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## Privatisation of shipping agency services in Tanzania : a case study of an economic policy problem

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**WORLD MARITIME UNIVERSITY**

Malmö, Sweden

**PRIVATISATION OF SHIPPING AGENCY  
SERVICES IN TANZANIA**

**A case study of an economic policy problem**

By

**PILLY N.B. SAIDI**

**Tanzania**

A dissertation submitted to the World Maritime University in partial  
fulfillment of the requirement for the award of the degree of

**MASTERS OF SCIENCE**

in

**SHIPPING MANAGEMENT**

2000

## DECLARATION

I certify that all material in this dissertation that is not my own work has been identified, and that no material is included for which a degree has previously been conferred on me.

The contents of this dissertation reflect my own personal views, and are not necessarily endorsed by the University.

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## **ABSTRACT:**

Title of dissertation: **PRIVATISATION OF SHIPPING AGENCY SERVICES  
IN TANZANIA.**

**A case study of an economic policy problem.**

DEGREE: **MSC.**

This dissertation is a study of the privatisation of shipping agency sector in Tanzania. The study addresses the factors that led to privatisation, how privatisation was carried out, and its impact on the national economy.

A brief review is made of the portfolio and performance of the shipping agency functions under the state owned company “The National Shipping Agencies Company (NASACO)” before privatisation, in order to examine the strengths and weaknesses of such public enterprises. The structure of the Tanzanian Privatisation Policy is described, and the respective program for privatising the shipping agency is explained so as to give a clear understanding of privatisation and its objectives. The study identifies the primary objectives of privatising shipping agency sector as to remove the monopoly of NASACO, to promote efficiency by encouraging competition, and to increase the contribution of shipping agency services (as private sector) in the economy. The study analyses results of privatisation in order to assess the success and the failure of privatisation exercise. The success was evidenced by customer satisfaction and by increased efficiency and quality of services rendered by new agency companies. On the other hand privatisation resulted in unfair competition between the players, concentration of powers by foreign shipping lines and elimination of local agency companies from the market. The concluding chapter offers several recommendations that need to be considered and implemented to rectify the present situation in the shipping agency sector.

**Key words: Privatisation, Monopoly, Promote, Efficiency, Competition.**



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## **LIST OF ABBREVIATION**

AVE	Average
BESTA	Baltic East Africa line
DSM	Dar-es-Salaam
DSR	Deutfrancht Sereederei Rostock
GCL	Global Container Line
IMF	International Monetary fund
KNSL	Kenya National Shipping Line
LT	Lloyd Triestino line
LTD	Limited
LNL	Laurel Navigator Line
MOL	Mitsui OSK Line
MSC	Mediterranean Shipping Line
NASACO	National Shipping Agencies Company
PARASTATAL	A state owned enterprise
PE	Public Enterprise
PIL	Pacific International Line
P& OCL	P&O Container Line
POL	Polish Line
PSRC	Parastatal Sector Reforms Commission
SCI	Shipping Corporation of India
SOE	State Owned Enterprise
TAZARA	Tanzania – Zambia Railway Authority.
UNCTAD	United Nations Conference on Trade and Development
WEC	West European Container Line
ZNL	Zambia National Line

## **CHAPTER ONE:**

### **1.0 INTRODUCTION:**

After independence in 1961, Tanzania decided to adopt a policy of socialism for its economic development. The first step was to nationalise the means of production by transferring the ownership of all economic activities from private hands to the government, aimed at collective production and consumption. The government put more emphasis on social services such as health, education, housing, water and employment.

After nationalisation, the national economy development was dominated by the State with centralised planning, corrective intervention in resource allocation and controlled foreign exchange as part of the government's strategies.

#### **1.1 Creation of the state owned enterprises:**

In order to run the nationalised activities and property; the government created State owned enterprises ( SOEs) or public enterprises ( PEs), which were mainly administered by local Tanzanians. The public enterprises were expected to generate public savings for investments and economic growth in order to achieve social and economical goals. Employment generation, subsidisation of goods and services and regional equalisation were among the State's objectives on public enterprises.

#### **1.2. Failure of the public enterprises:**

The policy of State management of the economy violated the principles of the free market. The creation of State monopolies resulted in a monopolistic environment; lack of competition caused inefficiency and insufficiently productive State

enterprises, a situation that forced the government to subsidise production. Poorly trained managers, who lacked direction and vision, managed most of the public enterprises.

The enterprises were characterised by overstaffing, insufficient financial control systems and political interference. Employees' lack of business consciousness, insensitivity to customer demand, poor quality of goods and services, and lack of accountability were serious problems for those enterprises. Consequently the companies were unprofitable and had a poor return on investment.

Loss making enterprises have been a significant burden on the government budgets. Due to various problems faced by the public enterprises, most of them failed to generate an investible surplus and instead they created a budgetary burden on the public sector. No government objectives for establishing public enterprises were attained as planned.

An overall impact of the poor performance on the public sector was the widening of the vicious circle, whose slow and low economic growth resulted in low investment and general poverty of the nation.

### **1.3. The remedial action:**

The public sector became a heavy burden on the government; debts were accumulated, productivity was poor and there was an increasing trend towards money swindling, contrary to the government's expectations. The situation illustrated the failure of the policy and therefore, raised the need to reverse it. Promoting and encouraging private investment through privatisation of the public sector was seen as the key to the way ahead.

Another factor that contributed to the reversal of the policy was the global transformation from static and socialist ideas to a market based economy. Developing countries including Tanzania had to adopt free market principles by maximising the role of the market forces in the public sector on one hand, and by reducing the government role in economic development on the other.

The study will focus on liberalisation of the shipping agency services in the country. At the time when State-owned enterprises were established, all shipping agency services were placed under the State enterprise named the National Shipping Agencies Company Limited (NASACO). As the sole shipping agent, the company enjoyed a State of monopoly and hence its performance was very good for its entire life up to the year 1992 when the performance started to decline. There were various problems that contributed to the poor performance, including unfavourable weather for agricultural production which resulted in a decline in agricultural products as the main exports of Tanzania. Civil war in the neighbouring countries of Rwanda and Burundi hampered the transit cargo to/from those landlocked countries that used the port of Dar-es-Salaam for their sea borne trade. Acute inflation that decreased the value of the Tanzanian shilling (Tsh.) made imports more costly and hence decreased the quantity of import cargo. However the privatisation of NASACO was not due to inefficiency, it was due to the government's decision to withdraw itself from commercial activities in order to let market forces play their role in economic development. NASACO was first listed for restructuring to promote efficiency before full liberalisation of agency services when the company would have to compete with other agency companies.

#### **1.4. Problem definition.**

The government's decision to restructure NASACO was aimed at eliminating its monopoly power and improving efficiency through competition. The restructuring program was very clear and it had a public support. NASACO was given a period of three years to restructure before full liberalisation of the sector. During the period, however an abrupt decision of the Minister of Trade and Industries to issue agency licenses to private companies including major shipping lines effectively nullified the approved program. Taking into consideration that the agency business was dominated by the liner agencies, then to allow the shipping lines to operate their own agency offices was to prevent the independent agents (locals) from participating in the business. The situation was made worse by the fact that the sector was liberalised

without a proper legal framework as guidance to the new structure. The government Act on the Fair Trade Practices and a Code of Conduct for shipping agents was still under preparation.

### **1.5. The significance of the problem:**

The significance of the problem was derived from the fear that the benefits of privatisation may not be gained due to the wrong implementation of the privatisation program. The government, through the Minister of Trade and Industries, acted against its own policies regarding the restructuring program of NASACO. The government had objectives for restructuring and obviously the program was set according to those objectives. If the program was not followed, then the objectives would not be attained. Chapter Two will look at the policy of privatisation in Tanzania and how it was implemented in liberalising shipping agency services.

Privatisation was accepted as a way of economic revival. The success of privatisation depended not only on how the program was formulated, but also on its implementation and the achievement of the objectives. Unless privatisation took place under favourable conditions without adverse consequences then its very credibility would be affected. For this reason therefore, a privatisation strategy was needed, that would address the concerns of the affected groups, build consensus about the key privatisation objectives and obtain public support for the program.

The consequences of liberalisation of the agency sector will be discussed in Chapter Three.

### **1.6 The purpose of this study.**

The purpose of this study is to examine the liberalisation of shipping agency services in Tanzania, the consequences of that liberalisation and its implications for the national economy and for society in general.

Chapter Four will give a critical analysis of privatisation and its implications with regard to the agency sector.

**Research methodology:**

The study involved discovery through literature reviews of published and unpublished materials relating to shipping. It also involved reports from NASACO, the Tanzania Harbours Authority, and the Ministry of Trade and Industries, publications from the WMU library, information from internet sources and information obtained from shipping companies during our field trips. Various shipping lines were visited (in Tanzania) to obtain their views on the changes. Potential shippers and major freight forwarders were also contacted.

**Limitation of the study.**

The study was hampered by poor response from shipping lines especially those who are operating their own agency offices in Tanzania. Most of the shippers and freight forwarders were reluctant to comment on the changes by saying that it was too early to feel the impact of changes. The performance reports of NASACO used in the study are for the period from 1991/92 to 1995/96, because from 1997 NASACO was under restructuring therefore there was no report on NASACO as a single company from that year.



## **CHAPTER TWO.**

### **2.0 A POLICY OF PRIVATISATION IN TANZANIA.**

#### **2.1 A DESCRIPTION OF THE POLICY:**

Privatisation means transferring publicly owned assets to the private sector either by the sale of assets, by deregulating the whole public sector and opening up state monopoly to greater competition, or by joint capital projects. The thrust of the reform in Tanzania was necessitated by the need for improvement in economic growth rates and enhancement of investment levels. The government withdrew from running the business, and assumed the role of policy co-ordination and regulation. It encouraged the establishment and expansion of the private sector, which the government recognised as the engine of economic development and sustainability.

This Chapter is divided in two parts. Part One will describe the privatisation policy and Part Two will look at liberalisation of shipping agency services.

The process of economic reform started in the 1980s. This was a most decisive period when the government started implementing a new policy of trade liberalisation with gradual reduction, and finally elimination, of price controls. The public reform component was aimed at achieving full commercial viability, and the objective was pursued by diverting public enterprise ownership and control away from government, and by restructuring enterprises to become commercially viable and self-sustaining. The government therefore privatised (and continues to privatise) the public sector through the Parastatal Sector Reform Commission (PSRC).

The government outlined its primary and secondary objectives of privatising the public sector as follows: -

**2.1.1. Primary objectives of Privatisation:**

- (i) To improve the operational efficiency of public enterprises and their contribution to the national economy.
- (ii) To reduce the burden of public enterprises on the government budget.
- (iii) To expand the role of the private sector in the economy so as to permit the government to concentrate on its role as a provider of basic public utilities such as education, health and infrastructure.
- (iv) To encourage wider participation by private individuals in the ownership through the purchase of company shares.

