



Investment Guide

Tanzania

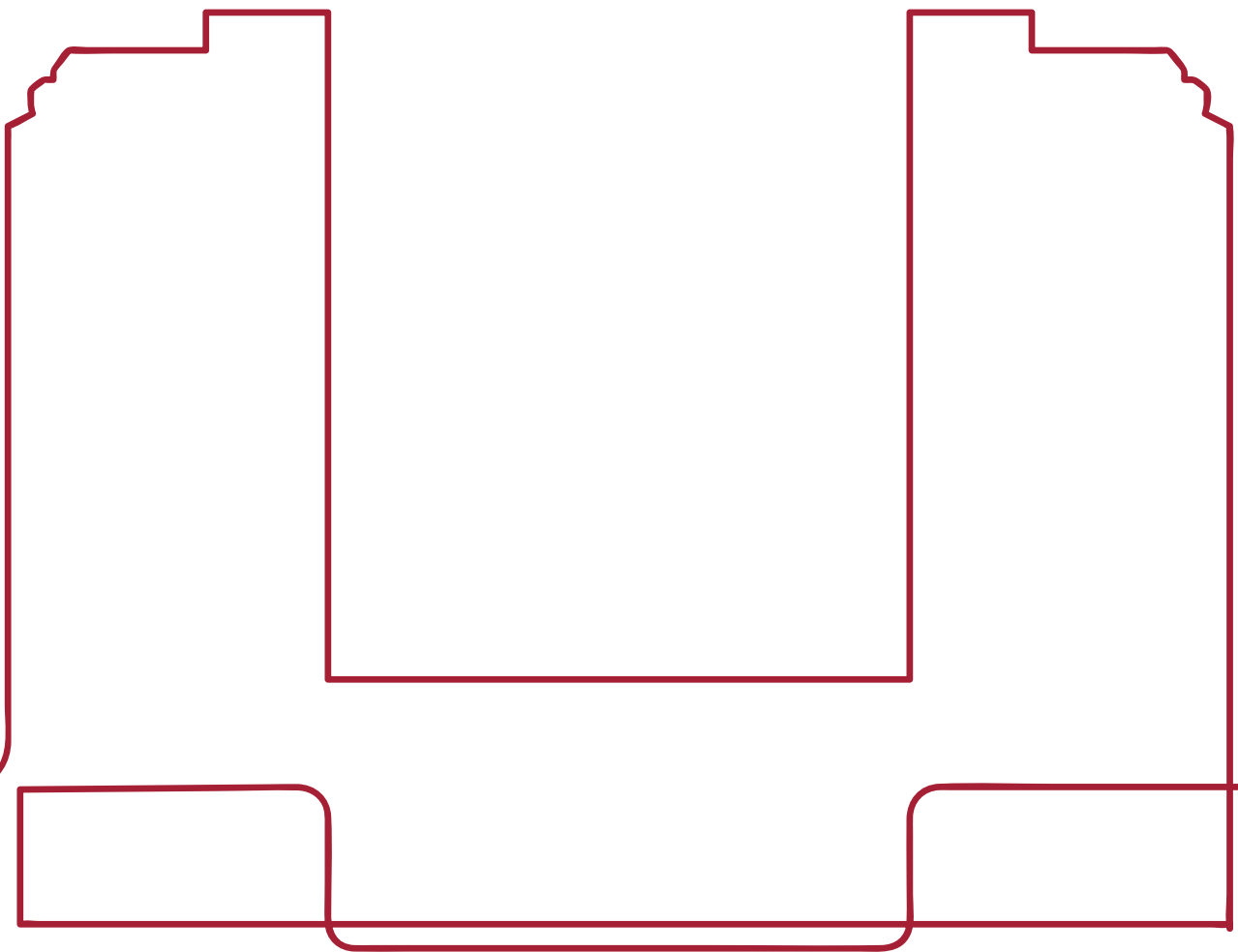


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About ALN Tanzania

ALN Tanzania | A&K Tanzania is one of Tanzania's pre-eminent, full service corporate and commercial law firms and a leading regional powerhouse based in Dar es Salaam.

The firm's consolidated and seamless cross-border offering is driven by a diverse and talented team of over 100 lawyers based in our Dar es Salaam, Dubai, Nairobi and Mombasa offices. Our lawyers have wide-ranging experience and deep knowledge of the Tanzanian market, which optimally positions them to provide pragmatic advice to clients navigating the local landscape.

The firm has extensive expertise handling sophisticated transactions across sectors, including in financial services, mining, energy, manufacturing, telecommunications and hospitality.

About ALN

ALN is an integrated alliance of the preeminent full-service corporate law firms in 14 African countries and has a regional office in UAE. Together, ALN firms provide clients with seamless practical and business-focused legal, advisory and transactional services across Africa.

The alliance specialises in blending deep local knowledge and reach with sector-specific expertise, to successfully guide clients in navigating locally and across borders.

Introductory Note

Tanzania is a country with a wealth of untapped investment potential. A stable political climate, a young and rapidly growing population, and abundant natural resources well-position Tanzania for sustained economic growth. Additionally, its strategic location in East Africa makes it an ideal hub for trade and commerce. As a gateway to the wider region, it creates access to significant markets and opens up even more potential opportunities for investors.

Recognising that bolstering investment in Tanzania is an invaluable opportunity for both investors and for the social and economic development of the country, the Sixth-Phase Government has prioritised efforts to reinvigorate foreign and domestic investment by actively taking steps to improve the general investment climate.

These steps have included: continuing to curb corruption, revitalising the freedom of the press and of political parties, relaxing labour and immigration requirements to accommodate expatriate workers in specialised fields, implementing a robust tax collection system that is procedurally and substantively fair and attractive from an investor perspective.

Other steps the government has taken are: shifting away from forceful and aggressive tax collective tactics, harmonising investment laws and policies to reduce duplicative licencing and permitting requirements so as to ease market entry and expansion for investors, and empowering the Tanzania Investment Center as the primary channel for investment into the country which consequently streamlines access to fiscal and non-fiscal investment incentives.

The cumulative effect of these efforts, some of which are still in the process of being implemented, is steadily increasing investor confidence, as evidenced by a number of large-scale investments across sectors and the return of mining and oil gas majors, among others, to the negotiating tables.

According to the most recent reports from the Tanzania Investment Centre, investment into the country in 2022 was triple that in 2021, and 2023 is already showing signs of exponential growth compared to the same period in 2022.

In summary, Tanzania remains a top investment destination to consider in Africa. We hope that this investment guide is valuable to you as you explore opportunities in the country and navigate the relevant local nuances.

Please do not hesitate to contact us for any further information you may require. Email: info@aln.africa



Overview

Tanzania

President

Samia Suluhu Hassan

GDP

USD 68 billion

Type of Government

Unitary Republic with
Multi-Party Democracy

Area

947,303 Sq/Km

Timezone

GMT +3

Local Currency to USD

2300 TZS

Currency

Tanzania Shilling (TZS)

Languages

Kiswahili, English

Drives On

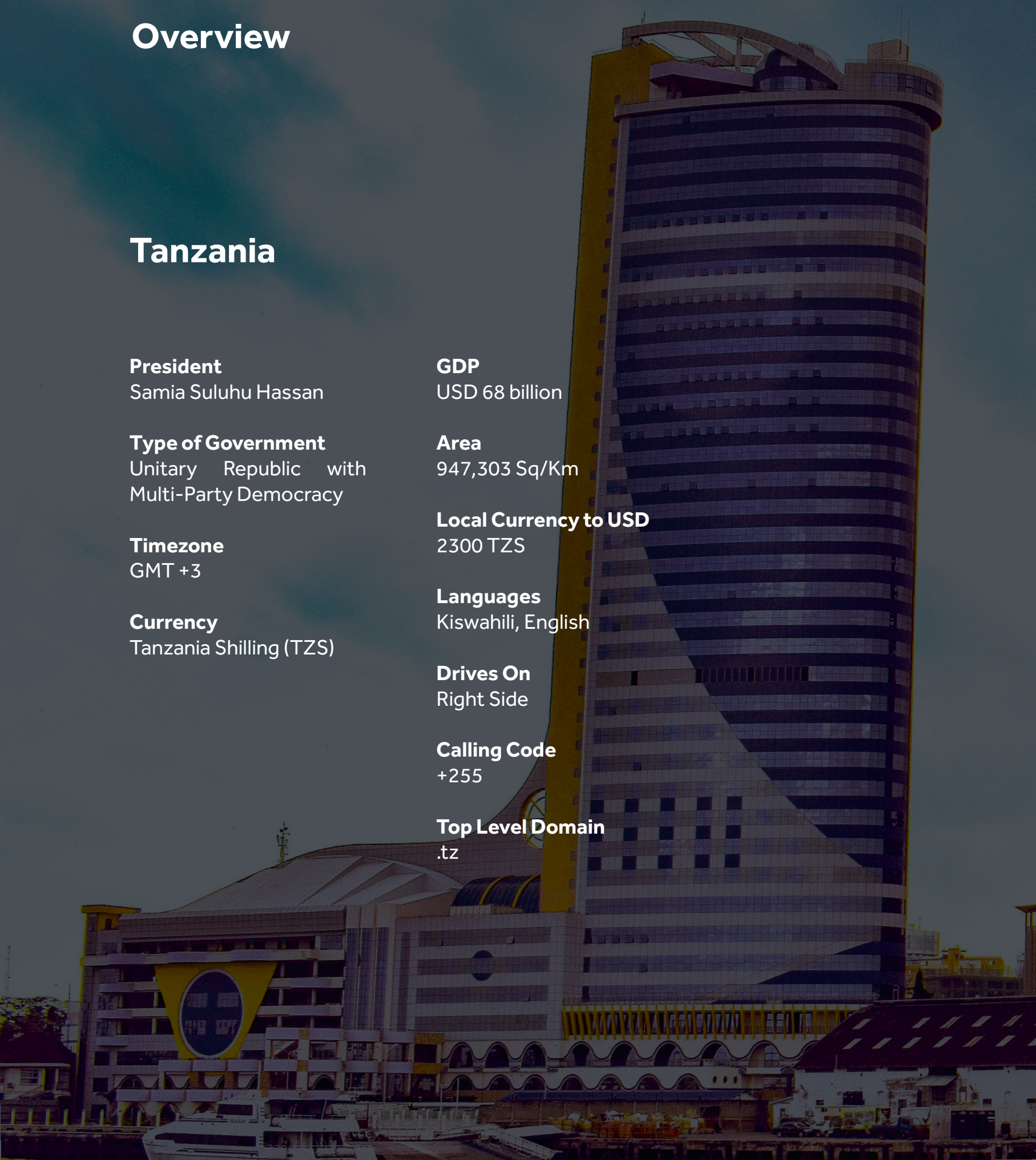
Right Side

Calling Code

+255

Top Level Domain

.tz



Capital
Dodoma

Commercial Capital
Dar es Salaam



Why Invest in Tanzania

Tanzania's excellent geographical location coupled with an abundance of natural wealth and resources offers tremendous investment opportunities for investors across sectors including agriculture, manufacturing, mining, oil and gas, projects and infrastructure, real estate and construction, telecommunications and tourism.

The country is rapidly emerging as an effective entry point and gateway for trade into Eastern, Southern and Central Africa, which is enhanced by the EAC and SADC regional blocs. The sizeable domestic and sub regional markets have high growth potential and offer access to over 46 million consumers. Tanzania is also a model of successful democratisation and steady growth in Africa, enjoying political stability for almost half a century. In addition to offering a continually improving investment environment, the generally high level of safety in the country, together with its steadily improving infrastructure, also makes it a suitable place to live.

In terms of investment, Tanzania has a liberalised investment regime and has taken steps to ease the process of doing business in the country. The government has also created several economic zones and special economic zones to attract foreign investment. Overall, Tanzania offers a stable economic and political environment, and a number of opportunities for investment.

