State Regulation of Foreign Investment in Tanzania: An Assessment

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RÉSUMÉ. Depuis le début des années 1960, la plupart des pays en développement ont adopté de différentes mesures politiques pour attirer et réglementer le flux des investissements étrangers dans leurs économies. Ces mesures sont en général une combinaison de politiques et règles d'investissement globales et d'institutions de surveillance et de réglementations. Les mesures concernant les politiques d'investissement consistent souvent en des déclarations politiques et juridiques spécifiques sur l'investissement étranger. Les mesures concernant les institutions consistent en l'identification des institutions. De 1961 à 1985, la Tanzanie a mis en place diverses politiques ainsi que des institutions d'exécution. Le résultat obtenu montre, d'une manière générale, que les politiques d'investissement poursuivies pêchent en globalité et centre d'intérêt. Apparemment, les mesures de politiques de développement ont été arrêtées tout simplement en tant que réponses sporadiques à des circonstances du moment. Il n'y a pas eu de tentatives de penser en termes d'un plan de développement à long terme et d'élaborer des plans et stratégies complémentaires d'investissement. En outre, on se rendit compte que les devoirs et responsabilités des institutions de régulation n'étaient pas clairement définis. Ce n'était là que les symptomes de politiques de développement ad hoc. Le problème de la gestion de l'investissement était aggravé par une hiérarchie de prise de décision interne diffuse. L'instance suprême de prise de décision responsable du résultat politique global n'était pas clairement stipulée dans la structure de l'Etat. Il était par conséquent difficile de savoir qui devait véritablement prendre quelle décision et tenir responsable de ces décisions. Etant donné un environnement politique et administratif si fragile, les investisseurs étrangers ont eu le luxe de faire de bonnes affaires qui allaient trop dans le sens contraire des intérêts nationaux de la Tanzanie.

Introduction

The Bretton Woods system created and institutionalized international regimes for trade and monetary issues but deliberately ignored international investment[1]. All attempts to establish a mandatory set of principles, rules

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1 A conference on trade and employment held in Havana, Cuba, from November 1947 to March 1948 which was to approve the charter to create the international Trade Organization (ITO) and included in its draft charter the right of nations to regulate foreign investment. Article 12 of the charter underscored four basic rights of the host country: (1) to take any appropriate safeguard necessary to ensure that foreign investment is not used as the basis for interference in its internal affairs or national policies; (2) to determine whether and to what extent and upon what terms it will allow future foreign investment; (3) to prescribe and give effect on just terms to requirements as to the ownership of the existing and future investments; and, (4) to prescribe and give effect to other reasonable requirements with respect to existing and future investment (Havana Charter 1948:35).

and norms to govern the behavior and activities of transnational corporations (TNCs) were initially blocked by the United States, and later, by other core countries[2]. Fresh initiatives demanding increased national and international investment regulations began in earnest in the early 1960s. These efforts have been manifested in a plethora of regulatory policies, laws and institutions both in the core and periphery countries.

At the international level, the Organization for Economic Cooperation and Development (OECD) since 1976 has adopted voluntary guidelines on the behavior and activities of the TNCs. The Andean Investment Code is another effort by a group of Latin American countries to implement common regional policies toward foreign investment. Finally, December 1974, Resolution 1913 (LVII) of the Economic and Social Council of the UN recognized the centrality of the TNCs in the international political economy by creating the Commission and the Centre on TNCs. Both bodies have since collaborated in the preparation of a "code of conduct" for the TNCs.

At the national level, a number of measures have been taken to regulate foreign investment. These measures are usually a combination of comprehensive investment policies and rules, and monitoring and regulating institutions. The former includes specific policy and legal statements on foreign investment such as identification of which economic sectors are open or closed to foreign investors, the application procedures, ownership structures, criteria necessary for approval, and the investment incentive schedule. The latter identifies the relevant institutions, their specific responsibilities and the channel of command.

The purpose of this paper is to evaluate efforts made by post-colonial Tanzania in attracting and regulating foreign investment in the economy, particularly, the manufacturing sector. It is divided into two broad sections. The first section discusses how and why foreign investment is regulated. This provides the official rationale for the state's intervention in the economy. The second section explores different policy measures that have been adopted to attract and regulate foreign investment. Included in the section is an assessment of the capacity of the state's regulatory institutions and defensive responses of TNCs. The paper covers approximately twenty-five years from 1961 to 1985.

2 Mirrow and Maurer (1975: 93) maintain that the US Congress rejected the ITO Charter because it would have curtailed the international activities of the US transnational corporations. This was regarded as an incursion on the national sovereignty.

I - Why Regulate and How?[3].

In order to understand the nature of relations between the TNCs and the periphery countries, two caveats are in order. First, their objective function constitutes what may be described as the "unity and struggle of the opposite". Whereas host periphery states need TNCs to achieve their national policy goals in a national setting, TNCs need periphery countries to achieve their global corporate objectives (Hymer, 1979; Barrat-Brown, 1977). This fact by itself makes conflicts and tensions inevitable. Second, and as a result of the first point, periphery states have, since the 1960s, responded to this challenge by creating institutions and legal arrangements to regulate and control the behavior and activities of these international corporations.

At the national level, there are two broad levels of foreign investment regulations: the entry level and the operational level. Most periphery states have passed laws that stipulate application requirements, criteria for approval, incentives, dispute settlement procedures, and measures to ensure compliance. Additionally, some countries have established investment boards to screen and evaluate all foreign investment applications (UNCTC: 1978, 1983).

The second level of national regulation is concerned with operational controls once approvals are granted. There are many operational controls and they differ from country to country. The often-cited control mechanisms include: foreign exchange remittance provisions, information disclosure requirements, technology transfers, price controls, and performance evaluation procedures. The enforcement and monitoring of those regulations are done normally by one or several agencies. More often than not, those agencies usually have enough power to sanction foreign investors for non-compliance; the sanctions involved are expected to be sufficient to induce conformity in the future (Robinson, 1976; Lambard, 1978).

