Fraud at the Central Bank of Tanzania (A)

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President Jakaya Kikwete has sacked the Central Bank Governor, Dr Daudi Ballali and replaced him with his deputy, Professor Benno Ndulu, following a report by a special audit that revealed massive fraudulent transactions in repayment of the country's external debts.

The Chief Secretary, Mr Phillemon Luhanjo told a news conference that TAS. 133,015,186,220/74 was improperly paid to 22 local firms through the bank's External Payment Arrears (EPA) Account.

He said the audit carried out by Messrs Ernst & Young revealed that payments to the firms were made without observing rules and procedure. In some cases, he said, fake documents and forged records were used.

''The President (Kikwete) has been deeply angered and disappointed with what has happened at the country's highly sensitive institution,'' Mr Luhanjo told journalists at the State House.

Mr Luhanjo said the President has ordered the suspension of EPA Account operations until a new system is put in place. He said he has also directed the BoT Board of Directors to meet immediately, deliberate on the report and take disciplinary action against employees implicated in the mess (*The Daily News*, Thursday, 10 January 2008).

Background

The annual accounts of the Bank of Tanzania (BOT), the Central Bank for the year 2005/2006 were under audit by Delloite and Touché – a multinational audit firm of high repute. In the course of this audit some suspicious transactions in the External Payment Arrears (EPA) Account came to the attention of the auditors and they brought these immediately to the attention of BOT's Executive Office. A number of these payments related to Kagoda Agriculture Limited – a company very selected few knew about. Following failure of the Governor (who was also the Chairman of the Board) to respond to concerns of Auditors the Lead Audit and Engagement Director found it necessary to formally bring the concerns to the attention of the entire Board of Directors, through the Chairman (with copies of the Auditor's letter sent to all board members). This letter to the Governor detailed a number of serious shortcomings in internal controls and approval mechanism of the payments to Kagoda Agriculture Limited. It pointed to existence of an elaborate fraudulent scheme perpetrated with active involvement of officials at the Central Bank. The Lead Audit and Engagement Director advised the Governor to immediately suspend all staff in the initiation and approval processes of the suspected fraud and immediately institute an investigation. A local investigative reporter had access to this letter and its contents were published in a national tabloid an extract of which is attached in Exhibit 1.

The Auditors were not convinced that the Board was addressing concerns they had communicated and the only feasible recourse the Lead Audit and Engagement Director had was to the Minister for Finance. Upon formal inquiry with the Minister for Finance and in what was later to have been acknowledged as a serious error of judgement the Minister for Finance actually wrote a letter of representation to the Auditors re-affirming the genuineness of the payments to Kagoda Agriculture Limited. Subsequently, it turned out that the Minister

This case is based on real life events widely reported in public media that occurred at the BOT, the Central BOT. There has been no attempt to protect any physical locations, names of institutions or identities and to protect sources. Nevertheless, this case has been prepared solely to provide teaching material for class interactive discussions.

Disclaimer. This case is written solely for educational purposes and is not intended to represent successful or unsuccessful managerial decision making. The author/s may have disguised names; financial and other recognizable information to protect confidentiality.

had solely relied on advice from the Governor of the Central Bank and the letter was appropriately recanted when the Minister was properly appraised. But the damage done was irreparable as when this information became public the common belief was that key players in high government offices were actively involved or had knowledge of the fraud[1]. In the end, and perhaps as a consequence of these developments the audit by Delloite and Touché was terminated by the Central Bank and therefore there was no formal audit report submitted. For a while this was the end of the matter – until 17 September 2007.

On that day at a public rally at Mwembe Yanga in Dar es Salaam a maverick Member of Parliament for an opposition party known as Chama cha Demokrasia na Maendeleo Dr Willbroad Slaa announced a ''list of shame'' in which he mentioned individuals that allegedly had perpetrated massive fraud at the BOT and misappropriated EPA Account funds administered by the Central Bank on behalf of the government. He claimed to have obtained documentary evidence of some of the transactions. Soon thereafter some documents started to do rounds on the internet as attachments in e-mails. They made grim reading.

This sparked off an undercurrent of public misgivings on Government conduct that were subsequently echoed within the precincts of the parliament itself. The matter could no longer be ignored as an opposition party mudslinging campaign. The President ordered the Controller and Auditor General (CAG) to procure and contract an independent external investigator to conduct a special investigation of the EPA Account and submit a report within three months.

Ernst & Young, another multinational accounting firm was contracted to conduct the special investigation on behalf of the CAG and its Investigation Report was presented to the President on 7 January 2008. The report revealed that a total TAS. A total of 133 billion had been ''improperly'' paid out to 22 firms within only one financial year through the EPA Account. A day later President Jakaya Kikwete fired Dr Daudi Balali – the Governor of BOT.

Origins of EPA

EPA arose mostly during the 1980s and early 1990s when Tanzania was facing acute shortage of foreign currency to pay for normal imports. The government then instituted strict foreign exchange controls and mandated the Central Bank – the BOT to manage foreign currency reserves through prioritization of all foreign exchange payments.

Companies or individuals who needed to import plant, equipment, goods or services had to, in the first instance, deposit in full the Tanzanian shilling equivalent of the currency needed for imports. These deposits were made into a non-interest bearing External Payment Account at the National Bank of Commerce (NBC), at the time one of perhaps only two full service commercial banks in the country and wholly owned by the government. Upon receiving approval of the transaction from the BOT the NBC would then pay the foreign suppliers. The External Payment Account was therefore essentially a BOT account operated by the NBC.

