

June 8, 1993, Tuesday

Export scam robs Kenya of millions; Richard Dowden reports that government officials approved bonuses for bogus sales of gold and jewellery

BODY:

A PRIVATE company has robbed the Kenyan government of tens of millions of pounds in an export scam sanctioned at the highest level in the Kenyan Finance Ministry and Central Bank.

The case confirms the breadth and depth of corruption in Kenya and is part of a series of financial and banking scandals that are undermining the Kenyan economy. It has contributed to the collapse in the value of the Kenyan shilling and a crisis in the banking system. It comes at a time when the country is trying to regain a reputation for financial probity and create a free-market economy.

The fraud centres around a Kenyan company called Goldenberg which claimed to export millions of pounds' worth of gold and diamond jewellery to companies in Switzerland and Dubai in order to collect huge export "compensation" bonuses from the Kenyan government. To encourage exports the Kenyan government has been paying a 20 per cent bonus on Kenyan manufactured exports.

In the case of **Goldenberg, Kenya's** Vice-President, George Saitoti, agreed to pay 35 per cent on gold and diamonds - even though Kenya does not have diamonds and produces only a tiny amount of gold.

The company filed customs forms to show it had exported millions of pounds' worth of gold and diamond jewellery. It was paid the compensation bonus in Kenyan shillings - at least pounds 18m - which it appears to have used to buy foreign currency on Kenya's recently liberalised foreign currency market. This sent the Kenya shilling plummeting. Banking sources say the fraud has helped to destabilise the country's economy.

The Auditor-General, D G Ngoroge, picked up the scam in his report last year and called it "illegal" and "highly irregular".

According to documents presented to the Central Bank of Kenya, copies of which have been obtained by the Independent, Vice-President Saitoti, who was also then finance minister, gave Goldenberg International the monopoly on gold and diamond exports in 1990.

With the 35 per cent compensation he had agreed, it meant that for every pounds 100 worth of goods exported by the company the Kenya government paid the equivalent of pounds 35 in Kenya shillings. The company promised to raise a minimum of \$ 50m (pounds 32.5m) in a year.

When it was started, Goldenberg was jointly owned by Kamlesh Pattni, a local businessman, and James Kanyotu, a former head of the Special Branch who now describes himself as a farmer. In a letter Kamlesh Pattni said: "A huge amount of gold is being smuggled out of Kenya . . . Our company has a capacity to buy diamonds which are in large supplies here in Kenya."

Mr Pattni also said he had a workshop for manufacturing diamond jewellery "by skilled artisans" and added: "The amount of gold we expect to buy and handle monthly will be about 100kg per month in the first month and

gradually increase to 400kg. Our company also expects a good supply of diamonds . . . "

The Vice-President agreed to Goldenberg's proposal. On 1 November, C S Mbindyo, the permanent secretary at the Treasury, wrote to Goldenberg: "Your request touches on the field strongly believed to be operated illegally on a large scale through smuggling. It is also a delicate field.



June 21, 2003 Saturday

Kenya; The Goldenberg Inquiry

BODY:

Moi's mention saved policeman's job

A police constable invoked the name of retired President Moi to escape the wrath of former security chiefs Noah arap Too and James Kanyotu for disobeying orders to release smuggled gold belonging to Goldenberg International.

Constable **Naftali Lang'at** said he was one of the officers on duty at Wilson Airport on the night of October 22, 1991 when a consignment of smuggled gold arrived from the Bunia in the Democratic Republic of Congo, which they seized.

The police officer told the commission inquiring into the Goldenberg Affair that upon the impounding of the gold, one of the suspects, Mr Kamlesh Pattni who turned out to be a director of Goldenberg International, made a telephone call to Mr Too, the then Director of CID.

Constable Lang'at said an agitated Mr Pattni handed him the phone "for me to talk to my boss only for it to turn out that it was Mr Too."

The witness said the then Kenya's chief crime-buster ordered the junior officer to release the seized goods.

The officer told the inquiry, chaired by Court of Appeal Judge Samuel Bosire, that he told off whoever was claiming to be Mr Too and said he never took orders by phone.

