical Assessment Division and the other senior staff of the Institution.

f) To appoint, in accordance with the Law, the members of the committee of Development and of Credit and Operations and any others which the Board of Directors itself may decide to establish at the proposal of the President.

g) To resolve credit applications presented to the Bank and to define the limits and conditions under which these may be resolved directly by the Committee of Credits and Operations, by the Manager of the Department concerned or by other senior staff of the Bank, as well as to fix the rates of interest and commissions which the Bank shall charge on its operations, without exceeding the maximum limits fixed by the Central Bank.

h) To revise monthly the composition of the Portfolio of the Bank and to know the estimates of funds available for investment, and on these foundations, to determine the activities which should be given preference in the granting of credits fixing maximum limits for each economic branch or activity, if this should be necessary.

i) To fix the margins of guaranty, the norms of valuation, and the other conditions inherent in the granting of loans.

j) To consider the reports prepared by the Technical Department, which may be presented through the President or Manager, and which have been previously studied by the relevant commissions.

k) To approve the opening of Agencies and Branches of the Bank within the country to draw up their regulations and nominate their authorities in accordance with this law; to nominate correspondents abroad and within the country to accept correspondencies from within the country and from abroad.

l) To consider and approve the annual Budget of the Development Fund and the distribution of the annual contribution from the State, in accordance with the precepts of this law, and

/m) To resolve

m) To resolve any other matter whose decision may be required under this law and its regulations and in general to exercise all the functions necessary for the better fulfillment of these.

#### Internal Committees

For the better fulfillment of its duties, the Board shall be organised in committees which shall study those matters which may be submitted to them and shall inform the Board. Two committees are obligatory, as follows:

1. The Committee of Credits and Operations, which shall be composed of the Director elected by the private banks plus four members elected by the Board of Directors from among its members. The Manager of the Department of Credits and Operations shall be an ex-officio member with a vote, and the Heads of Sections shall act as permanent counsellors.

2. The Committee of Development, which shall be composed of the Ministers of the Treasury and of Development and Agriculture plus 3 regular members elected by the Board from among its members. The Manager of the Department shall be an ex-officio member with a vote and the Heads of Sections and of the Technical Division shall act as permanent counsellors.

Charts 2 and 3 show the organization of the Bank and the functions of its various dependencies.

#### The President:

The President shall have the following duties:

a) To propose to the Board of Directors the measures or resolutions which in his judgment may be convenient for the better fulfillment of the aims of the Institution.

b) To inform the Board of Directors, at each meeting, concerning the affairs which may have greatest importance for the functioning of the Bank.

c) To propose to the Board of Directors the nomination of the Managers of the Institution and the composition of the Commissions belonging to it.

d) To guide and supervise the higher administration of the Bank and the fulfillment of the Law, the regulations and the decisions of the Board of Directors.

e) To resolve, in the last case, those matters which may not be reserved for the decision of the Board of Directors itself.

f) To exercise the legal representation of the Bank, jointly or separately with the Managers, being able to delegate this representation only to the

/Vice-President

Vice-President, except in those cases in which his intervention is obligatory by law.

g) To direct the relations of the Bank and the Board of Directors with the public authorities, with the banking system and with international organisation, and

h) To exercise all other functions which may pertain to him under the Law, the regulations and the decisions of the Board of Directors.

The Managers:

The Bank shall have two managers nominated by the Board at the proposal of the President of the Board. They shall be responsible for the functioning of the Bank in their respective departments. Their duties are as follows:

a) To direct the execution of operations of their respective departments and supervise the observance of the Law, the regulations and decisions of the Board of Directors.

b) To report daily to the President concerning the running of the Departments and to submit to the consideration of the Board of Directors, at least once a month, a report on the financial position of these departments.

c) To propose to the Board of Directors the nomination, suspension or removal of the Heads of Sections and the assessors of the Bank, and to nominate, suspend, or remove other functionaries or staff in their respective Departments.

d) To exercise the legal representation of the Bank, jointly or separately with the President, according to the regulations and decisions of the Board of Directors, being permitted to delegate this representation to a senior functionary of the Bank, except in those cases in which their own intervention is required by law.

e) To confer and revoke power for covenants to persons foreign to the institution.

f) To submit annually to the Board of Directors, through the President, the budget, the general balance, the profit and loss account and the reports of their respective departments.

g) To form part of the Committees of Credit and Operations and of Development and to present for their consideration those matters which may be within their powers, and

h) To exercise the other functions and faculties authorised to them by the Law, the regulations and decisions of the Board of Directors.

/Departmentalisation



## Departmentalisation

The Bank is divided into the following Departments;

- (a) Department of Credits and Operations; and
- (b) Department of Development.

