PRESENTATION ON ETHIOPIAN COMPANY LAW(CONTENTS SLIGHTLY ADOPTED FROM A TEACHING MODULE PREPARED UNDER THE AUSPICES OF THE JUSTICE AND LEGAL SYSTEM RESEARCH INSTITUTE).

BY: ASSEFA A

AMBO UNIVERSITY, SCHOOL OF LAW

JAN, 2016

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ETHIOPIAN COMPANY LAW

SHARE COMPANY



ETHIOPIAN COMPANY LAW

- *'A SHARE COMPANY IS A COMPANY WHOSE CAPITAL IS FIXED IN ADVANCE AND DIVIDED INTO SHARES AND WHOSE LIABILITIES ARE MET ONLY BY THE ASSETS OF THE COMPANY.'(304(1))*

ELEMENTS OF THE DEFINITIONAL PROVISION:

- CAPITAL FIXED IN ADVANCE(ORIGINAL VALUE OF THE ELEMENTS PUT AT THE DISPOSAL OF THE UNDERTAKING(A FIXED AMOUNT)—FROM ART-80) & IT SHALL NOT BE LESS THAN 50,000 ETB(306(1))
- DIVISION INTO SMALLER BITS(SHARES)-THE NOMINAL VALUE (*PAR VALUE*) OF WHICH SHALL NOT BE LESS THEN 10 ETB.

TYPICAL FEATURES OF A SHARE COMPANY:

- LIMITED LIABILITY(SUBSCRIBED VS. PAID UP AMOUNT) - IN THE WORST CASE SITUATIONS SHAREHOLDERS FORGO THE AMOUNT THEY SUBSCRIBED (INVESTED INTO THE COMPANY) ONLY.

- SHAREHOLDERS MAY COME AND GO, BUT THE COMPANY CONTINUES ITS OPERATION UNLESS IT IS WOUND-UP (PERPETUAL SUCCESSION**).**

ETHIOPIAN COMPANY LAW

- FREE TRANSFERABILITY OF SHARES- IN PRINCIPLE, SHARES ARE FREELY TRANSFERABLE (CAN BE SOLD OR PURCHASED IN THE SHARE MARKET).
- POSSIBLE TO RESTRICT FREE TRANSFER IN THE AA(ART. 333(1)-NOT DESIRABLE TO HAVE THIS RULE AS IT STRENGTHENS THE SHARE ILLIQUIDITY.

- SCOS DO NOT EVOLVE SPONTANEOUSLY. THERE ARE ALWAYS PEOPLE WHO INITIATE ITS FORMATION. I.E FOUNDERS
- WHO ARE FOUNDERS(PRE-FORMATION MANAGERS) ? WHAT ARE THEIR RIGHTS AND DUTIES UNDER THE LAW?

FOUNDERS (ART. 307)

- ✓PERSONS WHO SIGN THE MA AND SUBSCRIBE THE WHOLE OF THE CAPITAL OR;
- ✓PERSONS WHO SIGN THE PROSPECTUS, BRING IN CONTRIBUTION IN KIND, PERSONS OR PERSONS WHO ARE ALLOCATED SPECIAL SHARES IN THE PROFIT(FORMATION THROUGH PO)
- ✓ANY PERSON OUTSIDE OF THE COMPANY 'WHO INITIATED' THE PLANS OR FACILITATED ITS FORMATION (CLARITY OF ITS SCOPE?)

- ROLES(ARE THEY AGENTS?, WHO IS A PRINCIPAL AT THIS STAGE?, THEY CAN STILL ACT IN THE NAME OF A A COMPANY UNDER FORMATION ND IT WILL TAKE OVER ITS COMMITMENTS AFTER ITS FORMATION. THE CODE IS SILENT ON THE EXACT ROLES OF FOUNDERS.
- RIGHTS: FOUNDING A COMPANY REQUIRES A REMARKABLE SKILL. HENCE, FOUNDERS DESERVE SOME PRIVILEGES. NOTABLY PAYMENT OF

- LIABILITIES OF PRE-FORMATION MANAGERS: UNLIKE TRANSFER OF EXPENSES TO THE COMPANY TRANSFER OF LIABILITIES(CIVIL&/CRIMINAL) IS NOT RECOGNIZED UNDER ART-309(1)

STATUTES OF A COMPANY(MA & AA)

- CONTENTS, PURPOSE THEY SERVE, THEIR RELATIONSHIP, DEPOSIT AND PUBLIC DOCUMENTS MA

CONSTRUCTIVE NOTICE OF MA AND AA(ART 92)

- MA AND AA NEED TO BE DEPOSITED AT THE COMMERCIAL REGISTRY, AND THEY ARE PUBIC DOCUMENTS (PRESUMABLY OPEN AND ACCESSIBLE TO ALL).
- WHOMEVER DEALING WITH THE COMPANY, WHETHER A SHAREHOLDER/OUTSIDER IS PRESUMED TO HAVE READ AND UNDERSTOOD THE

DOCTRINE OF INDOOR MANAGEMENT(EXCEPTION TO THE RULE OF CONSTRUCTIVE NOTICE)

- IRREGULARITY IN THE CONDUCT OF A COMPANY'S AFFAIRS LEADING INTO THE *ULTRA VIRUS* TRANSACTION CANNOT BE SET UP AGAINST AN OUTSIDER, WHEN S/HE DID NOT KNOW OF THE IRREGULARITY AND HAD NO MEANS OF DISCOVERING IT.

- THE OUTSIDER IS PRESUMED TO KNOW THE CONSTITUTION OF A COMPANY, BUT NOT WHAT MAY HAVE TAKEN PLACE WITHIN THE DOORS THAT ARE CLOSED TO HIM.

DEPOSIT AND REGISTRATION_(ART 323 OF COM. CODE, RELEVANT RULES UNDER PROCS: NO: 686/2010, NO. 731/2012. NO. 801/2013)

- THE FOLLOWING DOCUMENTS MUST BE DEPOSITED AT THE OFFICE OF REGISTRAR-MINISTRY OF TRADE AND INDUSTRY (INVESTMENT AGENCY) AT FEDERAL LEVEL AND TRADE AND INDUSTRY BUREAU'S AT REGIONAL LEVEL.

a. THE MA

b. THE AA, IF ANY

c. THE PROSPECTUS, IF ANY

d. THE MINUTES OF THE SUBSCRIBERS' MEETING AND ALL COMPLEMENTARY DOCUMENTS.

- REGISTRATION→ LEGAL PERSONALITY →BUSINESS LICENSE

MODES OF FORMING SCOS(316 COM. 317)

- **FORMATION BETWEEN FOUNDERS:** WHEN SHARES ARE NOT OFFERED TO THE PUBLIC(NO PO, HENCE NO PROSPECTUS). THIS MODE RESEMBLES THE FORMATION OF PLCS.
- **FORMATION BY PUBLIC SUBSCRIPTION**: SHARES OFFERED TO PUBLIC(PO) THROUGH PROSPECTUS.
  - APPLICATION OF 318-322(PROSPECTUS, APPLICATION FOR SHARES, MEETING OF SUBSCRIBERS).
  - PROSPECTUS SHOULD GIVE THE PUBLIC A FAIR/GENUINE DESCRIPTION OF THE COMPANY UNDER FORMATION.

AMENDMENT OF SCOS DOCUMENTS(MA & AA)

- A COMPANY HAS THE STATUTORY RIGHT TO AMEND ITS MA AND AA BY EXTRA GENERAL MEETING OF THE SHAREHOLDERS.(*BUSINESS OF EXTRAORDINARY GENERAL MEETING PURSUANT TO ART-423*).

- RELEVANT RULES ARE OPERATIONAL- (ART 388-416) + 422-425 OF THE COM.CODE.

SECURITIES (EQUITY SECURITIES AND DEBT SECURITIES)



- WHAT ARE THE POSSIBLE SOURCES OF MONEY FOR COMPANIES?(BOTH AT THE INITIAL STAGE AND LATER)

- BORROWING? ISSUING SHARES TO PUBLIC? ISSUING BONDS/DEBENTURES?

- THE COMPANY LAW ND/ CONTRACT LAW GOVERNS THE RESPECTIVE RIGHTS, THEIR RELATIONSHIP AND THE INVESTORS RELATIONSHIP WITH A COMPANY.

- COMPANIES FINANCE THEIR VENTURE FROM DIFFERENT SOURCES OF MONEY. ONE OF THE PROMINENT SOURCES OF FINANCE IS OBTAINED BY ISSUING SECURITIES TO INVESTORS IN THE MARKET.
- SECURITIES ARE DEVICES USED BY COMPANIES FOR THE PURPOSE OF RAISING FUND.

EQUITY SECURITIES (STOCKS) V. *DEBT SECURITIES*(BONDS AND DEBENTURES).

