

CHAPTER 2

DETECTION AND SUPPRESSION OF MONEY LAUNDERING IN TANZANIA

Eugene E Mniwasa

Introduction

In the recent past organised criminal activities, of which money laundering and the financing of terrorism form part, have been on the increase in Tanzania. The incidence of smuggling, poaching, trading in illicit drugs, corruption, fraud, embezzlement, misappropriation and theft of public funds, racketeering, illegal arms dealing and, most recently, terrorism, have been on the rise.¹ Criminals generate substantial revenues and apply different mechanisms to disguise the origins or ownership of the proceeds of their illicit activities. The increase in organised criminal activities has been facilitated by several factors including globalisation, liberalisation of the economy and advances in communications, including information technology.

Globalisation has had several impacts on criminal activities. First, organised criminal activities have become transnational and de-territorised. Criminals take advantage of the global marketplace to trade in illicit drugs, traffic in persons, commit fraud and carry out other transnational crimes. Second, criminals exploit the revolution in global finance. Changes in information technology, in particular, have made it easier for criminal assets to move across national borders through financial markets that are out of the reach of the law. The internationalisation of crime has thus occurred in response to the increased movement of persons, the free flow of capital and the globalisation of financial services and the revolution in communications. These have provided opportunities for laundering the proceeds of criminal acts through investment in various sectors of the local and global economy.

Efforts to combat organised criminal activities in Tanzania have focused on preventing money laundering and the financing of terrorism. This is because there is an increasing recognition that money laundering is an inherent feature of international and organised crime. It is through the process of money laundering activities that criminal activities, such as the trade in illicit drugs, firearms trafficking,

corruption and trafficking in people have become really lucrative, by placing the proceeds of these crimes (and the criminals themselves) beyond the reach of the authorities.

Additionally, there has been a concern that profits generated from organised criminal activities threaten the country's public safety, financial systems and economic development. Recent events have shown that terrorists or terrorist entities have set up financial empires using ill-gotten gains, the main objective of which is to undermine international financial stability and security. Counter initiatives, which commenced in the 1980s and gained momentum in the 1990s, are built on strategies aimed at attacking organised criminals through their financial operations. They focus on dispossessing criminals, unravelling their financial networks and financing methods, and developing a better understanding of how to combat them. These efforts have included ratification of several international legal instruments, signing numerous bilateral and multilateral agreements on technical co-operation and assistance and the establishment of a municipal regulatory framework and numerous national infrastructures.

This chapter, which examines various measures adopted to address the problem of money laundering and the financing of terrorism in Tanzania, analyses the opportunities and challenges experienced in adopting an effective anti-money laundering and anti-terrorist financing regime in the country. It also presents recommendations for strengthening the existing mechanisms.

The chapter first presents the definitions of money laundering and the financing of terrorism it adopts, drawing on international and regional initiatives and domestic legislation aimed at controlling problems. It then examines the extent of the problems in Tanzania. Thereafter it describes the relevant measures adopted by the government of the United Republic of Tanzania (hereafter the government), including the policy framework, the regulatory regime and institutional structures. The efficacy of such frameworks and structures is then examined. The chapter concludes with recommendations for adequately controlling these problems.

Definitions

Money laundering and the financing of terrorism have been defined or described by both international legal instruments and domestic legislation in Tanzania.

Money laundering

Article 3(1)(b) and (c) of the United Nations (UN) Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (the Vienna Convention) defines money laundering as:

- the conversion or transfer of property, knowing that such property is derived from any offence or offences related to narcotic drugs and psychotropic substances or from an act of participation in such offence or offences, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such an offence or offences to evade the legal consequences of his actions;
- the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from an offence or offences related to narcotic and psychotropic substances or from an act in participation in such an offence or offences; and
- the acquisition, possession or use of property, knowing at the time of receipt of such property was derived from offence(s) related to trade in narcotic drugs and psychotropic substances or from an act of participation of such offence(s).²

Offences related to drugs (hereafter referred to generically as 'drugs') include the production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery, brokerage, dispatch, dispatch in transit, transportation, importation or exportation of such drugs (see the section on the regulatory frameworks below for more detail).

Under the Vienna Convention money laundering thus means the process of concealing or disguising the illicit origin of proceeds (money or property) derived from crimes related to drugs. Excluded from this definition, therefore, are the proceeds of other criminal activities such as tax evasion, fraud, embezzlement, misappropriation or theft of public funds, illicit trade in arms and kidnapping.

While it is probably true that a significant portion of laundered funds come directly or indirectly from the trade in illicit drugs, considerable funds and property are derived from numerous other illicit activities. Myers³ observes that significant contributions to the pool of laundered money derive from organised crime, tax evasion and fraud in its many varieties (e.g. trade fraud,

bank and financial fraud, medical, insurance and other frauds), the illegal arms trade and public sector corruption. Consequently, other international instruments have expanded the Vienna Convention's definition of money laundering to include these serious offences. For instance, the UN Convention Against Transnational Organized Crime of 2000 (the Palermo Convention) requires all the state parties to apply the Vienna Convention's definition of money laundering to "...the widest range of predicate offences".⁴

The Financial Action Task Force on Money Laundering (the FATF), which is recognised as the international setter of standards for anti-money laundering efforts, defines money laundering as the processing of criminal proceeds to disguise their illegal origin in order to legitimise the ill-gotten gains of the crime.⁵ Additionally, in its Forty Recommendations for fighting against money laundering, the FATF incorporates the Vienna Convention's technical and legal definition of money laundering⁶ and recommends expanding the predicate offences of that definition to include all serious offences.⁷

At the regional level the Southern African Development Community (SADC)⁸ Protocol on Combating Illicit Drugs defines money laundering as engaging directly or indirectly in transactions that involve money or property that are the proceeds of crime, or receiving, processing, conceiving, disguising, transforming, converting, disposing of, removing from, bringing into any (SADC) territory money or property which are the proceeds of crime. In other words, the crime of money laundering is committed when a person transacts in money or property that are the proceeds of crime.⁹

In Tanzania, Section 2 of the Mutual Assistance in Criminal Matters Act of 1991 (the Mutual Assistance Act)¹⁰ provides that in relation to the proceeds of serious narcotic offences, money laundering comprises:

- the engaging, directly or indirectly, in a transaction that involves money or other property, which relates to proceeds of crime; or
- the receiving, possessing, concealing, disposing of property, which relates to the proceeds of crime.¹¹

This definition of money laundering is limited to transactions relating to money or property that are the proceeds of serious narcotic offences¹² and the legislation does not address transactions relating to unrelated crimes.

Section 71(3) of Tanzania's Proceeds of Crime Act of 1991¹³ provides that an offence of money laundering is committed when a person:

- engages, directly or indirectly, in a transaction in or outside Tanzania, which involves the removal into or from Tanzania, of money or property which is the proceeds of crime; or
- receives, possesses, conceals, disposes of, brings into or removes from Tanzania, any money or other property which is the proceeds of the crime.¹⁴

The legislation provides further that the offence is committed when the person “knows or ought to have known that the money or other property is or was derived or realised from illicit activity”.¹⁵

This definition seems wider than that provided for under the Mutual Assistance Act in that the offence of money laundering is committed when a person¹⁶ transacts¹⁷ in money or property that are the proceeds of *any* crime, not only those related to narcotic drugs. However, the person transacting must *know*, or *ought to have known*, that the money or property were derived from an illicit activity.

Techniques used to launder money are essentially the same as those applied to conceal sources and use of funds for committing, or facilitation the commission of, serious crimes such as terrorism. Funds used to support the commission of terrorist acts may originate from legal sources, from criminal activities or from both. However, disguising the source of criminal financing, regardless of whether the source is licit or illicit, is important. If the source can be concealed, the funds remain available for financing the commission of serious offences in the future. For this reason it is important for terrorists or terrorist entities to conceal the use of their funds so that the financing activities go undetected. Consequently, the FATF recommended that each country should criminalise the financing of terrorism, terrorist acts and terrorist organisations and designate such offences as money laundering predicate offences.¹⁸

In view of the foregoing, this chapter adopts the position taken in the FATF Special Recommendations and defines money laundering as the process that comprises activities to disguise or conceal the nature or source of, or entitlement to, money or property, or right to either, being money or property or rights acquired from commission of serious crimes, as well as activities to disguise or conceal money or property that is intended to be used in committing or facilitating the commission of serious crimes.

Therefore, in simple terms money laundering means processing criminal proceeds acquired from commission of a serious crime in order to disguise

their illegal origin, as well as their intended use in committing or facilitating the commission of a serious crime. This definition covers activities that disguise or conceal legal or illegal money or property intended to be used in committing or facilitating the commission of serious crimes, for instance, terrorism.

The financing of terrorism

The financing of terrorism is defined under the UN International Convention for the Suppression of Terrorism of 1999. Article 2 provides that an offence of financing terrorism is committed if a person:

by any means, directly or indirectly, unlawful or wilfully, provides or collect funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out:

- any act that constitutes the offence of terrorism as defined in various anti-terrorism conventions; or
- any act intended to cause death or seriously bodily injury to a civilian, or to any person taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organisation to do or to abstain from doing any act.¹⁹

The Convention provides further that attempting to commit such acts, participating as an accomplice in their commission, organising or directing others to commit them, and contributing to their commission, amount to commission of the offence of the financing of terrorism.²⁰

In Tanzania, the Prevention of Terrorism Act, 2002 prohibits supporting terrorism, including:

- the provision of, or making available, such financial or other related services to a terrorist or terrorist entity; or
- dealing, directly or indirectly, in any property owned or controlled by or behalf of a terrorist or terrorist entity including funds derived or generated from property owned or controlled, directly or indirectly, by a terrorist or terrorist entity; or
- entering into or facilitating, directly or indirectly, any financial transaction related to dealing in property or owned or controlled by a terrorist or terrorist entity.²¹

The financing of terrorism is thus outlawed under this legislation.

The extent of money laundering in Tanzania

Money laundering is a complex process, which is accomplished through three main phases. The first phase is the physical disposal of the cash, i.e. placing the proceeds of predicate criminal activities into bank or non-bank financial institutions in order to disguise their illegal origins and make them appear to be legitimate funds. This may include the use of 'front' businesses such as hotels, cinemas or casinos that may reasonably claim to do business in cash. It may also involve the use of 'smurfing' techniques, through which launderers make numerous deposits of amounts of money that are small enough to avoid raising suspicion or triggering reporting mechanisms. This process is called 'placement'.

The second phase is the movement of funds from institution to institution to hide their origins and ownership, termed 'layering'. It consists of putting the funds, which have entered into the financial system, through series of financial operations to mislead potential investigators and to give the funds the appearance of having legal origins. For this launderers use financial institutions that provide legally protected banking or offshore mechanisms.

The final stage is to integrate criminal assets into the mainstream of commerce and investment in an ostensibly legitimate business. This is termed 'integration'. The funds may be re-introduced into the economy through, for instance, the purchase of luxury items or through investment in assets such as shares in companies and real estate.

The main objectives of money launderers are thus to place their funds in the financial system without arousing suspicion, to move them around, often after a series of complex transactions crossing multiple jurisdictions so that it becomes difficult to identify their original sources, and finally to move the funds back into the financial and business systems so that they appear legitimate.

Money laundering is performed systematically and clandestinely, making it difficult to identify exactly how much money is involved, what methods are employed and what the magnitude of the problem is. Likewise, secrecy makes it difficult to establish the magnitude of funds used for the funding of terrorism.

In addition, poor detection mechanisms and a failure to document transactions relating to money laundering by the relevant institutions exacerbate the difficulty of establishing the extent of these problems in Tanzania. A Bank of Tanzania (BoT) source could not present statistical data of how much money is thought

to be laundered in the country.²² Nor could the police give even an approximate idea of the magnitude of the problem.²³ Information from members of the Tanzania's National Multi-Disciplinary Anti-Money Laundering Committee was also not much assistance in this regard. Undoubtedly the lack of statistical data is at least partly a result of ineffectual reporting mechanisms and lack of experience and training among the majority of officials in the institutions that deal with the detection and control of money laundering.²⁴

Despite the dearth of statistical data, there are other indications that money laundering is a real and growing problem, such as an acknowledgement to that effect by the Minister for Finance, Basil P. Mramba, in 2001.²⁵ There is also evidence that the incidence of crimes such as corruption, embezzlement, misappropriation and theft of public funds, fraud, trade in illicit drugs (which generate huge profits that are subsequently laundered) and most recently, terrorism, has been on the increase. Mwema²⁶ observes that from the 1980s the incidence of organised crime has been on the increase, creating substantial profits that are subsequently laundered.