The above objectives were to be achieved through commercialisation, restructuring and divestiture of the activities of all significant enterprises in the public sector.

**2.1.2. Secondary objectives:**

- (i) To create a more market-oriented economy.
- (ii) To secure access to foreign markets.
- (iii) To promote the development of a capital market

The public enterprises were divided into three categories:

- (i) Social services institutions.
- (ii) Public utilities.
- (ii) Commercial enterprises.

The government decided on the following methods for divestiture.

- (i) Public share offering
- (ii) Public sale, including joint venture.
- (iii) Public auction.

- (iv) Management buyout
- (v) Management contracts or lease of assets.
- (vi) Liquidation.

The author's area of concentration will be on the commercial enterprise category. Commercial enterprises were to become available to foreign and local participation. Those unprofitable enterprises that could not attract private investors were to be closed and liquidated. Certain commercial enterprises were to be subject to restructuring prior to sale. (NASACO as the Model Company was in this category).

## **2.2. OPERATING POLICIES AND PRINCIPLES: PRIVATISATION:**

The work of the Parastatal Sector Reform Commission was to be guided by the following principles (as per Parastatal Privatisation and Reform Master Plan).

### **2.2.1. Transparency:**

The overall reform process (i.e. individual divestitures and reforms) was to be carried out with a maximum degree of transparency and public accountability consistent with commercial confidentiality. The intention was to divest individual enterprises. Information on their financial performance, bidding procedures, criteria for bid evaluation and the results were all to be publicised. The associated ministries and firms were to be represented in decision-making committees to provide checks and balances.

### **2.2.2 Consumer interests:**

The PSRC and the sector ministries were to ensure that consumer interests were protected. If it materialised that despite the liberalisation of domestic and international policies, competition was insufficient, consumers would be assisted by legislation to ban price fixing and any restrictions on the entry of new firms to any industry. The provision of services by monopolies such as telecommunications and

power supply would be subject to regulations that balanced the long-term interests of both consumers and suppliers.

### **2.2.3 Safety net:**

The individual employees who accepted or were required to accept redundancy from enterprises that were sold or restructured, would be entitled to statutory benefits and might also receive supplementary compensation. Early retirement without loss of benefits was also considered. Redundancy costs would be borne by government in order to avoid discouragement of potential buyers. Those who would be victims of the whole exercise would be assisted, and advice would be provided on retraining, relocation and establishment of small businesses.

### **2.2.4 Debt settlement and reorganisation:**

More than half of the public enterprises were burdened with huge debts to treasury and banks and were therefore partly or wholly unserviceable, which severely constrained the privatisation option, future profitability and investments. The government, on a case by case basis, adopted a flexible approach to the cancellation of such debts or conversion into equity at a discount; such equity could be sold to the public at a later date. New expenditures on enterprises to be divested within a year were discouraged.

### **2.2.5 Valuation:**

Valuation of the business on sale was to be thoroughly assessed prior to bid invitation using established techniques. This would include the assessment of the present value of future earnings or the realisable market value of the existing book value of assets. A full understanding of business prospects and risks would enable the government (as a seller) to identify the most suitable buyers and to negotiate (for) fair prices.

### **2.2.6 Monitoring:**

PSRC was to monitor the conditions in the agreements entered into by the buyers as well as the performance under suitable agreements of enterprises still in public ownership. It was also to monitor the progress of the public enterprise reform program as a whole and the results achieved. The results were to be published annually.

As noted in the previous Chapter, other enterprises were to be reformed before full liberalisation of the related sector. The following discussion will look at policies and principles governing reforms of public enterprises.

## **2.3 OPERATING POLICIES AND PRINCIPLES: REFORMS:**

Some of the public enterprises were chosen for reform and restructuring prior to sale or were retained in public ownership. The purpose of the restructuring was to allow a gradual transition from government ownership to private ownership of economic activities. For the retained enterprises the following principles applied: -

### **2.3.1 Equality of treatment:**

The government would continue to pursue policies designed to give public enterprises the same access as the private sector to resources, inputs and markets, as well as price, tax and regulatory policies designed to improve business environment. Preference for public enterprises would be withdrawn.

### **2.3.2 Accountability of company boards and management:**

Accountability was seen as the key for the future of the retained public enterprises. The performance of the retained enterprises was to be documented in performance contracts, which were to be the reference for internal control of decision making. The performance contract was a formal, signed document, negotiated and agreed between government and the management on matters relating to the commercial objectives, performance standards and indicators for the performance measurement.

It also indicated the limit of the management authority, planning and budget approval procedure. The role of the government, board of directors and that of the management were to be clarified.

### **2.3.3 Subsidies:**

Direct and indirect subsidies were to be phased out. Limited transitional assistance was seen as possibly necessary within the context of an agreed plan for each firm and performance targets. If a turn around was not possible within an agreed period, the enterprise was to be closed.

A privatisation policy should also include different methods of implementing it depending on the type and performance of enterprises. The following section describes the implementation steps taken by the government for both divestiture and reforms of enterprises.

## **2.4 IMPLEMENTATION OF THE PRIVATISATION POLICY:**

The process of implementing government strategy for the public sector reform was to be either by privatisation or by restructuring.

### **2.4.1 Privatisation methods:**

The privatisation process was to be considered in three stages i.e. feasibility study on individual enterprises, preparation and implementation of the divestiture.

#### **2.4.1.1 Feasibility study:**

This was the initial stage for launching the privatisation process of each public enterprise and determining the most appropriate method. The choice of the method was to depend on the objectives to be achieved from privatisation, both national objectives and specific objectives for individual enterprises. A number of factors were to be looked at including:

- (i) The nature of the industry, the existing technology involved and the need for new technology, or market access.
- (ii) The expected type and level of investor interest.
- (iii) The need, if any, to preserve the past public ownership.
- (iv) Short and long term impact on employment.
- (v) The need to maximise the proceeds of privatisation.
- (vi) The need to maximise the eventual returns to Treasury.
- (vii) The constraints of privatisation.

#### **2.4.1.2 Preparation for privatisation:**

Preparation was to include the following functions:

- (i) Carrying out financial, commercial and technical appraisal, assessment of the products, markets and competition, resources requirement and future prospect
- (ii) Review of the corporate structure to determine necessary changes needed to facilitate the divestiture
- (iii) A legal review of the enterprise and the regulatory environment in which it operated to identify possible drawbacks.
- (iv) Preparation of initial valuation of the enterprises.

The scope of work to be carried would depend on the privatisation option selected. For example a public offering would need more time for preparation than a direct sale, while liquidation would require a different approach.

#### **2.4.2 Implementation of the divestiture:**

The first two stages (i.e. the feasibility study and the preparation stage) were to be the building blocks for planning the final stage of the process. The implementation process would again depend on the divestiture method selected, the process would include the functions of: -

- (i) Marketing the offer by advertising and trade searches to identify potential buyers.
- (ii) Invitations to bid.
- (iii) Assessment of the bids.
- (iv) Negotiations with potential buyers.
- (v) Obtaining government approval for sale.
- (vi) Preparation of a contractual document.
- (vii) Completion of the sale

#### **2.4.3 Reform and restructuring methods**

The reform and restructuring process was to be applied to those public enterprises which were to be retained under the public sector either transitionally or for a longer term, largely in public utilities such as telecommunications, power supply and water supply. The government decision to retain an enterprise was to be subject to an improvement in efficiency assessed by reduction in the cost of production, enforcement of hard budget constraints by removal of direct and indirect subsidies, enforcement of tax payments and removal of preferential access to finance and foreign exchange. An increase in enterprise autonomy was also expected through price control, wages distribution and marketing. Board and ministerial powers were to be redefined and there was to be a reduction or elimination of holding corporations and improved accountability. The government role in relation to the retained enterprises was to set up objectives, to monitor performance, to reward success and penalise shortfalls.

Sections 2.1 to 2.4 described the structure of privatisation policy in Tanzania and the procedures for its implementation. The success of any privatisation depends on how the policy is formulated and the achievement of the objectives of the privatisation program.

The following section will look at the performance of NASACO in a monopoly environment before full liberalisation of shipping agency sector



## **2.5 THE PERFORMANCE OF NASACO BEFORE RESTRUCTURING:**

NASACO was established in 1973 primarily as a liner agent. Its mission was to service and facilitate the transportation of Tanzania's seaborne trade. The main objective was to provide ship owners and their clients with satisfactory agency services at a reasonable cost. The company enjoyed monopoly advantages through State protection of its market, this was in conformity with the policy of socialism and self-reliance, which was adopted after independence. Under that protection, the company operated successfully for the first twenty-five years of its existence. Despite its inefficiency, it employed about 700 employees, generated revenue of about \$ 10 million (about Tsh. 50 to 1\$ in 1973) annually. The company paid between Tsh. 500 to 750 million in direct taxes every year paid annual dividends of about Tsh.100 million to a sole shareholder (the Treasury) and owned fixed assets worth Tsh. 10 billion in Dar-es-salaam, Tanga and Mtwara branches.

The profile of NASACO services was as follows.

- (i) Ship husbandry.
  - Arrangement for pilotage and tug services.
  - Ensuring the availability of berths and working equipment
  - Clearing ships in and out of the port.
- (ii) Cargo canvassing, cargo booking and documentation.
- (iii) Transshipment services for overlanded or shortlanded cargo
- (iv) Processing and settlement of marine claims on behalf of principals.
- (v) Collection of freight money.
- (vi) Tallying of cargo
- (vii) Container stuffing and stripping
- (viii) Container tracing, retrieval and storage.
- (ix) Freight forwarding
- (x) Ships chandler.
- (xi) Warehousing.

NASACO, as a sole shipping agent, rendered the above services to all shipping lines calling at the main ports in the country i.e. Dar-es-Salaam. Tanga and Mtwara. The performance of the company may be looked at through two-dimensions: physical performance and financial performance. The performance and factors that contributed to it will be discussed as follows: -

### **2.5.1 Physical performance**

On looking at physical performance, attention should be focused on the number of ships handled, tons discharged and loaded, and transit cargo handled during the period under review.

#### **2.5.1.1 Ship calls**

The company handled 760 ships in 1991/92, the number increased to 857 in the following year. From 1993/94 a steady decrease was recorded in subsequent years as per Table 01.

#### **2.5.1.2 Import cargo.**

Import cargo handled was 3.1 million tons in 1991/92 and increased to 4.2 million tons in 1992/3. There was a decrease from year 1993/94 to 1995/96 whereby 3.44mil tons. 3.38 mil tons and 3.28 mil tons were recorded respectively.