The arrears occurred when payments in respect of Letters of Credit, Suppliers' Credits, or just direct payments for imports could not be honoured by NBC because of shortage of foreign exchange.

The Government of Tanzania assumed all responsibility for the outstanding debts from about 1985 and in the ensuing period instructed that management of the EPA Account be transferred from NBC to BOT. One of the rationales for establishment of a Debt Management Unit at the BOT was precisely to manage the settlement of EPA Account debts (see organization structure in Exhibit 1).

Following the liberalization of the economy in the 1990s, the abolition of the exchange control regime, and improvement in the government financial position and in the overall economy, there were increasing demands from the depositors to be paid. Some went to court and won exorbitant awards.

It is within this context that the government assumed the responsibility of repaying the depositors or whoever would have assumed the obligation. The BOT managed the scheme

on behalf of the government. The settlement process is called de-pipelining because the Tanzanian shillings deposited would be paid back to the claimant and, in addition, the government would pay the topping up for the amount of the exchange loss since the deposit was made at NBC. This scheme had begun in mid-1996, following the issuance by the Treasury of a TAS. 100 billion bond.

Subsequently, the Government of Tanzania, with the support of the World Bank, settled some of the EPA Accounts through arrangements such as Debt Buyback, HIPCC Debt Reduction and the Paris Club Debt Cancellations. It is believed that by the end of 2004 when the Debt BuyBack programme was closed total debts of US$233 million were still outstanding (Table I), most of which being time barred.

Genesis of the fraud

During the period of the special investigation – the financial year from 1 July 2005 to 30 June 2006, 22 local Tanzanian companies submitted to the BOT different claims in respect to certain EPA Accounts purported to have been assigned to them by the overseas suppliers who were the principal claimants. One local company, Kagoda Agriculture Limited alone submitted Deeds of Assignments for 12 European, Japanese and North American creditors between 10 September and 3 November 2005. All of which were questionable, at best.

The special investigation reported that 13 of the 22 companies were paid $90 million on the basis of forged documents. These included Bencon International Ltd, VB & Associates, Bina Resorts, Venus Hotel and Njake Hotel & Tours Ltd. Others were Maltan Mining Company, Money Planners & Consultants, Bora Hotels & Apartment, B.V. Holdings, Ndovu Soaps, Navy Cut Tobacco, Changanyikeni Residential Complex and Kagoda Agriculture Ltd.

A further nine companies received $42 million for which there was no documentation as to why they were paid at all. These were G&T International, Excellent Services Ltd, Mibale Farm, Liquidity Service Ltd, Clayton Marketing, Rashtas Ltd, Malegesi Law Chambers, Kiloloma and Brothers and Karnel Ltd The audit further revealed that registration documents of two companies were missing from the Business Registration and Licensing Authority (BRELA). These were Rashtas (T) Ltd and G&T International.

All transactions were facilitated by commercial banks through which funds were deposited and immediately withdrawn in bulk[2]. Table II summarizes the banks that transacted in EPA Account funds and the amounts and relative percentages processed through each of the banks between 1 July 2005 and 30 June 2006.

Debt settlement processes and approval procedures

Prior to a Debt Assignee's delivery of the Deed of Assignment at the Central Bank substantial background work needed to have been undertaken. Information had to have been obtained on names and specific details of overseas creditors, the status of their claims and the amounts involved.

With this information collaborators would assess feasibility of specific claims on the basis of which companies were either registered or ''shell'' companies targeted for use as Debt

Table I EPA Accounts Debts status end of 2004

Description	*Amount (US$)*	*%*
Pending legal action	25,000,000	10.70
Creditors rejected offer to be paid on discount basis	14,000,000	6.00
Creditors below the quantum threshold of US$ 2,500	3,000,000	1.30
Creditors who did not reply to invitations to settle	48,000,000	20.60
Claims not reconciled – due to poor records	143,000,000	61.40
Total	233,000,000	100.00

Source: Newspapers data and own analysis

Table II Commercial Banks' involvement in EPA account transactions – 2005/2006

Name of Bank	*Amount (TAS.)*	*%*
Bank of Baroda [T] Limited	5,912,901,644	4.40
Barclays Bank Tanzania Limited	1,548,897,757	1.20
CRDB Bank Limited	35,958,182,854	27.00
Diamond Trust Bank Limited	2,381,529,339	1.80
Eurafrican Bank [T] Limited	6,309,402,225	4.70
Exim Bank [T] Limited	2,225,035,393	1.70
Kenya Commercial Bank [Tanzania] Limited	18,189,468,486	13.70
NBC Limited	3,931,766,300	3.00
Standard Chartered Bank Tanzania Limited	48,350,913,759	36.30
United Bank of Africa Limited	8,207,038,464	6.20
Total	133,015,136,221	100.00

Source: CAG Special Audit Report, 2009, newspapers and own analysis

Assignees. The actual preparation of what was purported to be a Deed of Assignment needed clever scribes and lawyers prepared to notarize the Deeds of Assignment as genuine.

Opening of bank accounts was subsequently facilitated by, or with the knowledge of, bank officials in preparation for disbursement, distribution and laundering of EPA Account funds. In any case, a complete Deed of Assignment required inclusion of payment instructions which included bank account details.

