



FIRST REPORT

**OF THE PUBLIC ACCOUNTS COMMITTEE ON COMPLIANCE ISSUES FOR
THE RESERVE BANK OF ZIMBABWE**

SECOND SESSION – NINETH PARLIAMENT

[S.C 16, 2019]

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On Tuesday, 2 October 2019, Mr. Speaker announced that the Public Accounts Committee would consist of the following Members:

1. Hon. L. T. Biti
2. Hon. B. Bushu
3. Hon. O. Bvute
4. Hon. W. Chikombo
5. Hon. B. Chikwama
6. Hon. P. Dutiro
7. Hon. R. Maboyi
8. Hon. W. Madzimure
9. Hon. A. Markham
10. Hon. C. Matewu
11. Hon. E. Masuku
12. Hon. N. Matsikenyere
13. Hon. M. Mbondiah
14. Hon. F. Mhona
15. Hon. P. Mpariwa
16. Hon. E. Mushoriwa
17. Hon. D. Nduna
18. Hon. A. Nkani
19. Hon. Dr. M. Nyashanu
20. Hon. J. Nyokanhete
21. Hon. M. Raidza
22. Hon. B. Rwodzi
23. Hon. T. W. Sansole
24. Hon. C. Sanyatwe
25. Hon. Z. Sibanda
26. Hon. G. Sithole
27. Hon. S. Sithole
28. Hon. P. Togarepi
29. Hon. V. Muradzikwa-Zengeya

Hon. L. T. Biti to be Chairperson

Terms of Reference of the Public Accounts Committee -

Standing Order No. 16:

“There must be a Committee on Public Accounts, for the examination of the sums granted by Parliament to meet the public expenditure and of such other accounts laid before Parliament as the committee may think fit.”

1.0 INTRODUCTION

1.1 Section 119 of the Constitution, gives Parliament power to ensure that provisions of the Constitution are ***“upheld and that the State and all institutions and agencies of government at every level act constitutionally and in the national interest.”***

1.2 Section 299 of the Constitution confers the Public Accounts Committee with unlimited oversight powers over all State revenues and expenditure. It states that

(a) “Parliament must monitor and oversee expenditure by the State and all Commissions and institutions and agencies of Government at every level, including statutory bodies, government controlled entities, provincial and metropolitan councils and local authorities...”

1.3 Accordingly, Parliament in general and the Public Accounts Committee in particular has the responsibility to ensure accountability and openness of the State through oversight of activities of the executive and its auxiliary bodies.

1.4 The Public Accounts Committee is constituted in terms of Standing Order No. 16 of the Standing Rules and Orders of the National Assembly which reads:

“There must be a Committee on Public Accounts, for the examination of the sums granted by Parliament to meet the public expenditure and of such other accounts laid before Parliament as the committee may think fit.”

1.5 In doing its work, not only does the Committee measure compliance arising from reports of the Auditor General or other reports but the Committee also looks at constitutional and statutory compliance in so far as it relates to financial and audit matters.

1.6 In short, the Committee exercise its oversight function by examining both the technical accounting issues as identified in audit report as well as technical legal compliance issues.

2. BACKGROUND TO THE INQUIRY

- 2.1 In performing its duties, the PAC relies mainly on the annual statutory reports compiled by the Auditor General and its findings on the level of implementation of recommendations by various entities audited.
- 2.2 The Committee in its work also relies on various specialized audits including Forensic and Value for Money audits done by the Auditor General at the special instance and request of Cabinet, particular Minister or any other entity.
- 2.3 In carrying out its work, the Committee is guided by Section 119 of the Constitution.
- 2.4 Ultimately, the purpose of the Public Accounts Committee is to promote democratic and good governance in Zimbabwe as propagated by the Constitution.

3. SIGNIFICANCE OF THE RESERVE BANK OF ZIMBABWE

- 3.1 The Reserve Bank of Zimbabwe (RBZ), is the country's apex bank which plays a critical role in the economy of the country. The RBZ's key functions include; implementing and executing the country's monetary policy, management of the country's payment system and currency and the regulation of the banking sector. The RBZ also plays the central role of being the banker to the state, a function which involves making payments on behalf of government and in a limited way, lending to government. The Bank also plays a critical role as a lender of last resort in addition to managing and regulating the use of foreign currency in the country.

Our first report to Parliament which was adopted by Parliament on the 30th July 2019 focussed on compliance issues relating to the Ministry of Finance and Economic Development. It was in the process of gathering evidence central to our report that certain issues emerged, which made it necessary and essential to interrogate the RBZ on its own. These issues included among other issues the Government Overdraft with the Central Bank and Debt Contraction by the Central Bank itself.

