

Financial Restructuring and Asset Management Companies in International Financial Markets.

Case Study of China: Lessons for Tanzania

Naumi K. Mohammed¹ & Guo Dexiang¹

¹ School of Law, Zhengzhou University, Zhengzhou, China

Correspondence: Guo Dexiang, Professor at School of Law, Zhengzhou University, Zhengzhou, China. E-mail: dexiangguo@sina.com

Received: February 16, 2021

Accepted: March 21, 2021

Online Published: March 30, 2021

doi:10.5539/jpl.v14n3p74

URL: <https://doi.org/10.5539/jpl.v14n3p74>

Abstract

Each company owns its “life cycle”. Throughout this cycle, companies use many factors that impact their business to track outcomes and shortcomings. Circumstances such as “financial restructuring” inaction and insolvency are the basic stages of a company’s lifecycle. The financial restructuring can be articulated as a deteriorating situation to circumstances in which the corporation is incapacitated in meeting its financial obligations, where the first signs of financial shortage are generally taken as a violation of trust/contract with suppliers and the payment of the dividends. This paper reviews the mechanism of restructuring of the bank by focusing on areas such as assets Management Companies (AMCs), their institutional characteristics and roles in the Chinese banking system, legal issues regarding banks’ operations in China and finally addresses the law and policy issues related to the disposal of NPLs in the banking system China. The finding is that, since this ‘phenomenon’ is not yet applicable to Tanzania, and also it is amidst the basic factors for Foreign Direct Investments in a country, Tanzania can look to China’s experience as a lesson, especially in the solicitation of this method without opposing political theory. That is because this feature of China’s unique legal system basing more on practicality rather than judicial power.

Keywords: assets management, China, company, financial restructuring, legal system, Tanzania

1. Introduction

Tanzania is struggling to achieve a moderate economic condition. Today, the country is on the same path as China in 1978 and that, the socio-political situation between China and Tanzania is probably the same. In 1978, China preached the socialist lifestyle, transforming it into a later planned economy and eventually a market economy (Chandrasekhar CP. 2008). This is the situation that is also currently experienced by Tanzania. Thus, the possibility for a country to imitate and codified some economic methodology from another country using the context and circumstances that do not harm the society will be the best option for a country like Tanzania.

The ‘Vision 2025 of the Tanzania Development Plan’ explains, among other things, how to lay the foundation for industrialization by establishing good FDI mechanisms. Among the clear-cuts in this is the restructuring of the “fiscal and monetary policy”. If Tanzania succeeds in a good “asset management policy” like China, it will be a step towards the economic stimulus, production and export growth, and employment opportunities for many.

Legal and policy approaches to banking restructuring in China, especially the admeasurements of debt and asset sheets, reflect China’s evolving legal system and measure the country’s development based on a “principle of the rule-of-law” China began to revise and improve laws and governmental regulations which involve international trade and economic support during 1999, for the country to fit to join the WTO (History of the Permanent Missions of the PRC). The laws and rules that are not in conformity to the Regulations of WTO were either revised or nullified accordingly. In late 2001 (see *ibid*), state-related departments had amended 2300 related laws and regulations, and a list of 221 administrative rules repealed by the Council of State was published (see *ibid*). Also in 2001, the NPC amended the Chinese Copyright Law, Trademark Law, and Law on Joint Ventures with Chinese and Foreign Investments. The Sino-Foreign Cooperative Act, the Foreign-Financed Enterprise Act, and the Parents Act amended in 2000, the country also amended six laws directly related to China’s WTO alliance. China’s Permanent undertaking to WTO opened on January 28, 2002, in Geneva (see *ibid*).

The Chinese Permanent Mission to the WTO was launched in Geneva on January 28, 2002, as a result of which China called on its government to better integrate the world economy and create more favorable conditions for trade and foreign trade opened up and created a series of serious positions to investment through WTO rules. Among the most crucial commitments China made was; the solemn promise of providing non-discriminatory treatment to all Members of WTO (WTO News: 2001). All foreign individuals and companies, plus, those who do not have investment or registration in China, not to be treated less favorably than that accorded to Chinese enterprises regarding the trade right (see *ibid*).

Further, China eliminated dual pricing practices and differences in the treatment of manufactured goods for sale in China compared to goods manufactured for export whereas the price control was not used for protecting local businesses or service providers. In line with the agreement of WTO, the country agreed effectively and uniformly to enforce the WTO by reviewing its existing domestic laws and by enacting entirely new laws (WTO News: 2001). Within three years of entry, all companies had the right to import and export all goods and exchange them within their geographical territory, with a limited exception (see *ibid*). In other areas, such as the protection of “intellectual property rights”, the Agreement of TRIPS (an aspect of IPR) China agreed to full force and implementation from the date of its entry (Overview: The TRIPS Agreement).