Sources of funds that require laundering

Corruption

Corruption, which has affected almost all sectors of the economy, is a serious problem. The Chairman of the Presidential Commission of Inquiry into Corruption in Tanzania, Judge Joseph Sinde Warioba, has stated that some ministers, members of parliament and top officials of the government are involved in corrupt practices and that corruption is rampant in the executive, the legislature and the judiciary.²⁷ The former European Commission delegate, Peter Beck Christiansen, is reported to have remarked that corruption was "by far the biggest challenge" facing the government.²⁸

A few instances can be cited of allegations of public sector corruption. First, the controversial Tsh150 billion (US\$150 million) Malaysian-backed power investment has been widely criticised as being wasteful and corrupt. Several senior officials of the ruling party, Chama Cha Mapinduzi (CCM), and the government have been implicated in the scandal. Second, ongoing privatisation schemes have presented opportunities for illegitimate self-enrichment on the part of government officials and the Parastatal Sector Reform Commission (PSRC). Members of the public puzzled over the refusal of the investor in the privatised Tanzania Telecommunications Company Limited (TTCL), MSI Detecom of Holland, to pay the balance of US\$60 million (Tsh60 billion),

which was half of what it agreed to pay for 35% of the government shares in the TTCL.²⁹ The government seems reluctant to take appropriate action to enforce the agreement. It is alleged that the privatisation of the TTCL has been embroiled in non-transparency, insider dealings and corruption involving top officials of the Ministry of Communications and Works and the PSRC.³⁰ Other privatisation schemes that have been widely criticised for alleged kickbacks at high levels involved such parastatals as the Kilimanjaro Hotels Limited, Tanzania Electric Supply Company Limited (TANESCO) and NBC (1997) Limited, to mention just a few examples. High level corrupt practices have also been reported in granting irregular tax and import duty exemptions to business persons. For instance, in 1998 the Minister for Finance and his deputy were compelled to resign following allegations that they were implicated in corrupt dealings with proprietors of fish industries in the Lake Victoria Zone.³¹ Additionally, in 2001 the Minister of Trade and Industry was forced to resign following reports of irregular granting of sugar import permits, which involved allegations of corruption.³²

Officials involved in such corrupt practices amass considerable proceeds, which are subsequently laundered.

Drug production and trafficking

Illicit drug production and trafficking have increased in recent years. A substantial amount of *cannabis sativa* (known as *bhanga* in Tanzania) is produced in the country. Tanzania's strategic geographical location, its road and rail transport system that connect it to eight neighbouring countries and its air links with West and Southern Africa, Asia and Europe, make the country vulnerable to penetration by drug traffickers. Additionally, it has feeble control at its seaports and airports. Further, Tanzania has a poorly protected coastline extending some 800km. Land frontiers are even more remote and extensive, making it difficult to police borders effectively and control the trafficking of illicit drugs. Consequently, the local and international drug traffickers have turned Tanzania into a transit point. There has been an increased flow into the country of *cannabis resin* (hashish), heroin, mandrax, and cocaine. The drugs mainly originate in Pakistan, India, Thailand and South America and are destined for Southern Africa, Europe and North America. During the past few years, the number of Tanzanians arrested for trafficking of narcotic drugs and other psychotropic substances notably cocaine, heroin and mandrax has been on the increase,³³ as have the quantities of drugs and illicit substances seized.³⁴ For instance, in 1996, five tons of hashish was intercepted in Antwerp, Belgium in a container that was said to have originated in Dar es Salaam,³⁵ as was one

impounded in 2000 in Bucharest, Romania containing illicit drugs worth Tshs15 billion (US\$15 million).³⁶ In 2001, the police impounded a machine and raw materials for manufacturing illicit drugs in a residential area in Dar es Salaam.³⁷ In 2003, two Zambian nationals were arrested in Tanzania with a container carrying 1836.3kg of *cannabis resin* and 130 packets of heroin, all valued at Tsh3.2 billion (US\$3.2 million). Documents showed that the container was in transit to Canada.³⁸

These examples indicate how widespread the production and trafficking in illicit drugs and psychotropic substances are in Tanzania. Three issues can be pointed in this regard: First, some high-ranking public officials of the government are involved in one way or the other in trade in drugs.³⁹ Second, the trade in illicit drugs goes hand in hand with high-level corruption. Officials are bribed by local and international drug magnates to protect 'couriers' who are never searched, arrested or prosecuted. Third, the trade in illicit drugs generates substantial proceeds, which are later laundered. It has been reported that the funds from this trade are invested in hotels and transport and manufacturing businesses that serve as fronts for transferring millions of dollars overseas. Other proceeds are invested in the privatised public parastatals.

Embezzlement, misappropriation and theft of public funds

Other activities that generate money requiring laundering include embezzlement, misappropriation and theft of public funds and fraud by public officials, their friends and relatives. Various reports of the Comptroller and Auditor-General indicate that officials in various ministries and departments have been involved in these crimes. Undoubtedly, these funds, some of which are unaccounted for, are deposited in personal accounts of these officials. Additionally, senior government officials have been implicated in diversion of billions of shillings from the medical funds at the country's diplomatic missions abroad.

In one incident the wife of a former Minister of State in the President's Office fraudulently obtained US\$63,450 (Tsh63,450,000) from Tanzania's High Commission in Ottawa, Canada in 1997, supposedly for her medical treatment at the University of Washington School of Medicine in the US. The Minister influenced the Ministry of Health to release the money and falsified hospital receipts for the treatment costs were presented to the government. However, the hospital disowned the receipts, saying that it had not treated the Minister's wife.⁴⁰

Tax exemptions and evasion

Substantial profits are generated through tax exemptions and tax evasion. Allegations were made in parliament about a major tax evasion syndicate involving senior government officials and the personnel of the Tanzania Revenue Authority (TRA). It was reported that the government was losing about Tsh128 billion (US\$128 million) through dumping, exemptions and tax evasion in the petroleum industry.⁴¹ It has also been reported that Tanzania lost about Tsh50 billion (US\$50 million) in revenue through irregular tax exemptions granted by the former Minister for Finance, the late Prof. Kighoma A. Malima.⁴² Recently, the Deputy Minister for Finance, Dr Festus Limbu, informed parliament that the government had uncovered a tax evasion scam involving a gold mining firm and a company operating a petrol station in Dar es Salaam. Prior to July 2003 the government lost about Tsh6 billion (US\$6 million) monthly through this scheme.⁴³ Again, it was reported that the TRA was investigating a suspected tax evasion scam amounting to Tsh8 billion (US\$8 million) through the importation of merchandise including foodstuffs and household items from the United Kingdom (UK), Dubai and the Far East.⁴⁴

Smuggling of minerals, arms and dangerous materials

In addition, the smuggling of minerals (for instance gold, tanzanite and diamonds), arms and dangerous materials is another source of money requiring laundering. It is reported that between 1995 and 2002 Tanzania lost more than Tsh300 billion (US\$300 million) through the smuggling of tanzanite from the country.⁴⁵ Another media report indicated that the country was losing over Tsh25 billion (US\$25 million) worth of gold and gemstones annually, depriving the country of revenue.⁴⁶ Further, Tanzanian officials were reported to be involved in smuggling diamonds and other precious minerals from the Democratic Republic of Congo (DRC).⁴⁷

Both international and local criminals in Tanzania have generated huge sums from the illicit trade in arms and the supply of military logistics to warring factions in war-torn Burundi, the DRC and Rwanda.⁴⁸ It is said that Tanzania has become a major route for legal and illegal arms trafficking to warring factions in the above-named countries as the wars in the Great Lakes region continue.⁴⁹ Moreover, there are reports that some criminals are engaged in smuggling illegal uranium and other dangerous materials. For instance, in 2002 the police impounded four containers of uranium and arrested five persons in connection with its possession.⁵⁰

Stolen motor vehicles

The trade in stolen motor vehicles or their parts generates substantial illicit proceeds. The police say they have identified the criminal syndicates responsible for these crimes.⁵¹ Gangs of motor vehicle thieves are concentrated in cities and towns such as Dar es Salaam, Arusha, Moshi, Mwanza and Mbeya. Vehicles, particularly Lexus, Toyota Landcruisers, Nissan Patrols and Mitsubishi Pajeros, are stolen in the urban areas and then taken to suburban areas where they are modified or completely disassembled. The modified vehicles are thereafter sold to buyers in different parts of the country. Some are sold to buyers from neighbouring countries such as Kenya, Malawi, Zambia, Uganda and the DRC. The dismantled motor vehicles are sold as spare parts. The police say that carjacking is often accompanied by murder and serious assaults and firearms are also used when the victims put up resistance.⁵²

Tanzania is also a destination for stolen cars, mainly from South Africa. The South African syndicates specialise mainly in BMWs and Mercedes-Benzes. A few vehicles are stolen from Zambia, Zimbabwe, Kenya and Uganda. In 2001, the Tanzania police recovered hundreds of stolen cars particularly from South Africa, in conjunction with Interpol.⁵³

Poaching

Poaching is rampant and generates substantial criminal proceeds. The illegal hunting of elephants and rhinos is prevalent in the Serengeti National Park, Kilimanjaro National Park and Selous Game Reserve. For instance, in 1996 the wildlife authorities impounded 4,600kg of elephant tusks and in 2002 a consignment of 1,000 tusks was impounded in Dar es Salaam.⁵⁴

Trafficking in humans

Huge profits are generated from illicit trafficking in humans, particularly women and children, for purposes of both adult and child prostitution and pornography, among others. According to the 2002 US State Department's Trafficking in Persons Report, Tanzania is a source and destination for trafficked persons. Most at risk are children, who are trafficked internally to different parts of the country to work as labourers in households, in commercial agriculture, in fishing and mining industries and as child prostitutes. Some Tanzanian women and girls are trafficked to South Africa, the Middle East, North Africa, Europe and the US for commercial sexual exploitation. Tanzania is also a destination for trafficked persons from Kenya and India.⁵⁵ Child prostitution is on the rise and, to a certain extent, is linked to sex tourism both on the mainland and in

Zanzibar.⁵⁶ Moreover, there are reports that children, especially girls, are being used in the production of pornographic videos, which are sold internally and outside the country.⁵⁷

Informal financial systems

Another area that has not been given sufficient attention, and which can be used to facilitate money laundering and terrorist financing in Tanzania, involves informal dealings in funds without the use of the formal financial institutions. People of Indian and Pakistani origin in Tanzania are mainly involved in this practice, some of whom run 'underground', informal financial institutions. It is said that substantial amounts of money are collected and deposited in these institutions for the purposes of executing various social and economic activities among their members. The funds are advanced to community members in need of financial assistance, for instance to cover medical costs. Additionally, the recipients of the money can use it to establish new businesses or inject more capital into existing businesses. These informal institutions have mechanisms for repayment of the funds.⁵⁸

The system involves the transmission of money both within Tanzania and across its borders. In the course of normal business transactions between two parties located in different parts of Tanzania, unaccounted payments are made through operators who act as couriers for letters, parcels and money. They make payments on behalf of the concerned parties, located in different places, without the money passing through formal cash transfer procedures. In transnational transactions, money moves across international borders without being physically carried, again using the services of operators. Tanzanian operators have counterparts outside the country, who receive payments in foreign currency from relatives or friends living abroad and pass on instructions for distribution in Tanzania in the local currency. Likewise, unaccounted payments are made from Tanzania to foreign parties through this system, especially in connection with the under-valuation of imports.⁵⁹ It is said that Indian and Pakistani business persons, who are accused of having large sums of money on which they have not paid tax, transfer money out of Tanzania through this system to safe havens elsewhere. The money may then be transferred to other places in due course, depending on business requirements, or it may find its way back to Tanzania as legitimate inflows. Additionally, some businesspeople use this informal system to import merchandise, such as motor vehicles, clothes, building materials, household items and other commodities, from Asia for their customers in Tanzania.

The informant about informal financial systems in Tanzania raised several issues. First, these underground financial transactions are conducted through unofficial institutions, such as in the temples, bazaars, stalls and backrooms, making them difficult to monitor. Second, because of their informal nature their record-keeping procedures are nearly non-existent, with coded messages, chits and simple telephone calls used to transfer money from one country to another. Third, since the details of the transactions remain murky and the law enforcement agents have not given adequate attention to the system, the magnitude of the transactions is not known. Fourth, although the great bulk of the transactions seem to be harmless, involving the remittance of legitimate funds, the system can be used for money laundering and to mask the intricate financial operations required by drug dealers and other criminal elements. With the increasing adoption of regulations to detect and suppress money laundering and the financing of terrorism in the formal financial institutions, criminals may use this system to launder funds derived from illicit sources and terrorists may channel funds through the system to support their activities. Fifth, presently no domestic legislation has been enacted to address the operation of the underground financial system.