The BOT on the other hand, had developed elaborate procedures on how settlements of EPA Account Debts were to be handled. These procedures started at the time of receipt of the Deed of Assignment as shown in Figure 1 that also indicates the key decision making points. Since the BOT had, in the past ten years, grown to be a complex organization only a condensed organization structure is provided as Exhibit 2.

Receipt of the application

A beneficiary claimant (Debt Assignee) applied to the BOT, identifying a debt being claimed, with all necessary particulars. An assignee claimant must also produce a legally binding Deed of Assignment from the respective creditor. A scanned copy of an exhibit of a Deed of Assignment purported to have actually been submitted in one payment transaction is reproduced in Figure 2.

Debt verification

On receipt of the application, the respective first point of entry at the Central Bank forwards the application to the Director Economic Policy (DEP) to take appropriate action. DEP directs the Deputy Director Debt Department (DDDD) to cause verification of the application and supporting documents.

The DDDD directs the Head of Bilateral and Commercial Debts (HBCD) division to verify/review the application and make comments and recommendations to DDDD.

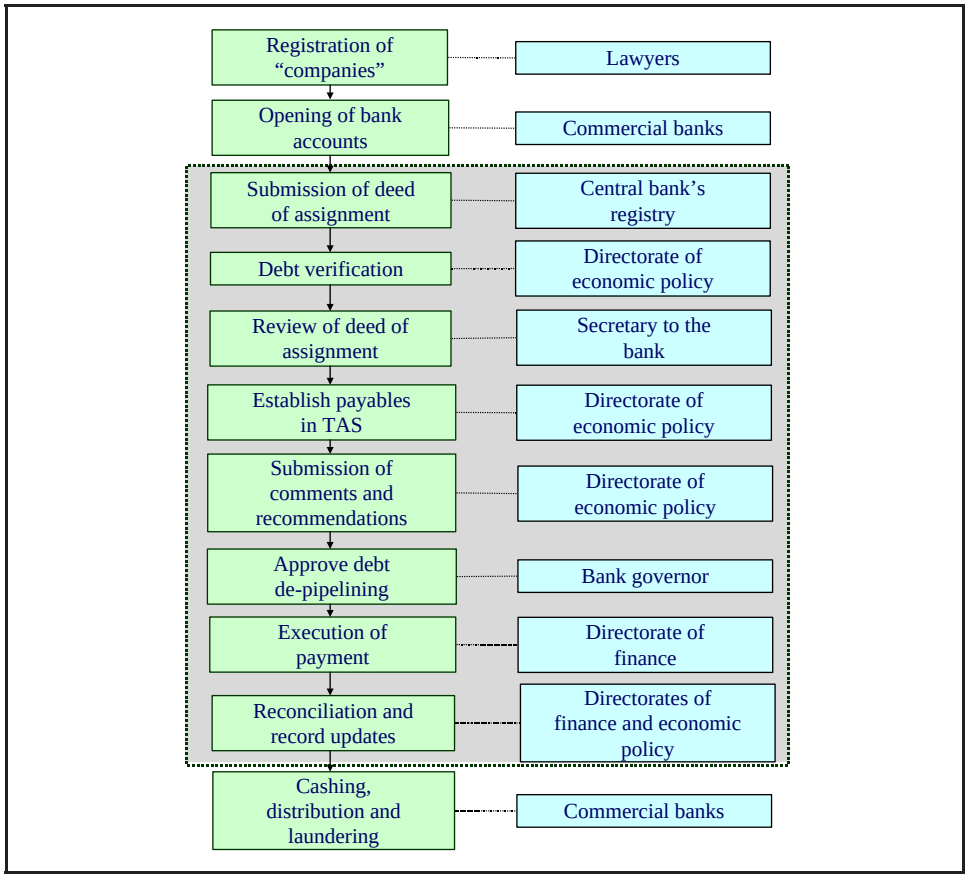
HBCD examines the contents, compares and confirms with what is in the debt database at the BOT. If not in order HBCD returns the file to DDDD with comments. If in order HBCD forwards his comments and recommendations in the file to the DDDD.

The DDDD gives his comments and forwards the file to DEP through the Legal Department (Secretary to the Bank) who verifies the genuineness and the legal validity of the Deed of Assignment.

Review of the Deed of Assignment

The Secretary to the Bank reviews the Deed of Assignment. If it is not in order the Secretary to the Bank returns the file to DDDD with comments. If it is in order the Secretary to the Bank

Figure 1 Flowchart of EPA Account debt settlement processes and decision points



confirms the genuineness and validity of the Deed of Assignment and returns the file with the application to DEP to finalize the approval process.

Computation of amount payable

DEP instructs DDDD to compute the amount payable in Tanzanian shillings. DDDD in turn instructs HBCD to compute the amount payable in TZS and HBCD computes the amount payable and writes a memo to DDDD on the amount payable. DDDD submits computed amount payable and comments to DEP.

Submission of comments and recommendations to approving authority

DEP examines comments of the Secretary to the Bank and submits the file to the Governor, the approving authority, with recommendations, to approve payment.