The above measures have been taken for at least four basic reasons. First, it is argued that increased ownership and control over the foreign-based economic entities would enhance the state's capacity to direct national economic development. Second, it is maintained that in order to coordinate, link and channel foreign investment to nationally identified priorities, direct state intervention in the economy is indispensable. Third, it is strongly believed that the institutionalization of regulatory control processes would strengthen the state's bargaining capabilities with the TNCs and would put the state in

3 In the subsequent discussion we borrowed Noll's (1985) definition of regulation which is understood as policies, laws and rules that impose obligations and provide punishment for non-compliance.

a better position to curb the TNCs business practices which are considered detrimental to national development efforts. Finally, the question of national security surfaces. It is argued that because TNCs do work at times as intelligence agents for their home governments, and because TNCs have occasionally colluded with governments to create political turmoil in periphery countries, that their international activities ought to be closely watched (Nye, 1974)[4].

In the following pages an attempt is made to describe and evaluate Tanzania's efforts to attract and regulate foreign investment. Such an evaluation brings to light the capacity of the state to manage the national economy. Its capacity is examined against three related variables. First, attention is paid to the nature of policies initiated and the way they are implemented. The policy contents are discussed and the executing institutions evaluated. The ability to resist pressures from competing domestic interest is the second explanatory variable. Finally, the capacity of the state is gauged against its performance in directing, monitoring, and regulating investment activities of external economic actors.

II - Investment Policies and Regulation in Tanzania 1961-1985

Foreign investment policies in post-colonial Tanzania can be divided into three broad periods: phase one, 1961-1967, was characterized by liberal investment policies; phase two, 1967-1974, was a period strongly influenced by socialism and self-reliance; and, phase three, 1974-1985, policies were generally sporadic responses to the global economic down-turn and domestic economic mismanagement.

(a) Investment Policies, Phase I (1961-1967).

Just prior to independence, the British government invited the World Bank to send a mission to Tanzania "to assess the resources available for future development; to consider how best these might contribute to a balanced program of social and economic development; and, to make recommendations for practical measures to further such developments, and to indicate the financial implications of such recommendations" (World Bank, 1961: vii). The Bank mission advised the incoming government to create, among other things, more attractive incentives and to formulate liberal investment policies. It also called on the new government to establish a development corporation to participate in the promotional aspects of investment, provide loans to investors and to enter into partnership as a means of attracting them. These recommendations were later reinforced by the Arthur D. Little, Inc. consultancy report on industry in 1961. It advised the government to pub-

4 The intervention of International Telephone and Telegraph Corporation in Chilean domestic politics in the early 1970s and US government's collusion in the affair is one of the recent classic examples. For details see Spero (1981: 231-234).

licize the country's investment opportunities to potential foreign investors. The report observed that "most industrial opportunities in Tanganyka are neither so readily identifiable nor so clearly feasible and attractive as to ensure that they will be accomplished without encouragement". On making foreign investment climate attractive, the report recommended that:

> *For optimum progress in the country's industrial development, the government must maintain and enhance the presently favorable climate for private investment. This is necessary to encourage groups such as foreign investors, already established residents of European and Asian descent, and the indigenous African population (Arthur D. Little 1961:5).*

The above two reports served as the basis for subsequent development policies and plans. Particularly in the industrial sector, large foreign investment outlays came to crystalize a new phase in the internationalization of capital. This was a radical shift from the colonial bias against manufacturing. This policy change was prompted by two related factors. First, political independence conferred on the state the power to diversify its international partners. The British monopoly gave way to an international open-door policy. Thus, in international economic relations, the state was free to pick and choose partners. Secondly, the state's preference for industrialization compelled former import suppliers either to embark on local manufacturing or get displaced by other competing investors. Most of them opted for the former. Official support for industrialization started here.

The data in Table 1 provide a clear picture of the structure of the manufacturing industry in 1961. About seventy percent of the manufacturing activities concentrated on processing agricultural commodities and minerals for export. Another fourteen percent was devoted to food processing and to other basic consumer items like clothing and footwear. In subsequent years, more and more of the same activities were introduced and expanded. The structure of the manufacturing industry remained unchanged for the whole decade.

A new wave of foreign investments in the manufacturing sector set in motion another phase in the internationalization of capital. It also gave rise to new forms of integration in the world capitalist system. Along with the traditional dependence on agricultural, mineral exports and finished consumer goods, a dependence on foreign machinery, equipment, management services, investment finance and production inputs was added. As expected, a development strategy propelled by import substituting industrialization of consumer goods, left key investment decision-making in the hands of foreign investors. Sensitive decisions like choices of technology and products, sectoral linkages and plant locations were made by foreign investors. As a result, studies of Tanzania's manufacturing industry in the 1960s and 1970s found very weak sectoral linkage, pervasive capital-intensive produc-

tion techniques, products biased in favor of high income groups, and industries concentrated in very few cities (Rweyemamu, 1973; Kim, 1976).

Table 1 - The Structure of industry in Tanzania in 1961

	N of Establishments	Net Output in 1961	
		Total in thousand British £	% of total
Agricultural processing mainly for export	245	12,020	49
Mining mainly for export	31	4,765	19
Basic food processing and manufacture	248	2,560	10
Consumer goods	225	893	4
Motor Vehicle Repairs	86	336	
Industrial Goods for services	87	876	1
Construction	104	1,954	4
Electricity and water supply	18	1,348	5
Total	1,044	24,756	100

Source : Silver, M. (1984: 81) Table 2.4

The above structural limitations were exacerbated by the state bureaucracy's concern for economic development with few qualifications. The good will of foreign investors was literally taken for granted. The President himself shared this view initially:

> *Private investors can provide this quantity of money. They will do so if they believe they can make a profit and that they will be allowed to export their profit if they wish to do so. These conditions we must accept; we can do nothing about them. The question we must ask ourselves in every separate case is whether we also benefit in proportion - by increasing employment opportunities, by increasing government revenue, by increased wealth produced locally and so on; then we should welcome the private enterprise... To be truly revolutionary, we must be absolutely realistic and use what opportunities the world provides (Nyerere, 1964:xiv).*

His then Minister of Commerce and Industry had earlier echoed similar optimism to welcome private foreign capital

