



The Commission of Inquiry

COMMISSION OF INQUIRY INTO THE FINANCIAL ACTIVITIES OF PUBLIC BODIES, ENTERPRISES AND OFFICES AS REGARDS THEIR DEALINGS WITH FORMER PRESIDENT YAHYA A.J.J JAMMEH AND CONNECTED MATTERS

REPORT

VOLUME 8

GOVERNMENT INSTITUTIONS (POLICY ISSUES)

10th AUGUST 2017 - 29th MARCH 2019



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INTRODUCTION

Based on the evidence (testimonic and documentary) submitted during the Commission's proceedings, a key lapse identified was the constant policy breaches in key Government institutions and financial institutions namely:

- 1) Office of the President
- 2) Ministry of Finance and Economic Affairs
- 3) Central Bank of the Gambia
- 4) Ministry of Interior (Citizenship)
- 5) Commercial Banks

Each of the institutions concerned is covered in detail highlighting the policy breaches noted and recommendations made on how to ensure that these breaches do not recur.



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CHAPTER 1 – OFFICE OF THE PRESIDENT (OP)

Based on the evidence presented during the course of the Commission's sittings, numerous issues/anomalies were highlighted that occurred at OP which need to be further analyzed and recommendations made in the hope of preventing recurrence.

1A) Interference from OP

PEs/ SOEs that were assessed to be strategic in terms of cash liquidity and operations were transferred from their respective line ministries to the OP. The notable PEs moved were NAWEC, SSHFC, GPA, GAMTEL and GNPC.

There was interference in selection of suppliers for execution of contracts. There were favored suppliers that benefited from substantial sums of money.

PEs

(i) GAMTEL/GAMCEL

- State House (OP) was involved in illegally terminating calls between the periods 2001 to 2006. This resulted in significant loss of revenue for GAMTEL and contributed to loss of control by GAMTEL and consequent resort to international gateway managers who had the technology to detect and prevent fraud. The loss in revenue was never quantified by GAMTEL.
- Ex-President Jammeh was solely responsible for selection and awarding the contracts to the various Gateway Managers (SPECTRUM through ORATUS, System One, TELL Inc., & MGI Telecoms AG) all within a short timeframe. Reasons for the change were not provided. GAMTEL's line ministry (Ministry of Communication) was unaware of how contracts were awarded.

The international call tariffs as per signed MOU rates increased with each of the gateway managers.¹

The Ex-President after having taken it upon himself to control the revenue from the international gateway did not bother to make sure that OP put in

¹ Exhibit SC67 – Summary of Taskforce Report to the Jammeh Commission of Inquiry– pg. 9



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place a system for monitoring the revenue from the gateway. It seems it was entirely up to the gateway managers (at least during the MGI contract) to determine what to pay to government and what to debit as expenses. Accounts were not submitted and neither OP nor GAMTEL requested for accounts. In fact only the Ex-President and Mr. Baboucarr Sanyang seemed to know exactly what was going on with the MGI contract.

(ii) GPA

Michela Costruzioni, an Italian construction company, had done some construction works at the ports. It was a company the OP wrote to in January 2014 to grant them access to resume work that had commenced at the Banjul Ferry Terminal.² According to Mr. Ousman Jobarteh, MD of GPA, GPA was already aware of Michela's presence before it was engaged officially (before GPA received a copy of OP's letter asking them to allow Michela to resume work). They had been working on an extension for platforms constructed by GPA for use as landing sites by the two ferries, Al Jamdu and Kansala.

(iii) NAWEC

- From as early as 2001, OP started to interfere in the award of contracts for generators. Taiwan financed purchasing and supply of generators and OP wanted contract to be awarded to GTG. Based on the testimony of Mr. Alhaji Conteh then MD said that his refusal to cooperate with Messrs. Baba Jobe, Mohamed Bazzi and Amadou Samba sign a contract with GTG, for the supply of the generators led to his dismissal.
- OP directed the awarding of an exclusive contract to supply HFO to GTG
- OP directed the award of the IPP contract to GTG "or heads will roll".
- OP directed the signing of a management contract with GLOBAL MANAGEMENT SYSTEMS (GMS). This contract gave total control of the management of NAWEC including financial matters, supervisory control, etc.
- OP directed SSHFC to give a loan to NAWEC.
- OP gave approval for the discounting of postdated cheques issued to EAGL of D150 Million. OP also approved the associated discounting cost and

² See letters relating to Michela Construction projects, Exhibit SC33



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directed that a formula be worked out to share the cost of discounting charges.

(iv) SSHFC

- OP took loans from SSHFC in the amounts of D88 Million Dalasi, D10 Million and D15 Million. OP cannot take loans on behalf of Government. Only MOFEA is responsible for taking out loans on behalf of Gambia Government.
- Another loan of D118 Million was given to NAWEC for the purchase of Generators from GTG N.V. based on directive of OP
- OP gave instructions to SSHC MD for D6.4 Million cash to be paid to Mr. Amadou Samba of GACEM for the purchase of a 1000 cubic meter water tank.
- OP requested USD1 Million from SSHFC by a letter dated 17th March 2011 signed by Dr. Njogou L. Bah³.

(v) GNPC

- OP took control of GNPC's foreign currency denominated bank accounts. On 13th August 2013, GNPC received a directive from OP to change the signatories of the GNPC Dollar Accounts to Ex-President Yahya Jammeh and Mr. Momodou Sabally. According to Mr. Momodou Badjie, the Board of Directors was not aware of the change of signatories and it was not brought to their attention for any resolution. At the time the signatories were changed, GNPC had a little over USD7,300,000 in all their Dollar Accounts.
- Interference from OP was a lot; which resulted to loans totaling over USD5,685,473 and payments made without any justification provided. Monies were paid out of GNPC's account and spent on activities that were not in line with GNPC's activities.

See *VOLUME 6 – Chapter 1*

³ Exhibit SC17 Letter dated 17th March 2011 from O. P to MD SSHFC RE: request for loan facility in sum of USD1 Million Dollars plus approving Board resolution of SSHFC and other related documents.



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Selection of Supplier

A lot of cases were single sourced and awarded by OP based on the Ex-President's decision. Procurement guidelines were not followed and cases of such are mentioned briefly below:

- Procurement of Fuel - Granting an exclusive contract to EAGL/GTG to supply all the fuel needs of the country was anticompetitive. For it to have lasted from 2002-2013 is only comprehensible in terms of the personal benefits the Ex-President derived from it.
- Government Vehicles - Numerous vehicles were purchased by OP at random from all funds available to it and even from the Treasury Main Account without compliance with procurement rules. The Ministry of finance was just as culpable in regard to credit sales from TK Motors. The Commission is in no doubt that under the non-compliant system that prevailed more vehicles were procured than came to its attention.

Furthermore, OP authorized the payment of EUR607,000 equivalent of D30,969,140.00 to EAGL from the above CBG Account. The proforma Invoice MS17 was addressed to Ministry of Tourism. Fadi Mazegi confirmed that the said Ministry did not participate in the transaction at all⁴. The money was paid to EAGL who in turn paid the supplier. He said the arrangement was verbal. There was no requisition or tender process. Other anomalies are that the contract was between GTG and OP but EAGL is stated as the buyer in the Proforma invoice⁵. According to Mr Fadi MAZEGI, at that time GTG was not registered in The Gambia. EAGL and GTG used to render services to each other to avoid paying VAT in Belgium.

The SG Dr. Njogou Bah requested and received payments for the purchase of forty-three Bedford trucks and ten Mercedes Wagons in the sum of **USD545,578** from the ROC Grants⁶. These were trucks which were received and handed over to the army and the sister security agencies. These were also not subject to any tender process.

OP authorized the payment to GTG of EUR1,000,000.00 for the purchase of Boeing 757 Aircraft Invoice OP/0628. The only supporting document for this purchase is the Pro-forma Invoice, which indicated the purpose to be a deposit for securing the purchase

⁴ Transcript of Fadi George Mazegi dated 24th August 2017.

⁵ see Exhibit MS17

⁶ Njogou Bah 21st May 2018. Also See Exhibit MS166H dated 2/8/2008



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- BOAT BUILDING/PURCHASE – OP contracted boat builder one Alhaji Jass Sam to build 6 canoes based on the directive of the Ex-President in May 2014 after a Nationwide Tour.
- WORKS CONTRACTORS - OP was engaged in many civil works projects both for the State House, Kanilai and other government projects, many of which were financed from OP controlled funds. The accounts reviewed showed that a number of favored contractors (*Competence Company Limited, Hadim Gai of GAI Enterprises, Yeriwa Construction – Abdourahman Jaiteh, Construct Company Limited, GAMSEN Company Limited & EXCEL Construction Co. Limited*) were engaged from OP, some routinely to perform contracts for OP or the Ex-President.