Terrorism

Tanzania has experienced the adverse effects of terrorist attacks. On 7 August 1998, terrorists bombed the US Embassy in Dar es Salaam. Both Tanzanians and foreigners died in this attack, which also caused damage to properties.⁶⁰ In 2002, there was a threat of terrorist attacks on tourist interests in Zanzibar, which impacted on tourism numbers and resulted in a decline in revenues from that source. People believe that such attacks could not be carried out without the financing from overseas. It is said that the terrorist attack in 1998 was co-ordinated, financed and/or carried out by al-Qaeda, led by the Saudi fugitive, Osama Bin Laden.⁶¹

The above are a few examples of the kinds of criminal activities that generate illicit proceeds that then require laundering. There are undoubtedly numerous others. The money generated from these criminal activities is invested in different sectors of the economy. Considerable amounts are spent on the purchase of luxury items such as motor vehicles, boats and jewellery. Some criminals convert large portions of their proceeds into real estate investments and by purchasing shares in companies and in legitimate businesses in, for instance, the hotel, transport and manufacturing industries, which are used as fronts for transferring million of dollars overseas.⁶² Some people believe that laundered money, particularly from the trade in illicit drugs, has facilitated the construction of

new commercial and residential premises in Dar es Salaam and Zanzibar. Investment in hotels and tourism is strategic because it is relatively easy to declare clients without actually having serviced them, thus enabling the disguise of profits earned from criminal activities. According to Prof. Seithy Chachage of the University of Dar es Salaam, the tourism industry in Zanzibar has been used to disguise the illicit proceeds of criminal activities.⁶³ A portion of the proceeds is channelled to banks and then invested outside the country. It is suspected that foreign exchange bureaux in Tanzania are used as conduits for laundering these funds.

Domestic and transnational dimensions of money laundering

Money laundering in Tanzania has both domestic and transnational dimensions. The domestic dimension includes activities from which illicit proceeds are generated within the country and ultimately invested in the Tanzanian economy. These activities include public sector corruption, misappropriation and theft of public and donor funds, the smuggling of minerals and poaching. The transnational dimension encompasses illicit activities that use the country as a transition or investment location, as well as illegal activities that generate proceeds within the country that are invested beyond its borders. Illegal profits and proceeds of transnational organised crimes move from other countries to Tanzania and from the latter to the former. Such crimes include drug trafficking and transnational corruption and foreign investment originating from illegal sources, for instance, the drugs trade.

The need to combat money laundering in Tanzania arises from several factors. First, through 'trailing' the illicit proceeds it is possible to identify and attack leaders of organised criminal activities: money always finds a way back to its bosses. Second, money laundering is a serious threat to national and international security. It threatens the safety and security of peoples and states, political institutions and the international community. Third, money laundering provides fuel for drug dealers, financial fraudsters, terrorists, illegal arms dealers and other criminals to expand and operate their criminal activities. Fourth, if left unchecked, money laundering can erode the integrity of a nation's financial institutions.

The government has acknowledged that money laundering has adverse economic, political and social effects. The Minister for Finance observed in parliament that:

Money laundering [creates] instability and [impedes the] government's ability to make appropriate economic and fiscal decisions. Failure to prevent money laundering allows criminal organisations to accumulate considerable political, economic and financial power, which can ultimately undermine national peace and democratic systems. Money laundering generally harms society by oiling the wheels of financial crime, which has no boundaries. Laundered funds provide financial support for [illicit] drug dealers, terrorists and arms dealers and other criminals to operate and expand their criminal empires.⁶⁴

The call for the detection and control of money laundering and terrorist financing in Tanzania stems from the demand to prevent such adverse effects.

Policy framework for detection and control

High-ranking government officials have issued various policy statements intimating the government's intention to address the problems of money laundering and the financing of terrorism. For instance, in his address at the official ceremony launching the East African Regional Technical Assistance Centre (EAST-AFRITAC), President Mkapa remarked that "a number of new challenges...have emerged, particularly those related to...money laundering, terrorism and the need to set up financial intelligence units. All these require expertise and resources to address them".⁶⁵

In addition, the Minister of Finance reiterated the government's determination to fight against money laundering and the financing of terrorism on several occasions and stated that the government has criminalised them through enacting several laws. The Minister stressed that since these crimes have become transnational, sophisticated and dangerous, the legal framework needed updating to ensure Tanzania's compliance with the standards provided for by international legal instruments. He noted further that the Prevention of Terrorism Act of 2002 was part of the government's efforts in this endeavour and that the government would enact comprehensive anti-money laundering legislation to complement the counter-terrorism legislation.⁶⁶

Further, the government has repeatedly intimated its commitment to control terrorism. In 2001, the Permanent Representative to the UN, Ambassador David N. Mwakawago, observed when addressing the UN General Assembly that there was a need to devise collective strategies to enhance common capabilities to address terrorism and create an enabling environment for harmonisation

and enforceability. He also stressed that the fight against terrorism demanded international co-operation and unity among nations. He stated further that Tanzania had adopted regulatory regimes providing for mechanisms to enlist foreign jurisdictions to co-operate in bilateral and multilateral frameworks to combat terrorism.⁶⁷

Tanzania's 2002 report to the UN Security Council's Counter-Terrorism Committee

In June 2002, Ambassador Mwakawago presented the country's report to the Counter-Terrorism Committee of the UN Security Council, pursuant to Clause 6 of Security Council Resolution No. 1373 (2001) (hereafter Resolution 1373), which requires states to report to the Committee on steps taken to implement the Resolution. (More detail on the Resolution itself is provided in a later section.) The report focused on the regulatory and institutional measures adopted to combat terrorist acts, to suppress terrorist financing and freeze assets and properties of terrorists and terrorist entities, to exchange information regarding terrorist activities and to co-operate in the prevention and control of terrorist acts. The Ambassador's report is summarised below.

Control of terrorist acts

Tanzania would adopt legislative measures to incorporate the suppression and prevention of terrorism,⁶⁸ and had signed and ratified several international legal instruments to combat terrorist acts. These include the Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963), the Convention for the Suppression of Unlawful Seizure of Aircrafts (1970), the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (1971), and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988).

The recruitment of terrorists and the supply of arms to terrorists

The recruitment of illegal military groups or armies is prohibited by the Constitution of Tanzania. Ownership, control and sale of firearms are regulated by several laws including the National Security Act of 1970, the Arms and Ammunitions Act of 1992 and the Explosives Act of 1993. A few companies, which are closely monitored, sell arms and ammunitions under government authorisation.

Adoption of an early warning system to prevent the commission of terrorist acts

The police and the Department of Immigration, in collaboration with institutions such as Interpol, investigate and exchange information on the movement of illegal immigrants. Criminal legislation and extradition agreements are used to identify and deny safe havens to terrorists. The government also controls all entry points on its borders and uses information exchanges and watch lists to monitor and control the movements of illegal immigrants, terrorists and other criminals.

Preventing the abuse of refugee status by terrorists

The Tanzania Refugee Act of 1998 provides for procedures and mechanisms for granting refugee status to asylum seekers. The National Eligibility Committee, established under the legislation, investigates, seeks information on and determines applications by asylum seekers. Additionally, the legislation requires asylum seekers and refugees to surrender arms and ammunition to the relevant authorities.

Measures to prevent and suppress money laundering and the financing of terrorism

Several regulatory mechanisms are in place to address these problems. They include the Bank of Tanzania (BoT) Circular No. 8 of 2000, which obligates banks and financial institutions to:

- adopt anti-money laundering policies and procedures;
- verify and identify customers before establishing relationship with them;
- develop procedures relating to retention of records of transaction of their customers;
- establish reporting mechanisms of suspicions transactions of their customers to the relevant authorities; and
- provide training and guidance to their personnel relating to procedures and control of money laundering.

The Circular includes several penalties for failure to comply with its provisions. A fine of not less than Tsh1,000,000 (US\$1,000) per day may be payable for the period during which the default persists.⁶⁹ The BoT may suspend a bank or financial institution from participating in the inter-bank foreign exchange

operations, suspend the bank's credit facilities with the BoT, or suspend or remove from office the officer or employee of the institution or disqualify him/her from holding office in any bank or financial institution. Moreover, the BoT may prohibit the bank or financial institution from issuing letters of credit or guarantees and opening new branches, or cancel the licence of such a bank or financial institution.⁷⁰

Applying the 'know your customer' rules and procedures set out in the Circular enables the banks and financial institutions to fight against both money laundering and terrorist financing. Further, the BoT does regular examinations of banks and financial institutions to detect suspicious transaction.

The Circular was issued to enhance the regulatory regime for combating money laundering, which is prohibited by the Proceeds of Crime Act of 1991. This Act, along with the Mutual Assistance in Criminal Matters Act of 1991, provides the legislative framework for freezing accounts at banks and financial institutions. For instance, the Proceeds of Crime Act allows the High Court to issue restraining orders in respect of assets of persons about to be charged with, or charged with, or convicted of, serious offences.

Further, the BoT issued a directive to all banks and financial institutions to block and freeze all accounts and properties belonging to persons and entities linked with terrorism and prohibited transactions with those persons and entities. In addition, the Economic and Organised Crime Control Act of 1984, apart from criminalising organised crime, also gives powers to the courts to order, when a person is convicted of economic or organised crime, the divestment of his interest in any enterprise or dissolution of any enterprise. The court may also impose restrictions on the convicted person's future activities or investments.

Co-operation with other nations and with regional and global bodies

Tanzania co-operates with other nations and regional and global bodies in their efforts to combat money laundering and the financing of terrorism. For instance, in compliance with the regional efforts of the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG), Tanzania has established the National Multi-Disciplinary Anti-Money Laundering Committee, which reports regularly to the ESAAMLG Task Force. Plans are underway to establish a Financial Intelligence Unit (FIU) to strengthen financial and economic intelligence gathering. Tanzania also co-operates with regional groups such as SADC and the East African Community (EAC) and various international organisations such as Interpol.⁷¹ The exchange of information with other states

and global bodies is also important in this regard. Bilateral agreements facilitate extradition of suspected of terrorists and other criminals.

Comment on Tanzania's report to the Counter-Terrorism Committee

First, the report was presented after the expiry of the time prescribed in Resolution 1373.⁷² The Resolution was adopted on 28 September 2001. The country's report is dated 12 June 2002 and was thus presented nearly four months after expiry of the deadline of 90 days after the Resolution's adoption.⁷³ Second, though the report states that the government has ratified several international anti-terrorism instruments, the applicability of some of these is limited as they have not been domesticated. The courts in Tanzania cannot apply provisions of an international legal instrument unless the instrument has been domesticated by enactment of legislation by the legislature. Third, the BoT Circular No. 8 of 2000 is neither principal nor subsidiary legislation: it is merely an administrative directive to banks and financial institutions and does not have any force in law. Financial institutions can neglect or refuse to comply with the Circular and the BoT does not have any legal basis for imposing the above-mentioned penalties on them. Fourth, the examination of financial institutions by the BoT is weak and cannot sufficiently be relied on to uncover suspicious transactions in which money laundering and terrorist financing are committed.

In addition, though the report claims that the BoT issued a directive to banks and institutions to block and freeze accounts and properties of individuals and entities suspected to have links with terrorists, there are reports that this directive was issued at the request of the US government following the September 2001 attacks. One newspaper stated it explicitly:

At the request of the US, the Tanzania Central Bank instructed commercial banks to freeze suspect bank accounts following the September 11 attacks. More than 20 accounts have since been frozen.⁷⁴

Another media report stated that the action taken against such bank accounts was part of a crackdown that started in late 2001, when the US government released 48 names of individuals and organisations (some of them Tanzanian) suspected of financing terrorist activities.⁷⁵ It might be that in freezing the accounts the BoT was not complying with Resolution 1373, but rather acting in accordance with the US government's directive. This is borne out by a statement in the report to the Counter-Terrorism Committee that:

Under the directive, [the] banks and financial institutions were also required to report to the Bank of Tanzania...activities of those individuals and companies linked to terrorism as *provided by the United States of America government* [emphasis added].⁷⁶

Further, the report did not acknowledge that several individuals and entities in the country that are linked with terrorism are still engaged in hotel, transport and manufacturing businesses, which are used as fronts to transfer funds to overseas.⁷⁷ The relevant authorities have not frozen their accounts, properties or economic resources, which may be used to facilitate the commission of terrorist attacks within or outside the country.

Nor did it disclose the presence of individuals or entities linked to terrorism in Tanzania. Media reports suggest that some individuals and organisations that are associated with terrorism are indeed active in Tanzania.⁷⁸ They are blatantly opposed to the anti-terrorism initiatives taken by the government. For instance, some Muslims and Islamic organisations oppose the anti-terrorism measures on the grounds that that they were imposed by the US on the government to intimidate it and undermine their welfare. There are also reports alleging that several businessmen with Yemeni and Pakistani links are involved in the financing of terrorism.⁷⁹ Some of these individuals or entities might be instrumental in financing, planning, facilitating or commission of terrorist attacks. Additionally, they might have been using Tanzania as a safe haven from which to commit terrorist attacks in other countries.

Undoubtedly, in its report to the Anti-Terrorism Committee of the UN Security Council, the government was afraid that it would be stigmatised if it acknowledged the presence of terrorists or terrorist entities in the country.