4.0 METHODOLOGY

4.1 The Committee studied the reports of the Auditor General for the years 2014 to 2017 in so far as they related to the Appropriation Account of the Ministry of Finance and Economic Development (Vote5). From the observations, a few of the issues raised in this report required clarification by the Central Bank. The Committee therefore invited the Central Bank to give evidence before it.

The Committee was honoured to receive the RBZ Governor, Dr J.P. Mangundya and his team which included the bank's Counsel, Mr Madeira, the Director of ZAMCO, Dr Kanhai, and the Director of Finance, Ms Mushowe on the 4th and 11th March 2019.

4.2 Various issues were comprehensively discussed during the said meetings. These included the following issues

- (i) The RBZ Debt
- (ii) ZAMCO
- (iii) The RBZ's engagement in quasi fiscal activities
- (iv) Bond notes and RTGS balances
- (v) Foreign Currency and Export Surrender requirements and
- (vi) Securitization of minerals

4.3 Bank's Refusal to Supply Certain information

As is normal in the work of every Parliamentary Committee, the Committee requested various information and documentation. The Bank through its Counsel undertook to provide a legal opinion on quasi-fiscal activities as well as the legality of the Bank's export requirements and the legality of the Bank's use of the country's minerals as securities for loans obtained by it (securitization). This opinion was never supplied to the Committee.

The Bank also undertook to provide full details of all its activities and transactions relating to ZAMCO. This included full details and disaggregation by Bank, of each loan portfolio taken over by ZAMCO, the names of the individual defaulters, the amounts thereof, and the security provided.

This information, in oral evidence, the RBZ Governor undertook to provide without delay. In fact, in the second meeting held on the 11th of March 2019 the Governor explained Dr Kanhai's absence as that he was compiling the information that we had requested. The Committee was shocked when it received a letter dated 18th March 2019, in which the Bank claimed that it could not disclose the disaggregated information pertaining to the RBZ, the portfolio taken over, the amount lent and the security on the basis that:

- (i) Protected by banker-client privilege existing between ZAMCO and the individual defaulter whose debt was being taken over.
- (ii) That the RBZ was covered and protected by section 60 of the RBZ Act as well as section 12 (2) of the Privileges, Immunities, Powers of Parliament Act.

We strongly disagreed with the Bank's position. We maintained in our response dated 12th April 2019, that we had the right to scrutinize any public institution before us as results of sections 117 and 119 of the Constitution of Zimbabwe. We also reinstated our right of scrutiny of all revenues in terms of section 299 of the Constitution. We are pleased that Counsel to Parliament agreed with our position.

We insisted and communicated this to the Bank through our letter dated 21st May 2019. We therefore want to restate as the Public Accounts Committee and as Parliament, that Parliament has unlimited oversight powers and the RBZ and any other body that receives public funds cannot refuse scrutiny on the basis of some technical legal arguments.

- 4.4 On the 2nd September 2019 the RBZ Governor Dr J.P. Mangundya communicated with the Chairperson of the Public Accounts Committee and undertook to supply all information requested by the Committee. At the time of finalization of the report, the information had not been submitted. The Committee will, in due course prepare a report centred on ZAMCO only.