See Volume 7 – on Procurement

1B) Potential Investors

Investors had the habit of going directly to OP to meet the Ex- President on investment decisions. OP directed that agreements be signed within a short period of time. The investments were not viable and in some instances led to arbitration cases against the Gambia Government.

a) AQUA INC

The Deputy Managing Director of NAWEC Mr. Nani Juwara (Witness no. 197)⁷ testified that Aqua INC⁸ submitted a proposal to the OP with regards to taking over the operations and management, upgrading and modernisation and maintenance of the NAWEC owned Kotu Pond. Based on the proposal submitted to OP, Aqua was to introduce a technology called ABIS system, an integrated biological system that will prevent the site from smelling and can even be visited by tourists for bird watching. In addition, it was also proposed that a shareholder agreement will be entered with the Government. This proposal probably was attractive to the Government and thus resulting in NAWEC being invited to a stakeholder meeting at the Office of the President.

⁷ Transcript of Mr. Nani Juwara dated 30th May 2018

⁸ Aqua INC is the Parent company of Aqua Gambia Limited. The registered address of Aqua INC is 1035 Pearl Street, Boulder Co. USA



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A taskforce was set up to review proposal they had 3 days to provide feedback to the Ex-President. A thorough due diligence of Aqua could not be carried out because of the tight timeframe involved.

b) GFFI

Representatives of Conapro Dena BMD SAL, Messrs. Saoud Ghandour and Rosard Ghandour, were introduced to Ex-President Jammeh through Mr. Ansumana Jammeh, the Gambia's Ambassador to Qatar, during President Jammeh's 2010 visit to Doha.⁹ During this visit, Conapro presented a proposal to sell GOTG a rice mill plant on a turnkey basis.¹⁰ Under the proposed partnership with GOTG, Conapro would be given exclusive control to operate the rice mill plant.¹¹ Mr. Njogou L. Bah testified that Ex-President Jammeh held a closed-door meeting in 2010 with the Conapro investors and Mr. Ansumana Jammeh at the State House in Banjul.¹² As a result of this meeting, the parties also agreed to establish an animal feed plant.

Mr. Njogou L. Bah (Witness no. 20) further explained that the Conapro investors were mainly interested in supplying fuel to The Gambia and in other sectors such as mining and agriculture. After the meeting with Ex-President Jammeh, Mr. Njogou L. Bah attended a meeting with other officials *from various ministries, including Finance, Foreign Affairs, Petroleum and Justice*, during which he was told to sign a contract with the Conapro investors that day. Mr. Njogou L. Bah also testified that this contract was to take effect after the expiry of the existing one with Euro African Group Limited (EAGL). EAGL had the exclusive rights to supply the Gambia with all its petroleum products. The sales contract for the supply for fuel was signed on the 21st October 2010 between Conapro and GOTG but it was never executed. CONAPRO were called for a second meeting where the Ex-President made it clear to them that they had a contract with Euro Africa Group (EAGL) for the exclusive importation and supply of fuel in the country and would expire some months later.

⁹ GOTG brought criminal charges against Mr. Ansumana Jammeh for his role in these contracts. A summary of these charges are provided below.

¹⁰ Exhibit MS91 – Audit Report pgs. 11 & 12 'A Turnkey investment is where the Government was asked to only pay for its shares in the investment and the investors will do everything such as establishing the company, managing and hiring of staff'.

¹¹ Exhibit MS91B – NAO File no. HC127/316/05 – Letter dated 1st October 2013 sent to NAO signed by Saoud Ghandour CEO for PEARL Investment SAL

¹² Transcript dated 14th November 2017 – See pg. 1



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OP directed that the 3 PEs *GPA, GNPC and SSHFC*, take shares in a venture with a foreign company, i.e., those public entities should invest in a feed mill factory and rice processing plant.¹³

See Volume 6 – Chapter 8 on State Owned Enterprises.

c) GALLIA HOLDINGS

Mr. Mustapha Bojang, the Gambian Consul in Jeddah, introduced Gallia Holding Ltd, a company incorporated in the Marshall Islands¹⁴, represented by Greek investors to the Ex- President in June 2010¹⁵. The Honorary Consul of The Gambia in Greece accompanied them to the meeting with the Ex-President. Present at the meeting were Minister of Foreign Affairs Mr. Momodou Tangara, Secretary General Njogou Bah and other ministers. They explained that they had vast experience in Ferrying and wanted to invest in the ferry services in partnership with the Government both at the management and operational levels to make it profitable and efficient. Mr. Njogou Bah (Witness no. 20) said the President was attracted because he believed it was his “duty to ensure better services were provided and thought this would bring that solution”. He directed them to go to GPA immediately after the meeting.¹⁶

Mr. Momodou Lamin Gibba (Witness no. 26) said he received a call from the Permanent Secretary OP informing him that Greek investors (Gallia Holdings Ltd) were at the OP and they intended to sell Ferries to the Government in order to solve the Banjul - Barra crossing problem.

GPA assessed that the Draughts of the Ferries were more than 3.5 meters while the ferries in the Gambia were 1.7meters and would not work. GPA further told the Greek investors that a due diligence exercise and believed the Greeks were not happy with this.

After their presentation at GPA, the Greek investors returned to the State House. Later that day, the Ex-President called Mr. M. L. Gibba expressing his disappointment. A day after the meeting, the Ex-President summoned all GPA management to State House. The Ex-President was angry, publicly ‘lambasted’ them and ordered them to be cooperative with the Greek

¹³ Exhibit MS97 – OP letter dated 20th May 2010 ref. OP 217/45/01/TEMP:E/(20)

¹⁴ Exhibit SC 42 Incorporation certificate of Gallia Holding Ltd

¹⁵ Exhibit SC35 Government’s Claim Submission

¹⁶ Testimony of Njogou Bah and Momodou L. Gibba



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Investors. He did not invite any opinion on the matter from the GPA Management.

See Volume 6 – Chapter 8 on State Owned Enterprises

d) GAM PETROLEUM STORAGE FACILITY

An OP directive was issued for Public Enterprises (PEs) to acquire shares in Gam Petroleum. By letter dated 15th February 2008¹⁷ to Gam Petroleum, the Secretary General, conveyed directives that 49% of their shares should be opened up to Government and other public enterprises like Social Security and Housing Finance Corporation (SSHFC), Gambia Ports Authority (GPA) and Gambia National Petroleum Corporation (GNPC) to participate in the shareholding structure. The reason was that a bilateral cooperation arrangement had been signed by the Government of the Gambia that had implications governing fuel storage facilities stating that such a strategic investment should not be handled solely by Private Enterprises.

See Volume 6 – Chapter 6 on State Owned Enterprises

1C) Improper Use of OP Staff

- Evidence has been shown that Ex-President Jammeh operated his businesses and bank accounts indirectly from the Office of the President (OP) and through individuals who executed his instructions. Letters have been issued by OP on Government letterhead signed by public officers notably the Secretaries General, Secretaries to Cabinet, Permanent Secretaries and other State House personnel including military personnel particularly General Sulayman Badjie where instructions were given on appointment of Managing Directors for companies, businesses (*Alhamdulillah Petroleum and Minerals Company Limited, Unique Transport Systems Company, Kanilai Group Investment International, Sindola Safari Lodge Company, Observer, Jammeh Foundation for Peace and so on*) of the Ex- President.
- Public Officers were also heavily involved in the withdrawal of cash purportedly for Ex- President Jammeh. At times cash withdrawals were made by even the Secretary General.

¹⁷ Exhibit MS220D – Letter from Office of the President ref. OP151/262/03/Part II/(34)



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- Permanent Secretaries at OP were also involved in menial jobs such as *ram sales*.
- The role of Protocol officers appeared to be to run the Ex-President's and Ex-First Lady's personal errands instead of organizing and managing their official day to day activities. As a result more than any other office, apart from Secretary General, that office was the most exposed to the Ex-President's private shady dealings.

1D) OP Managed Bank Accounts

OP under the Ex-President's Government opened, took over and was engaged in the operation of bank accounts at the Central Bank of the Gambia (CBG) and Commercial Banks. These accounts were operated by officials of the Office of the President (OP) who were signatories, including the Secretaries General and Heads of Civil Service, Secretaries to Cabinet, Permanent Secretaries and Protocol Officers.

Ex- President Jammeh himself, personally, was signatory to 12 known accounts opened and operated from OP. He was either a signatory or given personal access or otherwise paid from. It is believed that the number of bank accounts is far from exhaustive because of the length of the period covered by the Commission's mandate - 22 years.

See Volume 2 for full details

1E) Random Award of Scholarships

Millions were spent on Government Scholarships from all accounts without any capacity development programme or policy driving the training. Students were selected by the Ex-President personally. Many were trained in Europe or USA for courses that were available at the University of The Gambia. The Secretaries General had no idea and could not explain how these were selected. PMO was not involved in the selection of the students and did not have any records of most of them except for a very few in later years.



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1F) Ex-President and his Ministers

The President is both head of state and government, therefore, “the executive power of the state is vested in the President exercisable by him/her either directly or through the Vice President as his principal assistant or through Ministers¹⁸. The Cabinet is composed of the President, Vice President and Secretary of States (Ministers). The Vice President and Ministers are responsible for advising the President with respect to policies of government and other functions conferred on them by law¹⁹. Each Minister is accountable to the President and the National Assembly for the administration of the departments and other business of government committed to his/her charge²⁰.

