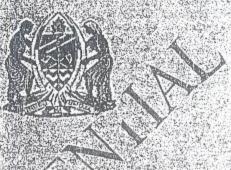
THE UNITED REPUBLIC OF TANZANIA NATIONAL AUDIT OFFICE (NAO)



REPORTORITHE CONTROLLER AND AUDITOR GENERALION THE SPECIAL AUDIT PERFORMED BY MIS ERNS 78 YOUNG OF PAYMENTS IM ADE. BY THE BANK OF TANZANIA (BOT) IN RESPECT OF EXTERNAL BAYMENT ARREARS (ERA) ACCOUNT DURING THE FINANCIAL YEAR 2005/2006

The Controller and Auditor General Stational Aids Offices Samora Myenide (2010 Street No. 20 O Box 5080 421 (25) (921 VIII 1577) Fact 1755 (922 VIII 1577) Stational October no. 92 (12)

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Introduction

Background Information on the External Payment Arrears (EPA)

- During the 1980s and early 1990s, Tanzania was faced with a severe shortage of foreign currencies mainfy due the decrease in export of commodities, reduced world market prices for cash crops, drought and the war with Uganda. The Government instituted strict foreign currency controls and mandated only the Bank of Tanzania (BOT) to manage and priorities utilisation of all the foreign currencies available in the country. Local companies or individuals who wanted to import goods and services from abroad and which required settlement in foreign currencies were required to lodge in full with the then state-owned National Bank of Commonce (NBC) an amount of Tanzania Shiftings (TZS) equivalent of the amount of foreign currencies the Importer needed. The deposits were made into a non-interest bearing External Paymen, Arrears (EPA) Bank account with NBC but which was essentially a BOT account only maintained and managed by the NBC for convenient purposes. The NBC would then pay the foreign suppliers directly upon the approval of the transaction by the BOT and the availability of the requested amount of foreign currency.
- While the local importers both private and parastatal organisations had their funds. In TZS equivalent of the foreign currencies needed held up with the N8C pending the availability of the foreign currencies and subsequent externalisation by the N8C to the relevant overseas suppliers, the overseas suppliers continued to export goods and services to the local importing companies based on the N8C's Letters of Credits (LCs) some of which however wiere never honoured in the end due to the severe shortage of foreign currencies.
- 1.2 The Government of the United Republic of Tanzania (GOT) liberalised the foreign currency market in early 1990s and required the local importers to secure the much needed foreign currencles from the local banks and bureau de changes. The EPA system was thus discontinued although at the time there was a significant amount owed to the overseas suppliers/exporters by the NBC/BOT.
- 1.3 In 1985, driven by the economic rationale the GOT formally assumed the responsibility for EPA debts and instructed that the management of the EPA bank accounts and the resultant debts be taken over from the NBC and managed by the BOT on its behalf. A Debt Management Unit was set up within BOT and among its other activities was to manage settlement of the EPA debts.
- Between 1985 and 2002 efforts were made by the GOT and with the support from the World Bank to settle some of the EPA debts through arrangements such as Debt Buy Back, Debt Reduction and the Paris Club debt cancellation agreement. Two different consultants were hired by BOT at different times one to compile details of EPA debts from NBC branches across the country (Mr. Akwera) and the other (Lazard) to administer earlier settlements through debt buy back programme that started in 1994 and ended in 2004. PricewaterhouseCoopers France were appointed by BOT to audit the debt buy back programme after its closure in 2004. Despite the settlement through the debt buy back programme some EPA debts still remained recorded by BOT as unsettled ever since.
- 1.5 During the financial year 2005/2006 twenty two (22) local Tanzanian companies submitted to the BOT different claims in respect of certain EPA debts purported to have been as signed to them by the principal claimants i.e. the overseas suppliers/exporters.

Investigation Approach

Where available, the audit team obtained all the invoices, shipping documents and Applications for Payments Abroad which were used by Mr Akwera to compile the database.

(ii) Central Bank System (CBS): This is the BOT main financial accounting system (General Ledger system). CBS maintains a record of EPA debts known to BOT based only on the amount of originally TZS amount as said to have been deposited by the local companies when applying to buy the foreign currencies in the past. The amount is recorded in the CBS in lump sum basis and not by individual amounts.

The audit team obtained and analysed downloads of the following two accounts from CBS:

- Account 9924 191 011 External Payment Arrears; and
- Account 9991 509 101 EPA Losses in exchange NBC

Where available, the audit team obtained the Funds Transfer Vouchers and Payment Advices supporting the payments made to the assignees.

The audit team reviewed the chronology of the documentation, and the vouctners to ascertain whether complete BOT authorisation process was adhered to and tested the mathematical accuracy of the amounts including forex translation and accuracy of accounts coding.

(iii) Lazard database and report thereon: This is a database and accompanying report produced by Lazard Freres an International Financial Advisor hited by BOT to oversee an internationally organised Debt Buy Back scheme which included compilation of EPA debts and creditors, verification of claimed debts, and payment of the proven EPA debts. The database included much wider EPA debts including those Indicated in the Akwera database. It shows EPA debts that were paid in the past through Debt Buy Back programme or the Paris Club arrangement as well as those recommended to BOT for write-off due to various reasons such as suppliers acknowledging no debt creditors' already paid off by their insurers, creditors having been liquidated or not traced. The work of the Lazard team which was crucial in this Investigation is explained in detail. In section 3 below.

Reviewed and performed analysis on the debt assignment files

2.4 The audit team obtained files containing Deeds of Assignment and other documents, submitted by assignees, purported assignors and processed by the Dept Management Department ("Debt Department") of BOT.

From these files, the audit team identified the following information:

- Contact details and addresses of assignors;
- Contact details and addresses of assignees;
- Details of assignor company officers;
- Details of assignee company officers;
- Details of the debts being claimed; and
- Banking details of the assignees.
- 2.5 The audit team's analysis of the assignment files included obtaining and reviewing a copy of the Akwera database and an extract of the database compiled by Lazard Frère on compiletion of the Debt Buy Back assignment.

Investigation Approach

Conducted company searches

- 2.8 The auditor team wrote to the Registrar of Companies at Business Registrations & Licensing Agency (BRELA) requesting incorporation Information and particulars of company officers of all the 22 assignee companies.
- 2.7 The audit team also conducted company and directors searches on the assignor companies. The searches were conducted through Ernst & Young network of firms in the United Kingdom, France, Germany, Netherlands, Serbia Montenegro, Japan and India and based largely on publicly available information.
- 2.8 The searches on assignor companies sought to establish the existence of the purported assignor companies, existence and authority of directors or managers who were indicated to have signed the deeds of assignments and identifying information regarding physical locations, telephone numbers and email addresses of assignor companies to ascertain its consistency with information contained in the deeds of assignment and supporting particulars.