## Department of Credits and Operations

This department is the most thorough which the National Development Bank effects the following operations:

- (a) The granting of short, medium and long term loans
- (b) The acceptance of sight, savings and long-term deposits
- (c) The issuing of mortgage bonds and those with property guaranties.

This department is divided into two sections, as follows:

- (I) Short-term Section
- (II) Medium and Long-term Section

Each section shall keep independent books, and their capital, reserves and operations shall appear in separate balances.

## Operations

The active operations which these two sections may undertake under the Law are as follows:

### 1. Short-term Loans.

- 1) These loans are used to cover the expenses of cultivation, processing and other agricultural, stockbreeding or industrial activities.
- 2) To purchase seed, raw materials, disinfectants and rapidly assimilated fertilizers.
- 3) To harvest.
- 4) To acquire cattle for fattening.
- 5) For the manufacture, processing, transport and preservation of agricultural, livestock or industrial products.

## Term

The cycle of production or operation, without exceeding 18 months.

## Guaranties

Agricultural and industrial products deposited in the General Deposit Warehouses, which offer security and have been previously occupied.

### 2. Medium-Term Loans

These loans are used for:

- 1) For the purchase, use, renting or re-purchase of agricultural and  
/industrial

industrial implements, instruments, tools and spares, fertilisers which are slowly assimilated, animals for draught or breeding purposes, cattle for reproduction.

- 2) For the sowing of permanent crops.
- 3) For the opening up or improvement of arable lands.
- 4) For the purchase or installation of agricultural and industrial machinery or working effects and material improvements which will directly affect the development of the production of Honduras.

#### Term

Not more than 5 years except for loans granted for the breeding of fine cattle, plantations which commence to produce after the expiry of this period; and the purchase or installation of improvements with a slow amortisation, which may exceed 7 years.

#### Payments

By periodic amortisations which may be deferred until the investment begins to produce.

### 3. Long-Term Loans

These are used for:

- 1) The acquisition of agricultural lands.
- 2) The fulfillment of productive agricultural tasks.
- 3) The purchase or construction of buildings for the establishment of industrial plants, warehouses, workshops, etc.
- 4) The construction of collective dwellings for workers.

#### Term

Not less than five years nor more than 25 years.

#### Guaranties

First mortgage on real estate situated within the territory of Honduras.

#### Norms for credit

The Board shall fix from time to time the margins of security and patterns of valuation for loans. In no case may the amount of a loan exceed the following limits:

- a) 100 per cent for loans guaranteed with value such as shares and debentures issued within the Republic by Limited Liability companies or on mortgage bonds issued by the Bank itself.

/b) 80 per cent on

- b) 80 per cent on loans guaranteed by movable goods.
- c) 60 per cent for loans guaranteed with mortgages.

The valuations of the guaranties which the Bank may make before granting loans shall be based on the value of the income and annual yield of the property offered. In the case of real estate, when the valuations exceed the declared value for the payment of taxes, this last figure shall be the one to be taken into account for fixing the 60 per cent.

The applications for credit should express clearly the amount requested, the purpose for which it is to be used, the guaranties offered, the term and the form of amortisation, as well as a statement of the goods, income and expenses of the applicant. The data shall be given under oath and shall be strictly confidential.

The sums granted shall be those strictly necessary for the achievement of the aims declared.

The Bank may control the use of credit by means of its agents. If the client should refuse to give information for purposes of control, the term shall expire and the obligation becomes totally payable.

Any transfer in the ownership and constitution of new burdens on the guaranty should be consulted with the Bank, the term expiring if this requirement is not fulfilled.

Long term credits are paid by monthly, six-monthly or annual quotas. Each quota comprises the payment of capital and interests. The Bank shall prepare tables and give the clients forms describing the sums paid.

The clients may pay the long-term obligations in currency or in bonds at part of the series corresponding to the loan.

#### Mortgage Bonds

The Law of the Development Banks foresees that the Institution will issue lien bonds and bearer mortgage bonds which shall be transferable and negotiable by simple tradition. Above the real guaranties of the mortgages and liens constituted in the Bank's favour, the bonds and bearer bonds shall enjoy the most complete subsidiary guarantee of the State.