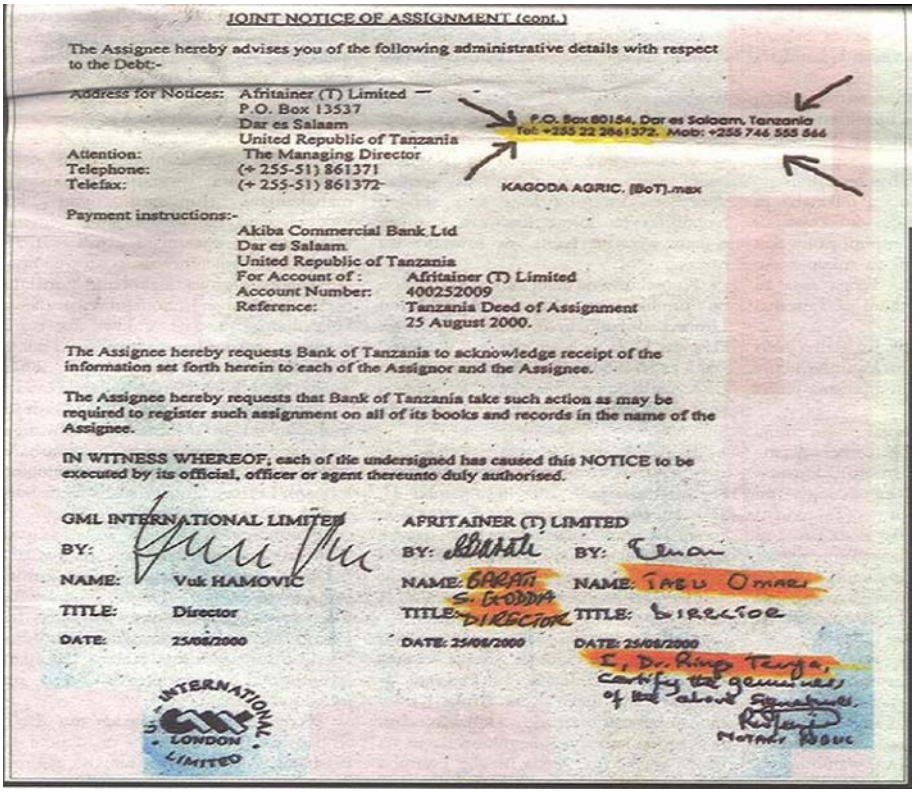
Approval of debt de-pipelining

The Governor examines observations and recommendations from both DEP and the Secretary to the Bank and decides on the application. If it is not in order, the Governor sends the file back to DEP not approved.

If it is in order, the Governor approves de-pipelining of the deposit and the topping up for exchange loss to the recommended amount in Tanzania shillings and sends the file back to DEP for execution.

DEP now sends the application file to the Director of Finance (DF) for payment.

Figure 2 A Deed of Assignment for Kagoda Agriculture Limited (*This Day*, 22 December 2008)



JOINT NOTICE OF ASSIGNMENT (cont.)

The Assignee hereby advises you of the following administrative details with respect to the Debt:-

Address for Notices: Afritainer (T) Limited
P.O. Box 13537
Dar es Salaam
United Republic of Tanzania
P.O. Box 80154, Dar es Salaam, Tanzania
Tel: +255 22 2861372, Mob: +255 746 555 844
Attention: The Managing Director
Telephone: (+ 255-51) 861371
Telefax: (+ 255-51) 861372
KAGODA AGRIC. [BoT].mdx

Payment instructions:-
Akiba Commercial Bank Ltd
Dar es Salaam
United Republic of Tanzania
For Account of: Afritainer (T) Limited
Account Number: 400252009
Reference: Tanzania Deed of Assignment 25 August 2000.

The Assignee hereby requests Bank of Tanzania to acknowledge receipt of the information set forth herein to each of the Assignor and the Assignee.

The Assignee hereby requests that Bank of Tanzania take such action as may be required to register such assignment on all of its books and records in the name of the Assignee.

IN WITNESS WHEREOF, each of the undersigned has caused this NOTICE to be executed by its official, officer or agent thereunto duly authorised.

GML INTERNATIONAL LIMITED
BY:
NAME: Vuk HAMOVIC
TITLE: Director
DATE: 25/08/2000

AFRITAINER (T) LIMITED
BY:
NAME: BARATI S. GODDA
TITLE: DIRECTOR
DATE: 25/08/2000

BY:
NAME: TAREU OMARI
TITLE: DIRECTOR
DATE: 25/08/2000
I, Dr. Ringo Tenga, certify the genuineness of the above Signatures.
Notary Public

GML INTERNATIONAL LONDON LIMITED

Execution of payment

Upon verification of approval and instructions, the DF pays the amount payable in Tanzanian Shillings in accordance with instructions of the claimant.

Updating of debt records

DF sends the file back to DDDD who in turn sends the file to HBCD and cause him to erase the amount de-pipelined from relevant database. Once removed from the database it cannot be claimed. This obligation would now be completely settled and the file is sent back to the registry for archiving.