Moreover, regarding an early warning system to prevent the commission of terrorist acts, the report did not reveal that Tanzania's capacity to provide such a system is limited by its lack of technological know-how. It has wholly relied on other states, particularly the US and UK, or international institutions such as Interpol, to provide warnings relating to imminent terrorist attacks. For instance, on several occasions in 2002 the US issued warnings that terrorists would attack Zanzibar and again in 2003, both the US and UK intelligence services warned that Osama bin Laden's terrorist network was planning to attack tourist locations there.⁸⁰ The domestic authorities such as the police have not been able to issue such warnings because local institutions have limited capability in terms of adequately trained personnel and equipment to carry out surveillance on terrorists to identify their plans and intended targets.

Nor did the report acknowledge that limited institutional capacity undermines the capability of the relevant authorities to exchange information with other states or bodies regarding:

- actions and movement of terrorists;
- falsified documents;
- trafficking of arms, explosives and sensitive materials;
- use of communication technologies by terrorist groups; and
- the threat posed by the possession of weapons of mass destruction by terrorist groups.

Limited institutional capacity has a number of implications. For example, it is difficult for the inadequately equipped police force and Department of Immigration to monitor the country's long and porous borders. Arms have been illicitly smuggled into the country by refugees and international criminal syndicates notwithstanding the existence of the above-mentioned legislation. This has been attributed to the growing tension and military conflicts in the Great Lakes region, in which Tanzania is located. Some of the arms from those conflicts might easily have fallen into the hand of terrorists. Further, a lack of technical know-how limits the capacity of police to detect explosives, nuclear and other dangerous materials that might be used by terrorists. The investigation relating to the bombing of the US embassy in Dar es Salaam in 1998 was facilitated to a great extent by "the scientific and technological might of the Americans," who jointly investigated the matter with the Tanzanian police.⁸¹ When five people were arrested in 2002 with 110kg containers of radioactive materials, the police had to rely on expertise of the US Federal Bureau of Investigations (FBI) to investigate the contents of the containers and their sources.⁸² Therefore, local institutions' detection and investigation of explosives and dangerous materials and control of supply of arms and other materials to terrorists is inadequate.

In addition, the report to the Counter-Terrorism Committee did not set out any measures taken to suppress or combat money laundering and terrorist financing that takes place through the informal sector, for instance, the underground financial transactions by communities of Indian and Pakistani origin.

The government has not investigated financing of terrorist activities through the informal extraction and sale of minerals. There are media reports that minerals, particularly gold, tanzanite and rubies, are extracted by small-scale artisans and sold to unlicensed dealers and others who smuggle the precious

stones out of the country.⁸³ Concerning the informal mining and sale of tanzanite at Mererani, one media report quoted miners and local residents as saying that:

Muslim extremists loyal to [Osama] bin Laden buy stones from miners and middlemen, smuggling them out of Tanzania to free-trade havens such as Dubai and Hong Kong.⁸⁴

Some of the funds derived from the sale of these minerals could undoubtedly be used to finance terrorist acts.

In summary, while Tanzania's report to the Counter-Terrorism Committee asserts that the government is implementing Resolution 1373, the situation in practice is somewhat different. As it shall be shown elsewhere, this unsatisfactory state of affairs is accounted for by a weak policy framework, flaws in the regulatory regime and inadequacy of the institutional structures that have been put in place to detect and suppress money laundering and terrorist financing.

Other measures

In its efforts to control money laundering and the financing of terrorism the government has taken several other measures, including:

- establishing the National Multi-Disciplinary Anti-Money Laundering Committee comprising representatives of the President's Office on Good Governance, the Capital Markets and Securities Authorities, the BoT and the Ministries of Finance from both the Zanzibar Revolutionary Government and the United Republic of Tanzania, Justice and Constitutional Affairs, and Home Affairs;⁸⁵
- becoming a member of the (ESAAMLG);⁸⁶ the Southern African Forum Against Corruption (SAFAC); the Southern African Regional Police Chiefs Co-ordinating Organisation (SARPCCO); and the East African Police Chiefs Co-ordinating Organisation (EAPCCO).⁸⁷
- becoming a member of the Co-operation for Combating Illicit Drugs and Trafficking and Money Laundering in East Africa,⁸⁸
- membership of Interpol, which has become a significant player in facilitating evidence forfeiture proceedings. This international organisation continues to facilitate co-operation in investigations and tracing and arresting international offenders; and

- conclusion of agreements with several donors and co-operating partners, which have provided Tanzania with various types of assistance. They include the governments of the US and the UK, the Commonwealth Secretariat, the UN Programme Against Money Laundering and the FATF. For instance, in 2002, an agreement was signed whereby the US agreed to provide technical assistance to law enforcement officials and regulatory agencies in Tanzania to enable them to better combat financial and economic crimes. This project, which focuses on money laundering, terrorist financing, anti-corruption and asset forfeiture measures, is designed to develop improved legal frameworks including regulations and procedures and to improve investigative techniques, including collection and analysis of financial information.⁸⁹

Regulatory framework for detection and control

As pointed out previously, the government has adopted several regulatory measures to control money laundering and the financing of terrorism. These include ratification of the Vienna Convention, the Palermo Convention and the International Convention for the Suppression of the Financing of Terrorism of 1999. In addition Tanzania is implementing Resolution 1373, which addresses issues relating to the prevention and suppression of terrorist acts. Further, the government has put in place several laws that deal with various aspects of money laundering in the country.

Conventions and other international measures

The Vienna Convention

This Convention was adopted in 1988.⁹⁰ In summary, it requires state parties to:

- criminalise production, manufacture, extraction, preparation, offering, offering for sale, sale, distribution, delivery, brokerage, dispatch, dispatch in transit, transportation or exportation of drugs and designate the above acts as serious offences. States are also required to outlaw laundering proceeds from activities related to dealing in drugs;
- criminalise conversion or transfer of property derived from offences related to drugs, for the purpose of concealing or disguising the illegitimate origin of the property. States are also required to criminalise concealment or disguise of the true nature, source, location, disposition, movement, rights

with respect to, or ownership of property derived from the offences related to drugs;

- adopt measures to enable confiscation of proceeds of crimes related to drugs. The competent authorities should be able to identify, trace, and freeze or seize and forfeit proceeds, property or instrumentalities of crime and order bank, financial or commercial records to be made available or seized. Bank secrecy should not interfere with international criminal investigations;
- make offences related to drugs extraditable in any extradition treaty between countries and if no treaty exists the Convention should be regarded as the legal basis for extradition;
- afford one another the widest mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to criminal offences relating to drugs. Mutual assistance can be afforded in taking evidence or statements from persons, effecting service of judicial documents, executing searches and seizures, providing information and evidentiary items, providing original or certified copies of relevant documents and records including bank, financial, corporate or business records, identifying or tracing proceeds, property instrumentalities or other things for evidence purposes, enhancing efficacy of law enforcement action, conducting enquiries and exchanging personnel and other experts; and
- co-operate through international and regional organisations and through concluding bilateral and multilateral agreements and arrangements to enhance the effectiveness of international co-operation.

Though directed primarily at offences related to drugs, the Vienna Convention remains the benchmark in terms of international co-operation against money laundering.

The Palermo Convention

The Palermo Convention was adopted in 2000.⁹¹ In brief it requires that state parties:

- criminalise the laundering of proceeds of serious crimes;
- adopt a domestic regulatory and supervisory regime for banks and non-banks financial institutions and other bodies susceptible to money laundering in order to detect and deter all forms of money laundering, including requirements for customer identification, record keeping and reporting of

suspicious transactions, and to adopt measures to detect and monitor the movement of cash and negotiable instruments across their borders. States are called upon to use as guidelines initiatives of regional, interregional and multilateral organisations against money laundering;

- ensure that authorities charged with the task of combating money laundering co-operate and exchange information with other national and international authorities and that financial intelligence units for the collection, analysis and dissemination of information regarding potential money laundering are established;
- adopt measures to detect and monitor the movement of cash and negotiable instruments across their borders. Such measures may include a requirement that individuals and businesses report the cross-border transfers of substantial quantities of cash and negotiable instruments;
- use as guidelines the relevant initiatives of regional, interregional and multilateral organisations against money laundering to establish domestic regulatory and supervisory, and that they develop and promote global, regional, sub-regional and bilateral co-operation among judicial, law enforcement and financial regulatory authorities in order to combat money laundering;
- criminalise corruption and participation as an accomplice in offences relating to corruption itself and to the prevention, detection and punishment of corrupt public officials;
- provide for confiscation and seizure of the proceeds of crime derived from serious offences. Further, the proceeds of crime or property, equipment or other instrumentalities used in the commission of the offences should be traced, identified, seized or frozen, and state parties should empower their relevant authorities to order banks, financial or commercial records to be made available or be seized. State parties cannot decline to act on the grounds of bank secrecy;
- co-operate in issues relating to confiscation of proceeds of organised crime and in the investigation, prosecution, extradition and judicial proceedings relating to organised crime. State parties are called upon to conclude bilateral or multilateral treaties or arrangements to enhance the effectiveness of the co-operation; and
- make organised crime an extraditable offence in any treaty existing between states, and if no treaty exists the Convention should be taken as the legal basis for extradition.

Resolution 1373

In September 2001, the UN Security Council passed Resolution No. 1373 (2001). The Resolution mainly focuses on measures to be taken to combat terrorist acts but notes the close connection between international terrorism and transnational organised crime, illicit drugs, money laundering, illegal arms trafficking and illegal movement of nuclear, chemical, biological and other potentially deadly materials. It underscores the need to enhance co-ordination of efforts to fight terrorism at the national, sub-regional, regional and international levels.

The Resolution requires member states to:

- adopt measures to criminalise terrorist acts as serious offences, the seriousness thereof to be reflected in the sentences meted, and to ensure that persons who participate in financing, planning, preparing terrorist acts or in supporting the acts are arrested and prosecuted;
- take measures to prevent and suppress the financing of terrorism; to criminalise the wilful provision or collection of funds by their nationals or in their territories to facilitate commission of terrorist acts; to freeze funds, assets or economic resources related to terrorist activities; and to prohibit their nationals or entities within their countries from making any funds available for the benefit of persons who commit terrorist acts;
- refrain from supporting terrorists or terrorist entities by suppressing recruitment of members of terrorist groups and supply of weapons by terrorists; deny safe haven to those who finance, plan, support, or commit terrorist acts; prevent those who finance, plan, facilitate or commit terrorist acts against other states; and ensure that those who participate in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts are brought to justice;
- afford one another the greatest measure of assistance in criminal investigations or criminal proceedings relating to the financing or support of terrorist acts and obtaining of evidence for the proceedings; and prevent the movement of terrorists through control of borders, identity papers and travel documents.
- enhance the exchange of information regarding actions and movements of terrorists, falsified travel documents, traffic in arms, explosives or sensitive materials, use of communication technologies and weapons of mass destruction; to exchange of information and co-operate on administrative

and judicial matters to prevent commission of terrorist acts; to co-operate through bilateral and multilateral arrangements and agreements to prevent and suppress terrorist attacks and take action against terrorists; to be parties to international anti-terrorism instruments and implement the relevant anti-terrorism conventions, protocols and resolutions; and to adopt measures to ensure that asylum seekers have not planned, facilitated or committed terrorist acts and that refugee status is not abused by perpetrators, organisers or facilitators of terrorist acts.

- submit periodic reports to the UN Security Council Counter-Terrorism Committee on the measures they have taken to implement Resolution 1373.

The Forty Recommendations

The FATF⁹² is an inter-governmental body whose purpose is to develop and promote policies to combat money laundering. These policies aim at preventing criminal proceeds from being used in future criminal activities and from affecting legitimate economic activities. In its bid to fight money laundering the FATF drew up Forty Recommendations, which all countries are encouraged to adopt.⁹³ They have become the basic standard for the prevention of money laundering.

The Forty Recommendations seek to achieve three main objects:

- improving national systems to combat money laundering, in conformity with the Vienna Convention, by criminalising all aspects of money laundering, even for offences not associated with drugs, and by setting effective confiscation procedures;
- reinforcing the role of financial systems in the broadest sense, that is, banking and non-banking institutions. The recommendations seek to make better mechanisms within financial institutions for identifying of clients, detecting unjustified and suspicious transactions and establishing of secure and modern techniques; and
- strengthening international co-operation, at the administrative level through exchange of information on international foreign exchange movements and at the judicial level through the development of mutual assistance for the purpose of investigation, seizure and confiscation of funds and extradition of criminals.

Following the terrorist attacks in the US on 11 September 2001, the FATF issued eight new Recommendations to combat the financing of terrorism more specifically. These Recommendations call on states to:

- take immediate steps to ratify and fully implement the UN Convention for the Suppression of the Financing of Terrorism of 1999 and Resolution 1373;
- criminalise the financing of terrorism, terrorist acts and terrorist organisations;
- freeze, without delay, funds or other assets of terrorists and those who finance terrorism and terrorist organisations;
- afford other countries assistance in connection with criminal, civil and administrative enquiries, investigations and proceedings in this area;
- ensure that countries do not provide safe havens for individuals sought for financing terrorists, terrorist acts or terrorist organisations;
- institute supervisory measures applicable to individuals and legal entities that provide services for the transmission of money or value, including transmission through informal money or value transfer systems or networks, particularly the *hawala* network;
- require financial institutions, including money remitters, to include accurate information (e.g. name, address and account number) on funds transfers and related messages; and
- give particular attention to non-profit organisations, such as charitable organisations, that can be used or exploited by terrorist organisations.