#### Department of Development

This Department is the unit by means of which the Bank may effect the following operations:

/a) Participate in

- a) Participate in forming the whole or part of the capital of private, public or semi-governmental enterprises, as well as purchase and guarantee the obligations which these may issue.
- b) Sell and place shares and obligations of the enterprises indicated in the preceding paragraph.
- c) Organise and participate in the organisation and intervene in enterprises and companies related with the aims of the Bank.
- d) Establish, patronise and direct research and experimental services, surveys and scholarships.
- e) Direct development projects and works for the account of the Government or of third parties.
- f) Import, export, buy, sell, rent, store, and transport machinery, tools, working tools, seed, fertilisers and fruits or products in general.
- g) Serve as a **coordinating** body for the Government's economic development policy.
- h) Act as the Government's financial agent in the contracting of foreign loans to be used for economic development, and to represent it before international specialised agencies, subject to the previous approval of the Banco Central of Honduras.

The Development Fund shall be used exclusively for the aims indicated by the Law and the resolutions of the Board of Directors regarding this should be taken in collaboration with the Committee of Development and subject to a prior report from the Technical Division.

#### Budget

The Board of Directors should approve an annual budget of expenditures which in the aspect of Economic Development, shall be the Bank's plan of action for the Fiscal Year. The Budget shall comprise:

- Technical Services
- Survey and Planning
- Training of technical staff
- Own investments of a productive nature

#### Specialised Services

The Bank shall establish, maintain and operate, alone or in **cooperation with** official or private bodies, in Honduras or abroad, specialised services for assistance and technical research in the various agricultural, stockbreeding and /industrial

industrial branches. These services should cover:

a) Agricultural and Livestock experimental stations; laboratories for industrial experiments; agricultural mechanisation stations; production, import, export, buying and selling of good quality seed, fine stud animals, disinfectants, fertilisers, agricultural implements, etc; plants for storing grains, and all activities directly connected with the aims of the Institution.

b) Technical advice to farmers, stockbreeders and industrialists on matters such as production and standardisation methods, the organisation of enterprises and commercialisation of production.

c) Technical studies on the country's economy and natural resources; improvement of the compilation of statistics on production, consumption and investments; all this bearing in mind the convenience of not duplicating similar tasks of economic research being carried out by other bodies, and

d) The granting of specialisation scholarships abroad, to be given to **Honduras**, with the object of creating gradually the technical staff which may be necessary.

#### Technical Services for the State

At the request of the Government or any of its dependencies, the Bank shall lend technical assistance at its own expense or the expense of the Government in order to carry out research on plans for economic development and to realise special services on production, organisation and administration of enterprises operated by the State or belonging to it.

#### Administration and Execution of the Tasks and Projects for the State's account

The Bank, at the Government's suggestion, may prepare plans and works for electrification, drainage, irrigation, colonisation, communications, health etc. Participation in Enterprises

The Bank may operate, establish directly or indirectly, finance and participate in agricultural, industrial, stockbreeding and transport enterprises, supplying part or all of the capital or acquiring shares in such enterprises. These investments shall be made with resources from the Development Fund under the following conditions:

a) That the enterprise in question shall be highly interesting and beneficial to the country's economy.

b) That there shall exist a favourable technical-financial opinion, given by specialised staff of the bank itself or foreign to the Institution, but recognised by the latter.

/c) That even when the

c) That even when the Bank does not establish the enterprise on its own account it shall assure a convenient degree of participation in the technical or administrative management of the same, and

d) That the principal activity to which the enterprise is dedicated shall not have been advanced to a great degree by private enterprise.

#### Technical Division

The Bank shall have a special division authorised to:

a) Prepare and submit to the Bank authorities the project of the Annual Budget of Distribution of the Development Fund;

b) Advise the Department of Development, the Manager, the Board of Directors and the other Dependencies and Authorities of the Bank regarding such technical problems as these may submit.

c) Propose to the Department of Development the conducting and realisation of studies and projects related to the aims of the Bank.

This Division shall have experts on the following subjects:

Agriculture and Stockbreeding

Industrial technology

Economics and Statistics

Banking organisation and credit policy

Natural resources and planning

Organisation and administration of enterprises.

It shall also have a library specialising in the subject covered by it.

#### Branches and Agencies

The Bank shall establish branches and agencies in those places which it may consider necessary for the fulfillment of its aims. The work of these is coordinated in the Division of Branches and Agencies.

APPENDIX A

PRINCIPAL BRANCHES OF HONDURAN AGRICULTURE

The area under cultivation in Honduras during the 1943-44<sup>1/</sup> economic year was of approximately 348,000 hectares as is shown in table A-1.

TABLE A-1

AREA UNDER CULTIVATION

(Hectares)

Maize	155,090
Coffee	60,538
Maicillo	42,074
Bananas	38,440
Beans	25,440
Sugar cane	17,333
Rice	<u>9,085</u>
Totals	<u>348,000</u>

Source: National Economy of Honduras  
by John F. Hennessey, Jr.