No doubt that the WTO officially and fully incorporated China into the world trading system, subject to the above captures. Unlike other trade agreements, the WTO is distinctive in that it has a robust dispute resolution system, the so-called Dispute Settlement Body (DSB) which resolves disputes between WTO’s member’s countries, and more importantly, enforces the decision thereof (WTO: Dispute Settlement Activity). Not to mention any enforcement against it, given that China (PRC) has never accepted adjudication from an international agency. China’s enthusiasm to acknowledge the DSB is a clear evident for its great commitment. In this sense, the impact of the WTO on the Rule of Law and economic conditions is unprecedented (WTO: Overview).

1.1 Overview of Assets Management

Asset management infers to an organized way of valuing and managing things for which a group or organization is responsible throughout the series of the organization’s life (Corporate Finance Institution. 2015). This can apply to both tangible assets (physical objects such as premises or equipment) and intangible assets (such as human capital, intellectual property, corporate reputations and/or financial assets). Asset management is a methodological development process; maintenance, renovation and asset management in the utmost economical modes that include all costs, risks, and performance characteristics (Ross Jephson, 2021).

This phrase is commonly used to describe individuals and companies in the financial sector who manage investments on behalf of others. Examples include; investment managers managing assets of compounding fund (see *ibid*). It is often used in the business and public infrastructure sectors to provide a full approach to improving cost, risk, service/sustainability, and efficiency. It is also a director of all or section of a client’s portfolio via monetary services organizations, typically an investment financial institution or an individual (Joshua Kennon, 2020).

The institutions offer investment offerings and additionally an extensive range of traditional and alternative product offerings that may additionally not be accessible to the common investor (Ganti, Akhilesh. 2020). An asset manager’s role consists; to decide the kinds of investments to build or not; to expand a client’s portfolio. Comprehensive research is done using both analysis tools for “micro and macro” (see *ibid*). This includes; statistical investigation of current market trends, interviews with company representatives, and anything else that could help achieve the stated goal of the customers’ assets valuing (see *ibid*).

1.2 Reasons Why Asset Management Important

Monitoring of business assets is a key task that saves time and money. In every asset management procedure, improving the productivity of any wealth management process is an important part. Asset management is a system that enables businesses to keep an eye on every asset concerning vehicles, goods, and investments. Asset tracking helps streamline operations, especially for selling or disposing of them. This method lowers the risk of recording phantom assets because all available assets are properly considered (CFI 2015/2021). Among the grounds for companies concern on asset management is from the fact that; asset management helps scientifically management of assets in a company (Ankit Chadha, 2019). If managed effectively, there will be profits which include output and efficiency improvements that put the business in a better position to maximize return on investment (Marcelo Becher, 2017).

Reasons why Asset Management Company important include; firstly, AMCs allows the business to keep track of all assets. With asset management, the business can track all of its assets. It allows seeing where the assets are,

how are used and when they have been changed. 'Asset management solution data' ensures that recovery of assets yields better returns (Mark Regalado, 2016).

Secondly, AMC's administer assets from different places accurately and efficiently. The company can simply form the required inventory report for some insurance companies or contract financiers. AMC also may be used to assure that the decrease rate is accurate. Regular estimation of assets ensures that the business's commercial documents are accurate (see *ibid*). AMC brings more efficient operation by enabling an organization to comprehend the capabilities of its assets and how to operate them most efficiently (see *ibid*).

Moreover, Asset management permits a business to comprehend the possibilities and capabilities of the assets in a much detailed manner (Lisa Cruise, 2020). The AMC moreover allows for more efficient work. Asset Management removes ghostly assets from company inventory. Existing cases of ruining, harm, or larceny of assets continue to be written down in the books. A strategic plan of management of assets informs the proprietors of the company about the lost assets and will therefore no longer register them in the books (see *ibid*).

Lastly, the AMC allows establishing a risk management plan. Asset management also includes managing the risks connected with the use and ownership of assets. Good asset valuations help to identify the risks involved and find solutions to avoid the risks (See *ibid*).

2. Description of Asset Management Companies in China

In East Asia, China is the only major economy that has avoided the recent economic crisis and is growing strongly (Huang and Yang 1998; Song 1998). This is mainly because of the strength of the economy in China at the beginning of the crisis, the surplus of the current account, the dominance of FDI in the inflow of capital, the volume of dealing with foreign money and, the quota of capital (see *ibid*).

However, there is ample evidence that the banking sector of China is weak (John Bartel and Yiping Huang, 2000). Public banking restructuring is judged to be among the substandard performing sectors in China. After twenty years of reform, the allocation of funds remains strongly oriented towards the declining public sector, largely ignoring the growing importance. For that reason, the Chinese government has taken several steps to build a robust banking system, including the acquisition of SOB, the selection of a quality global accounting framework, the foundation of four AMCs, and the presentation of debt swaps by capital to deal with bad debts (See *ibid*).