EQUITY SECURITIES

- ARE THE SHAREHOLDERS CONTRIBUTIONS TO THE CAPITAL OF THE COMPANY(SHARES/'STOCKS' IN SOME JURISDICTIONS).
- ARE SHARES THAT ARE ISSUED BY THE COMPANY.

- EQUITY SECURITY ENTITLES THE HOLDER TO PECUNIARY RIGHTS DEPENDENT ON THE FINANCIAL SITUATION OF THE COMPANY. PARTICULARLY:

a. ENTITLEMENTS TO DIVIDENDS(WHEN A COMPANY IS PROFITABLE ONE).

b. LIQUIDATION ASSETS (IF ANY)(UPON LIQUIDATION AND WINDING UP). HIERARCHY FORMS ACCORDING TO THE PRINCIPLE OF ABSOLUTE PRIORITY.

c. PREEMPTIVE RIGHT IN THE CONTEXT OF CAPITAL INCREASE.

OTHER RIGHTS OF EQUITY SECURITY HOLDERS (NOT NECESSARILY DEPENDENT ON COMPANY'S FINANCIAL WORTHINESS)

- SHAREHOLDERS RIGHT TO BE INFORMED ON THE MANAGEMENT OF THE COMPANY.
- OPPORTUNITY TO INSPECT CORPORATE BOOKS AND RECORDS
- PARTICIPATION IN SHAREHOLDERS' MEETINGS: VOTING POWER ON MAJOR ISSUES INCLUDING ELECTING DIRECTORS AND PROPOSALS FOR FUNDAMENTAL CHANGES AFFECTING THE COMPANY SUCH AS MERGERS OR LIQUIDATION.

ETHIOPIAN COMPANY LAW

SHARE:



Certificate No. 1

Share Certificate

Number of shares 25,000

PINNACLE CONSULTING CORPORATION

Registered under the International Business Companies Act 1990
(No 9 of 1990)

Company No. 12,491

Authorized capital of Fifty Thousand United States Dollars
divided into Fifty Thousand Shares of par value One United States Dollar each.

This is to certify that Isabelle Lucas

of 8, rue d'Idalie, 1050 Brussels, Belgium

is the registered holder of 25,000 *shares of United States Dollars* US$ 1.00 *each numbered* 1 to 25,000 *inclusive in the above named Company, subject to the Memorandum and Articles of Association of the said Company.*

Given under the common seal of the Company this 24th *day of* August *1999.*

Director / Officer

Director / Officer

ETHIOPIAN COMPANY LAW

- IS ‘A UNIT OF OWNERSHIP INTEREST IN A CORPORATION OR FINANCIAL ASSET’.
- YET, A SHAREHOLDER IS NOT PART-OWNER OF THE COMPANY OR ITS ASSETS.
- ‘’SHAREHOLDERS RECEIVED A PHYSICAL PAPER STOCK CERTIFICATE THAT INDICATED THAT THEY OWNED "X" SHARES IN A COMPANY. TODAY, BROKERAGES HAVE ELECTRONIC RECORDS THAT SHOW OWNERSHIP DETAILS.’’(IN THE USA)
- IS INCORPOREAL MOVABLE PROPERTY WHICH CAN EITHER BE MORTGAGED OR PLEDGED.

- A COMPANY ISSUES A SHARE CERTIFICATE, A DOCUMENT, STATING THAT THE PERSON NAMED THEREIN IS REGISTERED HOLDER OF SPECIFIED NUMBER OF SHARES OF CERTAIN CLASSES AND THAT THEY ARE EITHER FULLY PAID-UP OR PAID-UP TO A STATED AMOUNT.

- ART-335 OF COM.C RECOGNIZES TWO CLASSES OF SHARES .I.E. *COMMON(EQUITY) SHARES AND PREFERENCE SHARES*. THEY NORMALLY CONFER DIFFERENT RIGHTS AND PRIVILEGES UPON THEIR HOLDERS. (STATED IN COMPANY'S STATUTES OR BY A DECISION OF EXTRAORDINARY MEETING)

- *EQUITY SHAREHOLDERS* GET MORE IF THE COMPANY IS PROSPEROUS OR GET NOTHING IF THE BUSINESS OF THE COMPANY FLOPS. (DEPENDING ON THE FINANCIAL STANDING OF COMPANY).

- PURSUANT TO ART- 336 OF THE CODE, THE PREFERENCE SHARES CONFER UPON ITS HOLDER:

  - THE PRIORITY ON THE ANNUAL PROFITS IN THE FORM OF CUMULATIVE ('IF A COMPANY CANNOT PAY A CUMULATIVE DIVIDEND WHEN IT IS DUE, IT IS STILL RESPONSIBLE FOR PAYING IT IN THE FUTURE, POSSIBLY WITH INTEREST') OR NON-CUMULATIVE PREFERENCE DIVIDENDS OR

  - THE PREFERENTIAL DIVIDEND RIGHT UPON THE LIQUIDATION OF THE COMPANY OR THE RIGHT TO RECEIVE THE LIQUIDATION BONUS.

WHAT IS THE PRACTICE?

- ISSUANCE OF PREFERENCE SHARES IS NOT A COMMON PRACTICE IN ETHIOPIA. IN SOME VENTURES, ISSUING PREFERENCE SHARES IS PROHIBITED BY THE LAW.

- EG. THE LAW PROHIBITS BANKS (ART-10(1) OF THE BANKING BUSINESS PROCLAMATION NO. 592/2008) AND INSURANCE COMPANIES (ART-11(1) OF THE INSURANCE BUSINESS PROCLAMATION NO. 764/2012) FROM ISSUING THE PREFERENCE SHARES.

BEARER V. REGISTERED SHARES(FORMS OF SHARES- ART 325 & 326)

- **BEARER**- THE ISSUER DOES NOT KNOW IDENTITY OF THE HOLDER.
- ANONYMOUS BEARER SHARES ARE NOT ADVISABLE AS THEY LEAD TO HIDDEN OWNERSHIP AND TAX EVASION.
- **REGISTERED**- THE ISSUER HAS FULL ACCESS TO THE SHAREHOLDERS LIST IN THE REGISTRY OF A COMPANY.

- IN PRACTICE TOO, SHARES ISSUED IN ETHIOPIA ARE REGISTERED SHARES, STATUTES OF SHARE COMPANIES PROHIBITS BEARER SHARES.

RIGHTS AND DUTIES OF SHAREHOLDERS

- **RIGHTS:** 1) INDIVIDUAL RIGHTS (2) CORPORATE MEMBER RIGHTS.

INDIVIDUAL RIGHTS:

- ✓PARTICIPATE IN ANNUAL NET PROFIT
- ✓SHARE IN THE NET PROCEEDS ON A WINDING –UP
- ✓VOTING RIGHTS(EXCEPT PREFERENCE SHARES)
- ✓PREFERENTIAL RIGHT OF SUBSCRIPTION OF NEW SHARES

ETHIOPIAN COMPANY LAW

- ✓ TRANSFER SHARES SUBJECT TO ANY RESTRICTION.
- ✓INSPECT THE REGISTERS, INDEXES, RETURNS AND COPIES OF CERTIFICATE ETC. KEPT BY THE COMPANY AND OBTAIN EXTRACTS OR COPY THEREOF.
- ✓OBTAIN COPIES OF MA AND AA ON REQUEST AND PAYMENT OF THE PRESCRIBED FEE.
- ✓RECEIVE A COPY OF STATUTORY REPORT.
- ✓REMOVING DIRECTORS.
- ✓OBTAIN A COPY OF THE PROFIT AND LOSS ACCOUNT AND THE BALANCE SHEET WITH THE AUDITOR'S REPORT.
- ✓ATTEND MEETINGS OF SHAREHOLDERS, RECEIVE PROPER NOTICES AND VOTE AT THE MEETING
- ✓RECEIVE A SHARE IN THE CAPITAL OF COMPANY AND THE SURPLUS ASSETS, IF ANY, ON THE COMPANY'S LIQUIDATION

CORPORATE MEMBERSHIP RIGHTS:

- EXERCISED AS A GROUP THROUGH THE MAJORITY(ART 416(1)).
- BINDING RESOLUTIONS ON THE ABSENT MEMBERS AS WELL.
- DECISION CONTRARY TO THE STATUTE OR LAW CAN BE SET ASIDE BY THE COURT IF APPLICATION IS FILED WITHIN THREE MONTHS (ART 416/2/)
- RIGHT TO APPLY TO THE COURT FOR THE MEETING OF GA OF SHAREHOLDERS. (ART 391/2/)

JOINT (CROSS) HOLDINGS PROHIBITED /ART 344/

- A HOLDS 10 % OR MORE OF CAPITAL OF B COMPANY, B CANNOT HOLD ANY SHARE FROM A.
- JH RESULTS IN REDUCTION OF CAPITAL OF A COMPANY B WHICH CAN ONLY BE EFFECTED BY EXTRA-ORDINARY GENERAL MEETING OF THE SHAREHOLDERS.
- REDUCTION OF CAPITAL MAY AFFECT THE RIGHTS OF 3RD PARTIERS OR CREDITORS, SINCE THE COMPANY'S LIABILITY IS ONLY COVERED BY ITS CAPITAL.
- CAPITAL OF THE COMPANY MUST ALWAYS BE INTACT(ART-80).