Maize and beans are the principal subsistence crops. Production of sugar is insufficient to meet the needs and it is necessary to import this commodity. Bananas are the most important commodity for export. Two U.S. Companies "The United Fruit Company" and "Standard Fruit Company" have large scale plantations. Between 1929 and 1938 Honduras was the most important exporter of bananas. At the beginning of that period it exported 29,000,000 bunches per annum, but there was a fall in production after 1935 owing to "sigatoka". Scientists have found that this disease could best be controlled with "Bordeaux Mixture". However, during the second World War exports decreased again owing to lack of sea transport. Exports during the 1932-33 to 1944-45 period are detailed in Table A-2.

<sup>1/</sup> National Economy of Honduras by John Hennessey, Jr. is used throughout this study. Although it is a relatively old publication, it has excellent information.

TABLE A-2

BANANA EXPORTS

<u>Years</u>	<u>Thousand bunches</u>
1932-33	23,493
1933-34	19,462
1934-35	15,827
1935-36	12,229
1936-37	12,710
1937-38	8,458
1938-39	12,537
1939-40	12,677
1940-41	13,436
1941-42	11,700
1942-43	3,880
1943-44	9,172
1944-45	12,906
1945	13,138
1946	14,184
1947	15,211
1948	....

Sources: Until 1944-45 National Economy of Honduras by John Hennessey, Jr. From 1945 on Economic Survey of Interamerican Agriculture by Miss Regis Dunnigan, Gonzalo Blanco and Thew Johnson - Volume I 1949.

Coffee is an important market crop for small and medium holders. Part of the crop goes to El Salvador and is included in the exports from the latter.

The area under cultivation of coffee in 1945 was estimated at 24,670 hectares, with 39,529,000 trees. This estimate seems high since it implies an average production of nearly 100 grammes per tree.

The total exportable production of coffee in the 1935-36 to 1949-50 period is shown in Table A-3.

TABLE A-3

TOTAL EXPORTABLE PRODUCTION OF COFFEE  
(In thousand sacks of 60 kilos)

<u>Years</u>	<u>Total Production</u>	<u>Exports</u>
1935-40 <sup>a/</sup>	57	27
1947-48	100	50
1948-49	105	65
1949-50 <sup>b/</sup>	100	60

a/ Average

b/ Provisional

Source: O.F.A.R.

U.S.D.A.

/Tobacco



Tobacco is another crop of interest to small holders. This product is either utilised within the country for the manufacture of cigars and cigarettes or else exported to El Salvador. The production of cigars and cigarettes was the following in 1945/46:

Cigarettes	339,748,480 packs
Cigars	350,250 units

Other crops that have a certain importance in Honduran agriculture are abacá (Manila hemp), citronella, cocoa, nuts and wheat. The production of Manila Hemp in the 1944-47 period can be seen in Table A-4.

TABLE A-4  
PRODUCTION OF MANILA HEMP

<u>Years</u>	<u>Fibre</u>	<u>Tons</u>
1944	944,625	43,200
1945	2,520,375	124,450
1946	3,153,425	92,000
1947 <sup>a/</sup>	5,575,625	81,250

a/ 10 months.

Source: The Fibre Industry in Latin American Republics by Brittain B. Robinson, Pan American Union

Honduras presents good conditions for the development of livestock. Livestock breeding exists in almost all the territory although modern techniques are not applied for dairy cattle. The same can be said of the horse and hog breeding. In rural areas and small towns the donkey is used for the transport of water. The 1944 census shows the following figures:

TABLE A-5  
LIVESTOCK CENSUS 1944

<u>Livestock</u>	<u>Number of Heads</u>
Cattle	702,483
Hogs	258,004
Horses	153,674
Mules and donkeys	71,428
Goats	18,228
Sheep	14,311

Source: National Economy of Honduras by John Hennessey, Jr.

The "per capita" consumption of milk is very low. Owing to lack of transport facilities milk is often processed and there is a considerable production of white salted cheese. Ices are only consumed in important /centres.

centres.<sup>1/</sup>

In Tegucigalpa there is a meat processing industry and output of which is about 10,000 pounds a day.

Honduras has great wealth in timber. Mahogany and pine wood are the market products.

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<sup>1/</sup> The Dairy Industry of Honduras, by R. E. Hodgson and A. C. Dahlberg.

APPENDIX B

COMPLEMENTARY LEGISLATION

A draft code of commerce was presented before the Honduran Congress in July 1948.

This draft code contains many provisions which have a direct influence on Agricultural Credit. The following main provisions are listed hereafter for information. They deal with

- 1) Warehouses
- 2) Crop and improvement loans
- 3) Lien without removal of the pledge

Warehouses:

The provisions dealing with these establishments which are related to credit are the following:

1) A deposit made in a warehouse is one made in an establishment to which the public has free access and the purpose of which is to keep any kind of goods. The warehouses which have been specially **authorised** by the Treasury are authorised to issue deposit certificates and lien bonds for the goods they receive in deposit.

