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# OECD Investment Policy Reviews: Tanzania 2013

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# *Foreword*

The *Investment Policy Review* of *Tanzania* is one of five reviews carried out in member states of the Southern African Development Community (SADC) on the basis of the OECD Policy Framework for Investment (PFI). Undertaken by the NEPAD-OECD Africa Investment Initiative with the support of USAID, it reflects the growing co-operation between the OECD and its African partners.

The *Review* is the result of a self-assessment undertaken by a national task force composed of government agencies, the private sector and civil society established by the government of Tanzania and headed by the Prime Minister's Office (PMO). The review follows on the request addressed by the Permanent Secretary of the PMO to the OECD Secretary-General in May 2011.

The process has engaged over twenty stakeholder groups at highest levels of administration – including nine ministries, as well as investment authorities, implementing agencies, and diverse private-sector bodies – in responding to the PFI questionnaire. These agencies also regularly participated in all-stakeholder meetings as well as in several bilateral fact-finding sessions over 2011-2013. The findings of the *Review* were first presented to all stakeholders and discussed in depth in Dar es Salaam in September 2012, under the chairmanship of former PMO Permanent Secretary Peniel Lyimo. Stakeholder meetings to gather additional comments on individual chapters were subsequently organised by key institutions directly involved in the relevant policy areas, namely the Tanzania Investment Centre, the Ministry of Agriculture, Food Security and Cooperatives, and the Tanzania Private Sector Foundation. Based on these inputs, the document was revised by OECD Secretariat, and was then considered by key stakeholders from the public and private sector at a closing workshop organised by the Prime Minister's Office on 15 March 2013. Finally PMO officials presented and discussed findings of the *Review* with OECD Delegates and African ambassadors in Paris, on the occasion of the March 2013 meeting of the OECD Advisory Group on Investment and Development.

This *Review* has been prepared by Carole Biau and Coralie David under the supervision of Karim Dahou, Executive Manager of the NEPAD-OECD Africa Investment Initiative in the Investment Division of the OECD Directorate for

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Financial and Enterprise Affairs. The report has benefited from inputs by Mike Pfister and Hélène François in the Division, and by Earnán O'Cleirigh in the OECD Development Co-operation Directorate. The views contained within do not necessarily represent those of NEPAD member governments.

# Table of contents

Preface by Dr. Florens M. Turuka, Permanent Secretary, Prime Minister's Office, United Republic of Tanzania . . . . 9
Preface by Mr Rintaro Tamaki, Deputy Secretary-General, OECD . . . . 11

**Abbreviations and acronyms** . . . . 13

**Executive summary** . . . . 19

*Chapter 1.* **Overview of progress and policy challenges in Tanzania** . . . . 23
1.1. Policy context . . . . 24
1.2. Foreign and domestic investment trends . . . . 31
1.3. Main policy challenges . . . . 35
1.4. Policy options to prioritise . . . . 42
1.5. Secondary policy options . . . . 48
References . . . . 53

*Chapter 2.* **Investment policy in Tanzania** . . . . 55
2.1. Steps taken to simplify the investment regime . . . . 56
2.2. Principle of non-discrimination on laws relating to investment . . . . 60
2.3. Steps taken to improve land ownership registration . . . . 66
2.4. Protection of Intellectual Property Rights . . . . 71
2.5. Guarantees against unlawful expropriation . . . . 76
2.6. International and regional co-operation in the promotion and protection of investment . . . . 77
2.7. Contract enforcement and Alternative Dispute Settlement systems . . . . 82
References . . . . 86

*Chapter 3.* **Investment promotion and facilitation in Tanzania** . . . . 89
3.1. Investment promotion and facilitation strategy . . . . 90
3.2. Establishment of an investment promotion agency . . . . 98
3.3. Benchmarking and monitoring of the Investment Promotion Agency . . . . 100

3.4. Streamlining administrative procedures and managing dialogue among the overnment, the IPA and investors . . . . . . . 104
3.5. Investment incentives and their evaluation . . . . . . . . . . . . . . . . . 111
3.6. Promoting investment linkages and SME development . . . . . . . 129
References . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 144

*Chapter 4.* **Infrastructure investment policy in Tanzania** . . . . . . . . . . . . . 147
4.1. Overview of the state of key infrastructure sectors . . . . . . . . . . . 149
4.2. Infrastructure investment in national development plans . . . . 169
4.3. Enabling environment for private investment . . . . . . . . . . . . . . 173
4.4. Competition in infrastructure provision . . . . . . . . . . . . . . . . . . . . 186
4.5. Public sector capacity and end-user consultation . . . . . . . . . . . . 190
4.6. Regulation and performance management to meet end-user needs . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 195
4.7. Financing for infrastructure development . . . . . . . . . . . . . . . . . . 201
References . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 206

*Chapter 5.* **Promoting sustainable investment in Tanzania's agriculture** . . . 211
5.1. Context . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 212
5.2. Investment policy and promotion in agriculture . . . . . . . . . . . . . 231
5.3. Sectoral policies encouraging investment in agriculture . . . . . . 259
5.4. Responsible investment in agriculture . . . . . . . . . . . . . . . . . . . . 291
Notes . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 302
References . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 303

## Tables

1.1. Ten leading countries having registered investments with TIC over 1990-2012 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 32
3.1. Fiscal incentives provided for projects holding the TIC Certificate of Incentives, and additional incentives for "lead" and "priority" sectors* . . . . . . . . . . . . . . . . . 115
4.1. Selected infrastructure rankings in the GCR 2008/9-2013/14 . . . 148
4.2. State of trunk and regional road network as of June 2012 . . . . . 159
5.1. Gross value added in agro-processing, 2004-08 . . . . . . . . . . . . . . 229
5.2. Issues facilitated by the TIC . . . . . . . . . . . . . . . . . . . . . . . . . . . 233
5.3. Land use . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 236
5.4. Disputes at District Land and Housing Tribunals . . . . . . . . . . . . . 250
5.5. Irrigated area, 2001-2010 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 266
5.6. Irrigated area in selected countries, 2001-2010 . . . . . . . . . . . . . . 267
5.7. Loan distribution by sector, 2008-12 . . . . . . . . . . . . . . . . . . . . . . 275

## Figures

1.1. Annual GDP growth, 1995-2012 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 26
1.2. Strong performance of manufacturing and services in upholding real GDP growth, 2006-2012 . . . . . . . . . . . . . . . . . . . . 27
1.3. FDI Inflows into Tanzania, 1992-2011 . . . . . . . . . . . . . . . . . . . . . . . . . 32
1.4. FDI inflows as a percentage of Gross Fixed Capital Formation, 1990-2011 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 33
1.5. Gross Fixed Capital Formation as a percent of GDP, 1990-2012. . . . 34
3.1. The most problematic factors for doing business in Tanzania, 2013-2014 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 93
3.2. Tanzania Roadmap, July 2010-March 2012 Implementation by Sub-sectors . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 94
4.1. Reduction in hydropower production, leading to increased oil import dependency . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 150
4.2. Telephone subscriptions in Tanzania, 1998-2012 . . . . . . . . . . . . . . . 155
4.3. Tanzania Railways Freight Volume, 2004-2011 . . . . . . . . . . . . . . . . 157
4.4. Rising Cargo Traffic at Dar es Salaam Port, 2004-2012 . . . . . . . . . . . 164
4.5. Progression in air traffic at main airports, 2004-2012. . . . . . . . . . . . 166
4.6. Budget allocations for infrastructure spending, FY 2012-2013 & 2013-2014 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 171
4.7. Sources of procurement spending in Tanzania based on PPRA audits, 2011 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 184
5.1. Total public expenditures in support of agriculture, 2006-11 . . . . . 218
5.2. Composition of public expenditures in support of the food and agriculture sector, 2006-11 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 219
5.3. Annual GDP growth of agricultural sub-sectors, 2000-2008. . . . . . . 222
5.4. GDP share of agricultural sub-sectors, 2000-2009. . . . . . . . . . . . . . . 222
5.5. Growth in agricultural production, 1990-2010. . . . . . . . . . . . . . . . . . 223
5.6. Food self-sufficiency ratio per region, 2010-11 . . . . . . . . . . . . . . . . . 223
5.7. Food crop production, 1991-2010. . . . . . . . . . . . . . . . . . . . . . . . . . . . 224
5.8. Cash crop production, 1996-2009 . . . . . . . . . . . . . . . . . . . . . . . . . . . 224
5.9. Meat production, 1994-2009. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 225
5.10. Live animals, 1971-2009 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 225
5.11. Agricultural investment and share of agriculture in total investment and in GDP, 1997-2011 . . . . . . . . . . . . . . . . . . . . . . . . . . 227
5.12. Investment value per agricultural sub-sector, 1997-2012 . . . . . . . 228
5.13. Number of investment projects in agriculture by origin, 1997-2011. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 230
5.14. Investment value per origin country/region of the company, 1997-2012. . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 230

5.15. Perceived obstacles to agricultural growth, 2011 . . . . . . . . . . . . . . 233
5.16. Cultivated land areas, 1990-2009. . . . . . . . . . . . . . . . . . . . . . . . . . . 237
5.17. Area harvested per food crop, 1991-2009 . . . . . . . . . . . . . . . . . . . . 237
5.18. Registering property, 2011 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 246
5.19. Use of chemical fertilisers in selected countries, 2003-09. . . . . . . 260
5.20. Getting credit in selected African countries, 2013 . . . . . . . . . . . . . 276
5.21. Labour productivity in agriculture in selected
African countries, 1990-2010 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 281
5.22. Cereal yields in selected African countries, 1990-2010 . . . . . . . . . 285
5.23. Agricultural R&D spending, 1996-2008 . . . . . . . . . . . . . . . . . . . . . . 287
5.24. Agricultural R&D intensity ratios, 1996-2008. . . . . . . . . . . . . . . . . . 287
5.25. Export value of major exported cash crops, 2003-10 . . . . . . . . . . . 289
5.26. Export value of major exported food crops, 2003-10 . . . . . . . . . . . 289
5.27. Time to export and import, 2011 . . . . . . . . . . . . . . . . . . . . . . . . . . . 290
5.28. Costs of trade, 2011 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 290

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# *Preface by Dr. Florens M. Turuka, Permanent Secretary, Prime Minister's Office, United Republic of Tanzania*

In recent years, the Government of the United Republic of Tanzania has implemented various socio-economic reforms with a view to improve the business environment and investment climate in the country. The main objective of such interventions is to make Tanzania an increasingly attractive, robust and viable investment destination for both domestic and foreign investors. The ultimate goal is to ensure that Tanzania achieves higher rates of inclusive economic growth commensurate to her competitive advantage in terms of abundant natural resources as well as strategic geographical location as a logistical hub to the rest of the continent, which provides investors with access to regional and global markets. Furthermore, Tanzania has enjoyed uninterrupted peace, political stability and tranquillity since independence. These key attributes, coupled with the existence of robust institutions for investment promotion and facilitation, have contributed to making Tanzania's investment climate unique and increasingly attractive.

Fostering more domestic and foreign investment in Tanzania features high on the Government's priorities. This is a crucial ingredient for the achievement of the objectives of the Five-Year Development Plans, and the goal of becoming a middle-income country as stipulated in the Tanzania Development Vision 2025. Towards this end, Tanzania has also been undertaking sectoral and macro reforms to streamline the ease of doing business and investing. For instance, in 2010, the Government adopted the Roadmap for Improvement of Business Environment and Investment Climate. The Government has also launched the "Big Results Now" initiative in 2013, which seeks to enhance the results delivery in energy, transport, agriculture, water, education and resource mobilisation. An improved investment climate is a necessary condition to boost productivity and growth in productive and economic services sectors, with the broad outcome of creating jobs and reducing poverty. Tanzania, like many other countries, has also innovatively put in place an enabling policy, legal and institutional framework to attract the private sector in designing,

building, financing, managing and operating public goods and services; the framework which is vital to lessen budgetary constraints associated with financing the same.

Despite taking a number of broad reforms to improve the business environment and investment climate, Tanzania continues to face several challenges in investment climate, especially vis-à-vis her regional and international partners. It is in this context that the Government of the United Republic of Tanzania requested the support of the Organisation for Economic Co-operation and development (OECD) in self-assessing the prevailing investment policy framework against global best practices. This evaluation was undertaken over the past two years in an interactive manner, engaging a wide range of stakeholder groups, including Ministries, Departments and Agencies, Investment Authorities and diverse Private Sector Institutions. Several stakeholder meetings were held in Dar es Salaam to discuss policy recommendations, and the Review's findings were presented at the meetings of the OECD Investment and Development Assistance Committees held at the OECD headquarters in Paris.

This inclusive process has generated considerable momentum on investment policy reforms in Tanzania. Looking ahead, the Investment Policy Review will feed valuable inputs into the revision of the National Investment Promotion Policy (1996), the Tanzania Investment Act (1997) and sectoral policies, with the main goal to broaden and streamline investment regime at all levels. The Government of the United Republic of Tanzania looks forward to further co-operation with the OECD and all other stakeholders in implementing the policy recommendations. I take this opportunity to extend my inner heart appreciations to OECD and all stakeholders for the valuable contributions that has made this publication a success.

Dr. Florens M. Turuka
Permanent Secretary
Prime Minister's Office

# *Preface by Mr Rintaro Tamaki, Deputy Secretary-General, OECD*

Tanzania is currently one of the strongest performers of the non-oil-producing countries in Sub-Saharan Africa with a Gross Domestic Product (GDP) growth that has exceeded 6% for ten consecutive years and stood at 6.9% for 2012-13. Domestic and foreign private investment has significantly risen over the last two decades as Tanzania has steadily improved its investment environment and striven to increase opportunities for foreign and domestic investors, notably by opening to international trade and investment and liberalising its financial sector. In 1996, the National Investment Promotion Policy opened most sectors to foreign and private participation.

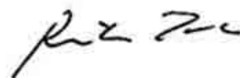
This *Investment Policy Review* illustrates the important progress made by the government of Tanzania in improving its investment climate over recent years. It highlights major initiatives and specific policy measures undertaken as well as areas that need further reforms to attract more and better investment, both domestic and foreign.

The existing legal framework for investment, notably the Tanzania Investment Act of 1997, has played a significant role in enhancing domestic and foreign investment. The establishment of the Tanzania Investment Centre in 1997 has also facilitated business set up. However, significant challenges remain, especially as concerns the land legislation and its implementation, access regulations for foreign investors in some sectors, the award of investment incentives, the protection of intellectual property rights and access to long-term financing. The regulatory framework for investment also suffers from inadequate co-ordination on investment policy within the civil service. Better channelling private investment toward infrastructure represents another central challenge – demand and access gaps continue to grow in Tanzania, not only for private investors but also for the domestic population at large. In addition the enabling infrastructure for production, transport, processing and marketing is not integrated in a multi-modal manner, which reduces investment opportunities, raises input costs, and hampers the competitiveness of domestic firms.

The *Review* recommends policy options to respond to these challenges. Among other measures, attracting more and better investment will require: accelerating land registration; rationalising investor rights and obligations and publicise them; increasing competition in infrastructure provision and enhancing the independence of infrastructure regulators; enhancing channels for public-private dialogue; and reinforcing measures for promoting and assessing investment opportunities.

The commitment and ownership demonstrated by the government of Tanzania throughout the review process has been remarkable. While the OECD is responsible for the content of the *Review*, it reflects contributions from many levels of the government of Tanzania from conception to completion. It also further illustrates Tanzania's commitment to reform, which the OECD and its partners will continue to support at both national and regional levels.

In addition, as the 14 SADC member states have requested the NEPAD-OECD Africa Investment Initiative to assist the Southern African Development Community (SADC) in developing a Regional Investment Policy Framework, the results of the *Investment Policy Review of Tanzania* should feed into this regional process. The government of Tanzania can play a key role in sharing its specific experiences on investment policy design and implementation, and thereby help work towards co-ordinated improvement of investment policy across SADC member countries. By adding to the momentum for investment policy reform in Tanzania, this *Investment Policy Review* should also contribute to increasing the competitiveness of the country – and of the SADC region as a whole – for attracting investment.



Mr Rintaro Tamaki,
Deputy Secretary-General, OECD

# Abbreviations and acronyms

| | |
|---|---|
| **ACT** | Agricultural Council of Tanzania |
| **ADR** | Alternative Dispute Resolution |
| **AGITF** | Agricultural Input Trust Fund |
| **ARIPO** | African Regional Industrial Property Organisation |
| **ASLM** | Agriculture Sector Lead Ministries |
| **ASDP** | Agricultural Sector Development Programme |
| **ASDS** | Agricultural Sector Development Strategy |
| **ASTI** | Agricultural Science and Technology Indicators |
| **ATE** | Association of Tanzania Employers |
| **BEST** | Business Environment Strengthening Programme for Tanzania |
| **BITs** | Bilateral Investment Treaties |
| **BoT** | Bank of Tanzania |
| **BRELA** | Business Registration and Licensing Agency |
| **BRN** | Big Results Now Initiative |
| **CAADP** | African Union's Comprehensive African Agriculture Development Programme |
| **CAG** | Controller Auditor General |
| **CCRO** | Certificate of Customary Right of Occupancy |
| **CHC** | Consolidated Holding Corporation |
| **CMSA** | Capital Markets and Securities Authority |
| **COMFAR** | Computer Model for Feasibility Analysis and Reporting |
| **COSOTA** | Copyright Society of Tanzania |
| **COSTECH** | Commission for Science and Technology |
| **COWSO** | Community Owned Water Supply Organisation |
| **CRO** | Customary Right of Occupancy |
| **CSR** | Corporate Social Responsibility |
| **CTI** | Confederation of Tanzanian Industries |
| **DADP** | District Agricultural Development Plan |
| **DAWASCO** | Dar es Salaam Water and Sewerage Company |
| **DLO** | District Land Officer |
| **DRD** | Department of Research and Development of the MAFSC |

| | |
|---|---|
| **DTTs** | Double Taxation Treaties |
| **EABC** | East Africa Business Council |
| **EAC** | East African Community |
| **EIA** | Environmental Impact Assessment |
| **EMA** | Environmental Management Act |
| **EPZ** | Export Processing Zone |
| **EPZA** | Export Processing Zones Authority |
| **ESRF** | Economic and Social Research Foundation |
| **EU** | European Union (EU25) |
| **EWURA** | Energy and Water Utilities Regulatory Authority |
| **FAO** | Food and Agriculture Organisation |
| **FCC** | Fair Competition Commission |
| **FDI** | Foreign Direct Investment |
| **FET** | Fair and Equitable Treatment |
| **FFS** | Farmer Field School |
| **FSDT** | Financial Sector Deepening Trust |
| **FSSR** | Food Self-Sufficiency Ratio |
| **FY** | Fiscal Year |
| **FYDP** | Five Year Development Plan |
| **GDP** | Gross domestic Product |
| **GFCF** | Gross Fixed Capital Formation |
| **GRO** | Granted Right of Occupancy |
| **ICSID** | International Centre for the Settlement of Investment Disputes |
| **ICT** | Information and Communication Technology |
| **IFMS** | Integrated Financial Management Systems |
| **IIDS** | Integrated Industrial Development Strategy 2025 |
| **IIRT** | International Investors Round Table |
| **ILO** | International Labour Organisation |
| **IMF** | International Monetary Fund |
| **IPR** | Investment Policy Review |
| **IP** | Intellectual Property |
| **IPTL** | Independent Power Tanzania Ltd |
| **LA** | Land Act No. 4 of 1999 |
| **LDC** | Least Developed Country |
| **LIRT** | Local Investors Round Table |
| **LGA** | Local Government Authority |
| **LGRP** | Local Government Reform Programme |
| **LPI** | Logistics Performance Index |
| **LUPA** | Land Use Planning Act No. 6 of 2007 |

| | |
|---|---|
| **MAFAP** | Monitoring African Food and Agricultural Policies (MAFAP) project |
| **MAFSC** | Ministry of Agriculture, Food Security and Cooperatives |
| **MDA** | Mining Development Agreement |
| **MDG** | Millennium Development Goal |
| **MKUKUTA** | National Strategy for Growth and Reduction of Poverty<br>*Mkakati wa Kukuza Uchumi na Kupunguza Umaskini Tanzania* |
| **MKURABITA** | Property and Business Formalisation Programme<br>*Mpango wa Kurasimisha Rasilimali na Biashara za Wanyonge Tanzania* |
| **MFI** | Microfinance Institution |
| **MFN** | Most Favoured Nation |
| **MIGA** | Multilateral Investment Guarantee Agency |
| **MITM** | Ministry of Industry and Trade |
| **MIVARF** | Marketing Infrastructure Value Addition and Rural Finance Programme |
| **MLFD** | Ministry of Livestock and Fisheries Development |
| **MNE** | Multinational Enterprise |
| **MOFEA** | Ministry for Finance and Economic Affairs |
| **MoL** | Ministry of Lands and Human Settlements |
| **MOW** | Ministry of Water |
| **MSME** | Micro, Small and Medium Enterprise |
| **NACSAP** | National Anti-corruption Strategy and Action Plan |
| **NBC** | National Bank of Commerce |
| **NDC** | National Development Corporation |
| **NEMC** | National Environment Management Council |
| **NEP** | National Environmental Management Policy of 1997 |
| **NIPP** | National Investment Promotion Policy |
| **NIPS** | National Investment Promotion Strategy |
| **NISC** | National Investment Steering Committee |
| **NKRA** | National Key Results Areas |
| **NGO** | Non-Governmental Organisation |
| **NLUPC** | National Land Use Plan Commission |
| **NT** | National Treatment |
| **NTP** | National Transport Policy |
| **ODA** | Official Development Assistance |
| **OECD** | Organisation for Economic Co-operation and Development |
| **PADEP** | Participatory Agricultural Development and Empowerment Project |
| **PMO** | Prime Minister's Office |

| | |
|---|---|
| **PMO-RALG** | Prime Minister's Office, Regional Administration and Local Government |
| **PPA** | Public Procurement Act |
| **PPRA** | Public Procurement Regulatory Authority |
| **PSRC** | Presidential Parastatal Sector Reform Commission |
| **RBC** | Responsible Business Conduct |
| **R&D** | Research and Development |
| **REA** | Rural Energy Agency |
| **RFB** | Tanzania Road Fund Board |
| **RUBADA** | Rufiji Basin Development Authority |
| **SACCOS** | Savings and Credit Cooperative Society |
| **SADC** | Southern African Development Community |
| **SAGCOT** | Southern Agricultural Growth Corridor of Tanzania |
| **SEZ** | Special Economic Zone |
| **SGFSRP** | Second Generation Financial Sector Reform Programme |
| **SIDO** | Small Industries Development Organization |
| **SMEs** | Small and Medium-sized Enterprises |
| **SPILL** | Strategic Plan for the Implementation of the Land Laws |
| **SUMATRA** | Surface and Marine Transport Regulatory Authority |
| **TAA** | Tanzania Airport Authority |
| **TADB** | Tanzania Agricultural Development Bank |
| **TAFSIP** | Tanzanian Agriculture and Food Security Investment Plan |
| **TAHA** | Tanzanian Horticultural Association |
| **TANESCO** | Tanzania Electric Supply Company Ltd |
| **TANROADS** | Tanzania National Roads Agency |
| **TCAA** | Tanzania Civil Aviation |
| **TBS** | Tanzania Bureau of Standards |
| **TCCIA** | Tanzania Chamber of Commerce, Industry and Agriculture |
| **TIA** | Tanzania Investment Act (1997) |
| **TIC** | Tanzania Investment Centre |
| **TFDA** | Tanzania Food and Drugs Authority |
| **TMAA** | Tanzania Mineral Audit Agency |
| **TNBC** | Tanzanian National Business Council |
| **TNC** | Transnational Corporation |
| **TPSF** | Tanzania Private Sector Foundation |
| **TRA** | Tanzania Revenue Authority |
| **TRIMS** | Trade-Related Investment Measures |
| **TRL** | Tanzania Railways Limited |
| **TRA** | Tanzania Revenue Authority |
| **TZS** | Tanzanian Shillings |

| | |
|---|---|
| **TSIP** | Transport Sector Investment Programme |
| **TTCL** | Tanzania Telecommunications Company, Ltd. |
| **UK** | United Kingdom |
| **UNCTAD** | United Nations Conference on Trade and Development |
| **UNIDO** | United Nations Industrial Development Organisation |
| **URT** | United Republic of Tanzania |
| **US** | United States |
| **USD** | United States Dollar |
| **VAEO** | Village Agriculture Extension Officer |
| **VAT** | Value Added Tax |
| **VLA** | Village Land Act No. 5 of 1999 |
| **WB** | World Bank |
| **WDI** | World Development Indicators |
| **WFP** | World Food Programme |
| **WIPO** | World Intellectual Property Organization |
| **WSDP** | Water Sector Development Programme |
| **WTO** | World Trade Organization |
| **WUA** | Water User Association |

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# Executive summary

Tanzania's legal regime for investment had opened up considerably to foreign investors by the mid-1990s with the passage of the 1996 National Investment Promotion Policy and the 1997 Tanzania Investment Act (TIA). The establishment of the Tanzania Investment Centre in 1997 was another stride in building a more efficient framework for business establishment. More recently, the *Government Roadmap for Improving the Investment Climate* was launched in 2009 with the stated aim of improving Tanzania's overall Doing Business ranking from three digits performance to two. Government has also sought to attract investment into specific sectors, including agriculture with the *Kilimo Kwanza* ("Agriculture First") strategy and the development of the Southern Agricultural Growth Corridor (SAGCOT). Government now plans to review its Investment Promotion Policy and Investment Act so as to tackle remaining challenges, which are manifold.

Tanzania's legal framework for investment remains complex, and to some extent outdated. The legal framework for international commercial arbitration needs updating. Land allocation and land dispute settlement mechanisms are complex and hinder private investment by both foreign and domestic investors. Clarity for investors is also limited as regulations on foreign investment by sector are dispersed over a variety of legal instruments. Tanzania's costly framework of investment incentives and export processing zones urgently needs rationalising as it is unclear that these schemes have generated the expected investment returns in the past. Better capacity and co-ordination within the civil service remains necessary to secure the effective enforcement and implementation of investment policy.

Investment facilitation and promotion should be strengthened, including by enhancing the communication with the private sector on investment opportunities and services. Further progress is needed in terms of: determining a precise and long-term investment strategy; streamlining investment promotion functions across different bodies; improving the statistical capacity of the Tanzania Investment Centre; better addressing the needs of small and medium enterprises; and increasing domestic investment linkages. Despite

efforts for facilitating public-private dialogue, some confusion also remains regarding the bodies that represent the private sector in its dialogue with the government.

The potential of infrastructure networks, not only as enablers for development and business but also as an attractive investment destination, is underexploited. Better channelling private investment toward infrastructure represents a central challenge. Private actors are deterred by persistent structural problems, including a dominant position of state-owned enterprises in infrastructure provision (especially in the power sector) and a poor track record for the privatisation and unbundling of infrastructure utilities. Inadequate infrastructure therefore continues to hinder business operations. Implementing recent reforms effectively to encourage private sector involvement in public infrastructure, and making infrastructure markets more competitive, are crucial to address the growing demand and access gaps for infrastructure.

While agriculture accounts for almost a quarter of GDP, small and large-scale investors in the sector face major constraints. A complex, long and costly land registration process leading to low land registration levels, the weak decentralisation of land management and overlapping government responsibilities result in weak land tenure security, notably for smallholders, thereby undermining sustainable agricultural investment. Agricultural producers and traders face limited access to credit and agricultural inputs and relatively high taxes. Tanzania's infrastructure gaps further constrain agricultural productivity and competitiveness. Finally, domestic and cross-border agricultural trade flows are hindered by weak administration capacities and regulatory restrictions that increase investor uncertainty.

## Key policy recommendations

### *Rationalise investor rights and obligations and make them easily accessible*

- Consider ways of centralising all provisions for the protection and obligations of investors within an expanded and clear law or within an Investment Code referring to all relevant legislations under a single umbrella. The forthcoming review of the TIA provides an opportunity for this.
- Establish a negative list of economic sectors in which foreign investment is restricted and/or domestic investors benefit from special preferences. This could be done as regulations to the TIA and should be regularly updated. Limits set to investment according to investor origin, capital

thresholds, geographic location and sector should be clearly stated and regularly evaluated.

- Move forward in the elaboration and roll-out of the National Intellectual Property Rights Strategy, including by strengthening enforcement mechanisms, spreading intellectual property awareness across the private sector and establishing a single dedicated body for intellectual property rights policy and enforcement.

### *Increase land tenure security for agricultural investors*

- Strengthen land management decentralisation by allowing local authorities that demonstrate strong governance to issue granted rights of occupancy and land rights for investment purposes for limited periods on village land while ensuring central government oversight. This would facilitate the involvement of local communities in the decision-making process and ensure more transparent land allocation decisions.
- Accelerate land rights registration by reducing the complexity, length and cost of the registration process, particularly by streamlining land management within one central institution and providing better equipment at all land administration levels.

### *Enhance private investment in public infrastructure*

- Increase competition in infrastructure provision, notably by considering further vertical and functional separation of infrastructure utilities in electricity but also in other sectors such as water or rail. Where privatisation attempts take place, the Consolidated Holding Corporation should be given more clout to channel complaints raised by privatised bodies to higher government levels.
- Empower regulatory authorities for infrastructure sub-sectors by increasing their independence and the capacity of their staff. These agencies should be able to reliably set infrastructure tariffs and regulate the behaviour of both private and public infrastructure providers.
- Move forward the simplification of the regulatory framework for public procurement and Public-Private Partnerships (PPPs), notably by finalising the merger of Tanzania's PPP Unit, strengthening its capacity, and undertaking small-scale "pilot" PPPs to familiarise the civil service with technicalities of PPP infrastructure projects.

### *Better promote and facilitate investment for both domestic and foreign firms*

- Strengthen investment data collection and the performance monitoring of investment policy. The statistical capacity of the Tanzania Investment Centre and other bodies (including the Bank of Tanzania and the National Bureau of Statistics) must be decisively improved so that investment policy is evaluated based on realised – not projected – investment projects.
- Accelerate and follow through with the revenue policies announced in 2012-13, which are expected to enhance procedures for revenue collection, improve tax laws, minimise tax incentives and exemptions and harmonise tax rates and levies. Investment incentives should additionally be streamlined and subjected to regular ex-ante and ex-post cost-benefit analysis. The costs and benefits of agricultural taxes and trade restrictions should likewise be carefully assessed.

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# *Chapter 1*

## Overview of progress and policy challenges in Tanzania

*Major economic reforms which have liberalised trade, enhanced the role of the private sector and led to the creation of Tanzania Investment Centre, have generated a steady GDP growth in Tanzania since 2000. Nevertheless, the regulatory framework for investment could be further improved, and investment incentives are not systematically evaluated. The investment regime could be further rationalised through strengthening of the Tanzania Investment Centre as a one stop shop to have full mandate for approval of investment permits. Tanzania still lacks adequate enabling infrastructure and the private sector does not actively participate in infrastructure development. Access to land can be a lengthy process for foreign and domestic investors alike, and land tenure remains insecure for smallholders. In addition, restrictions on agricultural trade hinder investment in agriculture. Informed by the subsequent chapters of this report, this overview provides policy options to address these challenges, in view of enabling Tanzania to attract higher investment and to potentially become a regional trade and investment hub.*

This *Investment Policy Review* aims to provide timely inputs into Tanzania's current policy reform process, including the revision of the National Investment Promotion Policy of 1996 and the associated Tanzania Investment Act of 1997. The *Review* focuses on four policy areas selected by the Office of the Prime Minister of Tanzania, namely: investment policy; investment promotion and facilitation; infrastructure development; and agriculture.

First, this overview provides a short description of the policy context for investment in Tanzania. Second, it summarises investment trends over the last two decades. Third, it identifies the main policy challenges faced by Tanzania to attract investment across all economic sectors. Finally, it provides policy options to address these challenges and to optimise the benefits of domestic and foreign investment.

## 1.1. Policy context

### *Three phases of economic reform following independence*

In the **first phase** from 1961 to 1967, Tanzania promoted the market economy it had inherited from colonial times. Economic policies considered the public sector as a source of support for private sector growth. To implement import substitution policies, investment programmes targeted capital intensive industrial sector and infrastructure projects and concentrated in urban areas. At the same time, government efforts focused on increasing agricultural productivity and raising living standards in rural areas. These policies had limited success, leading to a decline in foreign exchange reserves. The heavy focus on cash crops came at the expense of food crops and Tanzania became a food importing country.

The **second phase** from 1967 to 1983 started with the Arusha Declaration launching the African socialism programme ("Ujamaa"). Several major private companies were nationalised, decision-making processes centralised, prices and trade strictly controlled, and exports increasingly restricted. Two import-substitution industrialisation strategies were adopted to reduce trade dependency. In parallel, social services were highly subsidised and attracted heavy government investment

(Ngowi, 2009). On the downside, this socialist period encouraged a tenfold expansion of the number of parastatals, from 42 in 1967 to 425 in 1984, which captured considerable rents and stifled incentives for innovation and entrepreneurship. Although by 1993, public enterprises accounted for about 25% of non-agricultural employment, they were highly inefficient and only contributed to 13% of GDP (Cooksey, 2011). In 1981, the government introduced the National Economic Survival Plan to channel greater investment towards agriculture but it was short-lived and rapidly replaced by a structural adjustment programme in 1983 (Kent, 1996).

The **third phase** started in 1983 and continues today. The government liberalised trade under the second structural adjustment programme from 1986 to 1989. The Economic Recovery Programme and the Economic and Social Action Programme were devised with the IMF respectively in 1986 and 1998 and laid the groundwork for market reforms. Tanzania engaged in foreign exchange and investment deregulation, opening the country to international banks and introducing a "unified foreign exchange rate" over 1989-92. "Ujamaa" socialism was officially abandoned with the endorsement of the "Zanzibar Declaration" in 1991 and with the National Investment Promotion Policy and Investment Code of 1990 which established the Investment Promotion Centre (IPC, since replaced by the Tanzania Investment Centre). Entry restrictions were relaxed in most economic sectors. Import licensing and controls of foreign exchange rates, exchange rates, interest rates and prices were abolished (Cooksey, 2011).

From 1993 onwards, the government undertook civil service and **parastatal reform, privatising state monopolies**. The Presidential Parastatal Sector Reform Programme, followed by a Privatisation Master Plan, resulted in the divestiture of 336 public enterprises by 2010 (NAO, 2011). These processes were facilitated by the Public Procurement Acts (PPA) of 2001 and 2004, among other legal instruments. However 176 enterprises currently remain parastatal and privatisation has not always been successful (NAO, 2012). The textile industry largely collapsed following privatisation, as newly privatised firms were unable to compete with international players in liberalised macro-economic conditions. Small-scale economic actors particularly suffered – for instance small farmers were hurt by the price hikes resulting from privatising fertilizers' production (AFRODAD, 2007). In addition, certain privatised companies – including many infrastructure providers and companies in strategic industries, such as the State Mining Corporation STAMICO – have been re-possessed by the government in recent years. Despite the enactment of updated legislation

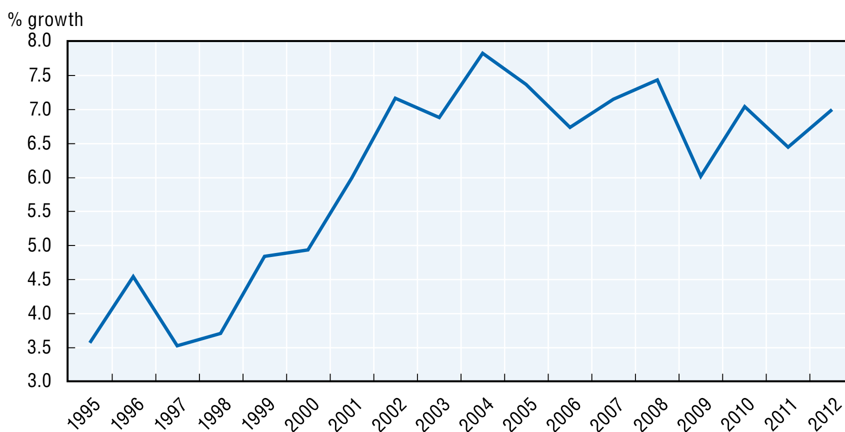
for private participation in the economy, Tanzania therefore still has a long way to go in terms of parastatal reform.

Nonetheless Tanzania's **current national strategies for economic reform** strongly emphasise the importance of encouraging private participation in the economy. Adopted in late 2010, the **Second National Strategy for Growth and Reduction in Poverty** (NSGRP) or MKUKUTA II (for the mainland), provides an operational framework for achieving the MDGs and Tanzania's Development Vision 2025 which aims to transform Tanzania into a middle-income country. It calls for enhancing the role of the private sector in generating economic growth and identifies agriculture as one of the central growth drivers (MoF, 2010). Since 2011 MKUKUTA has been complemented by the **National Five Year Development Plan I** (FYDP 2011/12 – 2015/16), the first of a series of three five-year plans which will attempt to address MKUKUTA implementation challenges. A salient feature of FYDP I is scaling up the role of the private sector in economic growth, by improving the business climate as well as investing in people and in infrastructure development.

### *Steady economic growth following the reforms*

Between 2000 and 2008, Tanzania had one of the strongest growth rates of the non-oil-producing countries in Sub-Saharan Africa. Annual real GDP growth has exceeded 6% for ten consecutive years, with 7% and 7.2% projected for 2013 and 2014 respectively (GoT, 2013). While per-capita GDP remains low, it has also consistently increased alongside, from USD 650 in 1995 to USD 1 542 in 2012.

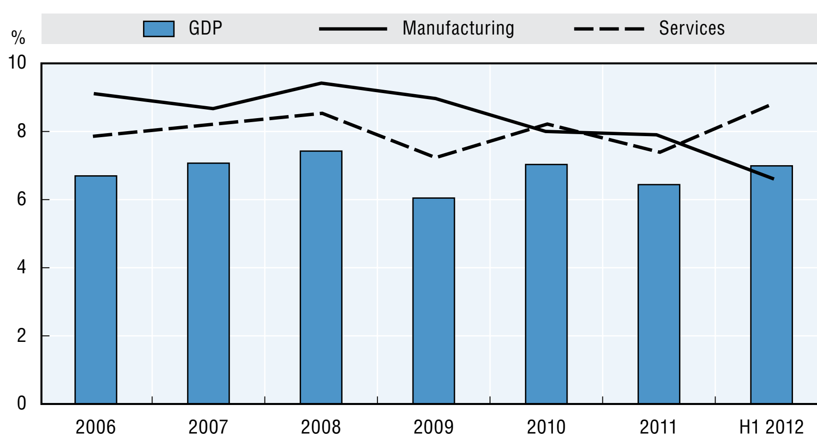
Figure 1.1. **Annual GDP growth, 1995-2012**




*Source:* World DataBank, 2013.

In 2012, services (including tourism) represented 47.6% of GDP, agriculture 26.8%, and industry and construction 24% (NBS, 2013). While textiles suffered greatly from liberalisation and international competition in the late 1980s, the manufacturing sector has somewhat recovered in recent years. As Figure 1.2 indicates, real GDP growth over 2006-2012 has thus been particularly upheld by **robust performance in manufacturing and services**. Over 2014 GDP growth is expected to be driven by manufacturing, transport, storage and communications, real estate, business activities, and financial intermediation (IMF, 2013).

Figure 1.2. **Strong performance of manufacturing and services in upholding real GDP growth, 2006-2012**




*Source:* International Monetary Fund (IMF), *IMF Country Report* No. 13/12, United Republic of Tanzania. 20 December 2012.

**Agricultural production** has increased over the last two decades, mainly driven by maize, paddy, sugar cane and meat production that almost doubled over this period. Although the contribution of agriculture to GDP has fallen from 27% in 1998 to 24.7% in 2012-2013 and agricultural growth has not exceeded 4-5% per year since 1998, the sector still accounts for over 70% of total employment today. As regards mining, Tanzania is Africa's fourth largest **gold** producer and is also beginning exploitation of other minerals and ores (including gemstones, nickel, cobalt, and coal). A boom in **gas** exploitation is also expected from 2013 onwards. Finally, Tanzania has attracted nearly 7 million **tourists** between 2001 and 2012 (with a record of 1 million tourists for 2012 alone), corresponding to total tourism revenues of TZS 615 billion or USD 380 million (Tanzania Invest, 2013).

### *Trade liberalisation and export diversification*

Tanzania's **openness to international trade** has considerably increased over the last two decades, In recent years the sum of exports and imports has for instance risen from 45.6% (in 2009-2010) to 59.5% of GDP (in 2012-13)(IMF, 2013). Exports averaged 22% of GDP and imports and exports have increased respectively by 51% and 59.5% (AfDB, 2011). However the rise in imports reflects a risky energy dependence: in fiscal year 2011-12 Tanzania's total imports bill rose by 39.1% and the current account deficit more than doubled (to 16.2% of GDP), in large part due to increased oil imports. This situation is expected to improve as of 2014, following completion of a new pipeline destined to provide natural gas rather than imported fuel for electricity generation (IMF, 2012).

The structure of Tanzania's external sector has also become **more diversified** over the past decade. The dominance of foreign exchange earnings has shifted from traditional agricultural commodities to non-traditional exports, such as tourism, travel services and transportation, minerals and manufacturing products (BoT, 2010). Although the export value of cash crops is not negligible (traditional export crops, including coffee, tobacco, cashew nut and cotton, contributed to approximately 23% of total goods exports in 2011 and 2012), their export volume has therefore not markedly increased above 1990 levels (NBS, 2013). Meanwhile non-traditional primary export commodities today include gold (56.7% of the value of total non-traditional exports by May 2013), manufactured products (29.4%) and horticulture (5.3%) (BoT, 2013). Manufacturing has overtaken agriculture as the second largest export sector (traditional and non-traditional combined) after mining since 2007 (MIT, 2011). In part thanks to a surge in gold exports over 2009-2011, exports rose from 16.7% of GDP in 2009 to about 21% in 2012, with 23% expected by 2015-2016. Despite the more recent decline in the value of gold exports (over 2012-2013, mostly due to a drop in international gold prices), it is expected that these trends, together with the construction of the gas pipeline mentioned above, will reduce the current account deficit to 11.2% within the next three years (IMF, 2012).

In 2011, these exports were channelled towards the following main **export destinations**: Switzerland (19.4%); South Africa (18.1%); and China (14.3%). Trade with South Africa thus constituted the bulk of exports to the Southern African Development Community (SADC), which stood at 20% of total exports in 2010 (Australian Government, 2012). These destinations indicate that intra-regional trade with the other SADC countries, as well as with East African Community (EAC) countries, remains comparatively low. The recently

launched EAC Common Market Protocol should widen domestic demand and stimulate further trade and capital flows within the region.

The government has identified **agriculture as one of the priority sectors** and envisions it as a modernised, commercial, highly productive and profitable sector relying on the active involvement of the private sector. The Agricultural Sector Development Strategy (ASDS), adopted in 2005 and implemented through the Agricultural Sector Development Programme (ASDP), provides the framework for agricultural policy. FDYP I also identifies as a core priority agricultural transformation for food self-sufficiency and export, with a focus on high value crops including horticulture and spices. In terms of agricultural investment, the most notable programme is the Agriculture First "**Kilimo Kwanza**" policy launched in 2009 with the objective of fostering a green revolution and transforming agriculture into a modern sector.

Another major initiative to enhance investment in agriculture is the **Southern Agricultural Growth Corridor of Tanzania** (SAGCOT), an international PPP aiming to catalyse large volumes of private investment to increase productivity and develop commercial agriculture in the southern corridor. While a SAGCOT Secretariat has been established and an Investment Blueprint developed, the initiative has only recently begun implementation. Finally, the Tanzania Agriculture and Food Security Investment Plan (TAFSIP) has been launched in 2011 in the context of the African Union's Comprehensive African Agriculture Development Programme (CAADP) but has not been fully implemented yet.

### *Investment regime*

The **National Investment Promotion Policy of 1996** opened almost all sectors to foreign and private participation. The **Tanzania Investment Act of 1997** provides the backbone of the legal investment regime by making provisions related to: establishment of enterprises; investment benefits and guarantees; transfer of capital profits; guarantees against expropriation; dispute settlement; and employment of foreign staff. Separate legislation for investment in mining and petroleum and in Export Processing and Special Economic Zones (EPZs and SEZs) has also been introduced. The 1997 Act also establishes the Tanzania Investment Centre (TIC) as a "one-stop" office for investors. TIC provides information about land acquisition, taxes, and investment incentives in priority sectors, and spearheads investment promotion and facilitation efforts in the country.

The **institutional set-up** leading investment policy reform is composed of the National Investment Steering Committee (NISC, established in 2000 under chairmanship of the Prime Minister), and the Tanzania National Business Council (TNBC, set up in 2001 as the highest consultative organ between the private sector and the government). TNBC brings together government representatives and private sector umbrella organisations such as the Confederation of Tanzania Industries (CTI), the Tanzanian Chamber of Commerce, Industry and Agriculture (TCCIA) and the Tanzania Private Sector Foundation (TPSF). Twelve business councils have also been established at the regional level.

The existing **legal framework for investment** has played a significant role in enhancing domestic and foreign investment, but could be improved in certain aspects, especially as concerns land tenure, access regulations for foreign investors in some sectors, the award of investment incentives, and protection of intellectual property rights. Access to land for instance remains a challenge for investment in most economic sectors, particularly agriculture.

Partly due to these shortcomings in the legal framework for investment, Tanzania's **doing business performance** remains disappointing compared with other SADC and EAC members. Rankings for seven of the ten World Bank Doing Business indicators have worsened between 2009 and 2011, resulting in an overall slip from 125 to 128 out of 183 countries. To respond to these challenges, a Steering Committee of Permanent Secretaries and eight task forces were created in September 2009, which resulted in the development of a **Government Roadmap for Improvement of the Investment Climate**. The Roadmap's Action Plan highlights priority issues to be tackled in the short-, medium- and long-term, and synchronises other complementing business environment. The Roadmap also comprises interventions to upgrade enabling infrastructure, such as a Power Master Plan in the electricity sector and a National Transport Sector Investment Programme (Mapunjo, 2010).

The Medium-term Public Investment Plan (MPIP) developed in 2009, together with considerable budgetary increases for **infrastructure development**, demonstrates the increasing importance given to improving infrastructure networks. FYDP I also identifies large investments in energy, transport infrastructure, water and sanitation and ICT as one of its core areas of intervention. In addition and in alignment with the FYDP, since 2013 government has launched the **"Big Results Now"** (BRN) initiative which seeks to identify and resolve constraints to results delivery in the following

National Key Results Areas (NKRAs): energy, transport, agriculture, water, education and resource mobilisation. Ministers are to be assigned with score-cards of Key Performance Indicators (KPIs) for each NKRA, so as to accelerate delivery and improve monitoring of priority projects and reforms in these areas.

The regulatory framework to encourage private participation across infrastructure sectors has recently been enhanced with the **PPP Act 2010, the PPP Regulations 2011, and the Public Procurement Act 2011.** Government plans to review and improve these acts in 2013/2014, as announced in the June 2013 annual Budget (PMO, 2009). Such legal instruments could have a very positive impact across infrastructure sectors, especially if they are accompanied by high-capacity implementation by procurement entities and by Tanzania's PPP Unit (which in 2014 will be merged from the existing PPP Co-ordination and Finance Units).

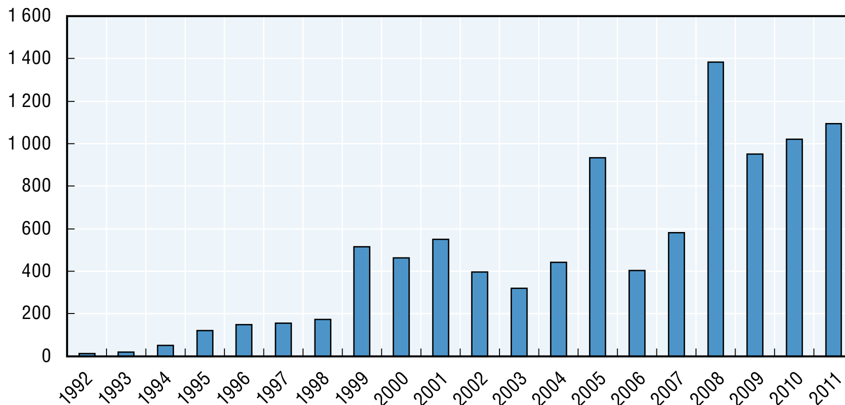
## 1.2. Foreign and domestic investment trends

### *Rise in both domestic and foreign investment over the past two decades*

As a result of financial sector liberalisation in 1991, **domestic private investment** has risen in recent years. Private deposits in the banking system have increased, with financial sector assets expanding tenfold between 2001 and 2009 (FSSD, 2010). Over 2012 the financial sector contributed 1.8% of GDP growth rate (up from 1.7% in 2011) and grew by 13.2% (NBS, 2013). The number of domestic projects registered by the TIC has risen quite steadily between 1997 and 2012, rapidly overtaking the number of foreign and joint-venture projects registered with the Centre over that time. Investment growth is also reflected by a rise in tax revenue contributions from registered projects.

**FDI** was minimal prior to 1992 but has rapidly increased since then. After remaining below USD 200 million a year throughout the 1990s, net FDI inflows have especially accelerated since 2000, standing at USD 1 095 million by 2011 (Figure 1.3). Over 1990-2011, the leading **country source of FDI** was the United Kingdom, followed by India and Kenya (Table 1.1 below). In agriculture, the main investing countries include the EU, followed by Asia and in particular India, the Middle East, and Africa. These investment flows have been resilient following a plunge in 2009: FDI inflows into Tanzania maintained an annual growth of over 7% between 2009 and 2011.

Figure 1.3. **FDI Inflows into Tanzania, 1992-2011**




*Source:* World DataBank, 2013.

Table 1.1. **Ten leading countries having registered investments with TIC over 1990-2012**

| | | Projects registered | Projected jobs | Projected value (USD million) |
|---|---|---|---|---|
| **1** | United Kingdom | 898 | 258 855 | 4 720.45 |
| **2** | India | 341 | 50 224 | 1 828.81 |
| **3** | Kenya | 339 | 50 108 | 1 485.36 |
| **4** | China | 417 | 62 925 | 1 431.47 |
| **5** | USA | 208 | 42 358 | 948.53 |
| **6** | Netherlands | 155 | 13 475 | 927.42 |
| **7** | South Africa | 200 | 19 972 | 678.85 |
| **8** | Canada | 188 | 25 280 | 535.12 |
| **9** | Germany | 138 | 14 647 | 311.86 |
| **10** | Oman | 36 | 1 454 | 215.81 |

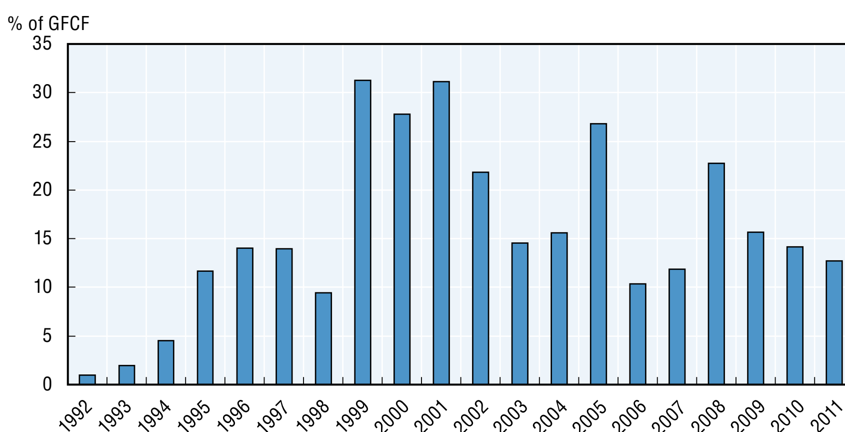
*Source:* Tanzania Investment Centre, August 2013 (projected data, based on investment registration statistics).

Despite the recent rise in investment, it must nonetheless be kept in mind that in absolute terms total FDI inflows (which peaked at 1 383 million in 2008) are rather modest. The scale of **FDI flows relative to the country's GDP** remains below 4.6% by 2011, which is low in comparison with many other African countries.