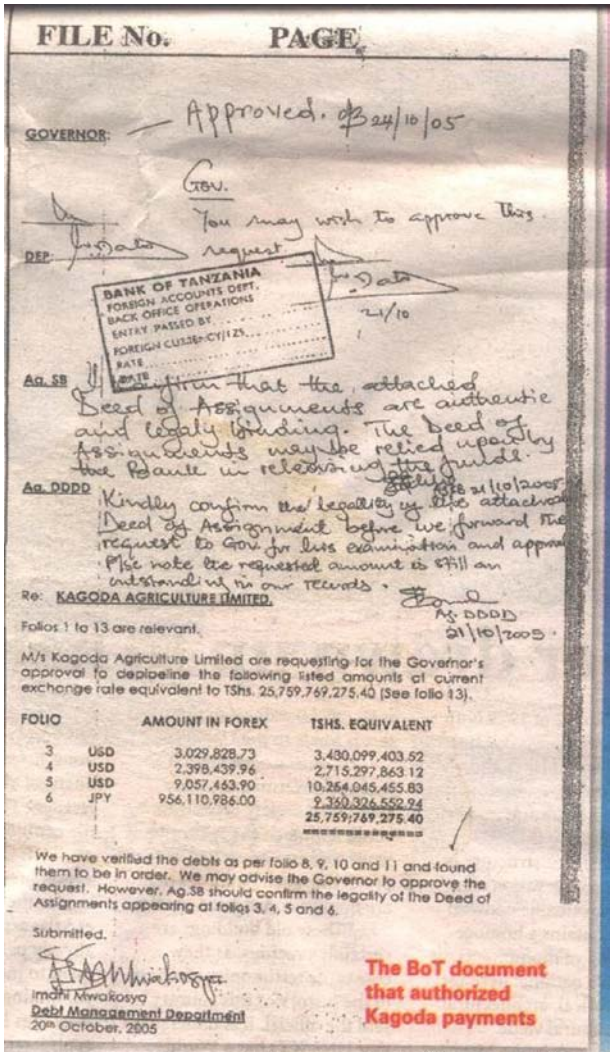
An exhibit illustrating the approval procedures

Figure 2 is an exhibit that demonstrates one particular approval of payment of TAS. 25.7 billion to Kagoda Agriculture Limited.

The covering letter in Figure 3 was initiated by the Supervisor Bilateral and Commercial Debt Department addressed to the Head of Debt Management Department on Thursday, 20 October 2005 stating the following:

> *Re: Kagoda Agriculture Limited*
>
> Folios 1-13 are relevant.
>
> M/S Kagoda Agriculture Limited are requesting for the Governor's approval to de-pipeline the following listed amounts of current exchange rate equivalent to T.Shs. 25,739,769,275.40 (see folio 13; Table III).
>
> We have verified the debts as per folios 8-11 and found them to be in order. We may advise the Governor to approve the request. However, the Ag. Secretary to the Bank should confirm the legality of the Deeds of Assignment appearing on Folios 3-6.

Figure 3 An Exhibit of Payment Approval Procedures



FILE No. PAGE

GOVERNOR: Approved. 24/10/05

GOV.

You may wish to approve this request

DEP: Date

BANK OF TANZANIA
FOREIGN ACCOUNTS DEPT.
BACK OFFICE OPERATIONS
ENTRY PASSED BY.....
FOREIGN CURRENCY.....
RATE.....
Am.....

21/10

Ag. SB

Confirm that the attached Deed of Assignments are authentic and legally binding. The Deed of Assignments may be relied upon by the Bank in releasing the funds.

Date 21/10/2005

Ag. DDDD

Kindly confirm the legality of the attached Deed of Assignment before we forward the request to Gov. for his examination and approval. Plse note the requested amount is still an outstanding in our records.

Re: KAGODA AGRICULTURE LIMITED.

Ag. DDDD
21/10/2005

Folios 1 to 13 are relevant.

M/s Kagoda Agriculture Limited are requesting for the Governor's approval to deplpeline the following listed amounts at current exchange rate equivalent to TShs. 25,759,769,275.40 (See folio 13).

FOLIO		AMOUNT IN FOREX	TSHS. EQUIVALENT
3	USD	3,029,828.73	3,430,099,403.52
4	USD	2,398,439.96	2,715,297,863.12
5	USD	9,057,463.90	10,254,045,455.83
6	JPY	956,110,986.00	9,350,326,552.94
			25,759,769,275.40

We have verified the debts as per folio 8, 9, 10 and 11 and found them to be in order. We may advise the Governor to approve the request. However, Ag.SB should confirm the legality of the Deed of Assignments appearing at folios 3, 4, 5 and 6.

Submitted.

Imani Mwakosya
Debt Management Department
20th October, 2005

The BoT document that authorized Kagoda payments

Source: *Raia Mwema*, 18 November 2008

Table III

Folio		*Amount in Forex*	*T.Shs equivalent*
3	USD	3,029,828.7	3,430,099,403.5
4	USD	2,398,440.0	2,715,297,863.1
5	USD	9,057,463.9	10,254,045,455.8
6	JPY	956,110,986.0	9,340,326,552.9
			25,739,769,275.4

The acting DDDD on his part made an entry on the next day (Friday, 21 October 2005) and acting on advice in the box above to request the Secretary to the Bank to:

> Kindly confirm the legality of the attached Deed of Assignment before we forward the request to the Governor for his consideration and approval. Please note the requested amount is still an outstanding in our records.

Again the acting Secretary to the Bank obliged the request on the same day (Friday, 21 October 2005) and reacted with the following comment:

> I confirm that the attached Deed of Assignments are authentic and legally binding. The Deeds of Assignment may be relied upon by the Bank in releasing the Funds.

On the same day (Friday, 21 October 2005) the Director of Economic Policy forwards the request to the Governor with the comment that ''You may wish to approve this request'' and the Governor duly approved the transaction after the weekend on Monday, 24 October 2005. It is at this point that de-pipelining had occurred and instructions were given to the DF to execute the payment.