#### **2.5.1.3 Export cargo.**

Tanzania, as any other poor country, has very little to export. The economy is import dependent from industrial inputs to manufactured goods. There are only very low volumes of agricultural products such as coffee, cotton, cashew nuts and other non-traditional exported products. This can be evidenced by Table 01 whereby 2.8 mil tons were handled in 1991/92, thereafter there was a continuous decrease in volume down to 0.92 handled in 1995/96

**Table. 01. Five-year physical performance: 1991/92-1995/96.**

	1991/92	1992/93	1993/94	1994/95	1995/6
Ship calls	760	857	778	772	753
Imports- ton (mil.)	3.1	4.2	3.4	3.38	3.28
Exports-tons (mil.)	2.8	1.7	0.9	0.8	0.92
Total tons (mil.)	5.9	5.9	4.3	4.18	4.28

Source.NASACO's annual report 1995/96

#### **2.5.1.4 Transit cargo**

Due to various economical problems Tanzania ports lost market share of transit cargo as shown in the comparative dry cargo transit trade statistics in the two competing ports of Dar-es-Salaam and Mombasa. For that reason, NASACO had been losing its revenue to the neighbouring agencies. Transit cargo through Tanzania increased by 112,000 tons i.e. from 282,000 tons in 1992 to 394,000 tons in 1996 while the port of Mombassa handled 750,000 tons in 1992 and 2,700,000 tons in 1996, an increase of 1,950,000 tons.

#### **2.5.2 Financial performance.**

##### **2.5.2.1 Revenue.**

The performance of NASACO financially was satisfactory from 1991/92 period and reached its peak in 1994/95 when a total of Tanzanian shillings (Tsh). 4,688.5billion was recorded and dropped to Tsh. 4,242.7billion 1995/96. The steady growth up to 1994/95 was achieved by an increase in trade up to 1993/94 and depreciation of the Tsh. due to inflation that increased the income figure in local currency. The rate of exchange was Tsh. 234 to one USD in 1991/92, which increased to Tsh 530 to one USD in 1994/95.

##### **2.5.2.2 Expenses.**

The company made a loss of Tsh. 385 million for the first time in 1994/95. There was a differential growth rate between income and expenses; the revenue declined by 9.5% while expenses grew faster by 14.6%. An increase in expenses was partly the

result of a government directive to increase wages and partly due to inflation that increased operational costs. For these reasons a loss was an obvious outcome.

**Table 02. Five-year financial performance: 1991/92-1995/96.**

	1991/92	1992/93	1993/94	1994/95	1995/96
Revenue (Tsh. bil.)	2.22	4.12	4.40	4.70	4.24
Expenses (Tsh. Bil.)	1.36	2.29	3.40	4.04	4.63
Profit (Tsh. Bil.)	0.86	1.83	1.00	0.66	-0.39

Source: NASACO's annual report 1995/96

### **2.5.3 Operational problems:**

During the period under review i.e. 1991-1996 the company's performance was poor. Both internal and external factors played a big role in the undesirable performance of the company. By 1995 NASACO lost about 2% of its income from commission due to closure of services of some shipping lines such as the Zambia National Line (ZNL), the Shipping Corporation of India (SCI), Lloyd Triestino (LT) and Baltic East Africa (BESTA).

Among the factors that contributed to the closure, was competition among the shipping lines, slow growth of foreign trade in the region due to bad weather for agricultural activities, and political instability in Rwanda and Burundi.

NASACO's activities depended upon the performance of other transport intermediaries such as ports, customs, railways and road transport. Inefficiency of these intermediaries had a direct impact on the company's performance as discussed hereunder:

#### **2.5.3.1 Port performance and competition:**

Poor performance in port operations on loading and discharging together with insufficient equipment and related facilities caused delays in cargo clearance. The average throughput in Dar.es-Salaam port was 1000 tons per day while it was 2000

tons per day at Mombasa port, the situation which made the users from the neighbouring landlocked countries opt for Mombasa port.

#### **2.5.3.2 Customs Procedures.**

The bureaucracy in customs procedures was a bottleneck to the activities of the company as a shipping agent. It had been noted that customs bond requirements for transit cargo at Dar-es-Salaam port was 25% of cargo value, while it was 20% at Mombasa port. High bond rates together with unnecessary complications and delays in cargo clearance discouraged shippers, especially those from Uganda, Rwanda, Burundi, Zambia and Zaire who decided to use other alternative ports such as Mombassa. Maputo and Durban.

#### **2.5.3.3 Railways and road transport facilities.**

A shortage of railway wagons and high transport rates decreased the number of users. It cost \$2250 for one 20' loaded container to be transferred from Dar-es-Salaam to Kampala in Uganda while it cost \$1850 for the same container from Mombasa to the same destination. Most of the roads were in a poor condition, a condition that extended the transit time. Roads, which were good, were not able to handle heavy loads of more than 40 tons of containerised cargo.

The company like any other public enterprise had its own weaknesses, which contributed to its poor performance namely: -

#### **2.5.3.4 Poor communication facilities.**

The company had very poor communication systems partly due to an overall inefficiency of the communication facilities countrywide and partly due to old-fashioned equipment owned by the company such as fax and telex machines. In 1992 the company managed to install new communication facilities and to computerise part of its operations. Unfortunately in August 1995 the head office was gutted by fire, which destroyed all communication facilities and brought the company back to its previous state. Insurance compensation was underway.

#### **2.5.3.5 Insufficient storage facilities.**

NASACO has a container depot, which can handle 2000 boxes only, and eleven warehouses with a total area of 3960 sq.meters. The facilities have not been sufficient to accommodate both incoming and outgoing cargo and the storage of empty containers. As a result some of the shipping lines opened their own depots, and other lines rented private container depots and warehouses.

#### **2.5.3.6 Container monitoring and retrieval.**

The company as the shipping agent was responsible for monitoring and retrieval of all containers on behalf of its principals. It was very difficult to monitor containers in an effective way because the company was still applying manual methods of monitoring boxes. Insufficient numbers of railway wagons and high trucking costs resulted in an increasing number of abandoned empty containers, which were destined for the hinterland stations. An increasing number of un-returned containers forced the shipping lines to charge a container deposit payable before clearance of the box from the port. Container deposits ranged from \$500 to \$1000 per one 20' container. The container deposit was refundable upon return of the unit within the time limit given and demurrage was charged for overstayed containers. Payment of demurrage to principals was a burden to the nation because it was a drain on foreign currency.

It has been seen that the financial year 1995/96 was a bad year for the company. Apart from the listed problems, it was during the same period that Tanzania headed into its first multi-party general election in October 1995. Importers and exporters were quite uncertain about potential risks (civil disorder) to their business. They didn't want their shipments to be stranded and therefore, decided to wait for the outcome. Consequently there was a sharp drop of cargo handled by Tanzanian ports.

Table 03: Comparative statistics for dry cargo transit trade through Dar-es-Salaam and Mombasa ports. 1992-1996.

From/to	Through	1992	1993	1994	1995	1996	Aveg. Annual change
Uganda	Dsm	16.34	17.24	44.22	55.51	71.99	43.4%
	Mombasa	467.15	475.97	915.61	1055.84	1212.76	24.9%
Burundi	Dsm.	125.29	162.82	249.28	171.83	74.05	-8.8%
	Mombasa	41.76	21.77	36.30	48.23	12.97	-4.3%
Rwanda	Dsm.	46.14	159.09	99.80	103.05	94.67	40.5%
	Mombasa	113.46	124.41	177.97	493.57	795.61	58.2%
Zaire	Dsm.	94.54	136.21	71.43	125.36	153.03	18.8%
	Mombasa	111.62	77.93	260.33	142.99	284.55	51.6%
Kenya	Dsm.		0.02	0.08	0.07	0.49	177.5%
Tanzania	Mombasa	14.82	23.83	147.81	91.36	363.60	168.2%
Total	Dsm	282.32	475.39	464.81	455.82	394.23	10.3%
	Mombasa	748.72	723.91	1538.00	1831.99	2669.49	34.8%

Source: Dar-Es-Salaam port's report on transit cargo 1997.

In this section we have seen that there were various problems which contributed to the poor performance of NASACO. The performance of these services clearly needed to be improved for the success of shipping agencies.

The following section discusses how liberalisation of the agency sector was undertaken.

## 2.6 LIBERIZATION OF SHIPPING AGENCY SERVICES

In 1994 the former Minister of Trade and Industries, commissioned a study on restructuring the shipping agency industry in the country. The study was undertaken by a team of four members namely, Dr. Y. Kilindaga from the United Nations Conference on Trade and Development (UNCTAD), Mr. A.R. Ngemere and Mr. B.Lyimo (Ministry of Industries and Trade) and Mr.S.I.Mushi (NASACO).

During the study the team visited shipping institutions and related government departments in Mozambique (Maputo), Egypt (Cairo, Alexandria and Ismailia),

Sudan (Khartoum). Malaysia (Kuala Lumpur and the port of Kelang), Singapore, Sri Lanka (Colombo) and the United Arabs Emirates (Dubai). The visits were aimed at studying the institutional set up and operations of shipping agency enterprises in those countries.

After the study, the team came up with recommendations on how the National Shipping Agencies Company was to be restructured. The following was recommended:

**A Company structure, ownership and management.**

The company was to be restructured as a holding company. The government was to be the sole shareholder of the holding company while the head office of the company was to manage and operate the real estate, tramps agency, Mbeya branch office, Burundi office (Burundi was later closed and Kampala office was opened), Tanga and Mtwara branches and ship brokerage.

In May 1997 the government approved the programme of liberalising the shipping agency sector. The programme was to be implemented in three phases in sequential order namely, (i) Restructuring (ii) Privatisation (iii) Liberalisation.

In the restructuring phase the government was to establish the subsidiary companies and manage its operations through the holding company.

In the privatisation phase, the government was to have invited all regular liner operators to buy shares in agency companies in which they had a direct interest and to which they were contributing capital and technical know how. In this way they were to enter into joint venture with the holding company. The liner operators were to have been allocated 25% of the shares in each subsidiary. Fully liberalisation of the sector was to be implemented in the third phase through licensing potential private companies to undertake agency business.



With regard to non-agency subsidiaries, the holding company was to allocate shares to all major cargo interests in accordance with their level of involvement in the activity concerned and the requirements of the capital and technical know how.

### **2.6.1 RESTRUCTURING OF NASACO.**

The liner agency services were assigned to four autonomous divisions which provided the foundation for four subsidiary companies which were meant to render the services more competitively and efficiently. The companies were officially launched on 1<sup>st</sup> July 1998 and commenced full-fledged operations on 1<sup>st</sup> November 1998 under the names of: -

Azania Shipping Agency Company Ltd.

Oceanic Shipping Agency Company Ltd.

Victoria Shipping Agency Company Ltd.

Worldwide Shipping Agency Company Ltd.

The companies were under NASACO as a temporary holding company for the duration of one year.