Beyond its contribution to GDP, FDI is also expected to factor significantly in domestic employment creation, fiscal revenue, business linkages, and **Gross Fixed Capital Formation** (GFCF*). This can be particularly important for capital accumulation given the small size of Tanzania's domestic savings. Yet the relative contribution of FDI within GFCF also remains low relative to domestic investment (Figure 1.4): FDI peaked at over 30% of GFCF in 1999 and 2002, but generally trends lower and has remained closer to 15% over 2009-2011. Regaining higher rates may therefore require a careful analysis of the transmission channels for capital accumulation from foreign investment flows in particular.

Figure 1.4. **FDI inflows as a percentage of Gross Fixed Capital Formation, 1990-2011**

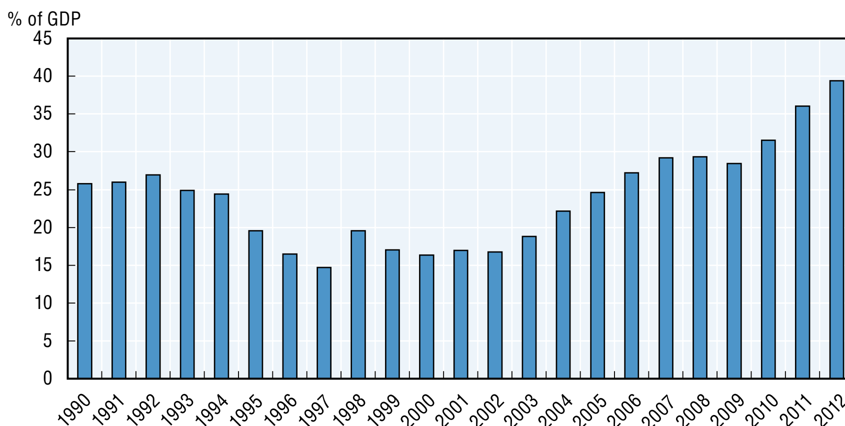



*Source:* World DataBank, 2013.

Overall GFCF has nonetheless been steadily increasing as a percentage of GDP – from 16% to 39% over the period 2000-11 (Figure 1.5). This rate is significantly above African standards of about 21-22%, as well as the standard for industrialised countries of 23-25%. Given Tanzania's strong growth rate since 2000, there is nonetheless room for further improving the contribution of GFCF to GDP. Fast-growing countries in East Asia have managed to reach GFCF shares of 40% of GDP.

* GFCF is the aggregate value of resident producers' investments, deducting disposals, in fixed assets during a given period (plus certain additions to the value of non-produced assets, such as major improvements in land productivity).

Figure 1.5. **Gross Fixed Capital Formation as a per cent of GDP, 1990-2012**




*Source:* World DataBank, 2013.

### *Foreign and domestic investment by sector*

Despite some foreign participation in Tanzania's privatisation programme, green-field investment has made up about three-quarters of these FDI inflows. In 2008, mining (mostly in gold), manufacturing, and wholesale and retail trade (including tourism) represented respectively 27%, 23% and 15% of FDI while the agricultural sector attracted only 2% of FDI (*Tanzania Investment Report*, 2008). Likewise the evolution of investment projects registered with TIC (including foreign, domestic as well as joint-venture projects outside of the extractive industries) reflects an increasing emphasis on economic infrastructure and construction projects, whereas investment in most other sectors – energy, tourism and financial institutions in particular – has been more variable.

Investor interest in **extractive industries** (which do not fall under TIC purview) has risen substantially in recent years, especially with the discovery of new resources of gas, and of several minerals and ores in addition to gold. The current surge in world gold prices is expected to bolster positive GDP and investment trends, especially as only a small fraction of Tanzania's total gold reserves (estimated at over 2 000 tonnes) are being mined to date. Moreover Tanzania has so far discovered an estimated 40.7 tn cubic feet of recoverable natural gas reserves, which has begun generating considerable investor interest: the gas explorers BP Group and Statoil for instance intend to invest USD 500 million each in the sector in 2013. Growth of FDI in the

gold sector should therefore be closely followed by a rise in natural gas investment in 2013.

By contrast **investment in agriculture** as registered by the TIC has followed an erratic trend since 1997. After a hike in 2005 and 2006, domestic and foreign investment decreased over 2007-2009 and then rose sharply in the following two years, reaching USD 666 million in 2011. Since 1997, most agricultural investments have targeted cash crops, followed by food crops, and livestock. Within cash crops, 85% of the investments were made in sugar, 6% in coffee, and 3% for cotton and sisal respectively, and 1% in tea. Within horticulture, 84% of investments targeted flower-growing. Within livestock, beef attracted 69% of the investment and poultry 12%. While interest for bio-fuel production has surged, investments in that sub-sector are increasing only slowly.

## 1.3. Main policy challenges

### *Inadequate regulatory framework for investment*

Tanzania's framework for investment is to some extent overly complex and outdated. This has been recognised by the government, which plans to review the National Investment Promotion Policy of 1996 and the associated Tanzania Investment Act of 1997. Tanzania's investment climate could for instance be substantially improved by updating the framework for international commercial arbitration, and strengthening mechanisms for enforcing intellectual property rights. Clarity for investors is moreover limited by the fact that **foreign investment regulations** by sector and size threshold (as well as any special benefits for domestic investors) are dispersed over several different laws and regulations. They are for instance laid out in various sections of the Public Procurement Act, the Tanzania Investment Act, and sector-specific Acts (such as the Mining Act 2010 or the forthcoming Natural Gas Act), rather than combined within a single body of legislation.

Similarly, although the TIC Investment Guides and the TIC website summarise the main **investment incentives by industry**, these are not clearly laid out within a single legal document. The award of many incentives moreover remains discretionary. This is especially the case for projects which qualify for "strategic investor status": although the eligibility criteria for this status are not set out in quantifiable terms, the Tanzania Investment Act allows benefits over and above the incentives provided by the Act to be awarded to such strategic projects. For projects in the mining as well as petroleum and

gas sectors, which generally have strategic status, investment incentives can be decided upon on a negotiation and case-by-case basis. This wide scope for discretion in the award of incentives reduces predictability and transparency for investors, and increases the risk that incentives overlap or work at cross-purposes. Administrative discretion in the management of incentives moreover seriously increases the risk of corruption and rent seeking.

The regulatory framework for investment also suffers from **inadequate co-ordination on investment policy within the civil service**. This challenge has been repeatedly noted upon by both government bodies and private sector agencies, including among others the ministries of transport, land and agriculture, the President's Office, Planning Commission (POPC), and the Tanzania Private Sector Foundation (TPSF). There is also some confusion and controversy among the different bodies that serve as intermediaries between the government and the private sector, such as the Tanzania National Business Council (TNBC) and the TPSF. This hampers their effectiveness for facilitating public-private dialogue and impacting investment policy design.

This lack of institutional coherence, which often leads to **ineffective implementation** of investment policies and regulations, partly stems from the **absence of an overarching national investment strategy**. Instead, the identification of key sectors towards which investment should be targeted remains fragmented across different strategy documents (such as Kilimo Kwanza for agriculture or the Integrated Industrial Development Strategy, IIDS 2025, for manufacturing). This limits opportunities for channelling investment trends towards the country's priority development and competitiveness objectives. Successful roll-out of FYDP I, which commits to a shift "from sector-based prioritisation to intervention prioritisation", will require clearly streamlining the priority sectors identified in other strategy documents and clarifying the strategic role that each sector is expected to play in long-term national development.

### *Insufficient evaluation of investment policies and incentives*

Cost-benefit analysis and **regular impact evaluation of investment policies** and projects are scarce. The TIC "Growth and Impact" Report, while posing useful first steps for ex-post assessment of investment policy and investment flows, has not been updated since 2008. Moreover, feedback from investors and civil society is not systematically solicited in advance of major policy changes, thus impairing the achievement of policy objectives. In addition, **performance monitoring** of investment promotion agencies,

including the TIC, is irregular and not fully incorporated into their management frameworks. The Big Results Now (BRN) initiative, adopted by government since 2013 and which has a strong focus on Key Performance Indicators across all ministries (see above) may hold potential for strengthening government ability and motivation to monitor and evaluate progress and impact of investment policy programmes and reforms on a regular basis.

More fundamentally, TIC bases most of its investment data on registered rather than realised investment projects. The fact that most of TIC's ex-post impact evaluation and investment policy advocacy is based on such projected data is concerning. For reasons of attrition, registration-based data often considerably overestimates the amount of investment on the ground. Likewise the impact of investment projects (in terms of employment creation and other socio-economic effects) is inaccurately captured in registration data as applicant investors tend to overstate the positive spill-overs of proposed projects.

**Investment incentives** also require far stronger and more systematic evaluation. While incentives may be excessive in some areas, other sectors might suffer from exceedingly high levels of taxation and cumbersome regulations. **Tax incentives in the mining sector** for instance reduce the scale of fiscal revenues which the government could derive from ongoing expansions in extractive investments (especially in gold, coal and gas). Conversely, while **the agricultural sector** is the least-taxed sector of the economy, taxation on small-scale producers may remain too high, with insufficiently supportive incentives. For instance, while large agricultural exporters are entitled to VAT reimbursement, small exporters are disadvantaged as they fall under the threshold to be registered for VAT and are thus not entitled to these reimbursements. Finally, the lack of **country-wide evaluation of investment incentives** to date limits the government ability to take stock of inter-sector discrepancies and to accurately assess possibilities for a more efficient allocation of fiscal resources.

### *Weakly defined strategies to promote business linkages*

There is a growing concern, especially among civil society, that foreign investment has generated insufficient spill-overs (in terms of business linkages, employment creation, value addition, and poverty reduction among others) on the domestic economy. This wariness is particularly pronounced as concerns extractive industry investments, as mining and gas projects often suffer from enclave effects (they are located far from population centres, are capital intensive, import capital and labour, and often do not process

extracted resources in host economies before exporting them). Spill-overs on the domestic economy are further reduced if these investment projects are located near ports.

As a result these sectors often have a much lower potential for local business generation than agriculture or manufacturing. Whereas network supplies of production inputs are about 80-90% locally sourced in agriculture and services for foreign, domestic investment and joint ventures alike, this figure drops to only 10% for the mining industry (TIC, 2008). Likewise of all TIC-registered projects over 2011-2012, the leading sectors in terms of job creation are construction (25% of projected jobs), production (24%), transport (19%) and agriculture (13%), only very distantly followed by investment in fuels and minerals and in natural resources which each contributed under 0.5% of projected jobs (NBS, 2013). Because of this low local employment generation and of the dependence on imported factors of production, especially oil, the contribution of gold to GDP was limited to only 3.3% in 2011 (AfDB, 2011).

The promotion of investment linkages is gaining attention in the government agenda, with increasing focus on possibilities for integrating SMEs in various industry supply chains. These **linkage programmes** remain incipient, however, and largely continue to depend on the goodwill and independent initiatives of large investing companies, particularly in the mining sector. In addition, supply-side pre-requisites, such as human resource development and enabling infrastructure, require targeted attention. The current framework for **Export Processing Zones**, expected to tackle some of these supply-side constraints and encourage more business linkages, has fallen short of its objectives so far despite ambitious plans for the expansion of such zones. Furthermore, their socio-economic impact remains insufficiently measured. Moreover the absence of an overarching national investment strategy with clearly prioritised strategic investment sectors makes it particularly difficult for the government to support business linkage development in promising industries, or for SMEs to gain awareness of sectors in which small-scale investment opportunities are greatest.

### *Poor enabling infrastructure*

According to the TIC, high investment levels are necessary to trigger even mild increases in Tanzanian GDP, in large part due to a lack of complementary human skills and infrastructure that can enhance the productivity of invested capital (TIC, 2008). Tanzania ranks 134th out of

148 economies in the infrastructure dimension of the 2013-14 World Economic Forum's *Global Competitiveness Report*. The lack of adequate infrastructure discourages foreign and domestic private involvement. Enabling infrastructure for production, transport, processing and marketing is not **integrated in a multi-modal manner**, which reduces trade and value addition opportunities. **Electricity** appears to be the worst-performing infrastructure sub-sector (131st worldwide according to the 2013-2104 GCR), with frequent power outages generating heavy production losses for private companies. As regards agriculture, insufficient and poor quality infrastructure hinders access to markets and to agricultural inputs and generates significant losses, thereby reducing agricultural productivity. Around 50% of annual crops are spoiled due to the lack of processing capacities. Delayed transportation combined with the lack of cold chains for perishable products leads to substantial trade losses and high marketing margins. Given these infrastructure constraints, Tanzania has not been able so far to build on its geographic potential for serving as a competitive trade hub in the region.

A lack of adequate **public management and capacity** for infrastructure development – especially for encouraging and structuring private participation in infrastructure – is among the central causes of this infrastructure deficit. Public sector capacity in designing and negotiating infrastructure projects remains weak and communication and co-ordination across different government levels on infrastructure development strategies is relatively inefficient. In addition, performance management to meet end-user needs in infrastructure provision, and the role and independence of regulatory authorities (such as the Energy and Water Utilities Regulatory Authority, EWURA, and the Consolidated Holding Corporation, CHC), are irregular across infrastructure sectors.

While Government clearly acknowledges the strategic importance of improved infrastructure, the **dominance of parastatals** in infrastructure provision also limits opportunities for private investors to operate on an equal footing, and past attempts at PPP management and divestiture have rarely been successful. The Government stance on private participation in infrastructure is also contradictory at times, whereby policy support for private investment and infrastructure PPPs (as demonstrated, for example, by recent enabling legislation such as the updated 2011 Public Procurement Act or the 2010 PPP Act) contrasts with re-possessions of certain parastatals which had been charted for divestiture. These **ambivalent trends** send conflicting signals to private sector investors potentially interested in infrastructure provision.

### *Weak land tenure security for smallholders*

**Land registration rates remain very low,** in particular due to weak incentives for registration. Only 3% of the land in Tanzania has been registered. Similarly, only around 7.7% of villages have developed land use plans. The registration process is complex, long and costly. In addition, land tenure security for those land rights that have been registered is often low. Although the governance structure should foster decentralised land administration, the central government continues to exercise significant authority over land through the Land Commissioner. The State retains land ownership with the President as trustee on behalf of citizens. The Commissioner of Lands has the power to transfer village land to general land even if complaints have been filed by affected local communities and land rights can be confiscated if the land is not developed as agreed in the certificate.

Furthermore, the **overlapping roles** of the Ministry of Lands and the Prime Minister's Office, Regional Administration and Local Government (PMO-RALG) and **weak governance** in land administration pose major risks for efficient and fair land rights. Governance in land administration at all levels, but particularly at the local level, remains weak due to limited financial and material resources, weak human capacity, complex procedures and multiple reporting lines. This reduces effective oversight and control, transparency and accountability within institutions, and provides space for corruption.

The number of **land conflicts** is increasing and existing institutions lack resources to solve them. Land conflicts between pastoralists and farmers and between horticultural investors and local communities are common, in particular because procedures to establish and manage group land rights are vague or non-existent in practice. Although land laws provide for a system of councils, tribunals and courts to settle land disputes, the system is complex and responsibility for establishing the prescribed councils, tribunals and courts is split among different ministries. Courts are considered competent but very slow, and the effectiveness of tribunals varies widely. As a result, the backlog in land conflicts is growing.

While land laws of 1999 have improved compensation provisions, in practice, **land expropriation** is often not conducted in accordance with legal requirements. Affected communities are often dissatisfied with the amount, the lack of transparency and the delays of compensation payments. Complaints on compensation usually do not succeed and projects have been implemented despite pending court cases. Smallholders take a risk when relinquishing land rights on village land as investors do not usually make

payments before the land has been transferred to general land. In most instances, payments are yet to be made as they are contingent on obtaining formal rights of occupancy and only a few investing companies have finalised the process of receiving such rights. This situation contributes to generating wariness among the Tanzanian public with respect to the activities of foreign investors in the country.

### *Difficult access to land for large-scale agricultural investors*

Existing land data is incomplete and biased and, consequently, investors have difficulty accessing information on land availability and quality. Furthermore, Tanzania lags behind its neighbours in terms of the number of procedures and the time required to register property. Foreign companies can obtain granted rights of occupancy or TIC derivative rights on general land only. If foreign investors are interested in village land, the land must first be transferred to general land before being allocated to them. While derivative rights may be easier to obtain than granted rights of occupancy, in practice, very little land is readily available in the TIC Land Bank where available land parcels are too few and small.

To accelerate registration, the government has amended the Land Act and developed a Strategic Plan for the Implementation of Land Laws (SPILL). Though SPILL was finalised in 2005, its implementation appears random and project-driven, partly due to insufficient funding.

### *Regulatory restrictions to agricultural trade*

Semi-autonomous boards, appointed by the Ministry of Agriculture, Food Security and Cooperatives (MAFSC), issue agricultural licenses to administer the cashew nut, coffee, cotton, pyrethrum, sisal, sugar, tea and tobacco sub-sectors. They co-ordinate each sub-sector, enforce quality standards, provide inputs and facilitate Research and Development (R&D) funding. While they play a valuable role in convening stakeholders and monitoring quality, the regulatory restrictions to trade imposed by some boards may increase the costs and the uncertainty for investors. Agricultural trade is also hindered across borders because of long goods clearance at customs offices. In addition, periodic export bans on maize and rice can prohibit access to larger and often closer regional markets and may thus reduce farmers' incentives to increase production.

### *Limited access to finance in agriculture*

While the financial sector has developed quickly over the last few years, it remains **highly concentrated** and dominated by over-liquid banking institutions. 56% of the population, and in particular small businesses in rural areas, remains excluded from any financial service. In 2011, only 8% of the rural population had access to formal financial institutions (banks and insurance companies). According to the Global Competitiveness Report 2013-14, access to financing is cited as the most problematic factor for doing business in Tanzania, closely followed by infrastructure (WEF, 2013).

Credit from commercial banks has increased significantly over the last five years but only **12% of this credit went to agriculture**. Only 8% of the domestic lending to agriculture went to agricultural production, with the rest channeled to agricultural trading. Despite the considerable support given to microfinance in recent years, the impact of microfinance on access to financial services has been negligible. Microfinance institutions have been lending at higher interest rates than commercial banks, averaging 30%. Savings and Credit Cooperative Societies (SACCOS) may have the greatest potential to expand credit supply to agriculture. While their number has been growing, it remains too limited to meet demand in rural areas. Furthermore, they remain largely unregulated, resulting in high variations in service quality and management practices. The lack of collateral represents a critical issue to access both formal and semi-formal credit. Commercial banks require a legal collateral covering 125% of the credit amount.

**Efforts to facilitate access to credit** have had limited impact (Msuya, 2007). The Tanzania Investment Bank has an agricultural window offering concessional loans and an agricultural input trust fund (AGITF) has been issuing short term soft loans since 1994, in particular to farmers and farmers' groups for farm machineries and to stockists for inputs. The Tanzania Agricultural Development Bank (TADB) is also being established. However, these schemes mainly target medium-scale farmers who have collateral, and do not reach most smallholders. Consequently, the informal financial sector remains the major source of financial service for smallholders, but its scope and coverage are limited.

## 1.4. Policy options to prioritise

### *Investment policy*

**Rationalise and make easily accessible investor rights and obligations:** First, public and private stakeholders will need to define together the

broad objectives and orientations of the updated investment policy and identify existing regulatory gaps. An interdepartmental taskforce, or a clear consultation and communication structure among existing policy advocacy bodies (such as the TNBC), could be established for this purpose. The forthcoming review of the Tanzania Investment Act 1997 notably provides an opportunity to consider ways of centralising all provisions for the protection and obligations of investors within a single body of law. Currently, these provisions are dispersed over several legal instruments, reducing transparency, openness and predictability in relation to investors. An expanded and clear law or an Investment Code grouping and referring to all relevant investment legislations under a single umbrella could serve this purpose. This legal document should also include or refer to a negative list of economic sectors in which foreign investment is restricted and/or domestic investors benefit from special preferences. Limits set on investment according to investor origin, capital thresholds, geographic location and sector should all be clearly stated in Regulations to the law. Such new legislation should be designed with strong co-ordination within the civil service, rely on mechanisms for regular updating and public consultation, and be accompanied by a TIC communication strategy and capacity-building to promote it.

**Review special preferences of domestic investors and any regulations limiting the possibility or share of foreign ownership across all sectors of the economy:** Currently, Acts and Regulations for a number of economic sectors (such as the Procurement Act, Tourism Act, Mining Act and EPZ law among others) grant special preferences to domestic investors. In the interest of openness and predictability, all restrictions for foreign investors should be clearly stated in one document (the negative list mentioned above). In the process of establishing the above negative list, the government should review regulations on foreign investment by project size and sector. Indeed, several sectors, including telecommunications, tourism and insurance, are not fully open to foreign equity ownership, and foreign investors face a higher threshold in project size to qualify for the TIC Certificate of Incentives. The rationale behind these regulations needs to be re-assessed with reference to practices in other countries and by considering alternative means to achieve similar socio-economic and empowerment objectives. Likewise, investment thresholds – including their purpose, costs and benefits, and means of phase-out – need to be carefully analysed. Having different thresholds for different sectors and projects brings confusion for investors and risks putting a premium on investment volumes at the expense of quality or potential for technological innovation.

**Revise and evaluate investment incentives:** Under the 1997 Investment Act, certain incentives for "major and strategic projects" can currently be granted on a case-by-case basis. Reviewing these provisions would reduce the discretionary nature of incentives and make them transparent. To ensure that incentives are effective in attracting more investment, they need to be systematically evaluated both *ex ante* and *ex post*. This will also help determine their impact on the national budget and on socio-economic goals, such as employment generation and domestic business linkages. These evaluations would need to be conducted not only by industry but also on a country-wide basis. Alternatives to incentives for attracting investment, such as redirecting the freed fiscal resources towards infrastructure and human resource development, could be relied on instead. Modernisation of the VAT regime over 2013 and 2014, which is expected to eliminate multiple exemptions and preferential treatments, could be a good step forward in this direction. Other promising revenue policies implemented in 2012-2013 have focused on improving procedures for assessment and collection of revenues, improving tax laws, minimizing tax incentives and exemptions, and harmonising tax rates and levies.

**Strengthen institutional framework for monitoring and enforcing intellectual property rights** (IPRs): Tanzania should move forward in the elaboration and roll-out of the National IPR Strategy (NIPS), including by strengthening available mechanisms for identifying and punishing IPR infringements, and by spreading awareness of the economic benefits of IP rights across the private sector. Government should consider establishing a single dedicated body for IPR policy and enforcement in the country, as currently scarce resources and staff are dispersed over several bodies (Office of the Registrar of Industrial Properties, Office of the Copyright Administrator, BRELA IP Division, COSOTA, Fair Competition Commission, Commission for Science and Technology, and the Registrar of Plant Breeders among others) with little formal co-ordination among them. Moreover existing laws do not provide for IP dispute settlement panels, which Tanzania could remedy by developing and strengthening the capacity of the judiciary on IP issues, and establishing a special IP division at the High Court.

**International investment agreements:** Tanzania could consider updating its investment treaty provisions and better reflecting some innovative practices in its future bilateral investment treaties (BITs). Although Tanzania's existing BITs already provide for the most important investment protection principles, they could go into further detail on issues such as investor-state dispute settlement (ISDS), or guarantee against unlawful expropriation. For

example, future ISDS provisions should provide more detailed procedural guidance, in order to give Tanzania greater control over the conduct of the arbitral proceedings and the interpretation by arbitrators, of its international commitments. As Tanzania has already been involved in a few ICSID cases, it could also be the country's benefit to specify, in its future treaties, that the Most Favoured Nation treatment applies only to substantial rights and does not extend to procedural matters. The totality of BITs should be given full legal efficiency and should all be ratified following the signing phase. Lastly, Tanzania would be well advised to continue expanding its network of investment treaties with targeted partner countries.

### *Land policy*

**Revise the land legislation and strengthen land management decentralisation:** Separate legislation on general land and village land should be preserved to continue tailoring land management to different local realities. However, the requirement to transfer village land to general land in order to allocate land to investors may be revised. This legislation is complex and as a result, foreign investors prefer circumventing it by sub-leasing from Tanzanian citizens instead of following the long process to receive official land rights that would provide them with higher land tenure security. Local authorities could deliver specific land rights for investment purposes for limited periods on village land without transferring it to general land. This would ensure more active participation of local authorities over land allocation, higher accountability in land management and facilitate the emergence of joint ventures. It would also facilitate transparent and inclusive consultations between local tenure holders and investors. In addition, the land granted to investors would be kept as village land owned by local communities once the investor leaves.

The land legislation could also be revised to reduce the significant authority of the central government over land allocation and land transfer across categories. In districts with strong governance, Local Government Authorities (LGAs) could be given the authority to issue granted rights of occupancy. If accompanied by capacity-building and appropriate budget, this would facilitate the involvement of local communities in the decision-making process and ensure more transparent land allocation decisions. To promote transparency, the decentralisation of land management should be accompanied by central government oversight. The Ministry of Lands and Human Settlements (MoL) could undertake ex-ante and ex-post assessments to ensure that land allocation follows a transparent and inclusive process

while the TIC could continue issuing certificates of incentives to ensure quality monitoring of investments at the central level. Finally, legal requirements related to land development and the power to revocate land rights if these requirements are not respected could be replaced by regular environmental and social impact assessments of investments facilitated by the TIC.

**Clarify and strengthen the land administration:** While LGAs should be further empowered, their responsibilities versus the central government and village authorities should also be clarified. Various government bodies are competing over land management, including the MoL, the TIC, PMO-RALG and the MAFSC, which creates multiple reporting lines and reduces accountability and transparency. Land management should be streamlined within one central institution to enhance oversight and simplify land allocation procedures. A simpler institutional set-up associated with capacity building at all government levels would help ensure the effective implementation of land laws and strengthen land governance. Similarly, the complex system of councils, tribunals and courts to settle land disputes has been rather inefficient. Land dispute settlement could be undertaken by the existing judicial system to avoid duplication, and concentrate the capacity-building efforts on existing institutions.

**Accelerate land rights registration:** Land registration can effectively enhance land tenure security and thus increase agricultural investment and access to credit by both large-scale investors and smallholders. Land registration is all the more important as pressure on land is increasing and leads to a rising number of land conflicts. First, the complexity, the length, and the cost of the registration process should be reduced, in particular by implementing policy options mentioned above. Second, the payment of premiums and rents conditioned by land rights registration should be made fairer and more transparent. Finally, better equipment, in particular transportation and communication means and modern devices for land mapping, should be provided at all land administration levels to facilitate registration.

Land registration nonetheless poses a risk for smallholders benefiting from officially recognised land rights, in that it often raises the land value and can incentivise smallholders to rapidly sell their land to outsiders, thereby forfeiting their most secure source of livelihoods. Land registration should thus be associated with awareness-raising campaigns to mitigate such risks. Not only wealthy land owners but also marginalised segments of the population, in particular women and pastoralists, should benefit from land registration

to ensure positive distributive impacts – this is even more important as women cannot usually own land under customary practices. Finally, as land registration is a long and costly process, it should first target areas where the lack of land titles is the most binding issue to higher investment in agriculture. SAGCOT provides an opportunity to pilot above-mentioned policy options and accelerate land registration in a specific region. Based on the lessons learned from this pilot project, these policies and programmes could be gradually expanded country-wide along with capacity building and awareness campaigns.

### *Infrastructure development*

**Clearly affirm the government stance with regards to private participation in infrastructure:** In order to optimally implement and take full advantage of recent enabling legislation such as the 2011 Public Procurement Act or the 2010 PPP Act and 2011 Regulations, the government must moreover adopt a clear position on the role that State-Owned Enterprises (SOEs) will play across infrastructure sectors. A national policy statement explicitly identifying long-term privatisation, procurement and PPP commitments for different infrastructure markets could help appease investor uncertainty over the risk of re-appropriation of national infrastructure utilities by the government, and attract more private bidders to infrastructure PPP contracts.

**Increase competition in infrastructure provision:** Several parastatals, such as Tanzania Electric Supply Company (TANESCO) or Tanzania Telecommunications Company Limited (TTCL), are inefficient and extremely costly and depend on heavy government subsidisation. As rural electrification is still low, alternative energy providers should be actively promoted to provide electricity to the grid and off-grid. Forthcoming policies for renewable energy development could support this. Promoting further vertical and functional separation of infrastructure utilities (in electricity but also in other sectors such as water or rail) could also help to identify in which areas profits or losses are made, and therefore shed light on what operations each SOE is best-suited to shoulder, as opposed to the functions that would be best left to private actors. Functional separation and the associated efficiency gains can moreover better prepare these SOEs for potential competition once infrastructure sectors are liberalised, and can pave the way for privatisation in functions deemed better-suited for private sector provision.

**Clarify performance and reporting standards across infrastructure regulators:** Performance of regulatory authorities varies across infrastructure sub-sectors, with insufficient quality monitoring of infrastructure

provision. Clear performance benchmarks for these regulatory authorities may improve their performance. In addition, their authority over public or private entities would need to be enhanced by increasing their independence and the capacity of their staff. The Consolidated Holding Corporation (CHC) should considerably revise its monitoring schedule and be given more clout to channel complaints raised by privatised bodies to higher government levels.

### *Agricultural trade*

**Assess the costs and benefits of regulatory restrictions to trade and of produce cess:** The regulatory restrictions to trade imposed by some crop boards as well as the imposition of export bans on maize and rice may increase the costs and uncertainty for investors. Existing restrictions to trade should thus be closely analysed and monitored to ensure that they do not undermine investment and competitiveness in the sector. The introduction of new restrictions should rely on a careful analysis of the costs and benefits of such restrictions, in particular by considering other options that could help achieve the same objectives while minimising market disruptions. The introduction of new measures should follow inclusive policy debates and be based on thorough impact assessments. Similarly, a major complaint raised by agricultural producers and traders relates to the burden of produce cess and services levies. Produce cess does not consider whether buyers have made profit or loss and, in practice, this tax is often absorbed by the producers which represent a significant fiscal burden. As planned in the G8 Cooperation Framework to support the "New Alliance for Food Security and Nutrition" in Tanzania, the produce cess could be reduced or lifted.

## 1.5. Secondary policy options

### *Investment promotion and investment policy*

**Strengthen investment data collection and performance monitoring of investment policy:** Investment policy is mostly evaluated on an ad-hoc and uncoordinated basis by various institutions and at irregular intervals. It is particularly concerning that the bulk of TIC investment data is based on registered (or projected) investment projects, rather than on the projects that have in fact been realised on the ground. This lack of accuracy considerably hinders any attempt for monitoring investment policy, the effectiveness of investment promotion agencies, and also the desirability of investment incentives, since the volume of foreign and domestic investment can often provide a key output measure for all of the latter.

The **statistical capacity of TIC** as well as other bodies (including Bank of Tanzania and the National Bureau of Statistics) must therefore be decisively improved. Clear yardsticks and indicators for the performance of investment agencies also need to be developed. In consultation with the private sector, NISC could hold TIC accountable to these performance measures, and could also collaborate with TIC and TNBC to reduce the proliferation of investment-related policies and strategies. This could help concentrate efforts on more effective implementation of existing policies. More generally, strengthening TIC to be a fully-mandated one stop-shop for approving investment permits would be an important step forwards in efforts to rationalise investment facilitation. Finally, efficient investment policy implementation and monitoring would benefit from a national investment strategy which identifies a limited number of sectors on which to focus investment efforts.

**Strengthen consultations among TIC, government and investors**: While several venues exist for facilitating dialogue among these three actors, their multiplicity creates confusion and may limit their impact. The roles of private sector bodies and dialogue platforms (including CTI, TCCIA, TPSF and the CEO Roundtable, as well as TNBC) could be streamlined or their links of authority more clearly defined. These bodies could also help regularly investigate policy impacts and calibrate these against investor and local stakeholder needs. Additionally, TIC remains mostly centralised in Dar es Salaam while many investors would need support at the local level. In particular, TIC could provide technical support and guidance to local government authorities to provide adequate services to investors at the local level.

**Increase investment linkages and cater to the needs of SMEs:** SME promotion efforts remain rather disjointed, with a multiplicity of SME-related funds, and would need rationalisation and clarification. TIC could reduce the size threshold and simplify the application process for the Certificate of Incentives for SMEs, and propose stronger intellectual property rights assistance for SMEs through institutions such as BRELA. Meanwhile, SME participation in infrastructure development and procurement can be facilitated by rendering the Public Procurement Act of 2011 more SME-friendly and addressing the possibility of sub-contracting within the PPP Act of 2010. Clearer supply-side policies for improving human resources and infrastructure in specific sectors eliciting investment linkages should also be considered, including in the design of EPZs. In agriculture, the lack of a clear definition of "smallholder" leads programmes to target medium rather than small-scale producers. A clear definition of smallholder would allow for better targeted programmes and policies.

**Promote mutually beneficial business partnerships:** Large-scale agricultural investors can reduce the risks of creating adverse social impacts by building partnerships with local communities, thus enhancing the sustainability of their investments. The legislation could enable local communities to use their land as equity in joint ventures with large investors. Such contracts between local communities and investors should be closely monitored to ensure they are fair and effectively enforced. Instead of accessing agricultural land, large investors may procure agricultural products by contracting with smallholders, thus reducing the risks of conflicts. Existing successful partnership models operating in Tanzania, such as out-grower models in horticulture, sugar and tea, should be promoted and replicated. In particular, crop boards could develop detailed guidance on partnership models and regulate such partnerships, building on peer learning between various boards. Pre-established guidance would provide more certainty to investors. As regards SAGCOT, the responsibilities of various entities involved, including TIC, MAFSC, MoL, LGAs, Rufiji Basin Development Authority (RUBADA) and crop boards, should be clarified to ensure that partnership models are regulated efficiently. Simultaneously, extension services should build capacities of local communities to negotiate with large-scale investors.

### *Infrastructure development*

**Increase the flexibility and scope of infrastructure financing options, particularly for LGAs:** Long-term finance for infrastructure projects is difficult to access domestically given the short-term nature of government bonds and the shallowness and illiquidity of the domestic capital market. Additionally, Tanzania makes insufficient use of valuable financing sources developed locally, such as pension funds, and needs to further investigate modalities of innovative infrastructure financing and risk mitigation. Funding needs to be better aligned with responsibilities of LGAs to ensure they actively support infrastructure PPPs at the local level. In the medium term, LGAs should also expand their tax base instead of collecting heavy taxes from agricultural businesses and SMEs, and strengthen tax administration at village and district councils. Familiarising LGAs with the provisions of key regulations for public-private provision, such as the Public Procurement and PPP Acts, would also be necessary.

**Build on existing regional dynamics within SADC and EAC:** Tanzania has the potential to function as an economic hub in Eastern and Southern Africa, in part thanks to its port access and strategic geographic location. Cross-border infrastructure projects should rely on a harmonised framework

of investment laws, such as a common PPP framework, the forthcoming SADC Regional Investment Policy Framework, and the EAC Common Market Protocol. Moreover, regional projects should develop clear benchmarks for the quality of infrastructure provision to exert competitive pressure on underperforming national infrastructure providers. More active Tanzanian participation in SADC-led activities and EAC efforts could further enhance the country's regional positioning. In areas where the nature of the different regional protocols may come into contradiction, policymakers will need to carefully consider how to best cater to the needs of Tanzanian citizens while benefiting the regional blocs at large.

### *Access to finance for small-scale agri-businesses*

**Strengthen the regulation of existing financial institutions in the agricultural sector:** Financial institutions, in particular the SACCOS, have multiplied and provide different service qualities. The legislation should be strengthened to ensure that such financial institutions are sound financially, operate sustainably and have transparent management. To ensure their sustainability, the SACCOS should rely on a bottom-up approach while the government should provide technical advice. Repayment rates of government-subsidised loans are very low as these loans are often considered as grants. Strong incentives and monitoring mechanisms for repayment should be developed. Furthermore, a clear definition of smallholders would help design better targeted programmes to facilitate access to credit in rural areas.

**Accelerate the establishment of a credit bureau and a collateral registry:** The availability of reliable credit information can facilitate credit expansion by reducing credit risk, transaction costs, and reliance on collateral. The Bank of Tanzania (BoT) is working on delivering a credit reference bureau to help target reliable borrowers and provide them with long-term financing. In addition to credit information, this bureau should also register debtors' abilities, such as their entrepreneurial ability, to better assess the likelihood of loan repayment. If credit information is the only criteria used to screen potential debtors, it may lead to the exclusion of the SMEs – yet the latter are often the source of high-return investments driving innovation and agricultural growth. Microfinance institutions can help by testing new financial products and providing information on debtors' abilities. A bill on using movable assets as collateral has been drafted by BoT to facilitate access to credit by smallholders without land certificates to use as collateral. A collateral registry for movable property should then be set up. Finally, targeted programmes of financial

literacy could help increase the demand for financial services as many smallholders do not access credit because of low financial literacy levels.

### *Agricultural services*

**Enhance the provision of extension services:** The number of extension officers is insufficient to provide appropriate technical advice and trainings to agricultural producers and disseminate new technologies. Extension services should be strengthened by increasing the number of extension officers further and by providing them with the necessary logistical means to reach smallholders. The extension model of the Kilimanjaro Agricultural Training Centre (KATC) using farmers as trainers could be extended to other regions to encourage farmers' ownership of extension services and increase extension workers' accountability. Advice should bring a broad perspective on the farm as an agri-business unit, and extension officers should be trained to focus on market access, export opportunities, agro-processing, grading and standardisation to increase agricultural value addition. Farmers would thus be better linked to input and output markets, and gain in competitiveness.

**Intensify agricultural research and development:** Tanzania's research intensity ratio in agriculture is low compared to its neighbouring countries. Greater public funding could be provided to agricultural R&D to increase agricultural productivity and farmers' income. The private sector is already actively involved in R&D, and further involvement should be encouraged. Ongoing regional R&D programmes, such as the Agricultural Productivity Programme for Eastern Africa and the work conducted by the Association for Strengthening Agricultural Research in Eastern and Central Africa (ASARECA), should be continued to promote further collaboration in agriculture training and to facilitate the transfer of agricultural technology and knowledge across borders. Furthermore, efficient mechanisms should facilitate technology dissemination, in particular by strengthening the links between research and extension services.

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*Chapter 2*

# Investment policy in Tanzania

*Tanzania's legal regime for investment became considerably more open to foreign investors in the mid-1990s. However this legal framework still remains quite complex, and to some extent outdated. The investment climate could for instance be substantially improved by updating the legal framework for international commercial arbitration, and strengthening mechanisms for enforcing intellectual property rights. In addition access to land, and arbitration mechanisms for land disputes, are very complex and constitute a prohibitive barrier to private investment by both foreign and domestic enterprises. Clarity for investors is also limited by the fact that regulations on foreign investment by sector are dispersed over several different legal instruments, and by weak enforcement and implementation of the investment policy framework. Nonetheless there is significant scope for Tanzania to build on several ongoing policy reforms and initiatives, as highlighted in this chapter.*

## 2.1. Steps taken to simplify the investment regime

What steps has the government taken to ensure that the laws and regulations dealing with investments and investors, including small and medium sized enterprises, and their implementation and enforcement are clear, transparent, readily accessible and do not impose unnecessary burdens?

### *Regulatory framework for investment and business opportunities*

The quality of investment policies directly influences the decisions of all investors, be they small or large, domestic or foreign. While keeping in mind the needs of domestic investors, transparency, property protection and non-discrimination between foreign and domestic investors must underpin efforts to create a sound investment environment and must be clearly reflected in the legal framework. While in many countries restrictions may be applied to foreign investors in view of empowering domestic investors, such strategies may reduce investor confidence and deprive countries of important inflows of foreign capital and transfer of technology. Alternative means of supporting domestic investors – for example through supply-side approaches that improve the enabling environment for local entrepreneurship and that help foster business linkages between small and large investors – may be a more desirable approach.

After independence, as in many developing countries at the time, the United Republic of Tanzania opted for an import-substitution industrialisation development process. Companies were nationalised and price controlled, while economic decision-making was fully centralised. When the model started showing its limitations, the country undertook a Structural Adjustment Programme supported by the IMF. Major market oriented reforms took place as the country increasingly liberalised its economy and promoted private investment, including FDI. In this context, Tanzania has undertaken multiple reform measures to help create a better regulatory environment for the private sector since the 1990s, which accelerated especially after 1996. These included:

- The Tanzania **National Investment Promotion Policy of 1990**, **and the 1990 Investment Code**. The 1990 Code offered a variety of incentives and legal guarantees for investors, and also established the Investment Promotion Centre (IPC). However the Code did not significantly liberalise the investment

regime: foreign participation was permitted only in certain priority areas listed under Part A of the Act – thus going against the general practice of opening the economy in general to foreign investment, and establishing only a converse "negative" list of sectors where foreign investment is restricted. The response elicited by the Code among the private sector was therefore very weak.

- The **National Investment Promotion Policy (NIPP) 1996** was created to replace the 1990 Policy, and marked a turning point in Tanzania's openness to private sector participation in the economy. Article 4.1.1 of the Policy states that the Government's role "is limited to guiding, promoting and facilitating, and being a service provider for investment", rather than "directly engaging itself into productive activities within the investment sector" (POPC, 2012). This Policy was the basis for all subsequent sector-specific investment strategies, and for the Tanzania Investment Act of 1997 (below). In 2012 the 1996 NIPP still guides investment policy formulation in the country; nonetheless Government recognises that the Policy has long been outdated, and is planning to revise it in 2013.
- The **1997 Tanzania Investment Act (TIA)** followed from the NIPP 1996 and replaced the 1990 Investment Code. Central changes introduced by the 1997 Act include: identification of investment priorities (according to "lead" and "priority" sectors, as detailed in Chapter 3 below); introduction of a new company registration process; laying out investment incentives and investors' rights; and establishing the **Tanzania Investment Centre (TIC)** in place of the under-resourced IPC under Part II of the Act. The TIC is granted an expanded mandate and capacity to function as a "one-stop" office for investors, as detailed in Chapter 3 (Cooksey, 2011).

Provisions relating to the **protection of essential investor rights** are highlighted in Part III of the TIA 1997, are as follows (TIA, 1997):

- **Transfer of capital profits and dividends**: under the Act (as well as stipulated in the NIPP 1996), enterprises are guaranteed unconditional transferability of: net profits or dividends attributable to the investment; payments in respect of loan servicing where a foreign loan has been obtained; royalties, fees and charges in respect of any registered technology transfer agreement; remittance of proceeds (net of all taxes and other obligations) in the event of sale or liquidation of the business enterprise; and payments of emoluments and other benefits to foreign personnel employed in Tanzania in connection with the enterprise. Tanzania has also recently embarked on greater opening of its capital market, which can strengthen the above guarantees of the Investment Act (see Section 2.2 for more details). Nonetheless as a counterpart to the free transferability of profits, the Ministry of Finance notes that some

requirements on key personnel may be introduced in order to ensure high-quality employment for Tanzanians.

- **Protection against unlawful expropriation**: Article 24 (2.2) of the Constitution states that it is "unlawful for any person to be deprived of his property for the purposes of nationalization or any other purposes without the authority of law which makes provision for fair and adequate compensation". In addition Section 22.1 of the TIA 1997 states that, "no business enterprise shall be nationalised or expropriated by the Government", and that, "no person who owns, whether wholly or in part, the capital of any business enterprise shall be compelled by law to cede his interest in the capital to any other person". Section 22.2 qualifies this statement, noting that "there shall not be any acquisition, whether wholly or in part of a business enterprise to which this Act applies by the State unless the acquisition is under the due process of law". This "due process of law" includes: payment of fair, adequate and prompt compensation; and right of access to the Court or a right to arbitration for the determination of the investor's interest or right and the amount of compensation to which he is entitled. Section 22.3 states that any compensation payable shall be paid promptly and its authorisation for repatriation in convertible currency issued (see Section 2.5 for more details).
- **Settlement of disputes**: Section 23 of the TIA notes that where a dispute arises between a foreign investor and the TIC or the Government in respect of a business enterprise, all efforts shall be made to settle the dispute through negotiations for an amicable settlement. Where the dispute is not settled, it may be submitted to arbitration in accordance with arbitration laws of Tanzania (through domestic courts), before an ICSID tribunal or within the framework of any bilateral or multilateral agreement on investment protection agreed to by the Government and the country from which the investor originates. As detailed in Sections 2.3 and 2.7, separate mechanisms for dispute settlement are also available for mining projects, and for land-related disputes.

Provisions concerning immigration quota, obtaining credit from domestic sources by foreign investors, and technology transfer agreements (see Section 2.4) are also made under Part III of the Act. All of the above provisions for investor protection are further guaranteed within the **TIC Certificate of Incentives**, also introduced by the TIA 1997. While registering with the TIC and operating under the Certificate of Incentives is not mandatory, the service is available for domestic investment projects with a minimum capital of USD 10 000, and for foreign investors with a minimum capital of USD 30 000. The TIA entitles business enterprises holding the Certificate of Incentives to all benefits applicable under the provisions of the Income Tax Act 1973, the

Customs Tariff Act 1976, the Sales Tax Act 1976, and of any other written law being in force. The TIA also makes additional provisions for encouraging investment in "lead" and "priority" sectors (outlined in more detail in Section 3.5 of the next chapter).

The TIA 1997 is however silent as concerns other core investor rights, such as **National Treatment (NT) and fair and equitable treatment (FET)** – nor are these explicitly reflected in the TIC Certificate of Incentives. Rather, to date these principles remain mostly encompassed within Article 13 of the Constitution (which enshrines a principle of non-discrimination that protects, *among other things,* against any nationality-based discrimination), and within bilateral and regional investment agreements.

Box 2.1. **Main legal reforms for business establishment and facilitating private sector participation in the economy, 1996-2012**

- On procedures for **business establishment** (see Chapter 3): the Companies Act No. 12 of 2002; and the Business Activities Registration Act of 2007, affecting the activities of the Business Registration and Licensing Agency (BRELA) established since 1997;
- On **natural resource use** (see Section 2.3): the Land Act of 1999 (amended in 2004); and the Mining Act 1998 and Petroleum Exploration and Production Act 1980, which reduced regulatory control over both the mining and petroleum sectors. The Mining Act was a crucial move that freed the sector's important FDI potential, especially for gold (UNCTAD, 2002); its 2010 update (see Chapter 3) has since slightly increased mining royalties. As for the gas sector, a Draft Natural Gas Policy was released in November 2012 and will provide the basis for several legal documents governing investment in the sector (forthcoming in 2013 and 2014 – see Box 2.2).
- On **employment**: the Immigration Act of 1999, and the National Employment Promotion Services Act of 1999.
- On **privatisation and private sector involvement** in the economy (see Chapter 4): the Privatisation Trust Act No.7 of 1997; the Public Procurement Act (of 2001, 2004 and most recently 2011); and the Public Private Partnership Act of 2010.
- On **taxation and investment incentives** (see Chapter 3): the Value Added Tax Act, 1997; the Income Tax Act of 2004; and the Export Processing Zones Act No.11 of 2002 (followed by the Special Economic Zones Act 2005).
- On **competition and trade**: the Fair Competition Act of 2003; and the East African Community Customs Management Act of 2004.

## 2.2. Principle of non-discrimination on laws relating to investment

Has the government taken steps to establish non-discrimination as a general principle underpinning laws and regulations governing investment?

Although the measures detailed in the previous section have played a significant role in increasing the attractiveness of the country to domestic and foreign investors, Tanzania's investment regime remains insufficiently clear for potential investors. As detailed below, several sectors of the economy retain special preferences for domestic investors, as well as regulations that limit the possibility or the share of foreign participation. Tanzania's Bilateral Investment Treaties make clear that these exceptions to National Treatment, together with the additional incentives granted to domestic investors, must be limited and must only apply "provided they do not significantly affect the investment and activities of foreign investments" (see Section 2.6 below). While this is a legitimate approach for government to take in view of promoting local entrepreneurship and citizen empowerment, it nevertheless is important for such regulations on foreign investment to be regularly reviewed in light of their effectiveness and of any alternative measures which could meet the same end-goal. Careful assessment of the rationale behind each of these sector regulations could be an important component of the revision of the TIA 1997 and NIPP 1996. It is essential that this revision also clearly define to what extent foreign investment regulation responds to the country's overall development objectives, notably in terms of employment generation and poverty reduction.

### *Sectors of preferential treatment for domestic in relation to foreign investors in Tanzania: current status*

In Tanzania, 26 of the 33 sectors covered by the World Bank's Investing Across Sectors indicators are fully open to foreign equity ownership. They include:

- light manufacturing (such as food and pharmaceuticals);
- primary industries (agriculture and forestry, mining, oil and gas, etc.);
- services (including healthcare, retail and construction); and
- infrastructure investment (such as power generation and transport).

Meanwhile the following sectors have regulations that limit the possibility or the share of foreign investment and ownership:

- **Telecommunications**: foreign capital participation is limited to 65% for both fixed-line and mobile telephony and infrastructure.

- **Insurance**: one-third of insurance companies' share capital must be owned by Tanzanian citizens.
- **Media**: foreign capital participation in local nationwide newspapers is prohibited, and foreign capital participation is limited to 49% for Tanzanian TV stations under the Broadcasting Services Act.
- **Dar es Salaam Stock Exchange** (DSE): foreign investors can hold shares of companies listed at the DSE, provided ownership does not exceed 60%.
- **Selected tourism activities**: as per Section 58 of the Tourism Act 2008, 100% Tanzanian ownership is required in several activities (including mountain hiking, car rental firms, and travel agencies), and license fees are also higher for foreigners in certain small-scale tourism services.
- **Mining and gas**: the 2010 Mining Act (which repeals the 1998 Act) tightens regulations on foreign participation in mining. Licenses to mine for gemstones are only to be granted to Tanzanians, except where the development requires specialised skills, technology or a high level of investment; in such a case the non-Tanzanian participation is limited to 50% (FEMAPO, 2011). Meanwhile certain objectives of the Draft Natural Gas Policy (which was released in November 2012 and should be in place in 2013/2014) foreshadow some tightening of foreign participation in the gas sector as well. The extent to which the Policy's provisions on strategic government participation and ensuring domestic market supply will truly limits on foreign investment may only become fully clear once associated laws and regulations are drafted and enacted over 2013 (see Box 2.2).

Box 2.2. **Key elements of Tanzania's draft Natural Gas Policy of November 2012**

The first draft of Tanzania's Natural Gas Policy was released in November 2012, with publication of the final Policy expected for 2013/2014. The Policy will provide a framework for several subsequent pieces of legislation and policy, including: a Gas Utilisation Master Plan; a Natural Gas Act (updated from the 2009 Gas Supply Bill); an Upstream Act; and a Petroleum Policy. The Government has also put together a report outlining necessary steps to prepare Tanzania for a new gas economy (including possible review of the fiscal regime and improvement of staff capacity in the Tanzania Revenue Authority as concerns taxing revenues from gas exploitation).

Box 2.2. **Key elements of Tanzania's draft Natural Gas Policy of November 2012** *(cont.)*

The Policy has been aligned with the Tanzania Development Vision 2025, the National Energy Policy (2003); FYDP I, and MKUKUTA II. The Policy scope is very comprehensive, covering all of the following: natural gas infrastructure; supply to the domestic market; the LNG business; revenue management; pricing; security of supply; linkages with other sectors and unbundling of value chain activities; local content and capacity building; and corporate social responsibility (including a contractual obligation to undertake community development programmes). Gas suppliers, distributors and marketers will also adhere to a specific licensing regime and obtain supplies from the natural gas aggregator (the Tanzania Petroleum Development Corporation, TPDC, or one of its subsidiaries). The mandate of TPDC will be reviewed to ensure effective management of the natural gas industry.

The Natural Gas Policy notably commits to promoting PPPs to facilitate investments in the natural gas industry, and provides for the establishment of a Natural Gas Revenue Fund. However several of its other key objectives – including provisions for domestic market supply and for strategic Government participation – may pose concerning constraints on the participation of private investors in the sector. For example:

- ensuring sustainable utilisation of natural gas for the domestic market (the Policy notably notes that Government will "ensure that domestic market is given first priority over the export market");
- ensuring that the Government and Tanzanians participate strategically in the natural gas value chain (the Policy notably contemplates Government ownership of natural gas infrastructure in the early stages of development, while guaranteeing non-discriminatory access to common facilities); and
- ensuring that prices of natural gas and related services are economically efficient and promote natural gas.