Conducted searches with the Tanzania Revenue Authority (TRA)

2.9 The audit team formally wrote to the Commissioner for Income Tax to obtain registration and tax particulars of the 22 Assignee companies. The objective was to establish the legitimacy of these companies and establish consistency with records obtained from BRELA.

Performed analysis of data and information gathered

2.10 Having obtained the information, the investigation team then performed a detailed lanalysis of the data and information obtained. Specific analyses included but not limited to telests on collaboration, consistency, reasonableness, factual finding and mathematical accuracy of involved transactions.

Letter of the Minister for Finance

- 2.11 Among the documents the audit team obtained from Mr. Sithole of Deloite South Africa is a letter dated 15th September 2006 signed by the Minister for Finance, Hon. Zakia. H. Megtiji in respect of the payments made by BOT to M/S Kagoda Agriculture Limited.
- 2.12 On the 28th October, 2007 the audit team met Hon. Zakia H. Meghji and sought charifications from her on the contents of that letter.
- The Minister acknowledged signing the letter and explained that the signed the Letter based on the udvice of the Governor of the Bank of Tanzania that the auditors needed a letter of representation in connection with certain payments made by the BOT on behalf of the Government during the financial year 2005/2006. She further explained that such letters would normally be prepared by her Permanent Secretary, Mr. Gray. S. Mgonja who how ever was on overseas visits at the time the letter was required by Deloitte.
- 2.14 The Minister explained that at the time she believed that she was attending a normal audit query raised by Defoite and was not aware of any allegations or suspicion of fractifulent payments.

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investigation Approach

- 2.15 The Minister explained that where appropriate the Governor would be instructed to process such payments through the Government's accounts maintained with the Bank of Tamzania for that purpose and as such it was reasonable for her to accept the Governor's representation regarding the payments made to M/S Kagoda Agriculture Limited.
- 2.16 However, Han, Meghji explained that in a briefing session upon the return of the Permanent Secretary, she learnt that the representation by the Governor could have been misterating.
- 2.17 She further received a letter addressed to her dated 10 October 2006 from Detoitte. South Africa bringing to her attention, for the first time, the specific allegations regarding the payments made by BOT to M/S Kagoda Agriculture Limited. This is after she had already signed the Tetter of 15 September 2006.
- 2.18 The Minister explained that on the basis of the consultation with the Permanent Secretary, Mr. Mgonja and the letter of Deloitte South Africa, she called upon the Auditor General to appoint an independent international auditing firm to investigate the matter and report thereon.
- 2.19 The audit team concluded that they did not find any evidence that would suggest that any of the funds paid in respect of the EPA transactions during the financial year 2005/2006 were influenced by the Government or based on the instruction of the Government. The findings and conclusions of the special audit are explained in detailed in section 3 of this report.

Key findings and conclusions

The investigation approach led the audit team to perform reviews focusing firstly in providing them with an assurance regarding the existence of the said EPA debts/liabilities on the part of the Government and secondly performing reviews aiming to ascertain the validity and authenticity of the documents that supported the EPA payments made by the BOT during the financial year 2005/2008.

Earlier afforts made by the BOT to settle the EPA debts through the work of M/S Lazard

- 3.1 In the past, various efforts were made to settle the external commercial debts under which EPA falls. Of relevance to this assignment is the World Bank supported Debt Buy Back programme commissioned by the BOT in 1994 and which involved BOT contracting an International Financial Advisor -M/S Lazard Freres, an International bank M/S Riggs Bank, a Trustee Crill Canavan and an international Legal advisor Cleary Gottlieb, each with varying roles and responsibilities ranging from compilation of stock of EPA debts, worldwide search for creditors, verification of claims submitted from across the world to paying the verified, proven and BOT approved claims.
- The Debt Buy Back programme which was based on settling external commercial debts (EPA forms part thereof) on a discounted amount of 10 cents in a dollar begun in 1994, and was completed in 2004 when the lead advisor M/S Lazard submitted its final report to BOT indicating details of original debts, debts paid off during the project period, results, and findings from the project, stock of remaining EPA debts, with recommendation on the treatment of the remaining EPA debts. Lazard work was based on records of EPA debts initially submitted to them by the BOT and they could only cause for the payments to be made upon final checks and reconfirmation by the BOT.
- 3.3 At the beginning of the project in 1994, Lazard received data files from the BOT on stock of EPA debts. These files were subjected to external audits undertaken by BOT to identify debts eligible for the buy back programme. Lazard began construction of an electronic database of the records received from the BOT. Based on auditors' report, the records from the BOT proved to be poor and unreliable. As a result, in consolitation with BOT, an advertisement of the operation was run in a number of international media including direct mailing/contact in order to identify creditors, but response was poor. A decision was then taken in February 1995 to Tocate creditors throughout the world through various means.

Results of Debt Buy Back programme

3.4 According to the Lazard report produced at the end of the programme, total adjusted eligible EPA debt by 1999 amounted to USD 677 million and resulting from the Debt Bury Back programme the above total eligible debt amount was categorised as follows:

Description Debts tendered, verified and paid through the Lazard work - Debt Buy Back	Amount USD 228,000,000
programme. Debts to be written off ~ due to various reasons identified by the Lazard	216,000,000
Total EPA debt to be cancelled from BOT records Remaining EPA debt (see below)	444,000,000 233,000,000
Total EPA Debts population	677,000,000

Recommendation regarding treatment of the remaining EPA debts

3.5 According to the report, the remaining debt amount of USD 233 million was made up as follows:

	Amount
Description	USD
Pending legal actions	25,000,000
Creditors rejected offer (Lazard offer to pay debts on discounted basis)	14,000,000
Creditors below threshold of USD 2,500	3,000,000
Creditors who did not reply to closings i.e. invitation by Lazard	48,000,000
Claims not reconciled - mainly due to poor records to prove or	143,000,000
disapprove	
Total remaining debt	233,000,000

- 3.6 The report concluded that most of the creditors' claims were time-barred and recommended that neither the BOT nor the Ministry of Finance should acknowledge the remaining debt of USD 233,000,000.
- 3.7 It is important to understand that the Debt Buy Back programme offered to settle thier debts on a discounted basis of 12 cents in a dollar and for that reason some of the overseas suppliers/creditors did not accept the offer. Total value of debts owed to such creditors was USS 14,000,000, as shown above. Refusing to accept the offer would indicate the intention of these creditors to pursue legal action aiming to recover higher than the offered (discounted) amount.