In this part, among the issues to be discussed are; the existence of the four Chinese AMCs which includes; the emergence of the asset management companies in the country and the roles of such AMCs. The focus will also be placed on presenting specific information about AMC, Legislative forbearance for AMCs, Cash flow dynamics and quality disposition, and legal proceedings.

2.1 The Emergence of China's Asset Management Companies

The rise of China's AMCs is closely related to China's current financial reforms, which began in the 1980s and included a shift to a more market-oriented commercial banking model. State authorities first appointed the China People's Bank (PBOC), which used to be the only institution that handled both commercial banking and macroeconomic financial policy, as a 'central bank' in 1983 (Sarah Ho and Thomas. 2019). Authorities then set up state-owned special commercial banks from China Bank from the China bank known; Bank of Agriculture of China, Chinese Construction Bank, and the Chinese Industrial and Commercial Bank with the intent of conducting the business of foreign exchange, agricultural finance, infrastructure investment, and lending and savings transactions business accordingly (see *ibid*).

In the 1990s, the Chinese authorities experimented with market-based reforms. One move in 1995 turning the "big-four-banks" into industrial banks to alter them from the three policy (development) banks created two years earlier. In addition, the government began to withdraw the SOE Budget (PSO) switching them with bank loans (see *ibid*). The Big-Four State Banks turned into the principal wellspring of financing for Chinese SOEs. This emerged when China started giving indications of its primary financial change. During years 1980 and 1995 domestic debt exaggerated from fifty-three to eighty-seven percent of GDP (53-87%); FDI exploded from \$400 million (about 0.2% of GDP) to \$36 billion (4.9 % of GDP), and exports tripled from 6-18 percent of GDP (see *ibid*).

According to various estimates (Bonin, John P., and Huang, Yiping. 2001), this loan for state-owned companies absorbed 20- 60% of the assets of the 4 banks. It allowed state authorities to fund market reforms, maintain employment levels in state-owned companies, and prioritize infrastructure, but also meant a significant dept collection of public sectors. After the East Asian crisis of 1997/98, 30 to 50 percent of outstanding loans were in default and threatened to drag the Chinese economy into crisis if no action was taken (see *ibid*).

In the year 1999, the Council of the State, at last, permitted the establishment of four AMCs, each tied to the Big Four State Bank. The State Council intends to use AMC to "prevent and reduce financial risk, legally dispose of

bad assets in-state commercial banks, and improve the assessment of the state's commercial banks' operation situations". However, their main role is to acquire, manage and resolve bad assets withdrawn from the Big-Four-Banks, and their main operational objectives are to "maximize asset conservation" and "reduce losses". Profitability was not yet a priority. MOF provided each AMC with an initial capital totaling RMB 10 billion. This proportion was clearly insufficient as AMC had to acquire a bad loan worth around RMB 1 trillion. Additional funding comes from loans of PBOC and bonds of AMC (see *ibid*).

Then, the emergence of Chinese AMC is shaped by its unique ability as a financial institution (i.e., a bank's bad credit) to eliminate financial risk (Ho, Sarah, 2019). This happened locally in the state apparatus since the AMC attracts and concentrates various economic risks geographically and institutionally. It also took place temporally, because the AMCs changed the current state financial risks ultimately. These strategies worked together for the safeguard of an impending financial crisis (see *ibid*).

2.2 Position of Asset Management (AMCs) in China

Asset management may be simply referred to as the financial service of running assets by means that of financial instruments to pace up the invested assets. However, in the Chinese position, they can be referred to as "4-financial AMCs" fixed to the Treasury as bad banks by the Ministry responsible for Finance (Guonam Ma & Ben S. C. Fung 2018). Those corporations are; "the Great Wall Asset Management for the Agricultural Bank, the Asset Management, Oriental Asset Management, the China Huarong, and China Cinda" (see *ibid*). Generally, it can be applied to both tangible properties (physical objects for example premises or equipment) and intangible assets (for example human capital, intellectual property, business reputation, and/or financial assets) (Ganti, 2020). The institutions offer services of investment as well as a wide range of traditional and alternative offerings that may not be offered to the average investors (see *ibid*). Simply put, asset management conferred to the managing of investments for the sake of others (see *ibid*).

China has adopted the AMC concept basing on the experiences of other jurisdictions; for example, Finland, Japan, Sweden, and the United States. The AMC's ultimate purpose is its bad-debts resolution of portfolio and achieves maximum value. In accomplishing this level-headed, an assortment of strategies is accessible to address NPLs through the AMC system. These destinations and the connected procedures unavoidably include the muddled lawful issues and achievements that rely profoundly upon the pertinent law, lawful foundations, and supporting institutional system. Legal mechanisms should be put in place to ensure the independence, transparency and accountability of the AMC (Charles Calomiris, et. al 2013). Also, the AMC should be free from political pressure, have its own budget, maintain a balance sheet and have independent legal status (see *ibid*).