Given the uncertainty that the above three objectives may create for the decisions of private-sector investors, it will be necessary to more precisely clarify the modalities of investment in the sector within the forthcoming Natural Gas Act, Gas Utilisation Master Plan, and Gas Policy. Meanwhile the Draft Policy makes no substantial changes to the structure and management of investment incentives in the natural gas sector.

*Source*: Peter Kasanda, Paul Jones and Lucy Minde. Clyde & Co, "Tanzania: Draft Natural Gas Policy For Tanzania – November 2012", 13 November 2012.

### *Differential treatment in procedures for business establishment and operation: Current status*

In addition to the sectoral equity limits above, foreign investors also face more practical barriers to investment from which domestic investors are free. This includes differences in business establishment procedures, project size thresholds, regulations on key personnel, and access to land:

- **Business establishment**: Under the Business Licensing Act 1972, to set up a business venture in Tanzania all companies must be licensed by the Business Registration and Licensing Authority (BRELA), hosted by the Ministry of Industry and Trade(UNCTAD, 2002). Investors can either register their company with BRELA directly, or through the TIC One-Stop-Shop which facilitates the process in relation to BRELA. Once a company is registered with BRELA, TIC provides its Certificate of Incentives for investment projects, subject to **size thresholds** (USD 10 000 for domestic investors and USD 30 000 for foreign investors). Foreign investors who do not want to create new companies in Tanzania can register branches of their foreign companies in Tanzania, provided that they meet the USD 300 000 project minimum; below this threshold the project can be registered through BRELA rather than TIC. Similarly, foreign investors wishing to establish a project in Tanzania's Export Processing Zones face higher thresholds for annual export turnover (USD 500 000) than local investors do (USD 100 000).
- **Hiring of foreign labour**: As per the TIA 1997, the TIC Certificate of Incentives entitles investors to an automatic immigrant quota of up to five non-Tanzanian persons during the start-up period (first five years) of a business. Any subsequent requests for expatriate staff are handled by TIC, which refers to the Immigration Department for approval. Government authorities can thus intervene in the decision to hire foreign employees beyond the five-person quota. As for EPZ companies, under the 2002 EPZ law the number of foreign employees proposed by the investor has to be reviewed by the Government. In the case of public procurement, the 2011 Public Procurement Act states that exclusive preference should be granted to local persons or firms in public procurement, in cases where the financial resources are exclusively provided for by a Tanzanian public body and where the procurement value does not exceed a specified amount. Nonetheless in Tanzanian law, a written explanation must be given for the exclusion of international firms in any public tendering process (Odhiambo and Kamau, 2003).

- **Access to land:** As addressed briefly in Section 2.4 below (and in more detail in Chapter 5), foreign investors are more constrained than domestic investors in their access to property and land. Unlike domestic investors, foreign investors for instance need to obtain the TIC Certificate of Incentives before they can apply for land leasing; this effectively complicates land access to foreign SMEs, as any foreign projects smaller than USD 300 000 do not qualify for the TIC Certificate. In addition the current policy stance in Tanzania emphasises the importance of strict review of land access by foreigners, in view of mitigating risks of land-grabbing. While this is a fully legitimate concern, it could more adequately be addressed through non-discriminatory measures; moreover this concern fails to justify the current length and complexity of land lease procedures.

### *Regulations on the possibility or share of foreign ownership in specific sectors: Evaluation*

Currently the different sector regulations above (together with special preferences granted to domestic investors and provisions which apply to foreign investments only) are dispersed over several bodies of legislation (Procurement Act, Tourism Act, Mining Act and EPZ Law among others). The fact that considerations for entry of investments are not clearly set out in the TIA 1997, nor gathered within a common legal text, makes the investment context difficult to grasp for foreign investors. In the interest of openness, transparency and predictability, all of these restrictions should rather be clearly listed in a single instrument – for instance as Regulations to the Investment Act, under the form of a "negative list" that can be regularly updated. Alongside the regulations concerning investor origin and the sector of investment, supplementary considerations for permitting investment (such as geographic locations and capital thresholds) should be clearly mentioned in the Regulations comprising the "negative list". The investment law itself should make reference to these regulations as well, for transparency purposes.

There is also a need to more clearly assess and justify the grounds for these regulations and preferences by size and sector. The planned revision of NIPP 1996 provides an opportunity for investment policymakers to review the rationale for each regulation limiting the extent of foreign participation, in light of how effectively it meets Tanzania's poverty reduction and development objectives. The purpose, costs and benefits, and means of phase-out over time for every restriction requires careful analysis; for example having different thresholds for different sectors and projects brings confusion for investors,

and risks putting a premium on the volume of investment projects at the expense of their quality or potential for technological innovation. These investment size thresholds may also be counter-productive in that they prevent small and medium entrepreneurs to benefit from investment incentives and to thereby operate on a more equal footing with other companies; this may limit the ability of both foreign and domestic SMEs to usefully contribute to Tanzania's export and investment strategies. In parallel, the potential benefits of opening certain sectors to foreign investment – including job creation, revenue collection, transfer of technology and know-how, linkages with domestic enterprises, and enhanced services for final users – should not be underestimated in this evaluation exercise.

This regular assessment process should be widely consultative and should include – and distinguish between – core restrictions (for instance in arms manufacturing, in the interest of national security, or in strategic sectors), and restrictions that are based on the country's development strategy (such as ownership or procurement preferences by sector). The assessment could also refer to practices in other countries, and consider alternatives which could replace the regulations and serve the same end-purpose. For example rather than excluding foreign participation outright in sensitive (such as gemstones) or high-value-added sectors (such as local tourism services), participation could be made conditional on developing local capacity-building or training schemes and on employing a minimum quota of local staff.

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Has the government reviewed restrictions affecting the free transfer of capital and profits and their effect on attracting international investment?

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### *Provisions for transfer of capital and profits in Tanzania's legal framework for investment*

Since the Foreign Exchange Act of 1992, there are no restrictions on repatriation of profits and transfer payments can be made in foreign currency. Under the 1995 Bank of Tanzania Act, the Bank of Tanzania (BOT) is empowered to control all aspects of foreign exchange in the country, including authorisation of payments abroad; since 1998 individuals and companies can nevertheless obtain overseas loans without seeking BOT approval. Moreover Part III of the TIA guarantees enterprises unconditional transferability of profits. Finally the Standard Format Agreement (SFA), which Tanzania uses as a model for the negotiation and design of reciprocal investment protection agreements, comprises an article providing for free transfer of capital and profit. Yet for investors falling outside of the coverage

of Tanzania's specific Bilateral Investment Agreements, there is not yet free transfer of capital since Tanzania's capital account is not yet fully open (unlike the current account). Although FDI inflows are largely free, portfolio inflows therefore remain restricted – and more so in Tanzania than among most of its trading partners, such as its EAC neighbours.

#### *Strong momentum for reviewing capital restrictions in line with EAC commitments*

Recognising that gradual liberalisation would help attract longer-term sources of savings, the Government is progressively opening the capital account. Since 2011 a Technical Committee has been established between the **Capital Markets and Securities Authority** (CMSA), the Ministry of Finance and BOT to develop recommendations for removing restrictions on the capital account, in view of better alignment with Annex 6 of the EAC Investment and Finance Protocol. As cautioned by the IMF, to be successful and preserve macroeconomic stability, this liberalisation will need to be accompanied by further strengthening of data collection and financial sector supervision (Nord et al., 2009).

The Technical Committee is adopting a gradual approach to removing these restrictions – or as expressed by a member of the Committee, deliberate "speed bumps" which should minimise the shock of capital opening on the economy. For this, it has developed a comparison matrix in 2012, which identifies the following: risks to which Tanzania would be exposed following the removal of each restriction; preconditions that should therefore be established prior to removal (including macroeconomic indicators such as inflation and foreign reserve levels); and remedial measures to minimise these risks (such as monitoring and early warning systems, and robust reporting mechanisms). 13 restrictions have so far been identified for removal starting in 2012, in the following fields: four restrictions in equity and portfolio investment; three in bonds and other debt instruments; two in monetary market instruments; two in collective investment schemes; one concerning bank transactions; and one concerning direct outward investment.

## 2.3. Steps taken to improve land ownership registration

What steps has the government taken towards the progressive establishment of timely, secure and effective methods of ownership registration for land and other forms of property?

### *Current procedures and timeframe for access to land*

The legal framework for access to land in Tanzania, as well as the system for resolution of land disputes, is extensively described in Chapter 5 of this report. Therefore the current section addresses only the broad outline of complex policy and implementation issues that are further explored elsewhere. In 2000 the Government began a vast process of land law rationalisation, guided by the enforcement of the **Land Act and the Village Land Act 1999**. Under the Land Act 1999, all land in Tanzania belongs to the State. These acts make land available to private sector investors on a leasehold basis, for periods of up to 33, 66 and 99 years. Public land falls under the following categories: General Land, Village Land, and Reserved Land, and the President can transfer village land to another category, subject to compensation. Land can therefore be occupied in three different ways: Government granted right of occupancy; TIC derivative rights; and sub-leases created out of granted right of occupancy by the private sector (TIC, 2006). Chapter 5 below fully details the different modalities for obtaining these rights of occupancy (including General Rights of Occupancy, GROs, for general land; and Customary Rights of Occupancy, CROs, for village land). The TIA restricts occupation of land by non-citizens to investment purposes only, and application for land by a non-citizen or foreign company must be accompanied by a TIC Certificate of Incentives.

Prior to 2004, granting of tenure rights for urban land could take from two to six months, and from four months to two years for village land; the latter requires village approval but is often complicated by poor village-level understanding of legal rights, or by the presence of unofficial brokers (R&AA, 2010). In 2002, the Ministry of Lands and Human Settlements issued a directive to accelerate the allocation process, and a backlog of 3 000 title deeds was cleared and issued that year (TIR, 2004). This was only a one-shot effort however, and in order to more durably reduce these prohibitive timeframes, the 1999 Land Act was amended and replaced with the **Land Act 2004**. This has shortened time needed for applicants to obtain a title deed, and also allows land to be used as collateral by local and foreign investors, facilitating access to bank loans (Chapter 5 details the full process for obtaining a title deed, including outside of the Ministry of Lands and the role of the Commissioner of Land).

Despite these reforms, in 2013 it still takes an average of nine procedures, 73 days and cost 4.4% of property value to register property in Tanzania. One of the most frequently cited challenges by the investment community and Government bodies alike is therefore access to land. Tanzania indeed

ranks 137th out of 185 economies on the 2013 World Bank Doing Business indicator for registering property, as procedures are numerous (eight) and lengthy (68 days) compared to the regional average (respectively six procedures and 65 days).

Both foreign investors and domestic land-holders would benefit from a clear land cadastre, which would increase transparency in the system as well as accelerate leasing procedures. Over 2009-2010 a needs assessment for **land computerisation** was conducted, which covered how to best integrate such a system with the granting of land rights and with monitoring functions. The Ministry of Lands and Human Settlement Development (MLHSD) hopes to begin this project with pilots over the next two-to-three years, before rolling out at the Local Government Authority (LGA) level. The Ministry has also operated pilot projects for e-mapping and title issuance in two districts. Any scale-up of these pilots will need further funding as well as institutional interventions to increase the staffing of LGAs. Digitisation of all land survey plans is on the Government Roadmap for Improvement of the Investment Climate (Comprehensive Action Plan for 2012-2014, sub-section on Construction Permits). This should be further implemented under an Integrated Land Management System for which the World Bank is expected to release funds once the project has passed its evaluation stage (PMO, 2012b).

The 2004 Land Act also empowers the TIC to provide investors with land. Whereas all land transactions previously transited through MLHSD, three staff from the Ministry have been stationed in TIC's Land Delivery Unit to strengthen its one-stop-shop (OSS) service capacity. These officers assist investors in securing sites and follow up with MLHSD, where titles are prepared while TIC prepares derivative rights and sub-titles for the foreign companies. For several years now establishing a **TIC Land Bank** has also been on the Government agenda, to provide a fixed amount of parcels for more rapid allocation and investment in different sectors. The Bank is extremely incipient and to date covers only 2.5 million hectares; this consists mostly of district land that has been directly transferred to the TIC's responsibility following approval by MLHSD of "land use plans" provided by local districts. Identifying potential land areas for the Bank has so far been hampered by insufficient co-ordination, communication, or clear chains of accountability among several different entities (from LGAs to regional entities and to TIC itself – see Chapter 5). To address these challenges, in 2012 MLHSD proposed to Cabinet the establishment of a committed institution – the Land Bank Authority – which will oversee this process. By May 2012 a draft Cabinet Paper had been

prepared to this effect. MLHSD is also currently attempting to consolidate its own Land Bank, which would later be transferred to TIC.

### *Operational challenges facing the TIC Land Bank*

Despite the recent reforms outlined above, more wide-ranging consultation and analysis over the likely costs and benefits of a TIC Land Bank is necessary before accelerating implementation. Indeed this is a very complex and ambitious project which requires several pre-conditions to be met. Among other operational challenges, **budgetary constraints** for securing and compensating land to be placed in the Land Bank loom large for both MLHSD and TIC. A Land Compensation Fund, which was provisioned for under the 1999 Land Act, has not yet been created. At present land can only be reclaimed if it is abandoned, not in use, or can be cheaply purchased; this means that the land destined for the Bank is likely to be highly fragmented, unsuitable for large investment projects, and probably in undesirable locations (this is also a central challenge for the SAGCOT initiative, see Chapter 5). MLHSD notes that land laws would need revision in order to endow the envisaged Land Bank Authority with sufficient powers and financial resources to cover future acquisitions and their compensation.

In addition while land with expired titles will flow directly into the Land Bank, all other land would require assessment of land use and local community needs in accordance with the Land Use Planning Act (LUPA) and complex Village Land Use Plans. Although the National Land Use Plan 2009-29 promotes participatory land use planning to avoid conflicts between local communities and related stakeholders, land use plans are at times prepared by public authorities without fully involving the public because of the need to speed up implementation (see Chapter 5 for more details). Another issue is that the land made available is likely to be isolated from infrastructure services, especially transport, whereas it would need to be fully serviced in order to be attractive for potential investors.

### *Underlying complexity of the legal framework for access to land, land registration and resolution of land disputes*

The effectiveness of measures for simplifying access to land for investors (including the TIC Land Bank and the posting MLHSD officers at TIC) is undermined by more structural problems. These include the **low rates of land registration** in the country and **weak mechanisms for resolution of land disputes** (which further discourages land registration, as discussed

below). The current initiatives can only create temporary regulatory short-cuts for investors, and longer-term reform efforts require at least as much policy attention. The Land Bank project should therefore not detract from essential regulatory measures which are still lacking, such as increasing security of tenure, and encouraging land registration by citizens. The effectiveness of the Land Bank as a policy instrument would also require that Government first undertake an overall survey of land and land use in the country.

**Land registration** rates are very low in Tanzania and the land registry is not yet computerised – although efforts have been made in this regard, as noted above (TIR, 2004). The National Bureau of Statistics reports that the percentage of land owned under Customary Law stood at 39.4% in 2012 (down from 69.5% the previous year), land owned by buying at 7.3% (down from 15.8%), and land owned under official land titles at 14% (an encouraging rise from 5.5% in 2011). This nonetheless leaves a concerning shortfall of 39.3% of land unaccounted for (NBS, 2013). The current state of land titling prevents the elaboration of a clear land cadastre and hampers full transparency and security of tenure for land-holders. MLHSD acknowledges that a key step to increasing security of land tenure would be to facilitate access to land titles and strengthen LGAs' capacity to register land. This would also reduce the flooding of land tribunals by dispute and registration-related cases. However incentives for registering land rights are very low, precisely because of the ineffectiveness of **land dispute tribunals**.

As per the **Land Disputes Courts Act of 2002** (see Chapter 5), contract enforcement and jurisdiction for land and commercial disputes fall under the ambit of the following courts, in order of importance: Village Land Councils; Ward Tribunals; District Land and Housing Tribunals (of which 99 exist in Tanzania); the Land Division and Commercial Division of the High court; and the Court of Appeal. However these courts face constraints of scarce personnel, case backlog, and high fees. By end 2011 over 15 000 cases were still pending in land courts. In addition more funds are necessary to open additional tribunals: although 39 land tribunals now operate in the country and four new ones are expected to be established each year, existing resources fall short of these objectives. The system of land compensation will also need to be standardised and clarified, in particular as concerns computation of market value of land and livelihood considerations; a Compensation and Valuation Act has been presented before Cabinet in 2012 in this aim.

Increasing the rates of land registration, and bolstering the effectiveness and capacity of land dispute resolution and compensation mechanisms, will become increasingly urgent in coming years. This is not only in view of current plans to enlarge the TIC Land Bank, but also in light of the rising frequency of land disputes in Tanzania. Attempts undertaken so far to facilitate access to land for investors have so attempted to side-step the complexity of the current land allocation and dispute-resolution framework, rather than engaging in the necessary wide-ranging structural reform. As detailed further in Chapter 5, Tanzania's legal framework for land tenure remains very restrictive, and may become even more so with the Constitutional Review envisaged for 2013-2014. These structural problems cannot be resolved by "quick fix" efforts such as establishment of a Land Bank alone.

## 2.4. Protection of Intellectual Property Rights

Has the government implemented laws and regulations for the protection of intellectual property rights and effective enforcement mechanisms? Does the level of protection encourage innovation and investment by domestic and foreign firms? What steps has the government taken to develop strategies, policies and programmes to meet the intellectual property needs of SMEs?

### *International and domestic framework for intellectual property (IP) rights*

Tanzania is a member of several international organisations which uphold it to specific IP standards:

- the World Trade Organisation (WTO);
- the African Regional Intellectual Property Organisation (ARIPO, formed in 1926 as a regional system to complement the national IP system of its 18 members); and
- the World Intellectual Property Organisation (WIPO).

As part of its membership to the above bodies, Tanzania is also a contracting State to several international and regional conventions on IP (outlined in Box 2.3 below).

Box 2.3. **International conventions and domestic laws for intellectual property protection in Tanzania**

*Tanzania is a contracting State to the following international and regional conventions on IP:*

- The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) of 1994.
- The World Intellectual Property Organization (WIPO) Convention.
- The Berne Convention for the Protection of Literary and Artistic Works.
- The Paris Convention for the Protection of Industrial Property.
- The Patent Cooperation Treaty.
- The Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks.

*Source*: World Intellectual Property Organization (WIPO).

At the domestic level, laws relevant to intellectual property for the Tanzanian mainland include:

- the Merchandise Marks Act No. 20 of 1963 (updated in 2005);
- the Trade Services Marks Act of 1986;
- the Patent Act No.1 of 1987 (which was enacted to make better provisions for the promotion of invention and innovation and for the acquisition of technology on fair terms, through the grant and regulation of patents, utility certificates and innovation certificates);
- the Copyright and Neighbouring Rights Act No. 7 of 1999;
- the New Plant Varieties (Plant Breeders' Rights) Act of 2002; and
- the Traditional and Alternative Medicines Act No. 23 of 2002.

In addition to the domestic legal framework outlined above, Section 26(1) of the 1997 TIA enables investors to enter agreements for the transfer of foreign technology or expertise for their enterprises, provided that they register every such agreement with the TIC. Yet although this grants TIC a role in monitoring technology transfer agreements, it does not in itself guarantee investors' IP protection. Moreover the above laws seldom refer to international conventions signed by Tanzania – for example the Patents Act has no provisions making reference to the TRIPS agreement and is thus "TRIPS-incompatible" for now. Further efforts need to be done for Tanzania

to bring its IP legislation in line with its TRIPS obligations. Furthermore penalties for infringing these laws are slight – the infringement fine is thus limited to 100 000 TZS (USD 63) for the Patent Act, and to 200 000 TZS (USD 127) for the Copyright and Neighbouring Rights Act. While Tanzania has a basic framework for IP protection, to date it also lacks an IP Policy. According both to Government and to the Tanzania Private Sector Foundation (TPSF), existing IP policies and legislation thus do not provide sufficient incentives or encouragement for innovation.

### *Progress towards a National Intellectual Property Strategy*

A more comprehensive **national intellectual property strategy** (NIPS) is now under formulation in Tanzania. This effort takes place in the framework of a collaborative pilot exercise undertaken by the Government of Tanzania and WIPO. On the Tanzanian side the process is led by the Ministry of Industry and Trade (MIT) together with the **Business Registrations Licensing Agency** (BRELA), and has involved stakeholders from both Tanzania mainland and Zanzibar, as well as WIPO and ARIPO delegations. The outputs of this collaborative project to date include a 2012 overview of key policies – including the national policies for trade, industrial development, science and technology, research and development, competition, SMEs, and ICT. The report finds that these policies contain minimal reference to intellectual property, and stresses the importance of creating a "proper link" to these matters in all development strategies. A national IP strategy could enable Tanzania to use technological development to harness its productive potential, especially in its natural resources (Matambalya, 2012a). Government is also considering developing a single industrial property act, which would notably be made "TRIPS compatible".

Such a strategy would need to focus on the rights that matter most for the development of innovative industries in Tanzania today – it could for instance be particularly useful to introduce IP rights that are customised with a view to simplifying registration of innovation in agriculture and agribusiness. The specific **IP needs of SMEs** would also require more attention. Steps to meet these needs so far solely include initiatives to fight fake products and to ensure common production standards through the Tanzania Bureau of Standards (TBS) and the Fair Competition Commission (FCC). The Small Industries Development Organization (SIDO) is working with BRELA in this domain, and four SIDO officers have been trained to support small enterprises in their intellectual property rights concerns.

### *Weak institutional mechanisms for enforcement of intellectual property rights*

With or without an IP policy however, Tanzania's IP framework remains undermined by the weakness of available mechanisms for identifying and punishing IP infringements (URT&WIPO, 2012). Prior to 1999, intellectual property had been administered by Ministerial departments alone. Although the situation has improved since, Tanzania still lacks a dedicated body for enforcing IP in the country; rather this role falls to several different agencies, as follows:

- two IP Offices, both of which operate under MIT: the Office of the Registrar of Industrial Properties and the Office of the Copyright Administrator;
- BRELA (which operates as a semi-autonomous body under MIT); BRELA's Intellectual Property Division is mandated to oversee IP policy, namely by: administering the Patent and Trade and Service Marks Acts; stimulating scientific and technological innovation and encouraging technology transfer; and protecting the development of creativity in artistic and literary works, and in expression of folklore;
- COSOTA (Copyright Society of Tanzania), which was established under the Copyright and Neighbouring Rights Act and is responsible for its enforcement;
- the Fair Competition Commission (FCC, also anchored in MIT), which is responsible for enforcement of the Fair Competition Act and the Merchandise Marks Act through its Anti-Counterfeiting Department;
- the Commission for Science and Technology (COSTECH, within the Ministry of Science and Technology), which hosts the Tanzania Intellectual Property Advisory Services and Information Centre and provides assistance in drafting patent documents and filing of patent applications; and
- the Registrar of Plant Breeders (within the Ministry of Agriculture and Food Security).

Most of these bodies are under-capacitated: the BRELA IP Division is notably very small (counting only 10 of BRELA's total 63 staff in 2012), and relies only on fees levied through BRELA's registration functions for its financing. In addition there is no institutional mechanism for co-ordinating these different units among themselves, aside from the informal National Intellectual Property Forum (NIPF, established in 2004). NIPF is currently insufficiently effective, and WIPO recommends strengthening and transforming it into a Tanzania Intellectual Property council (TIPC).

Moreover, existing laws do not provide for IP dispute settlement panels. IP disputes – mostly pertaining to denied patent or trade-mark applications – are dealt with either at the Trade Marks Tribunal (hosted by BRELA and presided by the Registrar of Industrial Properties) or the Fair Competition Tribunal (hosted by the FCC). Administration of IP mostly falls to BRELA and competes with the agency's many other functions, including industrial licensing and company registration. Some administration is also provided by the FCC. Furthermore there is almost no enforcement dimension in the mandate of BRELA's IP Division, as the Patent and Trade and Service Marks Acts which it oversees deal with registration processes alone (URT&WIPO, 2012). Likewise COSOTA has no prosecutorial role, and is only legally empowered to determine the minimum rates of royalties to be levied on uses of works and performances (Kalunde, 2011). Although a few IP cases have been handled in Tanzania, IP litigation therefore remains very rare and parties often resort to alternative methods of dispute settlement – for instance outside the courts or through mediation by the courts, in the cases of Bahari Salts and ZE Comedy respectively (URT&WIPO, 2011). In light of these shortcomings, WIPO recommends that Government develop and strengthen the capacity of the judiciary on intellectual property issues, and that it establish a special IP division at the High Court (Matambalya, 2012b).

### *Raising awareness on intellectual property rights*

The above institutional fragmentation is exacerbated by the low awareness of the economic value of IP in Tanzania, as well as by the lack of a national IP policy to date. As a result, the majority of patent applications for enterprises operating in Tanzania are made to ARIPO or WIPO, or through the Patent Cooperation Treaty in the case of foreign investors, rather than via BRELA's IP Division. Applications for Trade and Services Marks, on the other hand, are made in majority to BRELA.

Efforts to strengthen IP protection and to develop a comprehensive IP policy have increased in recent years. In December 2009 the **Tanzania Intellectual Property Rights Network** (TIP-Net) was launched to increase awareness of IP in the country. This network works closely with BRELA and COSOTA. Through sensitisation, the network aims to tackle the widespread ignorance (in Tanzania but also at the regional level) of the purpose and functions of intellectual property, which is in part responsible for infringement. This is especially so in the area of copyrighted materials and trademarks (Afro-IP, 2010). TIP-Net has advocated modernising IP laws in the East African region (including Tanzania's), and in this regard it emphasises

the importance of working towards the East African Community Common Market Protocol – which would require member states to adopt a common position on IP matters and to update the current legal framework for IP (Mikaili, 2011).

## 2.5. Guarantees against unlawful expropriation

Does the government maintain a policy of timely, adequate, and effective compensation for expropriation also consistent with its obligations under international law? What explicit and well-defined limits on the ability to expropriate has the government established?

Protection against expropriation without compensation is a crucial right of investors, which must be clearly set out in the regulatory framework for investment. If an expropriation occurs, compensation must be fair, adequate and paid promptly. In addition, a lawful expropriation must be motivated by a public purpose, observe due process of law and be non-discriminatory.

In recent years, there have been no known recent cases of expropriation by Tanzanian authorities. The right to own property is guaranteed by the Constitution (Article 24), which stipulates that "it shall be unlawful for any person to be deprived of his property for the purposes of nationalization or any other purposes without the authority of law which makes provision for fair and adequate compensation". In addition, Article 22 of the TIA 1997 states that any expropriation will follow the "due process of law", and therefore include fair, adequate and prompt compensation as well as right of access to the Court or a right to arbitration for the determination of the investor's right and the amount of compensation (see Section 2.1 above). The TIA contains no further explanation or description of exceptional circumstances in which expropriation can occur in the public interest or for reasons of national security. Likewise, the Article is silent on how the amount for compensation should be determined, and whether it should be based on the fair market value of the asset before the expropriation has occurred. Specifying these details within the legal document could potentially increase the predictability of the framework, and thereby shore up investor confidence. A positive step has already been taken in this direction: as a safeguard to reassure investors as to risks of arbitrary expropriation, a domestic court (the High Court) now has powers to review the exercise of Government powers of expropriation.

Tanzania is also a member of the Multilateral Investment Guarantee Agency (MIGA) since 1992, which provides an additional layer of protection to

foreign investors against expropriation. MIGA provides political risk insurance guarantees to private sector investors and lenders and protects investments against non-commercial risks. Moreover, the country has ratified a number of Bilateral Investment Treaties (BITs), which provide further provisions on expropriation and compensation. They contain a well crafted provision that covers both direct and indirect expropriations and conditions the State's right to expropriate on being non-discriminatory, taken under due process of law, for a public purpose and against the payment of a fair compensation. In line with customary international right, they also grant prompt, adequate and effective compensation. They moreover cover in great detail how to assess the genuine market value of the asset before the expropriation is made public, for valuation and compensation purposes. The expropriation clause therefore adds another layer of protection to what is already granted in the domestic legal framework.

## 2.6. International and regional co-operation in the promotion and protection of investment

Are investment policy authorities working with their counterparts in other economies to expand international treaties on the promotion and protection of investment? How does the government align its investment policy with regional initiatives, such as in the context of the East African Community (EAC) and the Southern Africa Development Community (SADC)?

When investing abroad, foreign investors face a risk related to the uncertainty of the type of treatment they will receive in the host country. In such a context, BITs guarantee certain standards of treatment to foreign investors and ensure transparency and stability.

Tanzania is committed to several Bilateral and Multilateral arrangements, such as those comprised within WTO, the African, Caribbean Pacific (ACP) community, and European Union (EU). While Tanzania has not yet built an extensive BIT network, over the past two decades the government has embarked in a programme of ratification of Investment Protection and Promotion Agreements. As of June 2013, Tanzania has ratified such treaties with Germany (1968), the United Kingdom (1996), Denmark (2005), Sweden (2002), Finland (2002), Italy (2003), the Netherlands (2004) and Switzerland (2006). In addition, Tanzania has concluded Double-Taxation Agreements (DTAs) with Canada, India, South Africa, Denmark, Italy, Sweden, Finland, Norway, and Zambia. Meanwhile BITs that have been signed by Tanzania but not yet ratified (and that therefore do not have any legal effect so far)

include those with Egypt (1997), Korea (1998), Zimbabwe (2003), South Africa (2005), Jordan (2009), Mauritius (2009), Turkey (2011), Oman (2012), and Canada (2013). Likewise the DTAs signed with Korea and Zimbabwe are still pending ratification (UNCTAD, 2013).

Tanzania's BITs are fairly consistent and homogeneous in the scope and content of core investment protection standards. The approach taken to investor-State dispute settlement and to foreign investor protection is consistent with the most traditional approaches in global practice. Tanzania's treaties provide for an asset-based definition of investments, with an illustrative list of covered investments, and investors' nationality is defined by using the criterion of incorporation. They all provide for a standard of Fair and Equitable Treatment (FET) that is set out together with the guarantee of a Full Protection and Security (FPS) standard of treatment. The Most Favoured Nation (MFN) treatment is also granted through all Tanzanian BITs, as well as the standard of National Treatment (NT). All of these substantive protection standards are granted at a post-establishment stage, which means that these standards only apply after the investment has entered the country. Such an approach allows national authorities to regulate the entry of investments and is consistent with the most common treaty practice.

In contrast to common practice however, Tanzania's National Treatment standard is coupled with a substantial exception relating to incentives. This exception typically reads as follows in Tanzania's BITs: "limited incentives granted only to nationals to stimulate the creation of local industries must apply provided they do not significantly affect the investment and activities of foreign investments. Subject to the strengthening of the capacity of local industries, Tanzania shall eliminate progressively such special incentives." Such hortatory commitment to progressively remove special incentives is very unusual in NT provisions and could usefully be avoided in future Tanzanian BITs. A treaty clause providing for an exception to NT should not contain such a loose commitment to progressively remove the exception, as it does not give investors any guarantee to further liberalisation but merely adds some uncertainty to the scope of the NT standard.

All investment treaties signed by Tanzania contain an umbrella clause, which elevates legal obligations taken under investment contracts by public authorities into breaches of BITs. Inserting an umbrella clause therefore gives access to treaty arbitration in the event of a contractual dispute. Umbrella clauses have not been a prominent feature of global treaty practice for many years, and it is considered a good and cautious practice not to include them

in investment treaties, as they have given rise to inconsistent interpretations by arbitrators. For clarity purposes, and to avoid any unintended over-commitment, Tanzania could therefore consider removing such clauses from its future BITs. Tanzania also commits to grant foreign investors with a free transfer of funds and to facilitate the entry and sojourn of foreign personnel of investing firms.

Tanzania's treaty policy therefore lays the foundation for an investor-friendly climate, although it could be further fine-tuned. For example, the Investor-State dispute settlement (ISDS) provision, which gives investors access to international arbitration in the event of a dispute with the authorities, is very brief and could be further detailed to allow the authorities to have greater control over the conduct of potential arbitral proceedings. In particular, Tanzania might wish to insert a "fork-in-the-road" clause into its ISDS provision. Such a clause provides that the investor must choose between the litigation of its claim in the host State's domestic courts or international arbitration. It is a common feature in recent BITs and limits investors' practice of "forum shopping". Tanzania could also consider inserting a mandatory waiting period before the investor can bring the case to an arbitral tribunal, during which the parties are required to take positive steps to seek a resolution that may avert the need to arbitration. In addition, the government could further consolidate the ISDS provision by inserting clauses related to the consolidation of claims, the dismissal of frivolous claims and the transparency of proceedings.

Regarding the promotion and facilitation of investment, Tanzania adopts a "best-endeavour" approach expressed in a vague and general wording, which does not encompass any specific obligation regarding exchange of information and transparency with mechanisms to implement them. Tanzania could consider adopting a more conducive approach to investment promotion in its treaties and to specify promotional activities that should be undertaken. For example, a provision requiring State parties to exchange information on investment opportunities, to provide technical assistance and support to aid domestic firms to establish operations overseas could be inserted.

Since 2003 Government also has a **Standard Format Agreement** (SFA) in place as a model text for guiding the design and negotiation of bilateral investment agreements. In line with individual BITs already signed by Tanzania, the SFA notably comprises an article providing for NT and MFN treatment of investments. Government is now considering an update of the SFA to incorporate recent global developments in bilateral investment treaties, with particular reference to responsible business conduct provisions as well as health, safety and environmental measures. Tanzania

would indeed be well advised to better reflect in its treaties such crucial emerging issues by inserting exceptions to its treaty commitments for public benefit purposes. This would allow the authorities to strike a balance between openness and some political leeway to preserve the protection of some policy objectives.

On the regional level, Tanzania is a member of the East African Community (EAC) and the Southern Africa Development Community (SADC).* TIC works closely with the department of Investment Promotion of the EAC Secretariat in promoting investment opportunities in EAC member countries. Tanzania participates in joint investment promotion missions and conferences where EAC is marketed as a common investment destination. Important information on investment issues and opportunities is generally exchanged among EAC member states through this department of the EAC Secretariat. TIC also co-operates closely with the SADC on issues of trade and investment (see Box 2.4). However to date involvement by Tanzania has been minimal, as preference and priority in its regional activities are often given to EAC-co-ordinated work. Plans for a Tripartite Free Trade Agreement among COMESA, SADC and EAC (for which a Roadmap was agreed to in 2008, and which aims to build on existing FTAs in all three regional blocs) could be a particularly good platform for countries with overlapping membership such as Tanzania (COMESA-EAC-SADC, 2008).

Box 2.4. **Tanzania's regional co-operation within EAC and SADC on the promotion and protection of investment**

**Regional co-operation within the East African Community:**

The EAC aims at strengthening economic integration of the EAC countries on a selective and pragmatic basis, including facilitation of trade through harmonisation of tariffs, payments, transport, movement of people, and harmonisation of other areas of common interest such as in the political, social and cultural fields. EAC promotes investment as a block and co-operates in global-level negotiations, such as on External Payment Arrears (EPA) with EU. Tanzania lags behind other countries in the EAC, notably in terms of trade and investment regulation; Tanzania is for instance responsible for

* member states of the EAC include Kenya, Uganda, Tanzania, Rwanda and Burundi. Member states of the SADC include Angola, Botswana, Lesotho, Malawi, DRC, Mauritius, Mozambique, Namibia, Swaziland, Tanzania, Zambia, Zimbabwe, South Africa and the Seychelles.

Box 2.4. **Tanzania's regional co-operation within EAC and SADC on the promotion and protection of investment** *(cont.)*

50 of the 80 non-tariff barriers to trade still present in the EAC market. Tanzania could accelerate its investment policy reforms in the context of recent EAC initiatives for co-operation on investment policy and investor protection, which include the following:

- A model investment code is currently being developed for the EAC, which could provide Tanzania with an interesting benchmarking opportunity in the context of the review of its own Investment Act.
- Deveral sub-regional infrastructure initiatives with potential for catalysing trans-border investment, such as the EAC energy master plan and a project for power interconnectivity across border towns of member countries (see Chapter 4).
- Sectoral investment policies also have potential for development on the sub-regional level, for instance through the recently-adopted East African agricultural and rural development strategy or the ongoing multi-phase study on the Development of Regional Tourism in East Africa (including regional training centres and standardisation of hotels).

**Regional co-operation within Southern African Development Community:**

The SADC also aims at establishing a free trade area for the liberalisation of intra-SADC trade in goods and services, and adoption of relevant trade laws. SADC member states are encouraged to implement sound macro-economic policies that attract investment flows, increase savings, and promote technology transfer. Recent initiatives for co-operation on investment policy and investor protection include the SADC Finance and Investment Protocol (FIP), which was negotiated in 2010 as an integral pillar of the SADC regional economic integration agenda. It sets the legal basis for regional co-operation and harmonisation in the areas of finance, investment and macroeconomic policy (including the development of a Regional Investment Policy Framework, which will use the OECD Policy Framework for Investment as a reference).

## 2.7. Contract enforcement and Alternative Dispute Settlement systems

Is the system of contract enforcement effective and widely accessible to all investors? What alternative systems of dispute settlement has the government established to ensure the widest possible scope of protection at a reasonable cost?

### *Overall justice system and Commercial Court in Tanzania*

The Tanzanian Constitution guarantees the independence of the Judiciary (Article 107B), which is divided into: the High Court of the United Republic; the Judicial Service Commission for Mainland Tanzania; the High Court of Zanzibar; the Court of Appeal of the United Republic; and the Special Constitutional Court of the United Republic. The Tanzanian judicial system is considered as relatively independent and contracts are generally enforced, as illustrated by the country's very good ranking on the 2013 *World Bank Doing Business Report* (36th position out of 185 economies for "enforcing contracts"). According to the study, on average, it takes 462 days, requires 38 procedures and costs 14.3% of the claim to resolve a dispute or enforce a contract in Tanzania. These figures compare very well with the Sub-Saharan African average (respectively 649 days, 39 procedures and 50.1% of the claim) and are even better than OECD average in terms of length and cost (respectively 510 days and 20.1% of the claim). However, the US Department of State reports issues of case backlog, trial delays, and lack of capacity of judicial staff (US DOS, 2011).

The government has embarked on a reform process towards a more efficient and accessible justice system for the business community. An important step in this endeavour was the establishment, in 1999, of a **Commercial Court** within the Civil Division of the High Court to expedite litigation of commercial disputes. The High Court has two other specialised divisions: a Labour Division, and a Land Division. Despite the creation of a dedicated Commercial Division, according to the Planning Commission of the President's Office, lack of transparency and delayed resolution of commercial disputes continue to be the prime weaknesses for settlement of investment and business related disputes at the national level. Complaints of ineffective dispute resolution also persist especially in the agricultural (horticulture) sector, where land conflicts between investors and local communities are common due to the purported lack of clarity of dispute settlement mechanisms.

During the first phase of Tanzania's Business Environment Strengthening for Tanzania programme (BEST, see Chapter 3), a central initiative focused on improving commercial dispute resolutions. The main points of focus in this regard were: improved access to commercial justice by SMEs and big business alike; improved speed and quality of services provided by the court system to businesses, in particular commercial dispute resolutions (CDR); reduced complexity, cost and time taken to process and resolve commercial disputes, with SMEs being the intended beneficiaries; and diversification of channels for commercial justice delivery, including alternative dispute resolutions. The outputs expected included: a more effective alternative dispute resolution (ADR) system; a simplified Civil Procedure Code; clearing the backlog of commercial cases; improved enforcement of judgements; and greater willingness of financial institutions to extend loans to SMEs (TES, 2005). While a commercial court had been established before BEST began operations, this first phase notably enhanced access to the Court by establishing more branches upcountry as well as supporting civil procedure reforms in the Judiciary. Phase I of the project also equipped the judiciary with a computerised case management system that remains to be further improved. As part of Phase II of the BEST programme, the government will introduce a Small Claims Stream (SCS) for resolving commercial cases, starting with a Pilot Scheme in Dar es Salaam. The SCS project will be introduced in magistrates' courts to improve SMEs' access to commercial justice.

### *Arbitration mechanisms and commercial dispute resolution*

Arbitration remains relatively undeveloped and is not yet widely-used by the business community. This is likely to be due to a weak and outdated legal framework for arbitration. Tanzania has an **Arbitration Act**, originally enacted in 1932 and modelled on English Law, and amended first in 1972 and then in 2002. The Arbitration Act does not reflect the UNCITRAL Model Law on International Commercial Arbitration and is not aligned with international best practices. The Act still refers to the Geneva Protocol on Arbitration Clauses of 1923 and the Geneva Convention on the Execution of Foreign Arbitral Awards of 1927. Under this Act, all dispute matters, except for land disputes, are arbitrable and parties are given great leeway on the procedural rules that govern the resolution of their disputes (Mkono, 2007). The Arbitration Act provides for no interim measures and contains no provision on confidentiality, although discretion of the proceedings is one of the main advantages of arbitration as an alternative to judicial dispute

resolution. An arbitration award may be challenged by application to the High Court on the ground of misconduct by the arbitrator.

In addition to the provisions of the Arbitration Act, the Civil Procedure Code 2002 contains rules for arbitration that must apply if the parties agree to refer to arbitration before a domestic court when court proceedings have already begun and are pending. The establishment of alternative dispute resolution (ADR) through the court system is aimed to make the adjudication and delivery of cases more cost-effective. There are two important arbitration facilitations in Tanzania:

- the Tanzania Institute of Arbitrators (TIA), which conducts commercial arbitrations, be they domestic or international, under its own set or procedural rules; and
- the National Construction Council (NCC), which was initially mandated to deal with construction disputes only but has since extended its activities to commercial arbitrations generally, both domestic and international. Parties can thus resolve their disputes under the NCC arbitration rules regardless of the dispute subject matter.

Tanzania's business climate would benefit from an updating of the overall legal framework for both domestic and international commercial arbitration. The government could consider replacing the current Arbitration Act by a piece of legislation in line with the UNCITRAL Model Law on International Commercial Arbitration as amended in 2006. Likewise, the enforcement of arbitral awards could be made easier in order to give investors a strong guarantee that arbitration in Tanzania is a safe, efficient and business-friendly mean of dispute settlement.

### *International arbitration at the International Centre for Settlement of Investment Disputes*

Tanzania is a member of the International Centre for Settlement of Investment Disputes (ICSID), and a signatory of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. However, the New York Convention has not been translated into domestic law and there is still no legislation providing for the enforcement of foreign arbitral awards. Regarding international investment disputes involving Tanzanian public authorities, Section 23 of the TIA 1997 also provides for dispute settlement between a foreign investor and the TIC or the Government, first through amicable settlement, and with possible recourse to arbitration through domestic courts, via ICSID rules, or any applicable bilateral or multilateral agreement on investment protection. Through such a provision, Tanzania

makes a unilateral offer to international arbitration, regardless of the nationality of the investors that brings the claim. This is a strong commitment towards foreign investors and a positive signal sent to the business community. The investment certificates provided by TIC also specify these modalities of dispute settlement. Meanwhile disputes arising in the mining sector fall under the Mining (Dispute Resolutions) Rules of 1999.

So far, Tanzania has been involved in four ICSID cases, of which one is still pending. The ICSID implications of the cases are detailed in Box 2.5 below, while Box 4.2 in Chapter 4 further expands on these cases as they pertain to management of infrastructure utilities.

Box 2.5. **Track record of Tanzania's involvement in ICSID cases**

- *Tanzania Electric Supply Company Limited v. Independent Power Tanzania Limited (ICSID Case* No. *ARB/98/8)*. This case, which was concluded in 2001, is not based on the provisions of a BIT. The dispute arose out of a Public Purchase Agreement between Limited (TANESCO, the State-owned public utility), and Independent Power Tanzania Limited (IPTL, a joint-venture between a Tanzanian engineering company), and a Malaysian corporation, for the latter to design, construct and maintain an electricity generating facility.
- *Biwater Gauff (Tanzania) Limited v. United Republic of Tanzania (ICSID Case* No. *ARB/05/22)*. Biwater Gauff Limited had successfully bid, in 2003, for the right to develop Tanzania's water and sewer infrastructure and services project under City Water Company. BGL subsequently failed to generate expected income and to meet its contractual obligations. After an unsuccessful attempt to renegotiate the contract, the project was unilaterally terminated by the Water Authority. The claimant then brought the case to an ICSID Tribunal, arguing that the government's actions violated several of its obligations under the UK-Tanzania BIT. In 2008, the tribunal found that Tanzania had violated its obligation to not unlawfully expropriate property; to provide fair and equitable treatment; to not impair the investment through discriminatory measures; and to grant full protection and security to the investment. However, the tribunal found that the breaches did not cause City Water any financial losses and therefore dismissed all claims for damages, since City Water had no right of value at the time of the expropriation.
- *Standard Chartered Bank v. United Republic of Tanzania (ICSID Case* No. ARB/10/12). The dispute arose out of a Power Purchase Agreement and was concluded with an arbitral award rendered in November 2012 that has not yet been made publicly available.
- *Standard Chartered Bank (Hong Kong) Limited v. Tanzania Electric Supply Company Limited* (ICSID *Case* No. ARB/10/20). The case, which is still pending, is based on the same PPA as above.

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# *Chapter 3*

# Investment promotion and facilitation in Tanzania

*With the establishment in 1997 of the Tanzania Investment Centre (TIC), Tanzania has made vast strides in building a more efficient framework for setting up businesses. This chapter examines various measures adopted by the government to reduce administrative burdens on investors, both under the umbrella of the TIC and outside of it. Yet further progress is needed in terms of: determining a precise and long-term investment strategy; streamlining investment promotion functions across different bodies; improving TIC's statistical capacity; better addressing the needs of SMEs; and increasing domestic investment linkages. Tanzania's framework of investment incentives and EPZs also urgently needs to be rationalised and subjected to more stringent cost-benefit analysis. Finally while laudable efforts for facilitating public-private dialogue, there remains some confusion and controversy among the different bodies that serve as intermediaries between the government and the private sector.*

## 3.1. Investment promotion and facilitation strategy

Does the government have a strategy for developing a sound, broad-based business environment and within this strategy, what role is given to investment promotion and facilitation measures?

### *National Investment Promotion Policy (NIPP) 1996 and Tanzania Investment Act (TIA) 1997*

Investment promotion and facilitation measures can be effective instruments to attract investment provided they aim to correct for market failures and are developed in a way that can leverage the strong points of a country's investment environment. Tanzania's **NIPP 1996** provides five investment policy strategies that aim at developing a sound, broad-based business environment. These strategies provide for: the establishment of the TIC and other investment support institutions; fiscal and non-fiscal incentives for the mobilisation of local and foreign investments; establishment of a transparent legal framework guaranteeing protection to all forms of investment activities; provision of adequate quality and reliable socio-economic infrastructure and facilities; and promoting the growth of exports by establishing Export Promotion Zones (EPZs), Special Economic Zones (SEZs) and other facilities.

To better co-ordinate this national policy and to ensure coherence among the work of the different institutions and ministries involved in its implementation, the **National Investment Steering Committee** (NISC) was established in 2000. Chaired by the Prime Minister, NISC members include the Ministers of Finance, Planning, Agriculture, Industry and Trade, and Lands and Human Settlements Development, as well as the Attorney General, the Governor of the Central Bank and the Executive Director of TIC. The Committee aims to: identify and resolve legal, regulatory and administrative barriers to investment; address legal and administrative issues involving multiple ministries or government agencies; and build investor confidence. It therefore has three domains of responsibility: spearheading investment policy formulation; implementing fast-track solutions to problems of investors; and identifying and supervising the elimination of legal impediments to

investment. NISC is also in charge of determining investment incentives for "strategic and major" investment projects (as detailed in 3.5 below). NISC thus serves as an anchor for all cross-sectoral projects and investment policy discussions; its role centres on resolving immediate problems and removing investment blockages, while enhancing investment promotion and facilitation remains the responsibility of TIC.

To further enhance the national strategy for developing a sound, broad-based business environment, the following central investment climate reform programmes were launched since 2003:

- The **Business Environment Strengthening for Tanzania** (BEST) Programme, of which the first (five-year) phase was aimed at: improving governmental and judicial service delivery to the private sector (with a focus on strengthening the TIC and on improving the speed and quality of commercial dispute resolutions, as well as access to commercial justice by SMEs and big business alike); reducing the cost of doing business; and removing the regulatory and administrative barriers to formal business, thereby laying the ground for formalisation of businesses. BEST also aimed to enhance the capacity of the private sector to advocate for and demand a better business environment. BEST is currently about to enter its second phase, in which work should notably include review of existing land laws (see Section 2.3).
- The on-going **Second Generation Financial Sector Reform Programme** (SGFSRP), designed based on the recommendations of the joint IMF–World Bank Financial Sector Assessment Programme (2003). The SGFSRP aims to remove structural impediments to broadening access to financial services, including medium- and longer-term lending, and to create an environment more conducive to lending and financial sector development (Nord et al., 2009).

### *Difficulties in sustaining investment climate improvements*

Achievements of the first phase of BEST were note-worthy, and include the elaboration of the new **Business Activities Registration Act** in 2007. Tanzania was in fact recognised as one of the "top-ten reformers" in doing business by the World Bank in 2007. However this first phase relied mostly on harvesting "low-lying fruit", and progress soon lost momentum. Government suggests that the pace of reform, and especially effective implementation, then slowed for the following reasons: poor targeting and sequencing of reforms; over-stretched mandate of the newly-established BRELA; insufficient involvement of LGAs and other public service stakeholders in implementation decisions; and poor co-ordination of reform programme

implementation across different ministries and other government agencies (URT, 2011). In addition BEST did not have a flexible structure and supported only six "core" areas (business registration and regulation, land registration, commercial dispute resolution, labour laws, TIC; and Zanzibar), leaving many structural impediments to doing business un-addressed.

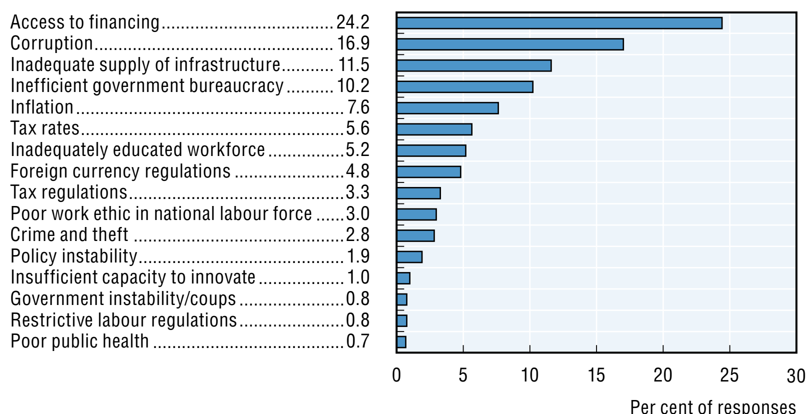
Private sector representatives (such as the Tanzania Private Sector Foundation, TPSF) likewise express reservations concerning the effective implementation of investment policy initiatives geared at encouraging private sector participation in the economy. They argue that implementation of Tanzania's business climate reforms has often been hampered by a decline in momentum following the launch of new policy initiatives, and by the excessively high-level focus adopted by many initiatives (at the cost of attention to ground-level implementation). TPSF also points to the need for Government to rationalise and reduce the number of business climate reform initiatives currently underway, in view of better-targeted implementation efforts.