Action taken by BOT/MOF on the work performed by the Lazard team

- The Lazard Final Report of 2004 comprised a presentation of the result of the work, they performed as commissioned by the BOT and apart from detailing the results, it included recommendations to the BOT on the treatment of the remaining EPA debts. The audit team's enquiry with the senior management of BOT indicates that the Lazard report was received by the BOT as part of a wider Debt Buy Back programme and the BOT has adopted its recommendations where deemed appropriate. For example, the Deputy-Governor, Prof. Beno Ndulu and Secretary to the Bank explained instances of court actions against the BOT by some of the creditors recommended for write off in the Lazard report.
- The sucit team further located some correspondences which suggest that BOT did act on some of the recommendations contained in the Lazard report. For example, a correspon dence related to creditors who had agreed to donate their EPA debts to the Debt for Development Programme where the amount owing to them would be donated to non-governmental organisations ("NGO's"). The audit learn noted that BOT had acted swiftly on this particular recommendation (See Appendix 1).

Audit of the Debt Buy Back Operation

3.10 On 25 November 2004, BOT contracted PricewaterhouseCoopers (PwC) France to audit the Debt Buy Back programme and the audit work essentially focused on the work performed by the Lazard team, and the other advisors namely: Riggs Bank, Cleary Gotflieb and Criti Canavan (collectively referred to as the Lazard team). The objective of the audit was to ensure that the Lazard team had complied with the procedures defined under the Debt Reduction Facility, performed its duties as agreed and verify among others the eligibility and accuracy of the retired debts as calculated by the Lazard team and confirmation of bank transfers made to the creditors who were paid.

3.11 The PwC France audit report concluded that (a quote of a paragraph), "based on our review, and despite of the minor exceptions which are noted in the report, nothing came to our attention that causes us to believe that the Client (BOT) is not, in all material respects, in compliance with the procedures defined between the parties concerning the Debt Reduction Programme".

The PwC France conclusion gave an assurance that the programme to settle known EPA debts through the Debt Buy Back/Reduction programme through the work of Lazard tearn which ended in 2004 was properly performed. This report is included as an Appendix O to this report.

Procedures and internal controls over EPA payments

3.12 The audit team have set out below their understanding of the procedures followed, and internal controls in place over EPA payments together with any weaknesses the audit team has observed in the documented procedures and internal controls and the manner in which the payments were executed.

Description of the procedures and controls over EPA

3.13 The audit team obtained an understanding of the procedures and internal controls, over EPA payments through review of documents obtained from Debt Department officials, interviews with members of the Debt Department and performing walkthroughs of the processes and controls.

The procedures and controls over EPA as described by the audit team:

Responsibility for managing EPA debt

- 3.14 According to the BOT officials in the Debt Department the audit team interviewed as well as the Debt Management Operations Procedures Manual, dated 1997 (Appendix A) BOT manages EPA debt on behalf of the Government of Tanzania. The BOT Debt Department, which fails within the Directorate of Economic Policy, is responsible for the management of EPA debts.
- 3.15 The Debt Department is headed by a Deputy Director Dept Department (DDDD), Mrs Komu, who took up the position around June 2005. Reporting to Mrs Komu is the Head of Bliateral and Commercial Debt ("HBCD"), Mr Mwakosya, who has held the position for a number of years. Mr Mwakosya has primarily been responsible for EPA account administration and drafted the Operations Procedures manual.
- According to a document drafted by Mr Mwakosya entitled, 'Management of Fanziania External Commercial Arrears' included in Appendix A, BOT departments who have roles to play in the EPA administration are the Office of the Secretary to the Bank, the Directorate of F inance (DF), the Directorate of Economic Policy (DEP) and the Debts Department which falls under DEP.
- 3.17 The process of discharging EPA debts is referred to as De-Pipelining.

Meeting with Debt Department officials on 11 September 2007.

Meeting with Mrs Esta Komu on 11 October 2007

Review of documented procedures in place for EPA administration

3.18 According to the manual, the following procedures are in place as set out on pages 17 to 20 of the manual (Appendix A). These procedures, per the manual, apply regardless of whether the claimant is the original beneficiary or has only been assigned a debt. The manual details 7 sleps to be followed and these are summarised below:

1. Receive application

(i) Debt assignee makes an application to BOT and identifies a debt being claimed, with 'all necessary particulars'. The applicant must also produce a legally binding deed of assignment. The Procedures for Debt Swap arrangement section of the document 'Management of Tanzania External Commercial Arrears states that 'Assignee's Company documents such as Memorandum and Articles of Association' should be attached to the application.

Instruct debt verification

- (i) The application is then forwarded to the Director of Economic Policy ("DEP") to take 'appropriate action'. The DEP then directs the Deputy Director Debt Department ("DDDD") to 'cause verification of the application and supporting documents.' The DDDD then directs the Head: Bilateral and Commercial Debt ("HBCD") to 'verify/review the application and make comments and recommendation(s) to DDDD".
- (ii) The HBCD will then 'examine the contents, compare and confirm what is in the debt database.' If the file is not in order, the HBCD will return the file to the DDDD. If the file is in order, HBCD will return the file to DDDD with comments, and recommendations in the file.
- In practice, this meant that HBCD Mr Mwakosya will access the Akwer a database maintained in the computer of Ms Slella Chaula ("Ms Chaula"). Debt Clerk Debt Department, view and print a schedule showing the name of the supplier and the amount in foreign currency, he will then mark the schedule as "certified true copy", that the information was correct.3 and forward it to DDDD.
- (iv) The ODDD will then write a comment on the folio and forward the file to the DEP through the Legal Department/ Secretary to the Bank ("SB") who will verify the "genuineness and legal validity of the deed of assignment."

3. Review the deeds of assignment

The SS will review the deed and if found not to be in order, will return it to the DDDD with comments. If the file is in order, SS will confirm (this has been done (hrough a signature) by signature that the deed is valid and genuine. SE will then return the file to the DEP.

4. Compute amount payable

The DEP will instruct the DDDD who will in turn instruct the HBCD to compute the amount in Tanzanian Shiftings. The HBCD having done this will write a memo to the DDDD on the amount payable.

The authi team noted the DEP signature on the folio page of the documents.

Interview with Ms Chaula and Mr Mwakosya held on 5 October 2007.

Submit comments and recommendations

The DEP will examine the SB's comments and submit the file to the Governor with recommendations to approve payment.

The audit team noted Governor Ballati's signature on the folio page of the documents.

6. Approve debt de-pipelining

- (i) The Sovernor will examine the observations and recommendations made by the OEP and the SB. If not in order, the Governor will return the file to the OEP. If the file is in order, the Governor will approve de-pipelining of the deposit and the topping up for exchange loss to the recommended amount in Tanzanian Shilling and return the file to the DEP for execution.
- (ii) The DEP will send the file to the Director of Finance ("DF") who will pay the amount payable in accordance with the instructions of the claimant.