2.3 New Entry in the Chinese AMCs List

Approximately 21 years after the Chinese set up the Big Four accounting firms to acquire, supervise and sell bad debts (NPLs), the government consented to the establishment of a fifth public AMC. This is a consequence of the emerging China NPL market, which has a significant impact on market players and ultimately on foreign investors looking for an NPL opening in China (Zhou Jie, 2020). On March 5, 2020, CBIRC approved Beijing-based Ginto City Asset Management Company Limited (Ginto Cytic) to be transformed into National UCF and renamed China Galaxy Asset Management Company Limited (Jie 2020).

At present, China Galaxy AMC is about 70 percent owned by a state-run investment company known Central Huijin Investment Limited (King & Wood, 2020) which happened to be among the largest investment securities companies in China (see *ibid*). Recognized as shareholders in Chinese state-owned banks, securities companies and other financial institutions, and 30% of them are owned by Site Securities Co., Ltd., among China's largest securities companies (see *ibid*). As per regulators, China Galaxy Asset Management has the authority to purchase and make investments in non-performing assets of economic institutions, as well as to reorganize and control financial disasters (Reuters Staff. 2020).

Scope of business of China Galaxy includes the following: securities brokerage, securities investment advice, financial advice relating to securities trading and investment activities, securities subscription and recommendation, including securities operations; Underwriting and recommending securities; Operation of securities; The Securities Management Company is headquartered in Beijing, 167 under Securities Sales and Services. 47 total 214 branches. The Securities Management Company is headquartered in Beijing, 167 under Securities Sales and Services. 47 total 214 branches (China Galaxy Securities, 2020).

2.4 General idea of Legal framework of AMCs

Among the most significant things when establishing the AMC is related to the legal authority of the AMC (Stefan Ingves, Steven A. Seelig, and Dong He. 2006). The absence of legislative provisions to clarify the true status of

AMCs together with their uncertain corporate life affects AMC's operations. AMC's legal basis is to provide switched transfer of titles (and related priorities) in all AMC property transactions (see *ibid*).

Accordingly, legal obstacles to the relocation of the assets, such as the need to obtain a borrower's consent, must be removed before affecting the loan transfer. The legal entity must ensure that the AMC is "in place" with the old bank. Also, identifying potential liabilities arising from AMC management may delay the liquidation of assets by the public AMC. In this situation, AMC employees should consider legal protections to perform their responsibilities in good faith (see *ibid*).

Generally, effective management and dumping of assets require the support of an effective legal system. Such a system should also strike stability between the creditors as well the debtor. However, if the current legal system is not prepared to deal with immovable property standards (for example, if the judicial system is inexperienced and does not have the resources, or if reform efforts take too long), it is on the AMC's authority to agree to facilitate the return decision after they have obtained the legal authority (see *ibid*).

AMC can be integrated as a legal unit either under a specific law or as a limited-liability corporation or a public corporation. The choice of a legal-body is depending on the legal customs and system of the country (Caroline Cerruti and Ruth Neyens, 2016). In the majority jurisdictions of common-law, preference is provided to the statutory body created by law. This is primarily due to the special rights granted by the AMC to help the NPL purchases; whereas a good example is the case of donors and AMCON (see *ibid*). Special powers are based on debt settlement, bankruptcy, and creditors' rights, including the legal provisions of the Asset Management Act and the Act of Securities. Legal bodies are also preferred in countries where the justice system is hindered by delays and inefficiencies. Conversely, a business is capable to suffice if the legal formation is efficient. Securum is an example of how a well-developed legal framework for future closings and bankruptcies allowed AMC to establish itself as a general company under the Finance Companies Act (see *ibid*).

2.5 Legal framework of China's AMCs

This area of the article aimed to discuss the power of the AMCs and their regulative framework. However, many regulative frameworks associated with AMCs depend on the policy of the state instead of legislation. This legislative forbearance could also be even on the initiative of expedience and the flexibility in disposing of the NPLs; however, the legislation also risks violating the concept of rule of law.

The AMCs are state-own non-banking fiscal institutions with their own independent legal identities (sect.2, AMC Regulations, State Council Decree 2000). Under AMC regulations, when managing and selling bad loans, APCs can sometimes include the collection, leasing, transfer, or restructuring of acquired assets, debt-for-equity swaps and equity interests in companies, bond issuance, and institutional loans, financial, as well as making the quotation. According to AMC rules, in the management and disposal of bad loans, APC can participate in debt collection, leasing, transfer or restructuring of acquired assets, exchange of debt commitments and in some scenarios; ownership of shares in the capital of enterprises, borrowing from bonds and financial institutions, listing recommendations and underwriting of securities; financial and legal advice, project evaluation and other business activities approved by the PBOC and China Securities Regulatory Commission (CSRC) (see *ibid*).