Despite the legal framework of the TIA 1997, the institutional setup of TIC and NISC, and the raft of reforms undertaken between 2003 and 2007, Tanzania has thus made slow headway in terms of investment facilitation in recent years. Tanzania's position in several global rankings of investment attraction has declined in relation to other countries. While performance seemed to be improving a few years back (rising from a position of 140th out of 155 countries on the *World Bank's Doing Business Report* in 2006, to 126th out of 183 countries in 2009), Tanzania slipped to 134th on the 2013 edition (URT, 2011). Its rankings in eight of the ten Doing Business indicators worsened between 2012 and 2013. As regards the "starting a business" category, one of the only two indicators that improved compared to 2012, Tanzania ranks 113th. The country's rank in the World Economic Forum's Global Competitiveness Report has likewise been trending downwards, from 100th out of 133 countries on the 2009-2010 edition to 120th out of 144 countries in 2012-2013, and 125th out of 148 countries for 2013-2014. For 2013-2014 it is ranked 99th in terms of time required to start a business and 104th for the number of procedures needed. As Figure 3.1 indicates, investor dissatisfaction is strongest as concerns corruption, access to financing, and supply of infrastructure.

### *Government Roadmap for Improving the Investment Climate*

The disappointing results of the 2009 *World Bank Doing Business Report* prompted the creation, under Presidential directive, of a Steering Committee of Permanent Secretaries and eight Thematic Taskforce Teams (TTTs, one for each of the Doing Business indicators for which Tanzania had

Figure 3.1. **The most problematic factors for doing business in Tanzania, 2013-2014**




*Source: Global Competitiveness Report 2013-2014*, World Economic Forum, Switzerland, 2013, p. 362.

achieved a score of 99 or below in the 2009 Report). These Teams were to propose interventions to improve performance in these areas, and to stimulate the private sector's response to scaled-up infrastructure investment. The process resulted in the development of a **Government Roadmap for Improving the Investment Climate**, with the stated aim of improving Tanzania's overall Doing Business ranking from three digits performance to two. TZS 61 billion (USD 38.2 million) were allocated to the Roadmap over 2010-11, including 3.54 billion (USD 2.21 million) for starting and closing a business and 2.55 billion (USD 1.59 million) for modernising BRELA. The Roadmap also comprised interventions to upgrade enabling infrastructure, such as a Power Master Plan in the electricity sector and a National Transport Sector Investment Programme (Mapunjo, 2010).

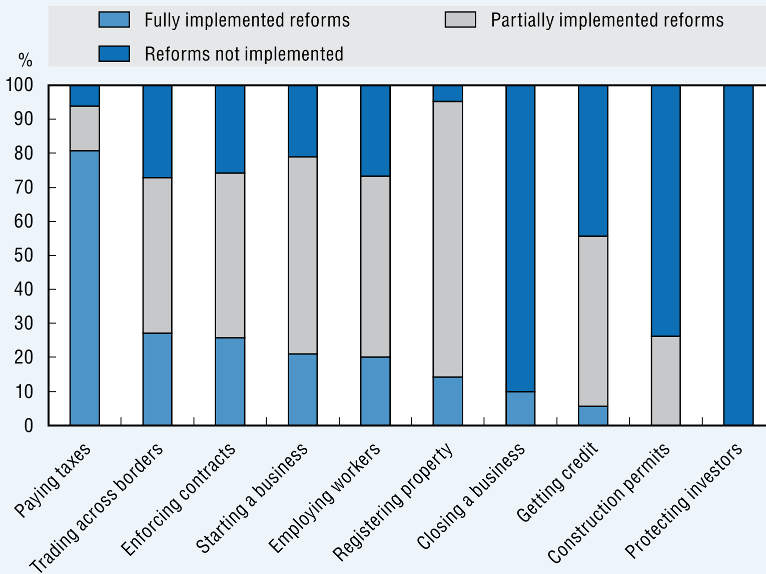
The Roadmap is designed as a "living document", and in this context a progress report was completed on its implementation from July 2010 to March 2012. On this basis a **Comprehensive Action Plan** for the next phase of the Roadmap (2011/12-2013/14) was then released in June 2012. The stock-taking exercise involved close consultations with all TTTs, co-ordinated by the Prime Minister's Office and under direct leadership of its Permanent Secretary. This exercise revealed that although various administrative bottlenecks had been abolished through the Roadmap process (for instance a one-stop window was established at the Dar-es-Salaam port, and the number of police road blocks along highways has been reduced), in general implementation of the Roadmap objectives has been partial at best (see Box 3.1 below).

### Box 3.1. **Performance of Tanzania on the first phase of the Government Roadmap for Improving the Investment Climate (July 2010 to March 2012)**

The stock-taking report of the Roadmap, completed in March 2012, notes that by that date only 23% of the total number of planned reforms had been fully implemented (mostly in the areas of enforcing contracts, trading across borders and access to credit). 49% were partially implemented, and 27.3% not implemented at all (PMO, 2012a).

Almost no progress was made in the realm of paying taxes, registering property and dealing with construction permits (see Figure 3.2). Tanzania is a particularly poor performer in the latter indicator: obtaining construction permits involves 19 different procedures (compared to an average of 15 and 14 for Sub-Saharan Africa and OECD countries respectively), takes longer (303 days compared to 211 and 152 respectively), and is far more costly as a percentage of per-capita income (1.170% compared to 823.7% for Sub-Saharan Africa and 45.7% for OECD countries, where income

Figure 3.2. **Tanzania Roadmap, July 2010-March 2012 Implementation by sub-sectors**



Box 3.1. **Performance of Tanzania on the first phase of the Government Roadmap for Improving the Investment Climate (July 2010 to March 2012)** *(cont.)*

per-capita is of course much higher). The first phase of the Roadmap had envisaged combining many of these procedures into a single inspection process, and placing all technical inspection personnel for construction permits under one roof; the Comprehensive Action Plan released in June 2012 suggests that the former reform has taken place, and notes that this should be updated in the 2013 *World Bank Doing Business Report* (PMO, 2012b).

Causes for this poor performance on the Roadmap so far are identified as: the slow pace of the legislative process, particularly at the Attorney General's Office; excessive bureaucracy on the part of implementing institutions; inadequate meetings of the responsible Thematic Taskforce Teams; and insufficient human resources.

*Source*: Prime Minister's Office. Stock-Taking of the Implementation of the Government Roadmap for Improving the Investment Climate, March 2012; and Government Roadmap for Improving the Investment Climate of Tanzania: Comprehensive Action Plan, 2011/12-2013/14, June 2012.

In light of the above implementation shortfalls, the Comprehensive Action Plan proposes several measures for the way forward for phase II of the Roadmap. This includes more frequent meetings of the Thematic Taskforce Teams, better identification of resource constraints in co-ordination with the PMO, and enhancing the capacity of the Attorney General's Office. Yet even with these efforts in mind, it is important to note that the Roadmap is not a national investment strategy. While it aims to tackle the most salient obstacles to doing business in Tanzania, this focus on the quantifiable targets of the *Doing Business Reports* alone may over-simplify the nature of investment constraints in the country. It encourages a policy focus on a one-time snap-shot of visible features of business establishment and operations, potentially at the expense of more structural, dynamic and less evident weaknesses of the investment climate. Although the Doing Business clearly is a visible indicator for international investors, it is important to complement such an approach with more holistic and systematic analyses of the country's overall investment framework.

### *Aligning investment strategies with national development objectives: MKUKUTA II and FYDP I*

Improving Tanzania's overall investment environment is a recognized priority for Government. The BEST strategy and the Government Roadmap outlined above are aligned with national development objectives, as defined both in the revised **Second National Strategy for Growth and Reduction in Poverty** (NSGRP, or MKUKUTA II for the mainland), and in the **National Five Year Development Plan I** (FYDP 2011/12–2015/16). Adopted in late 2010, MKUKUTA II provides an operational framework for achieving the MDGs and Tanzania's Development Vision 2025 for transforming Tanzania into a middle-income country. Meanwhile FYDP I is informed by MKUKUTA II and attempts to address the latter's implementation challenges to date. As identified by the FYDP, these include: misalignment of operational priorities, with dispersion of resources across a wide range of activities; lack of a long-term view; identification of projects in isolation rather than in a complementary and co-ordinated manner; lack of a clear financing strategy; and a weak institutional framework for implementation as well as monitoring and evaluation. The first of a series of three five-year plans, FYDP I marks Government's reversion to a systemic planning approach in view of safeguarding the attainment of Vision 2025.

Both FYDP I and MKUKUTA II place increased emphasis on private investment facilitation; MKUKUTA II outlines sectoral strategies to promote productivity and private sector activity several areas that have been identified as "growth drivers", including agriculture. Meanwhile Government notes that a salient feature of FYDP I will be scaling up the role of the private sector in economic growth, by improving the business climate as well as investing in people and in infrastructure development. FYDP I thus has five core priorities: large investments in energy, transport infrastructure, water and sanitation and ICT; transformation of agriculture for food self-sufficiency and export, with a focus on high value crops including horticulture and spices; industrial development, targeting industries using locally produced raw materials, as well as developing SEZs through Public-Private Partnerships; human capital and skills development; and tourism, trade and financial services.

Another salient feature of FYDP I will be a shift "from sector-based prioritisation to intervention prioritisation" (FYDP, 2011). This stands at a contrast to Tanzania's other strategy documents, which tend to highlight specific sectors for support. The Integrated Industrial Development Strategy 2025 (IIDS 2025, completed in December 2011) for instance lists

several specific sub-sectors of the manufacturing industry in which it aims to increase private business involvement. These sectors have been identified for their potential in terms of export competitiveness, market size, value addition, and potential for creating linkages with other domestic investors. NIPP 1996 also identifies priority sectors which have potential for economic growth, employment creation and technology transfer, and which benefit from additional investment incentives beyond the generic benefits encompassed in the TIC Certificate of Incentives (see Section 3.5 below). To date, identification of such priority sectors has thus been fragmented across different strategy documents, with no clear alignment or prioritisation among them. The profusion of sectors has also limited the extent to which they can really be individually targeted as "priorities".

Given FYDP I's distinct approach to development planning, it will be highly necessary to streamline the priority sectors identified in other strategy documents, or else to clarify whether or not they are still expected to play a strategic role in the overall national development strategy. The **Big Results Now** (BRN) initiative, which was launched by government in 2013, may be a promising venue for such streamlining. The BRN is a response to a critical need for much greater prioritisation and operationalisation within Government policy and planning, and for a more clearly phased and targeted approach to reform implementation. The BRN follows the approach undertaken by Malaysia's Performance Management and Delivery Unit (PEMANDU), with which GoT will be collaborating on this front. This initiative aims to identify and resolve constraints to results delivery in six National Key Results Areas (NKRAs): energy, transport, agriculture, water, education and resource mobilisation. In each of these, the programme has run an intense eight week problem-solving "lab", to produce a concrete action plan with clear milestones and targets that have since been incorporated within the 2013/14 annual budget. Moreover Ministers are assigned with score-cards of Key Performance Indicators (KPIs) for each NKRA.

The BRN is thus hoped to enhance the strength and visibility of government leadership at the political as well as bureaucratic level, and to complement this with a stronger ability to monitor and evaluate progress. On the investment promotion and facilitation front, it should be taken as an opportunity to tackle bottlenecks for investment in the six NKRAs – all of which (particularly energy, transport and agriculture) hold significant opportunities for foreign and domestic investors.

## 3.2. Establishment of an investment promotion agency

Has the government established an investment promotion agency (IPA)? To what extent has the structure, mission, and legal status of the IPA been informed by and benchmarked against international good practices?

The TIC was established in 1997 under the TIA, as "the primary agency of Government to co-ordinate, encourage, promote and facilitate investment in Tanzania and to advise the Government on investment related matters". By initiating the investment process through TIC and its one-stop-shop (OSS), investors avoid directly handling many regulatory procedures previously incurred. All Government departments and agencies are required by law to co-operate fully with TIC in facilitating investors.

### *Role of TIC in supporting investors and co-ordinating investment policy*

TIC is charged with assisting all investors whether or not registered by it, notably by: assisting in incorporation and registration of enterprises; granting Certificates of Incentives and registering technology agreements for investments; and collecting and disseminating information to investors on existing investment opportunities and incentives. To fulfil these responsibilities, TIC: provides an after-care service for investors (including forwarding certain complaints to the Presidential Investors Complaints Bureau, ICB, which is chaired by the Chief Secretary of Tanzania); services the NISC in fast-tracking large and strategic investment projects (see Section 3.1 above); and co-ordinates investment promotion events (such as International Investment Forums, as well as the International Investors Round Table Working Group organised with the Tanzania National Business Council, TNBC).

TIC has evolved into a "one-stop-shop" (OSS) for investors in Tanzania, centralising all the processes necessary for business establishment and management (Section 3.3 below details these OSS facilities). Following the 2010 Public Private Partnership (PPP) Act, TIC's mandate has also been further expanded to accommodate a PPP Coordination Unit (see Box 4.1 for more details). TIC also offers an array of post-investment services, including fast-track renewal of licenses and help with resolving disputes with local authorities. In addition to these business facilitation functions, TIC's mandate moreover includes policy advocacy. TIC provides the Government with advice

on investment related matters, and serves as an important linkage between Government and the private sector (see Section 3.4). The Tanzania Investment Act also charges TIC with monitoring the business environment and growth of FDI in the country, and with continually assessing Tanzania's investment competitiveness.

TIC has won several international awards for these improvements, including: the African Innovative Management Award (by the African Association for Public Administration and Management, AAPAM) in 2008; the world's Best Investment Promotion Agency of the year in Aftercare Services in 2007 (awarded by the World Association of investment Promotion Agencies, WAIPA); the Best Investment Promotion Agency in Sub Saharan Africa in 2004 (by Africa Investor); and the Financial Times Best African Country of the Future award in 2005/06 (TIC, 2008).

Outside of the mining, gas and petroleum sectors, which do not register with TIC, data on project licenses awarded by TIC between January and March 2012 suggests a particularly strong concentration of projected investments in telecommunications, energy and manufacturing. TIC reports that it has provided a total of 7 187 projects with licenses since 1997, of which 5 206 were new projects and the remaining 1 981 were expansions or rehabilitations of existing investments. This includes project licenses granted to both foreign and domestic investors. Since these figures are based on projected rather than realised investment projects however, they are considerable overestimates of the real investment levels. Comparing TIC figures to realised FDI figures sheds some light on the extent of this over-estimation: while TIC notes that attributed licenses for instance amounted to USD 7 177 million in 2011, total FDI inflows as calculated by the World Bank (which do not include domestic investment projects but, unlike TIC data, do comprise investment in mining and petroleum) reached only 1 095 million for that year. This significant over-estimation of investment figures by TIC considerably hinders any attempt for monitoring investment policy, the effectiveness of investment promotion agencies, and also the desirability of investment incentives – since the volume of foreign and domestic investment can often provide a key output measure for all of the latter.

## 3.3. Benchmarking and monitoring of the Investment Promotion Agency

Does the government maintain the policy of good governance by putting in place governance indicators as policy benchmarking for monitoring the investments? How is investment policy monitored and evaluated?

### *Monitoring the impact of investment policy lacks depth and is far from systematic*

A first step in the direction of better policy implementation is ex-post impact monitoring to assess the extent to which the policy in question has enabled progress toward expected national development objectives. The 2011/12-2013/14 Government Roadmap will likely take this element into consideration: among multiple other initiatives, the Roadmap's Comprehensive Action Plan provides for ministerial and departmental authorities engaged in Roadmap implementation to channel a flow of information (on baseline indicators of economic growth, poverty reduction and service delivery) towards a National Poverty Monitoring System established under MKUKUTA II (PMO, 2012b).

As for the monitoring and impact evaluation role of TIC, *ex-ante* evaluation of investment projects has recently been improved via the Computer Model for Feasibility Analysis and Reporting system (COMFAR, developed by the United Nations Industrial Development Organisation, UNIDO). TIC has developed in-house competence in COMFAR, which consists of a computational tool for investment project evaluation. Through COMFAR TIC has begun conducting social cost-benefit analysis of national development projects prior to their approval (including by using shadow prices, social time preferences, and accounting for both direct and indirect effects of investment projects).

TIC competency is however lagging behind as concerns *ex-post* impact evaluation of investment inflows and policies. TIC operates two "statistics windows" for this purpose: one source of statistics is based on registration demands and the investment plans provided by applicants; and the other contains information gathered during field visits to investment sites. As noted in the previous section, there is a noticeable gap between these two sources of information – while data based on registration procedures gives a broader picture of investment (field visits being more costly and therefore limited to larger investment projects), for reasons of attrition registration-based data often considerably overestimates the amount of investment

on the ground. In particular the impact of investment projects (in terms of employment creation and other socio-economic effects) is inaccurately captured in registration data as applicant investors tend to overstate the positive spill-overs of proposed projects. The fact that most of TIC's ex-post impact evaluation and policy advocacy is based on such projected data is concerning, and raises an urgent need to build TIC capacity for monitoring the impact of *realised* investment projects.

Moreover although TIC is involved in several publications that comment on investment policy on an annual or biennial basis (see Box 3.3), the impact evaluation dimension of these reports remains weak. Indeed the *Growth and Impact Report* (GIR) is the only product to move in the direction of meaningful cost-benefit analysis and causal effect analysis of investment trends. However the infrequency of this publication undermines its evaluative dimension. Moreover the GIR monitors mostly the outcomes of investment *projects*, and not the impact of investment *policies* themselves; this is a dimension on which much further work remains necessary, and which would benefit from feedback sought among the investor community and the general public more broadly. TIC's Aftercare Department, together with the private sector through TPSF or TNBC, could for example collaborate on gathering and centralising feedback from civil society and the private sector on current investment policy.

The TNBC (see below) also has the purview for evaluating the effectiveness and impact of investment policy in Tanzania. In practical terms TNBC can require any research or survey into social and economic development policy to be conducted that it deems fit. It can set action targets as well as performance benchmarks for implementing decisions or agreements reached, and can monitor and evaluate the implementation and impact of policies and measures agreed upon. TNBC is moreover mandated to participate in the policy review process and can propose changes in the policy environment to enhance the attractiveness of Tanzania for both local and foreign direct investment, and improve on the global competitiveness of Tanzanian products. To date however TNBC has taken infrequent action upon this mandate for policy evaluation and analysis; it could more frequently commission studies to monitor and evaluate implementation of social and economic policies.

Box 3.2. **TIC publications commenting on investment policy – *Tanzania Investment Report* and *Growth and Impact Report***

The ***Tanzania Investment Reports*** (TIRs, and ZIRs for Zanzibar) have been produced jointly by the Bank of Tanzania (BOT), TIC, National Bureau of Statistics (NBS), Zanzibar Investment Promotion Authority (ZIPA), and the Office of Chief Government Statistician (OCGS). To date TIRs have been released in 2001, 2004, 2006, and 2009 (FPC, 2010). While they do provide some analysis and policy recommendations, for now the Investment Reports are predominantly data-collection exercises, and maintain an exclusive focus on foreign investment. These are valuable sources of information, but cannot replace a systematic policy evaluation process.

The ***Growth and Impact Report*** (GIR) released by TIC includes a country-wide survey conducted by the Economic and Social Research Foundation (ESRF), and is a more critical investigation of the links among specific investment policies, investment flows, and national development. Only one such report has been published so far, in 2008; the latter has the twin objectives of evaluating the growth and impact of investment on the economy (through trend analysis, cost-benefit analysis and causal effect analysis conducted on both primary and secondary data), and of assessing the role played by TIC in evaluating the impact of investment.

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Is the IPA adequately funded and is its performance in terms of attracting investment regularly reviewed? What indicators have been established for monitoring the performance of the agency?

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### *Poorly structured funding of TIC*

It is generally recommended that financial commitment to IPAs primarily be the responsibility of a country's government, and that government funds cover at least 70% of an IPA's total budget requirement. However in 2011/2012 only 30% of TIC's total budget was allocated from the Government, while 70% was raised by TIC in donor funds and in fees charged to facilitate investors. This reflects inadequate public funding for the IPA's budget. Similarly the TNBC, which co-operates with TIC at the highest level of government-investor dialogue, reports that its operations have suffered from insufficient financial resources. TNBC has suggested several means for resolving this constraint, including: basket funding by development partners (to later be phased out through domestic funding); levying a small charge on private enterprise turnover; or earmarking a

fraction of the payroll levy already paid by business. TIC, meanwhile, may need a higher allocation of government funds to reduce the processing fees raised from investors. This could better support the agency in achieving its mission of promoting and attracting investment for national economic development.

#### *Lack of systematic and accurate monitoring mechanisms for TIC performance*

As concerns monitoring TIC's internal performance, the TIC 2008 Corporate Plan established six corporate objectives for which performance indicators (both activity-based and institutional) have been identified. These indicators include: the number of quality jobs created through TIC-registered projects; the number of projected business linkages; the value of local sourcing of materials by investors; and the number of sites developed to meet investor needs. Progress against these indicators is reported upon on a quarterly basis, at Board Review meetings. Following a 2011 review of objectives, TIC has since added two measures to this list; these are all aligned with the national goals of FYDP I. However the accuracy of measurements in relation to these indicators is uncertain, as once again they are based on investment project proposals and therefore cannot fully reflect the reality of value-addition or linkage-creation on the ground.

The *Growth and Impact Report* also aims to assess effectiveness of TIC itself. While the 2008 report highlights TIC's OSS functions as a point of considerable progress, it notes that insufficient attention has been given to domestic investment and especially to SMEs. The report recommends designing additional incentives and selected interventions to stimulate SME development. The report also notes that investor aftercare services as well as OSS functions should be strengthened and extended outside of the Dar es Salaam headquarters, for instance through zonal or District-level offices (TIC already has zonal offices in Moshi and Mwanza). This could notably bring greater support to SMEs based in rural areas (TIC, 2008). Such performance assessments bring important conclusions, and should be conducted on a far more regular basis. At present the infrequency of these reports (as noted above) prevents them from meaningfully contributing to the daily effectiveness and management strategies of TIC.

## 3.4. Streamlining administrative procedures and managing dialogue among the overnment, the IPA and investors

How has the Government sought to streamline administrative procedures to quicken and to reduce the cost of establishing a new investment? In its capacity as a facilitator for investors, does the IPA take full advantage of information on the problems encountered from established investors?

### *Streamlining investment establishment under one roof*

TIC was created to be the first point of call for potential investors, engaging in marketing Tanzania as an attractive investment destination. Developing the TIC's OSS dimension has been a milestone in terms of streamlining administrative procedures to quicken and reduce the cost of establishing new investments. The OSS houses staff seconded from six different government institutions under one roof (DAI, 2004):

- Department of Immigration (responsible for Class A and Class B work permits, for self-employed foreigners and non-Tanzanian employees respectively);
- Ministry of Labour (responsible for Class B work permits);
- Business Registration and Licensing Agency (responsible for registration of companies, trademarks, patents, and copyrights);
- Ministry of Industry and Trade (MIT, responsible for business licenses);
- Tax Revenue Authority (TRA, responsible for national government taxation); and
- Ministry of Lands and Human Settlement Development (responsible for access to land).

These officers are middle-level managers and have the authority in most cases to make the necessary approvals pertaining to their Ministry or Authority. The OSS thus allows the TIC to act as a government window for investors, and to play a greater role in improving transparency and investment promotion.

### *Remaining inefficiencies and administrative weight of the TIC One Stop Shop*

Nevertheless, TIC officers have expressed that the OSS still needs further empowerment as it remains necessary to refer back to the ministries for some decisions, and the issuance of work permits is still under the ambit of the Immigration authority rather than the TIC. Access to land also remains problematic, and registration and licensing processes still take time (see

Chapters 2 and 5). Moreover administrative procedures for doing business remain heavy for many private entrepreneurs. For the Tanzania Horticultural Association (TAHA), while TIC has put many effective efforts into maintaining dialogue mechanisms with investors, the main challenge faced in the horticulture industry remains dealing with the very long and bureaucratic procedures associated with the numerous ministries and district authorities involved in the investment process. Resolution by public authorities of problems and challenges related to investment in the horticulture industry also remains slow (see Chapter 5).

Such administrative weight is further exacerbated in the case of SMEs, for which costs in terms of both monetary payments and compliance time are particularly detrimental. Small operators which do not have the resources to hire external facilitators have to spend their own time complying, distracting from the SME core operational functions (DAI, 2004). While TIC has emphasised the needs of SMEs within its mandate and main activities, the OSS remains designed most adequately for large businesses and does overlook some of the specific obstacles faced by SMEs. Obtaining feedback from SMEs having either utilised TIC facilities or chosen to forgo them (for instance in the form of a systematic survey or questionnaire) could be extremely useful for assessing what gaps in SME needs remain to be catered to, and whether these differ by industry. Recent efforts for better-structured collaboration with the Small Industries Development Organisation (SIDO, see below), as well as prospects for revising downwards the minimum project size threshold required for eligibility to the TIC Certificate of Incentives, could notably be taken further.

In addition to TIC's evolution in the direction of a One Stop Shop for investors, another facet of institutional streamlining and co-ordination must be addressed: besides co-operation on facilitating business establishment procedures, there is an urgent need for clearer communication and more active and coherent co-ordination among different institutional bodies tasked with investment promotion and facilitation in Tanzania. Currently, as highlighted by public and private bodies alike – such as the ministries of transport, land and agriculture, the Planning Commission, and the Tanzania Private Sector Foundation (TPSF) among others – there is a counter-productive multiplicity of public agencies dealing with investment issues and mandated to attract investors from different perspectives. These agencies are often sector-specific (such as the EPZA, Tanzania Tourist Board, Tanzania Chamber of Mines, etc.) and are only weakly co-ordinated among each-other or with TIC. This results in rare and contradictory policy dialogue, as well as unnecessary conflicts and duplication of efforts among these implementing agencies. In the absence

of coherence in investment policy formulation and implementation at all institutional levels, there is a risk of deterring prospective investors and of hindering the pace of policy reform.

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To what extent does the IPA promote and maintain dialogue mechanisms with investors? Does the government consult with the IPA on matters having an impact on investment?

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### *Dialogue mechanisms between investors and public bodies*

TIC can serve as an important intermediary for ensuring that the private sector voice is heard, and for improving the capacity of private sector stakeholders to identify regulatory problems and solutions related to the business environment. Communication mechanisms between the TIC and private actors, as well as fruitful exchange of information across the two parties, are key for this. To facilitate investor awareness of investment processes and opportunities, TIC produces the *Tanzania Investment Guide* on a regular basis, in which it summarises key improvements to the doing business framework and especially charts the main incentives and opportunities across different economic sectors. This information is also made available on the TIC website.

Meanwhile TIC's aftercare services are a more interactive means of maintaining dialogue with investors after their registration: TIC Aftercare Units conduct project visits and can call meetings to follow up on problems faced by investors. According to the 2008 GIR, over 64% of surveyed firms maintained a link with TIC after becoming fully operational. Aftercare complaints beyond the scope of TIC and that cover more than these administrative matters are channelled to the Investor Complaints Bureau (ICB, of which TIC is the Secretariat). For example horticulture investors raised the issue of VAT charged on transportation for export; this complaint was channelled to the Bureau, and finally elicited appropriate action from the Tanzania Revenue Authority (TRA).

As mentioned above, the National Investment Steering Committee (NISC) was created in 2000 in order to resolve any investor-related problems that cut across different government departments and have strategic economic significance. In particular NISC has a specific role in facilitating "major and strategic investments" (see Section 3.5 below). Since its inception NISC has thus resolved many issues that had hindered decision-making in the investment process, especially concerning strategic projects that were difficult to approve because of their complex and cross-cutting nature.

 

For instance, although the TIA 1997 empowered TIC to grant incentives to strategic investors, it was not until the NISC was formed that TIC effectively began awarding such incentives.

In addition to NISC, the Tanzania National Business Council (TNBC) was established under a Presidential Circular in 2001, in an attempt to improve on previous practices of ad-hoc dialogue between the Government and the private sector and of poor follow-up on decisions made. TNBC is the highest consultative organ between the private sector and the Government in the country: chaired by the President, it brings together government representatives, non-governmental organisations, and private sector umbrella organisations listed further below.

TNBC accordingly aims to provide a forum for public/private sector dialogue with a view to reaching consensus and mutual understanding on strategic issues relating to the efficient management of resources in the promotion of social economic development in Tanzania. TNBC strives to place private sector concerns firmly on the government agenda, and in this respect it co-ordinates with the NISC. TNBC has four working groups, which work on land, PPPs, business environment, and private sector development respectively. As TNBC is not a standing committee, the TNBC board itself has not met in two years; nonetheless its working groups and Executive Committee (which comprises six Government Private Secretaries and six private sector entities) do meet regularly. TNBC also organises Local Investors Round Tables (LIRT) and International Investors Round Table (IIRT) which are attended by various international investors.

### *Representation of private investors: a hierarchy of representative bodies*

The main groups representative of Tanzania's private sector are listed below:

- **Tanzania Private Sector Foundation** (TPSF), which due to the lack of a legal framework for the formation and management of business associations, was established as a company under the 1998 Companies Act. At its establishment TPSF was officially designed to be the umbrella body under which other apex groups of the private sector would operate; however as noted further below, changes in the board structure of TPSF since 2010 have reduced the extent to which the Foundation can truly serve its "umbrella" role. As of July 2012 TPSF counted 143 members, 100 of which are registered

business associations. It provides a liaison among investors, as well as between private and public sectors, through the following activities:

- ❖ Local investor roundtables, which aim to facilitate co-operation between domestic and international investors;
- ❖ Research to inform policy advocacy strategies – TPSF has in the past made several recommendations on land acquisition procedures, as well as fiscal and tariff barriers to trade and private investment in the country. Government, according to the TPSF board, has been responsive, for instance reducing taxes on private investors following joint advocacy with TPSF.
- ❖ Quarterly board meetings, at which any investor issues that raise policy concerns are subsequently communicated to the annual National Policy Forum.

- **Tanzania Chamber of Commerce, Industry and Agriculture** (TCCIA), which was established with Government support in 1988 as a step in moving away from the planned economy and opening more opportunities for privately-owned enterprises and farms. TCCIA provides business support services to its 16 000 members, in majority SMEs, across Tanzania. TCCIA counts 12 business councils at the regional and district levels. District business councils are chaired by the District Commissioner and the TCCIA District Chairman. This structure is replicated at the regional level as well – there are TCCIA offices in all 21 regions of mainland Tanzania, and over 92 district centres.
- **Confederation of Tanzania Industries** (CTI), an independent, self-financed organisation which since 1991 brings together the largest industries in the country. CTI is engaged in policy advocacy, and regularly represents the interests of member businesses to the Government on issues such as poor infrastructure (most recently concerning electricity tariffs) and trade measures (including dumping, counterfeit trade and substandard goods). CTI's most recent advocacy contributions include proposals submitted to the Task Force on Tax Reform in view of the 2013 budget. CTI also represents Tanzanian industry in regional and international trade negotiations and presents budget proposals to the Government.
- **CEO Roundtable of Tanzania**, a policy dialogue forum registered in 2008 and which brings together CEOs of over 70 leading companies doing business in Tanzania. Together, the companies led by members of the Roundtable account for more than 40% of the tax revenue collected by Government, and employ over 70 000 Tanzanians. The Roundtable aims to

foster regular dialogue among the CEOs in order to identify key obstacles to economic growth and to work out solutions which can be discussed with the Government.

- **Association of Tanzania Employers** (ATE), the most representative employers organisation in Tanzania, which was formed in 1960 and currently counts over 1 000 members. ATE membership is classified into eight divisions according to the different key sectors of the economy. In addition to various services offered to employers, ATE plays a lobbying and advocacy role on national policies and legislations that are suitable for employers and that aim to improve the business environment in Tanzania. Recent examples include: a proposal submitted to Tanzania's Labour, Economic and Social Council (LESCO) on amendment of adversarial features of labour laws which posed hindrances to businesses; and a proposal on reducing the skills and Development Levy (SDL) from 6% to 2%, which was presented by ATE to the Ministry of Finance Taskforce for Tax Reform on behalf of the entire private sector.
- **Sector-specific private sector bodies** (including: the Hotel Association of Tanzania, HAT; the Tourism Confederation of Tanzania, TCT; the Tanzania Exporters Association, TANEXA; the Tanzania Chamber of Minerals and Energy, TCME; and the Agricultural Council of Tanzania, ACT). ACT counts 123 associations, gathering 3 million individual members across agricultural sectors.

### *Challenges in representation and co-ordination among private sector associations*

Representatives at the highest levels of these implementing private sector bodies – such as TPSF and TCCIA – argue that their respective responsibilities are very clear-cut with no overlap or redundancy. For example any local-level complaints received by TCCIA from its regional and district business councils can be channelled through to TCCIA Headquarters, where they are then communicated to TPSF if no internal solution is found; finally TPSF can communicate challenges to TNBC when it meets annually. However in practice and from the perspective of private investors, this division of responsibility is more ambiguous. For instance despite TNBC's high-reaching responsibilities and structure, it has faced some implementation challenges – including, as noted by the Interim Impact Assessment conducted by TNBC itself in 2004, a lack of clarity over its mandate and role in relation to other investment-related

bodies. More effort on publicity and communication on the framework for co-ordination with other relevant bodies appears necessary. The fact that certain bodies are Government-financed, while others such rely heavily on development partner funding (such as TPSF) or are entirely independent and self-financed, introduces different lines of accountability and further complicates the framework for institutional collaboration.

More problematically, over the past two years the reach and legitimacy of TPSF as an “umbrella body” for the private sector has come into serious question. In 2010 TPSF elected a new board of directors, which excluded members from key economic organisations including CTI, TCME, TCT and others; instead a large share of board positions went to TCCIA. Since then, many private sector associations (including TCT, TCME and HAT) have withdrawn their membership from TPSF, claiming alienation from TPSF’s key decision-making organs. These associations deplore that inadequate representation of key economic sectors (especially mining, tourism and manufacturing) in TPSF is exerting a detrimental impact on Tanzania’s business environment.

The CEO Roundtable hosted a meeting with multiple other private sector associations in July 2012 to address these complaints, and based on TNBC recommendations TPSF has begun working on a roadmap for restructuring the Foundation, in conjunction with the Prime Minister’s Office (TMSA, 2012). These are important and necessary measures, and are encouraging signs of Government responsiveness to private sector concerns raised by all business associations (and not just through the intermediary of TPSF). Restructuring of TPSF is also to be addressed within the Constitution, which will be reviewed in the context of the 50 years of union of the URT. A new draft constitution, shared with TPSF in June 2013, seeks to change the apex body for the country’s private sector, allowing more inclusiveness, diverse membership and strong good governance in its operations. Under the new proposed system, the TPSF board structure would be based on sector-specific clusters and on the inclusion of special interest groups such as women, youths and the disabled (TPSF, 2013b).

## 3.5. Investment incentives and their evaluation

How is the legal framework for investment incentives defined? Has a public statement of all tax incentives for investment and their objectives been made within a common governing framework? Have efforts been made to consolidate all tax incentives within the tax law, so as to increase their transparency?

### *Transparency and clarity of legal framework for incentives: the TIC Certificate of Incentives*

According to international best practice (see the OECD Principles set out in Box 3.3 below), tax incentives for investment should only be granted in accordance with a comprehensive policy, which lays down principles and policy objectives for the introduction or continuation of each incentive. Governments should provide a justification for tax incentives (such as regional or territorial development, employment creation, etc.) together with the expected costs and intended benefits. These objectives and their rationale should moreover be communicated publicly through regularly updated statements, so as to provide the basis for the assessment of tax incentives, to avoid overlap and duplication, and to enable the public to hold governments accountable for all tax incentives granted.

Box 3.3. **OECD Principles to enhance the transparency and governance of tax incentives for investment in developing countries**

Action is needed by governments to:

- Make public a statement of all tax incentives for investment and their objectives within a governing framework.
- Provide tax incentives for investment through tax laws only.
- Consolidate all tax incentives for investment under the authority of one government body, where possible.
- Ensure tax incentives for development are ratified through the law-making body or parliament.
- Administer tax incentives for investment in a transparent manner.
- Calculate the amount of revenue forgone attributable to tax incentives for investment and publicly release a statement of tax expenditures.

Box 3.3. **OECD Principles to enhance the transparency and governance of tax incentives for investment in developing countries** *(cont.)*

- Carry out periodic review for the continuance of existing tax incentives by assessing the extent to which they meet the stated objectives.
- Highlight the largest beneficiaries of tax incentives for investment by specific tax provision in a regular statement of tax expenditures, where possible.
- Collect data systematically to underpin the statement of tax expenditures for investment and to monitor the overall effects and effectiveness of individual tax incentives.
- Enhance regional co-operation to avoid harmful tax competition.

In addition to governments, stakeholders have responsibilities. Action is needed by development partners and donors to include tax incentives and revenues forgone in the dialogue with governments in developing countries and provide appropriate technical advice and assistance. Action is needed by business to:

- Refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to taxation, financial incentives or other issues.
- Action is needed by civil society to:
- Draw attention to, and publicise, revenues forgone from wasteful tax incentives that could free up resources for development.

In Tanzania, the majority of investment incentives are provided by TIC through the **TIC Certificate of Incentives**. The TIC Certificate is made available at a fee of USD 1 000, for all investors that register with TIC (provided that project size is above the thresholds of USD 100 000 and 300 000 for domestic and foreign investors, respectively). Application for the Certificate has been greatly simplified, with the application form (form PA1) shrinking from 16 pages to four between 1999 and 2004 (DAI, 2004). The incentives covered in the Certificate mostly take the form of enhanced capital deductions and allowances (as detailed in Table 3.1 below). Under Section 19 of the 1997 TIA, any business enterprise holding this Certificate is entitled to benefits applicable under the provisions of the Income Tax Act 1973, the Customs Tariff Act 1976, the Sales Tax Act, 1976, or of another written law for the time being in force. In addition to multiple fiscal incentives (listed in Table 3.1), the TIC certificate also grants investors the automatic ability to hire up to five expatriate employees without GOT review, as well as greater protection by

the GOT against non-commercial risks, and fast-track renewals for licenses, residence and work permits through TIC assistance. The investment regime also includes a financial stability clause, Section 19(2), which guarantees that these incentives will not be modified to the detriment of investors.

Further incentives, as detailed below, are also provided under all tax laws (Customs, Income tax and VAT) as well as under EPZ schemes. Non-fiscal incentives are also provided, especially for small-scale investors and outside of the TIC umbrella, in the tourism and agriculture sectors among others. Provisions for investment incentives are also made, unusually, within most of the Bilateral Investment Treaties (BITs) signed by Tanzania (see Chapter 2 above). In contrast to common practice however, the National Treatment (NT) standard within these BITs is coupled with the following substantial exception relating to incentives: "limited incentives granted only to nationals to stimulate the creation of local industries must apply provided they do not significantly affect the investment and activities of foreign investments. Subject to the strengthening of the capacity of local industries, Tanzania shall eliminate progressively such special incentives." This exception to NT, coupled with vague commitment to progressively remove special incentives, is very unusual in NT provisions and does not give investors any guarantee to further liberalization. On the contrary, it merely adds uncertainty to the scope of the NT standard.

### *Investment incentives for "lead" and "priority" sectors*

Beyond the basic incentives provided within the TIC Certificate, additional incentives are granted for investors in **"lead" and "priority" sectors**. These sectors were first formally defined in the Customs Tariff Act 1976, then amended by the Financial Laws (Miscellaneous Amendments) Act of 1997, and finally reduced to a shorter list in 2002. Today they include agriculture, mining, agro-based industries, infrastructure, tourism, petroleum and gas, mining, and EPZs. The TIC Investor Guide, as well as the TIC website, clearly set out the incentive schemes for each of these special categories (as compiled in Table 3.1).

Among these sectors, EPZ projects as well as investments in petroleum and gas are subject to their own legislation. Additional non-fiscal incentives provided by the **Export Processing Zones Act 2002** and the **Special Economic Zones Act 2006** include: exemption from potential foreign exchange control and restrictions; exemption from pre-shipment inspection requirements, and on-site customs inspection in lieu of off-port inspection; provision of temporary visas at the point of entry to key technical, management, and

training staff for a maximum of period of 30 days; and access to the business and infrastructure services provided within the EPZ.

Meanwhile the **mining and gas sectors** fall under the provisions of the Mining Act of 1998 (revised in 2010) and Petroleum and Gas (Exploration and Production) Act of 1980. The first Mining Act of 1998 was a crucial springboard for FDI into the sector, and greatly accelerated the growth of Tanzania's gold industry. It is probable that the 2012 Natural Gas Policy and the related legislation expected for 2013 and 2014 (see Box 2.2) will do the same for investments in the natural gas sector. The 1988 Mining Act facilitates the acquisition of mining rights and aims to deter information hoarding on new discoveries, freezing of exploration acreage for speculative purposes, transfer pricing, and tax evasion.

The incentive framework for mining and gas investments has long been considerably more generous than that under the TIC Certificate of Incentives (this includes VAT deferment on capital goods, fuel and oils, as outlined see Table 3.1). The **2010 revision of the Mining Act** has only very slightly reduced the scale of incentives: royalty on metallic minerals including gold has risen from 3% to 4% (calculated based on gross value), and royalty is set at 5% for diamond, 12.5% for petroleum and gas, and 3% for most other minerals (see Box 3.5 below). According to the 2011 Finance Bill (see below), the level of mineral royalties administered by the Ministry of Energy and Minerals should thus increase by TZS 58.6 billion (USD 35 million) in 2012-2013.

### *Potential modifications to incentives proposed by the 2011 Finance Bill and the VAT Act*

In 2011 a Finance Bill was drafted, in view of guiding the elaboration of the **Finance Act 2013**. Effective since 1 July 2012, the Bill proposes amendments to several financial and tax laws in Tanzania, to reflect the amendments to Articles of the Charter of the East African Development Bank, and to also to alter or impose certain taxes, duties and fees. These propositions could potentially reduce the scale of investment incentives and increase the level of taxation to which businesses are subjected. As concerns corporate taxation, Part VII of the Bill proposes to amend the Income Tax Act (Cap. 332) with a view to: including in the tax net any gains on the sale of shares or securities held in a resident entity, to counteract tax avoidance practices of selling local companies through overseas holding companies; impose tax on dividends of the corporations which hold 25% or more of shares at a reduced rate; and impose tax on interest on deposits held by non-residents in local banks, arguably with a view to providing for a level playing field in taxation between the amounts earned by non residents and residents.

Table 3.1. **Fiscal incentives provided for projects holding the TIC Certificate of Incentives, and additional incentives for "lead" and "priority" sectors**[1]

| | Duty (under basic TIC Certificate) | VAT (under basic TIC Certificate) | Additional incentives for "lead" and "priority" sectors *(VAT incentives may be amended by the forthcoming 2012 Finance Act – above)* |
|---|---|---|---|
| Import of all capital goods (includes computers and computer accessories, raw materials and replacement parts for agriculture, animal husbandry and fishing, human and livestock pharmaceuticals and medicaments, motor vehicle in Completely Knocked Down form, and inputs for manufacturing pharmaceutical products) | 0% | Deferred | **Agriculture**: VAT deferred (and VAT exempt on: agricultural machinery; fertilisers and pesticides; and farm implements).<br>**Tourism**: VAT deferred (as well as for hotel facilities such as furniture, and vehicles for tour operators).<br>**Minerals**: VAT relieved (as well as for spare parts, explosives and other supplies, and fuel and oils).<br>**Petroleum and gas**: VAT exempt for items used in exploration; duty rate of 5% and VAT are charged after the first 5 years of commercial production. |
| Import of raw materials | 0% | Deferred | Also deferred.<br>The 2012-13 Budget moreover plans to review the incentives granted to local industries which use local inputs including textile and edible oil industries.<br>**EPZ**: Remission of customs duty, VAT and any other tax payable on goods purchased for use as raw materials, equipment, and machinery. |
| Import of utility vehicles | 0% | Deferred | Also deferred. |
| Replacement of industrial parts for rehabilitation of privatised enterprises | 0% | | n.a. |
| Corporate tax | 30% | | Also 30%.<br>**Dar es Salaam Stock Exchange**: the 2012-2013 Budget Speech announced that all companies listed on the DSE would be exempt from corporate income tax; previously newly-listed companies paid reduced corporate tax (at 25%) for the first three years of operations alone, and provided at least 30% of their shares were issued to the public. DSE companies are also exempt from paying the 30% capital gains tax.<br>The Budget also announces plans to review tax rates applicable to the **agriculture and fishery sectors** with a view to harmonising and reducing them.<br>**EPZ**: exempt for first 10 years; 25% tax afterwards. |
| Withholding tax on dividends | 10% | | Also 10% (except for the **mining sector**, which is exempt from withholding tax). |
| Withholding tax on interest | 10% | | Also 10% (the mining sector also has 5% resident and non-resident withholding tax on technical services). |

Table 3.1. **Fiscal incentives provided for projects holding the TIC Certificate of Incentives, and additional incentives for "lead" and "priority" sectors**[1] *(cont.)*

| | Duty (under basic TIC Certificate) | VAT (under basic TIC Certificate) | Additional incentives for "lead" and "priority" sectors *(VAT incentives may be amended by the forthcoming 2012 Finance Act – above)* |
|---|---|---|---|
| Capital gains tax | No capital allowance (100% capital gains tax) for generic TIC Certificate | No capital allowance (100% capital gains tax) for generic TIC Certificate | **Agriculture and mineral sector**: 0% capital gains tax (100% capital allowance).<br>**Tourism**: 50% capital gains tax. |
| Losses carried forward indefinitely | Applicable for generic TIC Certificate | Applicable for generic TIC Certificate | Applicable for all sectors apart from mining. |

1. The above table applies to the fiscal regime applicable over fiscal year 2012-2013; forthcoming modifications to the tax regime (as detailed below and as announced in the 2013-2014 budget speech) are not reflected in the table but may be modify some of the information contained.

*Source: TIC Investor Guide* (2012, website); EPZ & SEZ Laws; Mining & Petroleum and Gas Acts – compiled by authors.

As concerns investment incentives more specifically, Part XI of the Finance Bill proposes amendments to the Second and Third Schedules of the **VAT Act**, notably to reduce the extent of VAT relief granted to certain organisations. The importation by or supply of goods or services to a registered and licensed mining company which holds a mining development agreement executed before 1 July 2009 is still granted 100% VAT relief; however relief on the importation by or supply of goods and services (including materials, equipment and machinery) is reduced from 100% to 45% for water and sewerage infrastructure development, registered railways companies, corporations or authorities, and EPZ and SEZ companies among others (GoT, 2012).

In addition as of 2013 the government intends to **modernise the VAT regime** more broadly, in view of strengthening the efficiency of the tax system and eliminating multiple exemptions and preferential treatments by the 2014-2015 fiscal year. The new VAT law (submitted to Parliament in April 2013) should enable tax collections to increase by at least 1% of GDP (IMF, 2012). To guide the implementation of this fiscal adjustment programme, tax revenue collections will henceforth be monitored against quarterly targets; this could provide a useful venue for monitoring tax incentive expenditures more specifically as well. Besides VAT modifications, the 2013-2014 budget announces a variety of tax reforms in view of increasing revenues, widening the tax base, and reducing the magnitude of tax exemptions – as detailed further below.

How are tax incentives administered and governed? Are incentives placed under the authority of a single government body to ensure transparency and avoid unintended overlap and inconsistencies in incentive policies? Is the amount of revenue loss attributable to tax incentives reported upon regularly, for instance as part of an annual Tax Expenditures Report?

### *Discretion in the administration and governance of tax incentives in specific sectors*

Where various Ministries are involved in the administration and granting of tax incentives, they may not co-ordinate their incentive measures (tax and non-tax) with each other or with the national revenue authority. As a result incentives may overlap, be inconsistent, or even work at cross-purposes. Administrative discretion in the management of incentives also seriously increases the risk of corruption and rent seeking. Moreover, once particular tax incentives are introduced this creates constituencies in their favour, which in turn can make it politically difficult to remove the incentive once it is no longer needed or has proven to be ineffective.

It is therefore considered good practice to place all tax incentives under the authority of one government body, ideally the Ministry of Finance, rather than under the responsibility of several different ministries (such as trade or investment or other ministries). Consolidating administration of all incentives under a single body can: limit risks of corruption and rent seeking; increase transparency by limiting the discretionary power of policymakers; help to avoid unintended overlap and inconsistencies in incentive policies; and enable policymakers to coherently address problems that may arise with the governance of tax incentives.

In Tanzania there remains some ad-hoc administrative discretion over the delivery of incentives, despite the relatively clear structure detailed in Table 3.1 above. This is particularly the case for “strategic or major investments”. These are defined in the TIA as projects that exceed USD 20 million and that are deemed to offer specific impact to the society or economy. The TIA allows NISC to offer incentives and benefits over and above those provided by the Act to such strategic projects (TIC, 2008). Section 20 of the Act further states that the Minister responsible for the economic sector concerned by the proposed project may specify specific additional benefits in such cases. These additional incentives must be made by order published in the Gazette and after consultation with appropriate government authorities and the Minister of Finance. They usually include tax stabilisation clauses, especially in the mining sector – by which companies retain lower fiscal

incentives and tax rates even if Government later enacts higher corporate taxes (Curtis, 2012).

This discretionary and ad-hoc approach to incentives for strategic or major investments reduces the transparency of Tanzania's investment incentive system – particularly as they are not clearly laid out in the TIA, the NIPP, or the latest *Tanzania Investment Guide* (of 2008). The latest business survey conducted by TPSF, released in July 2013, suggests that poor and opaque tax administration is indeed a central constraint to doing business: after the problem of reliable electricity, which tops the list of investment obstacles for the fourth year running, the next most-cited bottlenecks highlighted by business executives are the level of taxes (including multiple levies – see Chapter 5 below for more details as concerns the agricultural sector), corruption, and issues in tax administration (TPSF, 2013a).

Moreover the degree of discretion is further exacerbated by the fact that the multiple criteria for eligible "strategic or major investments" (level of local employment generation; value of the investment; potential for linkages and generation of additional investment; potential for technology transfer; and the location of project, with projects located in marginalised areas considered as more strategic) are not defined in quantifiable terms in the TIA – and therefore left very much open to interpretation. It would be desirable to avoid such loopholes, for example in the short-run by introducing a policy statement in which eligibility criteria and incentive award processes for strategic investors are clearly stipulated; and in the long-run by reviewing these incentives in terms of their fiscal and socio-economic costs and benefits, in view of streamlining them and reducing their number.

There is especially wide scope for discretion in the award of investment incentives for mining and petroleum and gas projects, most of which qualify for "strategic investor status". For the Petroleum and Gas sector, the following incentives are decided on a case-by-case basis: tax exemption of equipment and material used for exploration; negotiated levels of cost oil or gas split after the discovery of oil or gas for the purposes of recovering costs for exploration, development and production; and negotiated levels of profit oil or profit gas split. Unfortunately it appears that the Natural Gas Policy 2012 will maintain this negotiation-based approach. Moreover although Government has long insisted on transparency and accountability in the gas sector (including within the November draft of Policy), to date none of the 26 production sharing agreements concluded between Government and 18 gas exploration companies have been published (Manson, 2012).

 

The implications of this approach are rather concerning, given the boom in the gas industry expected for Tanzania from 2013 onwards. An estimated 40.7tn cubic feet of recoverable natural gas reserves have been discovered so far, which has begun generating considerable investor interest; the gas explorers BP Group and Statoil for instance expect to invest USD 500 million each in the sector in 2013 (Manson, 2012).

While negotiation-based incentives have long been the norm for the mining sector as well, the 2010 Mining Act makes provisions for reducing this level of discretion: it prescribes the elaboration of a standard model Mining Development Agreement (MDA) for all projects exceeding USD 100 million. Such a model agreement, to be developed by the Minister of Energy and Minerals, replaces case-by-case negotiation and can therefore be a significant step towards reducing discretion and improving transparency in new mining agreements. A similar endeavour could be considered for the petroleum and oil sector. However the immediate impact of such a standard MDA will be limited, as existing mining projects remain subject to the terms of earlier MDAs (see below).