> *Tanzania welcomes foreign investment whether large or small, and the government will do all it can to give reasonable help to those who share confidence in the country. Bring your capital, enterprise and skill to Tanganyka in the knowledge that you will be sure of getting a fair play. This land is a land of opportunity for us, it is also a land of opportunity for you (Swai, 1961: 1).*

Having embraced foreign investment as an indispensable development tool, the state proceeded to establish a legal and political framework to facilitate the inflow of investments. The Tanganyka Development Corporation (TDC) was created in July 1962. Its principal function (faithful to the two foreign consultancy reports) was to serve as the government arm for promoting economic development through joint venture activities with foreign

firms. In 1964, the assets and liabilities of the Tanganyka Agricultural Corporation were transferred to the TDC and the latter's name was changed to the National Development Corporation (NDC)[5]. The functions of the NDC were broadened and focussed. The NDC continued serving as an investment promotional body and providing equity and loan capital to investors. It was also given a lot of freedom to raise money locally and internationally, allowed to enter into partnerships with any agency, and was free to dispose of the surpluses in a manner it deemed fit. The political importance of the NDC was underscored by the appointment of six sectoral ministers on its Board of Directors.

The efficiency criterion of the NDC was assessed by the annual profits and losses made. This strategic performance criterion was enjoined in its enabling Act which had stated that "in carrying on its business, the corporation shall have regard to economic and commercial merits of any undertaking it promotes, finances, develops, manages or assists, and the economic position and potentialities of Tanganyka as a whole and shall use its best endeavors to secure that its business as a whole is carried on at a net profit" (NDC Act 1964).

The Act that established the NDC also identified the Board of Directors as state representatives on all major policy issues. In theory, the Board of Directors had to operationalize the broad state policies into concrete strategic plans and specific performance targets. The Board also had to devise mechanisms and criteria for monitoring and evaluating the performance of the management and the corporation. Its performance record, however, fell far too short of that expectation. First of all, there existed a diffuse power hierarchy. The NDC's chief executive, like some Directors-cum-Ministers was a Presidential appointee. Apparently they enjoyed equal status. Thus, the Board of Directors could only advise the corporation's chief executive but had no power to fire or discipline him in any major way. Second, institutionally it was never quite clear to whom the "all-powerful" Board of Directors was directly accountable. I will argue this lack of an institutionalized control system made the NDC and future state enterprises vulnerable to domestic blackmail and foreign corporate manipulations. Third, the corporation and company Board of Directors did not create a system of evaluating the performance of state enterprises and joint ventures. Therefore one seriously questions the proficiency of the Board's oversight responsibility.

The NDC's original capital in the form of investments and loans was Shs. 34.9 million in 1965, a modest investment base. Precisely because of this,

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5 The Tanganyka Agricultural Corporation was established in 1955 to take over the UK Overseas Food Corporation's three major development sectors of the ill-fated Groundnut Scheme. These were ranches, groundnut projects and flue-cured tobacco projects.

NDC favored joint ventures with foreign partners and preferred minimal equity participation (Seidman, 1972: 110-112). Its investment activities were supplemented by the Tanganyka Development Finance Company (TDFL) established in 1962. This was a multilateral joint venture between the governments of Tanzania through the NDC; the United Kingdom's Colonial (later Commonwealth) Development Corporation; Federal Republic of Germany's Deutsche Gesselschaft fur Wirtschaftiliche Zusammenarbeit; and, three years later, the Netherlands', Netherlands Oversees Financierings Mastchappy. Each contributed half a million pounds to the joint fund (Baker et al. 1986: 65). Together with the NDC, the TDFL stimulated private investments by providing equity capital, loans, debentures and managerial services. The company also carried out feasibility studies and post-investment consultancy services.

After creating the development and finance institutions, the government went forward to pass requisite investment codes. The Foreign Investment (Protection) Act of 1963 assured investors of full and fair compensation in the case of nationalization or any other compulsory forms of state expropriation. The investors could, on application, repatriate their investment profits, dividends, interests and royalties in accordance with current regulations under that law.

Additionally, a schedule of fiscal incentives to investors was drawn up by the Ministry of Commerce and Industry. This consisted of generous income tax capital and handsome annual depreciation allowances on industrial machinery, equipment and buildings. Moreover, under the local industries (Refund of Custom Duties) Ordinance of 1967, refund of customs duties, excise and other taxes could be claimed, subject to the fulfillment of stipulated conditions. Finally, a variety of tariffs could be negotiated with the Ministry of Commerce and Industry in order to protect the "infant industry". During the period under review, Rweyemamu's (1973: 134) calculations show that the effective rate of protection ranged from a low 95 percent on the radio assembly to a high of 528 percent on the tobacco industry. Between these two extremes were items such as match boxes, textiles, beer and footwear at 395, 265, 185 and 123 per cent, respectively.

The creation of conducive investment conditions climaxed with the legislation for strict labor control laws. The late 1950s and the early 1960s witnessed widespread labor unrest, strikes and division(s) within the labor movement in Tanzania. The causes of unrest ranged from low wages and union autonomy to the slow pace of the Africanization of top civil service positions (Jackson, 1979; Bienefeld, 1979, and Shivji, 1986). In 1962, for instance, 152 strikes involving 48,434 workers with the loss of 417,474 man-days were recorded (Shivji, 1986:227). Such kinds of behavior posed a threat not only to the government's stability and credibility, but also diminished the investment attractiveness of Tanzania. The state responded by passing the Trade Dispute Act of 1962 and the Permanent Labor Tribunal

Act of 1967, which made strikes virtually impossible. The first act instituted a lengthily negotiation process and prohibited strikes and lockouts "unless due process had been followed". The second Act set out to regulate collective disputes of the union and the employer. It also went further to provide for the regulation of wages. The international Labor Office study had earlier recommended a five percent annual raise in all income categories - a recommendation that was accepted and incorporated in the national wage policy.