- CROSS HOLDING CAN LEAD TO DOUBLE COUNTING, WHEREBY THE EQUITY OF EACH COMPANY IS COUNTED TWICE WHEN DETERMINING VALUE. WHEN DOUBLE COUNTING OCCURS, THE SECURITY'S VALUE IS COUNTED TWICE, WHICH CAN RESULT IN ESTIMATING THE WRONG VALUE OF THE TWO COMPANIES.

DEBT SECURITIES

- UNLIKE SHAREHOLDERS HOLDERS OF DEBT SECURITIES ARE CREDITORS AND RANK PRIOR TO THE SHAREHOLDERS.

- REMUNERATED BY FIXED INTEREST (INCOME FROM EQUITY SECURITY IS UNCERTAIN).

- MAY OR MAY NOT BE SECURED(ONLY BOND ISSUES MAY BE SECURED BY ISSUERS).

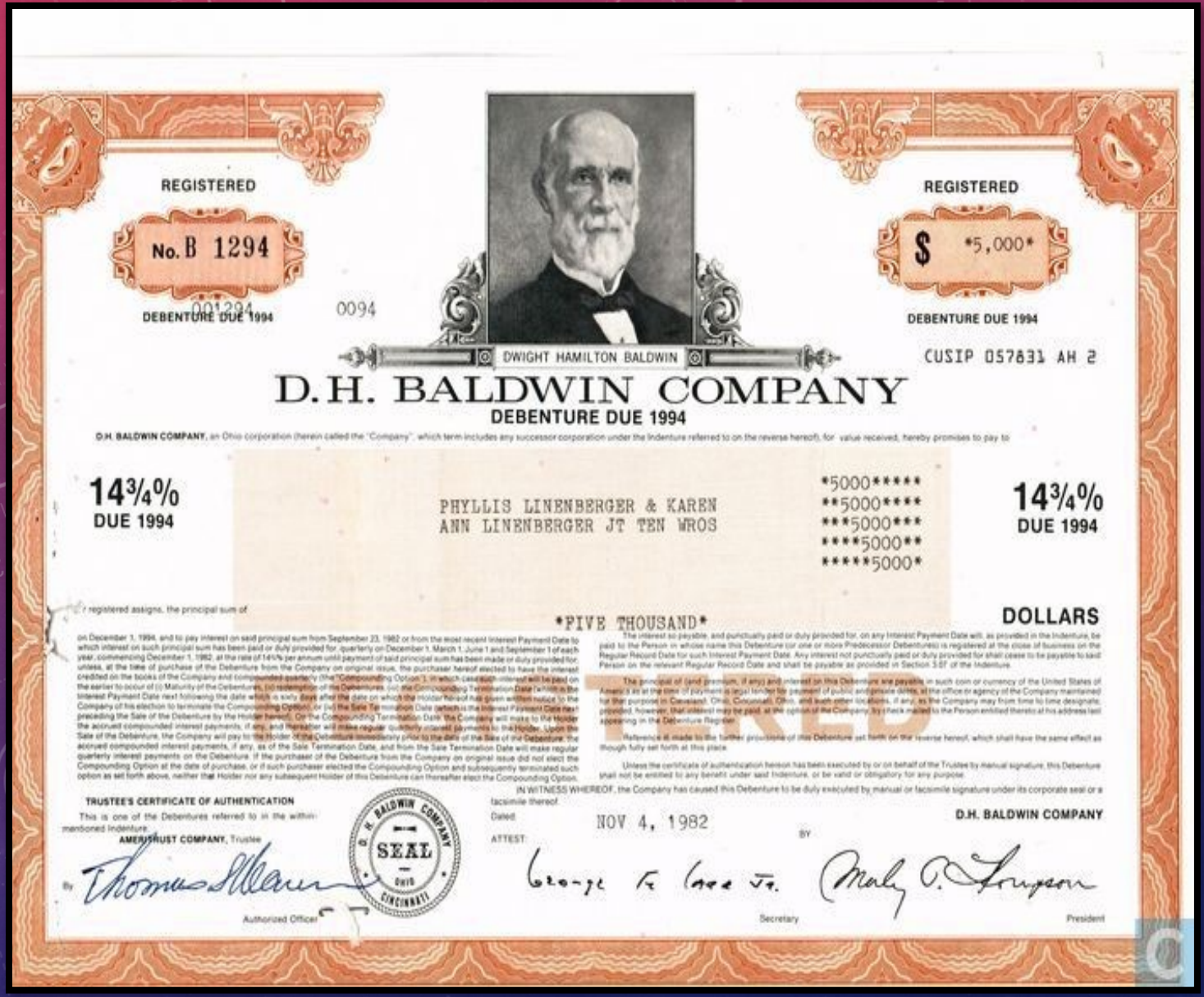
- ARE ISSUED FOR A DEFINED TERM & REMUNERATED BEFORE EQUITY SECURITIES.

DEBENTURES –ART- 429

- IS A DOCUMENT (A CERTIFICATE) UNDER SEAL ISSUED BY A COMPANY ACKNOWLEDGING A DEBT TO THE HOLDER USUALLY ARISING OUT OF LOAN.
- ‘A TYPE OF DEBT INSTRUMENT THAT IS NOT SECURED BY PHYSICAL ASSETS OR COLLATERAL. DEBENTURES ARE BACKED ONLY BY THE GENERAL CREDITWORTHINESS AND REPUTATION OF THE ISSUER’.
- IT SECURES REPAYMENT OF A LOAN EITHER BY MORTGAGE OR CHARGE ON THE COMPANY’S PROPERTY OR UNDERTAKING.

- PROVIDES PAYMENT OF A SPECIFIED PRINCIPAL SUM AT A SPECIFIED DATE.
- PROVIDES THAT UNTIL PAYMENT, INTEREST WILL BE PAID AT A FIXED RATE PAYABLE USUALLY EITHER HALF-YEARLY OR YEARLY ON FIXED DATES.
- CARRY NO VOTING RIGHTS AT ANY MEETING OF THE COMPANY.

ETHIOPIAN COMPANY LAW



REGISTERED

No. B 1294

001294

0094

DEBENTURE DUE 1994

DWIGHT HAMILTON BALDWIN

REGISTERED

$ *5,000*

DEBENTURE DUE 1994

CUSIP 057831 AH 2

D.H. BALDWIN COMPANY

DEBENTURE DUE 1994

D.H. BALDWIN COMPANY, an Ohio corporation (herein called the "Company", which term includes any successor corporation under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to

14¾% DUE 1994

PHYLLIS LINENBERGER & KAREN
ANN LINENBERGER JT TEN WROS

*5000*****
5000**
5000
****5000**
*****5000*

14¾% DUE 1994

registered assigns, the principal sum of

FIVE THOUSAND DOLLARS

on December 1, 1994, and to pay interest on said principal sum from September 23, 1982 or from the most recent Interest Payment Date to which interest on such principal sum has been paid or duly provided for, quarterly on December 1, March 1, June 1 and September 1 of each year, commencing December 1, 1982, at the rate of 14¾% per annum until payment of said principal sum has been made or duly provided for; unless, at the time of purchase of the Debenture from the Company on original issue, the purchaser hereof elected to have the interest credited on the books of the Company and compounded quarterly (the "Compounding Option"), in which case such interest will be paid on the earlier to occur of (i) Maturity of the Debentures, (ii) redemption of the Debentures, (iii) the Compounding Termination Date (which is the Interest Payment Date next following the date which is sixty days after the date on which the Holder hereof has given written notice to the Company of his election to terminate the Compounding Option), or (iv) the Sale Termination Date (which is the Interest Payment Date next preceding the Sale of the Debenture by the Holder hereof). On the Compounding Termination Date the Company will make to the Holder the accrued compounded interest payments, if any, and thereafter will make regular quarterly interest payments to the Holder. Upon the Sale of the Debenture, the Company will pay to the Holder of the Debenture immediately prior to the date of the Sale of the Debenture the accrued compounded interest payments, if any, as of the Sale Termination Date, and from the Sale Termination Date will make regular quarterly interest payments on the Debenture. If the purchaser of the Debenture from the Company on original issue did not elect the Compounding Option at the date of purchase, or if such purchaser elected the Compounding Option and subsequently terminated such option as set forth above, neither that Holder nor any subsequent Holder of this Debenture can thereafter elect the Compounding Option.