AMCs have consented to administer their properties and limit losses (see *ibid*). They can buy NPL properties from the SOCBs subject to criteria mounted by the State-Council, and control and dispose of these belongings (see *ibid*). Again, AMCs can purchase NPL properties based on their book values. This is because their restoration prices are likely to be at a lower level than the cost of the eBook costs (sect 12. *ibid*). AMCs have often been censure as a failure (Gao. 2005). Once the 'foreign investors' region is involved, the stress of losing state belongings restricts NPL disposition (Z. Li, 2005). Hence, it would be unrealistic to consider AMCs for their overall performance totally on recovery value. However, loans scheduled to be written off are excluded from this mandate Notice of the People's Bank of China (Para. 4, Notice of the People's Bank of China, 1999).

2.6 Legislative Forbearance for AMCs

For AMCs to have the most restoration price of transferred NPLs, they are empowered to take drastic measures in management and disposal (Section 10, AMC Regulations). The subordinate legislation, which stipulates the status, powers, and liabilities of the AMCs, is the AMC Regulations; an administrative regulation enacted in connection with the Constitution by the Council in 2000 (Article 89(1), PRC Constitution).

The PRC Constitution under 89(1) presents the following; "Among the State Council's duties and powers includes; to take administrative actions, enforce administrative policy and regulations, and to issue guidelines and decisions in consonance with the Constitution and the statute". Every country has its own legal system and legislative hierarchy. China follows the continental legal method with a two-tier methodology (one trial one appeal). China's

legislative hierarchy includes laws (as legislation is also known), administrative rules, local policies, independent regulations, and also special rules. NPC and the “Standing Committee” are empowered to make laws (Article 2, PRC Legislative Law, 2000).

The Council of State may create administrative regulations under the Constitution of PRC or the empowering laws (See *ibid.* Art. 56; Art. 89, PRC Constitution). National People’s Congress (NPC) collectively with its Committee can invest the State-Council with the power to make administrative rules (regulations) in the scope of the power of their law-making body (Article 56 PRC Legislative Law, 2000). The NPC and the Committee can invest the State’s Council with the capacity to make these administrative rules in the scope of their law-making body’s power (into laws). The state council can then recommend the NPC and the Committee to enact these regulations onto legal guidelines when practicable (see *ibid.*).

China’s legislative system, therefore, has integrated an experiential feature designed to meet the wishes of a rapidly changing and creating economy. However, the differing interests amongst many government departments and municipalities have resulted in the inconsistency of these administrative rules (W. Zhang, 2012). Legislative competition amongst government agencies to seeking rents by way of issuing regulations, orders, and complex strategies further complicate the count (see *ibid.*).

The legal framework controlling the AMCs in China can be a comparatively problematic and evolving system, composed of administrative legislations created by the state Council and judicial evaluation of the SPC, along with the variety of administrative orders, decisions, and opinions created by assorted departments and State Council’s Commissions. The Law of the People’s Courts stipulates that the People’s Supreme Court offer an interpretation on questions with the specification of the Laws and decrees in cases adjudication. However, the law enacting authority is the exceptional jurisdiction of the NPC and its Committee (Article 58, PRC Constitution, 1982), and the position of the Court; which has no law-making authority is the interpretation of the laws (Article 33 of the PRC Law).

In China, ‘Legislative interpretation’ has equal binding status as Legislation (see *ibid.* Article 47). Again, as per the Constitution of the PRC, the Standing Committee has the remaining interpretation power basing on a vote of the full NPC (Library of Congress), and the Court of Justice is not allowed to enact new rules under the guise of judicial interpretation (see *ibid.*). The line is often blurred in Countries that follow common-law as example Tanzania (see *ibid.*). Two judicial interpretations propounded by the Supreme People’s Court in 2000 and 2001, However, have cleared most of the AMCs’ legal barriers. This would circumvent the intention of the legal guidelines in cases such as notice of the obligation to creditors, change of registration of mortgaged rights, and maximum amount of mortgages (see *ibid.*).

The problem of the AMCs is aggravated by the policy based on NPLs transfer. First, since most transferred NPLs arose from policy loans, the structuring of the assets by the AMCs would face intervention from parties with vested interests. Second, the state-owned enterprises, which are at the root of bad debts, were established under a planned economy, and politically they have to provide social security to employees and retired employees (see *ibid.*).