It is abundantly clear from the above account that the state could hardly have done better to attract foreign investment. The first Minister of Labor and also the Secretary General of NUTA ('Workers' Organization) remarked in 1965 that "these developments... are a major guarantee of industrial peace and political stability which must be offered to attract the overseas investors" (Kamaliza, 1965: 204). The question that logically follows is what the state demanded as a pro quo and how was it to be evaluated. Initially, there was no public policy that addressed foreign investment performance. Nor was the behavior of the TNCs considered a problem of any sort. However, given the laissez-faire investment policy and given the absence of a comprehensive development program nationally and sectorally, foreign investment regulation would have been an uphill battle. This policy gap left planners and day-to-day decision-makers with no explicit criteria for screening and evaluating investment applications, unsure of what technologies to recommend, what products to approve, and the like.

In such a diffuse business atmosphere, foreign companies did what they do best - manipulate and cheat. Some capitalized on used machinery and equipment (Mwanza Textile Mill), other over-invoiced machinery and equipment (automated bread factory), and still others restricted exports (cigarettes) (Rweyemamu, Coulson, 1979; Rugumamu, 1983). It is little surprising therefore that by 1968. The capital outflow far exceeded the capital inflow. The data in Table 2 bear excellent witness.

The table only shows officially documented capital outflows which included dividends, profits, loan payments, salary transfers, insurance payments, management and consultancy fees to mention the most important ones. This is only part of the picture. As Van Hall (1979: 191-200) and Yaffey (1970: 186) empirically demonstrated, a sizeable amount of capital left the country through over-invoicing and under-invoicing practices by the TNCs' subsidiaries. The need to regulate the TNCs' activities became increasingly obvious and urgent.

The disappointing performance in the investment arena was also recorded in other sectors of the economy. The state Bureaucracy responded to this crisis by proposing an alternative development strategy of socialism and self-reliance. The fine details of this policy are contained in the TANU's *Arusha Declaration on Socialism and Self-Reliance* of 1967. The key rationale of the policy was that capitalism could not be adapted in Africa. It was argued that Africa did not have the necessary critical mass of capitalists in

order to initiate and sustain capitalism, and that independent capitalism in periphery countries like Tanzania was impossible. The Declaration asserted:

Table 2 - Gross Profit outflow and net inflow of private capital 1961-1968 (in mill. Shs.)

Year	Profit Outflow	Capital inflow
1961	- 72.2	+ 50
1962	- 73.0	+ 58
1963	- 123.0	+ 155
1964	- 93.0	+ 79
1965	- 110.0	- 6
1966	- 114.0	+ 138
1967	- 159.0	- 66
1968	- 114.0	+ 76
Total	- 857.2	+ 484

Source: Rweyemamu (1971: 115) Table 1.

Third world capitalism would have no choice except to cooperate with external capitalism as a very junior partner... Development through capitalism therefore means that we third world nations have to meet conditions laid down by others - by capitalists of other countries. And if we agree to their conditions, we shall have to continue to be guided by them or face the threat of new enterprises running out of money and skills being withdrawn, and of other economic sanctions being applied against us (TANU, 1967).

The Arusha Declaration called for the nationalization of the major means of production, distribution and exchange; eliminating exploitation of man by man; and institutionalizing people's participation in all important decision-making processes. The policy strongly rejected the domination that usually accompanies foreign investment. It also laid down some broad policy conditions for allowing future participation of foreign private investment in the national economy. It added that:

We shall not depend upon overseas aid to the extent of bending our political, economic or social policies in the hope of getting it. But we shall try to get it in order that we may hasten our economic progress... Similarly with private enterprise, we have rejected the domination of private enterprise, but we shall continue to welcome private investment in all those areas not reserved for government (Arusha Declaration 1967:24).

Following the promulgation of the Arusha Declaration, the Party directed the government to nationalize what were considered the "commanding heights" of the economy, to acquire majority shares in major foreign-owned industrial enterprises and to create requisite institutions that would manage,

direct and regulate the national economy[6]. To effect nationalization measures, the Parliament passed several laws to formalize the takeover of banks, insurance companies, large import-export firms and major manufacturing industries. The National Bank of Commerce Act of 1967 formalized the takeover of all nine foreign commercial banks. The State Trading Corporation Act of the same year nationalized all assets of the major whole-sale import and export firms. The nationalized industries were placed under the aegis of the NDC. The initial political commitment to control the national economy was bogged down by the lack of sufficient managerial, technical and administrative expertise. Thus, it was agreed that the parent companies would continue supplying management services under management and consultancy agreements.

The initial absence of an investment policy in Tanzania provided investors with a wide bargaining advantage. Coulson (1976) and Penrose (1976) concluded that the management and technical consultancy agreements signed between 1967 and 1970 invariably displayed that bargaining edge. The TNCs wrote in most contracts, clauses that ensured commercial lock-ins for determining sources and destinations, magnitudes and prices of certain crucial imports and exports. Management fees were paid regardless of performance. Above all, no time-tables were drawn up for the localization of foreign management teams. "Blood-sucking contracts" truly, they were!.

Shortly afterward, the Party issued additional directives on the policy implementation in the agricultural sector and in the education system. There were no directives concerning socialist industrial development or investment. The absence of a long-term national investment plan into which the NDC, local and foreign investors could fit and against which investment policies and performance could be evaluated, remained a worrisome policy gap. This basic policy shortcoming was responsible, in turn, for subsequent haphazard, costly and unwise investment ventures (Ghai, 1976; Loxley and Saul, 1976; and Barker *et al,* 1986). Moreover, the Arusha Declaration broadened the responsibilities of the NDC without simultaneously stipulating to whom this "omnibus corporation" was accountable - to its Board of Directors? to the President? to the Parliament? or to all of the above?

Finally in the wake of socialism and self-reliance it was unclear what performance criteria were to be applied to nationalized enterprises, and which particular behavior of the foreign minority shareholders-cum-managers was

6 The rationale for public ownership was four-fold. First of all, it would enhance economic justice by controlling its principal means of production and by ensuring the well-being of all. Secondly, the exploitation of man by man or group by group would be prevented. Thirdly the accumulation of wealth by a few individuals would be arrested. Fourthly, it would correct the inherent imbalance by government initiatives through income distribution and regional equalization.

to be monitored for regulation and by whom. In a nutshell, as Hyden (1984: 107-108) correctly observed, policy-making in Tanzania has not usually been informed by full and detailed knowledge of possible consequences of the decisions made.