7. Update debt records

The DF will return the file to the DDDD who will instruct the HBCD to die-pipeline the debt by removing the debt from the relevant (Akwera) database. This obligation would be settled and the file returned to the registry.

Weaknesses In Governance, Risks Management and Controls in managing EPA transactions

- 3.19 The audit team found that the history of EPA debts involves circumstances listed below which present significant risks to the BOT and MOF in discharging them at present time without adequate internal controls over EPA transaction:
 - Age of EPA debts the debts were incepted in the past 27 years or more by the former NBC (NBC bank was restructured resulting in formation of two independent tranks and partly privatised);
 - Physical movements of debt records from across NBC branches countrywide (a task performed about 22 years ago) and within BOT premises as BOT Debt department moved premises;
 - Payments made earlier. Some EPA debts were settled in the past through programme such as the Debt Buy Back and the Paris Club agreement;
 - Historical poor IT systems at NBC and its branches across the country resulting in doubts
 over the integrity of records and tracking of debts position. For example, neither BOT nor
 NBC presently keep electronic data files of debts information as downloaded from the NBC
 system then;
 - Lack of periodical reconciliation of EPA debts at BOT;
 - Some of the local importers/companies as well as foreign suppliers having been figureated and hence no longer in existence.
- 3.20 The audit team concluded that discharging EPA debts with such characteristics at present time involves significant risks which should have been addressed by MOF and 807 an diamong them are:
 - Debts being claimed fraudulefully by parties other than the genuine creditors.
 - Statute barred debts being revived and thus becoming claimable.
 - Paying debts which had already been settled in the past

- Fraudulent supporting documents submitted to support claims
- Incorrect amounts paid or incorrect exchange rates applied
- Potential for internal fraud by fraudulent employees who understand the system and circumstances and vulnerability of the EPA debts
- Attracting actions by "Vulture funds" i.e. specialist overseas based companies buying foreign commercial debts incurred by third world countries from overseas creditors and enforcing them, on commercial term through international commercial courts.
- 3.21 However, despite such high risk profile, the audit team observed that neither the MOF, being the principal party, nor the BOT being an agent of the MOF in managing EPA transactions had instituted adequate safeguards aiming at mitigaling those risks effectively and efficiently.
- 3.22 Some of the major deficiencies in Governance, Risk management and Controls framework over EPA included:

Lack of documented framework for management of EPA transactions.

(i) EPA transactions are unique in the sense that they do not fall within the ordinary operations of a Central Bank and moreover, with the present foreign exchange liberalisation, it is highly unlikely that this arrangement will recur in the future. High risks exposure involved in managing these transactions require special internal control considerations beyond the routine operational controls.

BOT is operating as an agent of the GOT in managing and discharging the EPA transactions. However, the audit team found that there is no specific documented framework or memorandum of understanding that guides the relationship between the two sides regarding the management and control of EPA transactions. The BOT management explained that they can not find any document stating its exact roles and responsibilities regarding EPA account management and controls vis-à-vis those of the BOT.

The Inadequacy and non compliance with the existing Internal Control procedures in place at BOT for processing EPA debts

- (ii) There are documented procedures that should be followed by all key personnel responsible for processing all claims received by BOT for payment of EPA die bts (known as "de-pipelining"). However, these procedures which are included in the BOT document ittled "Debt Management Operations Procedure Manual 1997" were not ably adhered to by the personnel at BOT who were responsible for initiation, processing, reviewing and approving payments of all EPA claims. Major deviations from the documented procedures were:
 - Except in one instance, all assignee companies did not produce their incorporation cocuments
 - Assignee companies were not required to provide all necessary particulars
 - Instead of full verification, only a limited verification of application and supporting documents were performed

Furthermore, the audij team found that the defined procedures were inadequiate as they did not define the specific control activities. For example, the manual require. Assignees to "dentify the debt" being claimed but it does not define the basis of identification i.e., which specific identification documents; and secondly it states generally that all necessary particulars' should be submitted without specifying the particulars. Additionally, the manual did not address all key risks retailing to errors and fraudulent claims as indicated in section 3.19 and 3.20 above.

For example, the audit team established that none of the Assignee companies submitted to the BOT any particulars such as original invoices, bills of lading, delivery orders, cancelled Letters of Credit, Pre-shipment inspection reports, deposit slips for the TZS amounts deposited by the local importing company and, any evidence of correspondences between the creditor and the local importer but yet the claims were received, approved and amounts paid. Details of the procedures used in processing payments for the EPA debts are included above.

MOF not involved in pre-authorisation of EPA Payments

(iii) Although the BOT was discharging the EPA debts on behalf of the GOT, the audit team found no evidence to show that consultations were held between the BOT and the MOF and the MOF had actually granted pre-authorisation to the BOT to pay. However, the audit team noted that at different times the MOF had granted approvals to the BOT to raise EPA Special Bonds specifically to finance settlement of wider EPA debts. Exchange of letters between BOT and MOF provide evidence that a proper accountability of EPA Bonds administered by BOT was not maintained (Appendices G and H). Since there was no agreement signed between the two parties guiding the management and controls of EPA transactions, and this is not specifically defined in the Procedure manual (discussed in section 3.18 above) in so far as EPA transactions are concerned, the audit team could not at this point conclude that the BOT had acted illegally by not is eaking pre-authorisation from the MOF.

Further, the audit team found that the MOF/Treasury has not established a specific oversight mechanism for the monitoring/liaison with the BOT on the discharging and accountability of EPA transactions.

Other key deficiencies in Governance, Risk Management and Control include d:

- (iv) EPA records were kept in the Akwera Database which is maintained outside BOT central financial accounting systems (Central Bank System (CBS)) and as such is not subjected to same level of controls and scrutiny as those in the BOT central system. The database had limited information as it only recorded the amounts of TZS amounts deposited by the original importers but with no details of movement since its compilation around 2002. Moreover, the audit team found that the database which is in an electronic form could easily be tempered with and is not electronically secured. The audit team found no records to confirm the integrity of the Akwera database and information therein. For example, the database was not audited after its compilation and no records of systematic handling over of the database which was prepared by an external consultant. Although, BOT maintains a General Ledger account which also recorded only the original TZS deposits, no reconciliation of the data maintained by the two distinct systems were performed.
- (v) The accounting records (General Ledger) and therefore the audited financial statements as at 30 June 2006 shows a balance of outstanding EPA debts amounting to TZS 2,332,102,000 being only the original TZS amounts deposited by local importers. No consideration was made to re-value the respective foreign currency denomin ated EPA debts into their equivalent TZS amounts using the exchange rates prevailing on 30 June 2005.
- (vi) There has been no information available to the BOT and MOF on the complecte, rollable and accurate magnitude of EPA debts/liability at current rate of exchange. As: a result, there have been no annual budgetary allocations by the Government for settlement of EPA debts (presumably since the magnitude is unknown) and the impact does not feature in any Government exchanges.