The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in the Indenture, be paid to the Person in whose name this Debenture (or one or more Predecessor Debentures) is registered at the close of business on the Regular Record Date for such Interest Payment Date. Any interest not punctually paid or duly provided for shall cease to be payable to said Person on the relevant Regular Record Date and shall be payable as provided in Section 3.07 of the Indenture.

The principal of (and premium, if any) and interest on this Debenture are payable in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts, at the office or agency of the Company maintained for that purpose in Cleveland, Ohio, Cincinnati, Ohio, and such other locations, if any, as the Company may from time to time designate; provided, however, that interest may be paid, at the option of the Company, by check mailed to the Person entitled thereto at his address last appearing in the Debenture Register.

Reference is made to the further provisions of this Debenture set forth on the reverse hereof, which shall have the same effect as though fully set forth at this place.

Unless the certificate of authentication hereon has been executed by or on behalf of the Trustee by manual signature, this Debenture shall not be entitled to any benefit under said Indenture, or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this Debenture to be duly executed by manual or facsimile signature under its corporate seal or a facsimile thereof.

Dated: NOV 4, 1982

D.H. BALDWIN COMPANY

ATTEST: BY

Secretary President

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

This is one of the Debentures referred to in the within-mentioned Indenture.

AMERITRUST COMPANY, Trustee

By Authorized Officer

D. H. BALDWIN COMPANY SEAL OHIO CINCINNATI

CANCELLED

ISSUANCE OF DEBENTURES

- ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE ARTICLES, RESOLUTION OF A BOARD OF DIRECTORS.
  - PROSPECTUS (318)
  - MAY BE ISSUED AT PAR, AT A PREMIUM, OR AT A DISCOUNT IF PERMITTED BY AA.
- UNLIKE SHARES DENTURES MAY NOT BE ISSUED AT A DISCOUNT WITHOUT ANY RESTRICTION.
- THE REASON IS THAT THEY DO NOT FORM PART OF THE CAPITAL OF THE COMPANY.

- IT IS ISSUED BY SHARE COMPANY PROVIDED THAT COMPANY'S CAPITAL IS FULLY PAID AND IF A COMPANY HAS ISSUED A BALANCE SHEET IN RESPECT OF ITS FIRST FINANCIAL YEAR.
- THE CONTENT OF DEBENTURE IS STATED UNDER ART 433.
- MAX. AMOUNT OF ISSUE(ART-430)

FORMS OF DEBENTURES (ART-434 CUM. 325)

REGISTERED DEBENTURES

- REGISTERED IN THE NAME OF A HOLDER IN THE BOOKS OF THE COMPANY.
- IT IS TRANSFERABLE WITH THE CONDITIONS ENDORSED ON THEIR BACK, (A REQUIREMENT OF REG.)
- NOT NEGOTIABLE INSTRUMENTS.
- INTEREST PAYABLE TO THE REGISTERED HOLDER OR TO THE ORDER OF THE REGISTERED HOLDERS.

BEARER DEBENTURES

- ARE NEGOTIABLE (TITLE TO THEM TRANSFERABLE BY MERE DELIVERY).
- NO REGISTER IN THE COMPANY'S DEBENTURE-HOLDERS' REGISTER. THE COUPON IS ATTACHED TO THE BEARER DEBENTURE FOR PAYMENT OF INTEREST AND MUST BE PRESENTED FOR PAYMENT TO THE COMPANY'S BANKERS WHEN THE DATE OF PAYMENT ARRIVES.
- THE COMPANY CAN COMMUNICATE WITH HOLDERS OF BEARER DEBENTURES ONLY BY ADVERTISEMENT.

DEBENTURE HOLDERS' MEETING

- CALLED BY THE DEBENTURE HOLDERS' REPRESENTATIVES, BY BOD OR AT LEAST 20% OF THE DEBENTURE HOLDER OF THE SAME CLASS (ART.436).
- CALLED AND HELD UNDER SUBSTANTIALLY THE SAME CONDITIONS AS TO FORM AND TIME AS SHAREHOLDERS ORDINARY MEETINGS (ART. 432)
- DEBENTURE HOLDERS MUST BE CONSULTED ON THREE TYPES OF ISSUES (438)

ETHIOPIAN COMPANY LAW

CORPORATE MANAGEMENT



ETHIOPIAN COMPANY LAW

- ‘THE PROCESS OF LEADING, ADMINISTRATING AND DIRECTING A COMPANY. BUSINESS TASKS OFTEN PERFORMED BY CORPORATE MANAGEMENT MIGHT INCLUDE STRATEGIC PLANNING, AS WELL AS MANAGING COMPANY RESOURCES AND APPLYING THEM TOWARD ATTAINING THE COMPANY'S OBJECTIVES’

“LIBERAL AND RESTRICTIVE” APPROACHES.

- **THE LIBERAL APPROACH(USA**: CONFERS SPECIFIC POWER TO GENERAL MEETING SUCH AS THE POWER OF ALTERING STATUTE OF THE COMPANY, APPOINTMENT AND REMOVAL OF THE DIRECTORS, AND CONFERRING ALL OTHER POWERS TO THE BOARD OF DIRECTORS

- **THE RESTRICTIVE APPROACH (CIVIL LAW APPROACH):** CONFERS THE POWER TO THE BOARD OF DIRECTORS AND GENERAL MEETING BY SPECIFYING IN THE MA OR AA.

- FRENCH COMPANY LAW, WHICH IS ONE OF THE MODELS OF CONTINENTAL EUROPEAN LEGAL SYSTEM, AND WHICH IS ALSO THE MODEL OF COMMERCIAL CODE OF ETHIOPIA, CONFERS THE POWERS SPECIFICALLY TO THE BOARD OF DIRECTORS.

ETHIOPIAN COMPANY LAW

ORGANS OF CORP. MANAGEMENT IN ETHIOPIA

SHAREHOLDERS' MEETINGS



GENERAL VS. SPECIAL (390)

GENERAL MEETINGS:- CONSISTS ALL SHAREHOLDERS OR ALL CLASSES.

ORDINARY GM–HELD ONCE EVERY YEAR TO DISCUSS FINANCIAL AND ADMINISTRATIVE AFFAIRS OF THE COMPANY.

EXTRA ORDINARY GM– ENTERTAINS A PARTICULAR MATTER SUCH AS AMENDMENT OF THE STATUTES.

SPECIAL MEETING:- CONSISTS OF SHAREHOLDER'S OF PARTICULAR CLASS(EG.PREFERREDS) TO TRANSACT BUSINESS AFFECTING THEIR INTEREST ONLY.

PROCEDURAL RULES COMMON TO ALL MEETINGS

A. CALLING OF MEETINGS

- THE STATUTES OF THE COMPANY DETERMINES ITS MANNER (YET, SUBJECT TO THE RULES OF COM. CODE.
- BOD, THE AUDITORS, THE LIQUIDATORS OR OFFICER OF THE COURT COULD CALL SHAREHOLDERS MEETING. (ART 391/1/).
- IN THE CASE OF URGENCY-BY SHAREHOLDERS AS PER (ART 391/2/).

B. SETTING OF AGENDA (ART 397)

- BY THE PERSON CALLING THE MEETING.
- ONLY ITEMS ON THE AGENDA MAY BE DISCUSSED. EXCEPTION(397(2):REMOVAL & APPOINTMENT OF A DIRECTOR CAN EMERGE ANYTIME).
- AGENDA CANNOT BE AMENDED FOR THE SECOND MEETING HELD FOR LACK OF QUORUM.
- **C. VOTING BY PROXY (ART 398)**

SUBSTANTIAL RULES COMMON TO ALL MEETINGS

- RIGHT TO INFORMATION (ART 406)
- RIGHT PROPER TO SHAREHOLDERS(389)
- RIGHT TO VOTE (ONE SHARE, ONE VOTE PPL) 407,400,408, VOTE (ART 409/1/), (ART 409/3/)

ETHIOPIAN COMPANY LAW

- AGREEMENTS/RESOLUTION RESTRICTING THE FREE EXERCISE OF THE RIGHT TO VOTE SHALL BE NULL AND VOID (ART 389/2/).

- RESOLUTION OF THE MEETING BINDS ALL SHAREHOLDERS WHETHER ABSENT, DISSENTING OR HAVING NO RIGHT TO VOTE. (ART 388/2/).