### **2.6.2 Privatisation.**

The Parastatal Sector Reform Commission was to privatise the four companies by sale of their respective majority shares to local and foreign interests after becoming fully restructured. Out of the total government shares, 25% were to be sold to shipping companies and 35% to Tanzanian nationals. 40% of the total shares were to be retained for a short term to enable the Commission to determine the best way to divest the services, based on government interest in the sector, and to ensure protection of the national interest.

### **2.6.3 Liberalisation of agency services.**

Full liberalisation of agency services was to be effected by issuance of licences to any individuals or firms wishing to trade as a shipping agent subject to laid down procedures so as to ensure fair trade practices, to protect the profession and to safeguard national interests.

However, before completion of the first phase, i.e. restructuring, the Minister suddenly made a decision in January 1999 to freely issue shipping agency licences to any interested person or firm. Issuance of a licence was supposed to be the last phase of liberalisation of shipping agency services. By doing it earlier than planned, the objective of the whole exercise in restructuring the company, which had already incurred a huge amount of money was defeated.

**Summary of Chapter Two:**

From this Chapter it has been seen that, the liberalisation of agency services was not undertaken according to the approved program. NASACO needed time to restructure its operation so as to become more responsive to the market, and to satisfy client/needs. Time was also needed to improve the competitiveness of agency services and prepare for competition. It was a mistake to open competition before strengthening NASACO. Restructuring cannot be successful unless a number of preliminary conditions are satisfied and proper strategies and procedures are implemented. After all, the agency market in Tanzania is too small to justify the need for many agency companies.

The following Chapter will look at the consequences of the hurried liberalisation of the shipping agency sector.

## **CHAPTER THREE**

### **3.0 THE CONSEQUENCES:**

One of the principles of trade liberalisation is to increase competition where possible and to impose regulations where necessary. The objective of economic efficiency was most likely to be achieved when a healthy competitive market could be created, while appropriate regulations had a vital role to play when competition was not feasible. It had to be through a competitive market only, that neutral, non-political but binding procedures could be created which exclude the lazy and the inefficient, and enforced the best practices and the adoption of new technology. Uncertain outcomes had been foreseen in relation to phasing and integration of different deregulation measures in a comprehensive liberalisation programme. It was the government's role therefore, to ensure a successful liberalisation through the adoption of appropriate stabilisation policies.

In line with this thinking, the government decided to convert NASACO into four legally and economically independent subsidiary companies with independent boards of directors, so as to expose these companies to the same environment as the private sector in order to stimulate economic efficiency. A gradual approach was considered important for ensuring success without creating negative effects from privatisation. The specific concern which argued for a gradual approach included a need to allow time for entrepreneurial developments, and to convert the companies into commercially run enterprises before being transferred to private sector. The aim was for the government to retain its equity ownership only until the moment when the

government share could be sold once the companies had secured market position and become reasonably profitable.

The government also wanted to spread and democratise share ownership by allocating a proportion of the shares to small investors and to employees so as to create a new group of stakeholders for the wellbeing of the national economy. By so doing this would have helped in: -

- (i) Mobilising domestic resources for investments, which might otherwise have been held in non-productive forms.
- (ii) Gaining political support for privatisation by spreading the benefits of privatisation.
- (iii) Demonstrating that privatisation did not benefit large foreign companies only.
- (iv) Changing employees' attitudes, improving management/labour relations and enhancing productivity through share ownership of their company

The government's plan was contradicted by an abrupt decision made by the Minister of Trade and Industries, to issue licences to the country's customers (foreign shipping lines), to set up their own agencies and therefore serve themselves. It meant that they were not obliged to employ locally owned agencies such as NASACO or others. The collapse of NASACO and its newly formed subsidiaries was certain, the government intention of promoting share ownership failed and a very serious labour problem was created.

### **3.1. THE COLLAPSE OF NASACO.**

#### **3.1.1. Dar-es-Salaam branch.**

The new subsidiary companies operated profitably for the first four months of the operation i.e. from November 1998 to February 1999 before the issuance of agency licences to new private companies totalling to 35 in number. By October 1999, three of the subsidiary companies namely (Azania, Victoria and Worldwide) had already

lost their principal business, the other subsidiary company (Oceanic) was on the brink of losing its principal shipping lines leaving it with only 35% of its principal business. Thereafter the income kept on dropping as the shipping lines terminated their contracts with the established companies

#### **3.1.1.1 Azania Shipping Agency Company:**

The major foreign shipping lines served by Azania Shipping Agency were the Mediterranean Shipping Company (MSC), Mitsui OSK Line (MOL), Global Container Line (GCL) and Kenya National Shipping Line (KNSL)

MSC was the first line to terminate its contract with Azania in October 1999. MSC was the most important customer to the company; its contract termination resulted in a decrease in company income from an average of \$100,000 per month in 1998/99 to \$14,000 in October 1999.

MOL tendered its termination notice in November 1999; resulting in a further drop in income from \$14,000 in October to \$380 earned in December. The company had totally collapsed in December in the same year when KNSL issued its contract termination notice.

#### **3.1.1.2 Oceanic Shipping Agency Company:**

The company was previously serving P&O Container Line (P&OCL), Pacific International Lines (PIL), West European Container Line (WEC) as its major clients plus Ellerman and Harrison. Among the shipping lines served by Oceanic, it was PIL only, which established its in-house agency; other lines opted to use in-house agencies of other shipping lines after terminating their contracts with Oceanic. The company suffered a reduction in income from an average of \$150,000 per month in 1998/99 to \$56,437 earned in February 2000.

#### **3.1.1.3 Victoria Shipping Agency Company:**

The major principals of Victoria were Ignazio Messina Company, Nedlloyd Line, and Laurel Navigator Line (LNL) as potential clients of the company plus Polish

Ocean Line (POL), Deutfrancht Sereederei Rostock (DSR), and Jadroplov line. The named important clients that contributed to about 90% of the company's income all withdrew from using the company agency services by establishing in-house agency organisations. The company was badly financially affected; its income dropped from an average of \$90,000 per month in 1998/99 to \$1058 recorded as an income for the month of February 2000.

#### **3.1.1.4 World wide Shipping Agency Company:**

The Worldwide Shipping Agency company was serving the shipping lines of Maersk, CMBT/DOAL, NYK, DAL and K- line.

The company's performance was very good; it was earning an average of US\$ 400,000 per month. In December 1998, the company realised an income of US\$ 518,835, while in February 1999 the income was US\$ 415,313.

Maersk line was the first shipping line to terminate its contract with the Worldwide Shipping Agency Company in May 1999. The termination resulted in a decrease of income to US\$ 240,888 in the month of June.

CMBT/DOAL (as one line) shipping line terminated its contract in September 1999, a situation that resulted in the company realising an income of US\$ 109,342 for the month of October.

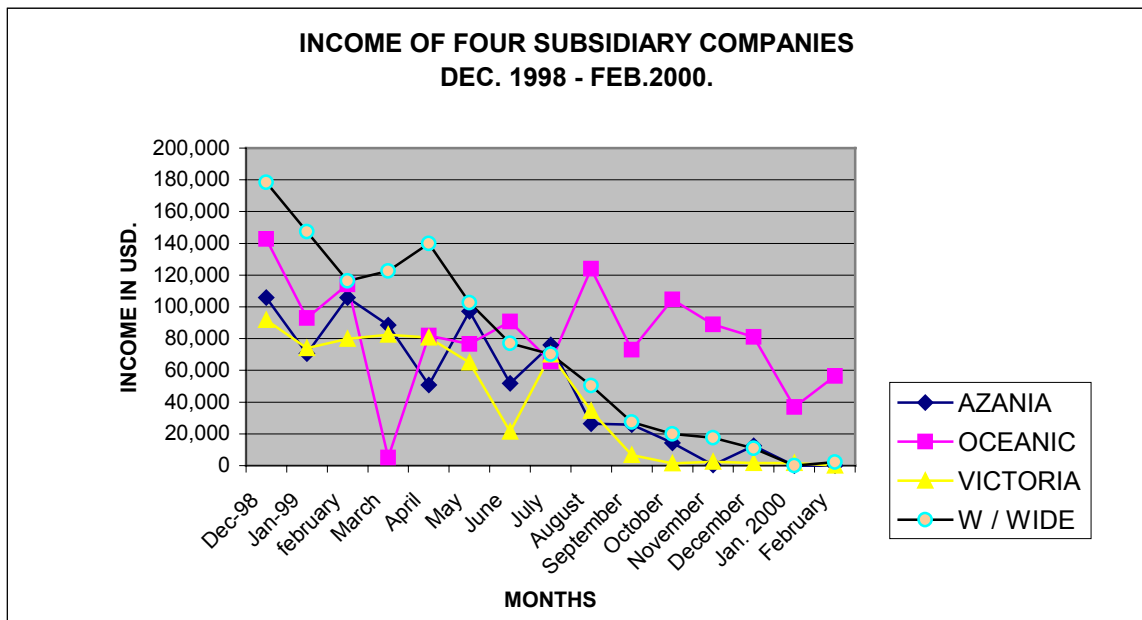
Maersk and CMBT/DOAL shipping lines were the major clients of the company, the withdrawal of these companies, affected the company's earnings, which dropped to US\$ 38,734 in the February 2000. The situation continued to get worse because other shipping lines decided to use agency services rendered by new agency companies operated by shipping lines.

### 3.1.1.5 Summary of the performance impact:

The financial performance of four subsidiary companies, kept on deteriorating to an extent of failing to pay salaries timely. Both companies resolved to downsize their workforce by an average range of 85%. Unfortunately the decision could not be implemented to date because of insufficient funds to finance the redundancy. This would suggest that the government was not well prepared for liberalisation.

The performance of the four subsidiary companies is reflected in (Fig 1) below.

Fig 1.



Source: Operation reports of the four companies: Dec 1998 –Feb. 2000.

### 3.1.2. Tanga branch:

The main liner callers to Tanga port were Mediterranean Shipping Company (MSC), P&O Nedlloyd and Mitsui OSK, however the latter operated on slots of P&O Nedlloyd. MSC and P&O Nedlloyd obtained their own shipping agency licences during the first half of 1999. MSC tendered an agency termination notice with NASACO in August 1999 and commenced operating in Tanga from October 1999.

P&O Nedlloyd tendered its notice late September 1999 and started operations on 14<sup>th</sup> December 1999. These development dictated the closure of NASACO- Tanga agency business.

### **3.1.3. Mtwara branch:**

The branch depended mostly on chartered vessels, which called at the port during the crop-picking season; this is between the months of August to December every year. P&O Nedlloyd and Mitsui OSK started operating at Mtwara during the 1999 crop season and received agency services rendered by NASACO. The two companies projected more future shipments as the result of the projected cargo for the Mchuchuma coalmines and the Mtwara corridor development. It was strongly felt that Mtwara had potential for doing business competitively at least until the next crop season.