- (W/) EPA Internal controls only centred on the part of BOT with no any control requirements or control activities on the part of the MOF.
- (viii) Despite the high risk profile, 80T Internal Audit plan has not identified EPA transactions as high risk area and as such the Internal Audit (IA) department has not accorded the expected level of priority in this area.

The validity of payments made by BOT during 2005/20006 on the account of EPA

- 3.23 Total payments made by BOT during the financial year 2005/2006 in respect of the purported assigned EPA debts amounted to TZS 133,015,186,220.74 and all these were paid to a total of 22 local assignee companies. The funds were paid into the assignees' bank accounts maintained with various banks in Tanzania through direct bank transfers via the Tanzania Interbank Settlement System (TISS) operated by the BOY. Details of the companies and amounts paid to each are included in Appendix B.
- 3.24 Based on the procedures the audit team performed as described in section 2 above (investigation approach), the audit team found that out of the above total amount, payments amounting to TZS 90,359,678,804.13 were based on invalid and fraudulent supporting documents and therefore did not represent a rightful discharge of valid, existing and legitimate liabilities of the GOT. Details of these are included in Appendix C.
- 3.25 Further, the audit team could not conclude on whether or not additional similar payments amounting to TZS 42,656,107,416.61 were valid due to missing information. For some of these, the audit leam noted that there were legal actions taken against the BOT. Moreover, there was tack of information to conclude with absolute certainty on validity or otherwise on the existence of the debts as the audit team searches of the assignor directors and companies did not provide conclusive evidence in that regard. The audit team recommend further investigation work in order to conclude on the validity or otherwise of these payments. Details of these are included in Appendix D.
- 3.26 With regard to the payments amounting to TZS 90,359,078,804.13 as stated above. The audit team's conclusion that these were invalid and fraudulent is based on the following facts:
 - The audit team identified that over 90% of these payments had been identified in the Lazard database and its report as either having been paid officischarged under the previous Debt Buy Back scheme, Paris club protocol or recommended to the BOT not to be acknowledged based on the results of the World Bank sponsored Lazard work on Debt Buy Back programme.
 - Although, the BOT did not necessarily accept all the recommendations in the Lazard report, BOT management failed to provide the audit team with credible evidence as to why these EPA debts were paid off once again or revived since they had been precisely id-entified in the Lazard report as discharged or inadmissible.
- 3.27 The auditor team's findings described above were comporated by other key observations resulting from their independent searches of the purported assignor companies and their purported directors as conducted internationally as follows:
 - Officers of foreign creditors (assignors) who purportedly signed the respective Assignment Deeds are not and were not employees in the named companies
 - Some of the Assignor companies do no exist anymore or had changed names
 - Addresses of some of the Assignor companies not traced or incorrect

3.28 Additionally, the sudit team found that:

- The Assignee companies did not substantiate their claims through documentary proof such as original invoices, bill of lading, delivery notes and cancelled tetter of credits.
- BOT did not require original overseas exporters to authenticate the Assignment Deeds.
- No evidence whether the BOT had performed any reviews to ascertain whether the claims were barred or had previously been executed in any manner.

The roles played by different organs and directorates of BOT

The Role of the Directorate of Finance

- 3.29 The role of the Director of Finance (DF) is stated under section 4.2.6 of the procedures manual for EPA de-pipelining as being part of the approval process of EPA debt de-pipeling. The Director of Finance has far wider finance roles and central to the Bank's internal combrol framework and the integrity of its state of the financial affairs.
- 3.30 The Director of Finance played the last but one role in the whole process of initiating, processing, approving and paying the EPA debts. The DF received claim files from DEP after these have been approved by DDDD, DEP, Secretary to the Bank, and the Governor. The DF will then scrutinise the supporting documents, approve when satisfied and cause the actual payments to be made directly to the assignee companies bank accounts through the Tanzania interbank Settlement System.
- 3.31 The audit team found that all EPA payments made during the year 2005/2006 were. duty approved by the Director of Finance as part of his role in the de-pipelining the EPA clebts.
- 3.32 The audit team (ound no evidence in any of the claim files that the DF had checked whether the original deposit of TZS is still reflected in the EPA deposit account maintained in Central Bank System (CBS).
- 3.33 Although, the procedures manual did not require the DF to confirm this, this would heave formed an important control on the part of DF to ensure that the particular EPA debts are valid and still in existence (i.e. have not been already settled).
- 3.34 Furthermore, despite a high risk profile involving EPA debts at present times, except for the Director of Finance's signature approving transfers of funds to assignees bank accounts, the audit team found no evidence of his challenges as to the adequacy, completeness aind validity of the payment supporting documents.
- 3.35 The Directorate of Finance is also responsible for accountability over EPA Bonds stocks and for the overall integrity of the Bank's financial information. The audit team noted from Letters from the MOF concerns regarding a lack of accountability over EPA Bonds (included in Appendices G and H).
- 3.38 Although DEP maintained records of EPA debts in its directorate, it is in the interest of the Director of Finance that these records are accurate, complete, valid and reconciled periodically, as they have major implications in the state of the financial affairs of the Bank. The audit team found no evidence of any concerns raised by the Director of Finance to DEP regarding the apparent weak control environment over EPA debts. Furthermore, there has been no reconciliation of the records maintained by DEP and the Directorate of Finance.

The Role of Secretary to the Bank

- 3.37 The role of Secretary to the Bank (S8) is defined in section 4.2.2 of the procedure manual for EPA de-pipelining and requires that the Secretary to the Bank shall "verify genuine riess and the logal validity" of the deeds of assignment.
- The audit team noted that the Secretary to the Bank had advised the Governor intell cases that he had verified the deeds of assignment and were all genuine and valid. However, from the assignment files, apart from the signature of the Secretary to the Bank on the signature folio, there has been no evidence of the verification work that he performed on the deeds. For example, there is no evidence that he contacted the parties to the deed i.e. the assignors and the assignees to confirm directly with them regarding the genuinaness of their agreements and in order to identify them. Neither is there evidence that he contacted the solicitors who notarized the deeds. Furthermore, except in only one case, none of the assignees or assignors submitted to BOT their incorporation documents or particulars of their representative directors. It is therefore not clear to the audit team as to how the Secretary to the Bank could confirm the identities of the assignor and the assignee companies and their directors who are parties to the tegal instruments. Furthermore, it is expected that the Secretary to the Bank would have required evidence from assignees and assignors that the people who signed the deleds of assignments had mandate to commit their companies in such major transactions.

This therefore may indicate gross negligence on the part of the Secretary to the Barnk to discharge his duties and responsibilities.