Evidence before this Commission in respect of Government transactions involving Ministers during the period under inquiry indicate that the Cabinet did not necessarily advise the Ex-President on Government policies, rather Ministers felt an obligation to carry out his dictates even if wrong. For instance:

Mr Mousa Bala Gaye stated in respect of the 50% sale of shares to Spectrum: “

“This was in July 2007, I was summoned to the Office of the Former President and when I went I can recall meeting there the Former Secretary General Ousman Jammeh, the Former Secretary State for Communication Mrs. Neneh Macdoul Gaye and some other officials whose identities I cannot remember now there was also a delegation of some Lebanese I think who were later introduced as representatives of SPECTRUM, the former President informed us that government has decided to sell 50% of the shares in GAMTEL and GAMCEL for USD35,000, 000 (Thirty Five Million Dollars) and also to turn over GAMTEL/GAMCEL for the management of SPECTRUM because SPECTRUM will take over the management of the two (2) companies. At that point he said, “ *we had an agreement here and Secretary of State for Finance Mr. Gaye you should with the Secretary General and Mrs. Neneh Macdoul Gaye go to your office and negotiate this agreement with the SPECTRUM representatives and sign them today,*” that were his instructions..”

The testimony of Mrs. **Neneh Macdoul Gaye Witness No. 117, dated 16-01-18, who was the line Minister of GAMTEL/GAMCEL** said she signed the agreement on behalf of Government. But that she didn't know much about the company. In fact, she said that the contract with Spectrum didn't go through any due process. That she signed out of good faith and respect for 'authority' since

¹⁸ Ss. 61 and 70 of the Constitution

¹⁹ S. 73 of the Constitution

²⁰ Section 74 of the Constitution



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perhaps, as she said, **“I was summoned to the Office of President to see who were dragging our feet on the signing of all these documents and that we should definitely by the end of that week complete the directive... so we were invited again on a Friday again I belief to sign the final document at the Office of the President.”** She wasn’t even aware of any valuation as the Minister responsible for GAMTEL/ GAMCEL. She didn’t even know when and how the purchase price for the sold shares was made and did not appear to regard that as abnormal.

According to Ms. Fatou Lamin Faye, the Ex-Minister for Basic and Secondary Education, she became a signatory to the Mobilization Account because in her appointment letter, she was told that the assignments given to her can be verily revoked at any time by the person who appointed her. Therefore, she understood that to mean she was to do any responsibility that was given to her by the Ex-President; that was to organize the state visits and to make sure that she retired funds at the end of the exercise.²¹

According to Mrs. Isatou Njie Saidu, the former Vice President, the Operation Save the Children was handled at the Office of the President. She said she became a signatory to the foundation’s account because her superior the Ex-First Lady asked and appealed for her to do it that was why she couldn’t tell her that it wasn’t her duty as Vice President to be signatory to an account²². She hardly saw the President. The Ex-President used to go through other people or she got letters from the Office of the President. Even if the Ex-President directed her to do something it comes through a file from the Secretary General or officials of the Office of the President.²³

All the above suggests that the Ministers believed they were working for the Ex-President and not the State.

RECOMMENDATIONS

- a) Potential Investors should not be granted an audience at OP with a President. The initial point of call for potential investors is the *Gambia Investment and Export Promotion Agency* (GIEPA) whose role is to promote a conducive environment, attract investments, develop exports and support businesses with the overriding objective of contributing towards employment creation and wealth generation.”

²¹ Transcript of Ms. Fatou Lamin Faye dated 26th September 2017 at pages 5-7

²² Transcript of Mrs. Isatou Njie Saidu dated 8th February 2018 at page 13

²³ Transcript of Mrs. Isatou Njie Saidu dated 8th February 2018 page 22



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OP should not be involved in the decision making of selecting investors for possible Government investment or that of PE's. Rather investment decisions should be left to the relevant agencies/ departments or persons.

- b) For each SOE/ PE, targets should be set in consultation with the line ministry concerned and communicated to the relevant SOE. The performance of SOEs/ PEs should then be closely monitored and measured by MOFEA in line with the targets set. For PEs performing above target, dividends should be paid to Government and for those under performing, measures should be taken to turn the situation around. The line ministry should be heavily involved in the process to ensure that progress is made with the PE/ SOE.
- c) Supplier selection should not be done by OP. For all procurement contracts the procurement process should be followed.
- d) OP staff time should be better managed so that time is spent on official duties. Training should be conducted for OP staff to change the mindset and culture present. Key emphasis should be placed on utilization of time effectively.
- e) The OP should not be allowed to operate and manage any account outside the Government of the Gambia accounting system and thus not forming part of the Consolidated Revenue Fund Account.
- f) The OP should not take over any Ministerial portfolio. When a Ministerial Portfolio is vacant it could be entrusted to another Minister.
- g) Ministers of State take Oaths of Allegiance **and Oath for the due execution of office as provided by the second schedule of the Oaths Act Cap 35:03. In these they swear to be faithful and bear allegiance to the republic of the Gambia according to the Law and to execute the functions of their Offices without fear or favor, affection or ill will, according to the Constitution and other laws of the Gambia. They should endeavor to live up to the oath or resign from office.**
- h) The role of Protocol Officer must be clearly defined and a code of conduct for them developed to separate their official functions from their assigned duties as public officers.



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CHAPTER 2 - MINISTRY OF FINANCE & ECONOMIC AFFAIRS (MOFEA)

During the Commission's proceedings, evidence has been seen of MOFEA's repeated breaches in controls and not adhering to controls. MOFEA has the overall responsibility of ensuring that public funds are utilised in line with Government's activities and the approved Budget.

MOFEA has the overall responsibility of ensuring that they add public value that is by carrying out its duties in the public interest, promoting ethical business and support economic growth.

Policies should be developed and put in place to ensure that there is no recurrence.

(2A) Banks

- (a) A sitting President, First Lady, Vice President or Minister should not be allowed to be a signatory to any Government bank accounts. Although it is our understanding that an accounting officer is never the President, Vice President or even a Minister as at the Office of the President (OP), the Secretary General is the accounting officer. However, the Commission saw many instances where Ex-President Jammeh, Ex- First Lady Zineb Jammeh, former Vice President (Mrs. Isatou Njie-Saidy) and Ministers (Mrs. Susan Waffa Ogoo, Mrs. Fatou Mas Jobe – Njie, Mrs Sira Wally Ndow Njie, Ms. Fatou Lamin Faye and Mr. Abdoulie Jobe) were signatories to accounts such as:



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Central Bank of the Gambia account

- State Aircraft account²⁴;
- Special Project Fund account (Vision 2016)²⁵;
- International Gateway account²⁶;
- State Special Security account²⁷;
- Construction of the Kanilai Recording Studio and Conference Centre account²⁸;
- 3M Special Deposit Account.

Commercial Banks

- Ministry of Petroleum account²⁹;
- Tax Revenue Recovery account³⁰;
- National Security Projects account;
- President's HIV, AID & Asthma Treatment Trust Fund account³¹;
- Kanilai International Festival Tribute to Michael Jackson account³²;
- Mobilisation account;
- Operation Save the Children Foundation account³³;
- Office of the First Lady account³⁴.

Furthermore, the Ministers of Finance from Messrs. Famara Jatta and Mousa Bala Gaye issued instructions from payments from the following bank accounts:

- 3M Account;
- 2nd Divestiture account³⁵;

which is a fundamental breach. Former Minister of Finance Mr. Mambury Njie was a signatory to the following accounts:

- State Aircraft Account; and

²⁴ Exhibit CB23

²⁵ Exhibits CB19A & CB19B

²⁶ Exhibit CB16

²⁷ Exhibit CB28 & CB29

²⁸ Exhibit CB36

²⁹ Exhibits BB46 & BB47

³⁰ Exhibits BB33 & BB36

³¹ Exhibits BB96A, BB96B & BB96C

³² Exhibit BB72C

³³ Exhibit BB83A

³⁴ Exhibits BB82A & BB82B

³⁵ Exhibits CB34 & CB33



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- Mobilisation account.

The current Finance Act 2014 and the Financial Regulations 2016 should be amended to avoid such breaches from occurring in the future.

- (b) The system of issuing and retirement of Imprest should be adhered to in line with the requirements of Section 28 'Imprest' of the Financial Regulations 2016 dealing with application, retirement and repayment of imprest. At year end, the Accountant General must ensure that all unspent balances be repaid into the Treasury Main Account (TMA) as required.

Proper documentations should be in place to support retirement.

- (c) MOFEA should ensure that all bank accounts treated as "Below the Line" be reviewed by the Accountant General's Department to ensure that they are in line with set guidelines. Bank accounts where royalties, taxes and so on are paid should form part of the Consolidated Revenue Fund (CRF) and treated as such. Documents were reviewed in line with the Commission's mandate and evidence was seen of bank accounts opened at Commercial banks (TBL and GTB) where tax revenues were deposited and these monies did not form part of the CRF.

See Volume 2 of the Commission's Report for full details.

- (d) The Accountant General's Department has the responsibility for all cash transactions and accounts of the Government, and is the Receiver General, Paymaster and Chief Accounting Officer of the government. The Accountant General reports to the Permanent Secretary at MOFEA for administrative matters and the Minister for technical matters.