5.0 COMMITTEE’S FINDINGS

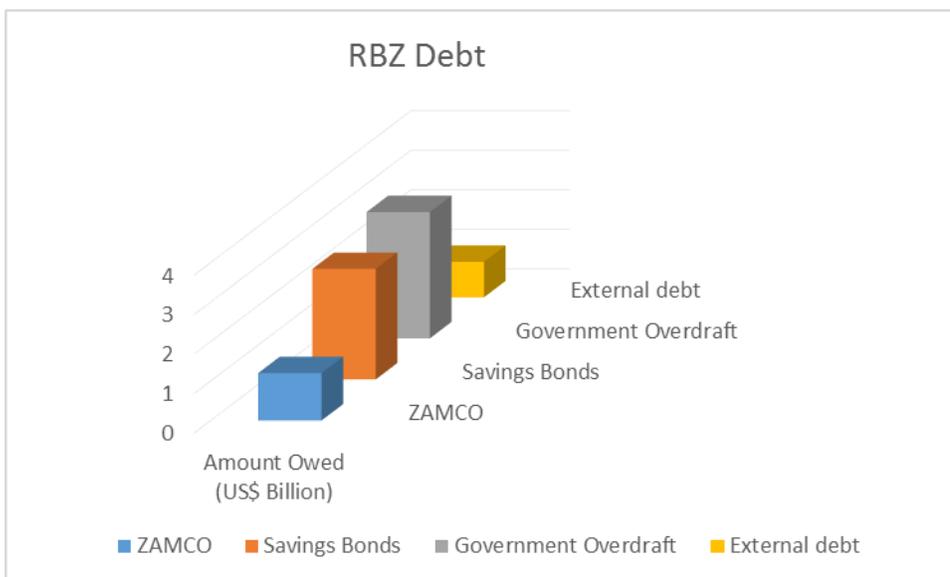
Summary of Findings

After going through the evidence the Committee’s major finding was that the Reserve Bank of Zimbabwe was non-compliant to a number of legal requirements. The following are the Committee’s findings:

5.1 Government Debt

5.1.1 Having received oral evidence from the Governor of the Reserve Bank, the Committee learnt that the bank owed a total of US\$ 8.1 Billion as of March 2019, comprising the following;

Treasury Bills used to acquire NPLs	US\$ 1.2 billion
Savings Bonds (Money mopped from the system)	US\$ 2.8 billion
PTA and Afrexim Bank	US\$ 0.9 billion
Money Borrowed to support Government Overdraft	US\$ 3.2 billion
Total	US\$ 8.1 billion



5.1.2 The Committee also noted that the RBZ as of 11th March 2019 was owed US\$ 2.99 billion as an overdraft by the Central Government.

5.1.3 Committee Observations and Recommendations

5.1.3.1 The Committee is gravely concerned with the huge footprint of the RBZ in the economy. The Central Bank is not Treasury, is not the fiscus, and therefore it cannot compete with Central Government in accruing debt and in funding operations as we will show below.

5.1.3.2 The Committee is concerned by multiple sources of debt contraction in the country which do so oblivious to the requirements of the Constitution, the Public Debt Management Act and the Public Finance Management Act.

5.1.3.3 The Committee was also deeply concerned with the RBZ's lack of acknowledgement of Zimbabwe's laws and that it was bound by the same. We found it deeply amazing that the Central Bank did not recognize that it could not contract any public debt without the approval of Parliament.

5.1.3.4 The Committee was also concerned about the clear lack of coordination between the Central Bank in its debt contraction activities and the Ministry of Finance and Economic Development. This issue was particularly self-evident on the question of Treasury Bills where it was evident that Treasury Bills were being issued by both the Ministry of Finance and Economic Development and the Central Bank without coordination.

5.2 ZAMCO Debt

5.2.1 The Committee noted that Treasury Bills (TBs) were issued to purchase Non Performing Loans from banks in the total sum of US\$ 1.2 billion. The TBs are a levy on the Consolidated Revenue Fund and will have to be paid and honoured by the taxpayers of Zimbabwe. There was therefore a need to provide for these borrowings in an appropriation account to be approved by Parliament in terms of section 305 of the Constitution. This did

not happen in an Appropriation Act. Treasury Bills became the major source of the budget deficit accrued between 2014 and 2018. They represent a major bypassing of Parliament. TBs also became the major source of the country’s domestic debt now standing at US\$ 9 billion, creating a situation where for the first time in the country’s history domestic debt would exceed external sovereign debt.

5.2.2 Recommendations

5.2.1 TBs should not be issued outside Parliament and without approval in an Appropriation Act.

5.2.2 Bills of Condonation should be presented to Parliament together with the appropriate supplementary budget by 31st December 2019.

5.2.3 The PFMA must be strengthened so that the role of the Ministry of Finance as the sole authority to issue TBs is cemented and protected.

5.2.4 Only the Ministry of Finance should be the sole debt contracting agent in the country as we have recommended in our 1st report to Parliament

5.3 External Debt

5.3.1 The Committee gathered that the Reserve Bank of Zimbabwe contracted external debt amounting to US\$ 985 million. This was constituted by US\$ 641 million borrowed from Afreximbank, US\$ 152 million from the PTA Bank, US\$ 25 million from Banco De Mozambique, US\$ 9 million from the PTA Insurance Corporation, US\$ 15 million from the African Development Bank and \$1. 9 million from a minting company in South Africa among others, as shown in table below:

Afrexim Bank	US\$ 641 million
PTA Bank	US\$ 152 million
Banco De Mozambique	US\$ 25 million
PTA Insurance Corporation	US\$ 9 million
African Development Bank	US\$ 15 million
Premier African Mint	US\$ 1.9 million
Others	US \$141.1 million

Total	US \$ 985 million
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The loans were contracted at rates of between 5% and 6 % and for periods ranging from three to five years.