The Role of Internal Audit

- 3.39 Currently EPA payments are based on extractions from a series of Microsoft Excel spreadsheets kept on Ms Chaula's (Debt Clerk) personal computer. Access controlls over these spreadsheets are not robust and there is a high inherent risk of error and manipulation due to the nature of the application used.
- 3.40 The documented controls in place have not fully considered the potential risks and, consequently they lack specificity especially in the areas relating to the manner in which assigne es establish their claim and the verification of debt assignments.
- 3.41 As a result, Internal Audit has a key role to play in reviewing and advising on weak nesses in key controls to make them more robust and reviewing the payment process to ensure sufficient evidence that controls have been adhered to.
- 3.42 Internal Audit's role in this regard has been finited to a cursory review contained in a report dated 23 March 2007, attached as Appendix J. The limited involvement of the Internal Audit Directorate to date is not adequate to fully address the potential risks in this area.
- 3.43 The audit team further noted that since the retirement of the last Director of Internial Audit in January 2006, the position has remained vacant until to date, resulting in an appairent lack of leadership over the function in all this time. This indicates that the BOT Board of Exerctors may not consider the directorate as having a strategic importance to the Bank.

The Role of Bank Supervision Directorate of BOT

- The audit team noted that some local banks wrote formally to the BOT reporting suspicious transactions. A letter from Barclays of 2 November 2005 also enquired as to the legitimacy of the huge sum received by the Barclays Bank from BOT in favour of a new Barclays' customer to which BOT responded to Barclays that the transaction was legitimate. Despite the BOT's assurance, Barclays decided to return the modey back to BOT and terminate its reliationship with its new customer. Similar letters were received from Standard Chartered Bank (T) Limited and Kenya Commercial Bank (T) Limited and were immediately responded by BOT confirming the legality of the funds. (See Appendix K)
- 3.45 The audit team found no evidence of the Bank Supervision Unit Investigating the suspicious payments reported by the two banks before the apparent quick responses to these enquiring Banks.
- 3.46 The audit team found no evidence of other banks apart from the four banks mentioned above which enquired as to the legitimacy of the huge sums of funds which were originating, from BOT in favour of their mostly new customers. The EPA payments made by BOT during 2005/2006 were all paid to the assignee companies maintaining bank accounts with the local Banks shown below. The table also shows the total amount received by each bank in favour of their [assignee] customers.

1	Bank of Baroda (T) Ltd. TZS	5,912,901,644
2	Barclays Bank Tanzania Limited	1,548,897,757
3	CRD8 Bank Limited	35,968,182,854
4	Diamond Trust Bank Limited	2,381,529,339
5	Eurafrica Bank (T) Limited	6,300,402,225
6	Exim Bank (T) Limited	2,225,035,393
7	Kenya Commercial Bank (Tanzania) Limited	18,188,468.486
8	NBC Limited	3,931,766,300
9	Standard Chartered Bank Tanzania Limited	48,350,913,759
10	United Bank of Africa Limited (UBA)	8,207,988,464
	Total	133.015,186.220

The Role of BOT Board of Directors

- 3.47 The Board of Directors of BOY is the highest Governance organ of the Bank. His oin aired by the Governor who is also the Chief Executive Officer of the Bank. Majority of the other immembers of the Board are non executive directors.
- 3.48 When Defoite South Africa identified the alleged fraudulent EPA payments, they discussed these initially with the Governor in his role as the Chief Executive of the Bank, Failure by the Governor to respond to the auditors' concerns and knowing that the Governor is also the Chair of the Board, Dejoite found it recessary to write a formal latter to the Board, copies to all individual Board inemibers expressing their concerns including the failure by the Governor to resolve the matter.

However, the audit learn found no evidence of the Board taking timely and effective: action on the allegations which the audit tearn believe contributed to the escalation of the matters to the Ministerial level.

Relationship between BOT and the Ministry of Finance ("MOF")

- 3.49 With regard to the administration of EPA, BOT acts as an agent of the Government of Tanzania through the MOF. The audit team enquired with BOT officials and the MOF to establish whether and how the relationship between the MOF and BOT is formalised.
- 3.50 The Parmanent Secretary to the Ministry of Finance, Mr Gray, T. Mgonja stated that there was a relationship of trust between the Ministry of Finance and BOT. Consequently, there is no formal document setting out the terms of the relationship and accountabilities between the MOF and BOT.
- 3.51 When interviewed by the rudit leam Hon, Meghi stated she felt that more formality in the relationship between MOF and BOT would be desirable as the MOF would be better able to hold the BOT accountable.⁵
- 3.52 The audit team noted from a letter from the then Principal Secretary in the Ministry of Finance, R.O.S Mollel, dated 17 October 1997, that the Treasury had some concerns about the position of the EPA account. The letter states,
 - "...the Treasury would greatly appreciate to get firm numbers of the balance in the EPA account to evolve policy strategies on the utilization of these funds."

The letter, which is officined as Appendix G, goes on to state that,

- "As you are aware, the Treasury has been getting inconsistent signals on the position of this account. At one point, we were given the impression that there was no money in the EPA account and external payments would have to be funded from the current resources."
- 3.53 A letter from Governor Ballali to Mr Mgonja dated 8 July 2005 suggests that BOT had difficulty in providing information on EPA payments.

The letter which is attached in Appendix H, states,

"It should be noted that it is difficult to give information on timing of payment of each amount because all payments were being made on request and there is no particular time table to that effect. However, once technical problems on our various software(s) used to effect payments are respired, it will be possible to furnish you with the breakdown of the beneficiaries."

The audit team did not find any evidence that the said breakdown was ever prepared and submitted to the Ministry of Finance by the time the special audit was completed.

3.54 It is not clear whether the stated problems were resolved. However, no reconciliation of the EPA debt has been performed and no information to this effect has been provided to the Ministry of

^{*} Extract from the Debt Management Operations Procedures Manual, attached as Appendix A.

Meeting with Mr Mganja held on 11 October 2007.

⁶ Meeting with Minister Meghji held on 31 October 2007.

Taxation status of the assignee companies

3.58 Auditors search with Tanzania Revenue Authority (TRA) revealed that 8 out of the 22 assignee companies have not been registered with the TRA contrary to the requirement of the Income Tax Act of Tanzania. These companies have not paid any taxes since their registration despite their apparent operations/trading as evidenced by the significant amounts of funds received on the EPA debt assignments.