A Refresher course should be conducted for staff of the Accountant General's Department on its roles and functions with particular focus on finding effective and efficient ways of carrying out their duties. This is necessary, taking into account the numerous payments effected by the Accountant General's Department that should have never been authorized.

- A payment of USD700,000 equivalent to D19.3 Million from the HIPC/MDRI³⁶ accounts was approved by the Directorate of National Treasury to pay towards the purchase price of GAMVEG. These funds should not have been used for such expenditure and it was also unbudgeted. The Accountant General has the responsibility to ensure that public funds are protected and used for their intended purpose.

³⁶ Exhibit CB33



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- Payment of D2,100,000 from the HIPC/ MDRI account was made to send 21 Pilgrims to Jerusalem;
 - The Accountant General (Mr. Momodou Lamin Bah) should be held responsible for the public funds transferred from the TMA to the APRC Fundraising account³⁷. See *Volume 2 - Chapter 6 for more details*.
 - There were instructions, “Transfer of Funds”, emanating from the Accountant General’s Department on **plain paper** requesting for various payments to be made.
- (e) The OP should not be allowed to operate and manage any account outside the Government of the Gambia accounting system and thus not forming part of the Consolidated Revenue Fund Account.
- (f) Capacity at the Internal Audit Department should be strengthened to ensure and promote effectiveness in the review process, thereby reducing errors/ irregularities going unnoticed.
- (g) Guidelines should be developed on the operation of Embassy accounts maintained and rolled out for implementation at each Embassy by the Financial Attache. An Embassy should not be able to open an account except with the approval of the relevant authorities.

(2B) Public Enterprises/ State Owned Enterprises

- (a) The SOE/PEs were not given the autonomy needed to deliver on their objectives. Government as owner shareholder should develop a better governance framework with SOE’s that will prevent them from being derailed from their missions.
- (b) For each SOE/ PE, targets should be set in consultation with the line ministry concerned and communicated to the relevant SOE. The performance of SOEs/ PEs should then be closely monitored and measured by MOFEA in line with the targets set. For PEs performing above target, dividends should be paid to Government and for those under performing, measures should be taken to turn the situation around. The line ministry should be heavily involved in the process to ensure that progress is made with the PE/ SOE.

³⁷ Transcript of Mr. Bah dated 14th August 2017 – He confirmed that he was appointed as Accountant General in March 2014



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This is crucial as during the Commission proceedings, evidence was tendered of SOEs such as National Water and Electricity Company (NAWEC) whose financial situation was in a dire state and they could not settle their liabilities. The liabilities of NAWEC then had to be settled by the Gambia Government.

A dividend policy also has to be developed and approved for each PE. There should be clarity in law guiding SOEs that government can only take money from PEs as dividend and that there is no other way.

- (c) Prior to investments being made by PEs/ SOEs, approval must be obtained from MOFEA. For investments that are assessed and deemed not to be viable, they should not be approved. Instances were seen when MOFEA granted SSHFC approval to invest in Gam Petroleum Company Storage Facility. MOFEA has also abused this power by authorizing SSHFC to lend out pension funds on the instructions of the Ex- President.

The Board must be trusted to approve normal investment in accordance with the investment policy approved by Government. However, for significant investments approval should be obtained from Government i.e. jointly the line Ministry and MOFEA and ratified by a Cabinet decision.

Other PEs namely GNPC and GPA had difficulty raising finance to buy shares in Gam Petroleum but due to directive had to do so. This is evident when the PEs had to first buy the 48% shares for Euros 16.8 Million which they could only do by abandoning their own budgeted capital investment plans and again when they had to buy the 10% shares of Mr. Amadou Samba, CBG had to give them including Government a loan.

There is no clear investment policy that provided guidance in respect of what the PE could invest in and what % of their resources could be applied to investment also on how much loan can be taken. Some legislation should be developed which would set out broad bench mark criteria by way of ratios which would guide PEs.

- (d) A review should be carried out of all accounts at CBG (active or dormant) and those identified to be owned by State Owned Enterprises (SOE) transferred back under the control of the relevant SOE.

A particular case is the proceeds from the international gateway that should be transferred back to the control of GAMTEL and not controlled by Government



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now MOFEA. GAMTEL'S financial situation is in a dire state as the debt burden ratio is high. The telecommunications sector also requires massive investment if it is to be restored to international standard. Therefore, the proceeds will facilitate core developments at GAMTEL to enhance technology and make them more competitive. Access to the Gateway revenue by Government should normally be through the dividend policy referred to above and not by taking the revenue directly from source.

- (e) Board compositions should be reviewed to ensure that there is no interlocking of Board members i.e. one person sitting on three or more boards of PEs/ SOEs. This is to ensure that the Board established is effective in carrying out its mandate and can add value to the PE concerned.
- (f) Furthermore, the selection of Board members should be based on merit and experience which can add value to the institution. Individuals must have specific sector/ industry knowledge. Board effectiveness as well as board management relationship should be reviewed. Management in many instances bypassed their boards without much concern. Some of the managing directors seemed to think that once they received directives they did not even have to consult their boards.
- (g) The Managing Directors or Director General should be shielded from executive influence that makes them overlook input from Board Members. In the case of SSHFC, GNPC, GAMTEL, NAWEC and GPA executive directives from OP and the Boards in most cases were unaware of the directives or Board Walkabout resolutions obtained without the matter being tabled for discussion. Boards should be empowered and held responsible for the proper management of their SOE's and given more authority over the appointment of MDs.
- (h) All SOEs covered by the Commission (SSHFC, NAWEC, GPA, GNPC and GAMTEL) were audited and signed of by professional accountants but the anomalies highlighted were not detected by the firms concerned as evidence that issues were raised were not tendered.

The audit of NAWEC was delayed for a number of years which was a cause for concern.

As a result one concludes that the quality of work carried out on the SOEs was questionable, independence and objectivity of the external auditor.

One external audit firm should not be lumbered to provide audit work for a lot of SOEs but work should be evenly distributed to eligible firms by the appointing body.



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See Volume 6 – Chapters 1-9 on State Owned Enterprises.

(2C) Grants

- (i) A robust system should be developed whereby all grants received either in cash or kind by the Gambia Government are recorded and if cash, monies are paid into the Consolidated Revenue Fund (CRF).
- Huge sums of money were received from ROC on Taiwan that were paid directly into the accounts of Ex-President Jammeh, associated companies such as Green Industries, Kanilai Family Farms³⁸ and Foundations namely Jammeh Foundation for Peace and President's HIV,AIDS & Asthma Treatment Trust Fund. Cheques were also made to be payable in the name of ex-President Jammeh and also in the name of the Secretary General, Office of the President. These cheques were usually sent to TBL for clearing and the funds were deposited into a specified account or kept in cash in safes by the Secretary General.

Detailed information can be seen in Volume 5 – Chapter 2 (GOVERNMENT LOANS, GRANTS & DONATIONS)

- Another case is the Japanese Grant. The Japanese Government provided financial assistance to the Gambia Government under the Food Aid Convention 1999, a multilateral cooperation aimed at improving world food security. Under the Agent Agreement, JICS was to purchase rice, flour, and other commodities such as fertilizer; the Gambia Government was to provide counterpart funding.

Once the commodities were sold, the proceeds were to be paid into accounts at CBG, and then used to purchase fertilizers or fund specific projects approved by the Japanese government.

However, the funds benefitted an entity owned by ex-President Jammeh. Beginning in 2007, KGI International, a private entity owned by Ex-President Jammeh, was retained as the agent for sale of the commodities (*i.e.*, rice, flour or fertilizer).

Detailed information can be seen in Volume 5 – Chapter 3 (GOVERNMENT LOANS, GRANTS & DONATIONS)

³⁸ Exhibit CB32 - Kanilai Family Farms is a private limited liability company owned by Ex-President's family.



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(2D) Loans

- (j) Again a robust system should be developed whereby all signed loan agreements are captured in the financial records of Government. The laws currently in place for the contracting and monitoring of loans is clearly inadequate. The power of the Minister of Finance to borrow should be curbed. All external loans must be sanctioned by the National Assembly. This does not appear to be the case under the Public Finance Act 2014 (See section 35(2))

In 2005, the Gambia Government and the Export-Import (EXIM) Bank of India signed a dollar credit line agreement of USD6.7 million (six million seven hundred thousand dollars) to finance the establishment of an assembly plant for tractors in The Gambia.

Section 52 of the Public Finance Act 2014 should be adhered to which states that an annual report should be submitted by the Minister of Finance and Economic Affairs to the National Assembly on the State debt management operations, guarantee and lending activities and other finance arrangements entered into. This report should have included a complete list of all outstanding State debts, including the amount owing to EXIM Bank of India. It is unclear whether such a report was actually provided to the National Assembly, and if it was provided, whether there was any discussion of the issue.

Detailed information can be seen in Volume 5 – Chapter 1 (GOVERNMENT LOANS, GRANTS & DONATIONS)

- (k) Office of the President should not be allowed to contract any loan or short term financing for Government or any of the SOEs/ PEs. All loans should solely be contracted by MOFEA which has the responsibility to safeguard public interest in financial matters.

OP requested for a loan of D10 Million from GNPC³⁹ and loan requests were made and ceded to by many others but the amounts provided were never repaid.