UN Convention for Suppression of the Financing of Terrorism

The UN adopted the Convention for Suppression of the Financing of Terrorism in 1999.⁹⁴ Briefly it:

- defines the offence of the financing of terrorism broadly to cover the act of providing or collecting funds with a view of carrying out a terrorist attack. The funds in question can have legal or illegal origins;⁹⁵
- requires states to set up effective systems to suppress the financing of terrorism, to make it possible under their domestic law to establish the liability of legal entities engaged in the financing of terrorism, and to adopt measures necessary for the identification, freezing, seizure and confiscation of targeted funds, which funds can be used to compensate the victims of offences and their families;
- calls for adoption of measures to control the establishment of shell companies that depart from all the customary standards in the area of establishment,

this to include identification of management bodies, establishment of capital actually paid and publication of annual accounts; and

- calls upon the states to provide the greatest measures of assistance in connection with criminal investigations, extradition proceedings and obtaining evidence. Bank secrecy may not be invoked by a state to deny another state a request for mutual assistance.

Other instruments

Other international instruments to which Tanzania is a party include:

- The SADC Protocols (including the Protocol Against Corruption, the Protocol on Combating Illicit Drugs and the Protocol on Mutual Legal Assistance in Criminal Matters);
- The Memorandum of Understanding among members of the ESAAMLG;
- The African Union Convention on Preventing and Combating Corruption; and
- The African Union Convention on the Prevention and Combating of Terrorism.

Domestic legislation

In the bid to control money laundering and terrorist financing in Tanzania, numerous pieces of domestic legislation are relevant or have been newly put in place. They include:

- the Economic and Organised Crime Control Act of 1984;
- the Mutual Assistance in Criminal Matters Act of 1991;
- the Proceeds of Crime Act of 1991;
- the Drugs and Illicit Traffic in Drugs Act of 1995;
- the Extradition Act of 1965;
- the Banking and Financial Institutions Act of 1991;
- the Prevention of Corruption Act of 1971;
- the Prevention of Terrorism Act, 2002;
- the Armaments Control Act of 1991;
- the Ammunition Act of 1991;

- the Police Force Ordinance, Chapter 322;
- the Penal Code, Chapter 16; and
- the Public Leadership Code of Ethics Act of 1995.

Procedural regulations include the Criminal Procedure Act of 1985 and the Evidence Act of 1967.

In summary, on paper the provisions of the legislation listed above can be regarded as tools for suppressing and combating money laundering and preemptively denying terrorists the funds they need to carry out terrorist attacks. The main provisions of the legislation include:

- criminalisation of money laundering and the financing of terrorism in Tanzania;
- granting powers to the competent authorities, such as the police, to search, identify, trace, and freeze or forfeit criminal proceeds and empowering the authorities to order that financial records be made available or be seized;
- providing the framework for banks and financial institutions to identify clients, keep records and report suspicious transactions by clients to the relevant authorities;
- providing for the extradition of individuals alleged to have been committed or been convicted of offences including money laundering and terrorist financing under the law of the requesting states. This is a principle of international co-operation between Tanzania and other countries, which ensures that every crime committed is punished regardless of the fact that the accused committed or was convicted of an offence in another country; and
- providing for the provision of mutual assistance to other states in investigation proceedings, taking evidence in foreign countries and in Tanzania, and in executing searches and seizure, such assistance to be enhanced by co-operation between Tanzania and other countries through bilateral and multilateral agreements and arrangements.

Economic and Organised Crime Control Act of 1984

The Act criminalises organised crime generally. It does not specifically deal with money laundering or terrorist financing. It defines organised crime as an offence or non-criminal culpable conduct that is committed or from whose nature a presumption may be raised that its commission is evidence of the

existence of criminal racket in respect of acts connected with, related to or capable of producing the offence in question.⁹⁶ These crimes include: offences relating to exchange control, bribery and corruption, hoarding of commodities, hoarding of money, occasioning loss to specified authorities, theft of public property, stock theft, offences against conservation of wildlife, illegal prospecting for minerals, gemstones and leading organised crime.

The legislation gives powers to the relevant authorities to search buildings, vessels, carriages, boxes, receptacles or places and to seize any property involved in the commission or facilitation of commission of an economic crime. Further, the police have the power to arrest and prosecute persons suspected of committing organised crime.

Additionally, on conviction of an economic offence, the court may order forfeiture of the guilty party's property that was involved in the commission or facilitation of the offence.⁹⁷ Further, the property may be disposed of subject to the right of a third party and the proceeds paid to the Consolidated Funds.

Proceeds of Crime Act of 1991

The Proceeds of Crime Act is aimed at ensuring that criminals cannot benefit from their illicitly acquired riches.

As stated previously, Section 71(3) of the Act makes it an offence to engage in money laundering. A person found guilty of this offence shall be liable to a fine or imprisonment or both. Penalties for this offence are significant and show the government's intention to punish offenders. Penalties include fines of up to Tsh20 million (US\$20,000), or twice the market value of the property, whichever is greater, or imprisonment for not more than 15 years, or both.⁹⁸ If the offence is committed by a body corporate, its fine may be up to Tsh60 million (US\$60,000) or three times the market value of the property, whichever is greater.⁹⁹

After a conviction under the Act, the Attorney-General may apply for an order of forfeiture against any property used in the commission of the offence, subject to the rights of the third parties.¹⁰⁰ The court may grant an order to forfeit the property, the effect of which is to vest the property in the government.

In addition, financial institutions are obligated to retain original documents relating to financial transactions for a minimum of ten years,¹⁰¹ and where a financial institution has reasonable grounds for believing that information about a customer may be relevant to an investigation into, or a prosecution of, such a customer, it may give the information to a police officer.¹⁰² Also, police officers

can require a person to produce any document relating to any property in order for them to identify such property and, where necessary, to seize it.¹⁰³ Further, the Act gives them the power to search a person and seize any property reasonably believed to be tainted property and to enter into land or premises to search for tainted property.¹⁰⁴

It provides further that there will be an exclusion of personal interest in a restraining order if a person having interest in the property applies to the court for a variation. In such a case, the court will grant the application and such interest will be excluded. Under this provision, the rights of *bona fide* third parties are protected.¹⁰⁵

Prevention of Corruption Act of 1971

Corruption has been criminalised under the Prevention of Corruption Act of 1971.¹⁰⁶ The legislation is the most ambitious weapon in the fight against corruption. It targets both soliciting and accepting bribes¹⁰⁷ and other forms of corruption such as unlawful using of documents to mislead or deceive,¹⁰⁸ obtaining advantage by a public officer without consideration or without adequate consideration,¹⁰⁹ and being in possession of a property corruptly acquired.¹¹⁰

The Act establishes the Prevention of Corruption Bureau (PCB) to investigate and prosecute persons accused of offences relating to corruption. Additionally, the PCB acts as an advisor to the government and the public at large on issues relating to the control of corruption in Tanzania and has the duty to sensitise the public accordingly.

The Act grants powers to the Director of the PCB to authorise the Bureau's officers to investigate the bank accounts of a person suspected of obtaining property corruptly, or the accounts of his/her spouse, child or agent. The banks are required to furnish the required information. Failure by the responsible bank officer is an offence punishable on conviction by imprisonment for up to two years or a fine of up to Tsh50,000, or both.¹¹¹

The Act carries serious penalties for corruption. Corrupt practices are punishable by imprisonment for up to ten years, a fine of Tsh50,000, or both. Additionally, obtaining advantage without consideration or without adequate consideration carries a penalty of imprisonment for up to seven years, a fine of up to Tsh20,000, or both. Additionally, the court may order that any advantage received be forfeited. Obtaining property corruptly carries a penalty of imprisonment for up to five years and in addition, the court may order that the property so obtained is forfeit.¹¹²

Such provisions can be useful for controlling or preventing the laundering of proceeds illicitly derived from corruption.

*Drugs and Illicit Traffic in Drugs Act of 1995*¹¹³

This legislation strengthens laws relating to drugs. Also, it provides for the control, regulation and forfeiture of property related to drugs and prevents illicit trafficking in drugs. The legislation can be viewed as a form of domestication of the Vienna Convention.

The Act provides for the establishment of the National Drug Control Commission, whose main role is to define, promote and co-ordinate government policy on the control of abuse and trafficking in drugs.¹¹⁴ It is required, among other things, to develop and implement the national plan of action for drug control and implement the provisions of international conventions on drugs, and to update and adopt drug control laws and regulations.¹¹⁵ The Commission is required to report to parliament on the national situation and developments regarding the supply of and demand for drugs.¹¹⁶

In essence the Act prohibits the possession of drugs and their consumption, cultivation, processing, manufacturing, preparation, sale, purchasing, distribution, storage, importation into and exportation from Tanzania.¹¹⁷ Also prohibited in relation to drugs are financing the commission of offences and attempting to commit offences.¹¹⁸ Penalties for contravening the Act include the payment of fines ranging from Tsh5,000,000 to Tsh10,000,000, and/or imprisonment for periods ranging from 30 years to life.

In addition, the law empowers police or revenue officers to seize any illegal drugs and all materials used in the commission of offences related thereto.¹¹⁹ The court may order disposal of the seized property subject to third party claims.¹²⁰ Additionally, the property owned by a person convicted of an offence under the Act on the date of conviction may be forfeit.¹²¹

The Act provides further that the government may enter into agreements with other states to facilitate the tracing, forfeiture and confiscation of the property used or relating to commission of offences relating to drugs.

*Prevention of Terrorism Act*¹²²

This Act criminalises the commission and financing of terrorism. The legislation is a form of domestication of the UN Convention for Suppression of the Financing of Terrorism of 1999.

Section 4 of the Act enumerates various acts that constitute terrorism. They include those acts that:

- may seriously damage the country or an international organisation;
- are intended to seriously intimidate the population, unduly compel the government to perform or seriously destabilise or destroy the fundamental political, constitutional, economic and social structures of the country or an international organisation;
- involve attacks on personal life that may cause death;
- attack a personal physically;
- kidnapping;
- are designed to disrupt computer systems, communications infrastructure, banking or financial services utilities, transport or other services and provision of emergency services (e.g. police and civil defence);
- are prejudicial to national security or public safety or which are intended to threaten the public or force the government or an international organisation to do or refrain from doing any act; and
- have the purpose of advancing or supporting terrorist acts, or arranging, managing, assisting, providing logistics, equipment or facilities to or attending meetings of terrorist groups.¹²³

The Act provides that to constitute terrorism an act or threat should:

- involve serious bodily harm to a person or serious damage to property;
- endanger a person's life;
- create a serious risk to the public health or safety;
- involve the use of firearms or explosives; or
- release into the environment or expose the public to hazardous or harmful radioactive, toxic chemical, microbial or biological agents.

The legislation gives the police the power to enter and search any place, premises or vehicle where there is evidence of commission of an offence. Additionally, they may seize, remove and detain anything that contains evidence of commission of a terrorist offence and arrest and detain any person suspected

of committing such an offence.¹²⁴ Further, the police can apply to the court to intercept communications received or transmitted, or about to be received or transmitted, by a communication service provider, which communication is related to terrorist activities.¹²⁵

The Act prohibits the financing of terrorism and criminalises provision or collection of property or funds for terrorist acts.¹²⁶ Upon an application by the Attorney-General, the funds, property or economic resources of persons who commit, attempt to commit or facilitate the commission of terrorists acts or of terrorist groups, can be forfeited and be disposed of as directed by the court.¹²⁷ Additionally, the law gives the relevant authorities the power to freeze the funds, financial assets or other economic resources of terrorists or terrorist entities.

Moreover, the legislation imposes a duty on *any* person to disclose to the police any information they may have relating to property or transactions relating to the commission of terrorist acts. Additionally, every financial institution has the duty to report to the relevant authorities every three months that they are not in possession or control of any property owned or controlled by or on behalf of terrorists or terrorist entities and to report the particulars of persons, accounts and transactions involved in terrorism. Further, if a financial institution has reasonable grounds to suspect commission of terrorist acts, it must report such suspicions to the police. Failure to comply with these requirements is punishable by imprisonment for not less than 12 months.¹²⁸

The Act also prohibits the provision of any form of support to persons or organisations involved in terrorist acts. It requires Tanzania to deny safe haven to those who finance, plan, support or commit terrorist acts.¹²⁹ Additionally, it is prohibited to commit or facilitate the commission of terrorist acts in another state.

Terrorism and acts associated with it are serious criminal offences. This is reflected in the sentences imposed on persons found convicted of offences under the Act, which range from imprisonment for not less than 12 months to life imprisonment.¹³⁰

The Act provides for exchange of information and extradition of offenders between Tanzania and other countries. Such information relates to terrorist groups, terrorist actions and movements of weapons and materials by the terrorist groups and their use of communications technology.¹³¹ Additionally, it provides for co-operation between Tanzania and other states for extradition of persons suspected of committing offences under counter-terrorism conventions.