The unfolding repercussions

In response to the Investigation Report President Kikwete immediately formed a team of three senior government officers to investigate and take appropriate legal steps against individuals and firms implicated in what was evolving to be a major financial fraud.

The probe team comprised the Attorney General, Mr Johnson Mwanyika; the Inspector General of Police, Mr Said Mwema; and the Director of the Prevention and Combating Corruption Bureau, Dr Edward Hoseah. The President gave the team six months to complete the assignment of identifying individuals, firms and officials with a view to recovery of funds misappropriated as well as taking criminal court action. The President also directed the Board of Directors of the BOT to study the Report and take appropriate action against all officials of the Central Bank implicated in the scandal.

The report of the three top officers of national oversight and watchdog institutions was delayed but it was eventually submitted to the President on 18 August 2008.

On 5 November 2008, ten people were taken to court charged with, among others, theft of over TAS. 31 billion. They were also charged with conspiracy, forgery and the alternative count of obtaining credit by false pretences to the offence of stealing. They included business tycoon Jayantkumar Chandubhai Patel, alias Jeetu Patel. Other accused were Devendra Vinodbhai Patel, Amit Nandy, Ketan Chohan, Johnson Mutachukurwa Lukaza, Bahati Mahenge, Manase Mwakale, Davis Kamungu, Godfrey Mosha and the lone woman, Eddah Mwakale.

On 7 November 2008 four BOT officials, who allegedly authorized some of the external payments arrears (EPA) transactions, were also charged with occasioning loss of about TAS. 2.5 billion to the Government of Tanzania. These were Ester Mary Komu, in her position as the Acting Director Debt Department, Imani David Akim Mwakosya, in his position as the Head Bilateral and Commercial Debt Division and two individuals who at different points in the year acted in the position of Secretary to the Bank – Bosco Ndimbo Kimola and Sophia Joseph Lakila.

Other senior officials of the BOT in the decision making chain related to EPA Account debt payments were very apprehensive and a number had already been sent on paid compulsory leave.

Among these was the DF. He however, kept his routine of going into the City early morning after what had, for many years, become his habitual 06:00 a.m. church service. He would spend his entire day in an accounting firm run by his close friends who were former colleagues in his auditing days.

But today he felt tired and drained. He took himself to be a career accountant of good standing. From an audit background he had joined the Central Bank in 1996 as the Head of Internal Audit. He perceived himself as having enhanced sufficiently internal controls and the profile of the internal audit function within the Central Bank. It was from this position that he was moved to be the DF – a job that he cherished.

It is three months now since he was placed on compulsory paid leave to pave the way for the investigation to proceed. In his view he had no part in this fraud – he was merely implementing properly communicated instructions to execute payments – and that is the very same word employed in the operations procedures manual for de-pipelining. How could he afford not to execute approval instructions from the Governor? On occasions the Governor himself made follow-up on payments physically and on the phone. He was

convinced that his role in these transactions came at the tail end. Officers in other directorates had gone through the applications and provided comments and recommendations that gave the Governor the basis for his approval decision. The lingering question in his mind was how could he be expected to start to question not only the Governor's approval but also all the input of Bank officers prior to the Governor's approval?

He believed it was a matter of time before an objective person investigating matters and assigning responsibilities would find him innocent in all of this. A day did not pass without asking himself the question ''What is it that I could have done differently?'' and he was struggling for a good answer:

> Epilogue
>
> Daudi Timothy Said Ballali, the former Governor of the BOT has died on 16 May 2008 at Washington, DC.
>
> Viewing: Private
>
> Service: 23 May 2008 at 10.00 AM
>
> Location: St Stephen The Martyr
>
> Mass of Christian Burial will be offered on 23 May 2008 at 10.00 AM at St Stephen, Washington, DC.

Personal profile of Daudi Timothy Said Ballali

In 1965, BA in Economics, Howard University, Washington, DC; 1967, MA in Economics, Catholic University of America, Washington, DC, 1967-1976, with the BOT: 1967-1971, Economist; 1971, Senior Economist; 1972, Acting Director, Research; 1972-1976, Secretary to the Board; 1973-1976, Director, Research, 1976-1997, with the International Monetary Fund: 1976-1979, Economist, Fiscal Affairs Department, working as a Fiscal Specialist, Caribbean, West African and Asian countries; 1979-1982, Desk Economist, Ghana; 1982-1986, Senior Economist, working as Desk Economist, 1982-1984, Ghana, 1985-1986, Zimbabwe and 1984-1985, Head, Missions to Ghana; 1986-1997, Deputy Division Chief, heading IMF missions to negotiate economic reform programmes, supervise and monitor the implementation of these reforms; 1997, Adviser, 1997-1998, Economic Adviser to the President, State House, Dar es Salaam. Since 1998, Governor, BOT (*Source:* BOT).

Notes

1. Indeed opposition party politicians have alleged in public meetings that some of the fraudulent transactions were perpetrated by high ranking CCM (the ruling party) operatives proceeds of which funded its re-election victory in 2005.
2. The short history of bank accounts opened when contrasted against the magnitudes of transactions which involved large cash withdrawals immediately after transfers from the Central Bank actually alarmed some of the commercial banks. One bank is reported to have sought additional clearance from the Central Bank on genuineness of a transfer. The Central Bank confirmed its validity but nevertheless, in compliance with its KYC principles and group banking practices the commercial bank actually returned the money to the Central Bank and closed the customer's account.