- COURTS MAY DECIDE TO NULLIFY A DECISION OF THE SHAREHOLDERS MEETING WHEN THERE IS EVIDENCE THAT THE DECISION WAS DETRIMENTAL TO THE INTEREST OF THE COMPANY (ART 416) OR TO THE MINORITY OR MAJORITY SHAREHOLDERS' INTERESTS WAS DICTATED ONLY BY THE SELF-INTEREST OF CERTAIN SHAREHOLDERS.

DECISIONS THAT COULD BE RENDERED NULL BY THE COURT OF LAW:

- *UNREASONABLE CONTINUOUS REFUSAL TO DISTRIBUTE DIVIDENDS.*
- *TRANSFER OF THE COMPANY'S ASSETS TO A COMPANY INDIRECTLY CONTROLLED BY THE MAJORITY SHAREHOLDERS.*
- *EXCESSIVE REMUNERATION OF THE MANAGEMENT.*
- *MINORITY SHAREHOLDERS UNJUSTIFIED OBSTRUCTION OF RESOLUTIONS ON IMPORTANT CORPORATE MATTERS.*

ORDINARY GENERAL MEETING (417-421)

–

- AT LEAST SHAREHOLDERS REP. ¼ OF THE VOTING SHARES SD BE PRESENT.

- AT THE 2ND MEETING NO QUORUM IS REQUIRED.

- RESOLUTIONS ARE PASSED BY A SIMPLE MAJORITY(ABSENTEES AND BLANK BALLOTS ARE DISREGARDED (ART 421)

- TYPICALLY THE ANNUAL MEETING, THAT MUST BE HELD WITHIN FOUR MONTHS AFTER THE END OF EACH FINANCIAL YEAR (ART 418)

- ENTERTAINS DECISIONS WITHIN THE COMPETENCE OF THE SHAREHOLDERS, EXCEPT THOSE RESERVED FOR AN EXTRA ORDINARY MEETING.

- DECISIONS MAINLY CONCERN FINANCIAL QUESTIONS (OTHER THAN ALTERATION OF THE CAPITAL) AND MATTERS CONCERNED WITH THE ADMINISTRATION OF THE COMPANY. (ART 419).

ETHIOPIAN COMPANY LAW

EXTRAORDINARY MEETINGS (ART2 422- 425)

- SUBJECT TO STRICTER RULES AS TO QUORUM AND MAJORITY THAN ORDINARY MEETINGS.

- AT LEAST HALF OF THE HOLDERS OF ALL SHARES HAVING VOTING RIGHTS OF THE COMPANY MUST BE REPRESENTED.

- IF 2ND AND 3RD MEETINGS ARE CALLED THE QUORUM IS REDUCED TO ONE THIRD, OR ONE TENTH RESPECTIVELY.

- RESOLUTIONS ARE PASSED BY TWO-THIRDS MAJORITY OF THE VOTES.

BUSINESSES AT EOM.(425)

- AMENDMENT TO THE COMPANY STATUTES.
- TAKE AWAY THE BASIC RIGHTS OF THE SHAREHOLDER (THE RIGHT TO TRANSFER HIS SHARES OF, THE RIGHT TO VOTE PROVIDED THAT NO FINANCIAL BURDEN FOLLOWS.
- CHANGING THE NATIONALITY OF THE COMPANY OR INCREASE INVESTMENT OF THE SHAREHOLDERS.

SPECIAL MEETINGS (ART 426-428)

- CONCERNS THE HOLDERS OF A PARTICULAR CLASS OF SHARES. (EG, PREFERREDS).

- APPROVES DECISIONS OF GM MODIFYING THE SPECIAL RIGHTS ATTACHED TO SUCH SHARES, SUCH DECISION IS EFFECTIVE ONLY UPON SPECIAL MEETING'S APPROVAL.

- QUORUM AND MAJORITY (ART-428)

DIRECTORS (ART 347-367)

- THE PERSON/S BY WHOM THE BUSINESS OF THE COMPANY IS CARRIED ON(THE MANAGERIAL BODY).
- ESTABLISHED BY GM FROM AMONG THE SHAREHOLDERS.
- THE NUMBER SET IN THE STATUTES, BUT MUST BE NOT LESS THAN THREE AND NOT MORE THAN TWELVE; ALL DIRECTORS MUST BE SHAREHOLDERS OF THE COMPANY. (MUST HAVE THE REAL OWNERSHIP AND DEPOSIT OF CERTAIN NUMBER OF SHARE AS MAY BE FIXED IN THE STATUTES.) (ART 349).

APPOINTMENT(ART 350) AND REPLACEMENT (ART 351).

- POWERS, DUTIES AND LIABILITIES OF THE BOARD OF DIRECTORS (ART 360 - 362)

- POWERS MAINLY FIXED IN THE STATUTES AND DECISION OF GM.
- POSSES THE POWER TO ACT IN ALL CIRCUMSTANCES ON BEHALF OF THE COMPANY SUBJECT TO THE LIMIT OF THE COMPANY BUSINESS PURPOSE AND TO THE POWERS WHICH ARE EXPRESSLY RESERVED BY LAW TO MEETINGS OF SHAREHOLDERS (IE MAINLY APPROVAL OF THE ANNUAL ACCOUNTS AMENDMENTS OF STATUTE).

- IN PRACTICE, HOWEVER, THE BUSINESS OF THE COMPANY IS TAKEN CARE OF BY THE CHAIRMAN AND GENERAL MANAGER AND THE BOARD OF DIRECTORS MERELY DEFINES THE GENERAL POLICIES TO BE FOLLOWED BY THE COMPANY; TAKES OR APPROVES STRATEGIC DECISIONS AND CONTROLS THE CHAIRMAN OF THE BOARD.

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- TRANSACTIONS ENTERED INTO BY THE BOARD OF DIRECTORS BINDS A COMPANY PROVIDED THAT THEY ARE WITHIN THE SCOPE OF BUSINESS PURPOSE OF THE COMPANY.

- RESTRICTIONS ON THE POWERS OF THE BOARD MAY NOT BE INVOKED AGAINST A THIRD PARTY, WHETHER SUCH PERSON KNOWS OF THEM OR NOT.

- SUCH RESTRICTIONS MERELY ENABLE THE COMPANY OR ITS SHAREHOLDERS TO CLAIM DAMAGE AGAINST A DIRECTOR IF SUCH PROVISIONS ARE NOT COMPLIED WITH BUT DOES NOT AFFECT THIRD PARTY WITH GOOD FAITH.

- DUTIES OF THE BOARD(ART-362)
  - ❖WITH AN OBJECTIVE TO AVOID A POTENTIAL CONFLICT OF INTEREST BETWEEN A COMPANY AND ITS DIRECTORS, THE LAW IMPOSES RESTRICTION ON AGREEMENTS BETWEEN COMPANY AND DIRECTORS (ART 355-357):
    - ✓*PROHIBITED AGREEMENTS (ART 357)*
    - ✓*REGULATED AGREEMENTS (ART 356)*

DIRECTORS' LIABILITY (ART 364-367)

- DIRECTORS ARE AGENTS AND TRUSTEES OF THE COMPANY AS SUCH THEY OWE CERTAIN DUTIES TO THE COMPANY TO EXERCISE THE DUTIES IMPOSED ON THEM BY LAW, THE STATUTES AND RESOLUTIONS OF THE MEETINGS WITH A DUE CARE.

- BREACH OF THESE DUTIES MAKE DIRECTORS TO BE LIABLE JOINTLY AND SEVERALLY TO THE COMPANY AND ITS SHAREHOLDERS.

- THEY ARE JOINTLY AND SEVERALLY RESPONSIBLE WHEN THEY FAIL TO TAKE APPROPRIATE MEASURE WITHIN THEIR KNOWLEDGE TO PREVENT/MITIGATE DAMAGE THAT MAY HAPPEN TO THE COMPANY IN RELATION TO GENERAL MANAGEMENT.

- A DISSENTING MEMBER OF THE BOARD WHOSE RESERVATION HAS BEEN ENTERED IN THE MINUTE OF BOD MAY BE EXONERATED.

LIABILITY TO THE CREDITORS (ART-366)

- DIRECTORS HAVE TO PRESERVE THE CAPITAL OF THE COMPANY INTACT IN ORDER TO SATISFY PAYMENT TO CREDITORS CLAIM.
- ELSE CREDITORS MAY INSTITUTE A CIVIL CLAIM AGAINST THEM WHERE THE CAPITAL OF THE COMPANY IS INSUFFICIENT TO COVER THEIR CLAIM.

PROCEEDINGS AGAINST DIRECTORS(365).

- NO PROCEEDING (BY SHAREHOLDERS) MAY BE TAKEN AGAINST DIRECTORS UNLESS RESOLUTION IS PASSED BY GM REP. AT LEAST 1/5 OF THE CAPITAL. (CAN BE BROUGHT UP THOUGH NOT ON THE AGENDA).