### *Auditing and reporting on tax incentives in the mining sector*

Tax authorities should also periodically carry out audits of cases where tax incentives have been claimed to ensure that they are not misused. For the mining sector the **Tanzania Minerals Audit Agency** (TMAA) is the government entity charged with conducting environmental and financial audits of mining companies. TMAA a semi-autonomous institution established through in 2009 under the Executive Agencies Act, and shoulders the functions previously undertaken by the Minerals Auditing Section of the Ministry of Energy and Minerals. Creation of TMAA was motivated in order to absorb capacity challenges facing the Tanzania Revenue Authority (TRA). Indeed as pointed out by the International Monetary Fund however, TRA itself lacks capacity to audit sophisticated taxpayers, such as mining companies – which further contributes to their minimal contributions to revenue collection, as tax evasion or under-reporting is quite frequent (Nord et al., 2009). TRA establishment was especially triggered by the result of an audit of four gold mines, commissioned by Government in 2003, which found company losses to have been considerably over-declared over 1991-2003.

The mineral sector's contribution to GDP and to Government revenue indeed remains very small relative to its export earnings: the sector only contributed to 3.3% of GDP in 2010, and while 2009 export earnings reached USD 1 229.5 million, only 4% of that amount (USD 53.3 million, or close

to TZS 84 billion including royalty and tax) was generated as Government revenue (TMIT, 2011). This compares to an average of TZS 72.6 billion (USD 42.4 million) in tax exemptions granted by Government to the mining sector between 2008/9 and 2010/11 (Curtis, 2012). Moreover Government revenue from mining has not moved in line with export earnings: while gold exports have tripled in the last five years due to a rise in gold prices, Government revenues from mining have remained far more stationary.

When TMAA is unable to resolve audit queries with mining companies, these are referred to the TRA. The first annual TMAA audit (conducted on 12 mining companies in 2010) raised many queries concerning companies' financial claims. These queries (mostly cases of companies over-declaring their capital allowances and operating expenditures) amounted to forgone tax revenue of USD 705.8 million, of which USD 251.1 million remained in unresolved claims which were then communicated by TMAA to TRA. In 2011 unresolved claims worth USD 521.7 million were forwarded to TRA for consideration and action. The establishment and functions of the TMAA is thus a laudable step toward more transparent and independent investigation of the tax liability entailed in incentives provided to mining companies (TMAA, 2011). TMAA today plays a key role in ensuring more transparency in mining revenue collection in Tanzania, notably thanks to staff with the necessary expertise to audit sophisticated taxpayers. Transparency and accountability of payments and revenues from these extractive industries could also be further enhanced thanks to Tanzania's recent adherence to the Extractive Industries Transparency Initiative; Tanzania reached EITI Compliant Status in December 2012, as detailed in Box 3.4 below.

Transparent and effective governance of tax incentives in Tanzania would nonetheless require much stronger and more co-ordinated efforts for calculating and regularly reporting on the amount of revenue forgone attributable to tax incentives for investment. This would ideally be carried out through an annual, publicly released statement of tax expenditures which covers all main tax incentives. This requires that data be collected systematically to underpin the statement of tax expenditures. Such calculations can shed light on the revenue cost of tax incentives, rather than scrutinising cash expenditure budgets alone. Embedding estimates of revenues forgone by tax incentives in the yearly budget process can provide policymakers with timely required inputs for informing policy decisions, and supports medium-term fiscal planning. Annual tax expenditure reports can also highlight the largest beneficiaries of tax incentives for investment, as making such information accessible can enhance the public legitimacy

of governments and their revenue authorities, and enhance tax compliance more broadly. Moreover such transparency is in the interest of private companies themselves, and may help address the negative perceptions of extractive industry investment (and foreign investment in general) prevailing among the Tanzanian public. Finally, such taxpayer information could also contribute to data for determining the efficiency and equity of tax incentives (see below).

Box 3.4. **The Extractive Industry Transparency Initiative (EITI) in Tanzania**

To ensure greater transparency and accountability of payments and revenues from its extractive industries, Tanzania embarked on the EITI process as a result of recommendations of the Mineral Sector Review Study of 2007 (Bomani Report). Tanzania's EITI (TEITI) has been steered by a 16-member Multi-Stakeholder Group (TEITI-MSG) composed of civil society organisations, extractive companies, and the Government. TEITI-MSG is supported by a Secretariat established within the Ministry of Energy and Minerals.

Prior to attaining EITI Compliant Status, Tanzania was an EITI Candidate Country under EITI Rules and Standards since February 2009. Tanzania published its first EITI reconciliation report in February 2011, covering payments made and revenues received from 1 July 2008 to 30 June 2009. The report covered nine mining companies and three gas companies. While the Government reported receiving a total of USD 99.5 million, the extractive companies reported to have paid USD 135.5 million – a discrepancy of USDD 36 million. In January 2012, a report by the Office of the Controller and Auditor General clarified this discrepancy, attributing it to mineral royalties, tax on employees' salaries (PAYE), social contributions (NSSF), and to spending on a Skill Development Levy (SDL).

TEITI-MSG launched its Second Reconciliation report in May 2012, covering the period from July 2009 to June 2010. A total of TZS. 419 billion (USD 305 million) was reported to have been paid to the Government and its agencies by 23 companies – almost three times the volume reported in the First Reconciliation report, which had only covered 11 companies. Tanzania is currently in the process of preparing its Third Reconciliation report covering revenues collected from July 2010 to June 2011.

In view of the outcomes of the EITI process, on 12 December 2012 the EITI Board declared Tanzania Compliant with the EITI Rules and Standards. While presently 37 countries around the world are implementing the EITI Standard, only 18 countries have reached EITI Compliant Status to date.

*Source*: Tanzania Chamber of Minerals, May 2013.

### *Revisions to investment incentives introduced under the 2010 Mining Act and the 2012 Natural Gas Policy*

Rising public outcry on the few domestic spill-overs of the mining sector has made it increasingly necessary to reform incentives and oversight in the mining sector. This pressure led the President to appoint a Mining Review Committee, which steered the 2010 changes made to the 1998 Mining Act. Box 3.5 below highlights the bulk of these modifications, which generally aim to increase the spin-offs of mining in terms of transparency, technology transfer and socio-environmental preservation. The Act also aims at increasing government revenue from the sector – with the stated aim of boosting mining's share of GDP from the current 3.3% to 10% by 2025. The rates of royalties paid by mines are therefore slightly increased, as are corporate reporting requirements. 2011-12 thus marks the first year in which the mining industry has begun delivering significant corporate tax: cumulative royalties paid to Government reached USD 103 million over 2000-2011, including USD 23 million (and another USD 77 million in taxes) in the past year alone (Jack, 2012).

As expressed both by the Ministry of Energy and Minerals and by investors engaged in mining in Tanzania in 2012, the 2010 revision to the Mining Act has had no deterrent effect on investment projects, and brings additional clarity and transparency to the sector. Furthermore in 2011 the Government amended the Income Tax Act, CAP 332 to introduce ring-fencing (that is, financial separation of a portion or assets or profits) within mining. This aims to mitigate social contention over mining by controlling costs and restricting deductible expenses of one mine against the taxable income of another (Mkulo, 2011).

Despite the steps forward brought about by the Mining Act 2010 and its Regulations, the **Tanzania Chamber of Minerals** nonetheless points to several downsides in the new legislation. Firstly, under the Act the government is silent on the extent of shareholding; while in practice government is likely to request less than 50% equity in any new project subject to an MDA, the Act could therefore create uncertainty for investors by potentially enabling government to request up to 100% equity in future projects. Also as relates to shareholding, the 2010 Act gives 50% of ownership in gemstone mining to Tanzanians (up from 25% in the previous Act). This risks detracting foreign investors from the sector, although Section 8(4) of the Mining Act empowers the Minister of Energy and Minerals, in collaboration with the Mining Advisory Board set up under the Act, to engage non-citizens in gemstone mining where specialised skills, technology or high-level investments are needed. Nevertheless the general reservation of gemstones for Tanzanian firms may also prove impractical and too onerous for Tanzanian companies to afford

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Box 3.5. **Key changes introduced by Tanzania's new Mining Act 2010**

Until recently the main legislation regulating mining activities in Tanzania was the Mining Act, No. 5 of 1998. This Act was repealed by the Mining, No. 14 of 2010, which was passed under the "certificate of urgency". The latter accelerates the process for passage of a bill. As outlined below, once operative the new Act will impose greater limits on foreign participation in the sector, but also seeks to increase the spin-offs of mining in terms of government revenue, transparency, technology transfer and socio-environmental preservation.

Under Section 116 (2) of the 2010 Act, the following subsidiary legislations made under the 1998 Act continue to have effect:

- Mining (Environmental Management and Protection), GN. No. 218 of 1998;
- Mining (Safe Working and Occupational Health), 1999; and
- Mining (Dispute Resolutions) Rules, 1999.

Key changes introduced by the 2010 Act, meanwhile, are as follows:

- Licenses to mine for gemstones are only to be granted to Tanzanians, regardless of the size of the operation, except where the Minister determines that the development is most likely to require specialized skills, technology or a high level of investment. In the latter case foreign participation is limited to 50%.
- The Minister of Energy and Minerals is granted power to prescribe a standard model form of Mining Development Agreement for all projects exceeding USD 100 m (rather than case-by-case negotiation).
- The calculation method for GOT royalties is amended, levying 4% on the gross value of minerals, up from 3% on the net back value on metallic minerals (including gold), 5% on gemstone and diamond, and 3% for most other minerals.
- A greater degree of disclosure is required by the holders of mineral rights in respect of reports, records and general information.
- More emphasis is placed on environmental management and impact evaluation. Section 112(5) of the Act for instance requires investors to deposit certain funds with the government for purposes of environmental rehabilitation of mining sites after their closure.

*Source*: "Laws and Guidelines Governing Mining Industry in Tanzania", Foundation for Environmental Management and Campaign Against Poverty (FEMAPO), 2011, available at: *www.tanzania.go.tz/economicsurvey1/2005/part3/index.html*.

in terms of raising the necessary capital. In practice the ability for domestic investors to engage in mining activities may be further impeded by recent increases in rents and licensing fees for mining (which for some sub-sectors have increased fifteen-fold).

Moreover the modifications brought about by the 2010 Mining Act and the 2011 Finance Bill (as well as the draft Natural Gas Policy of November 2012, which essentially leaves the structure of investment incentives for the sector untouched) remain small in proportion to the revenues accruing to investors in the mining and gas industries. While the Chamber of Minerals warns against indiscriminately raising taxes on extractive investment (regardless of whether the investment is for production or for exploration purposes – a much riskier endeavour), many stakeholders still denounce the excessive leniency of the taxation policy for investors. The local press suggests that there is a risk of growing public animosity against investors in these extractive industries. Theses issue are particularly high on the national agenda given the forthcoming boom in natural gas exploitation in Tanzania, which prompted the elaboration of the draft Natural Gas Policy (which notably has a key objective of ensuring that the Government and Tanzanians participate strategically in the natural gas value chain – see Box 2.2 in Chapter 2).

Furthermore since the 2010 Mining Act revisions only apply to new projects, existing gold mines remain under the protection of fiscal stabilisation and other clauses agreed to under the previous Act and associated MDAs. The Government stance on this issue appears rather conservative: although the 2012/13 Budget commits to "continue reviewing various legislations granting tax exemptions with the aim of controlling and reducing them", the only explicit mentions of incentives in the mining sector made within the Budget document (such as abolition of the exemption of Excise Duty on imported non-utility motor vehicles) in fact exempt mining companies from new VAT increases (Mgimwa, 2012). Nevertheless changes to the tax act in 2012 stipulate that any change of control of a company's shareholding (by either a takeover or by a significant raising of new equity) will be subject to a 30% Capital Gains Tax on the increase in the value of the company's assets, as determined by the TRA. This obligation applies to all companies, including in the mining sector. The TRA also notes that efforts will be underway in the course of 2013 to revamp the VAT Act and to engage holders of MDAs in renegotiating the current development agreements, in view of more equitable revenue sharing.

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What mechanisms has the government established for the evaluation of the costs and benefits of investment incentives, their appropriate duration, and their impact on the economic interests of other countries?

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### *Rationale for regular impact evaluation of tax incentives*

Internationally, strong evidence increasingly calls into question the effectiveness of some tax incentives for investment – in particular tax free zones and tax holidays. Ineffective tax incentives are no compensation for, or alternatives to, a poor investment climate. They may be unsuccessful in attracting sustainable investment, and may damage a country's revenue base. Investment incentives can be wasteful for the following reasons: ineffectiveness (if the incentive fails to produce benefits to the host economy that exceeds the budgetary costs); inefficiency (where benefits outweigh the costs, but authorities fail to properly maximise the benefits and minimise the costs); opportunity costs (when the issue of alternative usage of funds arises, as incentive schemes are rarely a first-best option for attracting investment); deadweight loss (if the investments would, with the benefit of hindsight, have taken place in the absence of incentives); and triggering harmful competition or a "race-to-the-bottom" (if other jurisdictions put in place matching measures).

The above risks make it essential to adequately analyse the costs and benefits of investment incentives in a national context, to support government decision-making and allow frequent review of incentives provided. A system of evaluation at regular intervals is also indispensable because the wasteful effects of incentives can change over time and depending on the capacity of the implementing authority. Performance reviews of tax incentives for investment may be conducted once every few years. This requires that data be collected systematically by tax authorities and finance ministries. The results of such periodic reviews, publicly reported together with the review criteria, can inform decision-making around the continuation or removal of individual tax incentives. These assessments should involve open public consultation so as to accurately include social – and not only financial – costs and benefits in the analysis.

In order to ensure that incentives are fulfilling their objectives, i.e. attracting more investment with justified and limited impact on the national budget, both ex-ante and ex-post evaluations must be conducted. Such cost-benefit studies can also improve the transparency and direction of policies. Systematic evaluation should cover not only the impact of these schemes on fiscal sustainability and investment flows, but also on socio-economic factors such as employment creation, business linkages, value-addition and technology transfer. It should be regularly verified that incentives are only maintained as a compensation for proven market imperfections that cannot be otherwise addressed. These assessments should therefore consider

whether or not the forgone fiscal resources would not be better employed in training, research and development, infrastructure investment, and other efforts that can potentially mitigate some of the structural and supply-side shortfalls that are limiting foreign and domestic investment opportunities in Tanzania.

Several parts of Government share this rationale for better and more systematic impact evaluation of tax incentives for investment. TRA notably argues for a reconsideration of investment incentives across all economic sectors, on the grounds that: they are not a major consideration in the decision of investors to invest (political stability, fiscal and monetary regimes being more important), and they could therefore be redundant; they give rise to tax avoidance schemes and score poorly in terms of transparency, so should be carefully monitored and only be offered where they are needed most; they result in actual revenue costs, especially if the investment would have taken place even without the incentives; and they increase pressures on fiscal constrained economies. Moreover focusing investment attraction attempts on tax incentives alone risks generating destructive tax competition with neighbouring countries on a regional level. By contrast, competing for investment by improving the enabling infrastructure or business establishment processes could result in a more virtuous cycle for countries in the region. As noted by the TIC, the process for removal of any superfluous incentives must nevertheless be carefully thought through (and for instance staggered over time) so as to maintain policy predictability in relation to investors.

Tax-related measures announced in the 2013-2014 Budget Speech suggest that there is new momentum within Government to review and rationalise existing investment incentives. In particular, the Government voices a commitment to reduce tax exemptions which are “not productive, excessive and prone to abuse”. The stated aim is to reduce the magnitude of tax exemptions in the medium term, from 4.3% of GDP in 2011-12 to a maximum of 1% by 2014.

The latest Budget accordingly announces amendments to a variety different tax laws, including the VAT and Income Tax Acts but also the Excise Act, Roads and Fuel Tolls Act, Petroleum Act, and the TIA among others. Among these measures, the VAT exemption on certain tourist services will be abolished, and the TIA Act will impose 25% of the applicable import duty rate on “deemed capital goods” (rather than 90% currently); in addition the TIA will contain a negative list of items that cannot be deemed for this exemption. Alongside, the EAC Customs Management Act 2004 will be

amended so as to be made more compatible with the Common External Tariff (CET) changes determined by the EAC Ministers of Finance in June 2013. Altogether, Government expects that these ambitious tax policy measures could yield 1.2 percentage points of GDP in excises and import duties if fully implemented, in addition to administrative gains projected at 0.3% of GDP. However in its latest country report for Tanzania, the IMF warns that since these tax measures are untested to date, shortfalls in reaching these revenue targets are likely – in which case new arrears could arise for the government. Such risks need to be realistically taken on board over the course of 2014 (IMF, 2013).

### *Estimated costs of Tanzania's current tax incentives for investment*

Such a review of tax incentives would be highly necessary, and should be inscribed in a regular and long-term process. Indeed, the size of these incentives for investment and their cost in terms of fiscal sustainability appear to be higher in Tanzania than for many neighbouring countries: for the year 2011/12, it is estimated that fiscal exemptions granted to firms (under the TIC Certificate, mining and petroleum incentives, and EPZs combined) amounted to roughly 18% of total tax collections – a 3% increase compared to the 2009/10 ratio (TJNA, 2012). According to the TRA, total tax exemptions across all investment projects and sectors (including customs exemptions on "deemed capital goods") constituted about 3.8% of GDP in 2011/12, of which 14 % (or a little over 0.5% of GDP) benefited mining projects.

A review study on tax exemption, which was conducted to inform the 2013-2014 Budget and which is currently being finalised, indeed indicates that incentives for "strategic investors" (in areas designated in the Tanzania Investment Act) constitute the bulk of tax exemptions in Tanzania. Especially costly incentives have included: exemptions on fuel levy and excise duty on fuel, for the running of emergency power plants; import duty exemptions granted on importation of sugar and rice; and the fiscal costs of EPZs and SEZs, which include not only tax holidays for investors but also large-scale public investment in infrastructure services for these zones. Studies released by several domestic NGOs in June 2012 (on the basis of data from the Ministry of Finance, Controller Audit General, and National Audit Office) moreover suggest that the fiscal, administrative and public governance costs of tax incentives provided for mining and EPZ companies have far to date outweighed the benefits (Curtis, 2012). As noted by the Ministry of Livestock and Fisheries Development, tax holiday periods for investors also often last longer than is necessary.

In mining, TRA deplores that the overly generous fiscal exemptions contained within earlier MDAs (such as the cap of USD 200 000 on the fuel levy and exemption from excise duty) erode the tax base. Moreover these agreements were set based on prices of minerals and factor inputs that are now long outdated, with varying effects on project revenues: while on the one hand overall operating costs were underestimated at the time of signing earlier MDAs and the cost of raw materials (especially fuel and oils and cement) has risen significantly since, on the other hand the price of most minerals has increased over the period (most spectacularly for gold, where the price is three times higher today than when most agreements were established).

As concerns EPZs in particular, independent analysis by non-governmental bodies (such as the Tanzania Policy Forum and the Interfaith Standing Committee on Economic Justice, in partnership with regional NGOs in 2012) strongly suggests that these zones have not yet lived up to their 'spill-over potential' in terms of contributing to national growth, employment or development of domestic enterprises. Analysis of Ministry of Finance data in fact indicates that over the last three years Tanzania has lost more revenues from tax exemptions given to corporations (USD 288 million a year) than it has received in all foreign investment since the enactment of the EPZ Act in 2002 (USD 710 million). Likewise, from an employment perspective the number of jobs created by EPZs (15 100 so far according to the EPZA) is extremely low relative to Government investment and exemptions for these zones – amounting to approximately one job created for every USD 47 000 invested based on the 2012 report (Curtis, 2012).

### *Need for a dedicated mechanism for evaluating the impact of investment incentives in Tanzania*

Despite these demonstrated costs of tax incentives for investment, and although the impact of investment incentives has been recognised as an important policy question, to date there is no dedicated mechanism for systematic impact evaluation of investment incentives in Tanzania. UNIDO investigated the costs and benefits of tax incentives in the country in 2000, and TIC has also undertaken two studies in the past (with a focus on the taxes paid by investors and the government revenue generated or forgone). Most recently and in the lead-up to tax reforms announced in the 2013-2014 Budget (see below), a review on tax exemption was also conducted by the Ministry of Finance. While these efforts – and particularly the latter initiative for tax reform and revenue mobilisation – are clearly

 

encouraging, such incentives analysis would need to take place on a far more regular basis. Moreover past and ongoing analyses have so far overlooked any additional costs and benefits apart from tax revenue – such as the costing of employment generation, business linkages or technology transfer. Finally, these different impact studies remain quite dispersed, and at times contradictory – co-ordination on the institutional front will also be necessary in order to establish a reliable mechanism for regular cost-benefit analysis of investment incentives.

R&D within institutions such as TIC, EPZA, TRA, BOT and the National Bureau of Statistics (NBS) should be co-ordinated to make the incentive evaluation process easier. First steps have been taken towards this by these organisations, which have put together several sources of information on investment (such as collaborative surveys on Private Capital Flows) so as to bridge Tanzania's wide data gap in this field (TIC, 2008). Yet no elements of cost-benefit analysis or incentive evaluation have been included in such collaboration so far. Any wide-ranging evaluation of Tanzania's investment incentives, including their fiscal but also their social costs and benefits, should also co-ordinate with independent structures which have undertaken this form of analysis to date (such as the NGOs mentioned above, or the semi-autonomous TMAA). This would ensure that such evaluation is fully consultative and benefits from – rather than duplicating or sidelining – existing expertise in the field.

Any complete cost-benefit analysis on the issue should consider all economic sectors (including the generic TIC Certificate of Incentives as well as incentives for "lead", "priority" and "strategic" sectors), rather than each in isolation. Evaluation of the effectiveness of EPZs for attracting investment and generating employment would also be very necessary, particularly in light of the Government's ambitious plans to expand EPZ coverage in coming years (Box 3.7 in the next section).

## 3.6. Promoting investment linkages and SME development

### *2003 SME Development Policy*

There are over 1.7 million SMEs in Tanzania, which contribute to one third of Tanzanian GDP and employ about 20% of the work force. More than 70% of all registered businesses in 2009 were SMEs.

Tanzania's **SMEs Development Policy** was enacted in 2003 with the aims of creating an enabling business environment, developing financial and non-financial services, and putting in place supportive institutional infrastructure,

all suited to the needs of SMEs. The policy focuses on ensuring that SMEs can "graduate" into larger industries, notably by: reducing the cost of running the SME sector; strengthening SME infrastructure in collaboration with LGAs, the private sector and development partners; and enhancing SME access to banks and financial institutions. Since the creation of the 2003 SME Development Policy, in addition to SIDO (below), an SMEs Department was set up in the Ministry of Trade and Industry. The Policy now being almost a decade old, it may now require updating; SIDO for instance points out that the creation of new procurement regulations (the PPA 2011, see Chapter 4 below), as well as the increased importance of access to financing, challenge the continued relevance of the 2003 Policy today.

### *Role of TIC in SME development*

According to TIC, the Centre has no mandate for assisting SMEs since these are covered by the operations of the Small Industries Development Organization (SIDO) as well as by the 2003 SMEs Development Policy (see below). While the 1997 TIA declares that TIC must assist all investors, it therefore does not explicitly indentify any services to be provided by TIC for smaller investors. Small investors do not have access to the Certificate of Incentives, given the Certificate's minimum threshold (of USD 100 000 for domestic investors) and the relatively costly application process (USD 1 000) (DAI, 2004). Although under the law small investors can in theory obtain the same facilitation and support without the TIC Certificate, this has been difficult in the past.

Government is increasingly aware that SMEs should not be sidelined from mainstream investment facilitation services, and recently TIC has placed more emphasis on small enterprise development. It has toured the country to promote its new agenda and is considering modification of the minimum investment threshold so as to facilitate SME access to investment incentives. Several additional structural challenges will require attention, including: the lack of entrepreneurial culture among SMEs and their strong reliance on costly training and capacity-building; poor market information and infrastructure available to SMEs, especially in rural areas; lack of statistical data about SMEs; and a tax administration environment which is particularly unfriendly toward SMEs (URT-MFEA, 2008). SMEs also suffer from a lack of awareness of available investment opportunities (including in infrastructure development and small-scale export promotion), with which TIC would be well-placed to provide them.

### *SIDO, an organisation for small industry development*

SIDO (the Small Industries Development Organization) was established in October 1973 as a parastatal organisation and now operates under the Ministry of Trade, Industry and Marketing (MITM). SIDO has regional offices and information centres – 15 such centres are open in Tanzania as of mid-2012, and SIDO aims to reach 21 offices within the next few years. Current SIDO schemes fall under four categories:

- Technology and product development, application of new technology, and technology upgrading.
- Business development extension services, through which SIDO had trained over 400 growth-oriented enterprises by mid-2012; SIDO and TIC collaborate on entrepreneurship and business management training, recently including a business mentorship programme and a business incubator programme; SIDO also provides food preservation and processing courses, technical training courses, and capacity building for associations advisory services.
- Marketing and information, including promoting subcontracting and linkages, information collection and dissemination, networking with other organisations nationally and internationally, organising exhibitions and trade fairs, and identifying promising new markets and technologies.
- Guidance on how to obtain finance and on accessing financial institutions, improving the SIDO credit delivery system (including policies, procedures, and computerized loan tracking), and an SMEs Credit Guarantee Scheme.

In addition SIDO has developed sector-specific programmes covering: agro-food processing (under a Women Entrepreneurship Development Programme, WED, in collaboration with UNIDO); training in packaging; leather products and artisanship; industrial co-operatives; waste recycling; and small scale mining (involving relevant stakeholders such as STAMICO, the Ministry of Energy and Minerals, the Small Scale Miners Associations, and mining companies). SIDO has also attempted to facilitate SME access to land by establishing an inventory of existing capacities and land areas, assessing their physical state and use, and identifying areas of public land suitable for SMEs use by liaising with local government authorities. Efforts have additionally been made to develop the required infrastructure facilities on this land, especially by encouraging PPP collaboration (SIDO, 2005).

Creating a dedicated SME database and making more space for SMEs in Tanzania's Special Economic Zones could complement SIDO's efforts, as would fine-tuning the TIC's OSS so that it can more fully cater to SME investor

needs. Moreover private investors themselves would need to be more actively encouraged (through training, sub-contracting or incentive mechanisms for instance) to play a role in encouraging local spill-overs from their activities. More attention as to how SMEs can be involved in procurement contracting, especially at Local Government level where they may have a comparative advantage, would also be worthwhile.

### *Financial support mechanisms for SME development*

Tanzania's regulatory framework for financial markets is governed by three Acts: the Bank of Tanzania Act and Banking and Financial Institution Act, both of 2006; and the Cooperative Societies Act No. 20 of 2003, which mainstreams microfinance in the financial system and allows any bank to provide soft loans to small – predominantly agricultural – firms. The banking branch network has been expanding, and by February 2013 Tanzania counted 51 registered banks with close to 50 branches countrywide (PMO, 2012b). Nonetheless the banking sector in Tanzania remains both internally and geographically concentrated, and currently only 6% of Tanzanians have access to financial loans from banks (this figure falls to 1% for the agricultural sector). Access to finance therefore remains a central problem for investors, particularly SMEs in rural areas.

Several ongoing efforts made to improve small enterprise access to finance are briefly listed below (and further elaborated in Chapter 5):

- the Tanzania Agricultural Development Bank (TADB, see Chapter 5 below) is currently being set up, and its articles of association and draft memorandum have been completed. This has elicited substantial excitement in the sector although TADB's absolute size will be rather small (USD 200 million);
- financial support for the agricultural sector is also enhanced by crop out-grower schemes (SACCOS, see Chapter 5);
- BOT and the Ministry of Finance have jointly drafted a bill, currently under review, that would promote the use of movable assets as possible collateral for small loans; and
- the Ministry of Finance and Capital Markets and Securities Authority (CMSA) have launched a National Financial Literacy Programme, which could be especially valuable for improving SME use of available finance;
- the CMSA is also pioneering the establishment of the Enterprise Growth Market (EGM) which will be a market segment destined to SMEs, with easier listing and issuing conditions to facilitate access to capital markets (IMF, 2012);
- a BOT committee is co-ordinating the elaboration of a Rural Financial Services Strategy, which will seek to improve rural financial services and

outreach (this strategy may take the services of SACCOS into consideration, and also rationalise existing efforts for expanding financial services);

- the Export Credit Guarantee Scheme, owned by Government and run by BOT, which provides commercial banks with guarantees to encourage lending to viable exporters that lack collateral (with a concentration on crop financing and crop purchases in rural areas since 2002);
- the SME Credit Guarantee Scheme, also run by BOT, which since 2005 targets SMEs with viable businesses but lacking collateral. As noted in the Integrated Industrial Development Strategy (IIDS) 2025 however, this scheme has malfunctioned since its introduction and fundamental changes in design are required. IIDS proposes that SIDO rather than BOT run such a scheme (TMIT, 2011). In 2010 an external review of the performance of both this scheme and the Export Credit Guarantee Scheme was additionally conducted, which gave options for merging the schemes into a single credit guarantee facility that would operate independently from Government. This proposition is still under development and consideration.
- finally the Ministry of Finance and Capital Markets and Securities Authority (CMSA) have launched a National Financial Literacy Programme, which could be especially valuable for improving SME use of available finance.

In addition to these efforts for improving SME access to finance on a structural level, numerous financial mechanisms and empowerment funds that are currently available to small Tanzanian entrepreneurs. Several of these are outlined in Box 3.6 below (URT-MFEA, 2008).

Box 3.6. **Funds for promoting SME development in Tanzania**

- The **Mwananchi Empowerment Fund** (MEF) was launched in 2008, to: broaden investment knowledge among Tanzanians; increase employment opportunities; provide a link and co-ordinate activities among the institutions and companies registered under the Empowerment Act; and to provide loans to private individuals, corporations and institutions under a credit guarantee or non guarantee scheme. Special preferences are also provided for entrepreneurs in agriculture. However due to its small size – a start-up capital of 400 million TZS – the Fund's coverage has been limited to five regions so far. Up to December 2007 the fund had disbursed loans worth TZS 31.5 billion to 38 097 entrepreneurs; during a second phase, TZS 10.5 billion were set aside for loans and more banks and financial institutions were involved, such as Kagera farmers' co-operative bank, Kilimanjaro co-operative bank, SCCULT (1992) Ltd., and Mbinga and Mwanga community banks.

Box 3.6. **Funds for promoting SME development in Tanzania** *(cont.)*

- The **J.K. Fund (National Economic Empowerment Fund, or President's Fund for Small Entrepreneurs**) was launched in 2006/07 with 21 billion TZS set aside by government, and provides concessional loans through normal banking procedures (mainly the CRDB and NMB banks) to empower micro, small and medium entrepreneurs. This scheme also provides credit guarantee for loans to entrepreneurs, through SACCOS as well as CRDB and NMB. However implementation has been difficult and only 53% of respondents were aware of this facility in a 2009 APRM household survey.
- The **Small Entrepreneurs Loan Facility** (SELF) was established in 2000 with the main objective of increasing accessibility to financial service for Tanzanians mainly in the rural areas. The project issues concessional loans through microfinance institutions (MFIs), including NGOs, SACCOs and community banks, to lend to rural and urban under-served entrepreneurs. It also provides capacity building for MFIs and for entrepreneurs who have secured loans, and conducts sensitization and project evaluation activities.
- A **National Entrepreneurship Development Fund** (NEDF) and a Regional Fund (operated in collaboration with SIDO and the East African Development Bank) make loans available to micro-enterprises.
- The **rural financial services programme** commenced in 2002 with five components: improvement of managerial capacity and performance of grassroot MFIs; rural financial systems development; empowerment of the rural poor; monitoring and evaluation; and management and co-ordination.
- The BEST strategy, which includes a programme for Empowering Tanzanian Entrepreneurs through provision of soft loans for environmental rehabilitation of mining sites after their closure.

*Source*: The United Republic of Tanzania Ministry of Finance and Economic Affairs, "Economic Empowerment in Tanzania: the Case of Small and Medium Enterprises (SMEs)", 6th November 2008.

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What steps has the government taken to promote investment linkages between businesses, especially between foreign affiliates and local enterprises?

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### *Promoting business linkages within Export Processing Zones (EPZs) and Special Economic Zones (SEZs)*

Following an EPZ Programme created in 1996 under the National Development Corporation (NDC), the **Export Processing Zones Authority** (EPZA) was established as a separate investment promotion agency charged with operating the EPZs in 2002. The EPZ policy places emphasis on products

that use local materials such as textiles and garments, leather goods, agro-processing, and the lapidary industry. Objectives are to: attract and encourage transfer of new technology; promote investment for export-led industrialization; expand foreign exchange earnings; increase employment and development of skilled labour; foster linkages of the local economy with the international market; and promote value-addition in the export of local raw materials. EPZ investors are offered a more general incentive package than the generic TIC Certificate of Incentives, as highlighted in Section 3.5. In 2004 Tanzania also launched the Tanzania Mini-Tiger Plan 2020, a strategy designed to fast-track realisation of Vision 2025 goals through the creation of SEZs and EPZs. The aim was to attract especially those investments which would trigger employment creation. However implementation of the Mini-Tiger Plan has been weak so far, and over the past decades the contribution of EPZ exports to GDP has remained close to 2% (far short of the ambitious goal of 25%, as set within Vision 2025).

By 2012 six industrial parks had been developed in Tanzania, with over 60 licensed entities (including both factories and agricultural operations, such as export-oriented flower farms) operating under EPZ status. SEZs have also come under EPZA oversight since May 2011, under the Bill for the amended Economic Zones Laws Act of 2011 (EPZA, 2011). However this Act remains a temporary framework and there remain areas of confusion between SEZs and EPZs; a new Act is therefore expected, which will clarify the distinctions between the two types of zone as well as the management prerogatives of the EPZA. Box 3.7 below outlines the different set-ups possible for EPZs and SEZs in Tanzania.

Box 3.7. **EPZs and SEZs in Tanzania**

**Export Processing Zones:**

Criteria for EPZ investments approval include that the investment be new, make use of modern technologies (although EPZA provides no specific definition of which technologies qualify as modern), and that at least 80% of goods produced or processed be for export. Investors joining the EPZ programme are classified as either:

- developers (for infrastructure projects and construction);
- operators (for manufacturing operations); or
- service providers (for investors who wish to provide services and utilities – such as banking, insurance, IT and ICT services – to EPZ and SEZ investors within the zones).

Box 3.7. **EPZs and SEZs in Tanzania** *(cont.)*

There are two possible set-ups for an EPZ scheme:

- EPZ Industrial Parks, where investors locate their operation together with other investors and share common infrastructure facilities; and
- stand-alone EPZs, whereby the EPZA allows single factory units to operate their businesses outside the EPZ industrial parks.

**Special Economic Zones:**

Meanwhile a strategy for SEZs was initiated in 2006; however so far no SEZs are fully operational yet, as the legal framework for SEZs remains incomplete. SEZs are to provide quality infrastructure, complemented by an attractive fiscal package, business support services, cluster formation and minimal regulations. The SEZ programme covers a wider range of allowable activities than the EPZ, and SEZs are thus expected to go a long way in contributing towards the achievement of economic objectives and competitiveness goals of Vision 2025. Incentives are very similar to those available in EPZs, but are differentiated according to three categories: infrastructure development; investors producing for sale into the custom territory; and investors producing for the export market. Certain incentives are fine-tuned to the specific needs of investors within each category.

The criteria for joining an SEZ also resemble those for EPZs, except that no "stand-alone" SEZs exist and investments must only be located in SEZ industrial parks. Sites reserved for EPZ/SEZs are earmarked in 14 regions across Tanzania, and investors are invited to develop infrastructure in the earmarked sites according to various forms of partnership (BOT, BOOT, Land Concession Agreement, etc.).

**Ambitious plans for SEZ expansion:**

In its Integrated Industrial Development Strategy 2025, Government has proposed to develop three Waterfront SEZs, at the outlet of each development corridor in Tanzania. These SEZs would be fully equipped with a gas pipeline, water supply, optic cable link, seaport or airport services, single window service posts for cargo and customs clearance, EPZ incentive packages, and a free trade zone for domestic firms:

- Bagamoyo for the Central and Southern Agriculture (TAZARA) corridors;
- Mtwara for Mtwara Corridor (which is rich in minerals but remains unconnected to rail and therefore very little developed); and
- Tanga for Tanga Corridor (which enjoys access to two airports as well as to the port, and which could provide a hub for gemstone cutting as well as cold chains for horticulture and perishable food industries).

Box 3.7. **EPZs and SEZs in Tanzania** *(cont.)*

A special emphasis for Waterfront SEZs would be on value addition, where outflow of raw materials at the waterfront would be diminished in favour of more processed goods (TMIT, 2011). Meanwhile Arusha SEZ would be developed based on an air connection with the external market, and Agribusiness SEZs will be deployed along key locations of the Southern Agricultural Growth Corridor (SAGCOT). Agribusiness SEZs will give preferential treatment to all agricultural production businesses, including – in additional to agro-processing – distribution of agricultural inputs, manufacturing and hiring of agro-machinery, and packing and transportation of agricultural products. Cross-border SEZs are also planned for in Mwanza, Kigoma and Musoma.

*Source*: Integrated Industrial Development Strategy (IIDS) 2025

### *National Economic Empowerment Policy (NEEP)*

The NEEP was enacted in 2004, in the aim of building a roadmap for participation of the majority of the Tanzanian citizens in all sectors of the economy. It is intended to address all economic empowerment needs of individual citizens and local companies owned by at least 50% of Tanzanian citizens. The Policy takes on board all economic actors, and comprises the following objectives aimed at supporting domestic entrepreneurship and business linkages:

- easing the availability of capital and enabling more Tanzanians to borrow;
- eraising skills and knowledge levels;
- strengthening economic infrastructure and involving Tanzanians in infrastructure development;
- creating an enabling environment for Tanzanians to participate more effectively in the privatization of state enterprises;
- providing better and reliable public services, and supporting the establishment of appropriate marketing systems, including the use of government tendering system to assist Tanzanians to access markets; and
- encouraging and strengthening the development of co-operatives.

The NEEP also established a National Economic Empowerment Council charged with the promotion and facilitation of ownership of income generating activities and assets by Tanzanians, and a National Economic Empowerment Fund (see Box 3.6 above).

Along similar lines to the NEEP, the NIPP 1996 encourages maximum domestic participation in investment opportunities. NIPP notably provides for certain benefits and incentives to be made available for joint ventures. About half of foreign investment projects registered since 1990s were joint-ventured, the rest being wholly foreign-owned; however the share of local investments in these ventures remains rather low, at about 15% (TIC, 2008). Caution should however be taken with respect to promoting joint venture as an end in itself: rather than the imposition of foreign partners, investment promotion activities should aim at promoting the skills of domestic workers – taken in isolation, the fact that foreign investors join with domestic partners is not necessarily beneficial. Indeed if joint ventures are undertaken simply to satisfy incentive requirements rather than to build on the complementary strengths of the partners in the venture, they may risk creating a separate elite within the domestic economic structure, with little spill-over to the rest of the economy.

### *Encouraging domestic entrepreneurship through joint ventures and public procurement*

Meanwhile as concerns public procurement, a tendency toward large and often foreign investors has long been observed in Tanzania as in other developing countries. In an attempt to remedy this, the Public Procurement Act (PPA) 2004 made more space for domestic firms and the domestic supplier base in public procurement. Relevant measures included a 15% marginal preference for local supplies, excusive preference for locally funded projects, and preference of up to 20% for procurement involving joint ventures between local and foreign partners. While this may have been somewhat successful for large local enterprises, CTI (the Confederation of Tanzania Industries) notes that by 2009 “there had been very little to show that this has improved market access for SMEs”. Indeed the possibility of equitable participation of locals in the investment process is always most at risk for smaller enterprises, especially in procurement as bid conditions (securities and performance bonds for instance, but also requirements in terms of management skills and technology) are high and SMEs are often automatically eliminated from the process. In the construction sector for example, although SMEs constitute about 96% of all contractors CTI noted that they only undertook 30% of the work annually available in 2009 (CTI, 2009).

In response to this persisting problem, in 2009 CTI suggested several measures that could substantially increase the involvement of SMEs (and

other local businesses that are often sidelined in the public divestiture or procurement process) in procurement contracting. These include: amending the Procurement Act to grant higher 30% preference to SMEs, and simplifying documentation required in tendering for SMEs; ensuring implementation of an M&E system for procurement, which would assess the level of SME involvement; increasing the bidding capacity of SMEs: developing SME clusters or consortia to pool resources and increase their chances of winning large tenders; and disaggregating big tenders to encourage SME participation through sub-contracting.

Section 6 of the 2011 Public Procurement Act (which repealed the 2004 PPA, see Chapter 3) commits the new Public Procurement Policy Division to "developing, implementing, monitoring and evaluating mechanisms for involvement of small and medium scale enterprises in public procurement markets" (URT, 2012). This is the only explicit mention of SMEs made in the Act, and it remains to be seen to what extent the Division will engage in formulating these mechanisms for greater SME involvement in procurement. It would be necessary to follow up on the development and implementation of such mechanisms once the Division is fully operational.

### *Targeting manufacturing sub-sectors for industrial development: IIDS 2025*

Completed in December 2011, Tanzania's Integrated Industrial Development Strategy 2025 targets specific manufacturing sub-sectors which have been selected based on the size of their market, the length of the value chain and linkage potential, the magnitude of likely value addition, and the impact on poverty reduction. The aim is notably to increase Manufacturing Value Addition (MVA) in the country, which lags behind several other countries in the region. MVA per capita reached USD 39 in 2010, compared to USD 80 and 116 for Kenya and Zambia respectively (TMIT, 2011). The IIDS sub-sectors include (TMIT, 2011):

- fertiliser and chemicals (especially nitrogen fertiliser, in support of Kilimo Kwanza – see Chapter 5);
- iron and steel (spear-headed by the National Development Corporation, NDC, a joint venture has been reached in 2011 with a Chinese company to construct an iron-making plant in Liganga from 2012 onward);
- textiles (given that Tanzania is one of Africa's largest cotton producers, but that 70% of production is exported without processing – despite the cotton sector's long value chain and 500-600% value addition potential);

- agro-processing (targets identified within this subsector include: edible oil, given that 80% of the domestic market imports palm oil from Asia for now; cashew-nuts processing, over 70% of nuts being currently exported without processing; fruits processing, as the horticultural sector currently faces post-harvest losses of up to 60% due to poor collection, storage and transport systems; and milk products, as only 4% of local milk is properly processed and marketed, despite having the third largest livestock population in Africa. Various avenues for promoting agro-processing are currently being explored in Tanzania, including the SAGCOT project and plans for the establishment of an agricultural SEZ);
- leather and leather products (over 80% of hides and skins being currently exported without processing);
- light machinery, to be developed in co-ordination with the SAGCOT and to support mechanised agriculture; and
- hospitality industry, to take advantage of Tanzania's nature attractions but also of the backward and forward linkages between tourism and agriculture, manufacturing, mining and entertainment industries.

The IIDS contains specific overviews of the current state and challenges of each of these sub-sectors, the rationale for targeting it, and concrete development plans followed by suggested quantitative production targets. The Strategy also commits to organising enterprises, both at the sector and regional levels, so as to promote business linkage and cluster development. Particular emphasis is placed on rural industrialisation through agro-processing and local production for local consumption. To back this objective of agriculture-led industrialisation, the Strategy aims to locate industrial extension officers at the regional level to facilitate the role of SMEs in rural industrialisation.

### *Engaging the private sector in pro-actively increasing business linkages with domestic investors*

Despite SIDO's different sectoral programmes and these multiple funds and policies above, much more remains to be done in Tanzania to increase linkages between foreign and domestic investment – particularly in the mining and gas sectors, industries in which value-addition and local supply-chain development are especially difficult and which are growing particularly fast. Currently, as in many neighbouring countries, forward and backward investment linkages arise predominantly in an ad-hoc manner and based on voluntary initiatives on behalf of socially-aware investors. The Tanzania Horticultural Association (TAHA) for instance notes that in

general large-scale investors play a critical role in boosting the horticultural industry, by creating out-grower schemes, facilitating access to markets for smallholder farmers, and introducing horticultural production technology and the technical know-how required to meet domestic and international market requirements. The 2008 GIR report of the TIC lists several such initiatives across economic sectors (including: Kahama Mining Corporation, which employed local labour for its construction; AEF Horticulture Farms & Export Ltd., which has promoted small-scale flower farming among the farmer community; and DIMON Morogoro Tobacco Processors).

To further enhance the interaction across large and small businesses, TIC in collaboration with UNCTAD has identified Multinational Enterprises (MNEs) which work together to support local entrepreneurs in various areas of their business so as to improve their services and products. In the same perspective the Confederation of Tanzanian Industries and SIDO have both launched business linkage programmes in the past, with varying success. Yet the fostering of investment linkages from FDI cannot simply rely on the goodwill of the investors. The 2008 GIR indeed concludes that "the institutional framework guiding promotion and facilitation of FDI does not provide policy leverage for enticing foreign investors to relate to local investors". Existing market opportunities are rare, and in addition there are many supply-side problems including a weak production base on the side of local enterprises, inadequate infrastructure, and poor market institutions which complicate collaboration between large and small, and domestic and foreign, entrepreneurs. In addition many foreign investors often already have international linkages and supply chains, which easily replace domestic sub-contracting and supply chain creation in the absence of highly enabling infrastructure and a competitive labour force (TIC, 2008).

In the mining sector itself, the Minerals Policy of 1997 notably aimed to promote local business linkages in large-scale extractive industry investment. It committed to supporting artisanal and small-scale mining in Tanzania, notably by: facilitating the availability of appropriate and affordable mining tools; promoting partnerships between small-scale miners and large-scale investors; simplifying the licensing of artisanal miners; and providing supportive extension services. However the low level of domestic business linkages in Tanzania's mining sector suggests that the Minerals Policy has fallen short of its objectives. Investment incentives remain offered only to miners and not to small-scale processing companies. Likewise although a fund and a policy for encouraging small-scale mining, (including training and extension services around major mines and an equipment hiring and

purchase scheme facilitated through the state mining corporation STAMICO) were developed over 2008-2009, these have had very little effect. The Annual Reports of the Tanzania Minerals Audit Agency (TMAA) provide recent data on job creation by major gold companies, as well as minerals produced by small-scale miners, and procurement of goods and services by large-scale miners. If refined further, such information can provide useful bases for a careful analysis of the business linkages concretely generated by this sector. Given the nascent boom of the natural gas sector in the country, it would be advisable to establish a similar data collection and auditing mechanism for the gas industry as well.

Several Tanzanian private sector organisations also provide business support services for its SME members. For instance the CTI established a Business Linkage Programme in 2001 to promote business interaction among large and small member companies, especially encouraging large companies to source their raw materials from smaller ones. Additionally he 2004 Private Sector Initiative, developed by some CTI members, collaborates with SIDO in supporting SMEs in promotion activities such as exhibitions. Meanwhile TCCIA (see Section 3.4 above) operates the following business support and linkage services (TCCIA, 2009):

- an online SME Directory;
- a communication system, by means of SMS and mobile telephony, to support the smooth formalization and running of SMEs on their daily operations. The User Operation Manual for the SME-SMS Helpline gives the code text and destination number for processing different practical queries (such as finding a company's location in a region, obtaining information on access to loans, obtaining transport information, and registering for TCCIA training courses); and
- an e-toolkit (the Tanzania SME Business Toolkit), which contains modules on Understanding Entrepreneurship and on Business Ethics.

### *Building local-level capacity to facilitate development of linkages*

Although fostering greater local linkages can of course be enabled by bodies like TIC or SIDO (which can both build SME capacity and multiply forms of contact between foreign investors and local suppliers), clear attention to human resource and infrastructure development strategies are crucial in order to tackle the supply-side constraint to local supply chain creation. Modernising and promoting the growth of other sectors alongside extractive industries – such as agro-business and tourism – is essential. Acknowledging that supply-side constraints do play a part in

 

obstructing local linkage development, several local-level capacity building initiatives are underway to increase the human and technological capacities of local entrepreneurs.

TIC's Aftercare Section for instance conducts Entrepreneur Training workshops, in collaboration with the Tanzania Private Sector Foundation (TPSF) and using EMPRETEC methodology, which promotes behavioural change that helps entrepreneurs put ideas into action and businesses to grow (UNCTAD, 2008). In 2010 UNCTAD selected TPSF to house the EMPRETEC Tanzania Centre, which has so far conducted seven Entrepreneurship Training Workshops (ETWs). The Programme is expected to strengthen local enterprises through entrepreneurship trainings, business counselling/advice and access to technology and financial services, and through collaborating with Government and other agencies to achieve their developmental goals and increase the international competitiveness of Tanzanian enterprises. Meanwhile SIDO is undertaking the "One Product, One District" programme in co-operation with District authorities and with the Tanzania Bureau of Standards (TBS), as well as a value chain programme with an emphasis on market linkages and out-contracting to local farmers. SIDO has also completed a capacity building programme in its regional offices, which aimed to provide regional governments with capacity for tendering, public procurement and SME support. Such initiatives are good first steps towards improving the supply-side shortfalls of local linkage development, but definitely need to be up-scaled and addressed in the context of Tanzania's human resource development and infrastructure strategies.

The proliferation of SME-focused initiatives and funds however risks jeopardising their effectiveness. A self-assessment study conducted by SIDO in 2000 already recognised the challenge posed by "an increase in number of organisations that are providing SME support services". These different SME programmes need to be well-articulated so as to be complementary. Otherwise there is a strong risk of redundancy, of diluting the voice of SMEs in relation to the government and the rest of the investor community, and of overwhelming small entrepreneurs themselves when faced with a wide range of possibly conflicting programmes and sources of information. In addition, given the importance of local regulatory frameworks for SME development, capacity would also need to be increased within LGAs – as pointed out by the TAHA, despite numerous laws and regulations for creating an enabling investment environment in Tanzania, some of them are not implemented within LGAs which have limited capacity to translate them to action.

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*Chapter 4*

# Infrastructure investment policy in Tanzania

*Better channelling investment toward infrastructure represents a central challenge for Tanzania, and the potential of infrastructure investment, both as a facilitator for development and as an attractive investment channel, remains underexploited. This chapter first charts the state of the country's key infrastructure sectors, which suggests that electricity provision and the energy sector more broadly present particular challenges. Elaboration of very clear guidelines for development of the natural gas sector, which has high potential for meeting domestic energy generation challenges, has become highly necessary and the government has begun taking several steps in this regard. The regulatory and policy framework for infrastructure development and investment is then investigated in detail, with sector-specific examples. Persistent structural problems include a heavy dominance of inefficient parastatals in infrastructure provision, accompanied by a very poor track record for privatisation and private involvement in utilities in the past. Adequate implementation of the recent regulations for private sector involvement in public infrastructure provision, as well as placing parastatals in a more competitive environment, will be crucial in coming years.*

Business surveys continuously point to inadequate infrastructure being the most **problematic factor** for foreign investors interested in Tanzania. *Tanzania's Global Competitiveness Report* (GCR) rankings show no marked improvement in most infrastructure sectors from 2008-2009 to 2013-2014, and Tanzania is currently ranked in 124th position out of 148 economies for the quality of its overall infrastructure (Table 4.1). According to the Africa Infrastructure Country Diagnostic (AICD) of 2010, an estimated 1.3% of Tanzania's improved performance in per capita growth during the 2000s (7.0% average annual growth over 2003-2007) is attributable to infrastructure improvements, mainly in ICT. Simulations suggest that if Tanzania's infrastructure platform were improved to the level of the African leader, Mauritius, the country's annual per capita growth could increase by as much as 3.4% (AICD, 2010). Energy in particular poses a critical bottleneck: the latest business survey conducted by the Tanzania Private Sector Foundation (TPSF, released in July 2013) confirms that for the fourth consecutive year the problem of reliable electricity is the top barrier to doing business in Tanzania (TPSF, 2013).

Table 4.1 **Selected infrastructure rankings in the GCR 2008/9-2013/14**

| | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
|---|---|---|---|---|---|---|
| | Rank/134 | Rank/133 | Rank/139 | Rank/142 | Rank/144 | Rank/148 |
| Airport | 111 | 114 | 118 | 118 | 117 | 134 |
| Ports | 113 | 120 | 119 | 116 | 117 | 120 |
| Electricity | 122 | 122 | 122 | 125 | 132 | 131 |
| Mobile telephony | 129 | 128 | 133 | 125 | 126 | 131 |
| Roads | 109 | 108 | 104 | 97 | 94 | 109 |
| Rail | 79 | 68 | 72 | 76 | 82 | 93 |

*Source: Global Competitiveness Report* 2011, 2012, 2013 and 2014, World Economic Forum, Switzerland.