"I also told him I was not used to his voice so I could not recognise it over the phone," Constable Lang'at, the commission's 16th witness, told the inquiry on its 41st day of sitting at Kenyatta International Conference Centre, Nairobi.

It was the first time that Mr Too, who is currently Kanu's MP for Ainamoi, was mentioned as having demanded the release of the smuggled gold belonging to the company at the centre of investigations into dubious payments amounting to billions of shillings belonging to taxpayers as export compensation for gold and diamonds.

Previous witnesses, including senior Customs officials Mrs Elizabeth Opondo and Mr Njiraini who were on duty at the time, have in their testimonies said Mr Too was one of the top government officials who called that night to enquire about the gold and the people who had brought it.

The officer, who was being led in his evidence in chief by the commission's lead counsel, Dr John Khaminwa, said Mr Too told him that he was "very annoyed with me".

Constable Lang'at further said Mr Too's Security Intelligence counterpart, Mr James Kanyotu, also wanted to talk to him but he declined to take the phone.

The worst, he told the commission, came the following morning when he was picked by Mr Too's official driver and taken to the CID headquarters, where he was interrogated over the Wilson Airport incident.

Mr Too's driver had told him that he was wanted by the CID chief and Mr Kanyotu, who it has emerged was one of the directors of Goldenberg International.

A day after the interrogation, he said, more CID officers called on him wanting particulars of his home district and that was when he said he hailed from Sacho farm in Baringo.

Sacho is the ancestral home of Mr Moi where he has a farm on which several families work.

Constable Langat, who was applauded by the public gallery at yesterday's proceedings, however, said although he was left alone, he had remained a constable for 19 years.

Earlier on, another witness, Mr Philip Kipserem Bor, had told the commission that he was given orders to go and get samples of gold for analysis from the premises of the Goldenberg in February 1991.

Mr Bor, who was a government Chief chemist then said in a departure from tradition, the then Commissioner of Mines and Geology Mr Collins Owayo gave the directive instead of having the samples brought to the departmental laboratories.

Even when he arrived at the premises at the city centre, Mr Bor told the commission, the samples of one gram were obtained from two bars of gold from among four sealed boxes. He was stopped from checking what was in the other boxes and told that "gold is dollars and sterling pounds."

He further told the commission that that was the first and the last analysis of the purported gold exported by Goldenberg International.

Without analysis, he told the commission, one would even not be certain by casually examining an item that it was gold.

Gold, he said could easily be mistaken for four other minerals; yellow mica, brass, Copper and iron pyrites. The latter is also known as "fools' gold."



January 3, 2004 Saturday

Kenya; Goldenberg Probe to Reopen On Tuesday

BODY:

The Commission of Inquiry into the Goldenberg Scandal has been pushed back by a day.

The hearing at the Kenyatta International Conference Centre will resume on Tuesday and not on Monday.

The change of date is to allow those involved time to settle down after the festive season.

"The inquiry will resume its public hearings on January 6 and not January 5 as ordered earlier. Any inconvenience caused by the change is regrettable," said joint secretaries George Kegoro and William Ouko in a statement.

The commission was on its 118 witness when it was adjourned.

Chaired by Justice Samuel Bosire, the commission threw out an application to have Kabete MP Paul Muite served with an adverse notice over a Sh20 million bribery claim before it went on recess.

The ruling followed a round of heated exchange between Mr Justice Bosire and assisting counsel John Khaminwa on the one hand and lawyer Pravin Bowry on the other.

Mr Bowry, who represents former Chief Justice Bernard Chunga and former President Moi's aide Joshua Kulei, had sought to know from a witness whether he was aware of reports linking Mr Muite to a bribe from Mr Pattni.

Mr **David Munyakei**, a former CBK employee, had admitted leaking CBK documents to Mr Muite and Planning minister Anyang' Nyong'o in 1993 to expose what he felt were shady deals involving Goldenberg.

The documents were later tabled in Parliament by the MPs, then in the opposition.

Mr Muite has written to the joint secretaries expressing his wish to defend himself against allegations that he received the bribe.

"Anyone who harbours illusions that this time round dragging Mr Muite's name will divert attention from those responsible for the massive theft of public money is wasting their time," he said.