- **Population:** young and fast growing at a rate of 3% with a population of 61,741,120 in 2021.
- **Geographic Location:** borders 8 countries: Kenya; Uganda; Rwanda; Burundi; Democratic Republic of the Congo; Zambia; Malawi and Mozambique.
- **Coastline:** Tanzania has a coastline of over 800km. The large islands include Zanzibar (2 islands of Unguja and Pemba) and Mafia, and there are also many smaller islands, islets and reefs along the coast.
- **Regional Blocs:** EAC, SADC, AfCFTA, EAC/SADC population for access to consumers.
- **DTAs:** Canada; Denmark; Finland; India; Italy; Norway; South Africa; Sweden; Zambia.
- **BITs:** Canada; China; Denmark; Finland; Germany; Italy; Mauritius; Sweden; Switzerland; Turkey; United Kingdom.
- **ICSID:** Tanzania is a member of the International Centre for Settlement of Investment Disputes and has ratified the convention.
- **MIGA:** Tanzania is a member of the Multilateral Investment Guarantee Agency.
- **ATIA:** Tanzania is a member of the African Trade Insurance Agency
- **Tourism:** Tanzania, among numerous tourist attractions is home to 22 national parks, the Ngorongoro crater and the world's highest freestanding mountain, the Kilimanjaro, making tourism one of the highest income generating sectors.
- **Natural Resources:** Apart from wealth in agriculture, forestry and wildlife land, Tanzania is also very rich in minerals such as gold, diamond, graphite, copper, iron, coal, nickel, tanzanite, uranium and natural gas.
- **Political Stability:** Since its independence in 1961, Tanzania has not been subjected to civil wars or political unrest and is known to be one of the most peaceful countries in Africa making it a prominent and safe choice for investment.
- **Safety/Security:** Tanzania is a reasonably safe country for both locals and tourists and also ranked the 7th safest country in Africa according to the 2019 Global Peace Index.
- **Infrastructure:** Tanzania is making great strides in developing its infrastructure with recent focus on the transport and communication sectors.



Political and Economic Overview

Tanzania is a country located in East Africa, with a population of over 60 million people. It is the second largest economy in the East African Community and has a gross domestic product (GDP) of USD 68 billion. The economy is primarily based on agriculture, which employs over 80 percent of the population and accounts for a significant portion of the country's GDP. However, mining and manufacturing sectors also play a significant role in the country's economy. The government has been focused on promoting economic growth and development through infrastructure projects, such as the development of ports and the expansion of the country's road and rail network.



Politically, Tanzania is a presidential republic, with the President serving as both the head of state and the head of government. The country has a multi-party system, and the current President, Samia Suluhu Hassan, came to power following the sudden death of the former President, John Magufuli, in 2021.

President Samia Suluhu Hassan has led the Sixth Phase Government with the slogan "Kazi lendelee", which loosely translates to "let the work continue." Although the work started by the Fifth Phase Government under the late President Magufuli has indeed continued in many respects, President Hassan's Government has also adapted its approach in a number of aspects, including those of particular relevance to foreign investors.

Since the beginning of her leadership, President Hassan has made clear that the Government's commitment to supporting private-sector-driven growth and efforts to increase FDI remains a key agenda item.

While driving the investment agenda, President Hassan has also brought into sharp focus the need for Government to improve public administration and management of public resources to enhance social outcomes. She also continues to strengthen diplomatic relations in the region and beyond to demonstrate Tanzania's commitment to be re-integrated into the wider world and this has had a positive impact on boosting trade and business relations between Tanzania and other countries.

2025

Tanzania's next Presidential election shall be held in 2025 and President Hassan will be eligible for re-election.

Investment Guide Scope

The United Republic of Tanzania is a union between Tanzania Mainland (previously Tanganyika) and Zanzibar. Pursuant to the Constitution of the United Republic of Tanzania, there are two separate state organs: (i) the Government of the United Republic of Tanzania; and (ii) the Revolutionary Government of Zanzibar.

While the Government of the United Republic of Tanzania is responsible for all Union Matters, the Revolutionary Government of Zanzibar is responsible for non-Union Matters in Zanzibar. Accordingly, Zanzibar has its laws and regulations except those laws which fall under the Union Matters. On this basis, we have in this guide, covered matters relating to the laws of Tanzania Mainland.



The Tanzania Investment Guide is not an exhaustive summary of all the information and regulations relevant to investing in Tanzania. It is intended to provide a general overview of the investment climate in Tanzania and to highlight some of the key considerations for investors. It is not intended to be a substitute for obtaining legal, financial, or other professional advice.

Investors are strongly encouraged to seek out specialised advice and to do their own due diligence when making investment decisions in Tanzania.

The information provided in the Tanzania Investment Guide should not be relied upon as a substitute for such advice.

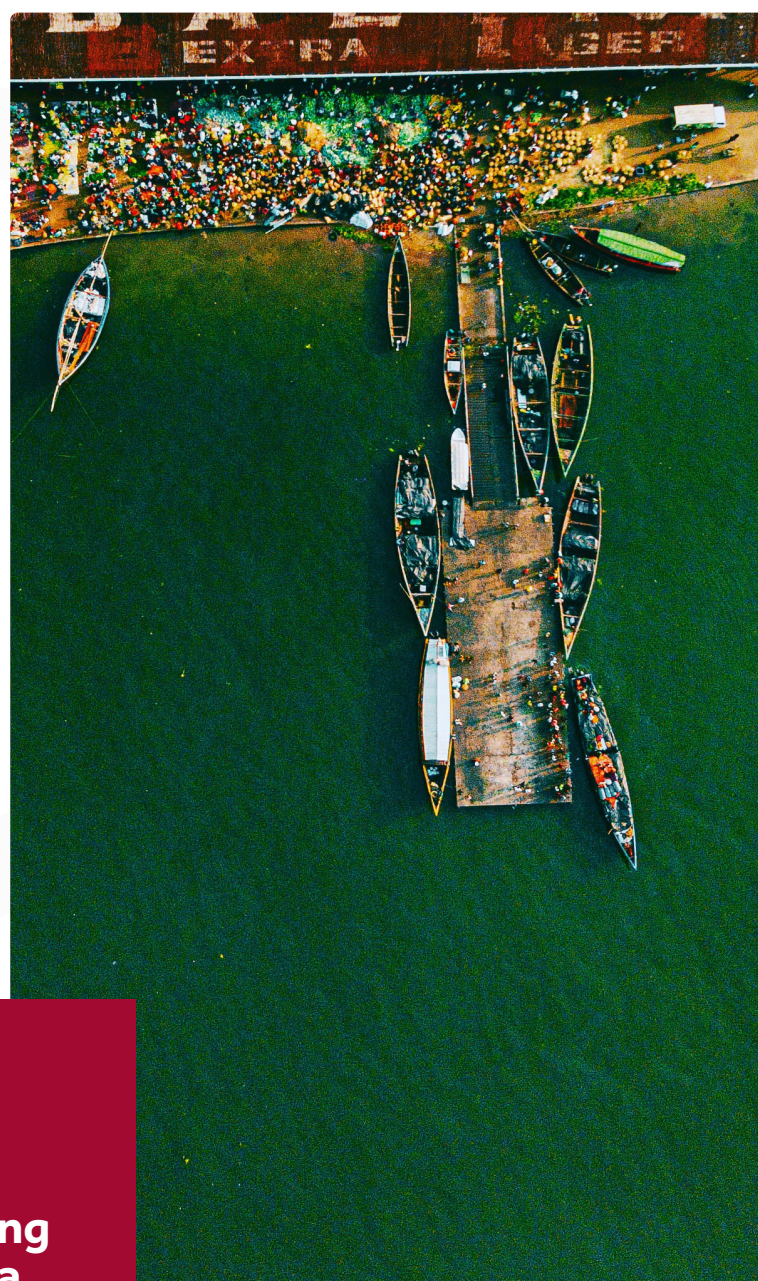
Regulatory Landscape

The tripling of investment in Tanzania in 2022 and the accelerated start to 2023 is a strong indicator that establishing an enabling environment is a core focus of the Sixth Phase Government. The concerted efforts have been impactful and yielded positive results. President Hassan has also moved the investment docket from the Ministry of Industry and Trade to the President's Office, so that it is under her own watch. Investors can therefore expect to see the trend of increased stakeholder engagement and access to government to continue, as well as the mobilisation of efforts to bring clarity to the regulatory regime, which in turn will enable the private sector to operate in a more conducive environment.

Successive government phases in Tanzania have made efforts to promote investment in the country by creating an enabling business environment through strategic regulatory reforms. However, some policy and regulatory challenges persist. Tanzania's regulatory environment was particularly challenging between 2015 – 2021 due to a raft of laws being passed with little stakeholder engagement. Many of the laws aimed at increasing local involvement in regulated sectors such as telecommunications, insurance, mining, logistics and oil and gas. In addition, various Government bodies and regulatory authorities were restructured, resulting in changes to their mandate.

These initiatives were further supplemented by various directives and policy shifts, such as increased pressure on tax collection and greater difficulty employing foreigners. The challenges partly emanated from changes in the dynamics of economic, political, social, cultural and business environments, which during that period had an adverse impact on the growth of the private sector and the country.

One of the country's greatest regulatory challenges, which is common in many emerging markets, is the divergence which sometimes arises between the written law and its application. Until that gap is bridged, the onus remains on investors to engage closely with the Government and seek comprehensive, business-focused legal and tax advice that is both commercially viable and reflects the reality on the ground. This, in turn, will better position investors to plan their market entry or expansion plans and optimally structure their investments.



Investors can expect to see the trend of increased stakeholder engagement and access to government to continue, enabling the private sector to operate in a more conducive environment.

Investment Promotion and Facilitation

In an effort to further the Sixth Phase Government’s objective to ramp up investment in Tanzania, investment promotion and facilitation remain areas of key focus. The Government, primarily through the TIC, has continued developing and improving the access and services available to ease investment in Tanzania.

Fig. 1: Investment Performance in the First Quarters, Jan – March from 2021 to 2023

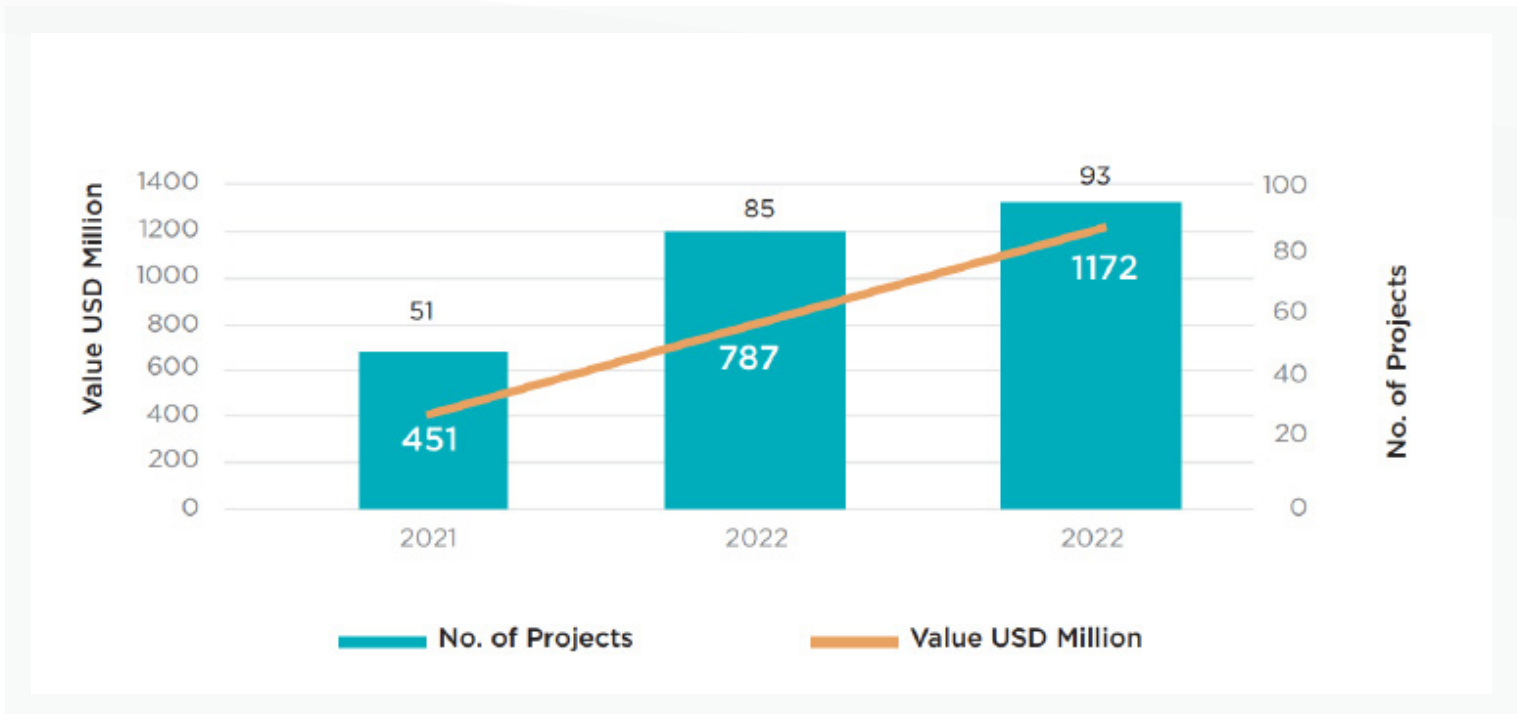
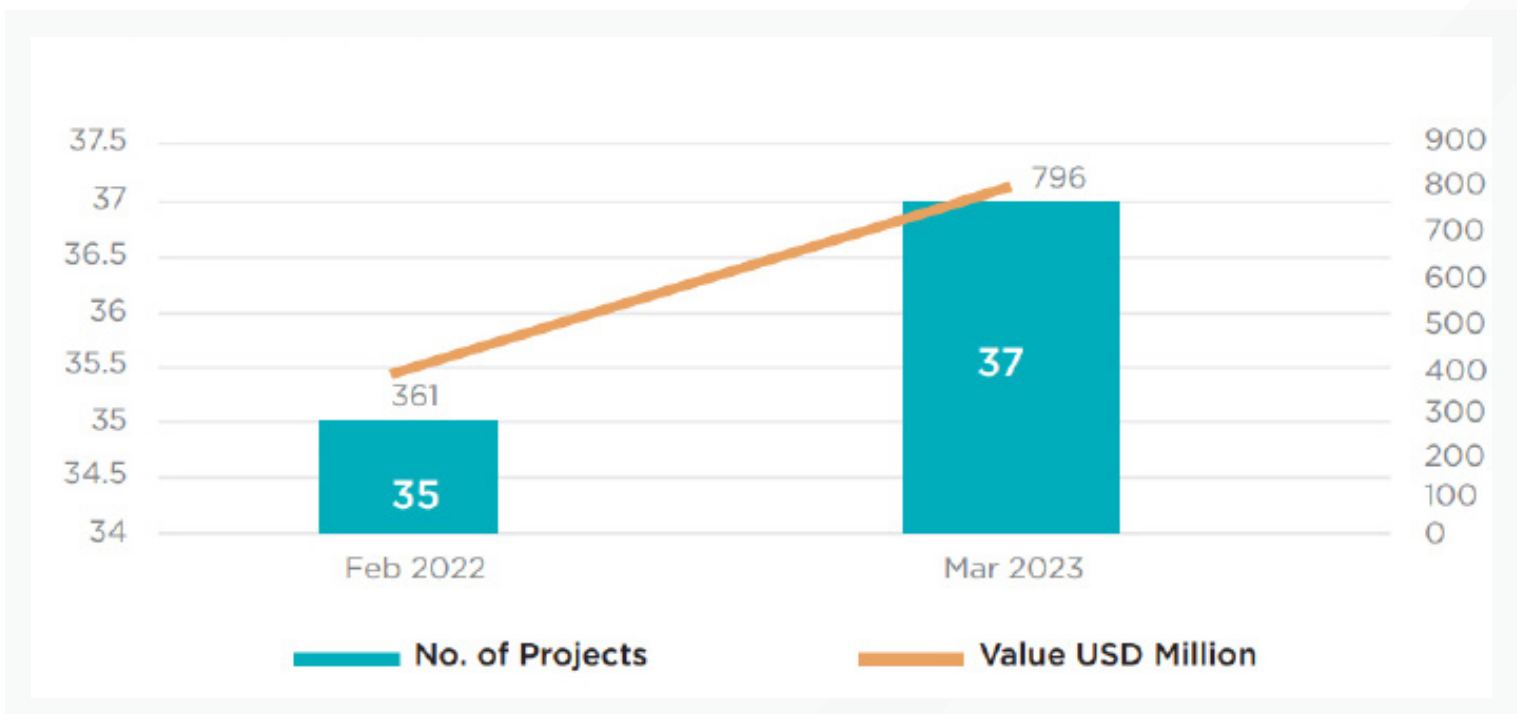