Improving basic infrastructure – especially roads and energy – in Tanzania can therefore address some significant bottlenecks limiting private investment across the economy: infrastructure policy should be central in terms of policy

efforts for improving the business climate. There is also potential for increased private investment in Tanzania's infrastructure network itself. Indeed with its port access, Tanzania could serve as an entrepôt for its landlocked neighbours Burundi, Rwanda, Uganda and Zambia; it has the hydropower potential to export electricity across East Africa; and it is also the largest country in the EAC and has access to 800 km of Indian Ocean coastline (Ter-Minassian et al., 2008). These important **geographic advantages** remain under-exploited given current infrastructure constraints.

While Government clearly acknowledges the strategic importance of improved infrastructure, the **dominance of parastatals** in infrastructure provision limits opportunities for private investors to operate on an equal footing, and past attempts at PPP management and divestiture have rarely been successful (see Box 4.1). The Government stance on private participation in infrastructure is also contradictory at times, whereby strong policy enthusiasm for private investment and infrastructure PPPs (as demonstrated, for example, by recent enabling legislation such as the updated 2011 Public Procurement Act or the 2010 PPP Act) contrasts with re-possessions of certain parastatals which had been charted for divestiture. In its 2011 *Annual General Report on the Audit of Public Authorities and Other Bodies*, the Controller and Auditor General justifies recent re-possessions of several strategic infrastructure industries (including for example TTCL in the telecommunications sector) to the parastatals' important contributions to the economy (NAO, 2011). This ambivalent position sends conflicting signals to private sector investors potentially interested in infrastructure provision. Tanzania therefore continues to face key structural challenges in enhancing infrastructure provision through public, but also private, investment.

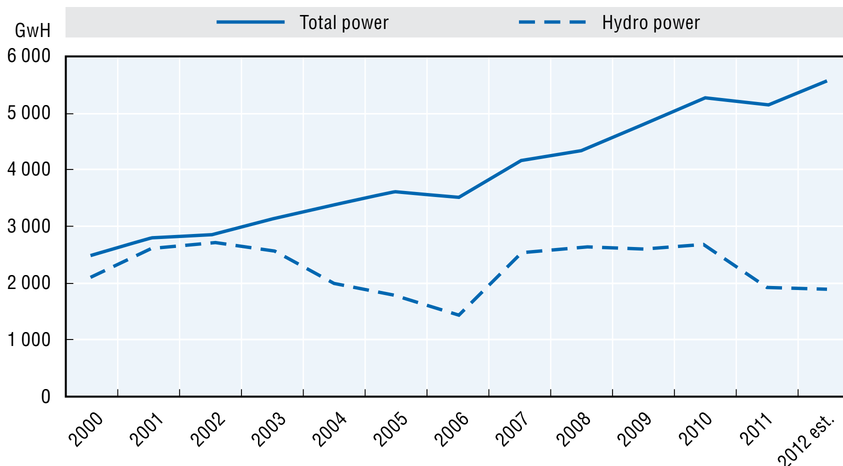
## 4.1. Overview of the state of key infrastructure sectors

### *Energy sector: Expansion of alternative energies at national and regional levels*

Tanzania's main domestic source of electrical power is hydropower, while thermal plants – mostly through independent power production – provide electricity for peak loads. The **limits of this energy mix** have become especially clear in recent years: in 2011 severe droughts dramatically reduced hydropower production (which fell to barely more than 30% of total generation, following highs of above 90% in 2000-2002 – Figure 4.1), leading Tanzania to rely extensively on oil imports to fill the electricity generation gap. Given the vast cost differential for Tanzania between liquid fuel imports (which cost about

30 US cents per kWh) and hydropower and natural gas (5 cents and 8 cents respectively), in the long-term this trend could have severe consequences not only for fiscal sustainability but also for the cost-competitiveness of domestic industries (IMF, 2012).

Figure 4.1. **Reduction in hydropower production, leading to increased oil import dependency**




*Source:* International Monetary Fund (IMF), *IMF Country Report* No. 13/12, United Republic of Tanzania. 20 December 2012.

Tanzania is therefore seeking to expand its sources of **non-hydro power** capacity. Currently the two main Independent Power Producers (IPPs) which represent the bulk of this capacity are: Independent Power Tanzania Ltd (IPTL), which exploits fossil sources of power and has been connected to national power grid under Tanzania Electric Supply Company Ltd (TANESCO); and the SONGAS project, which operates as a public-private partnership and has been connected to the national grid using the Songo Songo- Dar es Salaam pipeline. In November 2012 Tanzania has launched the construction of a natural gas pipeline which is to be managed by the Tanzania Petroleum Development Corporation (TPCD) and which is expected to significantly reduce the country's dependence on expensive oil imports for electricity generation as of 2014. This pipeline is hoped to secure a large decline in the cost of power generation from 2015 onwards, and features as a major component of the recently developed action plan for the state-owned power utility TANESCO. Alongside, funds for the construction of two new gas-fuelled power plants (in Kinyerezi) have been appropriated in the 2013/14 Budget (IMF, 2013).

The first **National Energy Policy** for Tanzania was formulated in April 1992, and was since revised in 2003 in light of significant changes in the energy sub-sectors as well as in the structure of the economy, which had become more liberalised and open to private sector initiatives. The revision therefore focused on market mechanisms to reach the objective of an efficient energy production, procurement, transportation, distribution, and end-user system. The Energy Policy may be revised a second time in coming months, in view of granting more space for **alternative energies**, especially gas. These alternative energy sources include:

- **Natural gas**: Considerable gas reserves in deep sea soil (with potential for sustaining an LNG project) have been found in 2010, and exploration of Lake Tanganyika for hydrocarbon potential is expected to commence in 2012. Tanzania has so far discovered an estimated 40.7 tn cubic feet of recoverable natural gas reserves, which has begun generating considerable investor interest. In addition to the 232 km Songo Songo-Dar pipeline and as mentioned above, since November 2012 Government has begun building a second gas pipeline which will cover the 532 km from Mtwara to Dar es Salaam. Construction of the project is expected to take 18-24 months and to cost USD 1.2 billion. This amounts to 4.2% of 2012-13 GDP, financed by with government borrowing of about 2.7% of GDP, and using a USD 1.2 billion loan from the Exim Bank of China (Mgimwa, 2012). Given that the existing gas pipeline, Songo Songo-DAR, is already full, and that commercialisation of the SONGAS project has taken 13 years since project commencement, it will be necessary to undertake costly and time-consuming expansion in long-range transportation systems in order to ensure timely commercialisation of future projects such as the Mtwara-Dar pipeline.
- A **Draft Natural Gas Policy** was released in November 2012, and which will be in place in 2013/2014. This will provide the foundation for a raft of related acts and policies – including a Gas Utilisation Master Plan, a Natural Gas Act (updated from the 2009 Gas Supply Bill); an Upstream Act; and a Petroleum Policy (see Box 2.2 in Chapter 2).
- **Geothermal**: Studies on generation possibilities in the Rift Valley are being conducted, and suggest a potential for over 700 MG of geothermal generation.
- **Biofuels**: A draft Biofuel Policy has been developed, which has begun mapping which crops can be used for biofuel production and in which areas of the country (see Chapter 5).

- **Wind and solar**: Some wind energy projects are also underway, and while a solar energy policy is already in place, independent solar producers still await connection to the grid.

Tanzania is also engaged in **cross-border initiatives for energy development**, under the umbrella of the East African Power Master Plan (EAPMP). The EAPMP objective is to facilitate regional power trade and to minimize situations where power surpluses and rationing coexist in neighbouring states; it covers fossil fuels as well as new and renewable sources of energy and power. Since 2005 the Master Plan identifies power generation and transmission projects from Kenya, Uganda and Tanzania (all at different stages of implementation) that would provide least-cost development options for the region (BKS, 2009). The Plan has not yet reached the implementation phase, and was being updated over 2012 in order to integrate the development of the power sectors of Rwanda and Burundi (which have both joined the EAC since), and to revise power demand projections and cost estimates (EAC, 2009). Other sub-regional energy initiatives include a project for power interconnectivity across border towns of EAC member countries (TDL, 2011), and the Tanzania-Zambia-Kenya Interconnector power project which aims to link the Southern African Power Pool (SAPP, of which Tanzania and Zambia are both a part) to the EAC which currently has no power pool. The project, which is still in the early contracting phases in 2011, is expected to be operational in 2012 and will operate via a PPP, based on a BOOT (build, own, operate, transfer) model (Huysen, 2006).

### *The need for private participation to bridge the energy demand gap*

Although Tanzania would have the potential to export power throughout East Africa (and particularly to Kenya), of all infrastructure areas the country however faces the most challenges in its electricity sector. Tanzania's Integrated Industrial Development Strategy 2025 notes that "**shortage of power supply** and its unreliability has been a crucial factor to strain industrial growth of the country" (TMIT, 2011). Installed capacity has slowly risen from 680 MW in 2008 to 885 MW in 2012, and currently generation reaches 5 860 GWh. The annual average growth in power generation (at only 4.2% over the past decade) however contrasts with 7.1% average annual economic growth and 8-13% annual growth in energy demand (NBS, 2013).

The power generation gap is much wider when also taking into account the needs of **Tanzanians not connected to the grid** (the large majority of the population). Indeed electrification is far below the average of neighbouring countries, reaching only 17% country-wide and 6.6% for rural areas. Tanzania's

national energy consumption therefore continues to be dominated by biomass: in 2012 for instance, only 2% of households surveyed by the National Bureau of Statistics used mains electricity for lighting and cooking, with over 95% resorting to firewood and wick or hurricane lamps instead (NBS, 2013). The national target is to reach 30% electricity access by 2015, with annual targets of 5% additional connections every year. Relative to these access objectives, the actual power supply gap is even wider. Moreover the Power Master Plan 2009 developed by the state-run electricity provider TANESCO underestimates demand growth trends, which is likely to worsen the gap between power supply and industrial power demand. This gap has led to increasing import reliance: in FY 2011-2012 Tanzania's total imports bill rose by 39.1% and the current account deficit more than doubled, in large part due to increased oil imports.

These **increasing prices of power** (tariffs by end 2008 were over 215% as high as in Kenya, Uganda and Rwanda, and seven times higher than in South Africa) (TIC, 2008), together with its enduringly erratic supply, considerably harm the global competitiveness of local firms: power failures cause losses of up to 10% of sales for the median Tanzanian manufacturing firm. 88% of businesses likewise report lack of electricity access to be a major bottleneck (Cochran et al., 2009). This has led certain large-scale investors – such as Kilombero sugar factory, see Chapter 5 – to undertake their own electricity provision. Moreover in its FY 2011-12 Budget the Government cites power shortages as a leading factor behind the increasing prices of goods and services (along with the rise in prices of petroleum products). As a result the **economic cost of outages** during recent drought periods has reached approximately 4% of GDP in 2010 (AICD, 2010).

Efforts to address these electricity constraints have included the possibility of private investment in the sector. The Electricity Act 2008 allows **private actors to participate** in electricity provision, and the 25-year Power Sector Master Plan (PSMP) for Tanzania (2006-2031) emphasises the importance of public-private partnerships (PPPs) for developing the energy sector. Joint venture negotiations have already been initiated for power generation projects of 300MW in Mtwara and 144MW in Mpanga, and for power transmission projects from Morogoro to Arusha and expansion of the North West Grid (Mkulo, 2011). In addition the PPP working group of the Tanzania National Business Council (TNBC) has been tasked, among its first priorities, to develop recommendations for PPP development in the power sector.

While calling for participation of private investors, all recent policies for the development of alternative energies nonetheless make clear that

the Government priority is meeting local demand and satisfying the needs of domestic energy intensive industries before looking to potential export markets. This is notably stated quite explicitly in the Draft Natural Gas Policy of November 2012, which aims to "ensure that domestic market is given first priority over the export market". While a valid concern, this imperative should not come at the cost of discouraging large-scale private investment or closing any export niches which Tanzania is potentially well-placed to exploit.

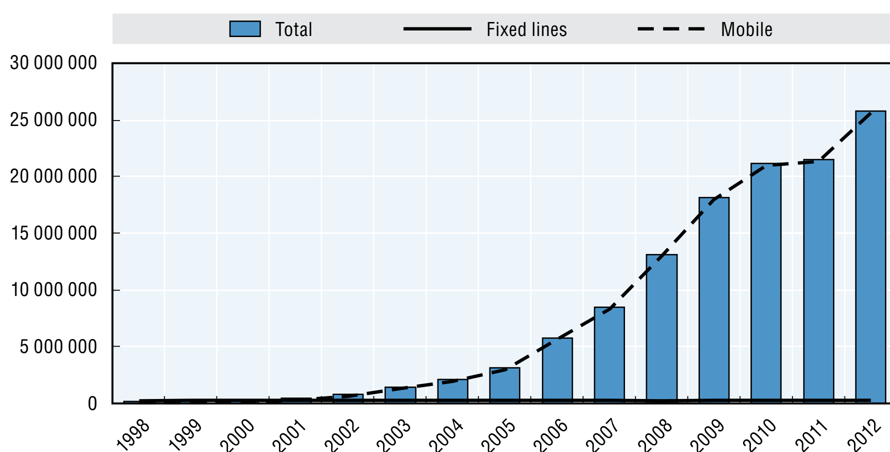
Indeed one of the challenges with catering electricity principally for the domestic market is that electricity provision remains **dominated by the parastatal TANESCO**. TANESCO has maintained an extremely poor track record riddled with inefficiencies, irregular power supply and electricity rationing. Up until 2007 this unsatisfactory performance was often attributed to undervalued electricity prices: low electricity tariffs were facilitated through heavy Government subsidies, and were held responsible for preventing radical improvements in electricity supply. However despite a 70% rise in electricity tariffs since 2008, followed by an additional 40% increase in January 2012, there has been no visible amelioration of power provision. Moreover further tariff raises are likely, as TANESCO's financing needs are projected at about USD 352 million for 2013/14 if tariffs remain unchanged. Government has noted that any financing gaps that are not covered by budgetary transfers are to be covered within the fiscal year by revenue enhancing measures, including possible increases in electricity tariffs – for which TANESCO must resubmit tariff applications to the sector regulator EWURA, as detailed in Box 4.5 below (IMG, 2013).

### *Telecommunications sector: Sole provision of TTCL*

The state-owned **Tanzania Telecommunications Company Limited** (TTCL) was created in 1994 when the country's postal and telecommunication services were separated. Jointly owned by the Tanzanian government and private investors, TTCL is regulated by the Tanzania Communications Act 1993, which grants it legal monopoly over all landline installation and administration. While many private companies are sub-contracted by TTCL, it is thus the sole provider of basic fixed services in the Tanzanian mainland, and the main gateway to international exchanges (DAI, 2004). Zanzibar Telecommunications Company Limited (Zantel) has meanwhile been licensed to provide services in Zanzibar. Following privatisation attempts, TTCL has been strengthened in its status as an SOE.

While the number of fixed line operators in the country has not changed over the past decade, providers of other telecom services (licensed by the Tanzania Communication Regulatory Authority, TCRA) have considerably increased: in 2012 Tanzania has eight licensed mobile phone operators, and data operators and Internet service providers increased from 25 to 80 over 2004-2010 (NBS, 2011). As Figure 4.2 illustrates, as in many African countries the number of **mobile telephone** subscribers has soared over the past decade: currently mobile phone penetration in Tanzania stands at around 47%, and the number of mobile subscribers has risen by 22% over the past year, reaching 25.6 million by May 2012. Mobile banking is also on the rise since 2008, with Vodacom M-pesa as Tanzania's leading mobile payment services provider: the number of sim-cards registered for banking have almost doubled (to reach 21 184 808) over 2010-2011 (Mgimwa, 2012). Likewise the number of Internet users rose from 5.3 million in December 2011 to 6 million by May 2012. Mobile subscriptions now make up close to the totality of telephone subscriptions in the country, while fixed line subscriptions have only grown by 43% (compared to over 600% for mobiles) since 1998. This is indicative not only of the change in technology, but also of the poor running of the fixed-line telecommunications sector to date.

Figure 4.2. **Telephone subscriptions in Tanzania, 1998-2012**




*Sources:* Tanzania Communication Regulatory Authority, in National Bureau of Statistics, Tanzania in Figures 2010; and Reuters Africa, May 2012.

### *National Transport Policy (NTP) and Transport Sector Investment Programme (TSIP)*

The **National Transport Policy** (NTP) provides the basis for the development and management of the transport sector in Tanzania. The first NTP was published in 2003, and was under review in 2012 order to improve performance in the sector and hence open up room for potential private investors. PPPs have been identified as one of the options for facilitating infrastructure development, and NTP II is expected to increase emphasis in this domain (Meena, 2012). The Draft NTP Implementation Strategy places emphasis on stimulating an inter-modal or multi-modal transportation system in order to generate efficiency for the whole transport network (TMT, 2011).

The Government of Tanzania is also undertaking a review of the first phase of the Government's **Transport Sector Investment Programme** (TSIP) 2007/08-2011/12, which is the implementation plan for the NTP. TSIP II will run for five years, starting from 2012/2013 to 2016/2017. Prepared under leadership of the Ministry of Infrastructure Development (which has since split into the Ministry of Works and the Ministry of Transport), TSIP underpins implementation of MKUKUTA II in the transport sector. TSIP considers how improvements to each infrastructure sector can interlock, by functioning as an umbrella body for improving transport connectivity and better integrating all transport modes in the country (CT, 2010). Key TSIP objectives include: further developing adequate, cost effective, and seamless transport infrastructure (by integrating all transport modes, including roads, railways, ports and airports); carrying out timely maintenance on the transport infrastructure; fostering and catalyzing the involvement of PPPs; and better enabling the transport sector to contribute to growth and poverty reduction. Yet as the TSIP focuses mostly on high-level (District and regional) roads, it must crucially be complemented with balanced attention to community roads as well; the transport dimensions of MKUKUTA are therefore also backed by the Local Government Transport Programme (LGTP) and the Village Travel and Transport Programme (VTTP) (Tanzania Policy Forum, 2010).

However there has so far been a shortfall in funding for the first phase of TSIP (requiring USD 6 192.52 million, of which 40% depends on Development Partner funding), and as a result only 30-37% if projects planned for have been carried out. Consequently a Short Transport Sector Investment Plan (a three-year rolling plan based primarily on on-going contractual commitments) was

prepared by the Government in an attempt to bridge the gap between available funding and TSIP needs (SAGCOT, 2011). As part of the TSIP 2 preparation, the Ministry of Works is expected to identify funding mechanisms to address outstanding commitments in the road sector, and the Ministries of Transport and of Finance will identify new sources of financing for the existing TRL railway line. A transport sector demand analysis that is currently underway should also inform TSIP 2.

### *Railway privatisation attempts have been unsuccessful and capacity and coverage remain insufficient*

Tanzania has more than 3 685 km of railroads. Two railway networks provide both freight and passenger services: a 2 715 km line operated by **Tanzania Railways Limited** (TRL) and linking Dar es Salaam with the Central and Northern regions; and an 1 860 km line operated by **Tanzania Zambia Railways Authority** (TAZARA), of which 900 km runs in Tanzania and links Dar es Salaam with the southern highlands regions and with Zambia. Although TAZARA's potential freight capacity is estimated at 2.5 million tonnes annually, operational capacity has dropped dramatically over the past decade – to less than 400 000 tonnes of cargo since 2009. Capacity-building projects hope to return TAZARA to one million tonnes per year by early 2013 (TMT, 2010). TAZARA and TRL link 14 of the mainland's 22 regions, but the Southern, Western and North-Western parts of Tanzania are not served by any railway system (MIR, 2008).

Figure 4.3. **Tanzania railways freight volume, 2004-2011**

*Source:* National Bureau of Statistics, *Tanzania in Figures 2012* (June 2013).

As Figure 4.3 indicates, the volume of freight transiting on the Tanzanian railway system has steadily declined over the past few years. Likewise as indicated in Table 4.1 above, Tanzania's ranking on railway infrastructure as per the World Economic Forum's Global Competitiveness Reports has consistently declined over 2009 to 2013. Rail is clearly an infrastructure sector where the Government's investment strategy continues to need careful reformulation. This is especially urgent since lack of progress in this sector has begun to have **negative spill-over effects in other areas of infrastructure**: poor rail condition has caused a shift in freight to road transport, accelerating the deterioration and maintenance costs of the road network (AfDB, 2011a). Unfortunately the vast shortfall in the realised amount of TSIP I funding resulted in realisation of very few of the expected investments in upgrading and maintenance for TRL and TAZARA. The Tanzania National Roads Agency (TANROADS, see below) warns that deliberate efforts are needed to increase funds aiming at revamping the TRL as well TAZARA, in order to avoid over-dependency on roads for bulk goods transport. In the interest of sustainable development and of more economical and efficient internal and external trade, TANROADS suggests that Tanzania should target up to 70% of goods for rail transport.

**Regional co-operation** is considered as a possible avenue for stronger headway in the rail sector. The EAC is involved in the "Assessment of the Restructuring of the East African Railways", with the following objectives: to assess the state of restructuring of railways in Tanzania, Kenya and Uganda in areas of ownership, management, infrastructure, financing and investment, national legislation and human resources; and to recommend a harmonised approach towards restructuring the railways in the region and possible areas of co-operation during the restructuring process (SAGCOT, 2011). In late December 2011 Tanzania and Uganda additionally signed an agreement with the Chinese Civil Engineering Construction Corporation (CCEC) for construction of a Tanga-Arusha- Musoma railway. This is one component of a USD 3Bln Memorandum of Understanding signed between the two countries for the development of the 880 km railway line and the construction of three ports (at Tanga and Musoma in Tanzania, and Kampala in Uganda) to which the line will be linked. A connection to South Sudan is also considered. A feasibility study is currently underway for this project, with construction expected to begin in 2014 (DSN, 2012). The concept of this "**port-lake railway**" project demonstrates the important role that regional infrastructure projects can play in improving transport connectivity and better integrating all transport modes rather than developing different forms of infrastructure in isolation.

### *Large improvements in road transport*

Road transport is arguably the infrastructure sector in which Tanzania has made the most significant progress, its main and rural networks being better developed and maintained than those of most of its neighbours. Tanzania is currently in the middle of a ten year **Integrated Roads Programme**, which is designed to upgrade 70% of the country 10 300 km of main roads and build some 3 000 km of new roads.

As of December 2012 Tanzania had a road network of approximately 86 472 km, of which 12 203 km (about 15%) were trunk roads, 21 979 km (roughly 25%) were regional roads, and 52 154 km (60%) were district and feeder roads. Of the trunk roads, 5 856 km (48%) were paved and 6 347 km (52%) were unpaved. While the majority of paved trunk roads were in good condition by end 2012, this proportion declines for regional paved roads and only 35% of unpaved trunk roads and 29% of unpaved regional roads are in good condition (see Table 4.2). The percentage of "poor" km of trunk and regional roads has nevertheless dropped from 49% in 2002 to 9% in 2012, and the percentage of the road network in "good" condition has risen from 14% to 34.55% in the same time period (when only trunk and regional roads are considered, this amounts to roughly 86% of such roads in good condition) (TANROADS, 2012).

Road infrastructure is managed in a decentralised manner: approximately one-third of the networkis classified as National Roads, which are managed by **TANROADS**, a semi-autonomous body under the Ministry of Works (MoW). Performance agreements to meet end-user needs have ameliorated service delivery in the road sector. TANROADS enters into two Performance Agreements each financial year, which cover national roads: one with the **Roads Fund Board** (RFB, see below) for road maintenance, and the other with MoW for managing road projects funded by Government and Donor Agencies (NAOT, 2011). MoW thus continues to exert a major influence on the road industry as a sponsor, regulator and purchaser of road projects.

Table 4.2. **State of trunk and regional road network as of June 2012**

| | Percentage | | | |
|---|---|---|---|---|
| Extent of network | Road type | Good | Fair | Poor |
| Paved (5 856 km) + unpaved (6 347 km) = 12 023 km | Trunk paved | 67 | 25 | 8 |
| | Trunk unpaved | 35 | 53 | 12 |
| Total regional roads = 21 979 km | Regional paved | 48 | 45 | 6 |
| | Regional unpaved | 29 | 53 | 18 |

**Source:** TANROADS 4th Quarter progress Report FY 2011/12

TANROADS is Tanzania's largest executive agency by far, with road works accounting for over 13% of the national budget in FY 2007/08 (Cooksey, 2011). The rest of the network is made up of local roads (approximately 52 154 km of district, feeder and community roads) that are managed by various districts under the PMO-RALG, most notably LGAs (NAOT, 2011). The tarmac roads are those connecting Dar es Salaam with the southern highlands and central part of the country, and with Zambia and Malawi. Other national roads connect Dar es Salaam with northern regions and with Kenya and Uganda. Put together, this road network carries over 90% of the country's passenger traffic and over 75% of cargo traffic. As in much of sub-Saharan Africa, road infrastructure constitutes the backbone of overall infrastructure development and other sectors of Tanzania's infrastructure (especially fibre optic and power transmission) have developed largely along the country's main road artery (AICD, 2010). Tanzania also has several main transport and development corridors, along which population and agricultural activity are concentrated (see Box 4.1). A total of USD 1.5 billion has been allocated for roads in the 2012-13 Budget.

Tanzania has made particularly positive steps towards the **autonomous management and maintenance** of road infrastructure. The Tanzania Road Fund and the **Tanzania Road Fund Board** (RFB) were established in 1998, as a "second generation road fund", where management has been transferred from a ministry to an autonomous road agency in order to improve project management and to ensure that road maintenance funds are appropriately used. Such funds are of crucial importance to maintaining the state of existing infrastructure, a priority that is often sidelined or overlooked in country-level infrastructure planning – often in favour of developing new projects and expanding the overall transportation network instead. The **Road and Fuel Tolls Act** tackles this risk by recommending that at least 90% of RFB funds be used for maintenance and related administrative costs, and less than 10% to development work.

In 2010 the Africa Infrastructure Country Diagnostic (AICD) placed the Tanzania Roads Fund among the 20% of funds that meet all seven criteria of good design specified by the World Bank Sub-Saharan Africa Transport Policy Program (SSATP). The Fund has more than quadrupled in size since its creation. RFB funding comes from fuel levies on diesel and petrol (accounts for over 90% of total revenue), transit fees, and vehicle overloading fees(Gasirigwa, 2011). As per the Road and Fuel Tolls Act, RFB these disburses funds to three implementing agencies: TANROADS (which receives 63% of the distributable amount); LGAs under the Prime Minister's

Office for Regional Administration and Local Government (PMORALG, receiving 30%); and the Ministry of Works (MOW, receiving 7%).

However despite substantial progress in road network management in recent years, road transport infrastructure must therefore be further improved before Tanzania can fully take advantage both of its agricultural resources and of its advantageous locational position in relation to its neighbours. From a geo-economic viewpoint, Tanzania also faces considerable capacity constraints in handling transit traffic between Dar es Salaam port and landlocked neighbouring countries (Burundi, Malawi, Rwanda, Uganda and Zambia) (Gasirigwa, 2011). From a more domestic standpoint, the nearly 80% of Tanzania's population living in rural areas still has **inadequate access to road networks**: in 2008 at the launch of the Local Government Transport Programme (LGTP), 20 000 to 30 000 km out of Tanzania's total 56 625 km of district roads did not provide reliable basic access during the rainy seasons (Tanzania Policy Forum, 2010).

In addition Tanzania still has a higher proportion of un-paved roads (about 91%) than any other country in the region aside from Rwanda and Uganda (Cooksey, 2011); moreover due to its large land area the country's road density is very low, at 96 m/km$^2$ compared to 262 m/km$^2$ in neighbouring Kenya (TMIT, 2011). Poor infrastructure accounts for 83% of marketing costs attributable to transport charges for agricultural commodities like maize (AfDB, 2011b), especially as transportation costs for unpaved roads are on average two times greater than on paved roads (OECD/AfDB, 2006). Through RFB facilitation, Tanzania's road maintenance programme for FY 2012-13 aims to tackle this severe constraint, with the objective of ensuring that periodic maintenance of roads reaches 380 km for paved roads and 2 400 km for unpaved roads in FY 2012-13 (TMT, 2012).

Box 4.1. **Development of regional trade facilitation corridors in Tanzania**

Tanzania is developing several main transport and development corridors, along which population and agricultural activity are concentrated. These include:

- the corridor from Dar es Salaam west to Dodoma, and northwest to Mwanza on Lake Victoria, connecting to Uganda and Kenya;
- the corridor from Dar es Salaam west and southwest to Mbeya and on to Zambia;

Box 4.1. **Development of regional trade facilitation corridors in Tanzania** *(cont.)*

- the corridor from Dar es Salaam north to the Kilimanjaro area in the northeast;
- the corridor from Mwanza to Kigoma on Lake Tanganyika (AICD, 2010);
- central Transport corridors connecting Dar es Salaam, Dodoma, and Rusumo/Kobero/Kabanga, with a spur to Mwanza from Isaka/Tinde;
- the Tanga corridor, which enjoys access to two airports as well as to the port, and which could provide a hub for gemstone cutting as well as cold chains for horticulture and perishable food industries; and
- the Southern Agricultural Growth Corridor of Tanzania (SAGCOT).

SAGCOT is being developed as a PPP in the context of its Kilimo Kwanza (Agriculture First) policy since 2010. It is supported by a group of private sector agribusinesses, both local and international, in partnership with the Government of the Republic of Tanzania and donor organisations. SAGCOT has mobilised a large variety of financing sources for infrastructure and capacity-building projects, mostly focused on improving transport in support of agriculture.

Under SAGCOT the **Tanzania Road Sector Support Project** involves the African Development Bank and the Japan Bank for International Cooperation (JBIC) in co-financing the upgrading of 450 km of trunk roads including the Dodoma-Iringa road (as part of the North South corridor) and the Tunduru-Namtumbo road (part of the Mtwara corridor). Similarly in the railway sector, under SAGCOT the **rehabilitation of the Tazara railway** is being discussed with the People's Republic of China, the original sponsors of the country's railway construction. Likewise the Danish cooperation agency DANIDA will provide USD$84,860,000 towards the TanZam Highway project (including repair and upgrading of the highway over a distance of 149 km). The Southern Africa Development Community (SADC) and East African Community (EAC) will meanwhile continue supporting the **East Africa Road Network project** (about 7 426 km, requiring US $ 5 Billion, with four cross border links in Tanzania) (SAGCOT, 2011).

*Source*: Southern Agricultural Growth Corridor of Tanzania (SAGCOT), Appendix VI: Investments/donor programmes/finance facilities.

### *Port infrastructure: Substantial progress made over 2008-2013, although capacity constraints remain*

With its access to 800 km of coastline and with six fast-growing hinterland neighbours, Tanzania is well-placed to serve the trade needs of the East African region. Port infrastructure is critical in this regard. 43% of the DRC's trade transits through the Dar es Salaam port, along with 32% of Zambia's trade, 11% of Rwanda's, 8% of Burundi's, and 3% of both Uganda and Malawi. Yet congestion and unreliable railway transport from the port have reduced its cargo handling volume to half of that of Mombasa port in Kenya (TMIT, 2011). Dar es Salaam port has long faced critical **capacity constraints**, in part due to overflow from Mombasa port, itself in overcapacity. More than 50% of transit time between Dar es Salaam port and Kampala in Uganda is attributed to delays at the port itself (Ter-Minassian et al., 2008). As a result of this congestion, importers have long diverted consignments to the ports of Mombasa and Beira in Mozambique, causing a drop in transit trade. Nonetheless annual traffic has continued to rise substantially over the past decade (Figure 4.4), and these pressures are likely to worsen given that daily traffic to the port is expected to increase from 1 000 trucks per day to about 6 000 trucks per day over the next 20 years (SAGCOT, 2011).

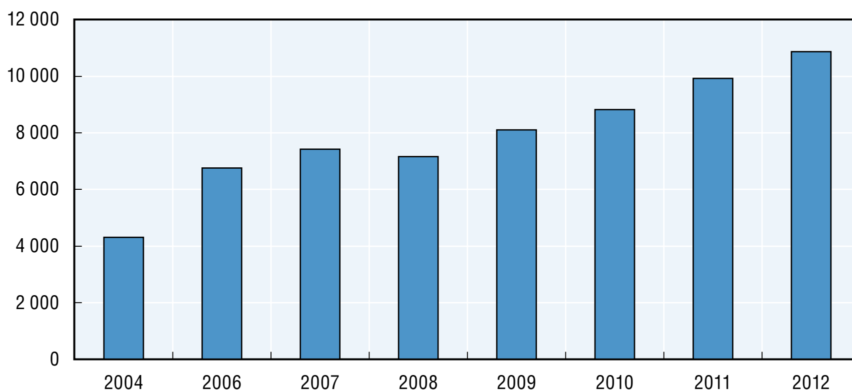
In response, over the past few years the **Tanzania Ports Authority** (TPA) has implemented several development projects and corrective measures to upgrade port infrastructure facilities. These include:

- Completion of the **Tanzania Ports Master Plan** Study in 2009: the Port Master Plan reviewed three green-field candidates for supplementing the Dar es Salaam port, and selected Mbegani in Bagamoyo as the best location. In view of capacity constraints and increasing cargo demand at Dar es Salaam port, the Plan warns that this additional port must be operational by 2018 under a high demand scenario, and by 2023 under a low demand scenario. This supplementary port will notably be essential to the development of the Bagamoyo Export Processing Zone. It will be built according to a "multi-modal transport model" whereby roads and railway services under the Central and Uhuru corridors will also be improved.
- Creation of a new **Port Control Tower** and Search and Rescue Coordination sub centre.
- Increasing **handling capacity** at Dar es Salaam port: the port's capacity has increased almost eight-fold over 2008-2011 (from 3 000 TEUs to 23 000 TEUs) due to an increase in container handling capacity and to the registration of four new Inland Container Depots (CT, 2010). Moreover the Government has

begun construction of additional ports and container terminals, as well as the promotion of a One Stop Border Post (OSBP).

- Transition from a **public service port structure** (where all services required for the functioning of the seaport system – including maintenance and cargo handling – are offered by the port authority) to a **landlord port structure** (whereby the public port authority acts as regulatory body and landlord, while private companies carry out port operations such as cargo handling) (PPIAF, 2012). Management of the port's container terminal has thus been leased to a private company (Tanzania International Container Terminal Services Company, TICTS, which is run by Hutchinson Whampoa Ltd, the largest private port operator worldwide which operates in over 30 major global ports) (TMT, 2012). The average container dwell time and ship turn-around time have been dropping as a result, and in March 2013 TICTS achieved a record Vessel Operating Rate (VOR) – attributable mainly due to the fully-automated terminal operations, good co-ordination with shipping lines, and well-trained staff among all relevant departments (TICTS, 2013).
- Port development **is also being addressed under** the SAGCOT initiative, with TPA and the World Food Programme financing various initiatives to increase container capacity, rationalize port terminals, deepen **port berths and dredge** the port access channel (SAGCOT, 2011).

Figure 4.4. **Rising cargo traffic at Dar es Salaam port, 2004-2012**




*Source:* National Bureau of Statistics, *Tanzania in Figures 2012* (June 2013).

As a result of these projects, by 2009 port operations at Dar es Salaam had already improved by 35 – 45%. Leasing management of the port's container

terminal to a private company is notably claimed to have led to "a doubling of throughput, a 70% reduction in container dwell time, greater customer satisfaction, record profits, and vastly increased government revenues" (WB, 2009). Since 2009 Tanzania has overtaken Kenya as the second-to-best performer in East Africa on the World Bank Logistics Performance Index (LPI) (WB, 2009), and as of 2012 it is ranked as the leading port in the region. The annual survey of the Shippers Council of Eastern Africa (SCEA), released in July 2013, corroborates these results: it shows that preference for Mombasa port as the regional shipping hub is diminishing fast as land-locked countries plan to divert to Dar es Salaam port. According to the survey, cargo handling business in Dar es Salaam increased by 12.9% in 2012 due to fast-tracked reforms, compared with growth of only 11.1% of the Mombasa port over the same period. However SCEA also points out, Dar es Salaam cargo dwell time (at 10 days in 2012) remains higher not only than dwell time at Mombasa (5 days), but also than internationally acceptable standards of (maximum three days) (SCEA, 2013).

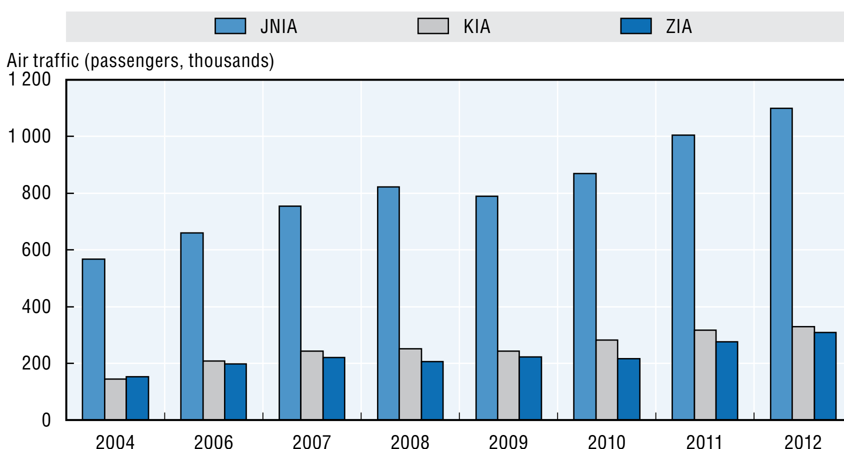
In addition and as warned by the Ministry of Defense and National Service, it is important to also keep in mind the competitiveness risks of the lease of Dar es Salaam port – in particular, the TPA decision to grant TICTS a ten-year lease permission in port operation has created a quasi-monopoly in the sector. Although initially TICTS was overloaded by customer demand, entry of other firms on the market has been restricted – with possible negative effects in terms of competitiveness, timeliness, and cost of shipping and transit. In order to minimise these risks, competent port authorities are crucial to the successful roll-out of such public-private endeavours. The requisite authority (in this case TPA) must be empowered to negotiate concessions with private operators, enhance human resources capacity, and make the necessary reforms – including securing adequate levels of competition in the market.

Tanzanian ports moreover continue to face inadequate interface connectivity with other modes of transport, such as railways and roads; as a result total transport costs for cargo remain very high as most cargo is subsequently transported overland (CT, 2010). Partly due to **poor ground transport links** from Dar es Salaam, cargo clearance in the port is 96% more costly and takes 78% more time that in Mombasa port, greatly undermining the competitiveness of Tanzania as a transit point for trade to the hinterland countries. Over 60% of traffic to and from Dar es Salaam passes through Morogoro Road, and 50% of cargo passes through Ubungo junction, causing severe congestion and delays (TMIT, 2011). There therefore remains a clear need for better integration of transport modes.

### *Air Transport Systems are under rehabilitation and extension*

Tanzania has **three international airports** – Julius Nyerere International Airport (JNIA), Kilimanjaro International Airport (KIA) and Zanzibar International Airport (ZIA) – and more than 50 official airports and airstrips. During the last five years, through the Tanzania Airport Authority (TAA) and Tanzania Civil Aviation (TCAA) the Government has implemented several development projects to modernise the airports in view of enabling a substantial increase in passenger traffic and aviation safety, and stimulating tourism. Despite these efforts however, airport facilities, provision of air navigation services, and human resources capacity for management all remain inadequate. Taxes and landing fees, as well as fuel costs, remain higher in Tanzanian airports than in Nairobi's Jomo Kenyatta Airport, the main competitor (this for instance prompted the horticulture industry to switch from Kilimanjaro to Kenyatta airports for the shipping of fresh-cut flowers). The announcement made in the 2012-13 Budget speech of amending the Airport Departure Service Charges Act so as to further increase Airport Service Charges, seems counter-intuitive in this context (Mgimwa, 2012). Nevertheless both KIA and JNIA airports have already seen large increases in international air traffic since 2004 (WB, 2011), and the Ministry of Transport is also considering building a third terminal at JNIA, which could be undertaken either through PPP or credit.

Figure 4.5. **Progression in air traffic at main airports, 2004-2012**




*Source:* National Bureau of Statistics, *Tanzania in Figures* 2012 (June 2013).

The main **local air transport operators** in Tanzania are Air Tanzania Company Limited and Precision Air. The Ministry of Transport recognises that lack of a PPP law and competent institutional arrangements on PPP (including low Government support from the project development stage to the implementation period, and poor monitoring and evaluation systems) have constrained the performance of Tanzania's air transport in the past (Meena, 2012). In light of the recent developments in Tanzania's legal and regulatory framework for PPPs (in 2010 and 2011, see Box 4.3 below), the Ministry has planned several institutional changes for 2012-13 in order to significantly step up the preparation, procurement, negotiation and implementation of PPP projects in air transport.

### *Water sector: Coverage and quality are recovering since 2011, after years of decline*

Water resources in Tanzania are managed under the leadership of the **Ministry of Water** (MOW), advised by the National Water Board (NWB) and overseeing nine Basin Water Boards (BWB). Section 5.4 in Chapter 5 details the laws and processes that have been enacted to ensure the sustainable use of water resources and to guarantee the distribution of water rights, including for irrigation.

In 2003 the key **water-related targets of MKUKUTA I** included achieving the following by 2010:

- strengthening and rendering 6 out of 9 water basin institutions fully operational;
- increasing the proportion of population with access to clean and safe water from 54% to 65% in rural areas, and from 73% to 90% in urban areas; and
- increasing the proportion of urban population with access to improved sewerage facilities from 17% to 30%, and to ensure access to basic sanitation for 95% of total population.

In spite of reforms and increased financing, until recently these goals had become more remote and water coverage had declined: after stagnating for much of the 1990s, rates of access to clean and safe water and sanitation in fact fell for most of the past two decades. Inefficiencies strongly contributed to this situation, such as low revenue collection and cost recovery, coupled with high distribution losses (AICD, 2010). To tackle this situation, the Government of Tanzania embarked on several major reforms of the water sector since 2002, as follows:

- **National Water Policy** (NAWAPO 2002), which ambitiously embedded an institutionalised linkage between key sector actors, including the central government, local government, External Support Agencies (ESAs), the private sector, NGOs, community-based organizations, and communities. Under this setup, the central government was expected to provide technical and financial support, as well as co-ordination and regulation of all the water supply development activities in the country. Meanwhile the ESAs and NGOs provided funding and technical assistance, while the private sector supports communities in planning, design, construction and supply of materials, equipment, spare parts and in some cases, operations.
- **Sector-wide Approach to planning** (SWAP), adopted in direct response to the NAWAPO. SWAP brings together rural water supply, urban water supply and sewerage, and water resources management under one comprehensive investment and regulatory regime. This approach is based on decentralised management through local governments and dedicated water user entities or authorities, combined with central government facilitation and private sector service delivery.
- **National Water Sector Development Strategy** (NWSDS) and **Water Sector Development Programme** (WSDP), which were launched in 2006 on the basis of NAWAPO and SWAP. WSDP has four components (Water Resources Management, Rural Water Supply and Sanitation, Urban Water Supply and Sewerage, and Institutional Strengthening and Capacity Building), and launched into its second phase in 2010. Yet over 2006-2010 implementation of the WSDP was mostly un-co-ordinated ineffective, in part due to the vast range of programmes and areas covered by the programme. This created confusion as to the responsibilities of different entities at different levels, as well as unclear financial and fiscal reporting and accountability frameworks.

Currently Government is considering mainstreaming the WDSP, so as to re-organise and clarify its institutional and collaborative setup, and centralise the processing of complaints. To date it appears that this renewed emphasis on upgrading the water sector has already had some effect: the decline in water coverage since the 2000's has recently been reversed. Indeed, the percentage of households with access to drinking water (within less than one kilometre) has increased from 66% in 2010 to 76% in 2011, reaching 99% in 2012. In addition the Government aims to tackle persisting regional differences in the water sector, which result in large discrepancies in metering ratios, shortfalls in water provision, and variable theft and leakage rates around transmission and distribution lines (the latter are

particularly high for Dar Es Salaam, where roughly 60% of the city water supply is unaccounted for – accordingly construction of a new water supply project for Dar es Salaam will begin 2013). So as to consolidate and further build on recent progress, the **Medium Term Expenditure Framework (MTEF) for 2012/2013 – 2016/2017 for the Ministry of Water** outlines planned interventions in the water sector. This Framework is focused on aligning execution of the Ministry's budget with the Five Year Development Plan and MKUKUTA II.

During the 2012-2013 fiscal year, the Ministry of Water thus plans to implement 14 development projects through the WSDP for a total allocation of TZS 465 billion (USD 286 million), with approximately 30% of domestic funds and 70% of foreign funds. The bulk of this financing will go towards: reforms in the management and development of water resources; a special programme for improving water supply and sewerage services in Dar es Salaam City; implementing a rural water supply and sanitation programme; and continuing to implement ongoing water projects, including facilitating control by Urban Water Authorities of water leakages, and rehabilitation of water supply infrastructure (NBS, 2013).

## 4.2. Infrastructure investment in national development plans

Is the infrastructure dimension of national development plans understood, and its **objectives and co-ordination shared**, throughout all levels of government and in all relevant parts of the public administration?

### *Infrastructure development occupies a priority position in Tanzania's national development planning*

The proportion of Tanzanian infrastructure spending to GDP has been above the average of African countries, and surpasses the spending levels of several middle income countries (such as Chile and Indonesia) since 2004, although it remains low in per-capita terms. There has been a focus on transport and energy spending in recent years (NBS, 2013). In particular GOT recognises the catalytic value of infrastructure in terms of attracting investment, especially since 2009. This is reflected by the **Medium-term Public Investment Plan** (MPIP) for 2009/10-2011/12 (TI, 2009) as well as by the 2009 Government Roadmap on Improving Tanzania's Performance in Doing Business. The latter comprises interventions to upgrade enabling infrastructure as essential first steps, including a Power Master Plan in the electricity sector, and the National Transport Investment Programme (Mapunjo, 2010).

More broadly, the amelioration of enabling infrastructure for doing business is one of the five "core priorities" of Tanzania's **Five Year Development Plan** (FYDP I, for 2011/12-2015/16); FYDP I notably commits to large investments in energy, transport infrastructure (port, railway, roads, air transport), water and sanitation and ICT. In addition since 2013 government has launched the "**Big Results Now**" (BRN) initiative which provides a quantitative set of targets and reforms to implement in six selected National Key Results Areas (NKRAs, see Chapter 3 above). Infrastructure sectors (in particular water, transport and energy) are of course among these NKRAs, and priority infrastructure projects should accordingly benefit from a better-phased and more targeted approach to implementation and monitoring.

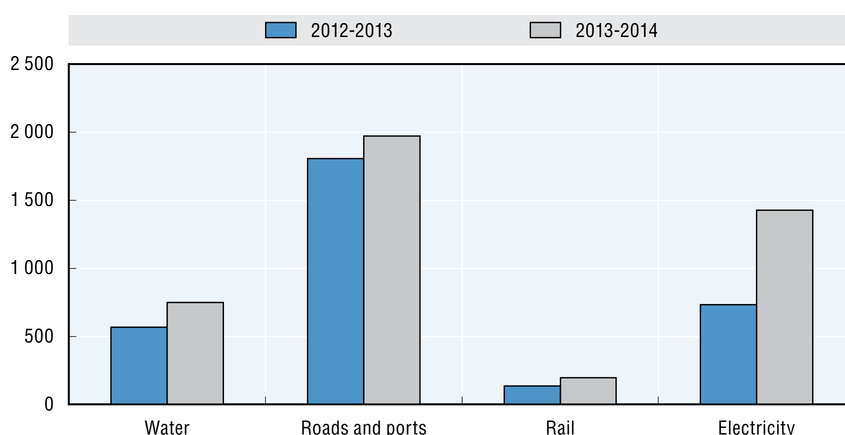
The Medium-term Public Investment Plan for 2009/10-2011/12 has meanwhile informed FYDP I, and has the stated objective of transforming the country into a transportation hub and international trade gateway through the following efforts (TI, 2009):

- rehabilitation and construction of new transport and communication infrastructure (railways, road, ports) to make Tanzania a transportation hub and international trade gateway;
- generation, transmission and distribution of low cost energy to attract large and energy intensive industries and other efficiency seeking industrial and commercial undertakings;
- rehabilitation and development of new irrigation infrastructure to attain food self sufficiency and make Tanzania a grain reserve and source of industrial feedstock in the region;
- effective utilisation of the country's mineral wealth and leverage its gain for the development of infrastructure; and
- improvement of the current labour force to acquire the necessary skills for technological and industrial revolution.

These are clearly thought-out objectives which accurately take into account the country's main infrastructure development issues, as well as the corresponding impacts on competitiveness, business facilitation, and attraction of both FDI and domestic capital. MPIP has been accompanied by plans for increased **budgetary allocations**: the infrastructure sector consistently receives the largest proportion of the development budget, and the 2011/12 planned for an 85% increase in infrastructure spending (Doya, 2011). However in practice Tanzania ran into a funding shortfall in 2011/12: of the USD 3.1 million attributed to infrastructure, only USD 1.7 million was in fact spent that year. Transport projects benefited

from the majority of infrastructure spending over 2012-13 and will continue to do so over 2013-14 (with allocations for railway infrastructure having increased by 47%, although this remains a minority share of total transport spending); nevertheless the sector which has attracted the biggest rise in budget allocations for 2013-14 is electricity (95% increase, see Figure 4.6) (Mgimwa, 2012).

Figure 4.6. **Budget allocations for infrastructure spending, FY 2012-2013 and 2013-2014**




*Source:* Tanzania Budget Speech, FY 2012-2013 (June 2012) and FY 2013-2014 (June 2013).

### *The links between infrastructure and agricultural development are nationally recognised*

There is a clear recognition of the tight links between agricultural development and infrastructure, and given the status of agricultural development as a national priority: MKUKUTA I and II both single out energy infrastructure as a crucial component for attaining the National Vision 2025 and the Millennium Development Goals (MDGs), especially as concerns stimulating Tanzania's agricultural sector. In addition, since June 2011 Tanzania has embarked on a seven-year Marketing Infrastructure Value Addition and Rural Finance Programme (MIVARF) for 2011-2018 (see Chapter 5).

It is clear that insufficient infrastructure poses considerable problems not only in terms of local firms' global competitiveness, but also – on a much more basic level – in terms of **value-chain development and value-addition**, especially for marketing agriculture products. Projects geared to support

local economy in Tanzania's Mwanza region since 2006 reveal that the lack of enabling infrastructure was a major impediment to the growth of new enterprises: necessary inputs could not be easily obtained or products taken to markets due to the limited feeder road system; production processes for converting raw materials into finished goods were impossible due to lack of rural electrification; crop production and processing was limited by inadequate water supplies and irrigation systems; and lack of storage, processing and warehouse facilities implied that local crops had to be marketed immediately, with minimal value-addition (Cochran et al., 2009). Due to poor accessibility of rural areas, post-harvest losses – which could be minimised if road transport and storage were facilitated – reach 40% of production value (TMIT, 2011). Chapter 5 below covers the scale of these infrastructure costs (in terms of agriculture-related irrigation, storage and transportation, ICT, and energy constraints) in more detail.

### *Governance of infrastructure development: A decentralised approach*

Tanzania is divided into 26 regions, comprising 98 districts which each have at least one council, or Local Government Authority (LGA). Out of these 164 councils, the majority are rural (92), with only 22 urban councils (Ter-Minassian et al., 2008). Launched in 1996, the **Decentralisation by Devolution** (D-by-D) Policy shifted all policy implementation functions to local government while sectoral ministries remained tasked with monitoring and evaluation and standard-setting. Since 2000 the Local Government Reform Programme (LGRP) has additionally charged the regional level with roles of policy advice, enablement and co-ordination, while LGAs are expected to act as service providers. The ongoing LGRP II aims to broaden the financial base of LGAs and build their capacity, including in terms of financial management of infrastructure projects. This **decentralised structure of territorial governance** implies that co-ordinating land planning at the central and local levels must be at the basis of infrastructure development schemes in Tanzania. It is crucial that the national government establish infrastructure investment priorities in co-operation with local and regional governments, rather than relying on sub-national authorities only to implement investment decisions. Local authorities can also be very usefully involved in the maintenance of infrastructure networks. All of this requires adequate communication and responsibility sharing between central and local governments, and well as strong budget and project management capacity within LGAs.