These important investment policy issues were left unresolved. The Second Five-Year Plan (1969-1974) picked up some of these issues, but not in a comprehensive and systematic fashion. The Plan document contained arguments explicitly in favor of the expansion of the public sector. Three major benefits from public ownership were identified:

(1) It will be possible to create a genuine Tanzanian "know-how" faster than under conditions of unrestricted private investment;

(2) It will be possible to pursue a more effective industrial strategy; and

(3) The profits made in the industry will be reinvested in Tanzania.

(B) Investment Policies Phase II (1967-1974)

The Second Five-Year Plan which was launched two years after the Declaration contained further amplification of the socialist policy. First, it divided the national economy into four investment categories:

(1) Wholly State-Controlled Industries - These were strategic industries like banking, insurance, petroleum exploration and armaments, in which the government or its parastatal shareholding were 100 per cent.

(2) Partly Controlled Industries - Basic industries where government ownership amounted to more than 50 percent of the voting and participating shares.

(3) Joint Ventures - These were industries of paramount importance to the large sections of the population or to other industries. Here direct or indirect state involvement was prescribed though not necessarily a controlling share of ownership.

(4) Open Industries - All industries not falling under (1) to (3) were not liable to government entry restrictions.

Second, the Plan also clarified the hitherto ambiguous investment criteria. It provided four general criteria and left the specifics to be operationalized by sectoral ministries. The criteria were:

(1) Net Foreign Exchange Effect - specific projects had to contribute to a positive balance of payments after adding the cost of importing capital equipment as well as materials and supplies;

(2) Real Net Contribution to Domestic Product - projects selected had to contribute significantly to the national output by broadening the range of real local resource employment;

(3) Budgetary Impact - that account had to be taken of the fact that the substitution of domestic for imported manufactures might result in a loss of import duties usually not fully matched by direct taxes on domestic output; and,

(4) Social impact - factors such as greater balance and social benefits had to be considered (Government of Tanzania, 1969.

Besides those two policy "innovations", an industrial Licensing Board was created at the Ministry of Commerce and Industry. Its functions were to screen and evaluate all new investment proposals, promote orderly development of the manufacturing industry and to provide services for registration and licensing. Sometime later, a full-fledged directorate for investment and Project Implementation was established at the same ministry.

New foreign investments after the Arusha Declaration almost invariably took the form of joint venture. Particularly in the manufacturing sector, state majority ownership emerged as the standard practice. Examples include Tanzania Tanneries (25 percent Kloeckner of West Germany); Stell Rolling Mill (20 percent Danielli of Italy); and, General Tire (26 per cent General Tire International of the USA). With those changes in the investment pattern, TNCs' profit-making mechanisms gradually shifted from mere production and distribution to the sale of machinery and equipment, information and skills.

Despite the rhetoric of the Arusha Declaration and thereafter, foreign capital continued to dominate the national development budget. The data in Table 3 show that external contribution to development expenditure increased from 39 per cent in 1974 to 79 percent in 1983 - a very significant rise. As already observed, foreign investors were constrained by a handful of state regulations. Specific TNCs' behaviors for regulating had yet to be determined. This is obvious from the duties and responsibilities of major regulatory institutions. To them I now turn.

Table 3 - Share of external resources in Tanzania's Development Budgets 1974-1983 (Tshs. million)

Year	Total Dev. Expenditures (Tsh. 000)	External loans and grants	Loans and Grants as % of Total
1974	1,642	639	39
1975	2,225	1,198	54
1976	2,189	1,107	60
1977	2,731	1,510	55
1978	3,388	1,626	48
1979	4,758	2,559	54
1980	4,889	3,063	62
1981	4,807	2,721	57
1982	5,215	2,710	52
1983	4,405	3,480	79

Source : World Bank (1984: 57) Table 3.7

Key Ministries and Boards of Directors

In theory, the sectoral ministry and the ministry of Treasury and Planning must direct, coordinate and supervise the activities of state enterprises. This is usually through a variety of statutory provisions in the forms of approvals and sanctions of Board actions and decisions. To accomplish these tasks, ministries have to keep pace with the growing demand for technical and administrative expertise in the areas of investment policy planning, evaluation and implementation. There has been little conscious effort toward man-

power training and retention. By 1985, a little less than 50 percent of the established technical posts were unfilled at the Ministries of Commerce and Industry and at the Treasury and Planning Ministry (Rugumamu, 1987). This shortcoming alone made meaningful routine evaluations of new investment proposals and particularly on-going projects, very difficult. Above all, neither the parent ministries nor the Treasury devised general and specific guidelines for evaluating the company and managerial performance.

At the enterprise level, the Board of Directors assumes the role of shareholders. It has to operationalize the broad state policies into concrete strategic plans and operational targets. It also has to devise mechanisms and criteria to monitor and evaluate the corporate and managerial performance. As already noted, state enterprise management in Tanzania leaves a lot to be desired.

Until the beginning of the 1980s, the choice for chief executives of corporations and Boards of Directors was largely determined by individual's political closeness to top decision-makers. It was not uncommon to find Boards dominated by members of Parliament, pre-independence political activists, and senior civil servants. Important management attributes like expertise and professional experience were relegated to secondary positions. The *Daily News* of May 11, 1976 quoted the then Minister of Manpower's rationalization of the practice :

> *Those entrusted with leadership of government and economic institutions in countries like ours which are effecting a political and economic revolution must be part and parcel of the masses. Politically uncommitted managers in Africa are a threat and not an asset to national development.*

Surely, the minister should have known better than that. Political commitment is a necessary but not sufficient condition for efficient socialist management. The quality of work performed by most Boards have impressed few outside observers. Board members have often been accused of being too busy with other affairs, of having too little technical knowledge of the enterprise they were directing, and of meeting too infrequently (Shivji, 1976; Mihyo, 1985; Loxley and Saul, 1975). The Tanzania Audit Corporation report of 1979 complained that:

> *Our experience, however, shows that very few parastatals acknowledge our reports and implement our suggestions. Out of 220 management audit reports issued during the year 1978-1979, only 91 reports were stated to have been tabled before the Board of Directors. Some 66 companies only acknowledged the receipt of our reports... In certain parastatals the Board of Directors do not seem to appreciate the significance of audit report... some Boards are inactive and do not hold formal meetings, sometimes over one year, to review and appraise the performance of their organizations (TCA 1970.*

Such evaluations amply demonstrate the structural sloppiness of the monitoring and evaluating system in Tanzania. The system does not have built-in mechanisms of checks and balances. Nor is the final authority on state enterprise performance known. When the Board fails to meet as required by law, there is no one to wake them up. Thus, things tend to go on and on unchecked - a conducive environment for TNCs'!