- GMS RESOLUTION NOT TO BRING THE CASE AGAINST DIRECTORS, MAY NOT AFFECT THE RIGHT OF THE CREDITORS. ON THE OTHER HAND, ANY SHAREHOLDER OR THIRD PARTY CAN BRING CASES AGAINST DIRECTORS IF THERE IS DAMAGE AGAINST THEM.

. **REMOVAL OF** DIRECTORS (ART 354) + (ART 397/2/)

- BY GM BEFORE THE EXPIRY OF TERM OF OFFICE.
- TERMINATION 'WITHOUT GOOD CAUSE' ENTITLES A DIRECTOR TO COMPENSATION.
- WHY A GM HAS TO PROOF A 'GOOD CAUSE'?

GENERAL MANAGER(ART 348/1/)

- RUNS A DAY-TO-DAY ACTIVITIES OF A COMPANY.
- APPOINTED (ART 348/1/) AND REMOVED BY BOD(IS AN EMPLOYEE).
- IS NOT MEMBER OF THE BOARD OF DIRECTORS (ART 348/4/).
- ART 363/2/ UNDER 'POWERS OF DIRECTORS' PROVIDES EXCEPTION BY STATING 'AA OF A COMPANY MAY SPECIFY THAT DIRECTORS OR ONE DIRECTOR MAY BE RESPONSIBLE AS A MANAGER.(MANAGER CAN BE APPOINTED FROM AMONG THE BOARD PROVIDED IT IS STATED IN AA.

POWERS OF GM:-

- IS THE POWER THAT IS DELEGATED BY THE BOD.
- GM IMPLEMENTS THE SUBSTANTIAL POLICY ISSUES DECIDED BY THE BOARD.
- GM REPRESENTS THE COMPANY IN RELATION TO THIRD PARTIES:
- ✓ENTERS INTO CONTRACT ON BEHALF OF THE COMPANY.
- ✓HIRE AND FIRE OF EMPLOYEE OF THE COMPANY SIGN ON NEGOTIABLE INSTRUMENTS ETC.

DUTIES:-

- OCCUPIES THE POSITION OF A TRUSTEE FOR THE COMPANY AND HE HAS TO SAFEGUARD THE INTEREST OF THE SHAREHOLDERS AND THE COMPANY.
- HAS TO COMPLY WITH DELEGATION, THE STATUTES AND THE LAW.

LIABILITIES:

- GM IS LIABLE FOR DAMAGE RESULTING FROM INFRINGEMENT OF HIS POWER OR VIOLATION OF LAW, STATUTES AND FROM DELIBERATE OR NEGLIGENT ACTS OF MISMANAGEMENT (TOWARDS THE COMPANY, 3RD PARTY OR INDIVIDUAL SHAREHOLDERS).

ACCOUNTS AND AUDIT (445 FF)

- **PROHIBITION OF OUT OF CAPITAL PAYMENT (FICTITIOUS DIVIDEND): (ART 458)**
- **REQUIREMENT TO DEPOSIT THE RESERVE FUNDS /ART 453/, BEFORE DISTRIBUTING PROFITS. TYPES OF RESERVE: ART-453(2)**
- **PROFITS AND DIVIDENDS(452)**
- ANY PROFITS REALIZED DURING THE FISCAL YEAR OF WHICH THE ACCOUNTS ARE SUBMITTED TO THE MEETING MUST BE ALLOCATED BY THE MEETING.

- DIVIDEND IS THE PORTION OF THE PROFITS OF THE COMPANY WHICH IS ALLOCATED TO THE HOLDERS OF SHARES IN THE COMPANY OR IT IS A PORTION OF THE DISTRIBUTABLE PROFITS OF THE COMPANY.

- THE COMPANY MUST ALLOCATE TO LEGAL RESERVE UNTIL IT REACHES ONE TENTH OF ITS CAPITAL.

- AFTER THAT THE ANNUAL MEETING IS FREE TO USE ANY REMAINING PART OF THE PROFIT BY ALLOCATING THEM TO THE SHAREHOLDER AS DIVIDENDS.

- DIVIDEND COULD BE A FIXED ANNUAL PERCENTAGE AS IN THE CASE OF PREFERENCE SHARES OR IT MAY BE VARIABLE AS IN THE CASE OF EQUITY SHARES.

- IT IS ONLY, PAYABLE OUT OF DISTRIBUTABLE PROFITS ONLY.
- DISTRIBUTION OF FICTITIOUS DIVIDENDS (IT IS DIVIDENDS IN EXCESS OF AVAILABLE PROFITS) IS A CRIMINAL OFFENCE AS WELL AS CIVILLY MAKES LIABLE (ART 458/2/).

- THE TIME AND MANNER OF PAYMENT OF DIVIDENDS IS DECIDED ON BY THE ANNUAL MEETING (ART 458/3/).

- RIGHT TO CLAIM DIVIDEND ARISES ONLY AFTER THE SAME IS DECLARED BY THE COMPANY IN GM.

- UNLESS IT IS DECLARED, NO SHAREHOLDER HAS ANY CLAIM AGAINST THE COMPANY IN RESPECT OF IT.

- IN PRACTICE THE BOARD OF DIRECTORS RECOMMEND AND THE ANNUAL GENERAL MEETING DECLARES THE DIVIDEND.

AUDITORS (368-387)

- EXAMINATION OF THE FINANCIAL RECORDS OF COMPANIES GUARANTEES THAT THE MANAGEMENT IS USING INVESTORS' MONEY FOR THE BENEFIT OF THE CORPORATION.

- AUDIT THE ACCOUNTS OF THE COMPANY, CERTIFY CERTAIN INFORMATION PROVIDED TO THE SHAREHOLDERS, AND PREPARE REPORTS WHICH MUST BE SUBMITTED TO THE SHAREHOLDERS.
- **APPOINTMENT (368/369):**THE FIRST AUDITORS OF THE COMPANY SHALL BE APPOINTED BY THE SUBSCRIBERS OF THE COMPANY AND SUBSEQUENTLY BE APPOINTED BY THE GENERAL MEETING OF THE COMPANY (ART 369/1/).

- PERSON PROHIBITED TO BE ELECTED AS AN AUDITOR (ART 370)

DISSOLUTION AND WIND UP

- THOUGH COMPANIES ARE RARELY DISSOLVED, SOMETIMES DISSOLUTION CAN NOT BE AVOIDED.

- CAUSES OF DISSOLUTION OF A COMPANY : GROUNDS COMMON TO ALL KINDS OF BOS /ART 217-218/
- GROUNDS OF DISSOLUTION OF SHARE COMPANY (ART-495)

- **DISSOLUTION BY OPERATION OF LAW: WHEN** A NUMBER OF A MEMBER IS REDUCED TO BELOW FIVE. IT MAY BE DISSOLVED BY THE COURT UPON APPLICATION BY ANY INTERESTED PARTY (ART 311 + ART-511 FOR PLCS)

- **DISSOLUTION UNDER PROVISIONS OF THE STATUTES:** CAUSES OF DISSOLUTION RELATE TO ITS DURATION OR ITS OBJECTS IN THE DOCUMENTS (FREEDOM TO FIX THE DURATION OF THE COMPANY OR PARTNERSHIP).

- **DISSOLUTION RESULTING FROM THE AGREEMENTS OF THE MEMBERS** :IF THE APPROPRIATE MAJORITY RESOLVES TO ALTER ITS STATUTES SO AS TO BRING ABOUT ITS IMMEDIATE DISSOLUTION.
  - IN THE CASE OF SHARE COMPANY, THE COMPANY MAY BE DISSOLVED BY RESOLUTION OF AN EXTRA -ORDINARY GENERAL MEETING WITHOUT ALTERATION OF ITS STATUTES (ART 495/D)

- **DISSOLUTION BY THE ORDER OF THE COURT**: THE COURT MAY DISSOLVE A COMPANY IF THERE IS JUST CAUSE TO DO SO (ART-495(1) (E)

LIQUIDATION OF SHARE COMPANY

- COMPRISES ALL THE OPERATIONS REQUIRED TO COMPLETE IT'S CURRENT TRANSACTION, TO COLLECT AND REALIZE ITS ASSETS, TO DISCHARGE ITS LIABILITIES AND REPAY ITS CAPITAL AND TO DISTRIBUTE ANY SURPLUS OF ASSETS AMONG ITS MEMBERS.

- THE COMPANY CONTINUES TO BE ENTITLED TO THE EXCLUSIVE USE OF ITS NAME, ALTHOUGH THIS MUST BE FOLLOWED BY THE WORDS "IN LIQUIDATION" (ART 497/11/) SECONDARY, THE COMPANY RETAINS ITS REGISTERED OFFICE AND THE OWNERSHIP OF ITS ASSETS.