- 5.3.2 Contrary to the advice of the Central Bank, the Committee was not furnished with any evidence to show that that the RBZ got consent from the Minister of Finance and Economic Development and also the requisite Attorney General’s opinion, before contraction of the debt.
- 5.3.3 Loan contraction by the Reserve Bank of Zimbabwe was in breach section 300 (3) and (4) of the Constitution, which obliges the Minister of Finance and Economic Development to publish in the *Gazette*, loans contracted and guarantees issued by Government within sixty days of their conclusion and to present to Parliament a report on loans raised.
- 5.3.4 In addition to that, the loans were contracted without the Minister of Finance and Economic Development seeking Parliament’s approval as required by section 327 of the Constitution.
- 5.3.5 The Governor’s contention that approval is sought by the Minister of Finance and Economic Development and not him was unacceptable to the Committee, as the Bank has an obligation to ensure that the law is complied with. The least expected of the Central Bank officials is to remind the Minister and ensure that the requirements of the law of the land are complied with.

5.3.6 Recommendations:

5.3.6.1 All loans contracted without Parliament’s approval should be presented to the August House by 31 December 2019 and all future borrowing should be presented as dictated by the Constitutional provisions.

5.3.6.2 All loans that were not gazetted should be published in the Gazette by 31 September 2019, as required by the Constitution.

5.3.6.3 As a matter of urgency, all laws to do with public debt contraction should be aligned with the Constitution to create one centre of publication in particular section 7(1)(n) and section 23 of the Public Debt Management Act need to be aligned to the Constitution and be amended to reflect the following:

- (i) That no debt can be contracted without the approval of Parliament**

(ii) That the Ministry of Finance is the sole debt contracting office by 31st December 2019.

5.4 Money Mopped and Converted into Savings Bonds and the Money Borrowed to Lend the Central Bank

5.4.1 The RBZ borrowed a substantial amount of money, US\$ 3.2 Billion that was essentially to finance Government operations. The Committee notes that an expansionary fiscal policy forced the RBZ to actively enter that market to mobilize resources for and on behalf of central government.

5.4.2 The challenge with this process is that it was done outside Parliament and the amounts were well above those approved by Parliament. The Committee put it to the Governor that he had the duty to ensure that the Government complied with its own budget and the limits provided by Parliament.

5.4.3 The RBZ was adamant that of the US\$3.2 billion that it converted into savings bonds, none of it came from people's deposits in their bank accounts.

5.4.4 Findings

5.4.4.1 The Central Bank failed to act diligently in ensuring that the Central Bank complied with the budget approved by Parliament.

5.4.4.2 On the contrary it appears that the RBZ aided and abated an expansionary fiscal policy which resulted in the huge budget deficits experienced in 2014.

5.4.4.3 The Committee also makes the finding contrary to the protestation by the RNZ that in fact it mopped up deposits in bank accounts for onward lending to Central Government.

5.4.4.4 Our finding is based on the clear and uncontroverted evidence that the relevant companies and organizations whose deposits were later on converted into savings bonds, in fact kept the same in banks and not in their safes, pillows or offices.

5.4.4.5 The RBZ's actions inevitably led to a massive depletion of any US\$ balances in the system.

5.4.5 Recommendations

5.4.5.1 By the 31st December 2019, the RBZ Act should be amended to ensure that the Central Bank stick to its original core mandate of any Central Bank. The RBZ should not, acting on its own or otherwise, carry out fiscal activities, quasi, or otherwise.

5.4.5.2 For the avoidance of doubt, the Committee recommends that the mandate of the bank should solely be:

- (i) acting as a banker to the state**
- (ii) managing the monetary policy**
- (iii) managing the local currency**
- (iv) managing the exchange rate**
- (v) managing the national payment system**
- (vi) acting as lender of last resort**

5.4.5.3 Through the Minister of Finance, the RBZ must report twice a year on all monies it would have borrowed within that particular year and monies lent.

5.4.5.4 The RBZ must comply strictly with section 49 of the RBZ Act that its lending must be backed by 100% reserves.

5.5 Government's Overdraft Facility with the Central Bank

5.5.1 The Committee gathered that Government had borrowed \$2.99 billion from the Reserve Bank of Zimbabwe as at 31 December 2018. The Committee learnt that this money came from Reserve Bank savings bonds and not from depositors' money in commercial banks. The Bank's asset savings were reported to be \$3.2 billion and the tenure ranged between 2 and 5 years. The diagram below tabulates the State's annual borrowings from the Central Bank from 2014 to 2018.