See detailed write up on Volume 6 – Chapter 1 of the Commission's report.

³⁹ SC2 (bundle) (see letter dated 5/4/2012 to Ministry of Petroleum reference OP244/126/02/10/(23) from SG-OP. Letter from Ministry of Petroleum to GNPC dated 10/4/2012 reference APB/105/108/01(104) to MD GNPC. GNPC letter enclosing D10 million cheque dated 12/4/2012 reference GNPC/101/160412/(15)



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CHAPTER 3 – CENTRAL BANK OF THE GAMBIA (CBG)

The core activities of a Central Bank are:

- (a) to develop and maintain the Central Bank's domestic prudential guidelines and conduct policy framework;
- (b) to contribute to the formation and implementation of local internal regulations and standards;
- (c) to lead the development and maintenance of the Central Bank's risk-based framework for supervision of Commercial Banks;
- (d) to provide support and assurance for supervisors' implementation of the Central Bank's policy and supervisory frameworks; and
- (e) to promote a high quality and effective policy environment across the Central Bank and the banking system at large.

There should be institutional reforms developed to ensure that the findings uncovered by the Commission ranging from misuse of public funds, breaches in controls and so on are never repeated. In a nutshell, the Bank should be robust to ensure that financial stability in the country is protected at all times.

Introduction to Anti-Money Laundering

The Central Bank of Gambia (the "Central Bank") is the competent authority in the Gambia for the monitoring and supervision of financial and credit institutions' compliance with their obligations under the Act. The Central Bank is empowered to take measures that are reasonably necessary to ensure that credit and financial institutions comply with the provisions of the Act.

Key Features of the Act

The Act sets out legal provisions to ensure technical compliance and effective implementation of international standards relating to Anti Money Laundering (AML) and Countering Financing of Terrorism (CFT). The Anti Money Laundering Act 2012:

- Defines broadly the offence of money laundering.
- Defines designated persons and beneficial owners that come under the provisions of the Act.
- Provides for Directions, Orders and Authorisations relating to investigations.



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- Sets out customer due diligence, reporting, internal policies and procedures, training and record keeping requirements of designated persons.
- Provides for monitoring of designated persons.
- Designated persons should adopt a risk based approach when carrying out its obligations under the Act.

What is Money Laundering?

Money laundering is the process by which the proceeds of crime are 'washed' through the financial system in an effort to disguise their illegal origin. Money laundering involves:

- an underlying, profit-making crime (e.g. tax evasion, fraud, theft, bribery, organised crime, drug trafficking, embezzlement);
- an act to conceal, transfer or convert the proceeds of crime; and
- the person involved knows or ought to have known that the property is the proceeds of crime.

Why are Anti Money Laundering laws important?

Money laundering diverts resources away from economically and socially productive uses and can negatively affect a country's financial system by undermining its stability. Weak anti money laundering (AML) controls will also have reputational consequences for a country's financial system.

It is important that a country is seen as having robust AML regulatory framework with financial firms effectively implementing AML systems and controls as it dissuades criminals from targeting that financial system.

In order to combat money laundering, CBG requires financial institutions to ensure that they have information about their customers and to develop and maintain AML policies and procedures. This is to ensure that financial institutions know who their customers are and what the nature of the business relationship is over the lifetime of that relationship. This will help prevent legitimate accounts from being used by anyone but the legitimate account holder and help prevent criminals setting up anonymous accounts to launder criminal proceeds.



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Other recommendations

- (a) Going forward, all revenues including royalties and tax revenue should be paid into the Consolidated Fund (section 7 (1) and 21 (2) of the 2014 Act which includes all revenues or other public monies raised or received on behalf of Government. Findings of the Commission indicate that this was not the case. Funds from royalties paid were used, for instance, to purchase Bulls by regional Governors for resale during Ramadan under the directives of the Ex-President, and by the Ex-President on a shopping spree and as an ad hoc scholarship fund.
- (b) A review should be carried out of all accounts (active or dormant) and those identified to be owned by State Owned Enterprises (SOE) transferred back to the control of the relevant SOE.
- (c) Banking policies should be reviewed and controls further enhanced. Cash withdrawals should be minimized and transactions limited to transfers only.

Monies should also not be paid out after the bank's official closing hours.

- (d) Operational manuals particularly for the Banking Department should be developed and rolled out to staff. Based on the testimony of Mr. Amadou Colley (former Governor of CBG), he testified that there was no operational manual in place at the Banking department. Instructions were received from Office of the President on plain paper (**no letterhead**) for the withdrawal of cash that was authorized by senior government officials and honored by the Bank. Affected accounts were:
 - Special Project's Fund (Vision 2016) account;
 - 2nd Divestiture account;
 - 3M account;
 - GAMICO Training account

Instructions were honored by the Bank even when persons were **not signatories** to an account.

- 3M account (Mr. Baba Jobe signing on account and allowed to withdraw monies in 2000. He was added as a signatory to the account in 2001.
- International Gateway account (Ex-President Jammeh was not a signatory to this account).



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Single Signatory Payments - Some of the signatories in a number of instances authorised payments based on single signature. These instructions were accepted by CBG and payments made out. Affected accounts are:

- State Special Security account.
- (e) The Internal Audit Department at CBG should be revamped and strengthened to ensure that the staff are effective in carrying out their functions. More competent staff should be recruited and equipped to ensure that tasks are carried out. The anomalies that occurred at the Bank should have been detected by the Internal Audit Department and communicated to the Board Audit Committee for corrective actions to be taken.
- (f) The autonomy of the Governor should be guaranteed even though nominated or appointed by the President. This is to ensure he/she achieves the set objectives of attaining financial stability, market confidence.

This is to ensure that investors have confidence in the country and not only relying on the legal sector to protect investment.

CBG Management including the Governor was dysfunctional in the role they played in the massive misappropriation of government resources by the Ex-President. If autonomy is guaranteed then the anomalies that previously occurred should not reoccur.



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CHAPTER 4 – MINISTRY OF INTERIOR (CITIZENSHIP & ALIEN I.D. CARD)

4.1 Introduction

During the course of its investigations into Central Bank Accounts connected to OP, the Commission came across a Citizenship Investor Account which held a closing balance of D39.8 million⁴⁰. Although the monies in the account were deposited by the Immigration Department over time, the investigations showed that the account was not controlled by them and they had in fact never withdrawn any money from it. The Central Bank could not tell the Commission how the account was opened.

The Commission discovered that the Government, through the Department of Immigration, between the period 1995 to 2017 operated 2 programmes that: (1) granted citizenship to Chinese nationals; and (2) provided Alien Identification cards to Chinese nationals, and the Citizenship Investor Account was linked to these programmes. The Commission proceeded to investigate the account and matters related to it pursuant to its authority under Clause 2(3)(d) of its TOR to investigate any person or matter that may be reasonably related to its inquiries.

4.2. Citizenship Investor Account

Mr. Karamo Jawara⁴¹, testified that the Citizenship Investor Account was a Gambian Dalasi account that was believed to be associated with the Office of the Ex-President because the Secretary General's name was attached to the account in the CBG system. The request for the opening of the account could not be traced in the CBG records. The account showed a take on balance of D110,100 on 2nd October 1999 into the Bank Master system. 99% of the transactions in the account were credits paid in by the Director of Immigration⁴². There were four major withdrawals from the account. A withdrawal of D2, 000,000 made on instructions from the Ministry of Finance to pay for a pilgrimage to Jerusalem. This was later refunded from the HIPC account.

The other withdrawals were initiated by CBG to refund itself for certain Government overdrawn accounts as of the 31st December 2012 audit adjustments. CBG financial statements showed that the Security Deposit Account was overdrawn by over D148,880.79; the Government of The Gambia Account by D2,153,972.32; and the BCC Special Development Account by D1,139,777.30. CBG Auditors had advised that the overdrawn balances in the accounts be cleared against the Citizenship Investor Account

⁴⁰ See Exhibit CB35

⁴¹ Witness No 7

⁴² See Exhibit CB35 and Transcript of Karamo Jawara dated 19th December 2017



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that had a credit balance of D9,000,000 as at 31st December 2012. The Deputy Governor II of CBG, Oumie Savage Samba⁴³, wrote to SG OP informing him of the CBG action.

The Commission was informed that the source of funding was from the sale of Gambian Alien Identity Cards in Hong Kong. Payments were made into the CBG account in US Dollars cash, which were converted into Dalasi using the exchange rate of the day. All payments were accompanied by a letter. One such letter stated: *“Can you please accept D33,900 for payment of 339 family units of Alien Identity Card under the following investment program for the month of December 2013, Account Number...”*⁴⁴ The last payment in the account was 21st December 2016 with a deposit of D604,928; and the closing balance of D39.8million⁴⁵.

4.3. Foreign Investment Program/Citizenship Investor Program

The evidence presented shows that in November 1994, a meeting was convened at the office of the PS Ministry of the Interior (MOI) to review the Foreign Investment Program (FIP) in operation during the First Republic. It is apparent from the minutes that the Government had an existing agreement with agents for the purpose of the FIP⁴⁶. The Solicitor General and Legal Secretary was notified about the review in December 1994 by OP. A letter was sent which highlighted the proposed changes to the program agreed to at the meeting which included limiting the duration of citizenship from lifetime to 10 years with a possibility of renewal. The letter indicated that the existing agents were to be retained because their performance was satisfactory.