While LGAs are now responsible for meeting most infrastructure demand in the country, they often lack sufficient financial resources to fulfil this role.

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**Fiscal decentralisation** remains extremely incipient (Cochran et al., 2009): LGAs collect about 5% of all public revenues, with the majority of revenues rather collected by the TRA on behalf of central government; nonetheless LGAs remain responsible for about 20% of public spending (Cochran, et al., 2009). Given these budgetary constraints LGAs usually spend about two-thirds of their budget on recurring expenses (especially as more than two-thirds of the government employees work in LGAs and not in the central government), and less than one-third is available development investments, such as infrastructure (Cochran et al., 2009). In addition public financial management by LGAs is often unsatisfactory: over the 2012 fiscal year Local Government funds only reached 64.2% of the expected annual estimate, mostly due to delays in securing external non-concessional loans on time (Mgimwa, 2012). Moreover inequity in budget allocations persist across LGAs, and weak staff capacity impedes adequate management of infrastructure projects (Cooksey, 2011). For example the poor performance of the Water Sector Development Programme (WSDP), which led to the suspension of donor funding for the programme's water basket in 2010, has been largely attributed to the personnel constraints and financial limitations of LGAs (TMWI, 2010).

## 4.3. Enabling environment for private investment

Is there a sound **enabling environment for infrastructure investment**, including high standards of public and corporate governance, transparency and fiscal discipline, and safeguards of the rule of law (including protection of property and contractual rights)?

In developing countries the main channel for private investment in the infrastructure sector has traditionally been the opening up of infrastructure parastatals to private participation. Different degrees of private participation are possible, from private procurement of management or operational services, through PPPs where the Government retains a central stake in the company and recuperates it at the end of a 20-30 year concession period, to full divestiture and outright privatisation of the infrastructure service. Regulatory frameworks for public procurement and for PPPs are therefore crucial aspects of the enabling environment for infrastructure investment, and can provide for strong corporate governance, rule of law, and fiscal discipline. External audits of procurement, privatisation, and PPP processes are also necessary to ensure that existing regulations are effectively respected. In this perspective, this section investigates Tanzania's regulatory framework for public procurement and PPPs. The role and

performance of different parastatals, procurement entities, and privatised infrastructure providers is also considered, along with legal provisions for encouraging competition and facilitating dispute resolution in different infrastructure sectors.

### *A poor track record for privatisation and divestiture in infrastructure services*

In a search for efficiency and greater value for money, over the past two decades the Government of Tanzania has contracted several key parastatals to foreign companies, created executive agencies, and engaged in full or partial privatisation of public utilities. However the track record here has been relatively poor. In the early 1990's, 410 parastatals were estimated to exist in Tanzania. Following the setup of the Presidential Parastatal Sector Reform Programme (PPRSP) in 1992, the **Privatisation Master Plan** was launched in 1993 and divestiture rose from about 100 in 1995 to 239 by 1998, reaching 336 divested private enterprises by 2010. However these divestitures have often encountered delays and deadlocks, or privatised enterprises have not produced the expected efficiency gains (Ter-Minassian, 2008). These stumbling blocks have especially hindered the divestiture of the larger parastatals, in key utility and infrastructure sectors – such as water, electricity, rail, and air transport. Moreover post-privatisation the majority of entities continue to perform at a loss, without providing the Government with expected revenues: Government verification of the performance of 170 privatized parastatals in 2012 reveals that 41 of these were making profits and 66 making losses (Mgimwa, 2012). These wide-ranging failures weigh heavily on the Government budget.

Nonetheless private sector willingness to engage in infrastructure provision is growing, for instance in the road sector where the construction of the Kigamboni Bridge and the Dar es Salaam-Chalinze-Morogoro Expressway both received expressions of interest from private companies in early 2013. To uphold this momentum further reforms are necessary in terms of the regulatory and institutional framework for private participation in infrastructure. The examples provided in Box 4.2 below – for air transport, electricity and water – indeed suggest that past failures in public-private infrastructure provision can largely be attributed to a poorly defined regulatory framework and under-capacity for public procurement, weak risk management, insufficient upstream project preparation, and poor management of public-private communication. The mismanagement of recently privatised entities has also been attributed to inefficient and opaque operations on behalf of the bloated Parastatal

Sector Reform Commission, PSRC (since replaced by the Consolidated Holding Corporation, detailed below).

Box 4.2. **Poor track record of privatisation attempts in Tanzania**

**Air and the case of ACTL:** Both the airlines and airports in Tanzania have known several unsuccessful attempts at privatisation or management through public-private partnerships. In the case of ACTL, in 2002 South African Airways (SAA) won a competitive bid for privatisation (purchasing a 49% stake in the company), but 2005 recorded a pre-tax loss of almost USD 7.3 million for the first year of part ownership by SAA. According to ACTL, the loss was mainly caused by the inability to expand the network – including development of Dar es Salaam International Airport as an SAA hub – as quickly and extensively as originally planned. By 2006 Government bought back the 49% SAA share, following which its flight operator licence was suspended by Tanzania Civil Aviation Authority (TCAA) in 2008, and in 2010 the Parliamentary Infrastructure Development Committee (PIDC) advised the government to no longer support the company. Nonetheless ACTL has resumed operations in November 2011. Concessioning of Kilimanjaro International Airport to the private operator KADCO faced a similar fate: it has now returned to full ownership and management by the Tanzania Airports Authority (TAA) after Government bought back the KADCO shares.

**Rail and the case of TRL:** Since its establishment in 1977, TRL (formerly TRC) has suffered from mismanagement, under-investment and financial difficulty, with high annual losses (for instance reaching USD 6-11 Mn per year between 1992 and 1996). In 1997 the decision was therefore taken to privatise the state-owned company. After an unsuccessful first tender, the second tender awarded the contract to Rail India Technical Economic Services (RITES, a state-owned Indian company) in March 2006; RITES was awarded a 51% share for a concession period running until 2032, while the Government retained a 49% share. However efficiency soon dropped even further (passenger traffic fell by 46% in 2010 while the annual cargo haul fell 43% from the previous year), and calls were made for contract cancellation. After attempts at contract renegotiation, over 2010-11 the deal has been terminated. This failure has been partly attributed to poor risk-sharing in the PPP contract design, whereby Government shouldered the majority of risks. The integrity of contract negotiations has also been put into question. TRL is now under 100% Government interim management, and will focus on short-term railway improvement – such as track replacement – over the next few years. Nonetheless procurement remains on the agenda for the future.

Box 4.2. **Poor track record of privatisation attempts in Tanzania** *(cont.)*

**Electricity and the case of TANESCO:** The second of TANESCO's procurement attempts aimed to contract out its power distribution, revenue collection and customer billing functions in 2002. This was hoped to put an end to earlier major rent-seeking scandals, and to prepare the "unbundling" of the power company. These functions were contracted out to NetGroup Solutions, a South African firm. Yet although by 2004 NetGroup had increased revenue collection from USD 11 million to 22 million per month, TANESCO refused to renew NetGroup's contract in 2006 on the grounds of expensive and unsatisfactory performance (Cooksey, 2011). This dispute escalated to the international level and was referred to the International Centre for Settlement of Investment Disputes ICSID in 2001 (see Box 2.5 of Chapter 2).

**Water and the case of DAWASA:** In 2003, the Dar Es Salaam water supply infrastructure was leased to a private company, City Water Services (CWS), on a ten year contract with the city's water and sanitation utility DAWASA. Less than two years later however, CWS had not brought about significant improvements in management and efficiency, and the lease was terminated and DAWASCO, another government-owned company, was set up to take over the contract. The failure of CWS largely resulted from insufficient communication between private and public partners during contract design: City Water had inherited a legacy of underinvestment, neglect and poor management, and had little reliable information available on the state of the infrastructure before privatisation. The legal system moreover was of little assistance for tackling the problem of illegal water connections. City Water was additionally given responsibilities for both service provision and regulation, creating a conflict of interest which further contributed to this failure. This dispute was referred to the International Centre for Settlement of Investment Disputes ICSID in 2003 (see Box 2.5 of Chapter 2).

In its annual reports on the performance of public bodies, Tanzania's Controller and Auditor General (CAG) evaluates the performance of existing public authorities and other bodies, as well as privatised entities. In February 2011, 34 public bodies were in **different stages of privatisation, but facing considerable delays** in the process. Due to these delays, the parastatals were becoming limited in their strategic plans, could not expand, increased wear and tear of assets, and lost in employee morale. In addition many existing parastatals were undercapitalised and dependent on Government injections

of funds – such as the electricity company TANESCO, which had no modern equipment for power distribution and had been unable to increase other sources of power during dry seasons for this reason, leading to pervasive country-wide power rationing. Other infrastructure sectors hampered by undercapitalised parastatals included air transport (with ATCL), rail (with TRC), and telecommunications (with TTCL).

These parastatal inefficiencies remain very costly for Tanzania and act as a drain on the government budget: in the fiscal year 2008/09 the Government of Tanzania for instance spent TZS 47 billion (USD 36 million) to bail out six parastatals. More recently and despite a 40% increase in electricity tariffs in January 2012 (see Box 4.5 below), TANESCO's arrears to power suppliers reached close to USD 252 million (or nearly 1% of GDP) by end October 2012 (IMF, 2012). This posed significant fiscal strain on the government which was obliged to step in to honour power purchase agreements and avoid costly power outages. In order to almost close the TANESCO's estimated financing gap of USD 438 million for 2012-13, over the past year Government has reallocated TZS 405 billion (USD 254 million) towards the company. Another USD 100 million will be transferred from the central government budget for Fiscal Year 2013-2014 (IMF, 2013). While these many failures have led Government to revise its Public Procurement Act (in 2001, 2004, and most recently in 2011) and to considerably improve the framework for PPPs, efforts remain to be targeted at the structural and competitiveness problems related to the dominance of inefficient parastatals in crucial infrastructure sectors.

### *An improved institutional framework for PPPs*

The Government recognizes the fundamental role of the private sector for economic growth in general and infrastructure investment in particular – as is well-reflected in the MPIP for 2009/10-2011/12 and in FYDP I. Recent years have seen a particular focus on the creation of an enabling policy and institutional framework conducive to PPP investments: the **National PPP Policy** was adopted in November 2009, laying the ground-work for the **PPP Act** in July 2010 and the associated **PPP Regulations** in June 2011 (which provide guidance for PPP design, preparation and roll-out, see Box 4.3 below). The Policy embeds the need for developing a strong PPP framework in the context of the country's development imperatives and the National Vision for 2025. It highlights that PPPs are to be key tools for promoting and attracting investment in agriculture and infrastructure, notably in view of providing enabling infrastructure for

agricultural transformation and advancing the Kilimo Kwanza (Agriculture First) and SAGCOT endeavours (PMO, 2009).

Operational since June 2011, the **PPP Act 2010** establishes two units: a **PPP Coordination Unit**, placed under Prime Minister's Office at the TIC and tasked with promotion and attraction of PPP investors; and a **PPP Finance Unit**, placed under the Ministry of Finance in order to ascertain the affordability, fiscal consequences and Value for Money of proposed PPP projects. Both Units have distinct roles to play in the PPP process, and aim to ensure effective analysis of PPP projects to determine their socioeconomic, technical and commercial viability. As of 2013 the government is however considering merging the two existing PPP Units, in the interest of greater institutional clarity and effectiveness. This move, which has been confirmed within the 2013-2014 Budget, may be desirable given that the multiplicity of actors within the institutional framework for public procurement and PPPs can otherwise introduce unnecessary delays in contract preparation and roll-out, and generate a confusion of accountability.

As Box 4.3 illustrates, the PPP Act 2010 and PPP Regulations 2011 address many of the features crucial to successful PPPs, including adequate risk-sharing and ensuring value for money (VFM) in projects. Nonetheless the definition of PPPs in the PPP Regulations is quite wide, encompassing both PPPs for public functions such as infrastructure provision, and also purely commercial activities that use public property such as mineral and gas exploration; as suggested by the RebelGroup (the team of consultants which has prepared PPP Operational Guidelines for Tanzania, released in October 2012 by the Prime Minister's Office – see Sections 4.3 and 4.5 below), a narrower scope may prove more useful for policymakers. In addition, risk-sharing provisions are lacking for compensating the private partner for risks outside of its own control (currently Part VII of the Regulations are one-sided, as they cover only compensation of the public partner if the risk is under the control of the private counterpart). Creating such provisions would reassure private investors and contribute to a more balanced sharing of risk between the two partners. As announced in the 2013-2014 Budget, Government aims to review and improve this PPP legislation over the coming two years; this would be a timely opportunity to address these shortcomings.

Box 4.3. **Public Private Partnership Regulations, 2011**

Subsidiary legislation to the PPP Act No.18 of 2010 was introduced by Government Gazette on June 3, 2011. It creates the PPP Regulations, 2011, which cover the following sections:

*a)* **Identification of projects**: for each project, a pre-feasibility study report must be submitted to both the PPP Coordination Unit and the PPP Finance Unit. The project must conform to the following criteria (among others):

- alignment with **government priorities** as per national development plans;
- compliance with **value for money** requirement;
- compliance with **affordability** requirement;
- provision of new, **cost-effective** methods of service delivery;
- coverage of **social needs**;
- assurance that private sector participation will result in **net benefits and savings as compared to public procurement**; and
- adequate **risk analysis** and sharing.

*b)* **Recommendation of projects** by the PPP Coordination Unit and approval by the PPP Finance Unit (to be merged within a single unit over 2013-2014). In addition to value for money, the Finance Unit evaluates the project based on: **fiscal risks** involved; **affordability over the life-cycle** of the project (including before and after handing over to the Government); and commercial, technical, socio-economic and technical **viability**. If approved the project is then forwarded to the Minister responsible for finance, and then referred to the contracting authority to proceed with advertisement for tenders.

*c)* **Procurement and award:** procurement and selection of the tenderer is conducted by the contracting authority in accordance with the Public Procurement Act. A draft agreement is then forwarded to the Finance Unit and may be refused for **risk-related** reasons. Finally the project is submitted to the Attorney General for vetting.

*d)* **Supervision of projects:** after project initiation the accounting officer of the contracting authority is tasked to ensure that the agreement is properly implemented, managed, enforced, monitored and reported up throughout its lifespan. The accounting officer should maintain mechanisms for: measuring agreed project outputs and **monitoring performance**; reviewing **costing and tariffs** in view of the project's long lifetime; **maintenance** of facilities developed by the project on a regular basis; preparation of **regular reports on the project**; and smooth **transfer of assets** for take-over of the facility (in the case of BOT and similar models).

Box 4.3.: **Public Private Partnership Regulations, 2011** *(cont.)*

***e)* Project termination** is a right of the contracting party in case of inefficient implementation or non-performance on behalf of the private party, or in a case of force majeure. Where the termination results from private party failure to meet its obligations, it is required to compensate the contracting authority for losses suffered.

*Source*: Subsidiary legislation to the PPP Act 2010 (Supplement No. 17), *Government Gazette* No. 22, Vol. 92, 3 June 2011.

The creation of this regulatory framework for PPPs has triggered considerable momentum and enthusiasm for this mode of infrastructure development in Tanzania, although several Government agencies have expressed concerns as to their ability to manage the complexities of the project approval process. It is important for all contracting authorities to realise that PPPs cannot address all infrastructure problems; certain types of infrastructure are more or less well-suited to different formats of PPP contracting, and sound management and upstream project preparation is necessary in order to mitigate the risks that come with PPP projects. PPPs in different sectors also require different contract and financing structures so as to ensure financial sustainability and cost-recovery. For instance while for many PPP contracts the main source of revenue for the private partners is government (in the form of regular payments or a unit charge), under certain contracts user charges are directly levied by the private partner on the beneficiaries of the services. In all cases, it is essential that contracts are flexible (providing for re-negotiation and dispute resolution if necessary) while also holding to private partner to specific performance and output measures.

In the context of reviewing the National Transport Policy 2003 over 2012, the Ministry of Transport has suggested several means of radically improving the **preparation, procurement, negotiation and implementation of future PPP projects** (including by engaging in better-structured pre-feasibility studies, appointing PPP Focal Points at Ministry Desk Offices, prioritising selected projects for PPP, and training staff on PPPs for the transport sector). However the Ministry recognises that low Government funding capacity for such high capital demanding projects, as well as lack of proper knowledge on PPPs by contracting authorities, will remain central challenges if the PPP route is to be used to upgrade Tanzania's existing infrastructure (Meena, 2012).

Adequate implementation of these regulations for all public-private projects would very likely lead to more successful large-scale infrastructure projects; these regulations would also provide useful guidance for any form of public procurement or divestiture which may involve the private sector. Nonetheless a sound regulatory framework for PPP will on its own not be sufficient in order to improve Tanzania's extremely poor and costly track record in terms of parastatal privatisation and management. Rather (as Box 4.2 above suggests), this will require a serious reconsideration of the **governance structures of parastatals themselves**, as well as a re-structuring of infrastructure markets so as to increase the level of genuine competition in these sectors.

### *Public Procurement framework: PPA 2001, 2004 and 2011*

A Government-commissioned study of Tanzania's procurement system, released in 1996, revealed a fragmented and un-regulated public procurement system, with no standard documents or records and no central organ responsible for co-ordinating and regulating the procurement process. In reaction to these findings, major public procurement reforms were conducted which culminated in the Public Procurement Act (PPA) 2001 and the Procurement and Disposal of Public Assets Bill of 2002. PPA 2001 decentralised procurement and established the Central Tender Board as a newly autonomous organisation. The Act also established Ministerial, Regional, District, Parastatal and Local Authority Tender Boards (Cooksey, 2011). Yet many dimensions of the PPA 2001 remained problematic, and in effect the system remained partly undermined by the vast power still vested with the Central Tender Board (Odhiambo and Kamau, 2003). Moreover the capacity and enforcement of these tender boards remained rather weak, uncompetitive, and poorly-monitored. In recognition of these shortcomings, the PPA 2001 was replaced by the **PPA 2004**, which fully decentralized procurement functions to procuring entities and established the **Public Procurement Regulatory Authority** (PPRA) as the central procurement oversight body. The reform also fully operationalised the **Public Procurement Appeals Authority** (PPAA) with its functions of complaint and dispute resolution.

Section 80 of the PPA 2004 (now Part 9 of PPA 2011, in which the provisions are largely similar) provides a three-tiered system of **handling procurement complaints** by procuring entities and approving authorities. The appeal first goes to the Accounting Officer (AO, the head of the procurement entity), and if they are not handled in the specified time or if the complainant is

dissatisfied with the AO decision the complaint can be referred to the PPRA. If the dispute remains unresolved the complaint can be brought before the PPAA as a third resort. Under Section 101 of the 2011 PPA, judicial review is possible if all three of these levels fail to make a satisfactory decision.

The **Public Procurement Act 2011**, which replaces PPA 2004 and is in force since 2012, keeps similar provisions as its predecessor for procurement principles, tendering process, dispute settlement, and the responsibilities of different bodies (URT, 2012). Nonetheless some significant improvements have been introduced. PPRA has prepared a detailed matrix to inform the public about these main modifications, which include (PPRA, 2012):

- **Clarification of responsibilities for bodies involved in procurement processes**: recognition of the Public Procurement Policy Division in the Ministry of Finance, tasked with developing a national procurement policy and monitoring its implementation, and with advising the central and local governments on issues related to procurement policies; and firmer requirements on the capacity, experience and funding of Procurement Management Units.
- **Accelerating and harmonising procurement**: a section on emergency procurement is introduced, as well as provisions to enable introduction of e-procurement, and a new clause to cover for procurement under PPPs and for un-solicited PPP proposals.
- **Reinforcing monitoring and enforcement of regulations**: greater empowerment of the PPRA in executing its regulatory functions; stronger monitoring functions for a procuring entity's budget approving authorities; broader functions for accounting officers, including for implementing decisions made by PPRA and PPAA after investigation of a complaint; and amendment of the section on offences to provide for more stringent sentences in case of breach of the law (including incorrect information provided during the bidding process, and delays or other inappropriate procedures during the tendering process).

These changes will serve to clarify responsibilities for bodies involved in procurement processes, to accelerate and harmonize procurement (including better integration with the PPP Act 2010), and to reinforce monitoring and enforcement of regulations.

### *Framework of performance audits for procurement entities*

PPA 2011 moreover extends the external auditing structure established by the PPA 2004. The annual Audits of Public Authorities and Other Bodies

conducted by the CAG provide comprehensive and quantified evaluations of the performance of procurement entities. Based on the 122 entities reviewed in 2009/10, the CAG points out by name the procurement entities that fall short in a broad spectrum of performance (NAOT, 2011). This wide-ranging assessment and its clear targeting of noncompliant PEs create clear incentives for performance improvement on behalf of these procurement entities. Yet queries over dubious accounting raised by the CAG have often gone without response in the past (Cooksey, 2011); in view of this, it is encouraging to note that the PPA 2011 includes stricter provisions for punishing non-compliance and for better enforcing follow-up by PEs of PPRA and CAG recommendations. Encouragingly, procurement behaviour appears to have improved over between end 2010 and end 2011: unqualified audit reports for Ministries, Independent Department and Regional Secretariat rose from 71 to 85% (Mgimwa, 2012).

In addition to the CAG-led audits, the **Public Procurement Regulatory Authority** (PPRA) has carried out its own procurement audits in 2008, aimed to determine whether the procedures and documentations for procurement, contracting and disposal of public assets by tender were in accordance with the provisions of the PPA. The PPRA resulting study usefully disaggregated procurement performance by type of procurement entity and by the form of procurement spending; it also created aggregates for different areas of compliance behaviour, rather than simply pointing out poor performers. Such information may be more insightful in terms of assessing the gaps and structural shortcomings of the national public procurement system, and PPRA should be encouraged to undertake such reports on a more regular basis as a complement to the audits of the CAG.

### *Procurement by Local Government Authorities (LGAs)*

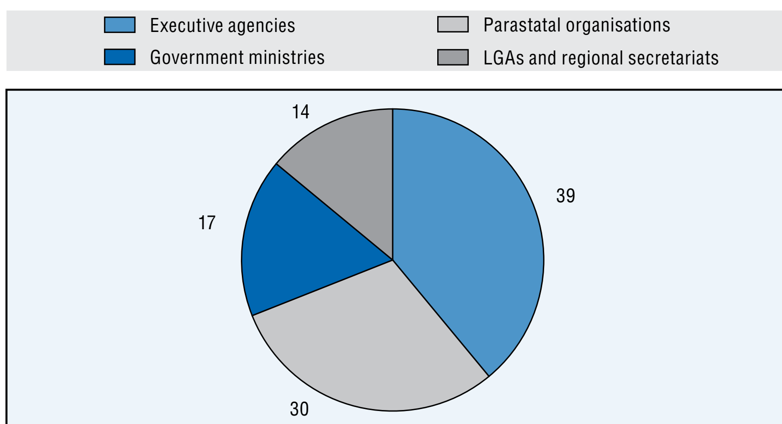
The PPRA report also indicates that procurement is especially limited in LGAs, which only undertake about 14% of total procurement operations in Tanzania. The majority of entities active in procurement are executive agencies, followed by parastatals (Figure 4.7). The majority of LGAs display worse scores in terms of compliance with the PPA: across the PPRA's compliance indicators LGAs reached an average of 41% in 2007/8, and 65% by 2008/9 (URT-MFEA, 2008). The new procurement act, PPA 2011, may be more "user-friendly" in this regard as the Public Procurement Policy Division established in the Ministry of Finance notably has the task of advising both central and local governments on issues related to procurement policies. In addition to the "PPP Operational Guidelines" released by the Prime Minister's

Office in October 2012, the Ministry of Finance also provides risk-management manuals for procurement of PPPs (see Section 4.5). Moreover procurement entities and contracting authorities are encouraged to prepare their own PPP preparation and monitoring guidelines in collaboration with the PPP Unit.

Existing financial obstacles to LGA procurement would also need to be considered (see Section 4.7 below). More LGA procurement is necessary especially for developing rural infrastructure – such as feeder roads or electricity supply which would facilitate agricultural development and investment; it could also notably have potential for increasing SME involvement in procurement, as SMEs can play an important role in small-scale, local infrastructure and other public good projects.

Figure 4.7. **Sources of procurement spending in Tanzania based on PPRA audits, 2011**

Percentage




*Source:* Cooksey, Brian, "Public goods, rents and business in Tanzania", UK aid and Irish Aid, *Background Paper* 01, June 2011, p. 42.

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What procedures and principles (such as cost-benefit analysis, or review of alternative modes of delivery and of the impact across the full system of infrastructure provision) exist to ensure that the choice by public authorities between public and private provision will arrive at **the most cost-effective option** that provides the most value-for-money for end-users?

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The choice to resort to either PPPs or public procurement within a national infrastructure strategy must be based on three considerations: the

 

state of the country's overall existing infrastructure; how improvements to each infrastructure sector can interlock; and what contribution infrastructure PPPs can bring to the country's overall long-term development strategy. To help ensure that the choice by public authorities between public and private provision will arrive at the most cost-effective option for delivery of infrastructure services, the **PPP Regulations 2011** cite three criteria for project selection: cost-effectiveness; value for money; and "assurance that private sector participation will result in net benefits and savings as compared to public procurement". Projects are evaluated on this basis both in pre-feasibility and feasibility studies that are reviewed by the PPP Coordination Unit and the PPP Finance Unit each in turn (although the two units will be merged into one over 2013-2014).

These feasibility studies are to include quantifiable measures of cost-effectiveness and of project desirability in relation to public provision (namely, the public sector comparator calculation; see Box 4.2 above). Assessing Value for Money in this way is a crucial component of all infrastructure provision decisions, as only a comparative evaluation of the benefits of purely public, public-private, and entirely privatised public entities can ensure that the choice between public and private provision will arrive at the most cost-effective option for end-users. The 2013-2014 Government Budget has announced the creation of a PPP Facilitation Fund to finance project feasibility studies, in view of supporting and accelerating the procedures for project design and approval.

The PPP Act also clarifies responsibilities of contracting authorities, and sets guidelines for the procurement process, monitoring and evaluation, conflicts of interest, and due diligence (URT, 2010). Over 2012-13, the major government focus is now to implement the policy by setting up its institutional framework and regulatory arrangements, as well as sufficient capacity and human resources within the relevant public bodies (CT, 2010). Indeed, while the PPP Law and Regulations are well-drafted, they remain rather intimidating for implementing bodies. For this reason PPP Operational Guidelines have been developed by external consultants (the RebelGroup, see above) together with the Prime Minister's Office, to familiarise public officers with the concrete roll-out of PPP projects based on this legal framework.

Alongside these Guidelines, it would also be important to engage all Procurement Entities (PEs) and ministries in a communication drive. Indeed, as notably voiced by the Ministry of Transport, since establishment of the PPP Act many PEs have nonetheless chosen to finance projects through

credit rather than by PPP, as they fear that the complexity of the upstream PPP preparation process will take too long. It is therefore crucial to ensure that PPP processing through the PPP Unit (once the two existing units have been merged into one) is **rapid and easy to follow**. This simplicity should be made clear to all potential procurement bodies, and an electronic system for tracking the status of a PPP project application over time could also be helpful.

## 4.4. Competition in infrastructure provision

What efforts are taken to create a competitive environment in different infrastructure sectors, including by subjecting activities to appropriate commercial pressures, dismantling unnecessary barriers to entry, and implementing and enforcing adequate competition laws?

### *The domination of parastatals distorts competition in most infrastructure sectors*

**Sectoral regulatory authorities** such as TANROADS (for road transport), TCRA (for telecommunications), EWURA (in the energy and water sectors), and SUMATRA (for surface and marine transport) exist to promote fair competition and to protect consumers in Tanzania. Outside of infrastructure alone, competition is centrally regulated by the Fair Competition Act of 2003, which establishes a Fair Competition Commission (FCC) and a Fair Competition Tribunal. Meanwhile the Public Procurement Regulatory Authority (PPRA), as well as the Public Procurement Act of 2004, its 2005 Regulations and its 2011 amendment (see 4.2 above), all aim to improve the level of business competition at the national and regional levels in infrastructure procurement processes.

**Competition authorities** have an important role to play in regulating SOE activities in infrastructure. It is crucial that competition authorities possess enough resources and skilled staff to suitably monitor and enforce competition regulations in different infrastructure sectors. This can help improve SOE efficiency, and is also a crucial condition for achieving successful liberalisation and attracting private investors to infrastructure sectors. In the case of privatisation or unbundling of vertically integrated SOEs, the competition authority notably has a role in: levelling the playing field between SOEs and private actors (by denouncing abuse of dominant market position by the SOE, but also disproportionate subsidisation by Government); and ensuring that the process is adequately carried out (and that private bidders are not, for instance, offered market exclusivity clauses). For these functions, competition

authorities require adequate resources, political support and independence to exercise effectively, in particular when they must challenge vested interests – such as monopolistic private firms, or state-owned firms that fall under the regulatory authority of other parts of government. For this it is necessary for the competition commission to sit relatively high within the hierarchy of governmental units.

In Tanzania however the legal structure of the FCC is subordinate to the enactments of the sectoral regulatory authorities: the FCC is exempted from intervening in these regulated utility sectors, and under Article 85(1) of the Fair Competition Act, the Fair Competition Tribunal is mandated to carry out the functions conferred on it under the EWURA Act, 2001, the SUMATRA Act, 2001, the Tanzania Communications Regulatory Authority Act, 2003, and the Tanzania Civil Aviation Authority Act, 2003. The regulatory authorities are nonetheless committed to contributing to the funds of the Fair Competition Tribunal, and the Tribunal will hear appeals against the decisions of the Commission as well as against decisions by other multi-sector regulatory. The judgements and orders of the Fair Competition Tribunal are executed and enforced in the same manner as the judgements and orders of the High Court, and appeals against the decisions of the Fair Competition Tribunal are heard by the Court of Appeal (URT, 2003).

Within this framework, the playing field for investment remains quite strongly biased in favour of **parastatal provision** in most infrastructure sectors, which has tended to deter private investors. Five major Tanzanian utilities had a form of private participation by 2003: Tanzania Electricity Supply Company (TANESCO) with NetGroup for services and with IPTL for generation; Tanzania Harbours Authority with TICTS; Dar es Salaam Water and Sewerage Company (DAWASCO) with City Water Services; Tanzania Telecommunications Company with MSI and Sasktel; and Air Tanzania with South African Airways. However most of these companies which underwent privatisation have since been re-possessed by Government, with the argument that those entities required subsidies in light of the nature of the services offered, and were not expected to specifically generate profit (NAOT, 2011). This move affected infrastructure providers for electricity, air transport, railways, ports, telecommunication and water (Box 4.1 above), and triggered several dispute settlement cases at ICSID level (see Box 2.5 of Chapter 2).

Most basic utilities therefore remain state-run in Tanzania, despite the dominant policy emphasis (as expressed in the PPP Act and in the MPIP, among other documents) on encouraging private sector participation in infrastructure. This contradiction sends conflicting signals to investors,

and can strongly deter private investment in infrastructure provision. The dominance of parastatals across infrastructure sectors also severely limits the amount of competition possible on infrastructure markets: incumbents benefit of competitive neutrality advantages over potential new entrants, especially in cases where they benefit from heavy Government subsidisation. Although Tanzania aims to be competitive in its infrastructure development, infrastructure markets are therefore highly regulated to protect strategic interests.

### *Competition in the electricity sector*

Although introducing functional as well as vertical separation into vertically-integrated power providers can considerably enhance efficiency in national energy markets. Such separation of infrastructure can help to identify in which areas profits or losses are made, and can therefore shed light on what operations the SOE is best-suited to shoulder, as opposed to the functions that would be best left to private actors. Functional separation and the associated efficiency gains can also better prepare SOEs for potential competition once infrastructure sectors are liberalised, and can pave the way for privatisation in functions deemed better-suited for private sector provision.

However attempts at **unbundling and introducing competition in the electricity sector** have been particularly costly and ineffective in Tanzania. This is despite the commitment for increased competition made in the National Energy Policy 2003: Articles 19-21 of the Policy states that competition will serve as a guiding principle to attain efficiency for the electricity market, that there will be open access to the grid in order to achieve an efficient competition in generation, and that generation will therefore be fully open to private and public investors as independent power producers (TMEM, 2003). In addition although Government has temporarily considered unbundling the power sector further (by involving independent actors not only in generation, but also in distribution and transmission), this prospect was soon abandoned due the difficulty of finding investors interested in undertaking the distribution and transmission functions.

As an alternative to the PPP route, many countries have also chosen to shift from a fully vertically integrated monopoly to a "**single-buyer-model**" in the energy sector, whereby independent power producers contract with the national utility SOE. This increases overall power generation capacity while maintaining a unified tariff rate, and enables governments to keep strategically important transmission and distribution functions

in state hands. Yet although the national electricity company TANESCO has been involved in two procurement attempts (see Box 4.1), but these failed to secure efficiency gains and were poorly managed.

Following these negative experiences, Government has announced several measures for 2011-12 aimed to reduce power shortages resulting from low electricity generation capacity. These include: completion of the 100 MW plant in Dar es Salaam and of the 600 MW plant in Mwanza, for which the Government has paid TZS 200 billion; constructing a natural gas pipeline which will provide energy for generation by 2014; assisting TANESCO in securing loans from International Financial Institutions for purchase of power generation plants; and re-examining possibilities of unbundling the electricity sector. The government also plans to **improve the corporate governance of TANESCO**, a very necessary step – notably by increasing financial reporting requirements for the parastatal (as of September 2012 the Ministry of Finance thus reports key financial indicators for TANESCO, including stock balance sheets and financial flows, to the IMF on a quarterly basis). An Action Plan for TANESCO is also being developed as from 2013, in view of ensuring sufficient power supply while ensuring that the monopoly power utility becomes financially viable (IMF, 2012).

Power purchases from **independent power producers** (IPPs) have also been facilitated: with the approval and implication of EWURA, the Small Power Development Working Group has defined a Small Power Purchase Scheme for the Tanzanian Main Grid over 2007-2009, based on three documents: a Standardised Small Power Purchase Agreement (SPPA) for the main grid; a Standardised Tariff Calculation Methodology (STM) for the sale of electricity to the main grid under the SPPA; and annual publications of these tariff calculations under the SPPA (EWURA, 2009). Tariffs are calculated on the basis of Long-run Marginal Cost (LRMC) of the main grid, and established on the principle of avoided costs (which holds that purchase of electricity from SPPs by TANESCO should not cause excessive costs to the Buyer above the costs of other options). The SPPA may be revised soon in order to facilitate more private sector involvement and also provide better incentives for more renewable energy power provision – which for now remains disadvantaged by the avoided costs methodology because of the costlier production processes involved.

## 4.5. Public sector capacity and end-user consultation

Are training schemes or **capacity-building** initiatives in place to ensure that authorities responsible for privately-operated infrastructure projects or PPPs (both national and local) have the capacity to manage the commercial processes involved and to partner on an equal basis with their private sector counterparts? Through what mechanisms do public authorities ensure **adequate consultation with end-users** and other stakeholders, including prior to the initiation of an infrastructure project?

### *The need for greater capacity in PPP preparation and management is widely recognised*

Given that the public sector shoulders the responsibility of defending the public interest and the need of infrastructure end-users, it is of crucial importance that public authorities are well-equipped to negotiate sound and equitable infrastructure contracts on an equal basis with the private sector.

The PPP Regulations 2011 give public authorities clear guidance for risk allocation between private and public parties, at three steps of the PPP process (see Box 4.2):

- In the project identification phase (Part I of the Regulations), both feasibility and pre-feasibility studies are required to demonstrate affordability and adequate risk analysis and sharing; the feasibility study must in addition make proposals for allocation of financial, technical and operating risks between the partners.
- Reinforcing this, projects are then vetted by the PPP Finance Unit (Part IV of the Regulations) based on their commercial viability and the financial risks involved. The Finance Unit may for this purpose form a committee of experts, which would make recommendations on the full range of risks and optimal risk sharing in the project (including which party is best suited to contain which risk, financial consequences of risk, and measures for risk mitigation). The Finance Unit may also refuse to approve a project for risk-related reasons.
- Finally Part VII of the Regulations describes cases under which projects may be terminated, including unforeseen events beyond the control of the private party, and force majeure. In these two cases the private party is not obligated to compensate the contracting authority for losses.

The need for more careful risk allocation in project negotiation and design is therefore well taken into account. The next step is now ensuring that the public bodies negotiating and evaluating the terms of PPP projects have the

**capacity** for embedding these risk-sharing provisions into concrete contracts with private parties. Of four key challenges faced by Tanzania in utilising PPPs for socio-economic development, the 2009 National PPP Policy highlights "insufficient capacity for negotiations, procurement, implementation and management of PPPs" (PMO, 2009).

While capacity building initiatives are in place, the technical capacity to manage commercial processes involved in infrastructure projects still needs to be strengthened. Part VI of the PPP Regulations 2011 (on project negotiation and award, see Box 4.3) thus stresses the importance of the knowledge, experience and skills of multidisciplinary teams appointed to negotiate the terms of the agreement with the private party. Interlocutors at the Prime Minister's Office, TIC and the Ministry of Finance have indeed emphasised that there is currently a gap between the provisions made by the 2011 PPP Regulations, and the existing implementation structure.

As mentioned earlier, the **PPP Operational Guidelines for Tanzania** have been released in October 2012 by the Prime Minister's Office and TIC (in collaboration with an external consulting firm, the RebelGroup) in order to meet this gap. The Guidelines provide step-by-step advice for PPP roll-out and planning, and their functionality is being "tested" as from 2013 on the basis of several small-scale infrastructure pilot projects. Since end 2012 the Ministry of Finance has also been preparing manuals for risk management in PPPs. Government has also expressed interest in **PPP training programmes**, such as that offered by the NEPAD-OECD Africa Investment Initiative – which introduces a sub-regional, peer-learning component into PPP design and implementation. A PPP project pipeline is also being drawn up in collaboration with the World Bank and African Development Bank, by identifying key sectors and projects which are likely to be good PPP candidates. As a member of the **SADC 3P Network**, Tanzania can moreover build on the regional experience-sharing of PPP units across Southern Africa when tackling its own challenges of PPP design and implementation.

As for **procurement activities**, following CAG reports pointing to low capacity among Procurement Management Units (PMUs), the PPA 2011 attaches heightened importance to staff training. In particular Part II (Section 6) of the PPA 2011 sets up a Public Procurement Policy Division under the Ministry responsible for Finance, which manages and provides inputs to capacity-building, curricular training and human resource development, and professionalisation of PMUs.

While **private sector capacity**, meanwhile, is less frequently a constraint for most firms bidding for large-scale infrastructure contracts, it may a challenge

for SMEs involved in infrastructure procurement and subcontracting. Local infrastructure development can indeed provide valuable opportunities for SME development: small-scale infrastructure projects generally do not interest large-scale investors, and SMEs are well placed to fill a gap that neither the public sector nor the large-scale private sector is available to fill. A specific enabling environment (including in terms of financial tools) is indispensable to facilitate the successful implementation of such projects, and upstream regulatory work also needs to be done. To allow SMEs to occupy an important role on the supply side of local infrastructure provision, SME participation in local government procurement processes must be encouraged, notably by increasing SME access to tender and bid information and by enabling better SME access to long-term project financing once the infrastructure project is underway.

Advice and technical assistance for the private sector in this regard can be provided by the TPSF and other professional bodies such as the Contractors Registration Board (CRB). The CRB, established in 1997 and amended in 2008, has responsibility for registration, regulation and development of Contractors. It has developed a Sustainable Structured Training Programme (SSTP) for contractors in Tanzania, which aims to equip contractors with necessary technical and management skills so as to make them more competitive in the local and regional markets. While CRB activities remain mostly focused on the construction sector, possible extension to infrastructure projects could be desirable if there is demand for it on behalf of the private sector. Given the sector specificities of different types of infrastructure, it is also often necessary to complement national-level capacity-building initiatives mentioned above with more sector-targeted structures – as Box 4.4 details with examples of capacity shortfalls from the roads sector.

To bolster and reinforce public sector capacity, adequate **consultation with end-users** and other relevant stakeholders prior to initiation of an infrastructure project is crucial. Indeed, widespread participation in project design upstream is vital, as end-users are best-placed to provide accurate indications of their needs and to raise awareness on the relative costs and benefits (social and environmental as well as economic) of a potential large-scale project. Poor upstream communication and consultation was

### Box 4.4. **Shortfalls in public capacity for project management in the roads sector**

Capacity shortfalls are considerable in the **roads sector**, despite its recent good performance relative to other infrastructure areas. A Performance Audit study on the management of Road Works conducted by the National Audit Office of Tanzania (NAOT) provided the following findings:

- The roads sector faces three categories of problems: time management (works not completed within the agreed time and delaying benefits to the public); cost overruns to the approved budgets; and poor road quality. NAOT attributes cost overruns to new design and new specifications, in large part related to miscalculations in the design stage. Conflicts of interest arise when the same consultant is hired at several steps of the project, and sanctions for cost overruns and delays were not appropriately used.
- The Ministry of Works and TANROADS are partly to blame for poor time management of projects: while they are expected to review consultant requests for extension of working days, no independent analysis of these requests is carried out and almost all requests are approved.
- TANROADS' quality control system (including in the design phase, but also during construction) needs improvement. Indeed most of the inspected roads had to undergo repairs soon after their official launch for use. Possible improvements in capacity in the roads sector could notably emanate from different projects comprised within the SAGCOT project, several of which comprise capacity building possibilities for LGAs.
- TANROADS performance in terms of delivery for end-users remains suboptimal in many regards, hampered by inefficiencies due to overlapping legal mandates with the Ministry of Works and LGAs, as well as several tendering scams and slow performance (Cooksey, 2011). Budget execution also retains shortfalls, with execution rates for budgeted regional and local road rehabilitation projects at around 40% (Ter-Minassian et al., 2008).
- Similar problems are faced by the **Road Fund**: while it remains financially sustainable and meets its maintenance budget for each financial year, fuel adulteration practices generate losses of about TZS 22 bn per year. This has complicated maintenance and created a maintenance backlog that has cost TZS 216 billion annually for five years. The Road Fund thuscurrently covers only 59% of the road maintenance needs, including this backlog (CT, 2010). Meanwhile LGAs have a low absorption capacity and are often unable to fully utilise funds within the earmarked financial year, and funding for

Box 4.4. **Shortfalls in public capacity for project management in the roads sector** *(cont.)*

maintenance needs meets only 53% of the total needs. The Fund also retains a need for more capacity building amongst consultants and contractors to ensure timely project completion in accordance with contract terms and end-user needs.

- NAOT recommends better clarifying the roles and responsibilities of different parties regarding time, cost and quality issues, establishing registers for TANROADS to record performance of contractors and consultants for each project, and improving co-ordination with other utility companies to speed up project delivery (NAOT, 2011). Further capacity-building within TANROADS is also necessary to grant the agency the capacity to partner on an equal basis with private sector counterparts. Similar re-thinking of implementing and regulatory bodies would be highly beneficial in other infrastructure sectors as well.

*Source*: National Audit Office of Tanzania (NAOT), March 2011.

for instance partly responsible for the failure of the power purchase deal between TANESCO and the IPP IPTL (see Box 4.2 above). This deal was approved by only a few government officials without a proper feasibility study and appropriate stakeholder consultation. Although the deal bound TANESCO to purchase 100 MW of power from diesel generators for 20 years, adequate stakeholder consultation could have revealed that lack of gridlines rather than insufficient generating capacity was the central problem for TANESCO at the time. As a result TANESCO was buying electricity that it did not need at excessive prices, supported through Government subsidies: after commissioning in 2002, in its first year of operation IPTL cost the Government USD 40 million in capacity payments alone, and functioned at less than 10% capacity. Having forfeited the necessary upstream preparation for the project, Government found itself in a "lock-in" situation whereby exiting bad PPP deals becomes prohibitively expensive, forcing the public partner to follow through with implementation.

**Full disclosure** between public and private partners of all project-relevant information, including the state of pre-existing infrastructure, is another essential ingredient of a good upstream preparation for PPPs. However no explicit regulations guarantee this in Tanzania, since information pertaining to most projects becomes confidential once these have been registered with the TIC or other contracting authorities. This lack of disclosure is partially at the root of Tanzania's mixed privatisation track record to date. The failure in privatisation of Tanzania Railways Limited (TRL,

with the private partner RITES in 2007) for instance partially stems from the fact that "the condition of the national railways infrastructure was worse than stated in the due diligence conducted in 2005". Unwillingness of the private partner to sufficiently invest in asset management and maintenance, as stipulated in the contract, was also to blame. Moreover performance standards and penalties in the case of non-compliance always sufficiently clarified, which poses another stumbling block for PPPs. The example of DAWASA in the water sector also illustrates the risks of poor disclosure of project information prior to implementation (see Box 4.2: the failure of the CWS contract largely resulted from insufficient communication between private and public partners during contract design, as the private partner had little reliable information available on the state of the infrastructure before privatisation).

Further developing **consultation mechanisms for infrastructure development** in Tanzania is therefore necessary, in order to better inform public sector bodies in contract design and negotiation. Stronger consultation can also help foster mutual acceptance and understanding of the objectives of the parties involved. Private sector participants should play an active role in these communication strategies, including on the grounds of responsible business conduct.

## 4.6. Regulation and performance management to meet end-user needs

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How is **regulation of infrastructure services** co-ordinated? Is it entrusted to specialised public authorities or regulatory agencies that oversee infrastructure investment and the operations of relevant enterprises? Are these agencies competent, well-resourced and shielded from undue influence by the parties to infrastructure contracts?

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### *Responsibilities of the Consolidated Holding Corporation*

The output and performance of privatised or procuring entities in infrastructure provision is the responsibility of two bodies in Tanzania: the Consolidated Holding Corporation for privatised companies (CHC); and the Public Procurement Regulatory Authority (PPRA) for procurement rather than outright privatisation. Both need far stronger capacity if concessions and procurement are to be undertaken with sufficient preparation and awareness of economic and social implications.

The **Consolidated Holding Corporation** (CHC) is entrusted to evaluate the performance of all privatised entities on behalf of the Government under the National Bank of Commerce Act 2007, and replaces the Presidential Public Sector Reform Commission (PRSC) in overseeing the privatisation process. Several Ministries engaged in privatisations or infrastructure development note a considerable and much-needed improvement in transparency and collective decision-making since the replacement of the PSRC by CHC. However CHC provides largely arms-length and surface-level oversight, with no specific benchmarks for enterprise performance and no sector-specific provisions. It also occasionally falls short of its monitoring obligations, for instance evaluating only 53 of the expected 80 entities in 2010. The body has been very quiet since its creation. In particular follow-up after privatisation has been lax, leaving potentially problematic issues (such as land ownership rights) unsettled. CHC is also limited in its scope of coverage, as most basic infrastructure and utilities remain provided by Government-run parastatals. There are also concerns that CHC may remain subject to excessive political influence, although to a much lesser extent than the PSRC had been.

To complement and ease the activities of the CHC, private actors participating in infrastructure procurement or PPPs could be made to shoulder more responsibility for mitigating socially unacceptable outcomes of their investments. To date no explicit structures, nor provisions within the PPA 2011 or the PPP Regulations, exist to involve these actors in potential mitigation activities. Moreover while sector regulators (below) are tasked with tracking the consequences of infrastructure provision and projects on paper, mechanisms for enforcement are thin and past cases of enforcement related to the mitigation of inappropriate social consequences of infrastructure projects are very few. This provides weak deterrence against mismanagement of projects. A stronger set-up for **enforcement of regulations** across infrastructure sectors (beyond the current activities of CHC and to the pricing functions shouldered by the sector regulators described below) is a topic of key importance which would necessitate detailed consideration on behalf of Tanzania's infrastructure ministries.

### *Semi-autonomous sector regulators established since 2008*

Many sectoral laws are in place to monitor infrastructure provision in different sectors, and take precedence over broader national legislations such as the 2003 Fair Competition Act. Consumer protection is an important part of these sectoral laws – Part IV of the 2008 Electricity Act for instance sets standards for tariff charges and conditions for their modification, and

addresses consumer rights in the form of service obligations, provisions in the case of electricity disconnections, rules of distribution, provisions for customer complaints, and service standards (although these standards are not quantitatively set out, which reduces the clout of the regulation). Meanwhile Part V charges the relevant regulatory authority (EWURA, see below) with monitoring and investigating compliance with these regulations (URT, 2008). The enforcing bodies that accompany the sectoral laws therefore play a very important role in upholding the quality of infrastructure provision.

Since 2008, many Government departments whose functions were of operational or service delivery in infrastructure have been transformed into semi-autonomous agencies. As of 2011 established operational agencies include Tanzania National Roads Agency (TANROADS), the Energy and Water Utilities Regulatory Authority (EWURA), the Road Fund (RF) and Road Fund Board (RFB), the Tanzania Airports Authority (TAA), Tanzania Building Agency (TBA) and Tanzania Electrical, Mechanical and Electronic Service Agency (TEMESA). Other established agencies include the Surface and Marine Transport Regulatory Authority (SUMATRA) and Tanzania Civil Aviation Authority (TCAA) (CT, 2010). In 1994, Tanzania had also set up an independent telecommunications regulatory authority, the Tanzania Communications Commission (TCC), which licenses and oversees the operation of all forms of communication services in the country.

More specifically to the **power sector**, Article 27 of the National Energy Policy 2003 established a new governance system in the sector by differentiating the roles for: policy making and legislative functions (to remain carried out by the Government and the Parliament); regulatory functions (to be carried out by an independent regulator); and other functions, carried out by public and private operators. In line with these principles, EWURA was established as an autonomous multi-sectoral regulatory authority by the EWURA Act of 2001, Cap 414. In operation since 2006, EWURA is responsible for technical and economic regulation of the electricity, petroleum, natural gas and water sectors in Tanzania. Technical regulation includes: benchmarking standards; adherence to a code of practice; levels of investments; planning and procurements for major projects; and health, safety and environmental issues; while economic regulation includes reviewing and setting rates and charges. The Electricity Act 2008 further empowers EWURA in its monitoring functions, as well as for overseeing off-grid and on-grid power purchases and transmission. Following conflicts over the prices of electricity set by TANESCO, in 2012 EWURA has begun developing its own methodology for tariff-setting (see Box 4.5 on electricity pricing).

In the **water and sanitation** sector, tariffs are decided by EWURA based on the performance of the Water and Sanitation Authority (WSSA) catering to each customer base. Recently a new user rights and fees system has been introduced in the interest of sustainable water use (see Chapter 5). EWURA is also responsible for issuing licenses to WSSAs and for monitoring and regulating the performance of each WSSA against its business plan. Finally EWURA aims to promote effective competition and economic efficiency, protect the interests of consumers, and to broaden user access to services – including for low income, rural and disadvantaged consumers.

The effectiveness of regulation in Tanzania's water sector is however particularly hampered by difficult **co-ordination and clarification of authority among different regulatory bodies** in addition to EWURA. Since 2002 revised institutional arrangements have been made to separate water resource management and regulatory functions from service delivery functions at the basin level. Water resources management therefore falls under the responsibility of the Basin Water Boards (BWBs), while the Ministry of Water (MOW) has recently created new Water and Sanitation Authorities. This proliferation of management and monitoring bodies in the water sector poses challenges for EWURA as it attempts to expand its regulatory reach. While these management and monitoring bodies are certainly important for representing end-user needs, they therefore may need to be better-co-ordinated or rationalised so as to gain in effectiveness and coherence.

### *Prices are regulated in several public infrastructure services*

Good practice recommends that the Government develop a pricing strategy to ensure reliable and affordable access by users to all basic utilities such as electricity and water – and to possibly provide economic incentives to invest in and supply these utilities. Time-bound programmes can also be set up to ensure access to the services by a wide range of users and on a least-cost basis, based upon clear performance targets. Pricing for water, fuel and electricity in Tanzania is regulated by EWURA to "ensure fair prices for end-users". Since 2006 EWURA thus issues indicative prices, and in the case of fuel monitors the pump prices of all companies. Similarly in the transport sector, since 2004 public transport fares are managed by SUMATRA, with the aim of expanding availability to all consumers, including low-income, rural and disadvantaged groups. Increases in public transport fares thus depend on SUMATRA's approval (GTZ, 2009).