Some of the remaining 14 assignee companies have paid negligible taxes (both comporate and others) and some declared nit tax payable for year 2005/2006. The full result of the search is

EPA PAYMENTS MADE BY THE BOT WHICH HAVE BEEN CATEGORISED AS INCONCLUSIVE

	Care	Purporied Assignor	Assignee	jzs	STATUS	Number of Assignees
1	23-Sep-05	Cryoplants	G&T International Ltd	4,833,375,731.04	Incondusive	
2	25-Jan-05	International Harvester Limited	Excellent Services Umited	2,381,529,338.78	incondusive	
3	03-Sep-05	The Lakshmi Textile Mills Co. Limited	Mipale Farm	3,121,385,840.58	Incondusive	
4	03-Sep-05	The Lakshmi Textile Mills Co. Limited	Mbale Farm	747,419,896.55	Incondusive	
5	15-Dec-04	Sociate Aisacienne De Construction De Machines Textles	Liquidity Services Ltd.	5,912,901,643.54	Incondusive	
5	02-Sep-05	International Harvester Ltd	Clayton Marketing Limited	1,983,184,828.85	Incondusive	
7	25-Sep-05	Cumberland Fibres Ltd	Clayton Marketing Limited		Incondusive	
8	25-Sep-05	Cumberland Fibres Ltd	Clayton Marketing Limited	853,216,976.72	Incondusive	
9	25-Sep-05	Cumberland Fibres Ltd	Clayton Marketing Limited		Incondusive	
10	25-Sep-05	Gopi Textiles & Industrials Ltd	Clayton Marketing Limited		Inconclusive	La III
(1)	25-Sep-05	Gopi Textiles & Industrials Ltd	Clayton Marketing Urnited		Incondusive	
12	12-Jul-04	General Marketing & Co	Ws Rashtas (T) Limited	207,284,391,44	Inconclusive	1
13	26-Aug-05	Toyomenka Kaisha Ltd	Malegesi Law Chambers (Advocates)	917,277,596.35	Incondusive	31
14	26-Aug-06	Toyomenka Kaisha Ltd	Malegesi Law Chambers (Advocates)	4,905,903,208.91	Incondusive	
15	25-Aug-06	Dai Ichi Kanoyo	Malegesi Law Chambers (Advocates)	1,085,054,685.19	Incondusive	
16	01-Apr-05	BC Cars Exports Limited	Kiloloma and Brothers	1,864,949,294.45	Incondusive	
17			KERNEL LTD	6,300,402,224.64	Incondusive	- 1
8	26-Oct-04	Teyomenka Kaisha Ltd	Malegesi Law Chambers (Advocates)	7,535,221,759,47	(nacral/sive	
				42,656,107,416.61		9

COA DAVMENTS MADE BY THE	EROY WHICH HAVE BEEN CO.	MCLUDED ASSIMVALID AND BASED	ON FRAUDULENT DOCUMENTATIONS

	Date	Purported Assignor	Assignee Companies	TZS	STATUS	Number of
1		Matsushita Electric Trading Company of Japan	Bencon International Limited of Tanzania	2,599,944,456.12	Fraudufent)	1
2	18-Oct-05	Marubeni Corporation of Japan	Bencon International Limited of Tanzania	7,962,978,372.48	Fraudulent.	
3	05-Aug-05	Marubeni Corporation of Japan	VB & Associates Company Limited of Tanzania	2,807,136,581.87	Fraudulent	1
4	25-Oct-05	Maruberi Corporation of Japan -	VB & Associates Company Limited of Tanzania	6,420,438,143,04	Fraudulent	
5	19-Aug-05	Citoh & Company Limited of Japan	Bina Resorts Umited of Tanzania	3,924,992,009.23	Fraudulent	1
6	23-Nov-05	Manubeni Corporation of Japan	Bina Resorts Umbed of Tanzania	1,419,769,127.43	Fraudulent	
7	24-Aug-05	C tioh & Company Limited of Japan	Venus Hotel Limited of Tanzania	4,050,806,093.10	Fraudulent	1
8	08-Mar-05	Tomen Corporation of Japan	Njake Hotel & Tours LTD	2,225,035,393.39	Fraudulent	1
9	24-Aug-05	Maruber/ Corporation of Japan	Mattan Mining Company Ltd of Tanzania	4,924,494,477.03	Fraudulont:	1
101	08-Sep-05	8. Granoel & Co. Hanaver Lendstr.	Money Planners & Consultants -	2,266,049,041.25	Fraudulent	1
11	30-Aug-05	Marubenl Corporation of Japan	Bora Hotels & Apartment Limited	5,779,595,468.14	Fraudulent	1
12	24-Aug-05	Matsushita Electric Trading Company of Japan	B.V. Holdings LTD	5,148,889,183,49	Fraudulent	1
13		Marubeni Corporation of Japan	Ndovu Scaps Limited	1,548,897,756.87	Fraudulent	1
4	26-Aug-05	Matsushita Electric Trading Company of Japan	Navy Cut Tobacco (T) Limited of Tenzania	3,311,869,846.78		. 1
15	31-Aug-05	Marubeni Corporation of Japan	Changanykeni Residential Complex Limited	1,186,534,303.27		1
15		Adriano Gardella S.P.A	Kagoda Agriculture Ltd	1,590,622,560.49		1
17		NS BOMA (assumed to be NS ROMA)	Kagoda Agriculture Ltd	702,881,683.32		
8		FIAT VEICOLI INDUSTRIALI	Kagoda Agriculture Ltd	3,430,099,403.52		
		VALMET of the Linked States of America	Kagoda Agriculture Ltd	2,715,297,863.12		
20	12-Sep-05		Kagoda Agriculture Ltd	10,254,045,455.83		
115		Nishizawa Ltd	Kagoda Agriculture Ltd	9,360,326,552.94		
22		Societe Generale	Kagoda Agriculture Ltd	2,323,540,330.27		
2		Mirriees Blackstone Ltd	Kagoda Agriculture Ltd	1,056,767,673.45		
14		Partizanski PUT	Kagoda Agriculture Ltd	1,261,430,676.50		
5	and the second second	Daimler Benz AG	Kagoda Agriculture Ltd	1,251,430,676.50		
6		Lindeteves J Export 6V	Kagoda Apriculture Ltd	267, 137, 210.00		
27	03-Nov-05	HOECHST	Kagoda Agriculture Ltd	558,068,464.70	Fraudulent	

Recommendations

Resulting from the findings of the audit, the following recommendations have been proposed:

- The Government should institute a formal criminal investigation to be performed by competent law enforcing agencies against the 13 assignee companies and its directors, and the officials of BOT involved in the fraudulent payments amounting to TZS 99,359,078,804.13 and whose results should form the basis for further action.
- 4.2 The Government should consider initiating legal procedures as soon as possible airming at recovery of the funds paid to the 13 assignee companies that undeservedly received a total of TZS 90,359,078,804.13. Initially, this can take the form of temporary bank accounts, and assets freeze process pending the completion of formal criminal investigation process by competent law enforcing organs.
- 4.3 Disciplinary action should be taken against BOT officials involved in the actions of invitating, processing, authorising and approving payments for EPA debts in line with the established civil service and labour law procedures to avoid possible legal actions by the affected inclividuals. The BOT personnel in the positions below between June 2005 and July 2008 are directly or indirectly implicated in the matter;
 - The Governor
 - Director of Finance
 - Secretary to the Bank (SB). There were two different SB personnel involved between 2005 and 2006 including the acting SB
 - Director of Economic Policy (DEP). There were two different DEP personnel involved at thatween 2005 and 2006.
 - Deputy Director Debt Department (DDDD). There were two different DDDD hetween 2005 and 2006 including Acting DDDD personnel.
 - Head of the Bilateral and Commercial Debt
 - Acting Director of Internal Audit
 - Director of Bank Supervision in 2005/2006
 - The Board of Directors present between September and October 2005.
- 4.4 Inaction by the Board of Directors of BOT would indicate the need for the Government to enhance corporate governance at the Bank, specifically the separation of the incompatible roles of the Chair of the Board and Chief Executive of the Bank and establishing a competent and independent Audit Committee as a sub-committee of the Board of Directors. This will necessitate the review of the current BoT Act.
- 4.5 Further investigation should be performed on the other EPA payments made to the investigation assigned companies amounting to TZ\$ 42,656,107,415.61 for which the audit tearn could not conclude about their validity and authenticity at this stage. The Government should consider contacting the assignor companies directly to obtain direct confirmation from them on the assignment of the related debts and require them to also prove for the existence of the debts by providing copies of original invoices, cancelled copy of Letters of Credit, delivery nices, and evidence of deposits being made by importer. The terms of reference for this engagement restricted the audit team from contacting Assignor companies directly due to legal in risks such as activating legally barred debts (if any) and attracting vulture funds companies dreyting on indebted third world countries.
- 4.6 The audit fear recommend that a clear Memorandum of Understanding, which should govern the relationship between the BOT and MOF or management of EPA transactions, should be drawn up. As a minimum this should:
 - . Confirm the agent and custodian relationship MOF has with BOT.
 - Confirm the duty of care which BOT has in discharging its responsibilities to MOF.

Recommendations

- . Confirm the requirement for regular reporting on EPA activities and progress.
- Articulate the nature, extent and frequency of reporting to be done by BOT, to the MOF.
 For example, MOF should require BOT to jurnish quarterly accountability statements of
 EPA accounts which should clearly give a breakdown of the utilisation of the approved
 EPA Bonds.
- Stress the need for regular and complete EPA reconciliations which clearly siets out the EPA debt position; and
- . Require BOT to account for all bond/stocks approved by MOF.
- 4.7 The Ministry of Finance/Treasury should consider establishing a debt oversight mechanism or function within the Ministry of Finance/Treasury and whose remit should include monitoring of EPA transactions and provide a central link between MOF/Treasury and BOT. As an immediate measure, the Government should suspend settlement of all EPA debts pending:
 - A task performed to compile and establish the current stock of remaining EPA debts from available sources all original supporting documents, data and information, reconcile them with data in the existing Akwera Database as well as the Lazard Database.

There are a number of issues which need to be resolved in order to perform a meaningful reconciliation of EPA debts. These are:

- Obtaining all documentation and data relating to the original transfer of importers funds from NBC to BOT;
- Reconciling of the Akwers database and Lazard database to establishing an accurate reflection of outstanding commercial debts;
- The audit learn recommend that the abovementioned issues be resolved as soon as possible as it is the best way in which a meaningful understanding of the EPA debt position can be achieved. Further, when the EPA debt position is clarified, it will be possible to establish a clear andit trail to facilitate the review of any future payments made by BOT.
- After this exercise the information should be subjected to an audit by the Controller and Auditor General.
- Setting up of proper Governance and internal control procedures and memorandum of understanding between MOF and BOT as already recommended above.
- 4.8 After reconciliation and verification, BOT should consider bringing into its books of accounts at re-valued amounts all EPA debts that are found to be valid and adequately supported. In compliance with International Financial Reporting Standards (IFRS) the substance of EPA transactions and BOT involvement in its management requires that BOT should record in its financial statements all highly probable and quantifiable liabilities and annually re-value the forex denominated debts to TZS equivalent amount as it closes its books and as well recognise the unrealised exchange losses or gains in its financial statements.
- 4.9 The Government should consider instituting annual budgetary affocations for EPA settlements spread over a set timeframe and based on verified and proven amounts.
- 4.10 In order to minimise risks of fraudulent claims, and also considering the availability of foreign currencies in the market, it is highly recommended that the Government should issue a directive to the effect that BOT shall no longer accept assignment of EPA debts to third parties. Government may seek legal advice about this. BOT should only deal with original suppliers/exporters who present valid claims together with substantive set of refer vant documents.

Recommendations

- 4.11 However, should the Government vish to continue to accept the arrangement in which original foreign suppliers can assign their debts to third parties, then the audit team recommend that the existing Debt management Operations Procedures Manual of 1997 should be reviewed to include.
 - BOT to require claimants to substantiate their claims through providing full set of documents
 and not just mere deeds of assignments and introduction letter. The onus of proof of debt
 should lie with the overseas creditor and not BOT as it is the case at present.
 - BOT to contact independently original supplier companies to confirm authenticity of deeds and documents.
 - BOT to verifying all documents internally to assure that the debt still exists and not discharged on barred before.
- 4.12 EPA Accounts should be subjected to periodical internal audit and should be profiled as high risk area in the BOT Internal Audit plan.
- The Government may consider inviting specific creditors to submit their claims provided that they can substantiate them with complete sets of supporting documents including shipping of goods or delivery of services, delivery and acceptance by the importers, invoking, cancelled Letter of Credits, correspondences with the local importer as to non payments of diebt, and evidence of deposit of equivalent local TZS made by a local importer. If this option is considered, the Government should firstly seek tegal advice and state a deadline beyond which the debt should be considered barred.
- 4.14 The Board of Directors of BOT should immediately fill the vacant position of the Director of Internal Audit which is presently led by an acting director, with a view to strengthen the capacity of the function to discharge its responsibilities effectively.
- 4.15 TRA should be required to launch an investigation of the tax affairs of all the 22 companies benefiting from EPA including those not registered with TRA.
- 4.16 BRELA should be required to institute an investigation of the two companies for which BRELA could not establish their registration status namely, M/S G&T International Limited and M/S Rashhas (T) Limited.
- 4.17 The Government to investigate the commercial banks involved in receiving the large sums of funds from the BOT EPA Account aiming to determine whether there has been a breach of the Tanzania Anti-Money Laundering Act, 2006 or other banking regulations. For example, certain banks allowed the companies to open and operate bank accounts even though at the time the companies had no complete registration documents such as registration with TRA and BRELA.

End of Report