"I shall welcome the opportunity to disclose why at that time I kept quiet when those false allegations of bribery were made against me and why they were made."

In a letter dated December 15, he also threatens to reveal more about the scandal if he takes the stand.

"I believe Kenyans want to know the truth about those behind the theft, which has so impoverished them and for those people to be made to repay each and every shilling stolen," he said.

The Safina party MP, intriguingly, says that it is in the interest of former President Moi to know that he will be appearing.

"It is my advise to (Mr) Joshua Kulei that he brings this letter to the attention of the person who he

served for many years, retired President Daniel arap Moi. It is in the interest of his former boss that he does so."

ALTERNATIVE VIEW

As more slip into penury, sleaze piles up

By Robert Shaw

This week had an interesting irony. As several donors expressed increasing frustration and criticism about the extent of corruption in some quarters of government, President Kibaki launched an appeal to the international community for food aid for an estimated four million Kenyans facing famine.

In the same week several ministers, led by Foreign Affairs minister Ali Mwakwere, expressed outrage at the corruption speech made by the British High Commissioner, Sir Edward Clay.

During the same week, the latest United Nations Development Programme poverty index reconfirmed some harsh and disturbing facts and figures about Kenya: out of 177 countries, Kenya is 144 in the poverty rating.

Wealth and income disparities continue to be glaringly obtuse, with 20 per cent of Kenyans holding half the wealth of the country as the other 80 per cent scrambles for the rest. Other social indicators such as child mortality figures, continue moving in the wrong direction.

They may all appear to be separate events but they are irrevocably interlinked. Let us look at it this way. The majority of Kenyans are poor and struggling to get by on the little they have. More and more Kenyans are falling below the poverty line each year.

The hardcore of unemployed, especially amongst the young, is swelling. Yet Kenya is not an inbred basket case. Indeed the opposite can be argued. Last week, I pointed out how our geographic location and the more favourable and peaceful developments in Eastern Africa give us a huge opportunity to be the economic hub and gateway for the region. We have a very dynamic entrepreneurial class. To put it bluntly, we should not be in the sort of mess we are now.

But due to mismanagement and a host of other ills our economy and the fortunes of our people have been taking a nosedive for sometime now. Despite what some in government say, the decline continues. One of the major ills has been corruption and we only have to follow the Goldenberg Inquiry to see its devastating effects on the economy. The salutary statement made by the former Economic Secretary, Professor Terry Ryan, before the commission about the high price future generations of Kenyans will pay for the Goldenberg scam should remind us all of the consequences of this terrible scourge.

What we have witnessed in the past year or so is that the network of corruption in government is expanding and thriving and has managed to rope in several of our new ruling elite.

What is most disturbing is the indifference, often bordering on arrogance, that some in our leadership treat the mounting accusations, facts and figures about corruption in government. Look at the Anglo Leasing saga. Why does the government not give us the full details? Remember the whitewash V President Moody Awori gave a few months ago? Why is the Treasury official who prepared the briefing paper on Anglo Leasing still at his desk even though it is very clear that the paper was a complete lie?

We should give credit where it is due. There has been some serious work done on corruption by the government, but the bottom line is that it is still thriving and it's big.

The onus lies on all stakeholders – be they media, businessmen, private citizens or development partners – to keep the pressure on this and future governments to curb corruption and root it out of the system. And not just the act but also the players. President Kibaki showed that he was not prepared to deal with the latter when he reshuffled his cabinet recently.

†Now to Clay and the hornet's nest he stirred last week. I have deliberately left this point to last because it is important to put it in the above context. Clay is a resident representative of Britain. The British government is a major donor, or development partner, to Kenya. British business interests in Kenya are sizeable. He may not be Kenyan but he represents stakeholders in the country. He has every right to express the concerns he did. I recall several who are currently in government bemoaning how insipid the British High Commission used to be towards the previous government. Some were among those complaining about Clay last week.

How can we expect to be successful in getting the desperately needed food aid from donors if we tell them that it's none of their business whether its distribution is transparent or not?

Clay did Kenyans a big favour. He has more clout than most of us who have been fighting past an