2) A Deposit certificate constitutes an assurance that the deposited goods are available in the warehouse which issues the certificate, the lien bond certifies that a lien deposit has been made related to the goods indicated in the corresponding deposit certificate.

The documents that are issued by warehouses that are not authorised by the Treasury are not considered as being title deeds.

3) In the case of merchandise or goods that are consigned individually, the warehouses may only issue a lien bond in connection with each certificate of deposit. If the merchandise or goods are generically consigned, the warehouses may issue multiple lien bonds, in accordance with the instructions of the depositor.

When the certificate of deposit is issued on the express condition that it is not negotiable, no lien bond will be issued in connection with it.

If a single lien bond, it must be attached to the certificate of deposit.

The warehouse may not issue a single certificate except when the said certificate is non-negotiable.

4) Both on the certificate of deposit and the lien bond mention shall be made of:

- I. The fact that it is a "Certificate of Deposit" or a lien bond;
- II. The name and title of the warehouse;
- III. The place of deposit;
- IV. The date on which the document was issued;
- V. The ordinal number of the document, which must tally on both the certificate of deposit and the lien bond or bonds, and their subsequent numbers, when various of the latter are issued in relation to a single certificate of deposit.
- VI. Whether the deposit was consigned individually or generically as regards the merchandise or goods deposited.
- VII. The specifications of the merchandise or goods deposited with reference to their nature, quality and quantity and other identifying factors.
- VIII. The stipulated duration of the deposit.
- IX. The name of the depositor, or, in the event of this occurring, the fact that the certificates were issued to the Bearer.
- X. Whether the goods or merchandise deposited is subject to the payment of taxes, duties or other fiscal liabilities, and when deposit depends on the prior settlement of such dues, mention thereof.
- XI. Whether or not the goods or merchandise deposited are covered by insurance, and in the affirmative, the amount for which they are insured.
- XII. The sum of the debts or tariff owed to the warehouse, or in the event thereof, mention of non-indebtedness.

5) The Security Certificate should furthermore mention:

- I. The name of the holder of the certificate, or mention that it has been issued to the bearer.
- II. The total credit for which the certificate has been issued.
- III. The agreed terms and rate of interest.
- IV. The date of maturity which must not be later than the terminal date of deposit.
- V. The signature of the holder of the certificate negotiating the certificate in the first place.

/VI. A signed

VI. A signed declaration by the Warehouse or Credit Establishment acting in the first negotiation of the certificate mentioning that the corresponding annotation has been made on the respective certificate of deposit.

6) When the Lien Bond does not indicate the credit for which it was issued, it shall be understood that the amount is equivalent to the total value of the goods deposited by a bona fide depositor except the right of the holder of the certificate of deposit to claim for the excess which the holder of the lien bond receives over and above the real value of the credit.

When the rate of interest is not stipulated, it shall be assumed that the legal rates have been accepted.

7) The Warehouse shall issue such certificates from a stub book into which shall be entered the same data as are made on the documents issued, according to the stipulations made by the warehouse authorities or in accordance with the regulations of the Credit establishments intervening in the primary negotiation of the deed.

8) When multiple lien bonds are issued corresponding to a single certificate of deposit, as from the date of issue the warehouse shall be responsible for the mention on the security certificates of the stipulations of Paragraph II to IV inclusive of Article 854, as also for the mention in the certificate of deposit that the lien bonds have been issued in accordance with these requirements.

9) The lien bond may only be primarily negotiated apart from the certificate of deposit with the consent of the warehouse issuing the deeds or of the credit establishment.

When the certificate is negotiated in the first instance, the conditions established in clauses I to VI of paragraph 5 must be fulfilled in the case of a single lien bond or when multiple deeds are issued the requirements of clauses I, V and VI.

The annotations referred to above must be signed by the holder of the certificate and by the Warehouse or credit establishment who shall be liable for damage or loss suffered by the omissions or inaccuracies which may occur.

The credit establishment intervening in the issue of the bond notifies in writing the warehouse which has issued the original document.

10) The multiple lien bond mentioned in paragraph 8 shall be sued for a global amount divided in as many equal parts as there are bonds issued and mention shall be made on each certificate that the credit of its legitimate holder at the date of maturity will be subject to numerical preference in accordance with the numeration of the certificates themselves.

11) The certificates of deposit and the lien bonds may be issued nominally or to Bearer, on behalf of the depositor or in favour of a third party.