Fig. 2: TIC Investment registration: Feb 2022 vs March 2023



Source: TIC, 2023

Tanzania Investment Centre (TIC)

Overview

- **Main Body:** The TIC is the primary investment body established to oversee investments in Tanzania.
- **Ministry:** Ministry of Industry and Trade.
- **Purpose:** The TIC is a one-stop facilitative centre for all investors. Its mandate includes assisting in the establishment of enterprises; facilitating the acquisition of licences, permits, visas and approvals; helping to address administrative barriers confronting both local and foreign investments; issuing Certificates of Incentives; and issuing Derivative Titles to foreigners seeking to occupy land. All Government departments and agencies are required by law to cooperate fully with the TIC in facilitating investment.
- **Mandatory Registration:** Registration with the TIC is not mandatory for all investments but it is mandatory for foreign investors wishing to acquire land for investment purposes and it is strongly encouraged for investors who meet the eligibility criteria as the registration affords the investor with various fiscal and non-fiscal incentives and access to the 'one-stop' facilitation center.

Registration Eligibility Criteria

- **Small-scale projects:** The threshold is a minimum capital investment of USD 500,000 if majority foreign owned or USD 50,000 if majority Tanzanian owned.
- **Large-scale projects:** The threshold is a minimum capital investment of USD 20 million. These projects are approved by the National Investment Steering Committee and the investors are eligible to negotiate for special fiscal and non-fiscal incentives. Large-scale projects are classified into "Strategic or Major and Special Strategic Investor" status:

I. STRATEGIC OR MAJOR INVESTOR STATUS is reserved for projects with a minimum capital investment of not less than USD 20 million for the local investor and USD 50 million for a project wholly owned by a foreign investor or a joint venture.

The additional requirements include the creation of at least 1,000 direct local jobs with a significant number of senior positions on projects that do not require sophisticated technology or capability to significantly generate foreign exchange earnings for at least 50% of the goods that are being produced or to reduce imports, capability to stimulate production by establishing economic incentives in social and economic sectors, capability to increase technical skills by introducing new technologies to locals, or the potential and ability to produce products or provide services necessary for development in the social and economic sectors and based on priorities of the nation; and

II. SPECIAL STRATEGIC INVESTOR STATUS is reserved for projects with a minimum capital investment of not less than USD 300 million. Investment capital transaction is undertaken through a registered local financial and insurance institution, the creation of at least 1,500 direct local jobs and capability to significantly generate foreign exchange earnings, produce

significant import substitution goods or supply of important facilities necessary for development in the social, economic, or financial sector.

- **Local Ownership or Directorship Requirement:** While there are no general restrictions on local ownership or local directorship to register with the TIC, investors will need to look to the sector-specific legal framework to ensure compliance with Tanzanian laws.
- **Certificate of Incentives:** Upon successful registration with the TIC, investors are issued with a Certificate of Incentives. Incentives can be broadly categorised into fiscal incentives (such as import duty exemptions and VAT deferment on certain goods) and non-fiscal incentives (such as access to the TIC's one-stop facilitation services).
- **Validity Period:** The validity period for the fiscal incentive certificates is 5 years. Non-fiscal incentive certificates are available throughout the life of the project. The expired fiscal incentive certificates can be renewed for another period upon submission of a fresh application by the investor.
- **Cancellation of the Certificate:** The certificate of incentives may be cancelled where the TIC is satisfied that- (a) the certificate was obtained by fraud or false information; (b) the terms of the certificate have been breached; (c) the certificate has been transferred to another investor or investment without the approval of the TIC; (d) failure to commence operations within the first 2 years of its issuance without justifiable reasons; or (e) failure to submit the annual performance report for 2 consecutive years.
- **Derivative Titles:** A foreign investor desirous of owning land in Tanzania for investment purposes must do so through the TIC, which is the body authorised to issue Derivative Titles.
- **Priority Sectors:** TIC registration is open to investors in all sectors but certain priority sectors have been identified by the TIC, which includes manufacturing, agriculture, fisheries, mining and metals, tourism, real estate, information communication technology and livestock. Please visit the TIC website for more information about priority sectors.
- **Other Developments:** Investment in Tanzania is primarily governed by the recently enacted Tanzania Investment Act, No.10 of 2022 (the TIA), which establishes the TIC. The TIA requires TIC to establish an integrated electronic system for the facilitation and promotion of investment. The integrated electronic system shall integrate all significant authorities concerned with the issuance of the licenses, permits, approvals and consents required of an investor.
- **Additional Information:** <https://www.tic.go.tz/>

Investment Incentives

In order to promote investment growth in Tanzania, the government has put in place fiscal and non-fiscal incentives which are administered by the TIC, Export Processing Zones Authority (EPZA) Act and Special Economic Zones Authority (SEZA).

The TIC operates as a “one-stop facilitative centre for all investors” and in addition to offering investment incentives (fiscal and non-fiscal), it assists in the establishment of enterprises, facilitating the acquisition of licenses and permits and addressing administrative barriers faced by both local and foreign investors.

The TIC issues certificate of incentives to eligible investors pursuant to the TIA. The Certificate of Incentives provides investors with various fiscal and non-fiscal incentives.



The most tangible tax incentive under TIC is a relief of 75% of import duty on capital goods imported to Tanzania upon the recommendation of the TIC and approval of the TRA.

Additional tax incentives may be granted by the TIC to strategic or major investments. The approval of strategic or major investment status is subject to consultation between various government authorities.

A strategic investment is an investment with a minimum investment capital of USD 20 million where the investment is wholly owned by Tanzanians and a minimum investment capital of USD 50 million where the investment is wholly owned by a foreign investor or is a joint venture.

Investors under EPZ and SEZ are entitled to various exemptions (depending on the licence held), including exemption from corporate income tax for 10 years, exemption from payment of VAT, custom duties or any tax charged on raw materials and goods of capital nature used for production in the EPZ and SEZ, exemption from withholding tax on rent, dividends and interest for 10 years, exemption from payment of VAT and custom duties for raw materials, machinery, equipment, heavy duty vehicles, buildings, construction materials and any other goods of capital nature to be used for purposes of development of the EPZ and SEZ infrastructure etc.

The TIC issues certificates of incentives to eligible investors based on the established laws and regulations. The Certificate of Incentives provides investors with various fiscal and non-fiscal incentives.

Doing Business

Legal Forms of Incorporation

The Companies Act recognises three types of companies: a company limited by shares, a company limited by guarantee, and an unlimited company. Companies may either be private companies or public companies.

Foreign investors typically set up a place of business in Tanzania by either registering a branch of a foreign company or by incorporating a local company, with the latter being the most common largely due to the benefit of ring-fencing the subsidiary from the parent company and because regulators in country tend to be more familiar with the subsidiary setup, which can ease licencing procedures in comparison to those of opening branches.

A branch and subsidiary are taxed the same as both are considered to be tax residents for tax purposes and therefore principally, neither would have an advantage over the other. Please see below for a high-level summary of the key differences between a branch and subsidiary when setting up an entity in Tanzania.