This is a burden that the AMC must address to avoid social instability. The title of the transferred property is hampered by socio-economic issues such as housing, medical facilities, pensions, and other social security measures for workers and retired workers. Therefore, it affects property prices (Berry Fong., et. al. 2007). The proper function of such a program relies a lot on how it is implemented by relevant policies and legislation. However, China’s legal framework is still evolving (see *ibid.*).

2.7 Cash Flow Dynamics and Asset Disposition

The financial sustainability of the AMCs, in cash flow terms, depends on the dynamics of both cash inflow and outflow. While AMC’s cash flow is largely determined by its financial structure, the speed of asset disposal and the rate of asset recovery are the two main factors influencing its fiscal resources. To meet these requirements, therefore, the 4-AMCs must come-up with a like cash amount, assuming zero overheads (Yang (2001). Failing that, the AMCs would face a liquidity problem, in the deficiency of additional capital allocations from either the MOF or the PBOC. The AMCs cash recovery (inflows) mostly basing on the speed of the NPL cash. While the implied cash recovery rate of 21% seems respectable, the cash collections from the four AMCs in their first two years cover less than half of their interest costs (see *ibid.*).

In reality, the AMC’s income power is developing (see *ibid.*). In light of the rising income pressure, the public authority is squeezing for quicker NPL removals. The MOF has set up AMC execution pointers, for example, money recuperation proportions and uncovered a motivator plan to empower higher and quicker cash recuperations. In the end, AMC continued to become more active in debt sales, auctions, debt restructuring, foreclosures, litigation, and liquidation (Lou 2001, Huarong, 2001).

2.8 Litigation

In China, the Law of limitation of action in other words the limitation statute further infringes on the rights of AMC creditors. According to the general ideology of civil law, the limitation in civil cases is two years, unless provided for by law (Article 135 GPCL, 1986). This would create an AMC problem. The statute of limitations for AMCs to protect their rights to distressed assets may have expired, and AMCs often have difficulty finding liable debtors and guarantors (J. Zheng, 2002). Some may refuse to accept AMC's claim declaration to avoid liability. For the protection of the interests of AMCs, the Supreme People's Court made two interpretations in 2001 and 2002 respectively, with the notice or announcement issued by AMC regarding the transfer of creditor rights in major national or local newspapers, with the assertion of claims bars the challenge duration from running (The CPC, 2002). Also, these interpretations operate retrospectively to the date when the AMCs acquire the NPL assets from the SOCBs (see *ibid*).

3. Lessons to Tanzania

3.1 China-Tanzania Relations

There are traces of Chinese activity in Africa dating back to the Tang Dynasty. Chinese ceramic was found along the shorelines of Egypt in North Africa and Chinese coins from the ninth century have been found in Kenya, Zanzibar (part of Tanzania), and Somalia (Thembi Mutch, 2012). China is Africa's third most significant exchange accomplice, after the USA and France (Humphrey Moshi, 2017). At the national level, Tanzania's respective exchange with China arrived at USD 3.7 billion out of 2013, an expansion of 49 percent over the earlier year. Along these lines, Chinese foreign investment in the nation topped at USD 2.5 billion out of 2013. Presently, in Tanzania, there are more than 500 companies in Chinese nature investing in the country (see *ibid*).

According to Chau, Donovan (2014), this connection refers to foreign relations between China and Tanzania, which came after China started separate political affairs on December 9, 1961, and December 11, 1963, with both Tanganyika and Zanzibar. At the point when these two countries were joined together and became one country as known Tanzania by April 26, 1964, China stretched out its conciliatory connections to it. From the beginning of two-sided relations, China has helped Tanzania with an assortment of financial guide programs. The most notable initial guide project was the TAZARA Railway, which operated from 1970 to 1975 with the help of Chinese grants, labor and experts. The dimension of km line 1,860 links landlocked Zambia with Dar-e-Salaam. The Chinese government sent a total of 56,000 experts in the field and has continued to support the railway curriculum for a long time (see *ibid*).

There were about 62 Chinese authority advancement money projects in Tanzania distinguished in Tanzania through different media reports (Austin Strange et. al. 2013). These activities range from the efforts of the Chinese government to send the Tanzania Horticultural Improvement Bank (see *ibid*) to an advance of 400 million US dollars to alleviate the monetary problems of the Kiwira coal mine shaft (see *ibid*) and the improvement of the Benjamin Mkapa Olympic arena, especially the public stadium (see *ibid*). In 2020, Tanzania dropped a \$10 billion advance that was important for the Belt and Street Activity (Sharma, Shashi. 2020).

3.2 Lesson from China AMCs

In regards to the topic concerned, since many of Tanzania's legal instruments, especially Acts of Parliament and its Regulations does not focus their rationale on economic as stipulated above than 'China AMC' make Tanzania have a lot to learn to develop its restructuring and reforming regarding its NPLs. We can consider the following as our main points of consideration. Firstly, the most significant thing is the Chinese Financial and bank transformation technically officiated after the WTO convention, so like China, Tanzania should start with the reforming and amendments of several laws, rules, and regulations as well policies not only in regards to finance and banking system but also, through all parts of the country's economy. Repealing, abrogation and amendments of different laws is something unavoidable in this reform.