### **3.1.4. Tramp shipping and other services:**

A considerable volume of tramp shipping agency business was taken up by other licensed competitors leaving NASACO with only 15% of the tramp business. However, the company still has a container depot which is being used by the shipping lines and 13 warehouses rented to exporters and importers. The company has a clearing and forwarding department, which handles cargo not only for Tanzania but also for Uganda, Burundi, Rwanda and Republic of Congo.

It has to be noted that, the shipping lines used NASACO container depot as part of their respective agency agreements between the two parties. In the absence of such agreements and in the presence of privately owned depots around the area, the shipping lines are no longer obliged to use these services. NASACO's container depot business therefore, is also facing a dilemma.

### **3.2. IN-HOUSE AGENCIES:**

In- house agencies are shipping agency organisations operated by the shipping lines to serve their own ships. Major shipping lines such as Maersk, P&O Nedlloyd,



Mediterranean Shipping Company, CMBT/ Surfmarine and others all established in-house agencies in the country. Among the objectives of having their own agencies, was to ensure dedication to one principal, which gave them better control, unlike NASACO which, as a sole agent, was serving all shipping lines and tramp ships under one roof. Within one year of in-house agency operations commencing, among other developments, shippers and ship owners had observed the following:

The shipping lines were now able to offer their customers consistent and better quality services. As commented by Tanzania branch manager of Seaforth, a Kenya based company that, “The level of competency has increased substantially. A strong competition between the agents is now focused on how fast the agent is able to get the access of the dilapidated port equipment to work on their vessels. In the past the sense of urgency was not evident”. (Lloyds’ list 2000).

The customers were satisfied with the quick and effective response to problems, as the result of the speed and ability to pass on relevant information, and instant decision-making. The focus on customer care increased so as to create strong customer relations, unlike an independent agent (NASACO) who spent little time on customer care and contact, and too much time and money, focusing on back-office related matters. Sometimes they were more loyal to local clients than to ship owners.

By having in-house agencies, they solved the problem of delays in freight transfers and in disbursement submissions to principals.

The argument that NASACO was inefficient, as a reason for the shipping lines to have in-house agencies, was not substantiated. With liberalisation of the sector, ship operators were free to select any efficient independent agency company other than NASACO. The foremost important reason was that, liner shipping was no longer a profitable business as it had been in past years. The real squeeze on profits had forced the shipping lines to take a hard look at their independent agents. The shipping lines, having decided to impose closer controls on costs, were no longer

able to pay 2.5% to 5% for commission plus container handling charges to their independent agents. As Danny Rees of Quadrant container lines said “ We use the in-house subsidiary of the group, it allows us to keep the profit within the group”. (The Ship’s Agent, 1998).

Some of the shipping lines argue that by having their own organisations, they have direct control, and can hire and fire as they wish. But it was further argued that the closer they get to Europe, the harder it becomes, because of the employment rules on that continent. In case of Tanzania this was not an obstacle to them, recognising that issuance of the licences was unconditional.

### **3.3. UNFAIR COMPETITION:**

The decision to liberalise shipping agency sector was inevitable and it was accepted as a viable approach to improve efficiency through a fair competition. The problem was in the way the liberalisation exercise was undertaken. It was, and will continue to be quite impossible for an independent agency company, to compete with a ship owner operating his own agency, taking into account that the market had been dominated by liner vessels.

It had been noted that the main beneficiaries of the hurriedly liberalised shipping agency market were the foreign shipping lines operating in-house shipping agency companies. Major shipping lines owning agency companies, would co-operate among themselves on the basis of their common interests to shape the industry to their wishes, cut tariff down to the levels at which other competitors could not be able to operate and therefore drive them out of the business. Under such circumstances it would be impossible, to have fair competition between local and foreign agency companies, or in other words, between agencies owned by ship owners and non-owner agency companies (locals). While shipping lines are continuing to handle their vessels, other non-owner companies continue to scramble for the few tramps vessels calling to Tanzanian ports.

The entrance of the multinational shipping lines in a small market was to kill small operators. Up to December 1999, out of thirty-five newly licensed companies, about half of them had never handled a single ship. Natural deaths of those companies had been foreseen.

An example of unfair competition was reported by the chairman of Uganda Clearing and Forwarding Association that, small freight forwarders have already closed down while others were forced to merge with big firms, following the entrance into the market of three multinational shipping firms ( Maersk Shipping Line, Mackenzie Forwarders and Transami ). The chairman of the Association of Clearing, Warehousing and Freight Forwarders of Kenya also claimed that, the survival of local freight forwarders companies was threatened by the government's move to allow international shipping lines operating in Kenya, to start freight divisions. (Ouma, 2000). Both parties appealed to their respective governments to come up with new legislation to curb unfair competition by multinational shipping lines.

### **3.4. LACK OF CONTROL:**

The liberalisation of the shipping agency sector was mainly based on the study mentioned in the previous chapter on restructuring of NASACO. Apart from the proposed new structure, the team recommended regulations through which the agency services had to be rendered. The team recommended regulations to be used in each restructuring phase of the shipping agency services in the country as follows:

#### **3.4.1. Entry regulations – restructuring phase:**

The government was to retain the existing entry and licensing restrictions in shipping agency services. Thus only the holding company and its subsidiaries would have been licensed to carry out shipping agency business in the country.

#### **3.4.2. Company structure and ownership – privatisation phase:**

The company structure and ownership would have remained as in the first phase, but the government would have allocated more of its shares in the subsidiary companies to indigenous Tanzanian nationals up to the total of 49%.

#### **3.4.3. Entry regulations – liberalisation phase:**

Entry restrictions into the shipping agency business were to be liberalised, to allow enterprises to be licensed, subject to:

(i) The enterprise allowing a minimum ownership participation of 75% by Tanzanian nationals.

(ii) The enterprise demonstrating its ability to render good agency services

It was the government's intention to impose entry restrictions to limit the number of the players because of the size of the market itself. 75% local participation in agency companies was proposed by study group, but this was not be possible, because a foreign investor would not accept to invest where he would have no voting power.

#### **3.4.4. Other regulations:**

(i) The government was to initiate measures for the establishment of a code of conduct for shipping agents, to ensure that certain internationally accepted professional standards were met and incidents of maritime fraud were minimised.

(ii) The government was to set up a tariff board responsible for determining the tariff for the shipping agency.

(iii) The government was to ensure that all enterprises in the country would not be engaged in harmful and conflicting behaviour, or abuse the dominant positions they would have acquired.

Before the second phase the Minister of Transport and Communication was to put in place a code of conduct and competition rules for shipping sector. None of the recommended regulations was taken into account in liberalising agency services.

The role of government in a free market system is to formulate laws so as to enforce contracts and safeguard properties. Without a legal framework to enforce contracts, private business activity will not work. A stronger private sector and stronger markets cannot be attained without certain fundamentals related to the administrative system, such as adherence to the rule of law, maintenance of competition and preventing the emergence of monopolies. A desirable economic reform therefore is that which opens opportunities for private entries into a closed sector of the economy, but if that entry is left to the discretion of public officials rather than allowing an open competitive process, enormous scope for corruption is created.

For example, Guinea privatised 158 public enterprises between 1985 and 1992, but the change proceeded without a clear programme or legal framework or procedures for competition. Bidding and accounting procedures were not made clear, assets were sold for much less than their value, and the successful bidders were offered terms, which sometimes included monopoly licences. (World Bank, 1995).

In developing countries like Tanzania, participation of foreign investors has been allowed in their privatisation programmes, this was partly due to the limited availability of domestic financial resources to finance privatisation. Another important policy consideration was that, foreign participation would bring not only capital, but also management skills, new technology and global or international linkages.

Foreign participation can range from joint ventures to acquisition of majority or minority interests in the privatised enterprises. In some countries foreign investors have been involved in a large proportion of privatised enterprises, while other countries have placed limits on foreign participation in privatised enterprises. For

example in Argentina, 60% of the assets sold up to the year 1995, were bought by foreign investors, while in Niger all privatised companies were sold to domestic investors (United Nations Conference on Trade and Development [UNCTAD], 1995).

In general, the limits for foreign investment, could only be exceeded where expertise needed to improve efficiency was not available locally, where foreign participation was required to improve exports, where the supply of local capital was insufficient to absorb shares offered and where the nature of the business required global linkages and international exposure.

There are also special conditions attached to privatisation of public enterprises, which differ from one country to another. For example, retention of a special, or “golden” share by the government in order to protect the business from unwelcome take over or to provide an opportunity for the management to adjust themselves to a private sector culture.

In the Republic of Korea, in order to prevent foreign investors from monopolising the financial sector, a ceiling was placed on the ownership of shares in the privatised banks, whereby a maximum of 5% for firms and a maximum of 500 shares for individual investors were agreed. In New Zealand, in order to promote wide spread ownership and to avoid the situations where minority shareholders of companies would object to sales, new owners were required to float shares within a given period of time as a condition of sale. In Sri Lanka, foreign investors were not allowed to transfer a recently acquired enterprise to another foreign investor without government approval. (UNCTAD, 1995).

Even employee protection schemes and pension plans may also form some of the conditions attached to privatisation.

The priority of the whole exercise was to increase competition, not to transfer the productive activities to foreign participants. Deregulation, in the sense of removal of market entry restrictions, needed to be accompanied by a regulatory mechanism to control anti-competitive behaviour, because deregulation could work well if there was no concentration of power or unfair trade practices. A good example is of Microsoft of the United States. Even though there is free trade in USA, but the expansion of Microsoft is so enormous to an extent of dominating the market and undermines other players, this needs a government law to handle such cases. In case of Tanzania therefore, foreign investment should have been subject to closer scrutiny by the public and be handled with greater attention to national interests and concerns. The issuance of unconditional shipping agency licenses was totally against the recommendations made by the study team

### **Summary of Chapter Three:**

We have seen that liberalisation of agency services had both positive and negative results. Positive results were an increased efficiency in performance especially in new agency companies operated by shipping lines, which resulted in fast cargo clearance from ports for the benefit of Tanzanian shippers. On the other hand, the process was not in favour of local companies dependant on shipping lines as their principals. The Chapter makes clear that, if the shipping lines decide to merge and use one agent, one company will dominate the market. Liberalisation of shipping agency services therefore will mean a transfer of a state monopoly to the private hands.

The following Chapter will examine the correctness of the policy and its implications for shipping agency sector.

## **CHAPTER FOUR:**

### **4.0. CRITICAL ANALYSIS OF THE POLICY AND ITS IMPLICATION.**

As discussed in Chapter One, the government originally decided to put all strategic commercial activities and key sectors of the economy into the public sector through a policy of socialism and nationalisation. That situation led to the establishment of State-owned enterprises in all sectors of the economy. These enterprises faced various problems with time and it turned out to be impossible for the government to manage its investments in these enterprises without both financial and managerial difficulties. The situation resulted in a major Government Issue and a decision to make a change in the policy.