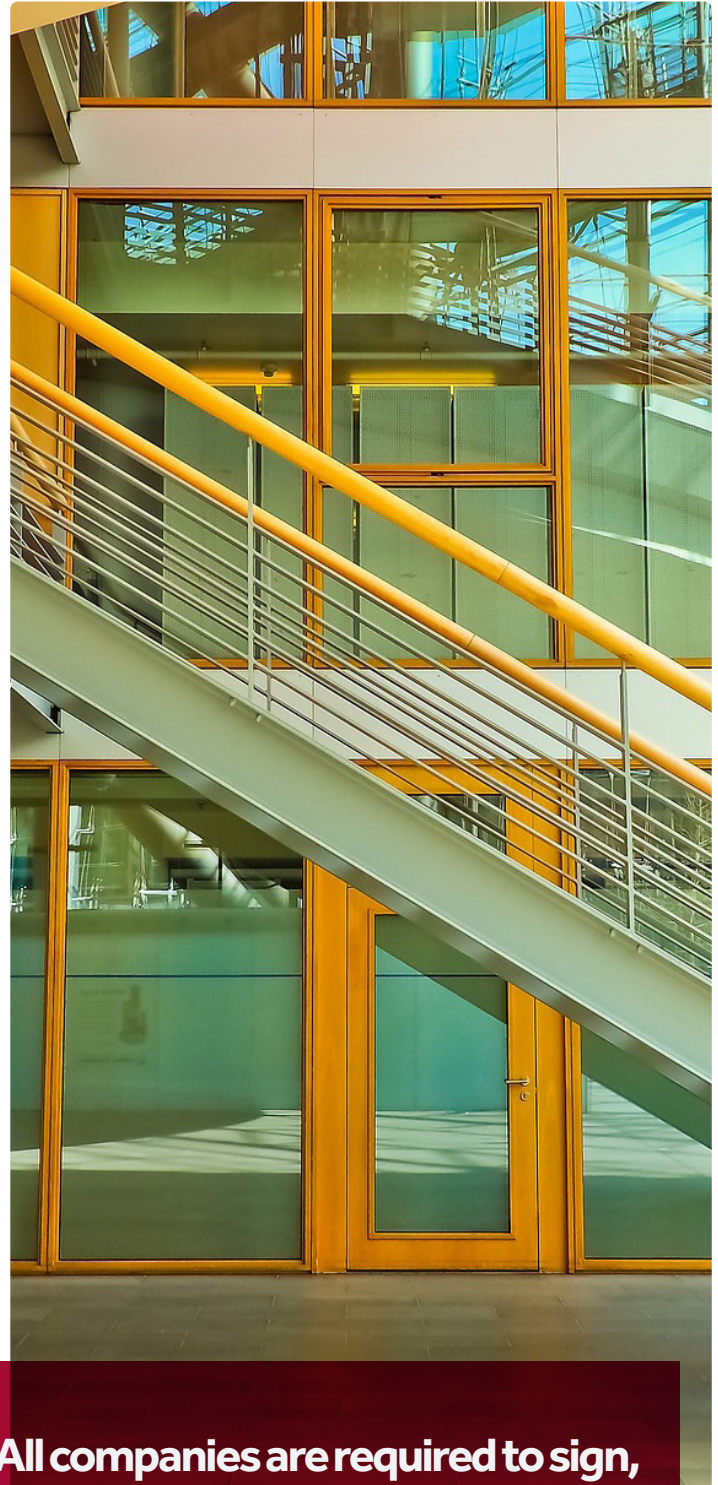
Comparison item	Branch	Subsidiary
Liabilities from a legal perspective	A branch is not a separate legal entity from the owner, the owner is legally liable for the liabilities of the branch.	A subsidiary is a separate legal entity allowing for ring-fencing of liabilities.
Tax registrations	Same procedures	Same procedures
Corporate income tax rate	The rate of income tax on taxable income is 30%.	The rate of corporation tax on taxable income is 30%.
Branch profits tax versus withholding tax on dividends	A branch profit tax of 10% is payable on the branch's after-tax income, irrespective of remittance thereof.	Withholding tax of 10% is payable when dividends are remitted to a non-resident parent company.
Transactions of the parent company in Tanzania	Transactions by the parent company in Tanzania that are similar to those of the branch will be deemed to be transactions of the branch.	The parent company can transact in Tanzania separately from its subsidiary.
VAT	Same VAT treatment	Same VAT treatment
Deductibility of HO expenses	Recharges by the head office to the branch e.g., management/ technical fees, royalties, commissions or similar recharges (other than for reimbursement of actual expenditure) are not deductible expenses for the purpose of calculating the net taxable income of a branch.	Deductible subject to transfer pricing rules.
Statutory meetings	No meetings are required for a branch to make decisions.	Board of Directors' meetings and Annual General Meetings of shareholders must be held for making decisions for the company.
Alteration of capital	No share capital required. Increasing the contribution of the head office to the branch is simple. Reducing the contribution of the head office to the branch is simple.	Capital increases normally require an ordinary resolution of shareholders. Capital reductions normally require a special resolution of shareholders and court sanction.
Winding-up	De-registration of a branch is a straightforward process.	Winding up of a company is normally a lengthy process and requires court sanction.

Private Company Limited by Shares

- **Companies Registry:** The Business Registration and Licensing Agency (BRELA) is in charge of the incorporation of companies in Tanzania.
- **Number of Shareholders:** Minimum 2.
- **Number of Directors:** Minimum 2.
- **Local Shareholding or Directorship Requirement:** While there are no general restrictions on local ownership or local directorship to register a company with BRELA, investors will need to look to the sector-specific legal framework to ensure compliance with Tanzanian laws.
- **Company Secretary:** Appointment of a Company Secretary is mandatory.
- **Integrity Pledge:** All companies are required to sign, stamp, and file an Integrity Pledge with the Registrar of companies prior to incorporation.

There are no general minimum capital requirements and a company can be incorporated with a nominal amount of TZS 20,000/- (USD 10) as its authorised share capital, however, investors will need to look to the sector-specific legal framework for certain minimum capital requirements.

- **Registration/Licensing Requirements:** In order to operate a company in Tanzania, the minimum requirements, subject to sector specific legislation, typically include:
 - Certificate of Incorporation;
 - Tax Identification Number (TIN);
 - Value Added Tax Registration Number (VRN);
 - General business licence;
 - Sector specific licences from the relevant regulators.
- **Reporting Requirements:** Companies are required to file the following:
 - annual returns, not more than 18 months after the date of incorporation;
 - annual tax returns, with the TRA;
 - notifications with respect to any changes that take place (e.g. appointments, changes and termination of directors and secretaries);
 - increases in share capital;
 - alterations of the MEMARTS;
 - changes to the registered address, with the BRELA;
 - charges when mortgaging the company's assets (with the BRELA); and
 - returns on employment of non-citizens (to the Labour Commissioner).
- **Beneficial Ownership:** Recently enacted laws require companies incorporated in Tanzania to disclose their beneficial owners.
- **Additional Information:** <https://www.brela.go.tz/>



All companies are required to sign, stamp, and file an Integrity Pledge with the Registrar of companies prior to incorporation.

Non-profit Organisations

The most common legal structure for a non-profit entity in Tanzania is a non-governmental organisation (NGO) or a society.

Prior to a 2019 change in law, it was possible to set up entities engaged in not-for-profit activities in Tanzania as companies limited by guarantee. The change in law introduced, among other things, a new definition of the term “company”, to mean an entity established for investment, trade or commercial activities and any other activity as the Minister of Industry and Trade may, by notice published in the Gazette, prescribe. These amendments have limited the kind of activities that can be conducted by companies formed under the Companies Act to only for-profit activities. On this basis, it is no longer possible to set up a company limited by guarantee or a company limited by shares under the Companies Act for purposes of engaging in charitable or not-for-profit activities. Societies tend to be less common and are limited to specific purposes.

Under Tanzanian laws, an NGO includes a community based organisation and is a voluntary grouping of individuals or organisations which is non-partisan or non-profit sharing established and operates for the benefit or welfare of the community or public, organised at the local, national or international levels for the purpose of enhancing or promoting economic, environmental, social or cultural development or protecting environment, good governance, law and order, human rights and lobbying or advocating on such issues.

The procedure for registering an NGO takes several months and there are a number of factors for organisations to consider, including if one is seeking to register as an international NGO. There are local founder requirements which also need to be taken into account.

An NGO can become operational once it has received its certificate of registration; however, in order for the NGO to be recognised as a “charitable organisation” for tax purposes, which status confers additional tax benefits on the organisation, the organisation would need to apply to the Commissioner General of the TRA for a private ruling. The response time is usually several months. In a nutshell, NGO establishment in Tanzania requires careful planning in order to ensure that an optimal structure is put in place and that it complies with the legal requirements.

It is no longer possible to set up a company limited by guarantee or a company limited by shares under the Companies Act for purposes of engaging in charitable or not-for-profit activities.



PPPs and Public Procurement

In 2010 and 2011 the Tanzanian government overhauled the country's legal framework on Public Private Partnership (PPP) projects to facilitate and encourage more private sector participation in the provision of public services.



The key laws governing the procurement of PPPs in Mainland Tanzania are the PPP Act, the Procurement Act and their associated subsidiary regulations. PPP projects can either be proposed by the government (solicited bids) or by private parties (unsolicited bids). In practice, most recent applications have been made on an unsolicited basis.

PPP projects can either be proposed by the government (solicited bids) or by private parties (unsolicited bids). In practice, most recent applications have been made on an unsolicited basis.

Under the PPP Act, all PPP procurement is to be undertaken by way of competitive bidding and an unsolicited proposal is subject to the risk of a "Swiss Challenge" which effectively opens up the procurement to competitive bidding from third parties.

A Ministerial exemption from competitive bidding is available under the PPP Act; however, a project that requires a Government guarantee or any form of financial support from the Government is not eligible for such Ministerial exemption. Furthermore, under the Procurement Regulations, no procurement may be conducted in respect of an unsolicited PPP proposal which requires a Government guarantee or other financial support from the Government.

Although the number of PPP projects across sectors is gradually increasing, there are still a number of nuanced issues which require careful assessment in order to ensure that the projects are structured in a manner that ensures compliance with the relevant legal frameworks and commercial viability.

Accounting Principles and Exchange Control

Accounting Principles

The National Board of Accountants and Auditors (NBAA) has adopted both International Accounting Standards (IAS 1 – IAS 41, including IFRS 1 – IFRS 17) and local statutory requirements for financial reporting.



Source: TIC

Exchange Control

Remittance of Funds Outside Tanzania

There are no exchange controls in Tanzania that restrict an investor from obtaining payment in freely convertible currency. Restrictions relating to foreign exchange were eliminated under the Foreign Exchange Act, 1992 in order to attract investment and simplify international transactions. However, if payments are made offshore in Tanzanian currency, the payor must obtain approval from the BOT before making such payments. If payments are made offshore in non-Tanzanian currency, no approvals are required but such payments must be made through a locally licensed bank or financial institution.

There are no limits on repatriation of earnings and capital earned in Tanzania by a foreign shareholder, though the law requires investors to provide to the remitting financial institution supporting documents evidencing the validity of payments proposed to be made internationally together with a certificate of tax clearance before such payments are permitted. As highlighted above, transactions involving foreign exchange are permitted in Tanzania but must be conducted through the medium of a licensed financial institution. The financial institution is required to satisfy itself on the legitimacy of the transaction and to require that documents relating to the underlying transactions be provided. Such information may be required to be shared with the Bank of Tanzania as part of the regulatory supervision procedures.

Foreign Loans

The law allows for residents (including companies incorporated in Tanzania) to be financed by either debt or equity, and as such companies in Tanzania are allowed to obtain loans from foreign sources (including shareholders loans). The BOT requires foreign loans to a resident with a tenure exceeding 365 days to be registered with the BOT and for a Debt Registration Number (DRN) to be obtained. The DRN is required for the borrower to remit repayments to the lender. This practice helps the BOT monitor the loans that are being issued to residents and to monitor the repayments to the foreign lenders.

Foreign Currency Accounts

A resident (including a company incorporated or registered in Tanzania) may maintain a foreign currency account with a bank in Tanzania. The operation of the foreign account is subject to requirements which are provided for by the BOT.

Export/Import Transactions

Export and import operations should be carried out through a bank or financial institution where an importer/exporter maintains a bank account and are subject to the conditions and time limits as prescribed by the BOT. Such transactions are further subject to the East African Community Customs Management Act, 2004 which regulates imports and exports in Tanzania.

Local Content

Investments into certain Tanzanian sectors will need to be made with careful consideration of local content requirements, which range from ownership, directorship, employment, supply chain and other operational aspects. Traditionally, Tanzania's policy focus has been on how to accrue benefits from royalties and licenses. More recently, and particularly under the Fifth Phase Government, there have been efforts to generate broader growth benefits from sectors of strategic national importance, such as financial services, logistics, mining, oil & gas, and telecommunications.



In guiding clients through highly complex local content structures across sectors, we note the following areas which require careful navigation by investors:

- i. identifying ambiguities and contradictions in the law and engaging regulators to provide clarity on the interpretations;
- ii. assessing financial and operational hurdles to implementation, which reflect a gap between theory and practice; and
- iii. in some cases, a misalignment of the incentives to increase local content, where creative structuring and a check-box exercise for compliance purposes drive the investor's decision-making -- rather than genuine local value creation.

The overall success of local content policies is inextricably linked to carefully and strategically designing and deploying a framework that is clear, consistent and commercially viable.

Based on the track record to date, this will require clear Government direction, managing stakeholder expectations, a reduction in overlapping authorities, and most importantly, meaningful stakeholder engagement to craft solutions that are sustainable from a business perspective.

President Hassan's pledge to improve the investment climate suggests that she is willing to bottom out on the core issues that are setting back investments and there is renewed hope that this will translate into the reform that is necessary to reduce the uncertainty currently affecting certain sectors, which should in turn accelerate the furtherance of the country's local content objectives.

Sector-specific legislation prescribes general and specific offences which may be punishable by fines and/or imprisonment in the event of non-compliance with the relevant local content requirements. In addition, regulators may refuse to grant licences or suspend or revoke a licence issued under the applicable regulation in the event of non-compliance.

We have highlighted below a few key sectors in which investors should keep in mind local content requirements when evaluating their investments into Tanzania.

ICT

- There are no local shareholding requirements in the telecommunication sector in Tanzania except in the case of a content services licensee that is required to have a minimum of 51% of its shares held by Tanzanian citizens.

Insurance

- Insurers (including reinsurers) must have at least one-third of their controlling interest, in terms of shares, paid-up capital and voting rights, held by Tanzanian citizens.
- Brokers must have at least two-thirds of their controlling interest in terms of shares, paid-up capital and voting rights, held by Tanzanian citizens.
- One-third of the members of the board of an insurance company must be Tanzanian citizens.
- The director, controller, manager or principal officer who handles the day-to-day management of the company must be resident in Tanzania.