Mutual Assistance in Criminal Matters Act of 1991

This legislation¹³² was enacted to provide for mutual assistance between Tanzania and other foreign countries, to facilitate the provision and obtaining of such assistance by Tanzania and to provide for matters related or incidental to mutual assistance in criminal matters. Assistance is mainly sought in relation to evidence and the identification and forfeiture of property.¹³³

The Act provides for assistance in criminal matters including:

- obtaining evidence, documents, records and other articles;
- locating and identifying witnesses or suspects;
- executing searches and seizure;
- making arrangements for persons to give evidence or assist in investigations;
- forfeiting or confiscating property; and
- servicing documents.¹³⁴

Any request on behalf of the government for assistance in criminal matters in terms of the Act is made from the office of the Attorney-General.¹³⁵ Likewise, the request by the appropriate authority of a foreign country for assistance from Tanzania is channelled through the Attorney-General.¹³⁶

Extradition Act of 1965

The principle of international co-operation between countries ensures that any criminal who has committed an offence is punished, regardless of the fact that the accused committed, or was convicted of, an offence in another country. The objective of extradition proceedings is to bring to justice persons alleged to have committed, or who have been convicted of, crimes under the law of the requesting state.

In Tanzania the relevant law is the Extradition Act of 1965.¹³⁷ It applies to Tanzania and any other country declared as such by the Minister responsible for legal affairs.¹³⁸

In practice, a country can apply through a diplomatic representative for the surrender of a fugitive criminal. The Minister responsible for legal affairs will signify to a magistrate that a requisition has been made and the magistrate is required to issue a warrant of arrest.¹³⁹

The law provides that the accused person will not be arrested if it is proved that the offence is political in nature.¹⁴⁰

Other legislation

Other legislation that provides for issues relating to international co-operation in criminal matters includes the Fugitive Offenders (Pursuit) Act of 1969¹⁴¹ and the Witness Summonses (Reciprocal Enforcement) Act of 1969.¹⁴² Legislation that touches on some aspects of money laundering includes the Public Leadership Code of Ethics Act of 1995,¹⁴³ the Penal Code,¹⁴⁴ the Evidence Act of 1967,¹⁴⁵ the Criminal Procedure Act of 1985,¹⁴⁶ and the Police Force Ordinance.¹⁴⁷

Institutional framework for detection and control

The institutions responsible for undertaking various tasks to combat money laundering and terrorism in Tanzania include:

- the National Multi-Disciplinary Anti-Money Laundering Committee;
- the Ministry of Finance;
- the BoT and banking financial institutions;
- the Ministry of Justice and Constitutional Affairs;
- the Ministry of Home Affairs;
- the Police Force;
- the PCB;
- the National Drug Control Commission; and
- the courts.

The majority of these have been established by legislation.

The Ministry of Finance has a special section that deals with issues relating to financial crimes, including money laundering.

The BoT, established under the Bank of Tanzania Act of 1995,¹⁴⁸ controls and regulates the activities of the banking and financial institutions in the country, through the Banking and Financial Institutions Act of 1991.

The National Multi-Disciplinary Anti-Money Laundering Committee is an advisory body to the government on issues relating to policy, legal and financial matters, including the control of money laundering in the country. The Committee was established as Tanzania's implementation of its commitment to SADC's Memorandum of Understanding, which requires member states to establish such committees.

The duties of the police force in relation to money laundering and the financing of terrorism include investigations, searches and seizure of properties and documents.

Limitations of mechanisms for combating money laundering and the financing of terrorism

Inadequate resources

The discussion thus far has shown that, on paper at least, there are various policy, regulatory and institutional mechanisms that deal with the suppression and control of money laundering and the financing of terrorism in Tanzania. However, it appears that they are not effective in addressing these problems for numerous reasons, including flaws in the policy, regulatory and institutional frameworks.

Though high-ranking government officials have intimated the government's intention to combat money laundering and the financing of terrorism, this has not been supported by adequate resources for successful implementation. Information from the relevant institutions indicated that the government has not allocated adequate resources for capacity building to assist in the detection and control of money laundering and the financing of terrorism. For instance, there are inadequate numbers of competently trained personnel to control the drug trade, smuggling, corruption and the detection of fraud and money laundering and terrorist financing. A few personnel have undergone short training courses, facilitated by donors, particularly the government of the US. According to a media report:

Since the August 7 bomb [attack] in Dar es Salaam, the US Federal Bureau of Investigation has trained the Tanzania police in criminal investigations. Over 100 Tanzania police officers have undergone training in the US and at the Gaborone-based International Law Enforcement Academy (ILEA) in Botswana.¹⁴⁹

Additionally, the US has provided equipment and materials to facilitate the control of money laundering and terrorist financing.

It is apparent that the government has left this task of providing resources to foreign donors. However, there are no plausible reasons for the government's inability to allocate sufficient resources to the institutions and authorities that deal with these offences, such as the police, the PCB, the courts and banks and financial institutions. Consequently, the capacity of these institutions and authorities in this respect is limited.

Lack of political will

Another critically-needed resource is an intangible one, that is, the political will from the government. For any policy to be successfully implemented, political commitment must be present especially at the key points of the implementation, monitoring and evaluation processes. It seems that the government lacks the political will to suppress organised criminal activities on which money laundering is predicated, including corruption, misappropriation and theft of public funds, the drugs trade and tax evasion. Members of the public and donors complain about government inaction and failure to investigate allegations of public sector corruption or to arrest and prosecute prominent people involved in corrupt practices, including government officials, their friends and relatives.

Similarly, despite various reports of the Comptroller and Auditor-General, which have unearthed misuse, misappropriation, theft and embezzlement of public funds, the government has done little to ensure that the culprits are prosecuted. In spite of clear evidence that the wife of the former Minister of State in the President's Office had fraudulently obtained US\$63,450 of taxpayers' money and that the documents evidencing her purported treatment were falsified, the government has not arrested and/or prosecuted the culprits.¹⁵⁰

Additionally, subsequent to the Report of the Presidential Commission of Inquiry on Corruption in Tanzania, only a few top government officials were investigated or prosecuted in connection with corruption. The impression is that some government officials pay lip service to efforts to control money laundering and the financing of terrorism, but fail to translate their political pronouncements into practice. As a result, commission of these offences will continue unabated.

Lack of domestication of internal legal instruments

Regarding international legal instruments, it has been shown that Tanzania has ratified or signed numerous conventions and protocols for the suppression of money laundering and terrorist acts. However, the applicability of some of these international legal instruments is limited because they have not been domesticated, such as the FATF Forty and Special Recommendations. Nor have several anti-terrorism protocols and conventions (excluding the provisions of the UN Convention on Suppression of Financing for Terrorism of 1999) been domesticated. Undomesticated international legal instruments are unenforceable by courts in Tanzania.

Lack of harmonisation between domestic and international legal instruments

Though there is domestic legislation that criminalises money laundering and the financing of terrorism, facilitates the confiscation of the proceeds of crimes and provides frameworks for the extradition of criminals and for international co-operation in criminal matters, this legislation has not been harmonised with international standards. After realising this weakness, the government has intimated its intention to put in place a comprehensive anti-money laundering law.¹⁵¹

Related to the above, some domestic legislation does not conform to provisions of the international legal instruments dealing with money laundering and the financing of terrorism, to which Tanzania is a signatory. For instance, under the Proceeds of Crime Act there is no scope for co-operation and the exchange of information at national and international levels, as required under the Palermo Convention.¹⁵² Also, this Act does not provide for the establishment of the FIUs to gather and analyse information regarding money laundering and the financing of terrorism.¹⁵³

In addition, some legislation was enacted prior to the adoption of the international legal instruments and requires updating, including the Extradition Act of 1965, the Fugitive Offenders (Pursuit) Act of 1969, the Witness Summons (Reciprocal Enforcement) Act of 1969 and the Economic and Organised Crime Control Act of 1984, to mention a few. Consequently, the usefulness of these outdated laws is very restricted.

Lack of force of administrative directives

The BoT's Money Laundering Control Circular of 2000 provides a range of penalties for failure to comply with its provisions by banks or other financial institutions or their responsible officers, as outlined above. However, the Circular is merely an administrative directive of the BoT. Because it is not law, compliance is not obligatory or enforceable and financial institutions can neglect to comply with its provisions with impunity. Surprisingly, neither the Bank of Tanzania Act of 1995 nor the Banking and Financial Institutions Act of 1991 provide for regulations dealing with detection and control of money laundering.

Another weakness of the Circular is that its provisions are inapplicable to several institutions and professionals, including:¹⁵⁴

- insurance brokers and agents;¹⁵⁵
- stock brokers, stock dealers or investment advisors;¹⁵⁶
- auditors and accountants;¹⁵⁷
- attorneys,¹⁵⁸ particularly when they represent or assist clients in buying and selling of real estate or business entities, in managing clients' monies, securities and other assets, in the creation, operation or management of trusts or companies and in the performance of financial transactions;
- real estate agents;
- dealers in high value goods, such as precious stones or metals and antiques;
- money remitters;
- owners, managers and directors of casinos; and
- informal transmitters of money or the underground financial system.

As a result, the above persons, professions and institutions have no legal duty whatsoever to disclose or report suspicious transactions involving their clients. Also, some (such as advocates) are protected from disclosing information about their clients by the principle of confidentiality.¹⁵⁹ Similarly, the law on insurance exempts an insurer from divulging information about his agent. These and many other professions and institutions can easily be used as vehicles for money laundering in the country.

Again, information from various private banks and financial institutions was that some flouted the procedures of identifying their clients laid down by the BoT Circular. They were using less strict methods for identifying potential new

customers for fear they would "...scare off prospective customers, particularly during this era of competition in the banking sector".¹⁶⁰ It was evident that some did not regularly report suspicious transactions to the BoT. This state of affairs was attributed to the fear that customers might sue them for breach of secrecy, or that they would lose their customers to other banks or institutions after divulging the customers' affairs, and that this was detrimental to the institutions during this era of liberalisation in the financial sector.¹⁶¹ Further, various financial institutions were not providing training to their personnel on issues relating to detection and reporting money laundering regularly on the grounds that such training was too costly in terms of both time and money.¹⁶²

A BoT source further indicated that some financial institutions neglected to report suspicious transactions because of the BoT's weak supervisory powers.¹⁶³ Unless financial institutions reported these transactions, there was no way the BoT could discover what transpired in accounts involving suspicious transactions.

Lack of information on sources of foreign investments

The Investment Promotion Act of 1997¹⁶⁴ does not provide for procedures or mechanisms that can be used by the Tanzania Investment Centre (TIC) to trace the origins of money or property invested in Tanzania. Although under Section 6(b) the TIC has the duty to collect information about sources of investment capital, there is no information available on incidents where investment capital originated from criminal proceeds. A source at the TIC was of the view that if such information were received, the TIC would report the matter to the relevant authorities. According to an economist:

It seems that the Centre is working hard to secure capital to be invested in our Tanzania. The goal is to enhance economic development of our country, so little attention is paid to issues relating to how the capital was acquired.¹⁶⁵

However, several reasons account for this state of affairs. First, the TIC has limited capacity to trace the origins of foreign capital invested in the country. Second, Tanzania's heavy dependency on foreign investments makes it objectionable for the TIC to conduct thorough searches of information relating to the origins of investment capital. As an MP put it:

If we start [questioning investors] where and how they acquired the money they are investing in the country, there is a danger that [they will be scared off], thus weakening our economy.¹⁶⁶

In addition, the Tanzania Investment Act does not provide for penalties that will be imposed if the TIC establishes that money or property invested originated from illicit sources. It is also difficult for the TIC to secure information relating to the origin of the money or property invested in the country.¹⁶⁷ Thus, there is a great possibility that criminal proceeds from other countries can easily be invested in Tanzania.

Lack of investigative skills and resources

The record of detection, investigation and prosecution of offences relating to money laundering in Tanzania is not at all impressive. During field research, the author of this report came across no cases where a person or entity has been prosecuted for money laundering. Mwema¹⁶⁸ maintains that the police lack the necessary skills and know-how to investigate such cases. Moreover, money laundering techniques have become complicated and operate on an international scale due to active trade, massive capital inflows from abroad, widespread use of electronic money transfers, international travel and the liberalisation of the foreign exchange market. With the advancement of technology, for instance, the use of electronic commerce, electronic banking and electronic cashing, organised criminals can transfer large sums of money from one part of the world to another with ease. This makes detection and investigation complex and lengthy and requires specialised expertise.

The use of multiple jurisdictions by money launderers exacerbates problems of detection and investigation of money laundering and the financing of terrorism. However, in Tanzania a serious problem in the capacity to investigate commences before money is moved to another jurisdiction. The police are inadequately equipped in terms of modern equipment such as computers, phones and faxes and well-equipped forensic laboratories to be able to investigate sophisticated criminal operations. They do not have adequate resources to either employ or buy forensic accounting, financial analysis and computer skills to unravel sophisticated criminal networks.