The concerns that had originally justified the creation of the large public enterprises did not vanish. The restructuring of the public sector was to ensure that the same objectives were achieved through a market based economy. The reform was intended to step up economic growth, to reduce the large number of non-performing public enterprises and to eliminate any budgetary support being extended to them. A meaningful reform was vital, and was at the core of macro-economic adjustment.

This Chapter will analyse the policy and its implementation by looking at how the government' objectives of liberalising agency sector were achieved.

### **4.1. THE CORRECTNESS OF THE POLICY.**

The correctness of any privatisation policy depends on the approach used to formulate the privatisation program, its implementation and the achievement of the prescribed objectives. The government had addressed all these fundamental



principles in formulating into privatisation policy, and, in so doing, demonstrated its commitment to implementing the Policy. The government devised a program, prepared the legal framework and set up the institutional environment i.e. privatisation agencies (PSRC). Enterprises identified for privatisation were listed, stakeholders were identified and the method to be used was prescribed. The government through the PSRC established a dialogue to seek national consensus on the program.

In support of this approach, the government published a master plan as an official blue print of the Parastatal Reform and Privatisation Program. The master plan was explained in simple language so that everybody could understand the objectives and targets of the program. In theory, the conditions for a successful privatisation process were in place.

In order to be able to assess the success of the liberalisation initiative we have to remind ourselves as to what were government' expectations from the exercise.

The general expectations from any privatisation process are:

- (i) To raise additional revenue for the state.
- (ii) To promote economic efficiency.
- (iii) To develop national capital markets.
- (iv) To introduce competition through economic liberalisation.
- (v) To gain social benefits for society.

These will be discussed in turn.

#### **4.1.1. To raise additional revenue for the state.**

In principal privatisation should improve government finances. This improvement can be either through the sale of assets and shares, or by reducing the need for operating subsidies and investment capital. In many cases, additional investments can result in increased capacity of production, quality of services, transfer of technology and know-how, product diversification and expanded markets. In areas

where the investments are coupled with changes in management and labour practices, there can be a rise in turn over, lower operating costs and better financial outcomes.

In 1990, 270 public enterprises were processed for privatisation out of the government target of 395 enterprises. \$300 million in revenue was raised from more than 100 outright sales. The industrial sector contribution to the GDP increased from 10.6% in 1996 to 12.3 % in 1997. The manufacturing sector which accounts for 23% and 35% of the government revenue and employment in the sector respectively, increased by 2% (Kyaruzi, 2000).

Economic reform in Tanzania has succeeded in reducing the inflation rate to 6.3 per cent as of February 2000, from double digits only a few years ago. The Gross Domestic Product has grown at an average real rate of 4.2% and the annual per capita income has risen to \$210 from \$180 (Chege, W. Reuters. 2000).

However, the sale proceeds depends on the value of the enterprises sold. The following table shows a number of transactions of sales and the amount realised. Tanzania had 124 transactions and realised \$132 million only as sales value compared to 7 transactions in South Africa that realised a total of \$2,209million. This means that, enterprises sold by Tanzania were of low value. This is one of the problems of privatisation in developing countries. Generally privatisation took place in quite unfavourable conditions resulted in lower revenue being realised. Buyers were allowed to bid at low prices, in addition to that, governments have to incur huge liabilities left by the sold enterprises and pay the labour-force reduced by the buyer.

Table 4

**Ten top African countries in sales value**

Country	Total transactions 1993-1997	Total sales in US \$ million.
South Africa	7	2,209
Ghana	219	555
Côte d' Ivoire	47	357
Senegal	50	262
Nigeria	81	207
Mozambique	549	201
Kenya	155	186
Zambia	217	180
Uganda	88	134
Tanzania	124	132

Source: The World Bank, African Development Indicators 1998/1999

**4.1.2. To promote economic efficiency:**

Economic efficiency is at the heart of the objective of privatisation. The government's expectation from privatisation was to attain higher efficiency, that is higher output, more investments, higher profits, higher employment, lower leverage and higher dividends. Various studies conducted on privatised enterprises, found strong evidence that, after privatisation, the sample enterprises became more profitable, increased their real sales and investment spending, reduced their debt levels, increased dividends payments and increased employment (Table 5).

Table 5.

**Post privatisation performance: key results for 79 privatised enterprises in 21 developing countries 1980-1992.**

Indicator	Average change in %.
<b>Profitability:</b> Returns on sales	+124
<b>Efficiency:</b> Real sales per employee	+25
<b>Investment:</b> Capital expenditure/sales	+126
<b>Output:</b> Real sales	+25
Total employment	+1.3
<u>Leverage</u> Debt/Total assets	-5
<b>Dividend pay out:</b> Dividends/sales	+44

Source: Narjess Baukari and Jean Claude Cosset. The financial and Operating Performance of Newly privatised firms.

**4.1.3. Capital market development:**

At the beginning, a large percentage of privatisation transactions took place outside the formal capital markets. More recently, the privatisation of State enterprises through sale of shares by public offerings has been one cause of the increased number of quoted companies on stock exchange markets. The need to trade shares led to the opening of a stock exchange in many countries including Tanzania. For example, the Tanzania Breweries Company was the first company placed in a stock exchange market. In 1999, the Company made Tsh. 26 billion profit, of which 25% remained in the hands of local shareholders. Sri Lanka is another example where the share-owning population has risen from around 9000 in 1989 to over 50,000 in 1991 (UNCTAD, 1995). The increase was the result of providing free shares to employees of the privatised enterprises.

Experience has shown that transfer of ownership is the most difficult decision to be taken by the government. The government may decide to retain majority ownership through share dilution, joint venture and management contracts. The government may also decide to own a minority share in a privatised enterprise, in most cases for political reasons. Broadening of ownership has been politically and socially popular, it may be used to create desire and expectation among the management and employees for better productivity in the privatised enterprise, even though it may not provide new blood in the form of investment, know-how, new products and extension of the markets. For example in 1983, ABP (19 UK ports) were privatised with most employees owning at least 1000 shares, since then labour productivity increased by 40% (Alderton. 2000).

#### **4.1.4. To introduce competition:**

Stimulating competition is an attractive aspect of the liberalisation process. Competition can provide a powerful incentive to reduce and stabilise prices. In a competitive market, the public enterprise that does not operate in accordance with consumer demand, or overprices its products can easily lose its customers, while failure to match the performance of its competitors may result in a loss of market share and a deteriorating financial performance. Competition can be achieved either through out-right sale or through deregulation to allow the entry of new competitors.

#### **4.1.5 To gain social benefits:**

Apart from employment, social objectives of privatisation also include consumer interests and welfare considerations such as -:

- (i) Privatisation is expected to raise economic welfare by improving efficiency and thus raising the rate of economic growth for the benefit of the entire society.
- (ii) Privatisation is expected to achieve a more equitable distribution of the benefits of economic growth among all sections of the population. The main concern here is to improve the standard of living.

- (iii) There are specific distribution objectives of privatisation which include widening and deepening share ownership and control of productive sectors, promoting decentralisation, regional and rural development, improving employment and improving social services and infrastructure,
- (iv) There are participatory objectives. These allow employees to actively participate and engage in the economy as entrepreneurs or share-owning employees in the enterprise they work for, and this can help to prevent labour opposition to privatisation. The equity participation can also lead to efficiency gains.

When the government decided to pursue its reforms in shipping agency sector, it had the same objectives, namely to boost up the national economy through a free market environment. Unfortunately the results have not been as good as expected even though there is an improvement in the performance. The problem is not in the policy itself, but its implementation. The actual implementation was totally against what was stipulated in the government directive. The following discussion will look at the results of the liberalisation of agency sector.

**Positive impact:**

One of the positive results of the process is increased efficiency. It has been evident that efficiency had improved to a remarkable extent. Fast documentation, fast and reliable communication and fast decision making has resulted in fast responses to queries. Most of the service users have expressed their satisfaction and confidence with the new agency companies. This was strongly verified by Mr. Alex Adams of CMBT, who said, “ they could now give importers and exporters a far better service. The actual cost to the lines did not appear to be less since the port charges, fee and the likes were unchanged”. (Lloyd’s List 2000. Tanzania reforms agencies). The efficiency in agency services enables shippers to clear their cargo faster than before. Faster clearance avoids storage charges to shippers and also limits the possibility of cargo being stolen while in the port.

Container demurrage was one of the problems faced by NASACO as an agent. Poor container monitoring and tracking resulted in an increased number of overdue containers used by local shippers and those from neighbouring land locked countries. Overdue containers attracted a huge amount of money as demurrage charges paid to shipping lines in foreign currency. By the end of 1999, a total of US \$ 13,264,039 accumulated as outstanding demurrage charges payable to shipping lines. Liberalisation of agency services solves this problem because most of the shipping lines have computerised container-monitoring activities.

In the new structure where the carrier is also an agent, there is direct contact between the shipper and the carrier. This provides an opportunity for the shipper to negotiate directly with the carrier for better transport terms especially the freight rate. If a shipper can get lower freight rates the total cost of his products will be lower and as a result he will sell it at a competitive price, the final beneficiary of the entire transaction will be the final consumer. Liberalisation of agency services therefore may contribute to the competitiveness of Tanzanian shippers and consignees.

There were costs which shipping lines were charged by NASACO apart from commission, namely car hire (for crew), boat hire and medical facilities, the costs which were eventually considered in freight calculations payable by shippers. For in-house agency organisations, shippers can be relieved from these costs because the costs will be part of normal office running expenses and not directly attached to cargo.

Such advantages, however, need to be supported by other related facilities such as port facilities, customs, inland transport and cargo handling facilities for economic development. In fact, most of the service users, especially those from land locked countries, diverted their cargo to the ports of Mombassa and Maputo not because of the inefficiency of shipping agency services, but because they were dissatisfied with

the ports, customs and inland infrastructure. This was also reported in the Lloyds special report, namely that working on bulk cargo in Dar-es-Salaam port was not too problematic, as long as the documentation preceded the cargo arrival. However getting the cargo out of the port and to its inland destination often presented a significant headache. Neither the Tanzania Railway Corporation nor its sister operation under Tazara, which runs between Dar-es-Salaam and Zambia, had sufficient rail wagons. Good performance of the shipping agency alone cannot have a marked impact on the economy.

**Negative impact:**

NASACO was one of the public enterprises whose financial performance for the past twenty years was very good, making it one of the principal sources of the State income. So far the government has gained nothing forthcoming from the process because NASACO was neither sold nor entered into joint venture, which means that there was nothing as sale proceeds. In the new structure where the shipping lines are operating their own in-house shipping agency organisations, it means they are now producers and consumers of the agency services. It further implies that the transactions between the principal and the agent have become an internal matter, and also an opportunity for them to understate revenue and inflate expenses to minimise profits. Taking into account of the intensity of corruption that has weakened tax enforcement, it is a conducive environment for tax evasion by the shipping lines.