- THE CORPORATE PERSONALITY OF THE COMPANY AT THIS STAGE IS LIMITED TO THE NEEDS OF THE LIQUIDATION (OPERATIONS WHICH WILL BE NECESSARY OR USEFUL FOR WINDING UP ITS AFFAIRS (ART 497(2)).
  - ONLY BE ABLE TO COMPLETE UNFINISHED CURRENT TRANSACTIONS AND TO ENTER INTO NEW TRANSACTIONS TO THE EXTENT THEY ARE CONSISTENT WITH THE OBJECT OF WINDING UP ITS AFFAIRS (ART 500)
- **APPOINTMENT OF LIQUIDATORS** (ART 496)
  - **POWERS (ART 500)**: LIQUIDATORS ARE PERSONALLY, JOINTLY OR SEVERALLY LIABLE IF THEY ACT OUTSIDE OF THEIR POWER.

PRIVATE LIMITED COMPANY(510-543)

- IT IS WELL ADAPTED TO SMALL AND MEDIUM–SIZED BUSINESS AND IS THE MOST POPULAR FORM OF COMPANY IN ETHIOPIA.
- IT IS HYBRID OF SHARE COMPANY AND PARTNERSHIP. (LIMITED LIABILITY VS. SHARES ARE NOT FREELY TRANSFERRED TO THE OUTSIDERS).
- PLC MAY BE FORMED TO PURSUE ANY PURPOSE OR TO CARRY ON ANY ACTIVITIES.

- HOWEVER, IT MAY NOT TAKE BANKING, INSURANCE AND SIMILAR ACTIVITIES, SUCH BUSINESS MUST BE CARRIED OUT BY SHARE COMPANIES (ART 513)

- PLC IS ALWAYS COMMERCIAL EVEN IF IT INTENDS TO CARRY ON CIVIL ACTIVITIES (ART 10(2) AND 510(2))

- FORMATIONS(ART 510/2/): DOCUMENTS TO BE FILED WITH THE REGISTRAR ARE SIMILAR WITH SCS: REFER TO THE RELEVANT SLIDES

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- THE CAPITAL OF THIS COMPANY MUST BE AT LEAST BIRR 15,000 (ART 512/1/).

- THE WHOLE CAPITAL OF PRIVATE LIMITED COMPANY MUST BE PAID-UP WHEN THE COMPANY IN FORMED (ART 517/G/)

- THE MEMORANDUM OF THE COMPANY MUST CONTAIN A VALUATION OF ASSET CONTRIBUTED IN KIND (ART 519/T).

- THE FACE VALUE OF SHARE CAPITAL MAY NOT BE LESS THAN BIRR 10.00

- PLC ISSUES SHARES OF EQUAL VALUE (IT DOES NOT ISSUE TRANSFERABLE SECURITIES).

LIABILITIES OF MEMBERS FOR THE COMPANY'S OBLIGATION

- LIMITED LIABILITY: THE LIABILITY OF THE MEMBERS IS LIMITED TO THE AMOUNT IF ANY, UNPAID ON THE SHARES RESPECTIVELY HELD BY THEM.

- THE LIABILITY CAN BE ENFORCED DURING THE EXISTENCE OF THE COMPANY AS WELL AS DURING WIND-UP.

- WHERE THE SHARES ARE FULLY PAID UP, NO FURTHER LIABILITY RESTS ON THEM.

MEMBERS' MEETINGS (ART 532 & 533

- MEMBERS ARE ENTITLED TO INSPECT AND COPY THE PRINCIPAL RECORDS AND DOCUMENTS INVENTORY, THE BALANCE SHEET AND THE AUDITORS' REPORT (ART 537)

- SHAREHOLDERS ARE ENTITLED TO BE CONSULTED ON MAJOR CORPORATE MATTERS, EITHER BY THE HOLDING OF GENERAL MEETINGS OR BY THEIR WISHING BEING SOLICITED INDIVIDUALLY (ART 532 & 533 RESPECTIVELY).

- IN A PLC WITH MORE THAN TWENTY MEMBERS A GENERAL MEETING OF SHAREHOLDERS MUST BE HELD EVERY YEAR AT THE DATE FIXED IN THE AA. (ART 532).

- THIS DATE IS USUALLY SIX MONTHS AFTER THE END OF FINANCIAL YEAR TO APPROVE THE ANNUAL ACCOUNTS OF THE COMPANY AND THE MANAGERS' ANNUAL REPORT.

- OTHER MEETING MAY ALSO BE HELD WHEN CALLED BY SHAREHOLDERS NUMBERING MORE THAN ONE HALF OF THE CAPITAL, OR BY THE MANAGER OR AUDITOR (ART 532/2/)

ORDINARY RESOLUTION AND MAJORITY

- ARE USED FOR NATTERS WHICH INVOLVE NO ALTERATION OF THE COMPANY'S STATUTES. (E.G, RESOLUTIONS AUTHORIZING THE MANAGERS TO ENTER INTO A TRANSACTION WHICH THE STATUTES REQUIRE THE PRIOR APPROVAL OF THE MEMBERS, RESOLUTIONS APPOINTING OR REMAINING ONE OR MORE NON-STATUTORY MANAGERS AND RESOLUTIONS RATIFYING CONTRACTS ENTERED INTO BETWEEN THE COMPANY AND ONE OF ITS MANAGERS OR MEMBERS).

- **EXTRA ORDINARY RESOLUTION**

- RESOLUTIONS THAT ALTER THE NATIONALITY OF THE COMPANY MUST BE DECIDED BY UNANIMOUS VOTE.
- RESOLUTIONS INVOLVING ALTERNATION OF THE COMPANY, TRANSFER OF SHARE TO OUTSIDERS (ART 523(2)), CHANGE OF STATUTORY MANAGER (ART 527(1)) MUST BE PASSED BY THE VOTES OF MEMBERS WHO TOGETHER HOLD AT LEAST THREE QUARTERS OF THE CAPITAL OF THE COMPANY UNLESS A LARGER MAJORITY IS REQUIRED BY AA.

- UNANIMITY IS REQUIRED FOR AN INCREASE IN THE COMMITTEEMEN'S OF SHAREHOLDERS TO SUBSCRIBE OR INCREASE IN HIS CONTRIBUTIONS.
- **VOTING (ART 534)**

ROLE OF MANAGEMENT

- PLC IS MANAGED BY ONE OR MORE MANAGERS UNDER THE DIRECTION AND CONTROL OF SHAREHOLDERS (ART 525)
- APPOINTMENT AND DISMISSAL OF MANAGER_/ART 526 & 527/
- A MANAGER NEED NOT BE MEMBERS OF THE COMPANY(A SHAREHOLDER OR OUTSIDER).

- STATUTORY MANAGERS VS. NON-STATUTORY MANAGERS.

- THE APPOINTMENT OF THE FIRST MANAGERS MAY BE MADE IN THE STATUTES OF THE COMPANY, AND ALL OTHER APPOINTMENTS ARE MADE BY THE RESOLUTIONS PASSED BY THE MEMBERS IN GM.

- THE MAJORITY REQUIRED UNDER (ART 535(1)), BUT IF SUCH MAJORITY IS NOT OBTAINED A DECISION SHALL BE TAKEN BY SIMPLE MAJORITY WITHOUT REGARD TO THE CAPITAL REPRESENT.

REMOVAL OF THE MANAGERS (ART 527)

- THERE ARE TWO TYPES OF REMOVAL.
- THE REMOVAL OF STATUTORY MANAGER NEEDS MINIMUM OF MAJORITY VOTE OF THE NUMBERS REPRESENTING THREE QUARTER OF THE CAPITAL UNLESS A LARGER MAJORITY IS PROVIDED IN THE AA (ART 536(2)). (NEEDS THE AMENDMENT OF THE STATUTE)
- DISMISSAL OF NON-STATUTORY MANAGER REQUIRES A MAJORITY OF MEMBERS REPRESENTING MORE THAN ONE HALF OF THE CAPITAL AND IN THE SECOND CALL, DECISION IS PASSED BY SIMPLE MAJORITY WITHOUT REGARD TO THE CAPITAL REPRESENTED (ART 535).

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- MEMBERS MAY AGREE IN THE AA THAT MANAGER MAY BE DISMISSED AT THE PLEASURE OF THE MEMBERS IRRESPECTIVE OF THE TYPES OF MANAGER (ART 527(4)). (FOR ‘GOOD CAUSE’ LIKE MISMANAGEMENT, INCOMPETENCE OR PHYSICAL DISABILITY WHICH MAY BE CONSIDERED AS GOOD CAUSE.

- IF REMOVAL IS NOT JUSTIFIED, THE DISMISSED MANAGER MAY CLAIM COMPENSATION.