Their capacity to investigate sophisticated criminal operations is thus limited. If criminal operations are not detected before the proceeds of crime are moved around, there is little chance of successful prosecutions, much less of forfeiture of proceeds.

Likewise, personnel charged with the task of controlling offences related to drugs lack well-equipped security and modern investigation facilities. For instance, they cannot identify manufactured illicit drugs sold on the street.¹⁶⁹

Some criminal cases are dismissed for lack of evidence due to inadequate and sloppy investigative work by the police.

Lack of specialised prosecutorial skills

There are few prosecutors who have expertise in dealing with cases involving money laundering or terrorist financing. The state attorneys do not have specialised familiarity and proficiency in handling such cases.¹⁷⁰ Likewise, police prosecutors, who appear in the lower courts, have very limited know-how in these types of cases.¹⁷¹ The inability of prosecutors to work effectively with forensic accountants, computer experts and other specialists hampers the chance of securing successful prosecutions and convictions of offenders and forfeiture of the proceeds of these crimes. Additionally, though a few judicial officers have attended workshops on money laundering, they cannot be regarded as having specialised expertise in handling forfeiture and complex money laundering and terrorist financing cases.¹⁷² Since judicial personnel have limited expertise in issues relating to, for instance, electronic commerce, electronic banking, new payment technologies and computer related crimes, their competence in dealing with money laundering and terrorist financing cases is limited. Consequently, the courts have great difficulty in presiding over such cases.

Corruption in legislative, judicial and enforcement activities

Corruption, which is a serious problem in Tanzania insofar as the detection and control of money laundering is concerned, is linked to money laundering and the financing of terrorism in two ways: as a source of money for laundering and as a facilitating condition for the practice of money laundering and terrorist financing. Corruption is in itself a source of the proceeds of crime. This may occur through the misappropriation of aid monies, other public funds or in some cases other criminal proceeds that would otherwise be subject to forfeiture by the state. Further, public corruption generates money that may be used, in turn, to bribe officials responsible for investigating and prosecuting money launderers and the financiers of terrorism.

Illegal payments or influence peddling may be used to influence legislative, judicial or enforcement activities concerning money laundering and terrorist financing. The most common strategy used by criminals is to bribe officials of financial institutions, the police and the PCB involved in criminal investigations, as well as prosecutors and judicial officers, in whose power it is to dismiss

cases and order the release of accused persons. The fact that some police officers and PCB officials, whose state salaries are low, publicly display their luxurious possessions, certainly arouses suspicions of corruption. As a retired civil servant put it:

You cannot rely on the PCB in the fight against corruption in Tanzania. The majority of its officials are corrupt. How can you expect a corrupt institution to lead the fight against corruption? The government has to establish a new institution to deal with this vice in the country.¹⁷³

There are also reports that criminal syndicates involved in trafficking drugs have penetrated state structures, buying immunity in order to operate without state interference. They establish connections at the highest levels of the state hierarchy or the ruling party and seek protection in exchange for money. They also bribe customs officers to facilitate the importation and exportation of illicit drugs and immigration officials to facilitate the movements of their foreign collaborators.

Inter-sectoral conflict and lack of co-ordination

Sectoral conflicts have emerged between the variety of institutions and authorities responsible for detecting or controlling money laundering and the financing of terrorism. Overlapping activities between them has resulted in the duplication of functions and unnecessary wastage of time and resources.¹⁷⁴ In addition, cross-sectoral co-ordination among bodies and institutions is fragile and inadequate. A source from the Department of Customs indicated that co-operation between that Department and the police is sometimes weak, giving room for criminals to use the country's ports and harbours for trafficking illicit drugs.¹⁷⁵ Also, there is weak co-ordination between the police and PCB officials in investigating and/or prosecuting those involved in corrupt practices. As a result, the overall objective of ensuring the suppression of economic and financial criminal activities, including money laundering, will not be easily achieved.

Inordinate delays in police investigations and in court cases

Information from various police sources was that there are inordinate delays in investigating incidents related to fraud, corruption and drug-related offences. This may be attributed to a lack resources to investigate cases or to corruption on the part of the institutions carrying out the investigations. Consequently, it

can take a long time for suspects to be arrested and brought to court. Even where people are arrested and prosecuted, there are inordinate delays in finalising cases by the courts. For instance, it can take up to four years for a court to finalise a case involving corruption, fraud or illicit drugs. This unsatisfactory state of affairs is attributed to prosecutors adjourning cases due to incomplete investigations, attorneys requesting adjournments, or adjournment of cases following the transfer, resignation or retirement of presiding judicial officers. Further, key witnesses may become unavailable when the cases are finally scheduled for hearing, compelling the courts to dismiss cases for lack of evidence.

Lack of attention to the informal sector

Anti-money laundering and terrorist financing measures have mainly focused on the formal financial sector. Little attention has been paid to the informal sector. Small-scale artisans extract minerals of various kinds throughout Tanzania—tanzanite at Mererani, gold at Kahama, Geita, Buhemba and Muheza and other precious minerals including rubies and sapphires in Morogoro, Mbinga and Tunduru. The informal miners sell the minerals to unlicensed and informal dealers and middlemen, who smuggle the minerals out of the country to the United Arab Emirates, Hong Kong and Thailand. One media report observed that “American jewellers import tanzanite to the tune of \$300 million a year. Nine-five percent of this is exported illegally from Tanzania via low paid ‘informal’ miners.”¹⁷⁶ Money launderers and terrorists can use these minerals as a way moving funds around the world to facilitate commission of their illicit activities.

Additionally, the authorities have not given the appropriate attention to the unregulated underground financial institutions, such as those run by the Indian and Pakistani communities. There is a possibility that some of the funds deposited in these institutions originate from illegitimate sources such as tax evasion and the trade in drugs. Also, these institutions can be used as sources of terrorist financing and as a means of transferring funds to and from Tanzania to facilitate commission of terrorist activities.

Resistance to anti-money laundering measures

Some individuals and organisations have overtly resisted the measures adopted to suppress and prevent money laundering and terrorist financing. The Minister of Finance stated that when the government “enacted the anti-terrorism

law...some people tried to suggest that [it] was aimed at muzzling certain religious groups in the country".¹⁷⁷ In 2003 hundreds of Muslims demonstrated in Dar es Salaam against what they referred to as a campaign led by the US government to undermine their welfare. At the climax of this demonstration a Muslim cleric read out a letter to the US Ambassador in Tanzania, condemning "imperialist campaigns...waged by the US government to arrest and deport officials of Islamic non-governmental organisations". The Muslim community further asserted that anti-terrorism legislation was imposed on Tanzania by the US government to undermine Muslims, by allowing them to be arrested and linked to terrorist groups, and that the expulsion of the Islamic officials was carried out by the Tanzanian authorities on orders from the FBI and the Central Intelligence Agency.¹⁷⁸ Moreover, some lawyers and human rights activists have been of the view that some of the measures adopted, for instance the Prevention of Terrorism Act, 2002, have granted "sweeping powers to law enforcement agents...that interfere with basic human rights and fundamental freedoms [of people in Tanzania]".¹⁷⁹ Consequently, it has been difficult, if not impossible, for the relevant authorities to seek and secure the assistance and co-operation of these individuals and organisations in the fight against money laundering and the financing of terrorism.

The above situation indicates that legal provisions are not satisfactory in suppressing money laundering and the financing of terrorism in Tanzania. The government has acknowledged that the laws against money laundering have several loopholes. The Minister of Finance has stated that the government is identifying legal and administrative loopholes and that new legislation will conform to the standards of international legal instruments.¹⁸⁰

Conclusion

Numerous illegitimate activities take place in Tanzania that generate substantial proceeds that are then laundered or that can be used to finance terrorism. It has also been shown that the government has adopted various measures to detect and control these problems. However, it is apparent that these measures have not been able to deal with the problems effectively. This is attributable to limitations in the policy and regulatory frameworks and institutional structures.

The following recommendations are made:

1. The government should adopt clear policies to address economic and financial crimes, including money laundering and the financing of terrorism. The authorities and institutions dealing with these problems (e.g. ministries,

departments, police, the PCB, courts and financial institutions) should be strengthened through the allocation of sufficient resources in terms of finance, equipment and competently-trained personnel. It should be the primary responsibility of the government to provide these resources. Donors can be requested to provide assistance when the government cannot do so.

2. The government should show genuine commitment to dealing with all crimes from which laundered proceeds are generated. The substantive and procedural laws should be enacted to effectively deal with these offences. This should be enhanced by thorough investigation, arrest and prosecution of all persons, regardless of their position or status, who are suspected of committing offences such as the following, among others:
 - corruption;
 - smuggling;
 - illegally trading in arms, biological and nuclear materials;
 - trafficking in persons;
 - trading in illicit drugs;
 - misappropriating, embezzling and stealing public or donor funds;
 - fraud;
 - tax evasion;
 - poaching;
 - racketeering; and
 - financing terrorism.
3. Effective policies should be translated into concrete legislation dealing with economic and financial crimes. The current laws should be reviewed, revised and, where necessary, be repealed. New and comprehensive laws to address money laundering and the financing of terrorism should be enacted. The laws should be harmonised and co-ordinated by the various authorities and institutions that deal with these problems and should conform to the relevant international legal instruments.
4. Tanzania should sign, ratify and domesticate the global, continental and regional legal instruments for combating money laundering and the financing of terrorism.
5. Tanzania should enhance its co-operation with regional, continental and global bodies in their efforts to combat money laundering. The country

cannot successfully deal with the problem on its own; countries have to work collectively.

6. The fight against money laundering and terrorist financing will not be successfully executed by the government alone without the involvement of various stakeholders, including the private sector, the media, civil society and the citizenry. These stakeholders should be consulted and should participate in the formulation, implementation, monitoring and evaluation of measures to address these problems.

Notes

- 1 S A Mwema, Current situation and countermeasures against money laundering: Tanzania's experience, paper presented at the Southern African Regional Conference on Money Laundering, September 26-28 2002, Johannesburg, South Africa.
- 2 Article 3(1) (b) and (c) of the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.
- 3 J M Myers, International strategies to control money laundering, 1998, available at <www.icclr.law.ubc.ca/Publications/Reports/myer_pad.pdf>.
- 4 Article 6 (2) (a).
- 5 FATF, What is money laundering? Basic facts about money laundering, available at <www.oecd.org/fatf/>.
- 6 The Forty Recommendations, Recommendation 1, available at <www1.oecd.org/fatf/40Recs_en.htm>.
- 7 Ibid, Recommendation 4.
- 8 Tanzania is a member of the SADC.
- 9 Article 1.
- 10 Act 24, 1991.
- 11 The statutory law governing the proceeds of crime is the Proceeds of Crime Act of 1991.
- 12 The term 'serious narcotic offence' is defined under Section 2 of the Act 25 of 1991 to refer to an offence punishable in Tanzania or in a foreign country by a period of not less than three years imprisonment or by more severe punishment, or if the market value of the property derived from the commission of the offence is not less than Tsh2 million (US\$2,000).
- 13 Act 25, 1991.

- 14 Section 2 of the Act 25, 1991 defines 'proceeds of crime' to mean any property derived from commission of any serious offence, or any act or omission that occurred outside Tanzania or related to a narcotic substance or if it occurred in Tanzania would have been an arrestable offence. Section 2 of Act 24, 1991 defines 'serious offence' as an offence the maximum penalty for which is death or imprisonment for not less than twelve months.
- 15 Section 71(3).
- 16 A person means a natural person or body corporate.
- 17 Under Section 71(1) of the Act 'transaction' includes the receiving or making of gifts.
- 18 FATF, The special recommendations, <www1.oecd.org/fatf/SrecTF_en.htm>.
- 19 Article 2(1)(a) and (b).
- 20 Article 2(4) and (5).
- 21 Prevention of Terrorism Act, 2002, Section 7(1).
- 22 Interview with an official of the BoT.
- 23 Interview with a senior police officer in the section dealing with financial crimes.
- 24 See <www.hri.org/docs/USSD-INCSR/95/Financial/Chapter10.html>.
- 25 See *The Financial Times* (Tanzania), 22-29 August 2001.
- 26 Op cit.
- 27 *The Sunday Observer* (Tanzania), 19 January 2003.
- 28 See <www.africaonline.co/site/Article/1,3,42252.jsp>.
- 29 See <www.yourworldoffinancialservices.com/News/2002/week31/news5_June_2002.asp>.
- 30 This is the body charged with the task of overseeing the privatisation of public parastatals in Tanzania.
- 31 *The East African* (Kenya), 3 August 2001.
- 32 *The East African* (Kenya), 3 December 2001.
- 33 Tanzania Chamber of Commerce, Industry and Trade, (1995) *Corruption and drug trafficking in Tanzania: A social economic analysis*, Popular Publications, Dar es Salaam, 1995. According to K V Maltzan, Drugs and substance abuse among youth in Tanzania: An overview, 2001, available at <www.afronets.kabissa.org/tz/Studies2001/drugsintanzania.doc>, quoting Nal Drug Control Master Plan Statistics, the numbers of Tanzanians arrested for drug trafficking in 1997, 1998 and 1999 were, respectively, 23, 31 and 30.