Year	2014	2015	2016	2017	2018
Amount	\$126 373 713	\$278 761 815	\$941 815 033	\$1 369 355 198	\$3 004 842 937

5.5.2 An analysis by the Committee, of the amounts overdrawn by the State from the Central Bank and the revenues for the State, clearly show that the Reserve Bank of Zimbabwe was in breach of Section 11(1) of the Reserve Bank of Zimbabwe Act which provides as follows:

“(1) The Bank shall not-

(a) Lend or advance moneys to, or directly buy, discount or rediscount bills, notes or other obligations from, the State or any fund established by the State so that the amount outstanding at any time exceeds the equivalent of twenty per centum of the previous year’s ordinary revenues of the State; or

(b) Lend or advance money to the state or any fund established by the State unless-

(i) the money is dominated in Zimbabwean currency subject to subsection 44A. any other currency referred to; and

(ii) the loan or advance is either-

*(A) repayable within twelve months after the end of the financial year in which it was made; or *

(B) convertible at the end of the financial year in which it was made into negotiable bearer securities issued by the State and delivered to the Bank.”

5.5.3 The Committee’s finding is that, throughout the period under review, the State borrowed amounts above the stipulated twenty percent threshold. The table below illustrates the Committee’s finding:

	Dec-2013	Dec-2014	Dec-2015	Dec-2016	Dec-2017	Dec-2018
Total Revenue	3741041420	\$3727189670	\$3737068001	\$3502166241	\$3869956331	\$5402099667
20% limit		\$748208284	\$745437934	\$747413600	\$700433248	\$773991266
Actual outturn		35.0%	36.5%	60.4%	95.5%	109.6%

- 5.5.4 The Reserve Bank of Zimbabwe Act also provides that Government should repay the overdraft within twelve months after the end of the financial year in which it was made. The Committee established that Government was in default as it was not doing so. The Committee was disturbed by the continuous breach of the section 11 of the Act, and that the percentage of the overdraft grew significantly with each year.
- 5.5.5 The Zimbabwean Central Bank is undercapitalized. It does not have resources of its own. As shown above, all the money it lent to Government was mopped from people's bank balances.
- 5.5.6. It is a fallacy to pretend that the Central Bank in its current position can lend to Government. This is just a license of pushing the CB into embarking on creative means of resource mobilization which includes interfering with bank deposit and export earnings.

5.5.7 Recommendations:

- 5.5.7.1 The RBZ Act should be amended by 31st December 2019 to repeal section 11(1)(b) and ensure the RBZ does not lend to the State under any circumstances.**
- 5.5.7.2 Until the repeal of section 11(1)(b), the Reserve Bank of Zimbabwe should not allow Government's overdraft with the Central Bank to exceed twenty percent of the previous year's revenue as stipulated in the law.**
- 5.5.7.3 Government must, before 31st December 2019 settle its obligations with the RBZ.**

5.6 The Engagement of the RBZ in Quasi-Fiscal Activities.

- 5.6.1 The Reserve Bank of Zimbabwe Act was amended in 2010 to, among other things, prevent the Central Bank from engaging in quasi-fiscal activities. Furthermore, the Government, through the 2019 Budget Statement states that "*all Reserve Bank quasi fiscal activities, ... are being discontinued*" and that public expenditure would be confined to the budgetary framework approved by Parliament. The Committee sought an explanation from the Governor on the legal basis for payments of grain, fuel and electricity imports by the Central Bank.

5.6.2 The Governor defined quasi-fiscal activities as activities undertaken by the Central Bank or any other institutions on behalf of Government at below the market prices. He argued that as far as he was concerned, the Bank had not been involved in any quasi fiscal activities from 2014. His contention was that the Bank was providing foreign currency to fuel importers or millers at the market rates and therefore could not be referred to as quasi-fiscal activities. He highlighted that it was the role of the Central Bank to manage foreign currency as this was the case in other countries such as Botswana, Nigeria and Angola.

5.6.3 Committee's Observations

5.6.3.1 During the oral evidence session, there was a disagreement between the Committee and the RBZ Governor over the definition of quasi fiscal activities (QFA). The Committee is concerned that the RBZ is slowly drifting back to the era of quasi fiscal activities. QFA create contingent implicit liabilities which the government is expected to fulfil there by mortgaging the nation's future without proper approval and end up being funded by borrowings which leads to increased money supply.

5.6.3.2 The Committee noted that the RBZ through its Monetary Policy Statement of February 2019 continued with quasi fiscal activities through its procurement of commodities that included, fuel, cooking oil, electricity, medicines and water chemicals¹. Procurement is the responsibility of central government.