Mining

- In any mining operations under a mining licence or a special mining licence, the Government will have not less than 16% non-dilutable free carried interest shares in the capital of a mining company, depending on the type of minerals and the level of investment. In addition to the free carried interest shares, the Government will be entitled to acquire, in total, up to 50% of the shares of the mining company commensurate with the total tax expenditures incurred by the Government in favour of the mining company, subject to certain conditions being met.
- A special mining licence for mining gemstones cannot be granted to a non-citizen unless the licence is held by that person in undivided participating shares with Tanzanian citizens whose undivided participating shares may not amount to less than 25%.
- A primary mining licence for any mineral may only be issued to Tanzanian citizens, partnerships which are exclusively composed of Tanzanian citizens, and companies whose members (who must be Tanzanian citizens) exercise control over the company (both direct and indirect) from within Tanzania.
- The Mining (Local Content) Regulations provide that a non-indigenous Tanzanian company that intends to provide goods or services to a contractor, a subcontractor, a licensee, the entity

to be established or designated as such for purposes of holding Government mineral assets, or another allied entity within Tanzania, is required to incorporate a joint venture company with an indigenous Tanzanian company. That indigenous Tanzanian company must be afforded an equity participation interest of at least 20%.

- An indigenous Tanzanian company is defined as a company incorporated under the Companies Act that has at least 20% of its equity owned by a citizen or citizens of Tanzania and has Tanzanian citizens holding at least 80% of executive and senior management positions and 100% of non-managerial and other positions.
- Under the Mining (Local Content) Regulations, the minimum local content for any mining activity at the management level is 30% at the start, 50% to 60% in 5 years and up to 70% to 80% in ten years.

Oil and gas

- In the oil and gas sector, licensees, contractors and subcontractors are required to give preference to goods and services that are manufactured or locally available in Tanzania. A local company is defined under the Petroleum (Local Content) Regulations as a company or subsidiary company incorporated under the Companies Act, which is 100% owned by a Tanzanian citizen, or a company that is in a joint venture partnership with a Tanzanian citizen or citizens whose participating share is not less than 15%.

Under the Petroleum (Local Content) Regulations, the local content requirement to be attained in petroleum activity at the management level is 10% at the start, 15% after 5 years and 25% in 10 years.

Shipping

- Miscellaneous port services licences may only be issued to local companies. The Licensing Rules define a 'local company' to mean a company registered in Tanzania and solely owned by Tanzanian citizens.
- A company is eligible for a shipping agency licence if, among other reasons, it is incorporated under the Companies Act in which 60% or more of the share capital is held by citizens of Tanzania.

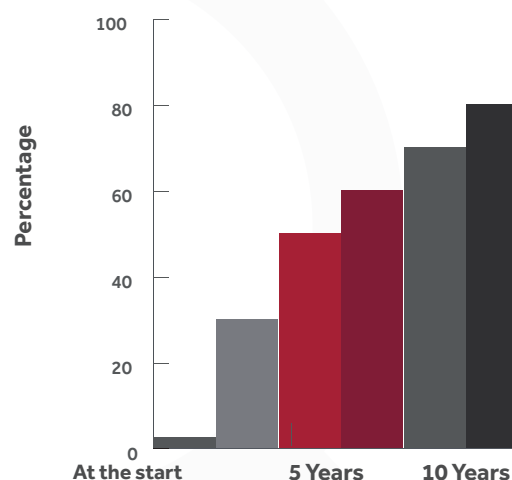


Fig 3: Local content requirement to be attained in petroleum activity at the management level

Employment

Tanzania is generally considered to be an employee-friendly jurisdiction from a legal perspective. There are several nuanced issues in which the written law deviates from the practice and accordingly the risk of employment-related disputes tends to be on the higher side. Employers are encouraged to prioritise procedural and substantive compliance.

Employment of Foreign Nationals

Between 2015 and 2021, the employment of foreign nationals in Tanzania was heavily regulated, making it extremely difficult for expatriates to obtain work and resident permits.

As part of the Sixth Phase Government's commitment to improve the investment environment, significant steps have been taken to not only ease the application process by migrating it fully online, reducing response times and with the final outcome recorded in a single e-permit card, but to increase the duration for which an expatriate can be employed and to relax certain quotas that were in place.

There are ongoing reporting requirements which foreign investors need to comply with, but overall, the process for hiring and retaining foreign nationals as employees in country has materially eased up.

- Expatriates under an employment class of permit can work for a single employer for up to 8 years (as opposed to 5 years before) and it can be further extended at the discretion of the authorities, on application requesting the same.
- Investors registered with the TIC or the EPZA are authorised to employ up to ten non-citizens, without being subjected to any conditions under the laws (i.e. it functions like an automatic grant), save for the requirement to pay prescribed fees. Previously there was a provision for 5 automatic grant permits, however, in practice they were still subject to the qualification and other requirements under the laws, which meant that they were not in fact automatic grants.
- The above mentioned quota of automatic grants does not preclude the investor from employing other non-citizens provided that such employment complies with the employment ratio of one non-citizen to ten local employees and the investor has satisfied the Labour Commissioner that the nature of his business demands such number of non-citizens.

For foreign investors seeking to obtain investor status permits, there are minimum investment requirements. Additional information is available at <https://epermit.kazi.go.tz/web/main/guidelines>.



Overall, the process for hiring and retaining foreign nationals as employees in Tanzania has materially eased up.

Trade Unions

The Constitution protects the freedom of association and employment laws grant employers and employees the right to establish, join and participate in trade union activities. Trade unions have the right to elect their representatives, organise activities and programmes, handle labour disputes, promote membership benefits, formulate, modify, and close down collective bargaining agreements as well as arrange industrial action including strikes and lockouts.

An employer is not allowed to interfere in a trade union's affairs. An employer may deduct union dues from the wages of union members provided written consent to such deduction is obtained from the union member. An employer is prohibited from discriminating against its employees on the basis of union affiliation or participation in union activities.

Types of Contracts

The Tanzanian employment laws recognise three types of employment contracts:

- i. contracts for a specified period (fixed term contracts) for professionals and managerial cadre employees;
- ii. contracts for unspecified period (permanent contracts); and
- iii. contracts for specific tasks.



Hours of Work, Social Security and Leave

- **Probation:** up to 12 months.
- **Hours of Work:** 6 days in a week not exceeding 45 hours a week and 9 hours in any day with a 1 hour break time.
- **Overtime:** for an employee to work overtime in Tanzania, the law requires for there to be an agreement between an employer and employee. Accordingly, those in senior management positions typically do not have overtime arrangements. An agreement between an employer and employee to work overtime should however not require an employee to work more than 12 hours in a day.
- **Social Security:** for private sector employment, the National Social Security Fund requires an employer to deduct from an employee's gross salary the amount of contribution not exceeding 10% of the employee's salary. The employer adds the remaining balance to make the required contribution rate of 20%.
- **Retirement Age:** 60 years

Employees who have worked for more than 6 months are entitled to 28 paid leave days, including public holidays and weekends.

Other forms of leave include:

- **Sick leave:** the permitted sick leave is 126 days in any leave cycle. Upon presentation of a medical certificate to the employer, an employee is entitled to full salary payment in the first 63 days of the sick leave and half salary for the remaining 63 days.
- **Maternity:** every female employee is entitled to 84 days paid maternity leave/100 days paid maternity leave if she gives birth to more than one child at the same time and an additional 84 days paid maternity leave within the leave cycle if the child dies within a year of birth.
- **Paternity:** 3 days and it is upon proof of paternity.
- **Medical Insurance:** not mandatory.

Protection of Fundamental Rights:

- **Child Labour:** generally, prohibited under the age of 14 years; children with the age between 14 and 18 years may only be employed to do light work, which is not likely to be harmful to their health and development.
- **Prohibition of forced labour:** it is an offence to procure, demand or impose forced labour.
- **Prohibition of discrimination:** an employer is required to promote equal opportunity and eliminate discrimination in the workplace.
- **Freedom of association:** employers and employees have the right to form and join a trade union and to participate in lawful activities of the trade union.

Termination of Employment

Termination of employment, provided that it is procedurally and substantively fair, can be undertaken through:

- termination by agreement;
- automatic termination;
- termination by the employee; or
- termination by the employer.

Managing Misconduct in the Work Place

The employer is required to put in place disciplinary policies and procedures that establish the standard of conduct required of their employees and the corresponding actions to be taken in the event of a disciplinary misconduct. There are specific procedures under the law for termination on the grounds of incompetence, incapacity, incompatibility and poor work performance.

Termination on Operational Grounds (Layoffs/ Retrenchment)

Tanzanian law allows termination for operational requirements based on the economic, technological, structural or similar needs of the employer. It is a termination based on reasons beyond the control of the employer or unforeseeable by the employer (meaning no fault on the part of the employer).

The procedure is extensive and should be carefully followed. Some of the key steps required by the employer include to:

- issue a notice of intention to retrench, as soon as it is contemplated;
- disclose all relevant information on the retrenchment;
- consult with the employees or their representatives prior to retrenchment on the following:
 - i. the reasons for the intended retrenchment;
 - ii. any measures to avoid or minimise the intended retrenchment;
 - iii. the method of selection of the employees to be retrenched;
 - iv. the timing of the retrenchment; and
 - v. the payment of dues in respect of the retrenchments.

Employee Dues

On termination by the employer, an employee is entitled to be paid unpaid salary for the work done, accrued leave, due annual leave, severance pay (unless the employee is terminated on the grounds of misconduct), salary payment in lieu of a notice (if applicable), repatriation allowance (where applicable) and any other claims that the employee had in the course of his employment such as overtime.

Severance accrues at a rate of 7 days for every year worked and is capped at 10 years. The employer is further required to issue a Certificate of Service to the employee.

Dispute Resolution

The initial forum for formally resolving employment disputes in Tanzania is the Commission for Mediation and Arbitration (CMA). An aggrieved party from the CMA's decision may seek revision before the High Court (Labour Division) and finally appeal to the Court of Appeal of Tanzania.



Land Ownership

All land in mainland Tanzania is public land and remains vested in the President as a trustee for and on behalf of all citizens of Tanzania. Foreigners seeking to occupy land in Tanzania can only do so for investment purposes and subject to certain procedures and terms and conditions.

- **Categories of Land**

Land in Tanzania falls into the following categories:

- reserved land (land that is set aside under various laws for various purposes, including forests, national parks, highways and hazardous land reserved for public purposes);
- village land (land within an area declared to be a village and is managed by the Village Council, in which a customary right of occupancy (CRO) may be issued to the villagers. A Right of Occupancy (RO) or a derivative right to occupy and use land may only be granted over village land after conversion of the village land to general land); or
- general land (being all remaining land, in respect of which a certificate of a RO can be issued. A derivative right to occupy and use general land may be created out of the RO).

- **Land Titles:** The following land titles are available in Tanzania:

- Customary Right of Occupancy (CRO) - means a right to occupy and use land under a long term lease of either 33, 66 or 99 years which is granted by a village council;
- General Right of Occupancy (GRO) - means a right to occupy and use land under a long term lease of either 33, 66 or 99 years which is granted by the President over general land or reserved land, for a period up to but not exceeding 99 years. A RO is the highest form of land tenure in Tanzania and effectively constitutes a 99-year lease from the Government; and
- Derivative Right - means the right to occupy and use land created out of a RO and includes a lease, a sub-lease, a licence, a usufructuary right and any interest analogous to those interest.

- **Restrictions on Foreign Investors:** Although foreign investors are not prohibited from leasing land, they are prohibited from owning land in Tanzania unless such land is for investment purposes and is obtained through the TIC in conjunction with The Ministry of Lands Housing and Human Settlements Development.

- **Definition of Foreigners:** For the purposes of land ownership, "a foreigner" is defined as: (a) an individual who is not a citizen of Tanzania; (b) a body corporate whose shares are not at least more than 50% owned by Tanzanian citizens; or (c) by convention, a foreign body corporate which is not incorporated in Tanzania.

- **Foreign Ownership of Land Through TIC:** Since 2012, foreigners are granted Derivative Rights through registration of a specific project with the TIC. The relevant thresholds for the projects are an investment of at least USD 500,000 for a foreign investor and USD 50,000 for a local investor. The Derivative Right effectively constitutes a lease from the Government for a term that is usually 1 year less than the unexpired term of the underlying GRO issued by the Ministry of Lands to the TIC.

- **Restrictions on Derivative Titles:** Derivative titles can be mortgaged and they can also be transferred, provided that the TIC approves any such mortgages and transfers. Foreign investors are generally free to occupy the land and utilise it for the specific project; provided that the reporting requirements with TIC met and that any material changes to the project are approved by TIC, given that the land was allocated for a specific investment purpose.