Keywords:
Fraud,
Corporate governance,
Tanzania,
Management accountability,
Banking

Further reading

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THISDAY (2008), ''Revealed: BOT officials who approved Kagoda payments'', *THISDAY*, Monday, 22 December.

Exhibit 1. New BOT Tas. 40 bn rip-off revelations: what exactly auditors said

Monday, 31 December 2007.

THISDAY Reporter, Dar es Salaam.

www.thisday.co.tz/News/3228.html

Senior officials at the BOT are reported to have colluded in orchestrating a massive fraud involving foreign exchange funds to the tune of almost $30.8 m (approx. TAS. 40 bn/-), it has now been verified.

According to the findings of a BOT Audit conducted by the international firm Deloitte & Touché last year, the rip-off is believed to have been facilitated through clear falsification of key documents.

As already reported by THISDAY, the uncovered fraud was with regard to payments made by the Central Bank to a certain, little-unknown Dar es Salaam-based company going by the name of Kagoda Agriculture Limited.

This company was paid by the BOT a total sum of $30,732,658.82 on the basis of 12 Deeds of Assignment it had purportedly signed with the government's foreign creditors.

Deloitte & Touché, which up to last year was the central bank's regular external auditor, are understood to have stumbled upon the irregularities in the BOT's EPA Account number 99915091 01.

At the time of the audit for the year ending 30 June 2006, this particular account had a balance of TAS. 131.95bn/-.

Following are excerpts (quoted verbatim) from a four-page letter from Deloitte & Touché to the BOT Governor Dr Daudi Ballali, dated 4 September 2006, highlighting a catalogue of perceived anomalies in the payments made to Kagoda Agriculture Limited:

> There are 12 Deeds of Assignment all signed between 10 September 2005 and 5 November 2005. The above time period appears too short to have negotiated and signed assignments of debts with 12 different foreign creditors from across the globe.
>
> All the Deeds of Assignment were signed in Dar es Salaam before the same B.M. Sanze, an Advocate & Notary Public & Commissioner of Oaths. Five of these deeds were signed on 19 October 2005 and four were signed on 18 October 2005. This implies that all the foreign creditors travelled to sign these deeds on more or less the same day. A search of the immigration records might be necessary to determine whether or not this was so.
>
> There are two Deeds of Assignment signed on 8 October (2005) relating to two German companies, namely, Lindeteves J Export BV and Hoechst for a total amount of €1,164,402.76. However, this currency was incorrect and the BOT wrote to Kagoda Agriculture Limited informing them that the correct currency should be Deutsche Marks. The same letter also advised of the release of TAS. 8,196,673,600.53/= to

Kagoda Agriculture Limited. The latter company (Kagoda) submitted new Deeds of Assignment dated 3 November 2005 two days after being notified.

We find it highly unusual and doubtful that a foreign creditor assigning such significant amounts of money would sign off for the wrong currency. In addition, it appears the bank (BOT) failed to institute an investigation when it picked up an anomaly with the currency. Instead, the same (BOT) later went on and released TAS. 8.2 bn/ = to the said (Kagoda) company. It is also striking that the foreign creditors' directors allegedly were either still in the country or returned to Tanzania within two days to sign the revised guarantees. Again, a search of the immigration records might be necessary to verify this claimed chain of events.

All 12 Deeds of Assignment have the same terms and wording for all the different foreign creditors. This does not appear normal or realistic as different companies are likely to insist on different clauses.

None of the Deeds of Assignment are on company letterheads or have the contact details for the company representatives.

All agreements were signed only on the last page by the alleged representative of the 12 global creditors. This is not normal practice as legal documents are usually signed or initialled on each page for identification.

The 12 deeds are supposed to have the common seal of the foreign creditor company, as well as that of Kagoda Agriculture Limited. Our examination of the seals for the 12 foreign creditors from all over the world shows the seals to be identical to that of Kagoda Agriculture Limited except for the names of the companies. This appears highly unusual and suspicious.

Fiat Veicoli Industriali (Italian company), Valmet (USA company), Adriano Gardella S.P.A (Italian company). All the Deeds of Assignment for these three companies had the common seal missing despite the agreements indicating that they had been affixed.

The Deed of Assignment for Valmet, a USA company was for $2,398,439.96 but the agreement was signed for by Patrick Kevin, whose position in the company was given as ''Accountant''. This appears highly implausible that such a large contract would be signed by the company's Accountant.

The Deed of Assignment for Daimler Benz AG was signed by a director by the name Christopher Williams. However, his signature was signed W. Christopher.

A company search of the public records conducted by us (Deloitte & Touché) on the 12 companies mentioned above revealed that a number of them had ceased to exist in the format set out in the agreements before the dates mentioned in the agreements. For example, Hoechst AG became Aventis in 1999, Daimler Benz AG became Daimler Chrysler AG in 1998, Fiat Veicoli Industriali became Industrial Vehicle Corporation (IVECO) on 1 January 1975, Mirrlees Blackstone became MAN B&W Diesel Limited from 2002/2003 and Valmet became Metso Paper from 10 May 2000. It is highly doubtful that these companies would sign Deeds of Assignment in 2005 in the names of the old companies.