5.6.3.4 On analyzing the Monthly Economic Reviews by the RBZ, the Committee noted that a very high proportion of imports (averaging 60%) per month, was classified as 'other' under the 'Imports Classified by Harmonised Commodity Description and Code System' tables as shown below for the months from November 2018 to May 2019;

¹ Item vii, page 11 of the February 2019 Monetary Policy Statement

Table 2: Imports Classified by Harmonised Commodity Description and Code System

Commodity	Nov-18 US\$m	Dec-18 US\$m	Share of Total Imports (%)
Diesel	126.8	78.1	13.6
Unleaded petrol	58.4	37.9	6.6
Electrical energy	3.2	3.0	0.5
Maize (excluding seed)	0.1	0.1	0.0
Crude soya bean oil	5	14.9	2.6
Rice	10.2	9.8	1.7
Wheat	10.4	10.8	1.9
Aviation spirit (jet A1)	8.9	5.0	0.9
Medicines (for chronic illnesses)	2.9	1.7	0.3
Fertilizers (Ammonium Nitrate)	7.4	5.3	0.9
Other	395.8	406.2	70.9
Total	629.0	572.7	100.0

Source: ZIMSTAT, 2018 & RBZ Calculations, 2018

Table 2: Imports Classified by Harmonised Commodity Description and Code System.

Commodity	Dec-18 US\$	Jan-19 US\$	Share of Total Imports (%)
Diesel	78.1	60.6	18
Unleaded petrol	37.9	36.4	10.8
Aviation Spirit (Jet A1)	5	9.6	2.9
Wheat	10.8	7.6	2.3
Insecticides	3.4	4.9	1.5
Crude soya bean oil	15	4.6	1.4
Herbicides	8.7	3.8	1.1
Medicines	1.7	3.8	1.1
Electricity	3	2.9	0.9
Road tractors for semi-trailers	4.3	2.3	0.7
Other	326.9	200.1	59.4
Total	494.7	336.8	100

Source: ZIMSTAT, 2019 & RBZ Calculations, 2019

Table 2: Imports Classified by Harmonised Commodity Description and Code System

Commodity	Jan-19 US\$m	Feb-19 US\$m	Share of total Imports (%)
Diesel	60.6	59.3	16
Unleaded petrol	36.4	30.2	8.2
Road tractors for semi-trailers	2.3	8.9	2.4
Crude soya bean oil	4.6	5.8	1.6
Motor Vehicles (Goods)	5.4	5.3	1.4
Medicines (Chronic illness)	0	5.2	1.4
Vehicles (Front Loaders)	3.1	3.7	1.0
Rice	1.3	3.5	1.0
Electricity	2.9	3.2	0.9
Wheat	7.6	3.2	0.9
Other	212.4	242.2	65.4
Total	336.7	370.5	100

Source: ZIMSTAT 2010 & RBZ Calculations 2010

Table 2: Imports Classified by Harmonised Commodity Description and Code System

Commodity	February US\$m	March US\$m	Share of Total Exports (%)
Diesel	75.3	69.6	21.2
Unleaded petrol	35.8	33	10
Vaccines	1.1	5.3	1.6
Tractors	8.9	4.2	1.3
Insecticides	1.8	3.6	1.1
Motor vehicles	5.3	3.5	1.1
Electrical energy	3.2	3.5	1.1
Crude soya bean oil	5.8	3.5	1.1
Machinery	1.4	2.6	0.8
Other	269	200	60.8
Total	408	329	100

Source: ZIMSTAT, 2019 & RBZ Calculations, 2019

Table 2: Imports Classified by Harmonised Commodity Description and Code System

Commodity	Mar-19 US\$m	Apr-19 US\$m	Apr-19 Share of total (%)
Diesel	69.6	81.1	19.5
Unleaded Petrol	33.0	38.5	9.2
Medicines	0.8	10.3	2.5
Crude Soya bean oil	3.5	9.5	2.3
Jet A1	0.0	8.1	1.9
Machinery	2.2	5.7	1.4
Road Tractors	4.2	5.1	1.2
Industrial Furnaces & Ovens	0.0	5.1	1.2
Vaccines (Human)	5.3	5.1	1.2
Mechanical Appliances	0.3	4.8	1.2
Insecticides	3.6	4.0	1.0
Other	206.3	239.3	57.4
Total	329.0	416.7	100.0

Source: ZIMSTAT, 2019 & RBZ Calculations, 2019

Table 1: Imports Classified by Harmonised Commodity Description and Code System

Commodity	April US\$m	May US\$m	Share of Total Exports (%)
Diesel	75.3	69.6	15.9
Unleaded petrol	35.8	33	7.6
Medicines	1.1	5.3	1.2
Crude soya bean oil	8.9	4.2	1.0
Road tractors (for semi-trailers)	1.8	3.6	0.8
Motor vehicles (for the transportation of goods)	5.3	3.5	0.8
Wheat	3.2	3.5	0.8
Electricity	5.8	3.5	0.8
Insecticides	1.4	2.6	0.6
Other	269	200	45.7
Total	416.7	436.8	100

Source: ZIMSTAT, 2019

5.6.3.5 The Committee is concerned by this unexplained high proportion of the foreign currency being channelled towards imports and would want to know the breakdown composition of what it entails.