The holder of these deeds may freely exchange the form of their circulation.

12) The legitimate holder of the certificates of deposit and the bond or bonds shall have full rights to the merchandise or goods deposited and may at any time withdraw them by returning the certificate of deposit and that of the corresponding bond or bonds and settlement of the respective liabilities to the fiscal and warehouse authorities.

13) Only the holder of a deposit certificate may dispose of the merchandise and goods deposited. But they may not be withdrawn except on payment of the contractual obligation incurred with the Fiscal and Warehouse authorities and the deposit in the said warehouse of the sum represented thereby. He may, furthermore, when the nature of the goods can be easily divided, and under the responsibility of the warehouse, withdraw a part of the goods deposited, handing over to the warehouse a proportional amount of the sum owed represented by the lien bonds for the amount withdrawn and paying a proportional amount of the contractual liabilities in favour of the warehouse or credit establishment. In this event, the warehouse shall duly note the corresponding amount on the respective certificates and stubs.

14) The legitimate holder of a non-negotiable certificate of deposit may dispose freely, or in parts, of the merchandise or goods deposited, if they can only be divided by issuing delivery orders on behalf of the warehouse and making payment of the contractual debt with the fiscal authorities and the warehouse, proportionally in accordance with the parts which it is his intention to dispose of, unless there is an agreement to the contrary.

15) When a lien bond is not settled at the date of maturity, either totally or partially, it must be protested not later than the second working day after the date of maturity in the same way as with any letter of exchange.

The protest must be made at the warehouse itself where the corresponding certificate of deposit was issued, against the legitimate holder thereof, even when his name and address are unknown, and despite his absence when the protest is made.

The annotation inscribed on the lien bond or on an attached sheet stating that the deed was presented for payment at maturity and not totally paid shall serve in the stead of a protest. In this case, the holder of the bond shall give advice of failure of payment to all signatories of the deed.

16) The holder of the protested lien bond in accordance with the preceding article shall solicit within the eight days subsequent to the date of protest that the warehouse proceed with the enforced sale by public auction of the goods deposited.

17) The proceeds of the sale of the goods or merchandise deposited shall be allocated immediately by the warehouse, and in the following order:

- I. To the payment of the taxes, duties and fiscal liabilities pending on the goods or merchandise deposited in the warehouse.
- II. To the settlement of the debt to the warehouse, in accordance with the terms of the contract of deposit.
- III. To the payment of the value consigned on the lien bonds and in the event of there being several such bonds corresponding to a single certificate of deposit, in the order of preference previously established, among the various holders of the said bonds, in numerical order.

The remainder shall be reserved by the warehouses and remain at the disposal of the holder of the certificate of deposit.

18) If the goods or merchandise deposited are covered by insurance, the amount of the corresponding indemnity, in the case of loss, shall be applied in accordance with the terms of the preceding paragraph.

19) The warehouses shall be considered to be the depositaries of the amounts of the proceeds of the sale or withdrawal of the merchandise or the indemnity paid in the case of loss, which are due to the holders of the lien bonds and certificates of deposit.

20) The warehouses shall indicate on the bonds or on a page annexed thereto the amount paid on the bonds by the proceeds of the sale of the goods deposited,

/or by the

or by the corresponding sums which the warehouses shall have at their disposal in accordance with the above paragraph 19. They shall also indicate, in the event thereof, that no sale of the goods was possible. This annotation will serve as evidence in the event of legal action.

21) If the proceeds of the sale of the deposited goods, or the total sum of the amounts which the warehouse has handed over to the holder of the lien bond as per clauses 13 and 18 is insufficient to cover the total amount of the debt consigned by the bond, or if, for any reason, the warehouse does not execute the sale by auction, or does not hand over to the holder the sums received in accordance with the terms of the above paragraph 19, the holder of the lien bond may sue against the person or persons negotiating the bond in the first instance separately from the certificate of deposit and also against the subsequent endorsers of the bond and those guaranteeing it. The debtors who pay the debt have the same rights against previous endorsers.

22) The rights of the holders of lien bonds shall lapse as against the endorser or guarantors when:

- I. The bond shall not have been protested in accordance with the terms established by paragraph 15.
- II. The holder shall not have solicited the enforced sale by auction of the goods or merchandise deposited, in accordance with the terms of article 16 above.
- III. The action has not been brought within the period of 3 months after the date of sale of the goods deposited, or after the day when the warehouse has posted notice to the holder of the bond that sale cannot be effected, or after the day that the warehouse shall have terminantly refused to deliver the amounts referred to in paragraph 19 or delivered only a part thereof, less than the amount of the debt incurred and consigned on the bond.  
Though the right to sue may have lapsed against the endorsers and their guarantors, the holder of the bond preserves his right to action against whosoever may have negotiated the deed in the first instance separately from the bond and its guarantors.