If so far as the shipping lines were investors, there was nothing the government could benefit out of it. The basic investments needed to start a shipping agency business are no more than a couple of offices, furniture, a telephone, fax machine, a computer and a company car, a cost that a Tanzanian national could afford. After all these are facilities that most of the lines already have through their local representatives.

While privatisation has been aimed at raising additional revenue for the state, the restructuring of shipping agencies in the country will reduce State revenue by Tsh.



3.5 billion. This is the amount needed to finance the retrenchment of 650 employees who have lost their jobs. The government is planning to sell buildings owned by NASACO to meet the cost.

In comparing the efficiency of the public and private enterprises, it must be clear that respective management operates in different environments with different objectives. NASACO as a public enterprise was designed to be part of the government but also to operate commercially. It had other government objectives beyond the goal of maximising profits. An overall controller of the operations was the Minister who had political goals that may not necessarily have been related to the performance of the enterprise. He was somehow responsible for both commercial performance in the market place as well as political performance, balancing the two goals in practice was very difficult and this led to problems. Political interference and limited operational autonomy created an environment that was not conducive to commercial excellence of the enterprise. Unlike private companies where the management and control is under the owners, the owners could create incentives for employees who serve for their (the owners) interests, and get the feeling that they were part of the company. In fact, ownership matters less than institutional design and resource allocation. Inefficiency of the public enterprise is not the result of the ownership it has been the result of the structure of its control processes of the management, including their relations with the government”(Ahron, 1986).

If NASACO had been given more autonomy, been exposed to competitive pressures and market discipline, without political interference, its performance could have been as good as any private company.

As discussed in the previous Chapter, the company shares were to be issued to NASACO employees, shipping lines and to the general public. The issuance was to take place as a second phase in the restructuring, i.e. the privatisation phase. Share ownership for the employees would have been an important incentive to them. The

feeling of ownership would have stimulated efficiency in performance. The general public would have benefited by the share ownership as exemplified by the case of Tanzania Breweries Company. Tanzania is one of the poorest countries in the world; share ownership was received with high expectation that it would reduce the economic hardship faced by most of its people.

The privatisation phase was not reached as planned due to premature liberalisation of the sector; nor was the government's intention of capital market development and broadening of ownership attained from shipping agency restructuring. The government failed to realise for taxpayers the benefits of privatisation with regard to share ownership. In Britain for example, where privatisation has probably gone further than in most countries and where the living standards of its people are far better than in Tanzania, the proportion of households owning shares in privatised enterprises has risen from 10% in 1979 to about 40% in 1987. (Cook & Kirkparick. 1988). From what has happened in Tanzania, it is clear that government has again failed to realise for the public the social benefits (participatory objective of privatisation) of liberalising the shipping agency services.

The success of economic liberalisation is through competition promoted by competitive markets and competition policies. The competition needs to be fair; i.e. all players must have an equal opportunity to access the business. What happened in this case was to transfer monopoly power from the public to private hands. There was pressure from the shipping lines to operate in-house agency organisations, as in the case of various places in Europe, but Tanzania was too far behind for that. The trade was dominated by liner shipping, if the shipping lines opted for self-service, the local companies would have nothing to trade on. The volume of cargo does not justify operating the in-house agencies. There is high unemployment rate, low per capita income and no social service policies when compared to most European countries. In Tanzania where each person is relying on his own efforts, to allow the shipping lines to operate their own agencies means that there will be an increase in unemployment rate, a reduction in tax-payers and a reduction in purchasing power.

One might have expected that the new companies would have absorbed a number of ex-NASACO employees but that was not the case. Maersk for example has a tradition of recruiting its own employees; they only took one employee from NASACO out of six who were working for the line. Half of the labour force of NASACO have lost their jobs so far, and the other half are still at the office working (there is no work), it is only because the government has no money for (redundancy) pay. In such situation how can living standards be raised through privatisation?

Privatisation may affect employment conditions as well as relations between employees and management, especially in the post-privatisation phase. Privatisation-related social problems are likely to be most acute in circumstances where employees' issues have not been given adequate attention in the preparation and implementation of the privatisation program. It is therefore essential that social considerations occupy the central place in the design and implementation of privatisation policies and that the objectives be incorporated in the privatisation strategy at the beginning of the process rather than as an after-thought.

If NASACO had been given the opportunity to compete with other independent shipping agencies, it would have had a better chance to prove its competence through its long-experienced employees in the field. Shipping lines would have had the right to appoint any agent from the market who was competent, and terminate the contract whenever he became inefficient. In this way shipping agency business would have been still under Tanzanian management, and efficiency would have been improved through fair competition.

Privatisation requires a review of a country's legal system and the legal status of the public enterprises, in order to determine whether there are particular legal issues such as ownership rights or problems arising from the transfer of a public enterprise to the private sector. Equally important is a review of the legal structure and the nature of the public enterprise included in the privatisation program. There must be a general

legislation for the entire privatisation program and also specific legislation for each enterprise. The specific legislation has an advantage that it raises the possibility of tailoring the legislation to the specificity of the entity being privatised. Another advantage is that it can speed up the process, because privatisation normally involves intense political debate, not only on the legislation, but also on the privatisation program itself.

In case of liberalisation as in the NASACO situation, law reform is required in several areas.

- (i) Trade legislation with respect to rules on tariffs, import and export controls.
- (ii) Legislation regarding the protection of emerging industries (especially in developing countries).
- (iii) Rules on foreign investment, ownership and taxation.
- (iv) Rules on foreign exchange and banking.
- (v) Intellectual property rights (both in terms of international and national laws)
- (vi) Price liberalisation legislation.
- (vii) Non-discrimination between the private and public sector.
- (viii) Labour laws must be sufficiently flexible to allow new owners to undertake any organisational restructuring in order to improve the economic efficiency of the enterprise, review regulations and conditions of employment, review the minimum working standards so as to safeguard the interests of workers, and review compensation rules for loss of employment and pension schemes.

As regards the law reforms, the government has established two government legal documents so as to accommodate the changes, The Act on Fair Trade Practices and a Code of Conduct for shipping agents.

#### **4.2 FAIR TRADE PRACTICES :**

The Act on Fair Trade Practices is a government Act established to encourage competition in the economy by prohibition of restrictive trade practices, regulation of

monopolies or concentration of economic power and prices for the protection of consumers, and to provide for other matters. It was enacted by the parliament of the United Republic of Tanzania in 1994 and will come into force on a date that the Minister, by notice, publishes it in the government gazette. In this respect it is not yet in force.

In liberalising the shipping agency sector, a Fair Trade Practices Act is essential to give guidelines on eliminating the existing state monopoly, to promote fair competition and to protect shippers and consignees as service users. On reviewing various sections of the Act, one can see that, if the Act had been in force during the liberalisation of the shipping agency sector, there would have been a different outcome from that which actually happened.

Part 3 of the Act includes provisions relating to “Restrictive Trade Practices. The Act defines Restrictive Trade Practice as:

An act performed by one or more persons engaged in production or distribution of goods or services, which, in respect of other persons offering the skills, motivation and minimum seed capital required, in order to compete at fair market prices in any field of production or distribution of goods and services, reduces or eliminates their opportunities so to participate.

Any person who is deemed to have committed a restrictive trade practice, (section. 26, subsect. 2) must desist immediately from that trade practice, and may also be required to take certain positive steps to assist existing or potential suppliers, competitors, or customers in order to compensate for the past effects of that practice.

By looking at this section, it is clear that the opportunity given to the shipping lines to operate their own agency offices, reduced or eliminated the opportunity for the independent shipping agents to participate in the business. As reported by Lloyd’s special reports, out of thirty-five agencies, only about ten were conducting business of any scale, most of which were allied to, or owned by, the major shipping lines that

called at Tanzania ports. That meant that twenty-four independent agents were eliminated from the liner agency business.

There was a fear among the independent agents that the shipping lines might cooperate on the basis of their common interest to shape the industry to their wishes. For example they could easily cut the tariff down to levels where other companies could not operate and they could eventually be driven away (predatory trade practice). The government saw that possibility. (Section 20) states that:

Any person who, whether as a principal or an agent or whether by himself or his agent, commits a predatory trade practice with the intention, whether exclusively or in common with other objects, of accomplishing any of the purposes such as to drive a competitor out of the business or to deter a person from establishing a competitive business in the country or in any specific area or location within the country. Or to induce a competitor to desist from producing or trading in any goods or services, or deter a person from producing or trading in any goods or services.

According to the Act, predatory trade practice is an offence. Section 20:4 of the Act, states that any person who commits such an offence is liable on conviction to a fine not exceeding Tsh. three million or to the imprisonment for a term not exceeding twelve months.

In section 32, the Minister has been allowed to keep under review the structure of production and distribution of goods and services in the country, to determine whether concentration of economic power exists where its detrimental impact on the economy, outweighs any efficiency advantages.

In section 32:4 it is stated.

“ Concentration of an economic power shall be deemed to be prejudicial to the public interest if its effect is to reduce or limit unreasonably the competition in the production, supply or distribution of goods or the provision of services”. According to the Act, concentration of economic power is an offence. The commissioner has

the power to remove the unwarranted concentration of economic power from any company or an organization by disposing his interests in production or distribution, or the provision of services.

The Fair Trade Practices Act is absolutely essential because Consumers and small producers need to be protected from big players who could easily misuse their dominating power.

#### **4.3 CODE OF CONDUCT AND ITS PURPOSES:**

In advanced economies, the shipping agency sector is no longer regulated, but is covered in the United Nations convention that seeks to monitor and regulate professional conduct, and qualifications and financial responsibility. UNCTAD had seen that it was desirable to establish a set of rules governing the conduct and qualifications of shipping agents given their important role in the shipping agency business. The main areas identified in the minimum standards established by UNCTAD were-

- (i) Education and professional expertise
- (ii) Financial reliability
- (iii) Professional conduct

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The objectives of the minimum standards were: -

- (i) To uphold a high standard of business ethics and professional conduct
- (ii) To promote a high level of professional education and experience
- (iii) To encourage operation of financially sound and stable shipping agents
- (iv) To provide guidelines for national authorities and professional associations to establish and maintain a sound agency system.

In compliance with the last objective of UNCTAD's minimum standards of shipping agents, the government established a Code of Conduct for shipping agents. The Code was aimed at regulating shipping agency services and monitoring the maintenance of professional ethics in the new structure of the sector. Once again,

when the shipping agency sector was liberalised; the Code of Conduct was not in force. It meant that, new agency companies were not subject to the requirements of the proposed Code.