However, on the 22nd December 1994 the MOI forwarded a proposal from one S.Y Hu to OP, which simply stated his address as 1133 Queen St. E, Toronto Canada. It was not on Letterhead and the name of the company or organization he represented was not mentioned. He mentioned that he had an associate in Gambia, a Mr. I.K Sambou. His proposal was to bring investor immigrants into the country to make substantial investments in exchange for citizenship⁴⁷.

The evidence also shows that S.Y Hu was appointed an Ambassador at Large and an agreement was signed on the 18th January 1995. The agreement stipulated that Sek Yu Hu was Gambia's agent for the implementation of the FIP in Hong Kong, Macau, Singapore and Peoples Republic of China. The entrance fee into the program was USD10,000 per family unit and USD7,000 for a single unit. The agreement stated that

⁴³ Witness no.45

⁴⁴ Ibid Exhibit CB35

⁴⁵ Exhibit MS159- Agreement between Mirabeau and Ministry of Interior.

⁴⁶ Minutes of Meeting held on the 28th November 1994 –Exhibit MS347.

⁴⁷ Letter dated 22nd December 1991 and proposal from S.Y Hu-Exhibit MS347.



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the proceeds from every 5 passports must be deposited through telex transfer to the F.I.P account number 815 at Central Bank of The Gambia. Momodou Nai Ceesay⁴⁸ confirmed this account number in his statement dated 23rd February 2018⁴⁹. Holders of passports under this program were expected to invest in the country within 3 years otherwise the passport would be revoked. Persons admitted to the FIP were also entitled to:

1. A Gambian Identification Card;
2. A Gambian Naturalization card; and
3. Certificate from the Director, to confirm the authenticity of the passports.

The agreement provided that all investment fees received from the FIP shall be utilized on priority projects for the benefit of the Gambian people. The agreement was signed by Momodu Aki Bayo⁵⁰ and Momodu Nai Ceesay. Momodou Aki Bayo was summoned in relation to this program; he admitted that he signed the agreement. However, he indicated that he attempted to obtain certain documents from the MOI but he was informed that folio 14 to 44 were missing from the relevant file. Mr. Bayo therefore considered himself “seriously handicapped as a useful witness”⁵¹.

Mr. Bully Dibba⁵², PS Interior, has told the Commission that he has not come across a CBG 815 account from the information he was provided by the Immigration Department. CBG has also yet to find a record of this account despite summonses from this Commission.

Correspondence in the MS347 Exhibit bundle suggests that the Gambia government entered into various agreements for the FIP. An agreement was signed with Orwin Company Limited in 1997 by DOS Interior represented by Joseph Harris Gabbidon for PS and Momodou Nai Ceesay, as Director. Orwin Company was appointed exclusive agent to promote and implement the program. The terms of the agreement were quite similar to the agreement entered into with S.Y Hu in 1995⁵³.

The FIP was discontinued following directives from the Ex-President. The Commission does not have a copy of the said directive but the SGLS at the time, Mr. Raymond Sock, stated so in a legal opinion dated 11th July 2002 written at the request of MOI. He

⁴⁸ Witness no.214. This witness was summoned to give evidence in February 2018 but was ill because he had been recently amputated. He gave evidence in September 2018 as witness for Mr. Amadou Samba.

⁴⁹ See Exhibit MS347

⁵⁰ Witness no. 181

⁵¹ Ibid Exhibit MS 347 statement of Momodou Aki Bayo dated 3rd February 2018

⁵² Witness no.136

⁵³ Ibid Exhibit MS347



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advised that persons issued passports under the program should be allowed to renew them because they are considered citizens⁵⁴.

The Immigration department had a few difficulties in ascertaining who was eligible for renewal and who was not. A list of naturalized citizens under the Orwin Ltd Contract was prepared by the trade Commissioner assigned to Hong Kong and it would appear from the file that the issue was settled in 2004⁵⁵. The list featured the names and passport numbers of about 224 naturalized citizens⁵⁶. The list is not dated or signed. The investigators could not ascertain that this was the entire list.

As stated, CBG has not found the records of the account No.815 which the evidence shows was the account used for this FIP. The evidence that the Programme was **discontinued** is supported both by the Opinion from SGLS, and Exhibit CB35. Exhibit CB35, particular, shows the take on balance from the previous CBG system to the Bank Master System on the 2nd October 1999. Three credits went into the account thereafter:

Date	Amount (GMD)	Narration
8/11/1999	92, 320.00	YVONE Xi Lim Huang
15/9/2000	123,800.00	Family unit of Mr. David Deng- USD10,000
17/5/2001	120,720	Catherine Yf Zhong- Single unit- USD8000

Without the CBG records of this account prior to the introduction of the Bank Master system the Commission is unable to determine: (a) how much revenue was paid to Government from this programme; and (b) how the revenue was spent.

The Commission was unable to make further progress on the investigation into the FIP, and since the investigators were already overstretched, decided to defer it to a more specialized inquiry.

⁵⁴ Ibid Exhibit MS347

⁵⁵ Letter dated 26th February 2004 from the Department of Immigration -Exhibit MS347

⁵⁶ See list of Naturalized citizens under the Orwin Ltd contract -Exhibit MS347



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4.4. The Alien ID Card Programme.

The notion of creating an Identification Card for Aliens residing in The Gambia was first proposed by Momodou Nai Ceesay in 1998 while he was Director of Immigration and was administered as such until he left in May 2000. The proposal was approved by the Minister of Interior and resulted in a cabinet paper presented by the then Minister, Ousman Badjie. Once Cabinet approval was granted, an agreement was signed with Mirabeau Limited, a company based in Hong Kong that was invited to assist in the implementation of the project⁵⁷. Exhibit MS159 shows an agreement dated 30th December 1999 between Mirabeau Limited and Gambia Government and signed by the representative of Mirabeau and the PS MOI⁵⁸. Mrs. Therese Drammeh was the PS at the time. In her statement to the Commission dated 5th February 2018⁵⁹ Mrs. Drammeh confirmed that she signed the contract on behalf of her MOI⁶⁰. She confirmed that the Alien Card programme was different from the FIP. She said the Alien ID Card enabled aliens residing in the The Gambia to hold photo identification and the agreement was for the supply of materials from Mirabeau.

From the evidence however the Alien ID Card Programme was much more than that. Mr. Bulli Dibba informed the Commission that the Alien ID Card programme came to his attention in **May 2017** when a private individual worked into his office and told him about it⁶¹. Mr. Dibba later received an email from his source with two attachments: A Hong Kong Visa Handbook containing visa information requirements, and a form pre-signed by the then Director of Immigration, Pa Baboucarr Mboob⁶², on 31st August 2012. The form was addressed “*To whom it may concern,*” and the document read “*Please be informed that the following holder of The Gambia Aliens Identity Card is a legal resident of The Gambia and therefore DOES NOT need a VISA to enter The Gambia.*”⁶³

Mr. Dibba tendered a letter written by one Dr. Joseph Lai addressed to the DG Immigration Department. Dr. Lai gave the historical context of two programmes operated by Government. According to the letter, the first programme, which he called “Investment Immigration Programme” started shortly after the July 22nd 1994 coup d’état. It was a scheme used to raise funds for the Government and USD500,000 was raised in the first 3 months. The letter indicates that another company took over the program when the Gambia established diplomatic ties with ROC (Taiwan). However,

⁵⁷ Statement of Momodou Nai Ceesay dated 21st December 2017- MS347 (Ministry of Interior file)

⁵⁸ Exhibit MS159

⁵⁹ Exhibit MS347 bundle

⁶⁰ See signature page of contract between Mirabeau and GOG- MS 159

⁶¹ Transcript of Bulli Dibba dated 30th January 2018

⁶² Witness no. 138

⁶³ Exhibit MS159- A form pre-signed by the Director of Immigration



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after a year, the Ex-President requested Dr. Lai's company to re-establish the investment program⁶⁴.

It would appear that a contract was entered into in 1996. However, the Commission could not find this contract. Dr. Lai wrote that the Investment program was stopped in 1999 at the request of the government due to "*sensitive issues related to the Taiwan diplomatic relationship*". In 1999, Dr. Lai said he was invited again by Ex-president Jammeh to implement the Alien Card Programme. He described the Aliens Card as "*life-time long and it becomes a permanent residency identity*". According to the letter, the Alien's card Programme had generated over D100 million in four years and was expected to raise more. The letter alleged that some people from China attempted to join the Alien's card program illegally by coming to Gambia to bribe the immigration officials. However, the Ministry of Interior and immigration department had been successful at blocking them⁶⁵.

In March 2002, the Director of Immigration issued a communique stating that Mirabeau was appointed exclusive agent to process and implement the foreign residency programme. Successful applicants were to be admitted and approved as permanent residents of The Gambia and issued with the Gambia Alien Identity Card⁶⁶. Another letter dated 17th July 2002 issued from the Department of State for the Interior signed by the Ag. Permanent Secretary A.R. Cole confirming "*that MIRABEAU LTD is the only Company approved by The Gambia Government to work with the Department of Immigration, to supply, provide, process and finance all the needs of the ALIENS Identity Card*"⁶⁷.