The Bank of Tanzania

Until the mid-1960s, the East African Currency Board played the role of the Central Bank for three former British East African colonies. In December 1965, in an effort to increase state control of the economy, the Tanzanian Parliament passed an act to establish the Bank of Tanzania. Its existence before the Arusha Declaration made some of the subsequent control measures manageable.

In the wake of the Arusha Declaration, the Bank of Tanzania provides the government with advisory services on international payments and on agreements between the government, its agencies and foreign governments and institutions. Such agreements include management agreements, purchase agreements under supplier's credit, commodity credit, direct cash loans and other credits. In this respect, for every financial agreement reached, a separate agreement is worked out between this Bank and the Central Bank of the lending country or agency to ensure smooth payment under the credit agreement (Mushi, 1981: 210).

The Bank's Exchange Control Department plays a leading role in the regulatory domain. All transactions involving foreign exchange require the Bank's sanctions. Moreover, since 1972 this department and the Import Department have been assisted by an independent transnational, the General Superintendence Company Limited of Geneva. The Company is responsible for ensuring that goods authorized for importation are of acceptable quality and of competitive prices. The General Superintendence Company's success in exposing over-invoicing abuses has been phenomenal. Van Hall (1979) found that during the first three months in Tanzania, well over 400 import orders were cancelled by prospective importers because of such abuses. It should be quickly pointed out, however, that General Superintendent Company inspects only those goods exceeding Shs. 20,000 and it is paid 1 percent of the f.o.b. price of the goods inspected. Its usefulness, however, goes to a point. Only prices for commodities whose market prices are known or easily estimable can be verified. Unique commodities from a single supplier have proved, apparently, very difficult to assess.

(C) Investment Policies Phase III (1974-1984)

The global capitalist recession and oil price hikes of the 1970s played havoc on the fragile economy of Tanzania. This translated into severe shortage of foreign exchange and the contraction of the economy. Imports became more expensive while the volume and value of exports dwindled signi-

ficantly. At the same time, the capacity of the state to manage the economy began to show serious and obvious strains. To cope with this crisis, for the first time, tougher measures were taken to control the activities of foreign investment.

The companies (Regulation of Dividends and Surplus and Misc.) Act of 1972 gave the Minister of the Treasury sweeping power over investment matters. He could hence limit dividends that companies could pay shareholders. Limits were defined either as a percent of profit (80 percent), by the average of the profit of the three previous years, or by the level of assets of the company after payment of the dividends (not less than 120 percent of the par value of the paid-up share capital). Moreover, the Minister could require a "specified company" to declare its dividends and specify the minimum rate if "in his opinion, it is in the national interests or in the interests of the shareholders desirable to do so"[7].

To enable the Minister to do that, all specified companies were required by law to submit cash flow budgets, setting out their estimated income, sources of income, and particulars of estimated expenditures. Additionally, the Minister could require a scheduled company to invest a specified part of its estimated income in government securities or any other investment specified by the Minister. Two years later in 1974, this Act was strengthened by an amendment that prohibited the reduction of the share capital of a specified company without the consent of the Treasury Registrar.

In 1974, the Finance Act passed. It required all state enterprises to submit, over and above annual cash flows, their projected production and investment levels for each coming year to the Treasury Registrar. This kind of information became even more important, particularly with the introduction of the annual budget-and-planning exercise - yet another control instrument. As if that were not enough, the Parastatal Organizations (Financial Supervision and Control) Act of 1975 was added. It empowered the Minister of Treasury, with the consent of the President, to direct any state enterprise to pay the government dividends, loans, contributions, or portions of net profits or surplus as he would specify.

Such restrictive laws have given rise to new patterns of foreign investment in the country. Lately, there has been less direct foreign investment and joint ventures and more wholly state-owned enterprises, finances through direct loans or machinery supplier's credits. Turn-key contracts and licensing agreements have become particularly common in Tanzania. In the textile industry, for example, all six multi-million dollar complexes initiated between 1975-1985 are 100 percent state owned. Not surprisingly, all have

7 "Specified companies" are both private and public companies which constitute the "most important enterprises" in the economy. The list is, to say the least, arbitrary.

been financed either through direct loans or through machinery supplier's credits. These new textile industries, just as those before them are run by foreign firms through technical and management contracts (Rugumamu, 1987).

Additional Administrative Control Instruments

In theory, all government ministries and state enterprises must submit their tentative plans and the sources of investment finance to the Ministry of Treasury and Planning for overall planning purposes. After being scrutinized, modified, changed or dropped, those plans are later sent for discussion to the Parliament. Thus, in theory again, the government and Parliament are empowered to regulate and control all major investment activities of state enterprises through planning. In practice, however, the story as told by Coulson (1979), Wangwe (1984) and the World Bank (1977) is quite different.

It has been found that in the annual budget and planning sessions, the major government preoccupation has always been how best to allocate available resources to competing applicants. Should a Minister table proposals not part of the medium-term plan priorities, but should such proposals be backed by foreign funds, rarely would these projects be turned down. State enterprise managers have often shopped around the world for such investment finances. Unconstrained by rigid efficiency criteria or plan priorities, these managers have been keen and active showing their political masters new projects and building personal empires. Mihyo (1985:223) strongly suspected private accumulation motives by those engaged in foreign loan negotiations. He did not provide hard evidence (of kickbacks and bribes), but given pervasive corruption practices in state enterprises, his doubts are warranted.