23) The suits arising from the bond for the withdrawal of merchandise shall be limited to a period of three years as from the date of maturity indicated for deposit on the certificate.

/Suits arising



Suits arising from the bond shall be limited to a period of 3 years as from the date of maturity of the said bond.

The same period shall be stipulated for suits arising from the certificate of deposit to withdraw, in the event thereof, the amounts which remain in the hands of the warehouses, in accordance with the terms of paragraph 19.

#### Crop Loans - Improvement Loans

The provision related to these types of loan are the following:

1) In compliance with his contract, the beneficiary of a crop loan is under the obligation to invest the amount of the loan in the purchase of primary commodities and materials and in the payment of wages, salaries and direct and indispensable expenses of the holding.

2) The crop loans are guaranteed by the primary commodities and materials that are purchased and by the fruits, products or manufactures obtained with the loan, as and when they materialize.

3) In compliance with his contract the loanee must invest the product of the loan in the purchase of tools, implements, fertilizers, livestock or breeding stock; in plantations or in annual or perennial crops; in land reclamation operations, in the purchase of machinery in building or in works that are necessary for the development of the holding.

The contract can also provide that part of the loan should be used for the payment of taxes related to the holding or to the goods he uses for the latter when the contract is signed.

4) Improvement loans are guaranteed either simultaneously or separately according to the contract, by the land, buildings, machinery, tools, implements and other chattel goods and by the fruits or products of the holding as and when they may materialize.

5) The loanee can sign promissory notes in favour of the lender in conformity with the provisions pertaining to the loan, provided that the terms of these notes are not longer than the term of the loan and that mention of the origin of the operation be made on the documents in order that they may be identified and show the registry notes of the original loan. The transfer of these documents implies, in any case, the joint responsibility of the person or persons who transfer and the transmittal of the corresponding part of the

/principal

principal represented by the notes, together with the guaranties and other additional rights in the corresponding proportions.

6) The improvement loan contracts shall

- I. Express the object of the operation, its duration and the form in which the loanee will be entitled to dispose of the loan.
- II. Determine with due precision the guaranties and indicate the other provisions and conditions of the contract.
- III. Be consigned, if appropriate, in private contracts that will be signed in triplicate before known witnesses and ratified in the presence of the employee of the public registry mentioned in IV.
- IV. Be inscribed in the appropriate Registry of Property, according to the location of the guaranty, as also in the appropriate Registry of commerce.

The crop and improvement loan contracts will have effect on third parties only after the time of the inscription in the registries.

7) Those who concede crop or improvement loans will have to see to it that the product of the loan be invested according to the provisions of the contract, if it is proved that another kind of inversion is made with the knowledge of the lender and through negligence on his part, he will lose his privilege.

The lender will have the right at any time to appoint a comptroller who will see to it that the loanee fulfills his obligations. The salary and the expenses of the comptroller are the responsibility of the lender unless the contract provides otherwise. The loanee must facilitate the fulfilment of the comptroller's task. If the loanee use the funds to different ends than those provided for in the contract or does not attend to the business with the necessary diligence the lender can annul the contract, consider the obligation as foreclosed by anticipation and claim reimbursement of the sum he has loaned with interests. When the loanee endorses the notes, and unless the contract provides otherwise, he must still watch over the investment that the loanee will make, and also safeguard the guaranties, being considered in this case as the agent of the holders of the notes which will be deemed mature.

8) The crop loans, duly registered, shall have preference for payment on improvement loans and both shall have preference over mortgages registered subsequently when the transfer of the property for the development of which the credit was granted shall have been effected without prior consent of the lender,

/the latter

the latter shall have the right to rescind the contract or deem the date of maturity of the obligation advanced and demand its immediate settlement.

9) In case of improvement on crop loans, the pledge may remain in the possession of the debtor. For purposes of civil or commercial liability, the loanee shall be considered as the legal depositary of the fruits, products, livestock, implements and other movable pledges.

10) The lender may claim the pledged fruits or products of a crop or improvement loan against whosoever may have acquired them directly from the loanee or against subsequent persons acquiring such property with knowledge or who should have had knowledge of the pledge bearing thereon.

11) In the cases of improvement or crop loans, the pledge may be tendered by whosoever develops the undertaking for the promotion of which the loan was raised even in the event of the third person not being the owner thereof.