The Commission notes that Mr. Dibba, described the programme using two names; the Foreign Citizenship Program and the Capital Investment Program. These are names he said he came across whilst doing research about the programme. The Commission however understands him to be referring to the Aliens Card programme rather than the FIP, which was discontinued since 2002.

There is no indication of the author of the published Hong Kong handbook Mr. Dibba received from his source, but it was about applications for admission under the Capital Investment Entrant Scheme Program in Hong Kong. Mr. Dibba said he also found a South China Morning Post, Hong Kong that was dated Wednesday 19th June 2013, published at 12:13pm, which gave an indication of some important elements of the programme. The same article was updated Thursday 29th August 2013 at 4:13pm and reads:

⁶⁴ See Exhibit MS159 bundle-Letter prepared by Dr. Joseph Lai of Mirabeau Company Ltd in 2004-

⁶⁵ See Letter prepared by Dr. Joseph Lai, MS 159

⁶⁶ Exhibit MS159

⁶⁷ Exhibit MS159 bundle. Mr AR Cole died shortly after giving evidence on the Gambia Embassy (USA) Procurement Accounts, before he could shed light on this letter.



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“West Africa is a shortcut for rich mainland Chinese to achieve Hong Kong residency.’ Thousands of mainland Chinese have permanent residency in The Gambia, a place they most likely have never visited and never will, as the African country has been unexpectedly profiting from a Hong Kong Immigration scheme. The fastest, cheapest way for Chinese citizens to gain a right of residency in Hong Kong under the Capital Investment Entrant Scheme is to first gain permanent residency in The Gambia. The scheme, established in 2013, aims to attract high-value individuals to Hong Kong. An eligible applicant would have to invest at least 10 million Hong Kong dollars in the city and have residency anywhere except for rogue states and the Chinese mainland. For a Chinese citizen to be eligible, the person needs to be a permanent resident in another foreign country. That’s where The Gambia, which doesn’t have diplomatic ties with Beijing, comes in. The country’s loose requirements have turned it into a vehicle for wealthy Chinese to get their foot in Hong Kong’s door. It takes six 4cm-by-6cm headshots, 15 working days, and roughly 100,000 Hong Kong dollars to gain residency in western African countries, according to the visa agency in Yunnan and Guangdong provinces. No visit to the country is required...Since the beginning of the Hong Kong Immigration Scheme, 9,050 successful entrants from the mainland have cited permanent residency in The Gambia.”

From 2010 to 2016 the amount reported by the Immigration Department as received and paid to CBG is US D1,032,400, equivalent to D39, 039,814. This is consistent with the sum deposited into the CBG account. However, the amount stated in the article as the cost of one residency unit converted in 2013 was equivalent to USD16,517 at the time. If multiplied by 9050, the alleged number of Chinese nationals with Gambian ID ($\text{USD}16,517 \times 9050 = \text{USD}149,478,850$). Even if the 100,000 Hong Kong dollars was per family Unit this is a substantial sum of money. Moreover, the number 9,050 was as at August 2013.

Mr. Dibba testified that he was very concerned about the stark contrast between what was being charged in Hong Kong and what was paid to Government through immigration, but he could not find or get answers from his Ministry or the Department. Another cause for concern was the fact that the money was apparently being earned in Hong Kong and yet Immigration was paying cash into CBG instead of by bank transfer from Hong Kong as would be expected. Mr. Dibba said he was made to understand that cash was received by Immigration locally and that was what was paid to CBG.



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Mr. Dibba was of the view that there was gross under declaration of actual revenue versus what was received. He found the article from the Hong Kong South China Morning Post to be very credible and believes that the USD500,000 raised within three months was not even the true amount. He was concerned that the PS Interior was the spending and accounting officer yet the CBG account appeared exclusively controlled by SG OP. Statements were also not received. From his investigations, Mr. Dibba believed that the PSs of Interior had been negligent. He hastened to add that Office of the SG should be held responsible for any loss to Government⁶⁸.

Mr. Pa Baboucarr Mboob⁶⁹ testified that he first came across the Alien ID Card programme when he became the Director of Immigration in 2013. He informed the Commission that Mirabeau is a Chinese company that was previously contracted by the Gambian Government to supply Gambia national ID cards, and now the current Alien ID Card and the Foreign Residency ID Card. The manual card they supplied was later turned to a biometric system in 2009 and the contract for the production of the biometric ID Cards was given to GAMBIS. Mirabeau continued the production and supply of Alien ID Cards issued to Aliens residing in The Gambia⁷⁰.

Mr. Mboob **stated** that he does not know how the program started and he has never travelled to Hong Kong in relation to this program. He however informed the Commission that **Dr. Joseph Lai**, was the person managing or directing the program in Mirabeau. His last known visit was four or five years earlier. Mirabeau had a representative based in Gambia known a Mr. Chen who bought blank cards from the central cashier of the immigration department. Each card was sold for D100, the cards were then sent to China and processed by Mirabeau. The representative then pays USD100 for each family unit of the processed cards at the central cashier at the Immigration department. Mr. Mboob could not elaborate on how the cash was received and how much was being charged in Hong Kong. Funds received were deposited into a special account at the CBG. He could not confirm who the ultimate beneficiary was. Mr. Mboob could not also confirm whether OP was involved. He stated that the immigration had limitations and their participation was limited to collecting the payments and depositing the cash into the special account at CBG⁷¹.

Mr. Mboob informed the Commission that the cards were issued outside The Gambia and thus not valid for those who acquire the Foreign Residency ID Card within The Gambia because it was meant to facilitate movement from mainland China to Hong Kong. Essentially, this was a program for Chinese Residency⁷².

⁶⁸ Transcript of Bulli Dibba dated 30th January 2018

⁶⁹ Witness no.138

⁷⁰ Transcript of Pa Baboucarr Mboob dated 31st January 2018

⁷¹ Ibid Pa Baboucarr Mboob

⁷² Ibid Pa Mboob



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Mirabeau had a local representative based in The Gambia known as Chen Casey. Mr Casey in his statement to the Commission stated that he was hired by Berry Ko, Gambia's Trade Commissioner running the Alien ID Card program in Hong Kong and China. He was appointed in 2004 and his main responsibility was to act as the contact person between Mirabeau and the local authorities. He was responsible for receiving packages from Berry Ko and paying cash to The Gambia Immigration Department for Alien Cards sold in Hong Kong by Mirabeau. Mr. Chen claims that he does not know how much Mirabeau was charging in Hong Kong or China. He was given USD100 for each family unit which he paid to Department of Immigration. He added that he worked alone in The Gambia and that the program stopped sometime in 2015⁷³.

Mr. Chen Casey was summoned to appear before the Commission after making the statement. He did not show up and could not be contacted thereafter. He is believed to have left the country and did not return.

The Commission issued a summons on 12th January 2018 to the PS Minister of Foreign Affairs regarding Berry Ko Long, Trade Commissioner for Hong Kong, but did not receive any information.

The Commission could not make progress with its investigations on this programme in the absence of any useful local evidence and suspended same.

4.5. FINDINGS

General

(1) Citizenships investor programmes by which citizenship may be obtained if an investment over a certain threshold is made in a country, exists in many Jurisdictions. However, these are transparent programmes whose requirements are published in the country's immigration website and managed openly by a government agency and supported by legislation. Section 8A of the 1992 Amendment to The Gambia Nationality and Citizenship Act introduced such a scheme. The section permits the registration of a person who applies for special immigration status as a 'Special Immigrant'. However, the registration must be preceded by an Order published in the Gazette signed by the President designating the person a 'Special Immigrant.' We have not found any order that has been published designating any Chinese nationals a 'special Immigrant' from 1994.

⁷³ See statement of Chen Cassey- dated 9th January 2018 – Exhibit MS347



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(2) The two programmes – the FIP (also known as Citizenship Investment Programme) and the Alien I.D. Card Residency (launched from 1999 by the Ex-President and Dr. Joseph Lai) were managed in a **very** opaque manner. There is no record of a Cabinet briefing or involvement on the introduction of the Alien ID Card Residency Programme. From the evidence, in particular, the letter from Dr. Joseph Lai referred to above, the Commission finds that the Ex-President determined and controlled the operation of both Programmes, and discontinued the Citizenship Investor Programme by which passports were actually issued to Chinese nationals, in favour of the Alien ID Card Residency Programme because, presumably, the latter did not adversely impact Taiwan Gambia relations.

Citizenship Investor Programme

(3) The FIP as operated was in violation of the provisions of The Gambia Nationality and Citizenship Act. The Commission notes that The Nationality and Citizenship Act was amended in 2004 to confer on the President the power to confer a Certificate of Citizenship on any person, and that person upon the taking the oath of allegiance shall become a citizenship, which citizenship may also be revoked by the President. However, it is clear that this section does not apply to the FIP because, that Programmed does not require the taking of an oath of any kind⁷⁴.

We conclude that the Citizenship Investor Programme, as operated by the Immigration Department with approval from the Ex-President from 1995, was illegal.