Secondly, Tanzania shall be aware of its banking crisis to solidify its macroeconomic growth. China has carried out various analyzes in this regard. Tanzania is believed to have more serious problems with bad loans at its national bank and with the other commercial banks that have government interests. Over again, Tanzania should learn the "challenges of the restructuring bank in China", and how China managed to strengthen its banking system. Tanzania should learn about different issues and experiences. It is very clear that every reform has its own challenges and impediments; the notion of managing bad loans especially for those four commercial banks was some time meandered and so needs governing laws for real and serious enforcement. This is because the law and regulations of the Tanzanian Central Bank, the finance law and regulations as well as the monetary policy of Tanzania have not yet formulated serious solutions for NPL in Tanzania.

Also, Tanzania shall create AMC's that can engage in market-based trading activities, which also demonstrated to be a mixed blessing and potentially distorted their motivation. For example, AMC has authorized securities brokers in China to facilitate the sale of blocks of shares through stock listings. Nevertheless, Tanzania should learn from China the AMC/bank relationship as the main aim for enhanced cooperation in asset recovery between AMC's and respective banks. The country may also learn the intelligibility and honesty on these issues.

Since the Tanzania legal structure is different from that of China, Tanzania should ensure the handling of the limitation period for AMC's to enforce their rights over NPL assets, this is because NPLs may have lapsed and AMC's often have difficulty locating the debtors and guarantors who are liable. Some people in China may also refuse to accept the details of claims given by AMC to avoid their liability. If really Tanzania wants to do better in this approach, it should also look at its Limitation Act and include sharp provisions specifically for NPLs laps of time issues.

Although the AMC's are a favorable solution for NPLs as far as the lessons from China concerns, yet Tanzania should think inside the box since more often financial legal challenges arise as well new criminal methodologies on finance are adopted. Following this, the country needs to develop even the AMC's phenomenon itself to go hand in hand with these types of challenges and developments. New thinking is still needed to establish more new ideas to take care of these NPLs problems.

4. Conclusion

These two countries have had great relations since 1964 when Tanzanian philosophy and ideology are largely similar to those of China (David Brewin, 2017). Having adopted or imitating some of the useful economic models and concepts from one country to another is the world's anniversary principle, not only for Tanzania to China but also to every resemble country with resemble academic endowments. After understanding several legal economic kinds of literature, it is clear that China focuses more on Financial-Jurisprudential tools of law rather than Political-Jurisprudential tools of law as most of the African countries including Tanzania which have been and continues doing so. In this manner, the Chinese AMC's system for international financial pot polio in Tanzania will be a better solution and useful since it creates favorable conditions for the system of finance globally and ultimately economic development.

Nonetheless, the formulation of the fifth domestic AMC marks a further opening of the NPL market in China for domestic and foreign market participants and offers financial institutes and foreign investors' opening for new business. In the long term, the extra opening of the market for Chinese NPL will lead to the more active participation of foreign capital in financial markets and service sectors and lead to increased competition, novelty, and better quality of service. (Zhou Jie. King & Wood Mallesons, 2020).

References

- "China's worsening debts", *Financial Times*, 22 June.
- Bank of China. (2000). *Bank of China Annual Report 2000*. Beijing. Basel Committee on Banking Supervision (July 1988): International convergence of capital measurement and capital standards, Basel Committee Publications no 4, Basel.
- BBC. (25 March.2002). *China's central bank governor details commercial bank' bad loans*. BBC Monitoring Service, United Kingdom.
- Caroline, C., & Ruth, N. (2016). *A world Bank Study*. Non Performing Loans.
- Chandrasekhar, C. P. (2008). *Global Liquidity and Financial Flows to Developing Countries: New Trends in Emerging Markets and Their Implications*. G24 Working Paper. Geneva.
- China Construction Bank. (1999). *China Construction Bank Annual Report 1999*. Beijing.
- Claessens, S., Daniel, K., & Luc, L. (April 2001). *Financial restructuring in banking and corporate sector crises: what policy to pursue?* World Bank Working Paper, World Bank, Washington DC. <https://doi.org/10.3386/w8386>
- Crockett, A. (1998, July 14). *From banking crisis to solid macroeconomic growth: lessons for Japan from other industrial countries*, speech at the IMF-Kobe University Symposium, Kobe.
- Cull, R., & Lixin, C. X. (2003). *Who Gets Credit? The Behavior of Bureaucrats and State Banks in Allocating Credit to Chinese State-Owned Enterprises*. *Journal of Development Economics*, 71(2), 533–559. [https://doi.org/10.1016/S0304-3878\(03\)00039-7](https://doi.org/10.1016/S0304-3878(03)00039-7)
- Dai, X. L. (2001). *Speech at the Beijing 2001 NPL Forum*, October, Beijing.