Regulation and control through planning have also been weakened by aid negotiation practices. Some state enterprise managers and government bureaucrats have approached major donor agencies for project aid. Once the aid was promised, neither the Treasury nor the sectoral ministries were willing to turn down unplanned aid offers (World Bank, 1977: 123). What the Bank report fails to appreciate here is the obverse of the same coin. Some foreign governments, multilateral agencies (particularly the Bank itself) and TNCs proposed, supported and solicited government approval of several ill-conceived and poorly prepared investment projects[8]. Projects like these were

8 In the late 1970s the World Bank, IDA, SIDA KFW (A West German Aid Agency), Kuwait Fund, Commonwealth Development Fund and the OPEC Special Fund agreed to finance the Mufindi Paper Project at the cost of $250 million. It was established that 40 percent of all running costs and 80 percent of all the capital costs were to be financed from foreign exchange. The plant closed down in its first year of operation because it was unable to pay its running consts.

accepted even when they had low strategic importance in medium-term plans, or when they showed a high degree of dependence on foreign resource inputs. In the final analysis, such practices left the government in terribly embarrassing situations. The Government's inability to control the reckless investment drive of state enterprise managers, foreign aid donors and international machinery and equipment merchants increasingly limited not only its capacity to manage the economy but also increased TNCs' degree of maneuverability.

Mytelka (1981) and Parker (1979) documented the pervasive practice of overbuilding plants by TNCs in turn-key projects. The practice is common in situations where a foreign firm is hired to serve both as a project engineering agency and project consulting agency. The higher the total value of the project, the higher the fee charged. Her they have the incentive to overbuild plants! The practice is even more common where one of the agencies is a manufacturer or connected in one way or another with manufacturing firms. This particular problem is bound to remain outstanding in Tanzania as long as project consulting firms are TNCs.

Moreover, there has been a strong tendency by planners to focus on the coming year and on new investments in the budget and planning sessions. Even worse, there has been gross inattention to future resource implications on the viability of approved investments. This has apparently resulted in chronic underutilization of capacity, low productivity, shortages of managerial and technical personnel and inflationary pressures due to massive government subsides (Wangwe, 1984; Ndulu, 1984). The recurrent expenditure crisis of the 1970s and 1980s has been partly managed through bilateral and multilateral aid credits. However, as Table 4 shows, most aid was tied to imports and usually to the donor's on-going projects. Thus, there was noway such funds could have been diverted to other purposes. The World Bank (1984) has estimated that between 1975 and 1978 tied aid increased from about 25 percent to 40-50 percent[9]. Therefore, what appeared to be national economic projects were, in fact, either Swiss, German, or World Bank projects in conception, direction, and content. State control or regulation in these circumstances was, to say the least, illusory.

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9 Helleiner (1967) estimated that goods bought by Tanzania under tied-aid agreements were at least 20 percent more expensive than they would have been on the world market. Later Bhagwati (1970: 17) and an independent Group on British Aid (1982) estimated that the purchase of goods in an aid-giving country was on average 20 percent above the free market prices. UNCTAD (1987: 97) reported that approximately two-thirds of the bilateral commitments, of which technical cooperation and food aid accounted for an important part, were tied. Such practices not only entail higher costs and less efficient procurement but also other disadvantages associated with the degree of complexity of the technologies purchased.

Table 4 - Foreign Aid as % of Total Import Value* - 1970-1981 (in Shs. million)

Year	Exports (Shs.mill.)	Imports	Exports as % of Imports	Total Aid	Aid as % of Imports
1970	1797	2774	79	-	-
1971	1913	2726	70	236	8.2
1972	2313	2883	80	468	19.7
1973	2581	3479	74	666	19.1
1974	2878	5377	54	1263	23.5
1975	2764	5709	48	2530	44.3
1976	4108	5350	77	1707	31.9
1977	4464	6181	72	2334	37.7
1978	3670	8798	42	2604	29.4
1979	4484	9073	49	3631	40.0
1980	4166	10,308	40	4365	42.4
1981	4807	10,047	48	4363	43.4

*Total Aid = Grants + Loans
Source: Bank of Tanzania, *Operations Reports*.

The second administrative instrument is the Special Committee on Parastatal Management Agreement created in 1971. The Special Committee's responsibility was to scrutinize, modify, or reject all proposed foreign investment agreements between Tanzania and outside agencies. Its recommendations are finally reviewed by the Economic Committee of the Cabinet. The establishment of this Special Committee was government's response to the devastating revelations that about all agreements signed in the wake of Arusha Declaration were against national economic interests (Penrose, 1976: 147-174). It was necessary for old agreements to be reviewed and approved by those two bodies. The participating members of the Special Committee have been drawn from the Bank of Tanzania, Treasury, Attorney General's Chambers, the sectoral ministry, Tanzania Audit Corporation and the Ministry of Economic Planning. Negotiators and drafters have been provided with specific terms of reference such as: a provision of training technical and managerial personnel; timetable for localizing all foreign management positions; a management fee depending on profitability to induce efficiency; and a bias for labor-intensive technologies.

Recent agreements have closely followed the above terms of reference. On the surface of things, Tanzania has moved up the learning curve. Some studies have shown, however, that the profitability criterion as a measure of efficiency and as a basis for calculating management fees, has been rendered inoperative by larger macro-economic problems (Ndulu, 1984). The choice of production techniques has been almost always left to foreign investors, project consultants or to TNCs selling machinery and equipment through supplier's credit arrangements. Finally, very few TNCs, if any, have fully complied with the training provision of the agreement. In a nutshell, the state's awareness of the predatory activities of the TNCs has not significantly led to an improved regulatory performance (Rugumamu, 1987).

The third administrative instrument is financial accountability through annual commercial audit and balance sheets. State enterprises in Tanzania are largely financed by public funds or state-guaranteed loans, and are therefore required by law to be audited by the Tanzania Audit Corporation (TAC). Reports of the audited accounts must be distributed to shareholders, the sectoral ministry, Treasury and Planning, the Party and the Parliamentary Sub-Committees on Parastatals and the State House. Corporations must also produce annual reports and accounts. These provide elaborate information, accounting for the corporation's or company's action during the year in question with necessary explanations to justify actions performed and ends pursued. Besides issuing certified financial statements, the TAC is also empowered to "review internal controls, operating procedures, adequacy of record-keeping, management practices resulting in any fractious or extravagant use of public funds".