- 34 For instance, the quantities seized were as follows: 460 kg (1993), 49 kg (1994), 368 kg (1995), 105 kg (1996), 592 kg (1997), 429 kg (1998), and 499 kg (1999). See *ibid*.
- 35 *The East African* (Kenya), 19-25 October 1998.
- 36 *The Nipashe* (Tanzania), 8 November 2003.
- 37 *The Guardian* (Tanzania), 20 February 2001, *The African* (Tanzania), 20 February 2001 and *The Daily News* (Tanzania), 20 February 2001.
- 38 *The Daily News* (Tanzania), 13 November 2003 and *The Guardian* (Tanzania), 14 November 2003.
- 39 I Musoke, *Alcohol abuse in Tanzania in schools: Experience from Dar es Salaam*, Alcohol and Drug Information Centre, Dar es Salaam, 1997.
- 40 *The East African* (Kenya), 20-27 July 1998 and *The Guardian* (Tanzania), 15 January 2003. Following the scandal the Minister, Dr. Hassy Kitine, resigned in August 1998.
- 41 *The East African* (Kenya), 30 June 2003.
- 42 *Ibid*. 23-30 June 1999.
- 43 *The Daily News* (Tanzania), 14 November 2003.
- 44 *The Daily News* (Tanzania), 18 November 2003.
- 45 See <www.lppmedia.com/family_mirror/2003/10/21/family_mirrors.htm>.
- 46 *The East African* (Kenya), 24 July 2000.
- 47 *Ibid*, 29 April 2002.
- 48 *Ibid*.
- 49 *The Guardian* (Tanzania), 3 February 2003. The Minister of Home Affairs, Omari Ramadhani Mapuri, has acknowledged that the proliferation of illicit arms is a growing problem in Tanzania and is associated with armed criminal activities and illicit drug trafficking. See <www.dse.de/ef/arms/maupri.htm>.
- 50 *The East African* (Kenya), 18 November 2002.
- 51 Interview with a senior police officer at the Central Police Station, Dar es Salaam.
- 52 Interview with a senior police officer in Dar es Salaam.
- 53 *The East African* (Kenya), 4 March 2002.
- 54 See <www.wildnet africa.co.za/wildlifefews/2002/01/2038.html and www.ntz.info/gen/n00502.html>.

- 55 *The Guardian* (Tanzania), 12 June 2003.
- 56 See International Labour Organisation, *Tanzanian children in prostitution: A rapid assessment*, 2001, available at <www.ilo.org/public/English/standard/ipecc/simpoc/Tanzania/ra/prost.pdf> and the *Tanzania News Online*, Edition No.16, 25 March 1998 available at <www.sas.upenn.edu/African_Studies/Newsletters/tno.html>.
- 57 ECPAT International Newsletter, Issue No. 34, 1 March 2001 available at <www.ecpat.net/eng/Ecpat_inter/ICR.articles.asp?ID=4&NewsID=5>.
- 58 Information from an advocate of Indian origin based in Dar es Salaam.
- 59 Information from an Indian proprietor of a small-scale business in Dar es Salaam.
- 60 Eleven persons died and about 60 others were injured and several properties including motor vehicles and houses were damaged.
- 61 V Mlowola, *Terrorism in Tanzania*, paper presented at a terrorism seminar at the Colosseum Hotel, Pretoria, South Africa, 18-19 September 2003, organised by the Institute for Security Studies (ISS), South Africa.
- 62 *The East African* (Kenya), 2 September 2002.
- 63 *Tanzania News Online*, op cit.
- 64 The Minister was addressing parliament on money laundering and capitalisation of the informal sector at Dodoma, Tanzania on 8 February 2003. See <www.usembassy.state.gov/tanzania/wwwhspe35.html>.
- 65 The inauguration took place in Dar es Salaam 24 October 2002.
- 66 See <www.sembassy.state.gov/tanzania/wwwhspe35.html>, the *Financial Times* (Tanzania), 22-29 August 2001 and *The Guardian* (Tanzania), 19 March 2003.
- 67 The Ambassador addressed the 56th Session of the UN General Assembly on 4 October 2001, on measures to eliminate international terrorism. See <www.un.org/terrorism/staments/tanzaniaE.htm>.
- 68 At the time of the presentation of the Report, the Prevention of Terrorism Act, 2002, had not been passed.
- 69 Regulations 23 and 24.
- 70 Regulation 25.
- 71 Subsequent to the presentation of the country's anti-terrorism report, the Minister for Foreign Affairs and International Co-operation, Jakaya M. Kikwete, when addressing the UN General Assembly, stated that the government was committed to fighting terrorism and pointed out that Tanzania had ratified all

major anti-terrorism conventions and enacted legislation to deal with terrorism. He stressed that Tanzania would continue co-operating with other governments and global institutions in their efforts to fight terrorism. He was addressing the 58th Session of the UN General Assembly, in New York, on 1 October 2003. See <www.un.org/webcast/ga/58/statements/tanzeng031001.htm>.

- 72 Clause 6 of the Resolution.
- 73 *The East African* (Kenya), 11 August 2003.
- 74 *Ibid*, 2 September 2002.
- 75 It is said that this was done under US Executive Order No. 13224 issued in September 2001, which authorises the freezing of assets and blocking of the financial transactions of terrorists and those who support them. See *The Muslim News*, 1 September 2003 at <www.muslimnews.co.uk/news>.
- 76 See page 4 of the Report.
- 77 *The East African* (Kenya), 2 September 2002.
- 78 *Ibid*, 11 August 2003.
- 79 *Ibid*, 21 October 2002.
- 80 See *Southern African Documentation and Co-operation Centre (SADOCC) News*, 20 January 2003, available at <www.sadocc.at/news/2003-029.shtml>.
- 81 Mlowola, *op.cit*, p 9.
- 82 See <www.nti.org/d_newswire/issueweek/2002_11_22> and also *BBC News*, 14 November 2002 available at <http://news.bbc.co.uk/2/hi/africa/2477367.stm>.
- 83 See *The East African* (Kenya), 24 July 2000, and the *Family Mirror* (Tanzania), 21 October 2003.
- 84 *Arizona Star Online*, <www.azstar.com/attack/indepth/wsj.undergroundtrade.htm>.
- 85 This Committee acts as the advisor to the government on issues relating to policy, law enforcement and financial matters, among others. It submits periodic country reports to the ESAAMLG Task Force. However, unlike other bodies and authorities that deal with detection and control of money laundering and financing of terrorism in Tanzania, there is no specific legislation that establishes the Committee.
- 86 The ESAAMLG comprises Kenya, Malawi, Mauritius, Mozambique, Namibia, Swaziland, Seychelles, Tanzania, Uganda, Zambia and Zimbabwe. The group was launched in Arusha, Tanzania on 26-27 August 1999.
- 87 The members are Burundi, Djibouti, Ethiopia, Eritrea, Kenya, Rwanda, the Seychelles, Sudan, Tanzania and Uganda. This Co-operation tackles the illicit

trade in firearms, drug trafficking, motor vehicle theft and economic crimes, among others.

- 88 Signed in Arusha, Tanzania on November 30, 2000.
- 89 See <www.usembassy.state.gov/tanzania/www/hpr71.html>.
- 90 It was adopted in Vienna, Austria by the UN at its sixth plenary meeting on 19 December 1988. Tanzania signed the Convention on 13 December 2000.
- 91 Adopted by the UN in Palermo, Italy on 12 December 2000. Tanzania signed the Convention on 13 December 2000.
- 92 The FATF consists of 29 countries and two organisations (the European Commission and the Gulf Co-operation). Its membership includes the major financial centres of Europe, North and South America and Asia. It is a multi-disciplinary body that brings together the policymaking power of legal, financial and law enforcement experts.
- 93 The Recommendations were revised in 1996.
- 94 It was adopted in New York, USA on 9 December 1991. Tanzania signed the Convention on 22 January 2003.
- 95 This definition goes beyond the single framework of money laundering. It targets the originators as well as their accomplices and other contributors, including legal entities such as associations and companies.
- 96 Section 2(1).
- 97 Section 4.
- 98 Section 71(3).
- 99 Ibid.
- 100 Section 9(1).
- 101 Section 68(1).
- 102 Section 70(1).
- 103 Section 58.
- 104 Sections 31 and 32.
- 105 Section 43.
- 106 Act 16, 1971. The legislation has been amended by the Prevention of Corruption (Amendment) Act, Act 20, 1990
- 107 Section 3.
- 108 Section 5.

- 109 Section 6.
- 110 Section 9.
- 111 Section 12.
- 112 Sections 3(3), 4, 5, 6, 8(2) and 9(1).
- 113 Act 9, 1995.
- 114 Section 4(1).
- 115 Section 5(1).
- 116 Section 6.
- 117 Sections 12 and 13.
- 118 Section 22.
- 119 Section 29 and 41.
- 120 Section 42.
- 121 Section 45.
- 122 Act 21, 2002.
- 123 Section 5.
- 124 Section 29.
- 125 Section 31.
- 126 Sections 13 and 14.
- 127 Section 43.
- 128 Section 41.
- 129 Sections 18, 19 and 20.
- 130 See Sections 13, 14, 15, 18, 19, 20, 21, 22, 23, 24, 25 and 26.
- 131 Section 37.
- 132 Act 24, 1991.
- 133 Section 4.
- 134 Section 4.
- 135 Section 8.
- 136 Section 9.
- 137 Act 15, 1965.

- 138 Section 3(1).
- 139 Section 5(1).
- 140 Sections 5(2) and 15(3).
- 141 Act 1, 1969.
- 142 Act 14, 1969.
- 143 Act 13, 1995.
- 144 Chapter 16 of the Laws of Tanzania.
- 145 Act 6, 1967.
- 146 Act 9, 1985.
- 147 Chapter 322 of the Laws of Tanzania.
- 148 Act 1, 1995.
- 149 *The East African* (Kenya), 21 October 2002.
- 150 Note 40 above.
- 151 See <www.usembassy.sate.gov/tanzania/wwwhspe35.htm>.
- 152 Article 8.
- 153 There is a unit in the police force that acts as a quasi-FIU. However, it is inadequate in equipment and adequately trained personnel to deal with issues relating to money laundering.
- 154 The Circular applies only to financial institutions, and a ‘financial institution’ has been defined under Section 3 of the Banking and Financial Institutions Act of 1991 as “any person authorised by or under this Act to engage in banking business not involving the receipt on money on current account subject to withdrawal by cheque”. A similar definition is provided for under Section 3 of the Bank of Tanzania Act of 1995.
- 155 Registered under the Insurance Act, Act 18 of 1996.
- 156 Registered under the Capital Markets and Securities Act, Act 5 of 1994.
- 157 Registered under the Auditors and Accountants Registration Act, Act 33 of 1972.
- 158 Registered under the Advocates Ordinance, Chapter 341 of the Laws of Tanzania.
- 159 See Tanganyika Law Society (undated), *Rules of professional conduct and etiquette of the Tanganyika Law Society*, Mkuki & Nyota Publishers, Dar es Salaam.

- 160 An interview with a bank official in Dar es Salaam.
- 161 Ibid.
- 162 An interview with an ex-employee of the NBC (1997) Bank.
- 163 Supervisory powers of the BoT over the banks and financial institutions are provided for under Section 17 of the Banking and Financial Institutions Act of 1991.
- 164 Act 26, 1997.
- 165 An interview with an economist working for the BoT.
- 166 *The Guardian* (Tanzania), 26 February 2003.
- 167 Interview with a director of the Tanzania Investment Centre.
- 168 Mwema, op cit.
- 169 See <www.the-express.com/express155/news2htm>.
- 170 Information from the Attorney-General's Office.
- 171 Information from the police.
- 172 Information from judicial officers based in Dar es Salaam.
- 173 Interview with a retired senior public servant.
- 174 Interview with a police officer.
- 175 Interview with a customs officer based in Dar es Salaam.
- 176 See *WorldNetDaily*, 2 December 2001, available at <www.worldnetdaily.com/news/article.asp?ARTICLE_ID=25484>.
- 177 See <www.usembasy.state.gov/tanzania/nwwhspe35.html>.
- 178 It is said that the demonstration and protest was prompted by the arrest and expulsion from Tanzania of two officials of Islamic non-governmental organisations, namely Sheikh Ramzi Faraj of the Al-Haramain Islamic Foundation and Sheikh Ahmed Said Abry of the Dhiy Nureyn Islamic Foundation. See *The Guardian* (Tanzania), 13 June 2003 and <www.jang.com.pk/thenews/jun2003-daily/14-06-2003/world/w2.htm>.
- 179 *The East African* (Kenya), 21 October 2002.
- 180 See <www.yourworldof-financial-services.com/New/2001/week-9/news35.asp>.