- Dornbusch, R., & Francesco, G. (1999). Heading off China's financial crisis. In BIS Policy Papers, no 7, strengthening the banking system in China: issues and experience, October, Basel, pp 40-58.
- Dziobek, C., & Ceya, P. (1997, December). Lessons from systemic bank restructuring: a survey of 24 countries. IMF Working Paper, WP/97/161, International Monetary Fund, Washington DC. <https://doi.org/10.5089/9781451857788.001>
- Elizaveta, G., Irina, V., & Yegor, B. (2020, July 23). Strategic Aspects of Asset Management: An Overview of Current Research.
- Guonan, M., & Ben, S. C. F. (2002, August). China's Asset Management Corporations. CH-4002 Basel, Switzerland.
- Huarong Asset Management Corporation. (2001). An introduction to China Huarong Asset Management Corporation, Beijing.
- John, B., & Yiping, H. (2000). *Dealing with the Bad Loans of the Chinese Banks*. Discussion Paper No. 13. Retrieved from www8.gsb.columbia.edu
- Joshua, K. (2020, September 28). *What Is Asset Management?* Retrieved from <https://www.thebalance.com/asset-management-companies-for-beginners-4048203>
- Klingebiel, D. (2000, February). The Use of Asset Management Companies in the Resolution of Banking Crises Cross-Country Experiences. <https://doi.org/10.2139/ssrn.282518>
- Lague, D. (2001). A finger in the dyke. *Far Eastern Economic Review*, 164(50), 20, 30-2.
- Lardy, N. (1998). *China's unfinished economic revolution*. Brookings Institution Press, Washington DC.
- Lau, L. (1999). The macro economy and reform of the banking sector in China. In BIS Policy.
- Lindgren, C.-J., Tomas, J. T. B., Charles, E., Anne-Marie, G., Marc, Q., & Leslie, T. (1999). Financial sector crisis and restructuring: lessons from Asia. IMF Occasional Paper 188, International Monetary Fund, Washington DC.
- Liu, G. M. (2001). Cooperation between the AMCs and banks in NPL disposition, 2 November, Development Research Centre of the State Council, Beijing.
- Marcelo, B. (2017). *Why should your company be concerned with asset management?* Retrieved from <https://blog.softexpert.com/en/the-benefits-of-asset-management/>
- Ministry of Finance. (2001). Incentives measures for disposal of non-performing assets held by asset management corporations (tentative), Beijing.
- Papers, no 7, strengthening the banking system in China: Issues and Experience, October, Basel, pp 59-89.
- Paul, G. (2014). *The Big Four and the Development of the Accounting Profession in China*. Emerald Group Publishing Limited. Peking University.
- Ross, J. (2021). *What is asset management & why is it important?* Retrieved from <https://www.chevinfleet.com/en-us/learning-zone/what-is-asset-management/>
- Rwegasira, K. (1984). Financial Institutions in Tanzania: A Review of Performance and Problems. *Journal of Eastern African Research & Development*, 14, 112-146. Retrieved February 5, 2021, from <http://www.jstor.org/stable/24326541>
- Sarah, H., & Thomas, M. (2019). China's Asset Management Companies as State Spatial-Temporal Strategy.
- State Council. (2000). Regulations on financial asset management corporations, Executive Order no 297 of the State Council of the People's Republic of China, November, Beijing.
- Stefan, I., Steven, A. S., & Dong, H. (2006). Issues in the Establishment of Asset Management Companies. In *Bank Restructuring and Resolution* (pp. 212-226). https://doi.org/10.1057/9780230289147_9
- Strengthening the banking system in China: issues and experience. (1999, October). Basel, pp 90-109. 20. Bank for International Settlements. Retrieved from <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjSupah3bXvAhWOTcAKHb->
- The challenges of bank restructuring in China. (1999, October). In BIS Policy Papers, no 7, strengthening the banking system in China: issues and experience, Basel, pp 17-39.

- WTO News. (2001). Press Releases. Press/243. 17 September 2001. Retrieved from https://www.wto.org/english/news_e/pres01_e/pr243_e.htm
- Yang, K. S. (2001). *The patterns and features of Chinese AMCs, China Huarong Asset Management Corporation*. Retrieved from <http://www.chamc.com.cn>
- Zhou, J. et al. (n.d.). *Coming of age for China's NPL market: first national AMC approval in 21 years*. Retrieved from <https://www.kwm.com/en/au/knowledge/insights/coming-of-age-for-china-npl-market-first-national-amc-approval-in-21-years-20200330>

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).