5.6.4 Committee's Recommendations:

5.6.4.1 The Reserve Bank of Zimbabwe must stop engaging in quasi-fiscal activities and focus on private sector growth to help economic recovery. The RBZ should stick to its core mandate of

- (i) acting as a banker to the state**
- (ii) managing the monetary policy**
- (iii) managing the local currency**
- (iv) managing the exchange rate**
- (v) managing the national payment system**
- (vi) acting as lender of last resort**

5.6.4.2 The RBZ Act should be strengthened to proscribe all quasi fiscal activities.

5.6.4.3 To prevent the 9th Parliament from being saddled with another Debt Assumption Bill, the Minister of Finance and Economic Development should present to Parliament the full scope of quasi fiscal activities.

5.7 Purchasing of non-performing loans by the Zimbabwe Asset Management Corporation (ZAMCO)²

5.7.1 The Committee gathered that ZAMCO acquired 1160 non-performing loans (NPLs) with a value of \$1.13 billion, over the period 2014 to 2018. The non-performing loans were bought through issuance of treasury bills worth about \$ I billion. At the time of the enquiry, about 260 loans were reported to have been repaid leaving a balance of 882 loans outstanding.

5.7.2 The Committee's finding was that the Reserve Bank had no legal basis to purchase the non-performing loans through issuance of treasury bills. The Committee submits that

² As indicated earlier, a full report on ZAMCO will be presented once all the information has been submitted.

issuance of treasury bills is the remit of the Ministry of Finance and Economic Development.

5.7.3 It is also the Committee's finding that the Reserve Bank of Zimbabwe through ZAMCO, had acquired the non-performing loans without Parliament's approval. This was in breach of Section 327 (3) of the Constitution of Zimbabwe which provides that, ***“an agreement which is not an international treaty but which imposes fiscal obligations on Zimbabwe does not bind Zimbabwe until it has been approved by Parliament.”***

5.7.4 The Reserve Bank of Zimbabwe submitted to the Committee that assumption of non-performing loans was based on the willing buyer – willing seller concept. Secondly, a bank had to be willing to sell a loan as opposed to resolving it internally. Thirdly, the loan had to be secured by an asset or acceptable security.

5.7.5 Contrary to this evidence, it does not appear as if the debts were secured at all. This conclusion was reached for the simple reason that commercial and other banks owed money would have followed up on the security pledged by the borrowers rather than sell the non-performing loans to ZAMCO.

5.7.6 The Committee requested the Reserve Bank of Zimbabwe to submit information on ZAMCO relating to the list of beneficiaries of debt assumption, the banks involved, values of each loan, discount rates applicable, security pledged and the tenure of treasury bills. Despite several attempts and Counsel to Parliament's legal opinion supporting the Committee's position, the Bank has not complied. The Central Bank's refusal to submit the information stems from their argument that the information requested is privileged as it is covered by bank/client confidentiality. The Committee strongly differs with this claim. The demand for information ZAMCO is being pursued separately.

5.7.7 Committee's Observations

5.7.7.1 Part of the challenges with ZAMCO is that there is no legal instrument or Act governing the RBZ's Non-Performing Loans as like with other countries like Nigeria. The absence of

a legal instrument makes the process opaque and subjective leaving too much discretion in the hands of RBZ officials.

5.7.8 Recommendations

5.7.8.1 The Ministry of Finance and Economic Development should present Non-Performing Loans assumed by ZAMCO before Parliament by 31 October 2019, for approval.

5.7.8.2 Parliament should issue summons to the RBZ compelling the Bank to comply with the lawful request for information on ZAMCO.

5.7.8.3 An Act should be crafted to deal with the acquisition of Non-Performing Loans.

5.8 Security Provided for the Reserve Bank of Zimbabwe's External Loans

5.8.1 The Committee gathered that external loans contracted by the Reserve Bank of Zimbabwe were secured by the country's future gold sales. Evidence submitted was that Government was paying US\$ 5 million per month as loan repayments. These payments were being made against the country's monthly gold earnings of between US\$ 15 and US\$ 16.