- **POWERS OF MANAGERS** (ART 528)
- THE STATUES MAY LIMIT THE EXTENSIVE POWERS OF MANAGERS BY RESTRICTIVE PROVISION. (E.G, PROHIBIT THE SALE OR MORTGAGE OF LAND POSSESSED BY THE COMPANY, FORBID THE MANAGERS TO BORROW MORE THAN A CERTAIN AMOUNT OF MONEY IN THE COMPANY'S NAME.)

- **MANAGER LIABILITY** (ART 530)
- **MANAGERS' REMUNERATION**(ART 529)

✓ FIXED BY THE RESOLUTION OF THE SHAREHOLDERS.

✓MAY BE IN FIXED SALARY OF SHARE IN THE PROFIT OR BOTH FIXED SALARY AND SHARE IN THE PROFIT.

✓IN PRACTICES MANAGERS ARE USUALLY PAID A FIXED SALARY.

SHARES AND TRANSACTIONS IN SHARES (ART 522 AND 523).

- IN PRINCIPLE THE SHARES OF PRIVATE LIMITED COMPANY CONFER UNIFORM RIGHTS.
- SHARES ARE NOT TRANSFERABLE BY THE NORMAL COMMERCIAL FORMS OF TRANSFER, AND CAN NOT BE REPRESENTED BY REGISTERED AND BEARER SHARE CERTIFICATE TRANSFERABLE IN THE SAME WAY AS SHARES OF SHARE COMPANY.
- SHARES IN PLC, MUST BE MADE IN WRITING (ART 523).
- SHARES ARE FREELY TRANSFERRED AMONG THE COMPANY MEMBERS (ART 523(1)). (FREE TRANSFERABILITY MAY BE RESTRICTED BY THE AA THOUGH).

- TRANSFER TO OUTSIDERS POSSIBLE ONLY WITH THE CONSENT OF MAJORITY. (REPRESENTING AT LEAST 3/4 OF THE CAPITAL UNLESS OTHERWISE STATED IN AA.)

TRANSFER INTER VIVOS AND MORTIS CAUSE_

- PREEMPTION CLAUSE": AA OF PLC PROVIDE THAT ANY MEMBER INTENDING TO TRANSFER HIS SHARES SHOULD OFFER THE SHARES FIRST TO MEMBERS OF THE COMPANY.

- IT CAN BE TRANSFERRED TO NONMEMBERS ONLY IF ANY MEMBER IS NOT WILLING TO BUY THE SHARES.

- WHEN THE SHAREHOLDER DIES HIS SHARES TRANSMIT TO HIS HEIR (ART 524). (BY THE OPERATION OF LAW, SINCE IT IS BY THE OPERATION OF LAW, TRANSFER DEED IS NOT ESSENTIAL FOR TRANSMISSION).

- ON THE DEATH OF A MEMBER, THE SURVIVOR/HEIRS/ SHALL BE THE ONLY PERSONS RECOGNIZED BY THE COMPANY AS HAVING ANY TITLE TO HIS INTEREST IN THE SHARES.

- ANY PERSON BECOMING ENTITLED TO A SHARE ON THE DEATH, ON PRODUCTION OF SATISFACTORY PROOF AS TO HIS TITLE MAY ELECT EITHER

✓TO REGISTER HIMSELF A HOLDER OF SHARE OR

✓TO TRANSFER THE SHARES AS THE ORIGINAL MEMBERS COULD HAVE DONE

CONVERSION AND AMALGAMATION OF BUSINESS ORGANIZATION(544-554)

CONVERSION:

- IS AN OPERATION BY WHICH A LEGAL FORM OF BO IS CHANGED WITHOUT BEING CREATING NEW LEGAL PERSONALITY (ART 544(1).
- THUS, PLC MAY BE CHANGED INTO SHARE COMPANY AND VICE VERSA.
- CONVERSION DOES NOT RESULT IN THE CREATION OF A NEW LEGAL PERSON, BUT IS TREATED FOR ALL PURPOSE AS A CONTINUATION OF THE ORIGINAL COMPANY.
- MUST CONFORM TO THE RULES CONTAINED IN THE LAW, THE STATUTES OF THE FIRM GOVERNING THE ALTERNATION OF THE STATUTES AND SPECIAL RULES GOVERNING CONVERSIONS.

- THE DECISION IS PASSED BY UNANIMOUS OR MAJORITY REQUIRED BY THE LAW/AA.

- A RESOLUTION/AGREEMENT FOR CONVERSION HAS TO BE NOTIFIED THROUGH PUBLICATION.

- CONVERSION NEITHER INCREASES ANY LIABILITIES UPON MEMBER NOR DEPRIVES THE RIGHT OF MEMBERS PARTIALLY OR WHOLLY

EFFECTS

- TAKES EFFECT FROM THE DATE OF REGISTRATION IN THE COMMERCIAL REGISTERS.

- IT DOES NOT AFFECT THE CONTINUED EXISTENCE OF THE ORIGINAL BO, AND THEREFORE CAUSES NO INTERRUPTION OF ITS ACTIVITIES.

- THE ASSETS OF THE FORMER BO TRANSFERS TO THE NEW ONE FROM THE DATE OF REGISTRATION.

- TERMINATES THE APPOINTMENT OF MANAGEMENT AND POWERS OF DIRECTORS OR MANAGERS OF THE ORIGINAL BO (FRESH APPOINTMENTS MUST BE MADE).
- YET THE FORMER OFFICIALS CANNOT TREAT THE CONVERSION AS AMOUNTING TO DISMISSAL WITHOUT JUST CAUSE AND SO CLAIM DAMAGES FROM THE CONVERTED COMPANY UNLESS THEY CAN SHOW THAT THE CONVERSION WAS CARRIED OUT FOR THE SOLE PURPOSE OF PREJUDICING THEIR RIGHTS.

- **IN RELATION TO THE RIGHTS OF CREDITORS**: /ART 546/3/.
- THE CREDITORS OF THE FORMER BO RETAIN ALL THEIR RIGHTS.

- MAY OBJECT AND DEMAND THEIR DEBT TO BE PAID BEFORE CONVERSION IF EFFECTED. IN THAT CASE, THEY MAY BE PAID OR GUARANTEED.
- CREDITORS SHOULD BE PAID PRIOR TO SHAREHOLDERS.

CONVERSION DOES NOT DISCHARGE MEMBER WITH UNLIMITED LIABILITIES FROM THEIR FORMER LIABILITIES OF THE FORMER BO (ART 548). (EXEPTION WHEN APPROVAL IS PRESUMED UNDER SUB-2)

AMALGAMATION

- IS THE OPERATION BY WHICH TWO OR MORE, BOS GROUP INTO ONE AND MEMBERS OF THE AMALGAMATED FIRM RECEIVE SHARES ISSUED BY THE FIRM BENEFITING FROM THE AMALGAMATION.

- CAN HAPPEN EITHER THROUGH TAKEOVER OR FORMATION OF A NEW FIRM. (ART 549/1/).

- ALL PROPERTY AND RIGHTS FORMING THE ASSETS OF THE AMALGAMATED FIRM ARE TRANSFERRED TO THE BENEFICIARY FIRM.

- THE BENEFICIARY FIRM MUST COMPLY WITH THE UNDERTAKINGS AND AGREEMENTS ENTERED INTO BY THE AMALGAMATED FIRMS.

- HENCE, ALL LIABILITIES OF AMALGAMATED BOS WILL BE TRANSFERRED TO THE BENEFICIARY BO.

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MODE (PROCEDURE)

- THE DECISION OF AMALGAMATION HAVE TO BE APPROVED BY DIFFERENT CLASSES OF SHAREHOLDERS AND DEBENTURES (ART 550).
- THE TERMS ARE DRAWN UP WHICH TRANSFERS ALL ASSETS AND LIABILITIES TO THE AMALGAMATED FIRM THE CONDITIONS AND CHARACTERISTICS OF SUCH A TRANSFER IS OFTEN DESCRIBED AS SIMILAR TO THOSE ATTACHED TO AN INHERITANCE.

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EFFECTS:

- WITHIN 3 MONTHS AFTER COMPLETION OF AMALGAMATION TO THE COURT IN ORDER TO PROTECT THEIR RIGHTS.

WHEN IT IS PRESENTED TO THE COURT THE COURT MAY REJECT THE APPLICATION IN THE FOLLOWING CONDITIONS:-

WHERE :

- ✓ALL CREDITORS AGREED TO THE AMALGAMATION, AND
- ✓PAYMENT IS EFFECTED TO THOSE WHO DID NOT CONSENT TO THE AMALGAMATION OR
- ✓SUCH PAYMENT HAS BEEN DEPOSITED IN THE BANK FOR THE BENEFIT OF THOSE WHO DID NOT CONSENT TO THE AMALGAMATION.