A significant number of corporations have been submitting their annual accounts for auditing several years late. The TAC report of the financial year ending in June 1982, found that of the 376 audited state companies, 28.7 percent received clean reports; 33.5 percent received qualified reports; 30 percent received disclaimers of opinion; 5.6 percent received adverse opinion reports; and, 2 percent received no reports. It added that about 185 client companies did not submit their annual accounts for audit that financial year. During the first half of 1985, of the 205 state enterprises audited, only 39 percent received clean reports, 44 percent received qualified reports and 17 percent were given disclaimers or adverse opinions. Once again, a good proportion of them went unaudited (TAC, 1986)freference is often made to the insufficiency of qualified managerial and technical personnel. Even then there has been little conscious effort to train and retain such personnel. The same arguments falter when a foreign-hired team fails to submit books for audit..

It should be emphasized again that the Public Corporation Act of 1969 and the specific orders that established subsequent state corporations make no explicit mention of a performance evaluation requirements of the corporations, companies or management. Nor do they link incentives or sanctions to performance. This conspicuous policy gap has provided the management (local or foreign) with a wide latitude to do anything without fear of serious repercussions. Thus, company after company has accumulated huge losses, and neither the managers nor the directors have been fired or demoted. Part of these losses are a product of large-scale embezzlement in some corporations. Between 1979 and 1981, for example, more than Shs. 172 million was reported as stolen from state enterprises (*Daily News*, June 28, 1983). When caught, the most serious and common punitive measures these corrupt or inefficient senior managers would get is retirement in the public interest. Instances where top management was taken to court and prosecuted are very few and far apart. By the same token, some hard-working, dynamic and

innovative managers have produced wonderful results, but the system has no built-in mechanism or tradition of appreciating hard work.

Parliament is another monitoring and control organ of the state. There is a specialized parliamentary sub-committee on state enterprises. There are no explicit guidelines that stipulate when and under what circumstances this sub-committee meets. Equally important, it is not clear what particular policy areas it is supposed to evaluate and to whom it should finally report its findings for action. The exercise is even more complicated for the full parliamentary floor session. Given the number of corporations and the time allotted to parliamentary question sessions, it would be naive to expect the parliament to go through 400-plus reports. This is not all. Given also the "technical" nature of the audited statements of accounts and the average educational background of some of the honorable members of parliament with no specialized parliamentary staff, the corporations' financial accountability is left largely unattended by this important body.

What does this tell us? The regulatory system, though highly desirable, has not been thoroughly thought through. This is symptomatic of vague policies and plans, uncoordinated institutional goals and insufficient political commitment to the policy. Huntington (1968), Pozen (1976), and Teriba (1970) perceptively conclude that state corporations in periphery countries are largely created as a prime source for political patronage and class consolidation. They argued that the use of strong nationalist rhetoric, and at times the invocation of socialism are merely diversionary tactics. The basic purpose has been, in fact, to enrich the government and party bureaucracy, legitimize their rule, buy political support from different factions of society and consolidate their state power. Examples of presidents and ministers giving top state enterprise jobs to their relatives, friends, and political confidants are too many to list. Moreover, examples of the same bureaucrats using their positions to commit terrible economic scandals (but going unpunished) are just as frequent. In the final analysis, state enterprises in Tanzania have been driven by political rather than by economic rationale.

By the late 1970s, the state bureaucracy in Tanzania had grown both in size and power. The cream of the bureaucracy fell under three categories: top government bureaucrats, party bureaucrats, and state enterprise bureaucrats. Their lifestyles, habits and indeed their accessibility to state coffers bound them into a rather homogeneous non-productive, consuming class. Most of them do not own any private means of production of their own, but depend largely on corruption and embezzlement of public funds. Mukandara (1983:261) found that outstanding personal advances and travelling allowances of those senior bureaucrats went up from negligible amounts in 1967 to Shs. 48,946,267 in 1974/75, to Shs. 60 million in 1977/78, and to a staggering Shs. 221.78 million in 1980/81. These figures have over the years continued to rise!

The Tanzanian Controller and Auditor General reported that during 1985/86 over Shs. 1,000 million could not be accounted for by the government departments (*Uhury*, 1987). All this took place as the average economic conditions of the toiling masses were deteriorating year in and year out and political dissensions were tightly censored. The peasant producers' share of gross sale value of cash crops declined drastically from 70.3 percent in 1970 to 41.7 percent in 1980 (Ellis, 1982: 12). A freeze on the minimum wage since the mid-1970s, plus rising prices severely eroded purchasing power of wage earners. The real wage in 1981 was lower than it was in 1963 (World Bank, 1984: 3). The great promises of socialism and self-reliance were becoming illusory. If the guardians of socialism have failed to regulate their own conduct, how in the world would they monitor and control foreign agencies?

Conclusion

This paper has presented investment policies pursued by Tanzania the last thirty years. It was argued that, on the whole, various investment and policy packages lacked comprehensiveness. Different measures were initiated merely as sporadic responses to particular circumstances of the moment. Apparently no attempts were made to think through a long-term development program and to design complementary investment policies.

The experience of Tanzania has also demonstrated that whereas a plethora of incentives to foreign investment has been long instituted, general and specific regulatory control measures have yet to be clearly defined. The state is still uncertain as to what particular aspects of TNCs activities have to be earmarked for immediate monitoring and control. Several regulatory institutions have been created but their duties and responsibilities are poorly defined. Duplication of responsibilities among these institutions, therefore, is not uncommon. This problem has been exacerbated by a diffuse internal power hierarchy. The top decision-making body responsible for the overall policy outcome is not clearly stipulated in the governance structure. This has made it difficult to know who should make decisions and who should be held responsible for those decisions. Given such a fragile political and business environment, TNCs have had the luxury to strike bargains that were inordinately biased against national interests.

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