12) The guaranty constituted by improvement loans on holdings, buildings and real estate shall encompass

- I. The land
- II. The buildings and other edifications erected at the date of the guaranty of the loan or subsequently.
- III. Permanent fixtures.
- IV. The movable property and the animals recorded in the deed such as livestock on rural holdings, intended wholly or in part for purposes of cattle breeding.
- V. An eventual indemnity obtained by way of insurance in the event of loss or danger to the said goods.

13) The lender shall have the preference of payment of the loan with the profits derived from the guaranty over all other creditors with the exception of the so-called "de dominio" and other creditors of mortgage loans raised previously.

The preference established by this article will not lapse by the transfer of goods on which a lien reverts to the hands of a third party whatever the motive for the transfer of ownership.

Liens without Removal of Pledges

The regulations relative to this type of guaranty are as follows:

- 1) The lien should be delivered to the debtor or may be left in the power of a third party.
- 2) The lien may be constituted without removal of the pledges, which remain in the possession of the debtor, when it is constituted on elements which are necessary for the exploitation of an enterprise or the result of the same, and in those cases where the Code permits, even though those circumstances are not present.
- 3) The lien on share values shall be constituted:
  - I. By endorsement in lien of the shares to order
  - II. By endorsement and registration, if they should be nominative;
  - III. By the same endorsement and notification to the debtor if the share were not negotiable,
  - IV. By the handing over of the lien bond; and
  - V. By the simple delivery of the shares if they should be bearer shares; a receipt should be demanded, explaining the purpose for which it is extended.
- 4) The delivery of the key to the places in which the articles are kept is equivalent to the delivery of these.
- 5) In contracts for crops and improvements, the lien is perfected by the inscription of these.

In the discounting of credits in books, this will be perfected by the annotation made in the register of the discounter, if this should be a banking establishment.

6) The lien creditor has the right to retain the article while the contract lasts and the principal obligation continues. The right given by the pledge is extended to all the accessories of the goods and their increase.

The lien creditor may take the necessary steps to recover possession of the articles, if these should be lost or taken away from him.

7) If prior to the maturity of the guaranteed obligation, the shares given in lien should mature, or should be amortized, the lien creditor may retain the amount received in lien.

8) If the debtor should not pay within the stipulated period and in default of such period having been fixed judicially, the creditor may solicit and  
/the judge

the judge may decree the public sale by auction of the goods pledged, prior to the citation of the debtor and of the person who constituted the lien.

If the creditor should so request, and the judge should see no inconvenience therein, the alienation may be effected by means of a broker or of two tradesmen established in the market, at the price quoted on the Bourse or in the market.

The amount obtained from the sale shall be adjudicated to the creditor in payment of his credit, and the remainder, if such there should be, shall be placed at the disposal of the debtor.

In the case of extreme urgency, and under the creditor's responsibility, the judge may authorise the sale even before notifying the debtor. The broker or tradesmen who may intervene in the sale should extend a certificate of this to the creditor. No adjudication of the amount obtained shall be made until the debtor shall have been notified and he shall have had an opportunity to oppose the same.

9) If the price of the goods or shares given in lien should drop, so that it is insufficient to cover the amount of the debt and twenty per cent more, the creditor may proceed with the sale of the same, in the manner already established. He may proceed in the same manner if the debtor should not fulfill the obligation of supplying him in time with the necessary funds to cover the deposits to be paid on the shares.

The debtor may oppose the sale, effecting the payment of the funds required in order to effect the deposit or improving the guaranties by the increase of the articles given in pledge, or by reducing the debt.

10) All clauses authorising the creditor to take possession of the lien shall be null and void, even where this is of less value than the debt, as well as those authorising the creditor to dispose of the lien other than in the manner set forth in the preceding articles. The approval shall be valid, if agreed to in writing and after the lien has been constituted, or if no one should attend the public auction or if no purchaser should be found in cases of direct sale. In these last cases, the adjudication may be made to the creditor in two thirds of the legal bid or of the price indicated.

The debtor may also agree to the creditor retaining the lien at the price fixed for the maturity of the debt, but at the time of effecting the contract. This agreement cannot prejudice the rights of third parties.

/11) The right

11) The right and obligation resulting from the lien are indivisible, except in the case of the contrary having been stipulated; nevertheless, when the debtor is empowered to effect partial payments, or when several objects or one which is easily divisible have been given in lien, this will be reduced in proportion to the payments made, so that the rights of the creditor shall always be effectively guaranteed.

12) Once the principal obligation has been liquidated, either by payment or for any other legal reason, the right of lien shall be obliterated.

The regulations on Lien are not complete, since they have been planned for mercantile operations. It would be advisable to draw up a special Law of Agricultural, Livestock and Industrial Lien which would be more explicit in relation to registration and penalties for non-fulfilment.

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