

GOOD CORPORATE GOVERNANCE AS A PRIVATE SECTOR'S WEAPON AGAINST CORRUPTION

A Paper Given for A Public Debate on Role of the Private Sector in Fighting Corruption Karimjee Hall 23rd June 2003

In the concept of Smart Partnership between the Public (Government) and the Private Sector, the Government's role is **to put in place a conducive environment** for enabling the Private Sector to play its role successfully. The private sector for its part is recognized as the **engine of economic growth**.

Putting in place a conducive environment involves, among other things, the following:-

- An appropriate and enabling legal framework.
- A fair tax regime that is not hostile to business but promotes business and economic growth.
- A credible and fair enforcement system of the laws and regulations so as to provide a level playing field for all business operators.
- A reasonable and competitive cost of doing business which enables Tanzanians to compete within and outside Tanzania.

The private sector on its part must observe the rules of the game which include:-

- Ethical conduct of doing business
- Paying legal taxes and levies in order to enable the Government to run its services including law and order, social services, construction and maintenance of economic infrastructure and so on.
- Observing Good Corporate Governance in their Companies and Corporations.

At this juncture we must ask the Question "What is Good Corporate Governance"? This is not a very old concept. And therefore it is not easy to define it to the satisfaction of many people. I have attempted to define it as "a transparent supervisory regime for companies and corporations through a framework approved

by shareholders and supported by an appropriate legal framework to cater for the balanced interests of all stakeholders.”

The most important thing in Good Corporate Governance is the **Disclosure of all the relevant information** about the Company/Corporation. According to R. H. Chamani¹ there are 15 elements of information, which should be disclosed in accordance with the Companies Act No. 12 of 2002, the Tanzania Investment Centre Act No. 26 of 1997 and his own analysis. The most important of these include the following:-

- (1) Directors’ remuneration
- (2) Independence of the Directors
- (3) Report on Company Code of Conduct and ethics Compliance.
- (4) Conflict of interest
- (5) Loans to Directors and repayment results
- (6) Protection of Minority shares
- (7) Profile of Board Members and shares ownership structure
- (8) Auditors profile, independence, remuneration and appointment procedures.
- (9) Voting systems and rights.

As I have pointed out above that the concept of Good Corporate Governance is not a very old concept. This is more so for Tanzania which is young and poor. Although we have a legal framework in the Companies Act No. 12 of 2002, the Tanzania Investment Centre Act No. 26 of 1997 etc. Tanzania does not have an entrenched corporate culture for the following reasons:-

- (1) Our Corporations and Companies are very young and fledging since most of them are 16-17 years old having been established after 1985.

¹ A paper on Corporate Governance and the Flow of Investments in Tanzania Presented at the Investors Forum for the Tanzania Airports Authority on 29th April 2003 in Dar es Salaam, Tanzania.

- (2) Most of our Companies are family businesses owned and run by family members and do not therefore meet the criteria of Disclosure.
- (3) The Corporate culture in Tanzania is also subservient to many foreign corporate cultures because of the presence of many foreign companies and corporations (including multinationals) which are increasing everyday in response to our quest for Foreign Direct Investments and Privatization of our Parastatal Companies.
- (4) The discriminatory incentives and exemptions to foreign investors create two worlds of Corporate Governance in Tanzania one local and another foreign.

Under these circumstances it will take time for a Tanzanian Corporate culture to emerge and dominate.

Without a Tanzanian dominant Good Corporate Governance Culture, it is not so easy to use the present multiple Corporate Governances as a tool to fight corruption in Tanzania for the following reasons:-

- (1) Discriminatory incentives and exemptions given to some foreign companies NGOs and International Organizations creates room for cheating and unfair play by some local companies. It is an open secret that some businessmen and women or companies are treated as "demigods" by some Government officials. This leads to massive tax evasion and unfair award of contracts through corruption.
- (2) Due to our poor marketing policy, some companies have formed cartels and fix very low prices to farmers especially for cashewnuts, tobacco, and coffee.

Good Corporate Governance cannot exist where there is no good and transparent Governance in Government. However this does not mean that the Private Sector should throw up its arms into the air and do nothing about Corruption. The private sector must fight corruption in two ways:-

- (1) First of all, it must expose and disown the corrupt elements within itself. Some of these elements (demigods) are well known by some members of the private sector but they dare not expose them for fear of being disclosed by some public officials.
- (2) Secondly, the Private sector must decide and act in unison against corruption. Without unity of purpose and determination, they will become individually vulnerable to corrupt elements in the public sector, and corruption will never end. It will continue to be a vicious circle.

Corruption is very expensive to the Private Sector and to the public in general. The bribes given to corrupt public officials are passed over to the public in terms of high prices of goods and services.

In conclusion, corruption can only be eradicated through concerted effort between the Government and the Private Sector. The Private sector should unite and refuse to give bribes. And Government officials should refrain from asking for bribes or accepting bribes.

It is a daunting task. But it can be done !

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