The search did not reveal any companies under the names NS Boma and Lindeteves J. Export BV, although this might not necessarily be conclusive.

None of the names mentioned on the Deeds of Assignment could be linked to the companies found in the company search. Direct phone calls to Valmet (now Metso Paper) in the USA, Mirrlees Blackstone (now Man B&W Diesel Limited) in the UK and Daimler Benz AG (now Daimler Chrysler) in the USA revealed that they were not aware of any individuals who had the names stated in the agreements.

The letter to Ballali, signed by one Samuel Sithole in his stated capacity as Lead Audit and Engagement Director of Deloitte & Touché in South Africa, further notes that ''the use of old names for companies, and the speed with which the transactions were approved, could also suggest collusion with senior employees within the bank (BOT).''

Deloitte & Touché also expressed concern over how the Kagoda Agriculture Limited, formed on 29 September 2005, was ''able to be paid $30.8 m within five to six weeks of its formation.''

''We are not aware of any background checks performed by the bank (BOT). It is also difficult to accept that the same company was able to negotiate and conclude contracts worth $30 m with separate foreign creditors from Germany, Italy, Yugoslavia, England, France, the USA and Japan in this brief period'', said the letter.

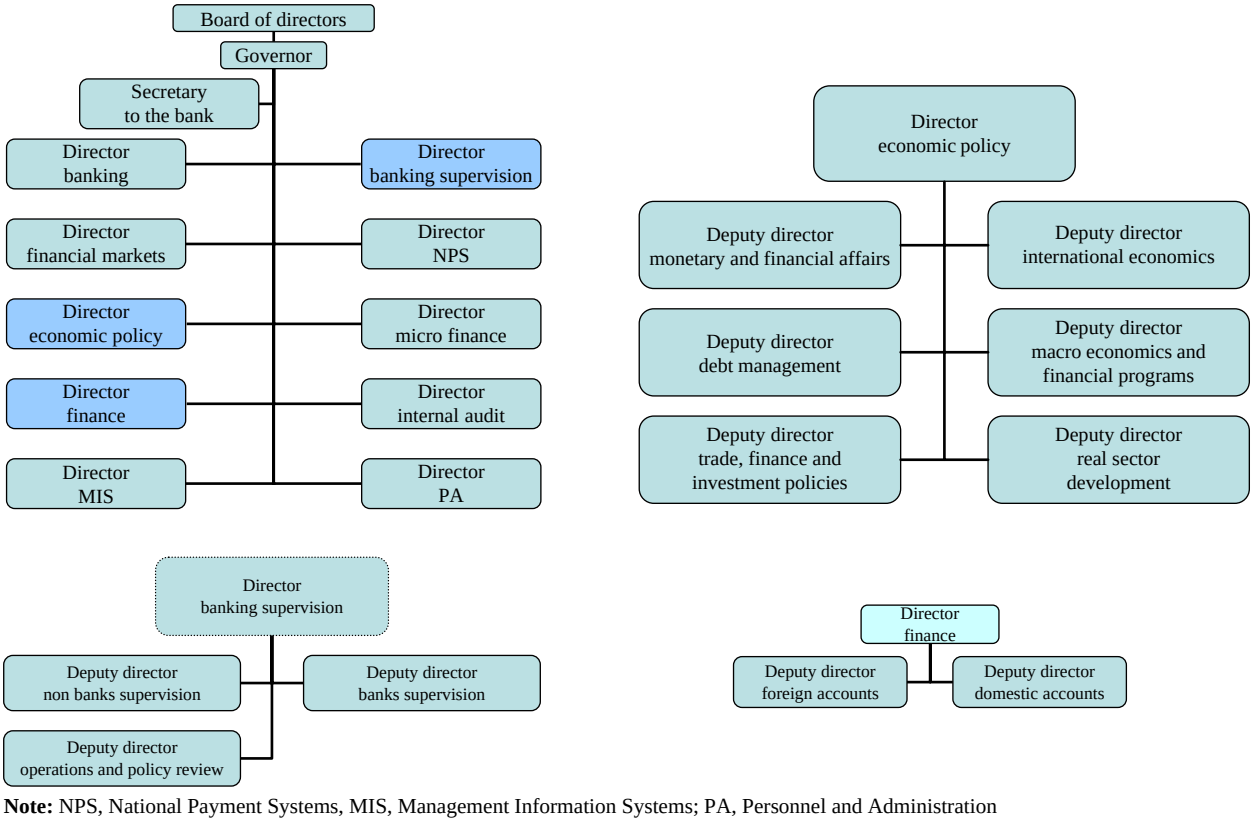
The auditors advised Ballali to order ''an immediate and thorough investigation'' of the matter and suspend the BOT employees involved in the transactions for the period of the investigation, to avoid the possibility of files being tampered with.

However, no Central Bank employee has ever been suspended over the issue, and it was not until a year later that another auditing firm, Ernst & Young, was hired to audit payments made from the same BOT EPA account during 2005/2006.

The findings of this much-anticipated ''special audit'', conducted as a result of much prodding from the International Monetary Fund (IMF) and various donor countries, are yet to be made public.

Exhibit 2

Figure A1 BOT's organization structure (as at the time of the case setting)



Note: NPS, National Payment Systems, MIS, Management Information Systems; PA, Personnel and Administration
Source: BOT Annual Reports, 2003-2006

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