- **Restrictions on Mortgages:** The proceeds of a loan that is secured by a mortgage over land in Tanzania are subject to certain restrictions. If the land is undeveloped or not developed in accordance with the conditions attaching to the right of occupancy, the loan proceeds must be used to develop the mortgaged land. Accordingly, undeveloped or underdeveloped land cannot be used to provide third party security.



Intellectual Property

Intellectual Property includes copyrights, patents, trademarks, and industrial designs. Intellectual properties in Tanzania are governed by the:

- i. Trade and Service Marks Act [Cap 326 R.E 2002]; and
- ii. Copyright and Neighbouring Rights Act [Cap 218 R.E 2002] (the Copyright Act).

Tanzania is a member of WIPO – World Intellectual Property Organisation (The Paris Convention for the Protection of Industrial Property) (the Paris Convention) and is a contracting party to various treaties recognising intellectual property rights. Tanzania is also a member to the Paris Convention of 20 March, 1983 for the protection of Industrial property. Intellectual Property registration is done by the BRELA through its online portal, BRELA Online Registration System. Tanzanian citizens and foreigners (including corporate entities) can apply to BRELA to register their intellectual property in Tanzania.

Literary and artistic works are protected under the Copyright Act through the Copyright Society of Tanzania (COSOTA). Authors of original works in which literary and artistic works shall be entitled to copyright protection for their works include in particular:

- books, pamphlets and other writings, including computer programs;
- lectures, addresses, sermons and other works of the same nature;
- dramatic and dramatico - musical works;
- musical works (vocal and instrumental), whether or not they include accompanying words;
- choreographic works and pantomimes;
- cinematographer works, other and audio-visual works;
- works of drawing, painting, architecture, sculpture, engraving, lithography and tapestry;
- photographic works including works expressed by processes analogous to photography;
- works of applied art, whether handicraft or produced on an industrial scale; and
- illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science.

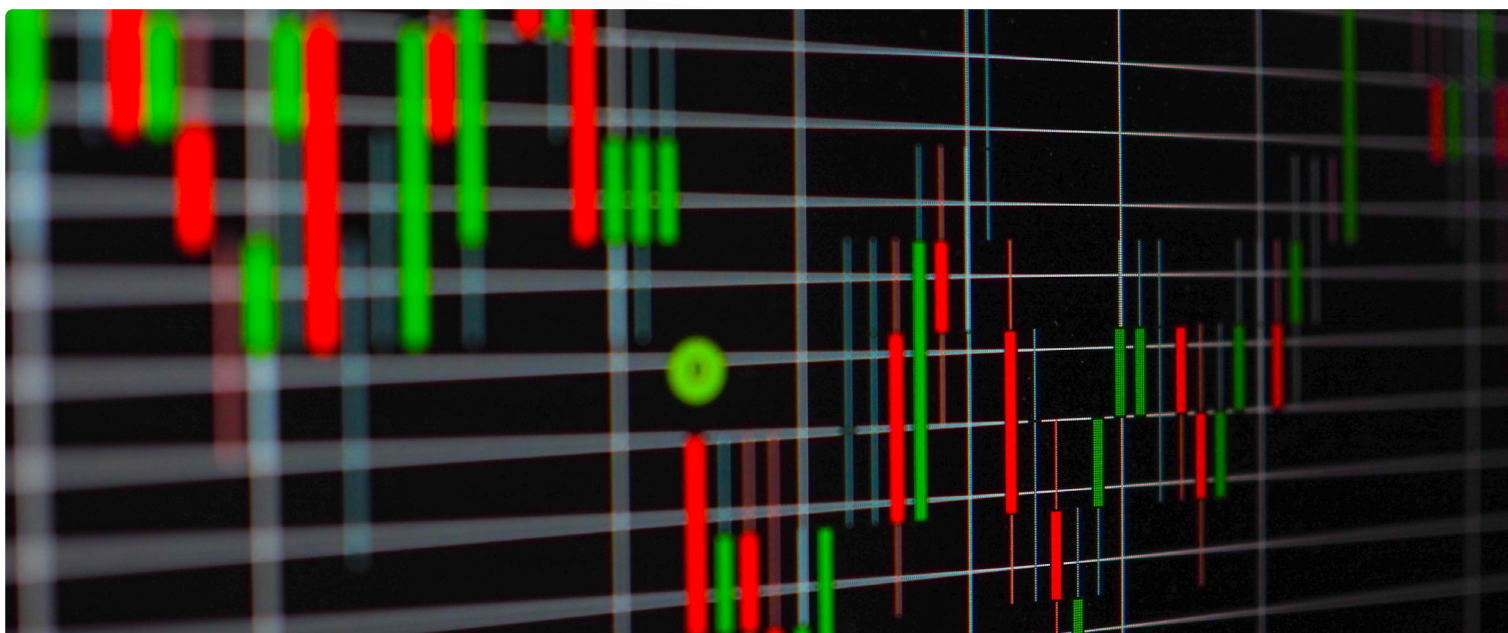


Tanzania is a member to the Paris Convention of 20 March, 1983 for the protection of industrial property.

Capital Markets and Securities

The Dar es Salaam Stock Exchange (DSE) became operational in 1998. As of July 2022, the securities being traded include Ordinary Shares of 28 listed companies, 4 corporate bonds and 8 government bonds. The DSE has 2 market segments: the Main Investment Market Segment caters for large companies while the Enterprise Growth Market Segment also known as the DSE SME's Acceleration Segment (DSAS or Endeleza Project) which caters for medium sized growth-oriented companies.

There is no limit for foreigner participation in shares of listed companies, save for Government securities. Once invested, there is a lock-in period of 6 months before a foreign investor is allowed to exit. Foreigners can invest 100% in Corporate Bonds and those who are residents of a member of the EAC can invest in Government securities. However, the total amount of government securities acquired by residents from the EAC cannot exceed 40% of the issued securities. The Capital Markets and Securities Authority (CMSA) is the primary regulatory body mandated with overseeing capital markets and securities related matters in Tanzania.



Mandatory Listing Requirements

Telecommunications/ICT - The holder of a network facilities and/or network services licenses is required to list with the Dar es Salaam Stock Exchange and issue 25% of its shareholding to the general public through a public offer. The listing requirement would not apply to:

- i. network facilities or network services license wholly owned by the Government; or
- ii. network facilities or network services license in which the Government owns 25% shares or more; or
- iii. network facilities license for the lease of towers.

Mining - The Mining (Minimum Shareholding and Public Offering) Regulations require that the holder of a special mining licence must have 30% of the total issued and paid-up shares held by Tanzanians and the local shareholding must be obtained through a public offer under the Dar es Salaam Stock Exchange. Companies exempted from this requirement are those that have entered into an agreement with the Government that provides for non-dilutable free carried interest shares in the capital of a mining company and an economic benefits-sharing arrangement.

Substantial Acquisitions, Takeovers and Mergers

There are regulations in place which apply to all offers for substantial acquisitions, takeovers or mergers, concerning or affecting public and listed companies in Tanzania. The regulations set out specific shareholding thresholds and definitions of persons acting in concert, which once triggered result in the potential acquisition, takeover or merger, concerning or affecting the public and listed company coming under the remit of the listing rules set out in the regulations and requiring compliance with the public notice and mandatory offer requirements.

Foreign investors should be aware that there are certain interpretational difficulties in relation to the legal framework which applies to listed companies in the substantial acquisition, takeover and merger context, as well as more generally.

These challenges coupled with little precedent on such matters in the courts, makes it even more important to seek appropriate advice and confirmations from the regulator, where applicable.

Corruption

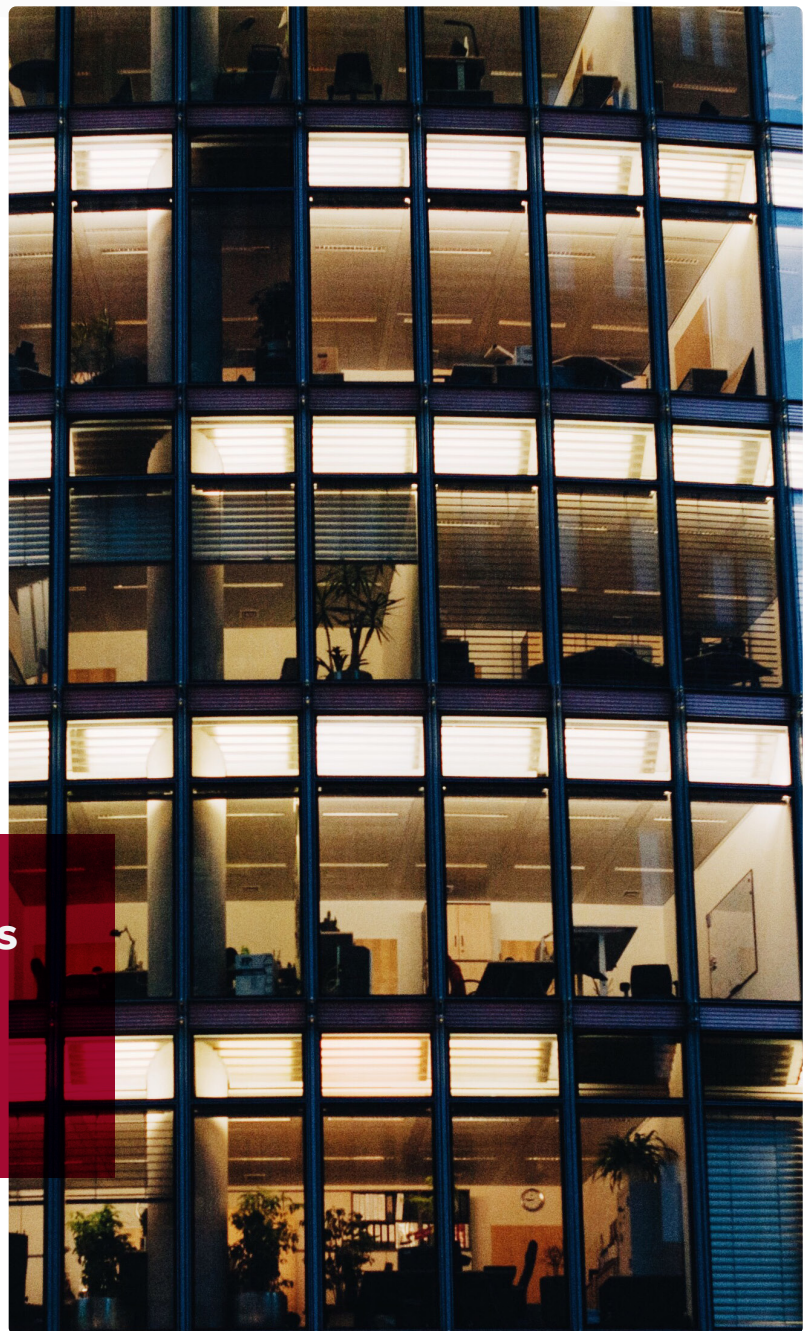
The Prevention and Combating of Corruption Act, [Cap. 329 R.E 2019] (the PCCA) makes it an offence for any person to offer an advantage to a public official as an inducement to, or reward for, or, otherwise on account of such public official's giving assistance or using influence in or having given assistance or used influence to assist in the promotion, execution, or procuring of any contract. Corruption investigation and prosecution is undertaken by the Prevention and Combating of Corruption Bureau (the PCCB).

The PCCA imposes a duty to every person who is or becomes aware of the commission of or the intention by another person to commit an offence under the PCCA to give information to the PCCB. Further, the PCCA extends its application to apply to a person who commits any act or omission constituting an offence. Therefore, failure to report to the commission or an intention to commit any offence under the PCCA may also constitute an offence.

The PCCB requires a matter to be reported orally or written or through any means of communication. Where the matter is reported orally, it will be reduced into writing and the informant will be required to sign the report. The PCCA and the PCCB do not indicate clearly or set a timeline for reporting corruption matters but require a person to report to the PCCB once they become aware.

The rationale for reporting under the PCCA is to enable the PCCB to initiate appropriate measures in order to prevent or combat corruption. It is only when the PCCB is satisfied that there is an offence that it will institute a criminal case upon obtaining the consent from the Director of Public Prosecution.

The PCCB requires that matters be reported orally, in writing or through any means of communication.



Anti-trust

Tanzania is not a party to the Common Market for Eastern and Southern Africa (COMESA) and therefore only the EAC merger control regime (which is currently inactive) and the domestic Tanzanian and Zanzibari merger control regimes apply to relevant M&A activity in the certain jurisdictions. For the purposes of this overview, we have focused on the Tanzanian Mainland regime.