Some of the provisions on the proposed Code were: -

- (i) Restrictions on the registration and licensing of shipping agents (Cap 212, Sect 12.) States that “ no shipping agent shall, after the coming into operation of this Act, be licensed and registered as a shipping agent unless the shipping agent -
  - (a) is a resident of Tanzania
  - (b) is a body corporate and incorporated under the company ordinance.
  - (c) has not less than fifty per cent of the controlling interest whether in terms of shares, paid up capital, or the citizens of Tanzania hold voting rights.
  
- (ii) Capital requirement. ( Sect 13)
  - (a) The Minister shall, upon the recommendation of the director, by order published in the government gazette, prescribe the minimum paid in share capital to be maintained by the shipping agent
  - (b) The Minister may, from time to time, by order published in the government gazette, vary the minimum paid up share capital prescribed under sub-section (i).
  
- (iii) Margin of solvency (Sect.14)

Any person or company carrying on business as a shipping agent shall at all times while carrying on such business, maintain a margin of solvency of not less than the amount that the Minister shall by regulation publish in the gazette.
  
- (iv) Application of the licence. (Sect. 16)
- (v) Other regulations. (sect. 30 :1)

The Minister may make regulations in respect of: -



- (a) The qualifications required of the shipping agents for the application of a licence.
- (b) The period, for which terms and conditions subject to which licences may be granted.
- (c) The standards to be observed by the shipping agents and the prohibition of acts or omissions in the contravention of such standards.

It would have been more meaningful if the Code had been in force during the liberalisation of the shipping agency sector. The new companies were given licenses unconditionally, the only requirement being a cash bond of Tsh.500.000 for each new company. Professional skills and experience were not included as basic requirements, and as a result, there was an influx of unprofessional people who were given licences, ranging from army officers to government administrators. There was no legal instrument by which an agent could be held liable for professional misconduct. How could professionals (shipping lines) possibly compete with unprofessional (local companies excluding NASACO) on the same playing field? This was an added advantage to the shipping lines, whose goal was to phase out local independent agents,

The establishment of the Fair Trade Practices Act and the Code of Conduct for Shipping Agents, were two of the government's steps to create an enabling environment for privatisation the process. These were two instruments that were supposed to be enforced along with privatisation. The Minister's premature decision to liberalise the shipping agency services without enforcing the two instruments was one of the major shortcomings in restructuring the agency services. The Secretary of Tanzania Shippers Council cautioned the government through his letter to the Permanent Secretary of the Ministry of Trade and Industries in saying that, quoted:

There is no need to hurry in liberalising the business without the Shipping Agency Act, which is essential, as far as maritime fraud and cheating is concerned in the shipping industry. The liberalisation of the shipping agency

business without an Agency Act will cause shippers and the nation to incur unnecessary costs, which could have been avoided, if the Act was in place.

It was also reported in the Lloyds list special report that there was an unwritten agreement between the lines that were running their own agencies and the Tanzanian government that they (the shipping lines) would not handle third party work in the initial stage. The report further narrated that, although not in writing, there was an agreement to offer a helping hand to various local agencies, including NASACO, to become established in the industry. However this help was not expected to last forever. (Lloyds's List 2000. Tanzania transforms agency). It is unconscionable how a government could act against its own formulated policies and interest. Nobody should expect a government to enter into an unwritten agreement with foreign companies on matters that have an effect on the national economy. One should assume that the government was not keen on the liberalisation of agency services.

As Hughes commented, the contractual arrangements and exchanges needed for free market operation cannot exist without the protection and enforcement of a governmentally provided legal structure. (Hughes, 1994).

There are obvious problems in moving to contractual arrangements for the delivery of goods and services if the rule of law, and the enforcement of contracts, is not well established. Contracting works best where its outcomes are easy to specify. Where the goals are vague and not clearly set down in writing, or where the corruption rate is high, using contracts is unlikely to be successful.

It is true that the country needs a market based economy and a strong private sector, these do not develop overnight, and do not do so without fundamentals related to administrative systems, such as adherence to the rule of law, to maintain competition and to prevent the emergence of monopolies. All these factors are lacking in most cases (especially in developing countries). To assume that by simply turning the activities over to the private sector will work without any other change is wishful thinking. Markets require a competent and appropriate public sector.

**Summary of Chapter four:**

We have seen that negative results of liberalisation outweigh the positive results. A joint effort is needed to support the efficiency of the agency services through performance improvement at the ports, customs offices, and road and railway transport services. We have also seen that there is a need for government regulations as guidance for the new environment so as to ensure fair competition and to avoid unfair trade practises.

## **CHAPTER FIVE:**

### **5.0 CONCLUSION AND RECOMMENDATIONS:**

In this section, the author gives a summary of the study and identifies the underlined consequences of the liberalisation of shipping agency services in Tanzania. The suggested solutions to these negative consequences are given as recommendations to both the government and the new shipping agency companies.

#### **5.1 CONCLUSION:**

It has been noted that government embarked upon privatisation as a way to overcome the problems of State-owned enterprises, and to let the market forces play a role in economical development. Two methods were used in the privatisation process, that is, divestiture and non-divestiture methods. The divestiture method included public sale covering joint venture; public management buy out, public share offering, public auction and liquidation. Non-divestiture methods included restructuring and reforms for those enterprises retained by the government. The restructuring aimed at changing company operations to be more private than public by exposing the enterprises to a free-market environment and removing monopoly power and government subsidies. It was also aimed at improving efficiency through competition. Development of local capital markets through the sale of shares of privatised enterprises, and to gain social benefits

The study showed that, the government decided to restructure in three phases. The first phase of the program was to form four independent companies to run agency operations, the second phase was to issue shares of the established companies to

employees, shipping lines and the general public, and the last phase was to liberalise the agency sector by issuing agency licenses to private companies interested in the business. The whole program was due to take at least three years before full liberalisation of agency services was concluded. The purpose was to give time to the established companies to adapt to the new environment and get ready for competition. During restructuring there was a lot to be changed in the company structure and in the policies addressing employees' behaviour and attitude. The restructuring program therefore, was established in such a way as to enable a smooth transformation of the company. It should also be noted that the government was preparing the Act on Fair Trade Practices and a Code of Conduct for shipping agents in its effort to create an enabling environment to accommodate the changes. The company was in the first phase in which four subsidiary companies were established (namely Azania Shipping Agency Company, Oceanic Shipping Agency Victoria Shipping Agency Company and World-wide Shipping Agency Company) when a significant unplanned disruption occurred.

The study revealed that agency licences were issued while the four companies were still developing their operations to meet new environment. The government Act on Fair Trade Practices and a Code of Conduct for shipping agents was not in operation by the then, there were no special conditions imposed upon the applicants. About thirty-five companies were licensed, including the major shipping lines.

It is the author's opinion that to allow shipping lines to serve themselves as agents, meant that independent agents were immediately put out of business because the trade was dominated by liner trade. While liberalisation normally promotes competition, in this case privatisation was hampered because there was unfair competition between the shipping lines and independent agents. The shipping lines were the principals of the agency companies but in the new structure the shipping lines became both principals and agents. The death of the four established companies and other independent agents was inevitable.

New agency companies on the other hand have expressed their satisfaction that they could now offer better services to the customers and that efficiency had improved tremendously. That was good news but efficiency in agency services alone could not contribute, to any significant degree, to the economic development. Shipping agency services needed to be supported by various related services such as port facilities, customs procedures and inland infrastructure. A shipper from Uganda (a land locked country) is more concerned with the port performance and the availability of the railway wagons from Dar-es-Salaam to Kampala than with the efficiency of the shipping agent. In order to get a positive impact from any improvement in efficiency of agency services; other related services needed to be efficient too.

It is the author's view that, in the present structure, where the transactions between the principal and his agent have become an internal matter, a full disclosure of income for tax purpose cannot be guaranteed. Expenses can be easily inflated and income understated without being noticed and this will deny the government the revenue as a tax deduction from these companies. For this reason therefore, government revenue is not assured, unlike with NASACO, which was previously operating in the interests of the government.

Capital market development was one of the objectives of privatisation and the government had launched a nation-wide campaign to educate people as to the essence of share ownership. Unfortunately, the same government then denied the employees and the general public the share ownership of the four established companies by paralysing the operation to an extent that performance was no longer attractive for share issuance. Liberalisation of shipping agency services therefore could not contribute to the development of the capital market.

NASACO employees were to be made redundant in phases, subject to the availability of funds to meet the cost. The Minister did not consider the impact of his abrupt decision on employees, and as a result, the government had no money to meet the

cost. The multiplier effect of the dismissed employees, was an increase in the government expenditure by Tsh 3.5 billion as the cost of redundancy, increased numbers of unemployed, a decrease in tax payers, a decrease in the purchasing power of the affected group, and a relative decrease in the income of the producers of goods and services consumed by the affected group. Thus privatisation as regards the shipping agencies cannot in any way be seen to contribute to an improvement in the living standards of Tanzanians.

## **5.2 RECOMMENDATIONS:**

After a thorough analysis of the positive and negative consequences of the liberalisation of shipping agency services, the author recommends the following strategies for the government and the independent agency companies; in order to realise the benefits of privatisation both at the national and company level.

### **5.2.1 For the government:**

It is recommended that the government bring into force the Act on Fair Trade Practices and the Code of Conduct for shipping agents, before the renewal of licences issued to the new companies. The companies will then be subject to these two legal instruments which will safeguard the interests of consumers and small producers of goods and services and prevent the big operators from undermining the small players. It is the responsibility of the government to formulate laws to enforce contracts and safeguard property, because the contractual arrangements and exchanges needed for effective market operation cannot exist without the protection and enforcement of a governmentally provided legal structure.

The activation of these legal instruments will shape the market so as to provide for fair competition through various provisions that prohibit anti-competitive behaviour.

It is also recommended that the government needs to develop criteria to evaluate the results of privatisation in relation to the objectives.

### **5.2.2 For Independent agents (indigenous):**

It is recommended that the new independent agency companies, including the four subsidiary companies of NASACO be required to form an alliance, that will enable them to diversify their activities to include brokerage, cargo consolidation, packing and warehousing, and inland transportation, because independent agents can no longer survive on traditional liner agency services. As an alliance they can perform better than in-house agencies through their experience and knowledge of local environment. The future of independent agents is in multimodal operations.

Independent agents will need to focus more on cargo than on ships. They will need to become cargo agencies to overcome the general trend for the shipping lines to operate in-house agencies. They (the independent agents) will need to integrate their activities into principals' functions of marketing and sales.

In order to perform the above tasks successfully, the independent agents will need to invest in Information Technology (IT). IT has become more important in modern business, and as agents they need to be more closer to their principals and integrate their activities to those of their principals and the Internet can facilitate this.

It is also recommended that independent shipping agents has to consider the possibility of getting into joint ventures with shipping lines, that still need the services of independent agents. They can also try to charter slots as an extended service to their principals (cargo owners).

It is the view of the author that, if the above recommendations are acted upon it will possible to rectify, at least partially, the serious damage done to the shipping agency sector in Tanzania.



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