5.8.2 The Committee's finding was that the Central Bank had no legal basis to assign export receivables to repayment of loans without Parliament's approval. Contrary to the Governor and officials from the Bank that sections 7 (1) (n) and 49 of the Reserve Bank of Zimbabwe gives them the legal basis to do so, the Committee view is that all receipts from gold sales constitute revenue for the country, which should be legally appropriated by Parliament. It was also apparent that there was no limit set in terms of export receivables that could be used as security for the loans.

5.8.3 Recommendations

5.8.3.1 The Minister of Finance and Economic Development should regularize the securitization of export receivables as security for loans contracted by the Central Bank by presenting the arrangement for approval by Parliament not later than 31 October 2019.

5.8.3.2 In the absence of a legal instrument authorising securitization, the Minister of Finance and Economic Development must, by 31st December 2019, bring to

Parliament a comprehensive report and strategy detailing Zimbabwe's exit strategy and defection from all agreements where Zimbabwe's minerals had been securitized.

5.9 Maintenance of Adequate Foreign Currency Reserves

5.9.1 Section 49 (2) (a) provides that “*the Bank shall maintain sufficient reserves to cover one hundred per centum of its liabilities to the public, held in foreign currency accounts in any banking institution.*”

5.9.2 The Committee's finding was that since 2009, when the country adopted the multi-currency system, the Reserve Bank of Zimbabwe had never maintained foreign currency reserves to match the statutory requirements. At the time of receiving the oral evidence, the Committee established that the country had about US \$500 million which constituted 3 to 4 weeks cover in reserves. This position is unacceptable as this leaves the country at great risk of being unable to meet its external obligations.

5.9.3 Recommendations:

5.9.3.1 The Reserve Bank of Zimbabwe should by 31 December 2019 have built foreign currency reserves to a point where the reserves match the level legally provided for by the Act.

5.10 Export Surrender Requirements

5.10.1 The Committee noted that the Central Bank was retaining export surrender requirements which varied from 20 to 80% depending on commodity.

5.10.2 The Committee noted that at the time of surrender, the RBZ was using the exchange rate of US\$1 to I bond.

5.10.3 The legal basis of the export surrender requirements according to the RBZ was the Exchange Control Act

5.10.4 The Committee also noted that the export surrender requirements required that tobacco farmers had a short period of utilising their retained forex failure of which the RBZ would retain the amounts at the rate of 1.1.

- 5.10.5 It was the Committee's finding that the legal basis of the RBZ retaining export proceeds was extremely tenuous.
- 5.10.6 The Exchange Control Act did not provide a clear and unambiguous legal basis for the RBZ to appropriate exporters' foreign currency. In the absence of a clear legal exchange, Counsel to the RBZ, Mr Madeira, failed to provide a legal opinion justifying the requirements. The Committee felt that export surrender requirements were an unlawful appropriation of private property in breach of section 71 of the Constitution.
- 5.10.7 The Committee also established that the monies that were being retained by the RBZ through surrender requirements were huge and ran into billions. The RBZ had at that time in March 2019 had the sole discretion of allocation the expropriated forex.
- 5.10.8 It was the Committee's view that any money received by any public entity must be appropriated through Parliament. Only Parliament through Section 365 of the Constitution should have power to allocate the same. This means the Ministry of Finance and Economic Development will have the discretion to allocate the funds subject to approval by Parliament.
- 5.10.9 As pointed out above, the RBZ quasi activities are huge and are driven by this the export surrender requirement.

5.10.10 Recommendations

- 5.10.10.1 The RBZ must cease the export surrender requirement forthwith.**
- 5.10.10.2 The RBZ must ensure that there is free market.**
- 5.10.10.3 The exporters must follow the laws of the country and bank their proceeds locally.**
- 5.10.10.4 The Ministry of Finance and Economic Development must source forex through traditional means which include the Income Tax Act, Capital Gains Tax, Value Added Tax and other revenue measures.**
- 5.10.10.5 The Ministry of Finance must twice a year report to Parliament on foreign currency received and utilized**

6.0

Conclusion

As a Committee, we note that the RBZ plays an important role in the economy. Because of its importance, it must adhere to the strict provisions of the Constitution, the RBZ Act and other laws. This is important for good governance of the country that is protected by the Constitution of Zimbabwe. We therefore trust that the authorities shall comply with the recommendations above and we, as Parliament shall ensure compliance so as to protect the people of Zimbabwe's resources.