Domestic merger control regimes

The relevant legislation under the domestic merger control regime is the Fair Competition Act (2003) in relation to mainland Tanzania (the FCA). The authority is the Fair Competition Commission (the FCC).

Pursuant to the Fair Competition (Threshold for Notification of a Merger) (Amendment) Order 2017 (GN No. 222) of the FCA which came into effect on 2 June 2017, the current pecuniary threshold for seeking the FCC's approval under the FCA is TZS 3.5 billion (approx. USD 1.5 million) which is determined by reference to the combined market value of assets or turnover of the merging parties with reference to the latest audited financial statements of the merging parties.

The FCC adopts a very broad interpretation of their own jurisdiction and apply low pecuniary thresholds to merging parties. This means that transactions which would not typically be subject to the merger control regimes of other jurisdictions may require the approval of the FCC prior to their conclusion/implementation.

Fees

The fees payable to the FCC for filing an application for a merger approval are calculated on a sliding scale basis and by reference to the combined market value of assets or turnover of the merging parties as set out in their latest audited accounts, whichever is higher. For merging parties with an annual turnover:

- i. of TZS 3.5 billion (approx. USD 1.5 million) to TZS 25 billion (approx. USD 11 million), the fee is TZS 25 million (approx. USD 11,000);
- ii. exceeding TZS 25 billion (approx. USD 11 million) but less than TZS 100 billion (approx. USD 43.5 million), the fee is TZS 50 million (approx. USD 22,000); and
- iii. of TZS 100 billion (approx. USD 43.5 million) or above, the fee is TZS 100 million (approx. USD 43,500).

Timelines

The timelines for obtaining FCC approval can, as a matter of statute, take up to 139 days. However, these timelines vary considerably between cases and depending on factors such as the complexity of the transaction and the FCC's caseload at the time.

Within 5 working days after receiving a merger notification, the FCC will issue a notice of either complete filing or incomplete filing depending on the completeness of the information provided. The FCC have 14 calendar days to complete their review but they may, within the 14 calendar day period, determine that the merger requires further consideration and in such cases the FCC will inform

the applicant in writing to extend the review period for a further 90 calendar days.

The FCC may further extend the merger review period for a further 30 calendar days at its discretion. In practice, however, a merger review and investigation by the FCC would typically take between 45 to 60 calendar days.

After completing the investigation and consideration of the merger, the FCC will approve the merger, approve the merger subject to conditions or declare the merger prohibited.

Sanctions for non-compliance with domestic merger control regimes

The penalty for a failure to seek approval for a notifiable merger for an approval under the FCA is a fine of between 5% and 10% of an entity's annual turnover which is referable to mainland Tanzania. Further, the FCC can issue a compliance order at any time within 3 years after the merger requiring the acquirer to dispose of some or all of the shares or assets of the target entity within such time as the FCC specifies in the order or declaring the acquisition to be void, requiring:

- i. the acquirer to transfer some or all of the shares or assets back to the seller; and
- ii. refund to the acquirer some or all of the sale proceeds, as the FCC specifies in the order.

Unfair trade practices

The FCA also regulates prohibited practices and specifically prohibits certain horizontal restrictive practices (unlawful conduct between competitors). The FCA prohibits any agreement (an arrangement or understanding, formal or informal and written or unwritten) that has the object, effect or likely effect of appreciably preventing, restricting or distorting competition, including:

- i. price-fixing between competitors;
- ii. collective boycott by competitors;
- iii. restricting output between competitors; and
- iv. collusive bidding or tendering.

Section 71 of the FCA empowers the FCC to summon any person who it believes is able to provide information in relation to such prohibited practices, produce a document or give evidence to assist the FCC in an investigation.



Any person who commits an offence under the FCA in respect of prohibited practices is liable to a fine ranging from 5% to 10% of the offender's annual turnover referable to mainland Tanzania.

The FCA also empowers the FCC to issue compliance and compensatory orders. In addition, if the FCC is satisfied that a monetary value can reasonably be placed on the damage, including loss of income suffered by a person as a result of an offence under the FCA, the convicted person may be liable to a fine of twice such monetary value, which the FCC may order to be paid to the person suffering the damage.

Where a person charged with an offence under the FCA is a corporate entity, every person who, at the time of the commission of the offence, was a director, manager or officer of the corporate entity, may be charged jointly in the same proceedings with such corporate entity.

Where the corporate entity is convicted of the offence, every such director, manager or officer shall be deemed to be guilty of that offence unless he or she proves that the offence was committed without his or her knowledge or that he or she exercised all due diligence to prevent the commission of the offence.

Consumer Protection

Consumer protection legislation in Tanzania is contained primarily in the Fair Competition Act, the Law of Contract Act (LCA) and the Sale of Goods Act. The LCA regulates contracts and extra-contractual liability. The FCA defines the standard of goods permissible for supply and sale and the liability of manufacturers, suppliers, sellers or their agents for product defects which cause loss or damage to consumers. Misleading conduct in relation to the advertisement or supply of goods and services is also prohibited, and there are several terms implied into consumer contracts for the protection of consumers.

The FCA implies numerous conditions in contracts for the supply of goods; there is an implied warranty that goods supplied by description correspond with that description. Goods supplied to consumers in the course of business carry an implied warranty of merchantability as well. Furthermore, the Standard Form (Consumer Contracts) regulations, 2014 requires all standard forms of contracts to be registered by the Fair Competition Commission.

The Government has also imposed consumer protection provisions in various pieces of legislation to protect consumers and the general public at large against health hazards and counterfeit products, among others.

For example, through the BOT, there are the Bank of Tanzania (Financial Consumer Protection) Regulations, which impose obligations on all financial providers in the country to have fair business practices to the consumer when selling financial products and services.

Through the Tanzania Bureau of Standards there are measures to ensure quality control of a wide range of products and services including those related to food and cosmetics, and the Tanzania Medicines and Medical Devices Authority regulations for the quality, safety and effectiveness of medicines, medical devices, diagnostics, biocidals and tobacco products.

The Government has imposed consumer protection provisions in various pieces of legislation to protect consumers and the general public against health hazards and counterfeit products, among others.



Data Protection

In December 2022, Tanzania enacted a single and dedicated data protection legislation, as it previously did not have a comprehensive data protection law in force.

The objectives of the Personal Data Protection Act are: (a) to establish the basic principles regarding the protection of personal data with the intention to provide the minimum requirements for the collection and processing of personal data; (b) to establish the Data Protection Commission; (c) to reinforce the protection of personal data processed by the government and private institutions; and (d) to provide for other related matters.

Personal data is defined as any information relating to an identified or identifiable natural person kept by any means, including name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social or social identity.

The Act sets out, among other things, the fundamental rights of the data subjects, licensing requirements and the requirements for data controllers to appoint personal data protection officers, and the procedures to deal with complaints related to violation of personal data and the right to privacy.

There are also heavy penalties for the infringement of personal data and the right to privacy for both natural and legal persons.



Legal System and Dispute Resolution

The Tanzanian legal system is based on English common law, Tanzanian statutes, Tanzanian case law, Islamic law, Tanzanian customary law and certain international conventions that have been incorporated into Tanzanian law. Tanzanian statutes take precedence over Tanzanian case law and customary law. English common law only applies where there is an absence of Tanzanian statutes, case law and/or customary law. Islamic law only applies in matters of marriage and succession to Tanzanians of the Islamic faith, while customary law typically applies to matters of ancestral land ownership and inheritance.

The Court hierarchy begins from the Primary Court as the lowest court followed by the Resident Magistrate's Court and District Court which have concurrent jurisdiction with only the District Court receiving appeals from the Primary court. The High Court has several divisions each dealing with a distinct matter such as Labour Division dealing with labour related matters, Commercial division dealing with commercial matters and Land division dealing with land matters. If a party is aggrieved by the decision of The High Court, such party can then appeal to The Court of Appeal.

Tribunals on the other hand have been formed to deal with matters in certain specific sectors and are in various districts in all regions in Tanzania, for example, there are District Land and Housing Tribunals which deal with land matters with lower values and Tax Tribunals & the Tax Appeals Tribunals.

A party who feels dissatisfied or is aggrieved with any decision of the Tribunals may refer the same to the High Court depending on the sector involved.

Enforcement of Foreign Judgment

Tanzanian courts uphold judgments of foreign courts on a reciprocal basis pursuant to the Reciprocal Enforcement of Foreign Judgements Act, Cap 8, R.E. 2019 (the Tanzania Foreign Judgements Act 2019). The Tanzania Foreign Judgements Act 2019 lists the jurisdictions that have a reciprocal agreement in place with Tanzania. These are: Botswana, Lesotho, Mauritius, New South Wales, Seychelles, Somalia, Sri Lanka, Swaziland (now known as Eswatini), United Kingdom, Zambia and Zimbabwe.

Tanzanian courts will, however, not enforce a foreign judgment if its performance would be illegal or contrary to public policy or unenforceable under the laws of the jurisdiction in which the judgement is issued. Where a judgment seeking to be enforced is from a jurisdiction not listed amongst the jurisdictions in respect of whose judgments are enforceable on a reciprocal basis under the Tanzania Foreign Judgements Act 2019, a new action must be instituted in the courts in Tanzania in order to secure an enforceable judgment from the Tanzanian courts. Any judgment obtained in such a jurisdiction will only be admissible as evidence in support of the plaintiff's action. To enforce a judgment from these jurisdictions, an application must be made to the High Court to have the judgment registered. The application must be made at any time within 6 years after the date of judgment.

International Agreements and The New York Convention

Tanzania is a member of several international organisations formed to help protect investment. Any dispute arising between the Government and investors may be settled amicably through negotiations or may be submitted for arbitration under the international agreements listed below:

- i. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, which entered into force on 7 June 1959 (also known as the New York Convention);
- ii. The Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 1965, which entered into force on 14 October 1966;
- iii. The Convention establishing the Multilateral Investment Guarantee Agency of 1985, which entered into force on 12 April 1988; and
- iv. The Paris Convention for the Protection of Industrial Property of 1883, revised at various time, amended in 1979 and signed by Tanzania in 1994.

Tanzania ratified the New York Convention on 12 January 1965. However, it has never been incorporated into municipal law. According to Article 63 of the Constitution, the National Assembly is charged with deliberating on and ratifying all treaties and agreements to which the United Republic of Tanzania is a party to; and the provisions of such treaty require ratification.

Therefore, given that treaties signed and ratified by Tanzania only become law in Tanzania after they are passed by an act of Parliament, the Convention is not binding. However, as set out below, the Arbitration Act provides that upon application in writing to the court, a foreign arbitral award shall be recognised as binding and enforceable subject to the court being satisfied that certain conditions regarding capacity and due process have been met.

Language of the Laws

In 2021, Kiswahili was declared as the official language of the laws of Tanzania and the language to be used in the administration and dispensation of justice. There has been inconsistent application of this amendment, as some laws are being issued in English and others in Kiswahili. The Sixth Phase Government is working to ensure that investors have access to laws drafted in English and can use English as the primary language in relation to any disputes or other matters concerning their investments in Tanzania.

The New Arbitration Act

The Government of Tanzania repealed the Arbitration Act [Cap. 15 R.E 2002] and replaced it with a new Arbitration Act No. 2 of 2020. In addition, the Arbitration (Rules and Procedure) Regulations G.N No. 146 of 2021 (which govern the way arbitration proceedings are to be conducted) were enacted.

The Arbitration Act has also introduced the establishment of the Tanzania Arbitration Centre (the Centre). The Centre has various functions including conducting and managing arbitration, providing facilities and assistance for the conduct of domestic and international arbitration, and registering and maintaining a list of accredited arbitrators.

According to the Arbitration Act, and subject to certain sector specific restrictions on foreign governing law and dispute resolution (e.g., natural wealth and resources and port matters), arbitration can be domestic or foreign depending on the seat or place of arbitration and the governing law. The arbitration process entails the following:

- i. appointment of the arbitrator;
- ii. notice of arbitration;
- iii. arbitration sessions;
- iv. issuance of the arbitral award; and
- v. registration of the award as judgment and decree of the court.

Foreign Arbitral Awards

The Arbitration Act provides that upon application in writing to the court, a foreign arbitral award shall be recognized as binding and enforceable subject to the court being satisfied that certain conditions regarding capacity and due process have been met.

A court may not enforce an award if the party it is rendered against provides evidence that:

- i. the parties to the agreement lacked capacity to enter into the agreement;
- ii. it was not properly represented or given notice of the appointment of the arbitrator or arbitral proceeding; or
- iii. the making of the arbitral award was induced or affected by fraud, bribery, corruption or undue influence.

Sovereign immunity

Tanzania has not signed the United Nations Convention on Jurisdictional Immunities of States and their Property (2004) which addresses issues of sovereign immunity.