Alien ID Card Programme

(4) The role of the Department of Immigration in the administration of the Alien ID Card Residency Programme from August 2001 seems to have been, primarily, to issue the pre-signed form confirming that “the *holder of The Gambia Aliens Identity Card is a legal resident of The Gambia and therefore DOES NOT need a VISA to enter The Gambia*”, and receiving the USD100 per unit cash payment and depositing same into CBG. There is no evidence that the Director of Immigration or the Ministry of Interior was aware of what was going on in Hong Kong or how much was being charged. The Department and Ministry were not signatories to the CBG account and they did not receive any benefit from it. The funds, limited as they were, were also not paid into Government revenue.

⁷⁴ See Section 8B of the Act.



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(5) The Commission was unable to conclusively ascertain how much was being charged in Hong Kong for the Aliens ID Card. A review of the account, however, shows that as from 24th August 2001 all payments into the CBG account were in respect of the Alien ID Card in the sum of USD100 per unit. The narrative in the statement of account indicates that about USD149,900 (1499 Units) was paid from that date up to 12th March 2010. Thereafter, MS 159 shows that from 12th March 2010 to 21st December 2016, USD1,032,400 (10324 Units) was received and paid into the account. The estimated total units of Alien ID Cards issued is therefore 11823 Units. This figure is consistent with the payments into CB35, although from 24th January 2012 payment into the account were only recorded in dalasis.

(6) The Commission has considered the publication in the South China Morning Post on the sum charged for the Alien ID Card in Hong Kong and is wary of accepting information from any publication as representing the truth. However, taking the evidence as a whole, it is clear that the amount charged in Hong Kong is significantly more than the USD100 pittance paid to CBG. Assuming the fee of 100,000 Hong Kong dollars per unit published is true, then for an estimated total unit of Alien ID Cards issued of 11823 at an average of USD16,000, the total revenue from this scheme from 2001 to December 2016, would be **USD189,168,000.00 (One hundred and Eighty-Nine Million One hundred and Sixty-Eight Thousand United States Dollars).**

(7) The Commission is of the view that from his pattern of conduct as revealed by this Inquiry, it is most unlikely that the Ex-President would take an interest in a scheme that was only making USD100 per unit. The Commission therefore finds that it is more probable than not that the Ex-President was fully aware of the revenue realized in Hong Kong and how same was disposed of.

(8) The Commission finds that the Alien Card Program operated under the Ministry of Interior during the period 2001 to 2016 or thereabouts was conducted in a manner that violated the Registration of Aliens Act. One of the objects of the registration of Aliens Act is to have a central register for all non-citizens residing in The Gambia, and the Ministry as an agent of the Government of The Gambia is well aware of this. Thus, the Commission finds that an arrangement for Chinese citizens to be given Alien cards as a basis for a permanent residency status without ever setting foot in the Gambia cannot legally be implemented without an Act of the National Assembly regulating same. The Commission finds that the contract entered into between Mirabeau and the Government of The Gambia was against the public interest, and illegal.

(9) The Commission also finds that the withdrawal of D2 million by the Ministry of Finance to fund a pilgrimage is not a legitimate use of public funds and must be further investigated.



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4.6. RECOMMENDATIONS

1. The Alien I.D. Residency Programme is illegal and should be cancelled and discontinued.
2. The Commission recommends that the Government should, as a matter of urgency, conduct a Special High Level Investigation (SHLI) led by the Attorney General and Minister of Interior to engage with the Government of People's Republic of China to investigate the Alien ID Card Residency Program and Foreign Investment Program. The SHLI should ascertain how the scheme was carried out in Hong Kong, the involvement of Dr. Joseph Lai, Mr. Berry Ko Long Ting, Chen Casey and the Mirabeau Company, with a view to establishing the monies realized from the scheme, who benefitted, who was involved, and whether recovery can be made for the benefit of the people of The Gambia.
3. The Commission recommends that the Foreign Investment Program should be suspended pending the formulation and articulation of a well-informed policy that should form the basis of more comprehensive provisions in the law, that would benefit The Gambia.
4. Section 8B on the grant of Certificates of citizenship by the President, at large, should be repealed.
5. The Citizenship Investor Account at CBG should be investigated in relation to the Foreign Investment Program 815 bank account records. It is not acceptable that the CBG cannot find any records about the account. Government should be able to ascertain how much was raised between 1994-2001 and how it was spent.
6. The withdrawal of D2 million by the Ministry of Finance to fund a pilgrimage is not a legitimate use of public funds. The withdrawal must be investigated by the Auditor General and the money recovered from those who authorized its payment.



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CHAPTER 5 – COMMERCIAL BANKS

There were many lapses identified affecting regulatory, compliance and operations of Banks. During the Commission's proceedings, Commercial Banks notably **Trust Bank Limited, Guaranty Trust Bank (Gambia) Limited, Access Bank (Gambia) Limited and Skye Bank (Gambia) Limited** breached controls resulting in a weak control environment at the Banks. The Regulator, CBG, as part of its duties should carry out inspections and supervisions of financial institutions. However, there is no evidence to show that CBG detected any of the anomalies highlighted in various sections of the Commission's Report.

Policies should be developed and put in place to ensure no recurrence of the lapses detected in the commercial banks.

Some of the areas that require immediate remedial actions are:

- (a) The Financial Supervision Unit of CBG was weak as these issues should have been detected and corrected. The Unit should be strengthened to enable them deal with technical matters arising at financial institutions swiftly and decisively. Clear procedures should also be developed to ensure that proper monitoring of financial institutions is carried out. The banks concerned should be heavily fined for the breaches highlighted such as:
 - i) Lack of adequate documentation for account opening on the MYJ Family Trust account, Dr. Alhaji Yahya Jammeh Foundation account;
 - ii) Incomplete documentation on withdrawals such as the case of the Ministry of Petroleum account at GTB. Withdrawals were authorized by bank officials when instructions were not signed by the signatories to the account and in some transactions not signed at all;
 - iii) For commercial banks accepting to add Ex-President Jammeh as a signatory to GNPC foreign bank accounts without a Board Resolution. Banks affected were Access Bank (Gambia) Limited, Skye Bank and GTB.
- iv) All government accounts opened at commercial banks should be immediately identified and closed by the Accountant General's Department. All balances should be transferred to accounts domiciled at CBG as CBG is the Banker to Government. This exercise should be spearheaded by the Accountant General's department.
- v) The commercial banks that allowed Ex- President Jammeh to withdraw funds from accounts even when he was not a signatory to the account should be held



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responsible for said sums if the assets of the Ex-President are insufficient to recover the sums due to the State.

- vi) For accounts opened without proper and adequate documentation such as the MYJ Family Trust account, guidelines have to be set. For banks that allowed breaches in procedures such as the Ministry of Petroleum and National Security Project account, measures will have to be taken so that such actions do not reoccur. These breaches resulted in individuals operating undetected in the financial system and exploiting this weakness to turn their criminal proceeds into legitimate funds. If a customer does not disclose relevant information required by law, a Bank is obliged under the AML laws to cease providing services to that customer and may ultimately have to discontinue the business relationship. Customers need to be aware of this.

It is recommended that CBG having oversight responsibilities over the Commercial banks levy fines for breaches of compliance and regulatory rules.

- vii) Money laundering diverts resources away from economically and socially productive uses and can negatively affect a country's financial system by undermining its stability. Weak anti money laundering (AML) controls will also have reputational consequences for a country's financial system.

It is important that a country is seen as having robust AML regulatory framework with financial companies effectively implementing AML systems and controls as it dissuades criminals from targeting that financial system.

In order to combat money laundering, the Gambian law requires financial institutions to ensure that they have information about their customers and to develop and maintain AML policies and procedures. This is to ensure that financial firms know who their customers are and what the nature of the business relationship is over the lifetime of that relationship

Policies on Anti-Money Laundry (AML) should be further strengthened at the Banks. CBG should further have measures in place to detect any irregularities in transactions. A particular case is the monthly transfer sent to Ex-President Jammeh's accounts held at TBL of USD500,000 per month by EAGL based on an instruction signed by Mr. Mohamed Bazzi. Mr. Ebrahima Sallah the current MD of TBL testified that ex-President Jammeh's accounts were handled by the former Managing Director Mr. Pacumba Njie. Red flags should have been raised by TBL either by the Internal Audit department or Risk Department but this continued unflagged from June 2011 to November 2013. External audit reports also did not highlight any such anomaly.



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A fine should be applied on TBL for not reporting any incident report of suspicion to CBG (Regulator).

- viii) The Central Bank should implement a risk-based approach to AML and countering the financing of terrorism ('CFT') supervision of credit and financial institutions. Effective risk based supervision entails identifying money laundering ('ML') and terrorist financing ('TF') risks and supervising banks commensurate with the risks identified and taking necessary action to bring about compliance. There are two elements of the risk-based approach to AML/CFT supervision: (a) Identification and Assessment of ML/TF Risk; and (b) AML/CFT Supervisory Engagement to monitor and bring about compliance.
- ix) The Financial Intelligence Unit (FIU) of the Gambia should be fully equipped so that instances of money laundry are detected immediately or within a short period of time and communicated to the relevant authorities.