However, the Government Proceedings Act, Cap 5 [R.E. 2002] (the GPA) provides that the Government shall be subject to all proceedings relating to liabilities in contract to which it would be subject to if it were a private person of full age and capacity.

The GPA also provides that any claim arising from a third party may be enforced against the government in accordance with the GPA.



Tax

The Tanzania Revenue Authority (TRA) is a Government Agency of the United Republic of Tanzania responsible for, among others, monitoring and ensuring the collection of fees, levies, charges or any other tax collected by any Ministry, Department or Division of the Government as revenue for the Government, promoting voluntary tax compliance to the highest degree possible, determining the steps to be taken to counteract fraud and other forms of tax and other fiscal evasion, monitoring, overseeing, coordinating activities and ensuring the fair, efficient and effective administration of revenue laws by revenue departments in the jurisdiction of the Union Government.

Taxes and charges administered and collected by the TRA are Income Taxes that include, Corporate Tax, Individuals, Pay As You Earn (PAYE), Skills Development Levy (SDL), other Withholding Taxes, Value Added Tax (VAT), Import Duty, Excise Duty, Stamp Duty, Airport Service Charge, Port Service Charge, Motor Vehicle Registration, Transfer Tax, Property Rate, Fuel Levy, Petroleum Levy, Tourism Development Levy, Railway Development Levy, and Motor Vehicle Driving License Fee.

In light of recent economic developments and the growing demand for infrastructure and social services, Tanzania has introduced administrative measures aimed at streamlining, modernising and improving efficiencies in its tax system.

The Government also continues to focus on promoting investments in the key economic sectors which are agriculture, manufacturing, mining, tourism, oil and gas and economic infrastructure.

To promote investment in these key economic sectors, the Government is working to remove barriers to investment, restore investors' confidence, and allow the private sector to participate effectively.



Tax Type	Rate Applicable
Corporate Income Tax	<ul style="list-style-type: none"> Corporate income tax is charged at 30% on taxable income for Tanzanian companies and branches. Branches are also taxed at 10% on deemed repatriated income, which mirrors withholding tax at 10% on dividends declared by Tanzanian tax resident subsidiaries. <p>A reduced corporate income tax rate applies to the following:</p> <ul style="list-style-type: none"> Newly listed corporation to the Dar es Salaam Stock Exchange, with at least 30% of its equity ownership issued to the public for 3 consecutive years from the date of listing (25%). A corporation with a newly established plant for assembling motor vehicles, tractors, fishing boats or out boat engines and having a performance agreement with the government for the first 5 years from the commencement of production (10%). A newly established entity dealing in the manufacture of pharmaceuticals or leather products and having a performance agreement with the Government shall be taxed at a reduced corporate rate for 5 consecutive years from the year of commencement of production (20%).
Alternative Minimum Tax	<ul style="list-style-type: none"> 0.5% of an annual turnover of an entity making tax losses for 3 consecutive years (excluding entities undertaking agricultural, business, health or education).
VAT	<ul style="list-style-type: none"> VAT is charged on taxable supplies and imports made to Tanzania at the rate of 18%. VAT at 18% is also charged on a supply of digital services by a non-resident service provider. Exports of goods and certain services are charged VAT at 0%. Supply of ancillary transport services of goods in transit through Tanzania are charged VAT at 0%. VAT exemption applies on a supply of certain goods and services, e.g., financial services, medicine or medicine or pharmaceutical products, food, crops and livestock supplies, health care, educational supplies, veterinary supplies, crude oil Petroleum products, computers, diary equipment, gaming supply, solar panels, modules, solar charger controllers, solar inverter, vacuum tube solar collectors and solar battery etc. VAT exemption also applies to the importation of certain goods, such as; <ol style="list-style-type: none"> goods imported by a registered and licensed explorer or prospector for the exclusive use in oil, gas or mineral exploration or prospection activities to the extent that those goods are eligible for relief from customs duties under the East African Customs Management Act, 2004; importation of CNG plants equipment, natural gas pipes, transportation and distribution pipes, CNG storage cascades, CNG special transportation vehicles, natural gas metering equipment, CNG refuelling of filling, gas receiving units, flare gas system, condensate tanks and leading facility, system piping and pipe rack, condensate stabiliser by a natural gas distributor; and an importation of certain machinery by a local manufacturer of pharmaceutical for exclusive use in manufacturing pharmaceutical products in Tanzania.
Custom duties	<ul style="list-style-type: none"> Import duty is charged on goods imported to Tanzania under the East Africa Community (EAC) Customs Management Act unless exempted therein. Import duty is computed as an ad valorem rate on customs value (CIF i.e. cost, insurance and freight). The import duty rate is dependent on the nature of the goods as described in the EAC Customs External Tariff (CET) Code. The EAC's Customs Union Partner States have agreed on a three band CET at the following rates: 0% for raw materials, capital goods, agricultural inputs, certain medicines and medical equipment; 10% for half-finished goods which are to be used for further production; and 25% for finished products. A list of the relevant rates for specific goods is set out in the EAC CET Code, which uses the HS system of classification for various products.

Tax Type	Rate Applicable
Excise Duty	<ul style="list-style-type: none"> Excise Duty is a duty charged on specific goods manufactured locally or imported on varying rates. Excise duty is also charged on various services such as electronic communication, pay-to-view television, money transfer and payment service etc. The duty is charged based on specific or ad valorem rates. Specific rates apply to goods such as spirits, wine, beer, fruit juices, soft drinks, mineral water, recorded DVD, VCD, CD and audio tapes, cigarettes, tobacco, petroleum products and Natural gas. Ad valorem rates varying from 0% to 50% apply to money transfer services, electronic communication pay-to-view pay to view television services, imported furniture, motor vehicles, plastic bags, specified aircraft, firearms, specified cases, cosmetics and medicaments.
Stamp Duty	<ul style="list-style-type: none"> Stamp duty is charged on various instruments listed on the first schedule to the Stamp Duty Act e.g., transfer of shares, lease agreement, loan agreements, conveyance etc.
City Service Levy	<ul style="list-style-type: none"> City Service Levy is charged at 0.3% of an annual turnover of a Company/Branch and paid to municipals.
Capital Gain Tax	<ul style="list-style-type: none"> Capital Gain Tax (CGT) is charged on a gain derived from realisation of an investment assets, including, shares in a resident entity, interest in land, petroleum or mineral rights, buildings and concessional right on reserved. non-residents pay CGT at 20% on gains from realisation. residents pay CGT at 10% on gains from realisation.
WHT	<ul style="list-style-type: none"> WHT is charged on payments made by a Tanzanian resident person at the rate of 2% to 15% (please see further details below).
Employment taxes	<ul style="list-style-type: none"> A resident employee is taxed on worldwide income, while a non-resident employee is taxed on income sourced in Tanzania. Resident individuals are taxed on a sliding scale with a marginal rate of 30%, whereas non-residents are taxed at a flat rate of 15%. Skills and development levy is payable by the employer at 5% of cash emoluments paid to employees. The National Social Security Fund (NSSF) requires social security contributions to be paid by the employer at 20% of an employee's gross salary. However, the employer has the right to recover up to 10% of the employee's salary. Employers are required to contribute 0.6% of an employee's monthly gross salary to the Workers Compensation Fund.
Digital Service Tax	<ul style="list-style-type: none"> Digital Services Tax (DST) was introduced by the Finance Act, of 2022. DST is charged at 2% on payments made by a Tanzanian individual to a non-resident service provider of digital services through a digital marketplace.
Money Transfer and Withdraw Transactions Levy	<ul style="list-style-type: none"> A levy of TZS 10 to TZS 4,000 is charged on money transfer and withdrawal transaction.

Capital Deductions

A tax deduction is allowed for capital expenditure in the form of a depreciation allowance. Fixed and intangible assets that are owned and employed wholly and exclusively in the production of business income are grouped into eight depreciation classes with specific depreciation rates for the purpose of computing wear and tear allowance.

The basic rates vary from a 5% straight line for buildings (Class 6) to 37.5% diminishing value for computers, certain automobiles and construction and earthmoving equipment (Class 1). Software and other intangible assets are categorised under class 7 and granted a tax deduction based on the useful life of the assets in the pool.

There are accelerated allowances for assets in the first year of use in particular sectors (e.g., equipment used for prospecting and exploration of minerals or petroleum, plant and machinery used in agriculture (100%), manufacturing and tourism at 50%.

Withholding Tax

The following table sets a list of some of the payments that are subject to WHT and their WHT rates.

Description of Payment	Rate for Resident	Rate for Non Resident
Dividends from DSE listed corporations	5%	5%
Dividends to a company controlling 25% or more of the shares in the company	5%	N/A
Dividends (others)	10%	10%
Interest	10%	10%
Royalties	15%	15%
Management Fees	15%	15%
Directors' fees (non-full time)	15%	15%
Rental Income	10%	15%
Technical services fees (mining)	5%	15%
Insurance Premium	N/A	5%
Natural Resources Payment	15%	15%
Service Fees	5%	15%
Directors Fee (non-full time Directors)	15%	15%

Tax Losses

Resident entities are allowed to carry tax losses indefinitely, save where there is a change in underlying ownership of the resident entity by more than 50%.

There is also a ringfencing of tax losses in which (i) losses from agricultural business can only be offset against profits derived from agricultural business, (ii) losses from one mining licence area can only be offset against profits from the same mining licence area (iii) losses from one petroleum licence area can only be offset against profits from the same petroleum licence area (iv) foreign-source losses can only be offset against foreign-source profits (v) losses on investments can only be offset against investment income (vi) foreign-source losses on investments can only be offset against foreign-source investment income (vii) losses incurred on speculative transactions can only be offset against income derived from speculative transactions.

Transfer Pricing

The ITA requires transactions between related parties to be conducted at arm's length. A person engaged in a related party transaction is required to prepare contemporaneous transfer pricing (TP) documentation and file it with the TRA.

Failure to prepare and file a TP documentation will result in a penalty of TZS 52 million (approx. USD 23,000).

Thin Capitalisation

A company is said to be thinly capitalised when its capital is made up of a much greater proportion of debt than equity. The total amount of interest that an entity may deduct under its total income is limited to the interest portion in respect of a debt that does not exceed a 7:3 debt-to-equity ratio. Interest payments above the debt equity ratio of 7:3 will not be deductible for tax purposes.

Change in underlying ownership

A change in underlying ownership of a Tanzanian entity triggers a deemed realisation of the assets and liabilities of the Tanzanian entity. In this case, the Tanzanian entity is considered to have sold its assets and liabilities. Any gain derived from the deemed sale would be subject to income tax at 30% on the Tanzanian entity.

A notification to the TRA would be required to be made to the TRA before and after the change in underlying ownership.

Tax Incentives

Refer to the Investment Incentives section on page 12.

Tax Disputes

Tax disputes in Tanzania arise from a tax decision issued by the Commissioner General of the TRA (the Commissioner). The tax dispute process requires a person aggrieved by a tax decision made by the Commissioner to file an objection against the decision to the Commissioner within 30 days of receipt of the decision. Tax decisions include assessments, or other decisions or omissions on a matter left to the discretion, judgment, direction, opinion, approval, consent, satisfaction or determination under tax law.

A person aggrieved by an objection decision of the Commissioner can file an appeal against the decision to the Tax Revenue Appeals Board (TRAB). The appeal to the TRAB is filed within 45 days from the date of service of the final determination of an assessment of tax or any other decision by the Commissioner. However, the person

will also be required to file a notice of appeal to the Commissioner within 30 days from the date of service of the final determination of assessment of tax or any other decision by the Commissioner.

A person who is still aggrieved by the decision of the TRAB may file an appeal to the Tax Revenue Appeals Tribunal ("TRAT") within 30 days from the date of the decision of the TRAB. A notice of intention to appeal the decision of the TRAB will be required to be filed within 14 days from the date of the TRAB's decision.

The last appellate option for a person aggrieved by the decision of the TRAT is the Court of Appeal. A notice of intention to appeal will need to be filed within 14 days from the date of the TRAT's decision.

Double Tax Treaties

Tanzania has nine double tax treaties, which are with Canada, Denmark, Finland, India, Italy, Norway, South Africa, Sweden and Zambia.

Bilateral Investment Agreements

Tanzania has signed Bilateral investment agreements (BITs) with the Governments of Germany, Italy, Finland, the Netherlands, United Kingdom, Sweden, Denmark, Canada, Switzerland, Thailand, China, Turkey, Mauritius, and Switzerland.

Tanzania is also a member of the Multilateral Investment Guarantee Agency (MIGA), the International Centre for Settlement of Investment Disputes (ICSID) and is a signatory to the United Nations Commission on International Trade Law (UNCITRAL).





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