These frameworks can benefit end-users by ensuring that basic infrastructure services are affordable for all, on the condition that the regulator's **pricing policy accurately reflects the costs** of infrastructure improvement. Indeed regulators also have a role in avoiding artificially low prices, which can discourage private participation or fail to incentivize innovation on behalf of national infrastructure providers. Poor prospects for cost recovery due to under-pricing have for instance affected private interest in the water sector (and in electricity prior to 2007). Tariffs that are held too low cannot guarantee a profitable revenue stream even in the long-term. These low tariffs are detrimental from an environmental perspective as well, as user incentives for conservation of resources (such as water) are weak.

**Electricity pricing** is a particularly contentious issue in Tanzania today, especially as TANESCO has secured dramatic tariff increases since 2008 despite its systematically poor performance (see Box 4.5 below). TANESCO's hidden costs – resulting from past under-pricing, and continuing distribution and collection losses – were estimated at about 2.1% of GDP in 2008. By end 2012 covering part of TANESCO arrears had cost Government almost 0.2% of GDP, and the company's operational deficit for the year was estimated at USD 200-250 million (0.8-1% of GDP). This has prompted EWURA to begin developing its own methodology for tariff-setting since 2012; to inform this methodology, government also completed a TANESCO Cost of Service Study (COSS), released in October 2012. It is expected that the future tariff-setting mechanism will comprise regular adjustments to adapt to changes in fuel prices, other input costs, and exchange rates (IMF, 2012).

Box 4.5. **Electricity pricing in Tanzania**

**Prior to 2008: underpriced and inequitable electricity tariffs:**

- Until late 2007 TANESCO maintained underpriced electricity tariffs, making it heavily dependent on Government subsidies and impeding any improvements in capacity or service quality. TANESCO's cost of service in 2006 exceeded its revenues by 40% (government and donor community contributions disregarded).
- This low price of electricity had no socially desirable effect in terms of broadening the access of poorer citizens to electricity: electricity access remained geographically constrained to areas inhabited by richer segments of the population.

Box 4.5. **Electricity pricing in Tanzania** *(cont.)*

In 2007 businesses consumed approximately 50% of total electricity, and of the remaining 50% used for residential consumption, 85% were middle and upper class households. Overall the poorest 20% of Tanzanian households used only 6% of electricity, which effectively conferred all the benefits of low electricity prices on enterprises and the upper-middle classes (Hoovegeen, 2007). Backed with extensive public funding, these low tariffs therefore acted mostly as a regressive subsidy for the rich rather than facilitating access for the poor.

**2008-2012: a cumulative 70% increase in tariffs secured by TANESCO**

- In 2007 TANESCO applied to EWURA for a 40% tariff increase starting in January 2008, arguing that this would "permit the recovery of TANESCO's current operating costs for all activities (generation, transmission, distribution, power purchases), plus a targeted allowance for capital expenditures [necessary] to achieving acceptable levels of reliability, quality of supply and commercial service" (TANESCO, 2007).
- As a result TANESCO's tariffs have risen considerably (by an estimated 70% since 2008) and electricity prices now far outstrip those of neighbouring countries. However these increases have not been accompanied by significant improvements in service delivery.

**2012: new structure for tariff-setting considered in light of social unrest**

- In mid-January 2012 TANESCO once again requested a tariff increase (of 155%) on the grounds that operational costs had risen due to its efforts to address power shortages (which required it to resort to emergency power plants and extensive use of its own thermal generation plants) (Mulefu and Barigye, 2012).
- EWURA and the Government rejected this demand given that TANESCO had already been considerably supported in addressing these power shortages – imported fuel for running emergency power plants has been exempted from taxes, and the Government has continued to support TANESCO's power purchase payments to Independent Power Tanzania Ltd (IPTL) to the volume of TZS 18 billion per year.
- A lower tariff increase (of 40.29%) was nonetheless agreed to, sparking considerable frustration among consumers and producers – particularly given TANESCO's substandard performance.

Box 4.5. **Electricity pricing in Tanzania** *(cont.)*

- Currently EWURA is developing its own methodology for tariff setting in distribution, generation and transmission. Transparency of information and costs is a key issue in developing this methodology, as establishing the true cost of service is difficult. As the cost of service study (COSS) conducted by TANESCO in 2010 has been judged unsatisfactory, EWURA has conducted its own study (released in October 2012).

These developments illustrate that while EWURA plays a valuable role restricting arbitrary tariff increases by energy providers, the Government of Tanzania needs to seriously reconsider its energy strategy.

*Source*: Subsidiary legislation to the PPP Act 2010 (Supplement No. 17). *Government Gazette* No. 22, Vol. 92, 3 June 2011.

## 4.7. Financing for infrastructure development

What **sources of finance** can be mobilised for infrastructure investment? What **regulations** are in place for unlocking novel sources of infrastructure financing and for facilitating investor access to these?

### *Borrowing on capital markets for public-private infrastructure development is mostly limited to large-scale national projects*

Potential **sources of finance** for infrastructure investment in Tanzania include Government budget, bonds, grants, and non-concessional borrowing. However the country's financial sector as a whole remains underdeveloped, even outside of capital markets: in 2010-11 less than 17% of formal businesses reported that they borrowed from financial institutions, and private sector credit only constituted 16-17% of GDP (AfDB, 2011a). Tanzania's domestic credit market remains shallow compared to other countries in the region, and large-scale borrowing by the government in the domestic market for infrastructure projects therefore risks crowding out the private sector and obstructing the real economy's access to credit. 47% of the development component of the 2011-12 Budget was therefore financed by foreign funds, and by June 2012 the government had cumulatively contracted USD 764 million in non-concessional external debt to finance its projects in energy, roads and other infrastructure sectors. This excludes the cost of the recent gas pipeline project and of a water supply project for Dar es Salaam, which contracted an additional USD 1 343 million by November 2012 (IMF, 2012). The dangers of such reliance on external,

concessionary funding for infrastructure development are well-illustrated in the water sector (as detailed in Box 4.7 below).

Although the possibility of public borrowing on domestic capital markets by issuing treasury bills and bonds is emerging (facilitated by rising savings rates and financial intermediation, including a significant rise in the ratio of broad money to GDP since 2001), borrowing from **external capital markets** by issuing sovereign bonds remains possible only for large-scale national projects (not LGA-funded projects, which cannot borrow outside of Tanzania). Borrowing from external capital markets is also relatively risky, as this involves using short-term securities to finance long-term investments, and therefore generates considerable rollover and liquidity risks. Moreover Tanzania's government securities do not yet meet the long-term funding requirements of infrastructure projects (IMF, 2012): they have only one-to-two year maturities, which are generally concentrated on T-Bills and short-term bonds.

It is also important to consider that **infrastructure projects at the local level** have slightly different financing needs than national projects. As for other projects, financing should be long-term (with repayment over 5-15 year periods), fixed rate, and in local currency (to avoid macroeconomic and currency risks). But since projects are also often relatively small in size, loans must themselves be small and spread over many different infrastructure sectors. To attract such financing these projects must be marketable, with due consideration to the costs and probability of completion and maintenance, and to the likely debt service payments. However INFRADEV, the Infrastructure Experts Group contracted by the United Nations Capital Development Fund (UNCDF) to evaluate the financing of local infrastructure in Tanzania, notes that when commercial funding is available to local governments it has very short tenors, of one to three years (Cochran et al., 2009). This makes project financing particularly difficult for local, smaller-scale infrastructure development, as a shorter tenor of financing usually entails that repayments be made in higher quantities and over a shorter time period.

More research also needs to be conducted on the concrete **cost-sharing mechanisms** available for financing PPP projects in different infrastructure sectors. Infrastructure projects having very long pay-back periods, demand risk is particularly high for private investors hoping to recover their upfront costs. Capacity payments or shadow payments are mechanisms that can help reassure private partners on this front, as the Government can ensure a minimum level of demand or revenue regardless of external circumstances. Currently Tanzania mostly makes provisions for payments of capacity charge in the power sector, but the poor track record

of TANESCO suggests that the structure of these payments would need to be reconsidered. In the transport sector, other risk-mitigating financial and cost-sharing arrangements could include the following contributions and commitments on behalf of the Government: issuance of bonds to finance transport infrastructure; backlog period maintenance; rehabilitation of highly trafficked road sections to ensure stabilization of the road network; and construction of a complementary railway line or development of port infrastructure so as to maximise demand for the ongoing road project (CT, 2010). There remains insufficient investigation of these opportunities to date.

Box 4.6. **Reliance on external, concessionary funding for developing water infrastructure**

One of the targets of the integrated water resources management process and the Water Sector Development Programme (WSDP) was for water infrastructure development and management to become **self-financing in the medium term**, through the issue of water extraction and discharge permits that would be anchored on the user (and polluter) pays principle (TMWI, 2010). In particular, Community Owned Water Supply Organisations (COWSOs) are expected to meet their full operation and maintenance costs through charges levied on water consumers. To date however, **88% of the funds for water infrastructure remain provided by donor organisations**.

This external dependency has been problematic: in 2010 fund transfers to the water basket of the WSDP were suspended by donors because of problems with procurement, and because water sector activity had not included intermediate financial reporting (TMWI, 2010).

This emphasizes the crucial need for developing technical capacity and knowhow among public officials, so as to better manage the financial dimensions of infrastructure investment and to reduce reliance on development financing. Cognizant of these dangers, MOW affirms that Phase 2 of the WSDP will need to firmly establish measures necessary to **widen the investment resources base**, for instance through bonds and/or commercial loans.

The 2010 Water Sector Status Report acknowledges that, “a completely new financing paradigm is required” (TMWI, 2010) in the water sector. MOW and the Ministry for Finance are for instance investigating the legal and technical feasibility of adding a sewerage capital development charge onto the electricity charges levied on commercial connections. As sewerage mainly benefits commercial areas and “rich” parts of towns, the rationale here is that

Box 4.6. **Reliance on external, concessionary funding for developing water infrastructure** *(cont.)*

such a charge would be progressive in relation to the poor living in underserved and peri-urban areas. All infrastructure financing needs cannot be met by merely increasing or diversifying user charges, however; for this reason the concept of financing and project development through PPPs is gaining increasing purchase among different government authorities.

More recently **MOW's Medium Term Expenditure Framework for 2012/2013 – 2016/2017** aims to enhance accountability on expenditure in the sector, and commits to striving to attract more financial resources to cater for priority projects (such as the rural water supply schemes, the Dar es Salaam rehabilitation and expansion project, and the expansion of Kahama – Shinyanga project to Tabora). The MTEF recognises that financial commitments to the water sector have been increasing, although foreign funds continue to dominate infrastructure spending in the sector: for the 14 projects planned for implementation by MOW during the 2012-2013 fiscal year, only 30% of total funding is to come from domestic funds and 70% will rely on foreign funding.

*Sources*: Tanzania Ministry of Water, "Water Sector Status Report 2010", September 2010; and MOW Medium Term Expenditure Framework for 2012/2013-2016/2017.

### *Untapped potential for greater involvement of pension funds and insurance companies in infrastructure financing*

The Social Security Act of 2008 gives an overview of **pension fund operations** in Tanzania, and aims to increase their coverage as well as public awareness of these funds. The Social Security Regulatory Authority (SSRA) has been put in charge of regulating diligent spending of money by pension funds. During 2011/12, Government continued with reforms of the National Social Security systems by evaluating the funds' investments, life of funds, as well as preparing guidelines for investments. The acts for the Social Security Regulatory Authorities were also reviewed, in view of strengthening supervision of the sector (Mgimwa, 2012). Tanzania counted 28 insurance companies by mid-2013, as well as six pension schemes (covering about 6.5% of the population and growing rapidly). These pension scheme funds have tended to focus on Treasury bill investments and real estate so far, with only low volumes of infrastructure investment (only the NSSF is planning to invest in power). Higher involvement of Tanzanian pension funds and insurance companies in infrastructure financing thus remains to be stimulated; as UNCDF notes in 2009, pension funds in Tanzania provide perhaps the biggest

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potential source of finance for LGAs, being ideal sources of the long-term stable financing flows needed by infrastructure projects.

Yet before they can be more profitably directed towards the infrastructure sector, pension funds will require further incentives and more transparent rules on investment making. According to the AfDB, Tanzania's current pension fund framework is insufficient for injecting long-term liquidity into the economy and pension fund reform should be accelerated (AfDB, 2011). UNCDF additionally recommends developing a Local Infrastructure Finance Fund for providing finance, risk mitigation and training to LGAs. Possibilities for mortgageable asset securitisation also remain largely unexplored. Finally avenues for pooled-asset securitisation may be promising, although pooling is difficult to manage: while pools spread risks of interrupted debt repayment or default, they need a high number of diversified loans in order to be attractive for private investors.

### *Several regulations exist to enable borrowing by LGAs, but more facilitation remains necessary*

Relevant stakeholders concerned by infrastructure financing at the local level include: the PMO-RALG which ensures proper financial management by local authorities and monitors local expenditure); the Ministry of Finance and Economic Affairs; the Ministries of Works, of Water, and of Transport; the Tanzania Central Bank; the Tanzania Stock Exchange; the Tanzania Chamber of Commerce, Agriculture and Industry; and the Decentralisation Development Partners Groups. In addition a Local Government Finance Working Group has been created as a co-ordination mechanism among these stakeholders.

In its 2009 study of the financing of local infrastructure in Tanzania, the UNCDF highlights three positive factors that can enhance the **ability of local governments to borrow** in Tanzania. First, there is potential for pooling loans and securitizing them, conditional on establishing clear records of debt servicing and creditworthiness (Cochran, et al., 2009). Second, LGAs can directly collect user fees for infrastructure services, which can be channelled toward infrastructure operation and maintenance (recent decentralisation efforts have indeed granted LGAs more discretionary power over budget allocation, levying taxes and raising local revenue); however since these taxes are low-yielding and difficult to administer, the volume of local levies remains small. Third and perhaps most important, LGAs can use commercial borrowing for local infrastructure investments: since 1983 the Local Government Finances Act allows local government borrowing from banks. Indeed an increasing number of commercial banks having indicated their willingness to enter into LGA lending,

especially the National Microfinance Bank (NMB) and the CRDB (the privatised version of the state-owned Cooperative Rural Development Bank), both of which has extensive local branches (Cochran et al., 2009). However such commercial borrowing by LGAs is subject to ministerial approval, does not extend to loans outside of Tanzania, and has been restricted by additional controls since 2003 (Cochran et al., 2009).

Perhaps as a result of this, there are very few examples of commercial borrowing by local governments to date; this accounts for only about 0.06% of aggregate local spending, and is concentrated in large urban governments like Dar es Salaam and Mwanza (Cochran et al., 2009). LGAs can also borrow from the Central Government directly, but this is highly dependent on their ability to service the loan and bonds are rarely issued to the LGAs that face the most financial difficulties – a situation which unfortunately creates somewhat of a vicious cycle whereby productive infrastructure is far less likely to be developed in the localities that need it the most. Under the 2006 Local Authorities Pensions Fund (LAPF) Act, which created the Fund of the same name, a Local Government Loans Board was also set up; however it is very small (with under USD 6 million), and work is currently underway in the hopes of turning this into a Local Government Bank which would provide loans at concessional rates.

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# *Chapter 5*

# Promoting sustainable investment in Tanzania's agriculture

*This chapter highlights key policy challenges to be addressed to attract sustainable investment in agriculture, drawing from the OECD Policy Framework for Investment in Agriculture.*

*While agriculture accounts for almost a quarter of GDP, investment in the sector has remained very low over the last decade as both small and large-scale investors continue to face major constraints.*

*Access to land is still a long and difficult process for companies due to the weak decentralisation of land allocation, overlapping responsibilities of various government institutions, weak governance, and low land registration levels. The relatively high taxes charged to agricultural producers and traders lower their incentives to invest and access to agricultural inputs remains limited. Investment by smallholders is also constrained by a limited access to credit. Finally, trade flows are hindered by weak administration capacities and regulatory restrictions that increase uncertainty for investors. Revising the land legislation, accelerating land registration and carefully assessing the costs and benefits of agricultural taxes and trade restrictions could help attract higher investment in agriculture.*

*The policy framework must ensure that agricultural investments generate sustainable growth. Despite a strong recognition of customary land rights, centralised land management and low land registration rates increase the risks for local communities not to be compensated for land acquisition by large-scale investors, which leads to an increasing number of land conflicts. Although environmental impact assessments are compulsory, they remain biased as project proponents can influence the process. Successful business partnerships between large investors and local communities that do not involve direct land acquisition could be expanded and environmental legislation better enforced to bring inclusive and sustainable development.*

Promoting sustainable private investment in agriculture is crucial to enhance agricultural growth, maximise the development benefits of investments, and achieve food security. This chapter highlights key policy challenges to be addressed to attract more and better investment in the agricultural sector. Section 5.1 examines the context for agricultural investment. Section 5.2 provides an overview of Tanzania's investment policy in agriculture, focusing in particular on the regime for foreign direct investment, the land tenure system, business licensing procedures, investment incentives, and agricultural taxes and levies. Section 5.3 examines specific sectoral policies that can encourage investment in agriculture, such as infrastructure and human resource development. Finally, Section 5.4 identifies key challenges to promote responsible investment in agriculture that can effectively contribute to sustainable economic and social development.

## 5.1. Context

This section provides first an overview of Tanzania's current strategies and policies for agriculture and of public expenditures targeting the agricultural sector. Second, it examines the importance of the sector in the economy, in particular by analysing production trends in various agricultural sub-sectors. Third, it reviews the evolution of agricultural investment over the last decade.

### *Agricultural strategies*

As stated in **Tanzania Development Vision 2025**, the agricultural sector is envisioned as a "modernised, commercial, highly productive and profitable sector, utilising natural resources in an overall sustainable manner and acting as an effective basis for inter-sectoral linkages". The objective is to actively involve the private sector along agricultural value chains from production to processing and marketing. In particular, the private sector should help: increase production and productivity; enhance produce quality; promote the development of agro-processing industries; accelerate technology transfers from large investors to smallholders through contract farming and other outsourcing models; and foster large-scale investment to build efficient value chains and facilitate access to markets (MAFSC, 2012).

The Development Vision 2025 is supported and implemented by **agriculture sector lead ministries** (ASLM), including the Ministry of Agriculture, Food Security and Cooperatives (MAFSC), the Ministry of Livestock Development and Fisheries (MLFD), the Ministry of Water (MOW), the Ministry of Industry and Trade (MIT), and the Prime Minister's Office – Regional Administration and Local Government (PMO-RALG). National-level activities are based on the strategic plans of line ministries, while local-level activities are based on District Agricultural Development Plans (DADPs) and implemented by local government authorities (LGAs).

The **Agricultural Sector Development Strategy** (ASDS), adopted in 2005 and supporting MKUKUTA and the 2025 Vision, aims at enhancing farmers' access to and use of agricultural knowledge, technologies, marketing systems and infrastructure, and at promoting private investment by improving the regulatory and policy environment. It has been implemented since FY 2006-07 through the Agricultural Sector Development Programme (ASDP) which is evaluated annually and whose guidelines are reviewed every year.

ASDP has two major components, namely:

- A *national component* (25% of the funds) focusing on: agricultural research and extension services; capacity building for food security and nutrition interventions; irrigation development and national-level infrastructure; policy development and planning; and market development and programme co-ordination.
- A *local component* (75% of the funds) directing funds to LGAs for: agricultural services, primarily public and private agricultural extension and LGA-based research activities; capacity building and empowerment of farmer groups, LGAs and the private sector; and investments in local infrastructure and productive activities.

The ASDS was accompanied by a set of **sub-sector policies**, including: the Cooperative Development Policy established in 1997 and reviewed in 2002; the National Livestock Policy of 2006; the Agricultural Marketing Policy of 2008; the National Irrigation Policy of 2010; and the draft National Agricultural Policy to be discussed at Cabinet level before being tabled in Parliament (ESRF, 2010). A horticultural development strategy 2012-21 has also been developed to ensure a sustainable supply of high-quality horticultural produce for domestic, regional and international markets. It provides guidance on the country's position in global horticultural value chains (TAHA, 2012). Sub-sector programmes cover a wide range of areas, including livestock, irrigation, mechanisation, seeds, co-operatives, trade,

marketing, land, environment, or microfinance. These include stand alone programmes, such as the Participatory Agricultural Development and Empowerment Project (PADEP)[1] and the Rural Financial Services Project that have both been completed.

The most notable programme for agricultural investment is currently the **Agriculture First** (“**Kilimo Kwanza**”) policy launched in 2009. It aims at fostering a green revolution and transforming agriculture into a modern and commercial sector, in particular by: establishing Tanzania Agricultural Development Bank; increasing the budgetary allocation to the Tanzania Investment Bank's special window for concessionary lending to agriculture; empowering farmers' co-operatives; imposing on commercial banks a certain percentage of deposits to be used as concessionary loans to agricultural production; creating commodity exchanges; instituting policy instruments to extend lending to agriculture by insurance companies; and introducing measures to promote public-private partnerships (PPPs) in infrastructure (KK, 2009).

In his budget speech for FY 2012-13, the Minister of Finance ensured adherence to all the pillars of Kilimo Kwanza. He announced that USD 121 million would be allocated to the programme, in particular to: ensure timely delivery of agricultural inputs; develop demonstration farms for extension workers; reinforce irrigation systems; support the newly created Cereals and Other Crop Board; and conduct land surveys and formalise land rights of domestic and foreign investors. These commitments are reiterated in the budget for FY 2013-14, released in June 2013.

Another major initiative to enhance investment in agriculture is the **Southern Agricultural Growth Corridor of Tanzania (SAGCOT),** an international PPP aiming to catalyse large volumes of private investment to increase agricultural productivity and develop commercial agriculture in the southern corridor with major benefits for food security, poverty reduction and resilience to climate change (Box 5.1).

Tanzania signed the Compact for the implementation of the African Union's Comprehensive African Agriculture Development Programme (CAADP) on 8 July 2010. In this context, the President launched the **Tanzania Agriculture and Food Security Investment Plan (TAFSIP)** on 11 November 2011. TAFSIP is a ten-year investment plan mapping the investments needed to achieve the CAADP target of 6% annual growth in agricultural GDP. Achieving this target would require investments of around USD 5.3 billion over the first five years to be financed by the government, development partners, the private sector and other stakeholders. TAFSIP aims to be the

financing mechanism and framework for ASDP implementation. In fact, it is well anchored to and aligned with other Tanzania's agricultural strategies.

Furthermore, the government of Tanzania and the G8 members committed to the **New Alliance for Food Security and Nutrition** in September 2012 to generate greater private investment in agriculture, achieve sustainable food security, and reduce poverty, in particular by accelerating TAFSIP implementation. This alliance aims in particular at: increasing trade policy stability and transparency and reducing tariff and non-tariff barriers to trade; increasing the transparency and consistency of agricultural taxes and incentives; implementing domestic and regional seed policies and encouraging greater private sector participation in seed production, marketing and trade; demarcating all village land and completing land use plans in Kilombero and in SAGCOT region; issuing certificates of occupancy to 20% of SAGCOT villages; and clarifying the roles of the TIC, RUBADA, Ministry of Lands and LGAs as regards land management. As of May 2012, 20 companies had prepared and signed "Letters of Intent" describing their investment intentions under the New Alliance, including both Tanzanian and international companies.

Finally, agriculture is one of the 12 priority sectors identified for investment promotion and listed in the Fourth Schedule under the Tanzania Investment Act of 1997. The national five-year development plan from 2011-12 to 2015-16 highlights agriculture as a priority sector. The Export Processing Zone Authority and the National Development Corporation actively promote investment in the sector.

Box 5.1. **The Southern Agricultural Growth Corridor of Tanzania (SAGCOT)**

SAGCOT was launched at the World Economic Forum on Africa held in May 2010 in Dar es Salaam. Building on Kilimo Kwanza strategy, the **SAGCOT Investment Blueprint** describes how at least USD 2.1 billion of private investment would be catalysed over a 20-year period, alongside public sector commitments of USD 1.3 billion. By 2030, approximately 350 000 ha would be brought into production, much of it farmed by smallholders and irrigated, and 420 000 employment opportunities would be created. Tens of thousands of smallholders would become commercial farmers with access to irrigation and weather insurance, and more than a million people would be permanently lifted out of poverty.

Box 5.1. **The Southern Agricultural Growth Corridor of Tanzania (SAGCOT)** *(cont.)*

The initiative proposes **a corridor approach** based on clusters of commercial farms and agri-businesses in areas with high agricultural potential and access to backbone infrastructure. The programme will identify relevant areas; analyse the constraints on commercial agriculture and ways to address them; establish a partnership organisation to support good targeting and co-ordination of public and private programmes and investments; and support new financing mechanisms of commercial agriculture under the condition that smallholders are incorporated and local communities benefit from investments.

The SAGCOT partnership will include **many different players**. Partnership members should represent government, business, farmers, foundations and donors. The Agricultural Council of Tanzania (ACT) is taking a leading role in co-ordinating SAGCOT design. The Tanzania Agricultural Partnership, a PPP operating as an independent unit within ACT, is hosting SAGCOT Secretariat. Links are also developed with LGAs and the TIC, the TNBC, and Tanzania Private Sector Foundation (TPSF). SAGCOT will also link with ongoing and planned national and international activities focusing on infrastructure and agriculture, including ACTESA, a multi-donor funded initiative focusing on agricultural value chains in Eastern and Southern Africa. Finally, the Tanzania Chamber of Commerce, Industry and Agriculture (TCCIA) welcomes investors on the ground and can provide them with computerised information and comprehensive data. Studies are currently undertaken on ways to target key investors in the five identified sectors, namely cereals, sugar, livestock, power, and infrastructure.

SAGCOT cluster development with an average farm size of 2 ha proposes a fundamentally different approach than the megafarms being developed for biofuels. Megafarms operate on a large scale and often have little connection with local farming communities. In contrast, SAGCOT will work with, and ultimately depend on, **close co-operation with small-scale farmers**. The land farmed through SAGCOT investments should be developed as a partnership where all sides take part in a sustainable rural development process.

*Source:* SAGCOT, 2010a and b.

### *Public expenditures in support of agriculture*[2]

Public expenditures in agriculture have been analysed closely by the **Monitoring African Food and Agricultural Policies (MAFAP)** project,

implemented by FAO in collaboration with OECD, with major funding from the Bill and Melinda Gates Foundation (see Annex 5.A for further information on the MAFAP project). The MAFAP project works with national partners to build capacity and analyse the impacts of food and agricultural policies and public expenditures on incentives and disincentives faced by producers, traders and consumers in key agricultural value chains. Public expenditures in support of agriculture are defined broadly to include not only agricultural-specific expenditures but also other expenditures of importance for agricultural development, such as investments in rural infrastructure. For more details on the MAFAP methodology for analysing public expenditure in support to agriculture, please refer to Komorowska (2010).

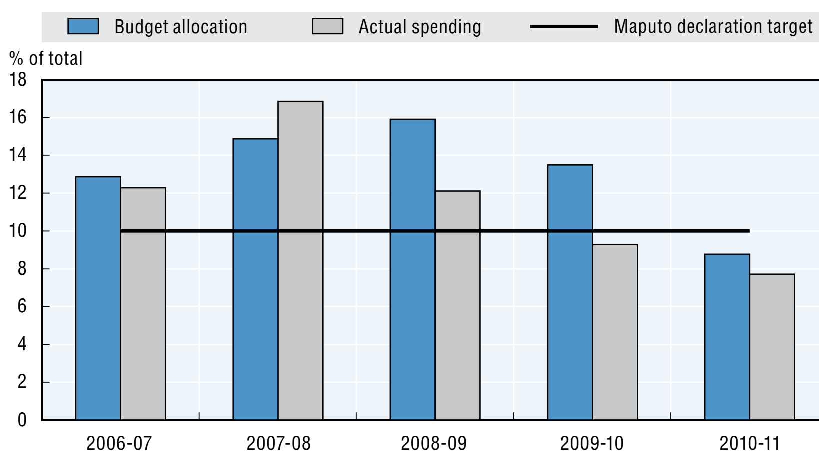
In **Tanzania**, the project is being implemented in partnership with the Directorate of Policy and Planning at the MAFSC and the Economic and Social Research Foundation (ESRF). It should be noted that, at the time of drafting the results developed below, the overall assessment of agricultural spending was still on-going. In particular, a small number of projects are missing in the analysis because related data could not be obtained in time. The addition of these projects could increase the share of public expenditure in support of agriculture, and modify the composition analysis, mainly by adding payments to consumers.

Approved **budget allocations in support of agriculture** grew by 53% in nominal terms from 2006-07 to 2010-11, reaching USD 629.3 million. They peaked in FY 2009-10, reaching USD 850.7 million. The actual spending has grown at a slower pace, increasing by 30% from 2006-07 to 2010-11, reaching USD 485 million. The highest actual spending value occurred in 2007-08, reaching USD 734.3 million. In relative terms, however, agricultural budget allocations have declined from almost 13% of total government spending in 2006-07 to about 9% in 2010-11 (Figure 5.1). Actual spending has also decreased significantly in relative terms over the analysed period. The highest share of agriculture expenditures in total budget expenditures occurred in 2007-08, both in terms of budget allocations and actual spending, reaching 15% and 17% respectively. Since then, the share of agriculture in total government expenditures has been decreasing. The current level of spending does not meet the CAADP recommendations of allocating 10% of the overall budget to agriculture and rural development (including national resources and aid). This becomes more obvious when only agricultural specific policies

are considered, as the maximum share of the planned and actually spent budget for these policies was achieved in 2009-10, reaching 7.8% and 5.2% respectively.

Figure 5.1. **Total public expenditures in support of agriculture, 2006-11**

Share of total government expenditures



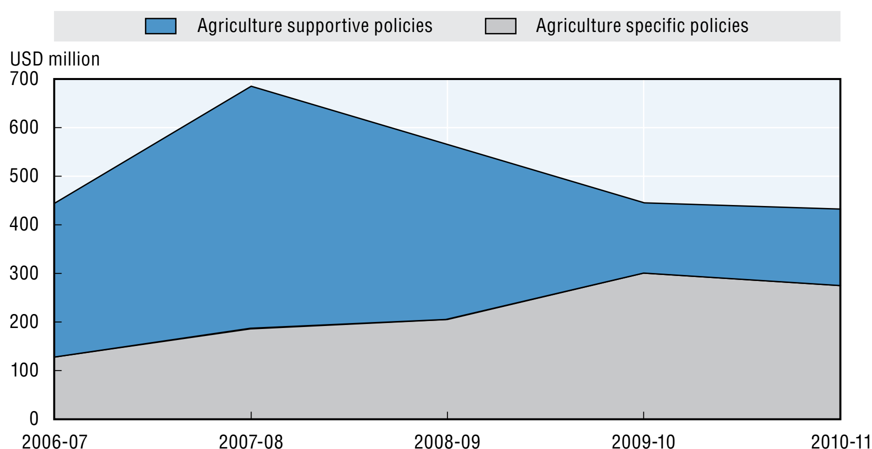

*Note:* The data is provisional for 2010-11.

*Source:* MAFAP calculations based on data provided by ESRF.

As far as the **composition of expenditures** is concerned, agriculture-specific expenditures account, on average, for almost 45% of expenditures in support of food and agriculture sector development. Their share grew from about 29% in 2006-07 to 64% in 2010-11. In terms of the level of spending, agriculture-specific expenditures more than doubled over the analysed period, while agriculture-supportive expenditures decreased significantly (Figure 5.2).

About 60% of **agriculture-specific expenditures** were identified as general sector support, with payments to agents in the agro-food sector accounting for the remaining 40%. However, in 2009 and 2010, payments to agents represented more than 50% of such expenditures. From 2006-07 to 2007-08, the biggest share of general sector support went to trainings. Other important categories included agriculture research, extension and storage. Much less was spent on marketing, infrastructure and inspection.

Figure 5.2. **Composition of public expenditures in support of the food and agriculture sector, 2006-11**




*Note:* The data is provisional for 2010-11.
*Source:* MAFAP calculations based on data provided by ESRF.

From 2008-09 to 2010-11, the share of the budget allocated to extension, storage, marketing and infrastructure was reduced. Most payments to agents were payments to producers in the form of input subsidies, particularly subsidies to variable inputs. Their importance increased over time, mostly due to implementation of the National Agriculture Input Voucher Scheme. The only other agents that received direct public expenditure support were processors, but they accounted for a very small proportion of agriculture-specific spending. Some payments to consumers have also been made (i.e. WFP programmes on school feeding and food for work), but the data on these expenditures have not yet been obtained.

With regards to **agriculture-supportive expenditures**, the largest expenditures by far were on rural infrastructure, particularly rural roads, but also on rural water and sanitation and rural energy. While their relative importance has not changed over time, their absolute levels and shares in total expenditures have declined. A large part of funds has also been allocated to policy administration.

**Budget disbursement rates** have decreased during the period analysed, a decrease which is mostly noted in the case of policy transfers. While actual spending on policy administration was almost equal to budgeted amounts, actual spending on policy transfers shows a sharp decline from 2009 onwards. Prior to 2009, disbursement rates were similar to those of policy

administration (both above 90%), but in 2009, they started declining and fell below 60% in 2010. Data for 2011 showed an increase in disbursement rates for policy transfers, but without reaching the levels seen prior to 2009.

At the **LGA level**, public expenditures related to ASDP are based on DADPs which are funded through three main types of fiscal grant transfers from the central government:

- *District Agricultural Development Grants (DADG)* fund local agricultural development activities and the implementation of community priorities identified in the DADPs on a cost-sharing basis, with beneficiaries contributing labour and materials in proportions depending on the nature of the investment. Investments can include: environmental investments; public infrastructure, such as rural roads; small-scale irrigation schemes; small-scale group or community investments, in particular in risk-bearing innovative equipment.
- *Agricultural Extension Block Grants (A-EBG)* fund extension services provided by both state and non-state actors. Non-state actors can be engaged through agreements and contracts directly with farmers' groups or through local government outsourcing.
- *Agricultural Capacity Building Grants (A-CBG)* fund capacity building. Focus areas include district agricultural planning, agricultural investment appraisal and review, agricultural services reform, and stakeholder engagement. LGAs should develop capacity-building plans to identify capacity-building priorities to be funded through this grant. The grant should also be used to improve on performance criteria and thus access higher resource transfers in subsequent years.

**Fiscal transfers to LGAs** are allocated according to the same formula as agriculture recurrent block grants – 80% based on the number of villages, 10% on the population and 10% on the rainfall index. LGAs are assessed and classified into performance categories based on Local Government Development Grant (LGDG) performance assessment results which determine the grant amount to be received: "very good" performers receive 100%, "good" performers 80%, "poor" performers 50%, and "failed" performers not meeting the minimum conditions also receive 50% but are under the strict supervision of Prime Minister's Office – Regional Administration and Local Government (PMO-RALG) and the Regional Secretariat in collaboration with the MAFSC. LGDG performance assessments include both an internal assessment conducted by the LGA and an external assessment of the LGA by PMO-RALG assisted by independent consultants.

Despite the increased emphasis on agricultural development, agricultural growth falls below the target rate of 6% recommended by CAADP. The observed patterns of public expenditures suggest that they are not contributing to the sector's growth in an optimal way for a number of reasons. First, the share of agriculture in the total government budget has been falling since 2007-08 and is currently below the Maputo declaration target of 10%. Second, although the overall observed spending pattern is consistent with government objectives, there seems to be an imbalance between particular spending categories. While the high investments observed in rural infrastructure and expenditures on extension services can lower transaction costs, expenditures on improving market access and feeder roads remain relatively low. Similarly, very little expenditure is made on veterinary/inspection services that are necessary to accompany pest and disease control. By contrast, a rapidly increasing budget is allocated to subsidies on variable inputs. Allocating a larger share of expenditures into capital investment would be critical for creating the preconditions for long-term growth.

### *Agriculture in the economy*

Agriculture remains **one of the most important economic sectors** in terms of GDP, employment, and exports. Over 2012, it has accounted for around 24% of GDP, employed over 70% of the labour force and contributed to 23% of export earnings, being the third export sector after mining and manufacturing in terms of receipt (NBS, 2013). It supplies most domestic food requirements (MAFSC, 2012). In addition, agriculture contributed to 14.6% of GDP growth in 2010, after trade and repairs that accounted for 16.7% (URT, 2012a). Agricultural processing of sugar, beer, cigarettes, and sisal twine constitutes most industrial production, which accounts for 24% of GDP (CIA, 2012).

**Agricultural GDP** has increased much slower than total GDP over the last decade. GDP has tripled since 1990, in particular following FDI inflows into mining and tourism. Prior to the global economic downturn in 2009, the GDP growth rate had been exceeding 6% for eight consecutive years. In contrast, the GDP growth rate of agriculture, forestry and hunting averaged only 4.4% between 2000 and 2008, against 5.3% in Sub-Saharan Africa in 2008. This situation has only slightly improved since with agricultural growth averaging 5% over 2007/8-2012/13 (Budget Speech, 2013). GDP growth varies widely across agricultural sub-sectors. While it has fluctuated significantly for cash crops ranging between -4% and 26% over the period of 2000-08, it has remained relatively stable for food crops and livestock over the same period (Figure 5.3).

As a result of weak agricultural GDP growth and considerable growth in other economic sectors such as mining, the **share of agriculture in GDP** has been declining since the 1990s, falling from 27% in 1998 to 22% in 2009 (Figure 5.4).

Figure 5.3. **Annual GDP growth of agricultural sub-sectors, 2000-2008**

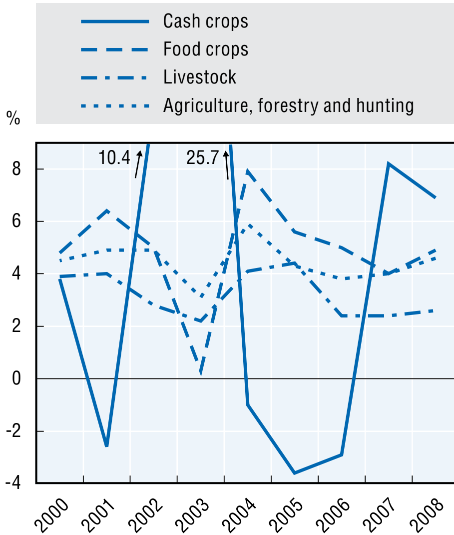
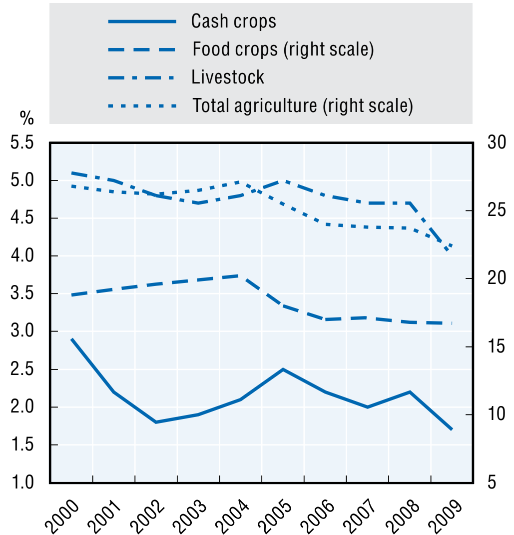



Figure 5.4. **GDP share of agricultural sub-sectors, 2000-2009**

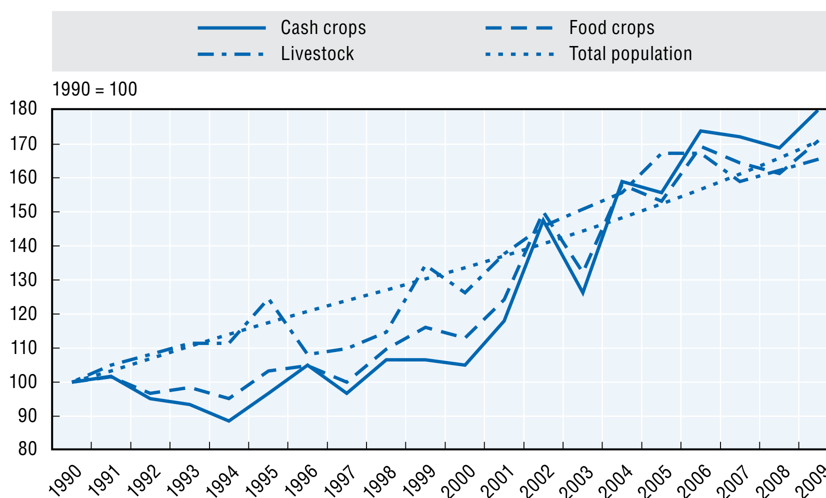



*Source:* National Bureau of Statistics, Ministry of Finance and Economic Affairs, 2011.

Despite relatively low agricultural GDP growth, **agricultural production has increased** in line with projected population growth over the last two decades. According to the World Bank (WB) data, it almost doubled between 1990 and 2010 (Figure 5.5), mainly driven by maize, paddy, sugarcane, and meat production as shown by FAO data. Cash crop production was multiplied by 1.8 and food crop production by 1.7 between 1990 and 2009. In particular, flower and fruit production has grown significantly in recent years, increasing by 20% between 2007 and 2008 alone.

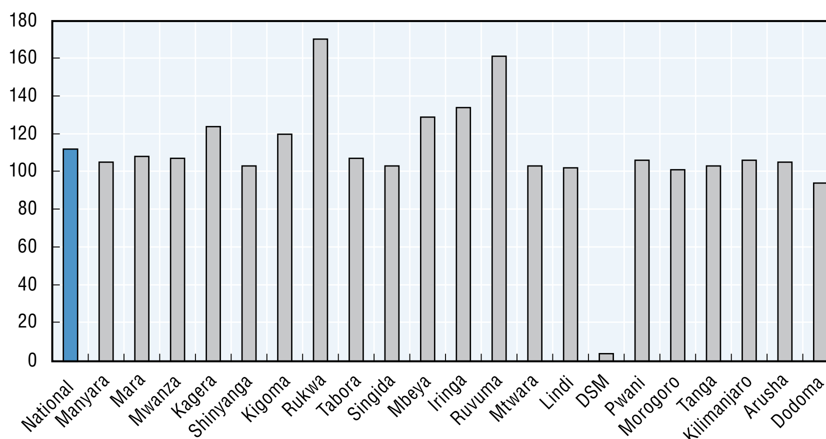
As shown by the **food self-sufficiency** ratio (FSSR), domestic food production has met domestic requirements over the last decade despite regional differences. The FSSR is computed as the ratio of gross domestic production to gross domestic food requirement. Between 2000 and 2011, the FSSR has fluctuated between 88% in 2003-04 and 113% in 2012-13. The FSSR varies across regions (Figure 5.6). Poor food availability can arise in some regions from difficulties of transporting available food from surplus to deficit areas and from low production and inadequate storage capacity.

Figure 5.5. **Growth in agricultural production, 1990-2010**




*Source:* Own calculations with WB WDI data.

Figure 5.6. **Food self-sufficiency ratio per region, 2010-11**




*Note:* Gross domestic production is the aggregation of the production of 12 crops, including maize, sorghum, finger millet, bulrush millet, rice, wheat, beans, other pulses, bananas, cassava, sweet potatoes, and Irish potatoes. The production of bananas, cassava and potatoes is divided by 3 before aggregation to adjust for water contents. Gross domestic requirement is based on a daily per capita consumption of 650 grams (i.e. 237 kg/year/person) and includes seed and food uses, post-harvest losses and trade. No carryover stock from previous years is taken into account.

*Source:* MAFSC, 2010.

**Crop production is quite diverse.** Food crops include maize, pulses, sorghum, millet, rice, wheat, sweet potato, and cassava. The leading cash

crops and agricultural exports comprise coffee, tea, cotton, cashew nuts, and tobacco. Agricultural exports also include sisal, pyrethreum (insecticide made from chrysanthemums), cloves, corn, wheat, cassava, and bananas. Over the period 1998-2007, cassava represented 32% of the volume of food production, maize 18%, potatoes 17%, bananas 16%, paddy 6%, and pulses/legumes 5% (Figure 5.7). As for cash crops, cotton and sugarcane accounted each for 25% of the volume of cash crop production, followed by tea at 19%, cashew nut at 14%, coffee at 6%, tobacco at 6%, and sisal at 4% (Figure 5.8).

Tanzania is East Africa's biggest cotton producer with 500 000 smallholders cultivating around 485 000 ha, but its production declined in recent years due to low cotton prices, decreasing from 267 004 tonnes in 2009-10 to 163 517 tonnes in 2010-11. It may climb again in 2013-14 with the introduction contract farming and better weather conditions. Over the last decade, tea production increased by 31% although the land area under tea production has remained relatively stable, indicating a significant productivity increase. While tea export volumes have only slightly increased over the last decade, tea export value has increased by 45%. As regards cashew nut, the elimination of the monopoly of the Cashew Nut Marketing Board resulted in a slight increase in cashew nut production over the period 1997-2007.

Figure 5.7. **Food crop production, 1991-2010**

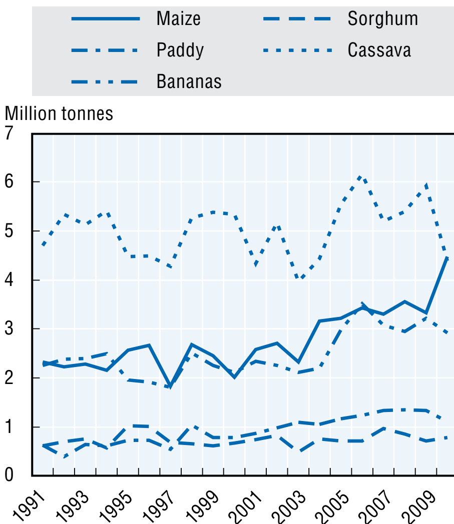
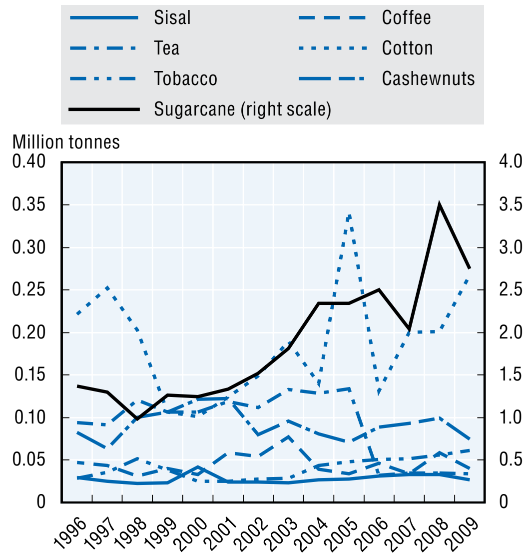



Figure 5.8. **Cash crop production, 1996-2009**




*Source:* FAOSTAT based on MAFSC data.

Tanzania is the leading country in the Southern African Development Community (SADC), and ranks third in Africa after Sudan and Ethiopia, in terms of the number of **livestock** units. The livestock sub-sector generates about a quarter of agricultural GDP. Meat production and the number of live animals have increased over the last decade (Figures 5.9 and 5.10). Beef and mutton production has almost doubled, chicken production tripled, and pork production quadrupled since 1994. In 2010, official statistics revealed that livestock was composed of 19.2 million cattle (accounting for about 75% of total livestock production), 13.7 million goats and 3.6 million sheep. Other livestock included 1.8 million pigs and 58 million chickens, out of which 23 million improved chicken and 35 million indigenous poultry (USAID, 2011).

Figure 5.9. **Meat production, 1994-2009**

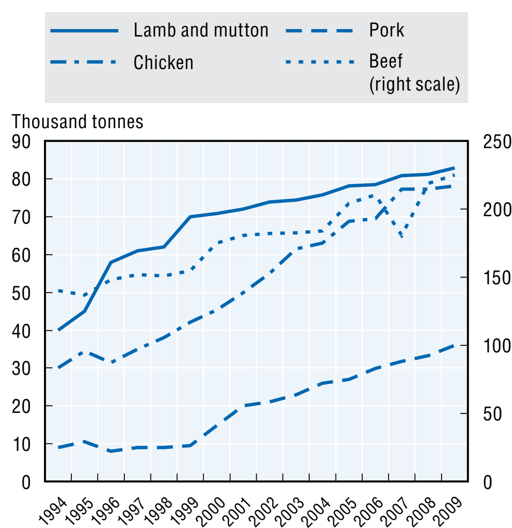
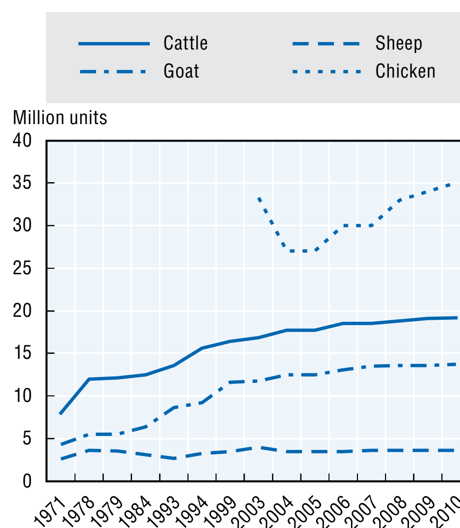



Figure 5.10. **Live animals, 1971-2009**




*Source:* FAOSTAT, based on MLFD data.

Livestock production relies on a **dual economy**. Smallholders and semi-nomadic pastoralists are responsible for approximately 98% of the livestock production, and large dairy farms and commercial enterprises for the remaining 2%. The state-owned National Ranching Company NARCO, established in 1968 by a World Bank loan, is the major commercial ranching farm. It operates 9 ranches producing beef cattle, goats and sheep on a total of 623 000 ha, with sales averaging 12 250 cattle per year (USAID, 2011). Around 4 million pieces of hides and skins are sold every year, and seven tanneries have an installed capacity to process about 40 million squares feet of hides and skins per year, but most of them are operating under capacity due to capital and technological

limitations (MLFD, 2006). Since 2007, the government has been divesting itself of several ranches and is seeking buyers and joint-venture partners to promote intensive production methods and develop export markets.

### *Trends in investment in agriculture*

This section examines overall investment trends in the agricultural sector as registered by the TIC since 1997. It also reviews targeted agricultural sub-sectors, the multinational enterprises involved, and the country of origin of these investments.

#### *Investment in agriculture*

**Data on investment in agriculture** is provided by the TIC which issues business licences to investors. TIC records only relatively large investment projects above USD 100 000 if domestic and USD 300 000 if foreign. Thus, investment made by micro, small or medium enterprises (MSMEs) is excluded. As a result, TIC data may underestimate investment in agriculture more than in other sectors of the economy as smallholders constitute a dominant share of agricultural investment. Domestic investment administered by LGAs is not recorded by the TIC either. As a result, only 393 projects have been registered in agriculture since 1997, i.e. an average of 25 projects per year, which means that TIC data reflects only a small part of overall investment in agriculture. TIC data covers not only investment in agricultural production but also in basic agro-processing.

Investment in agriculture as registered by the TIC has followed an **erratic trend** since 1997. After a hike in 2005 and 2006, it decreased from 2007 to 2009 to rise sharply in the following two years, reaching USD 666 million in 2011 (Figure 5.11). The share of agriculture in total investment followed the same pattern. It remained much lower than the share of agriculture in GDP, except in 2005.

**Despite relatively low returns, agriculture is a main source of employment creation.** TIC data suggests that investment in most agricultural sub-sectors had consistently negative returns between 1999 and 2006, with the possible exception of tobacco, while other economic sectors such as manufacturing experienced high levels of profitability (AgCLIR, 2010). Nevertheless, between 1997 and 2011, agriculture was the second leading sector in terms of employment creation (17%) after manufacturing (32%), according to TIC data on new registered investments. Investment in biofuels is the most efficient investment in terms of job creation, creating 163 jobs per USD 1 million invested, followed by horticulture and seed production.

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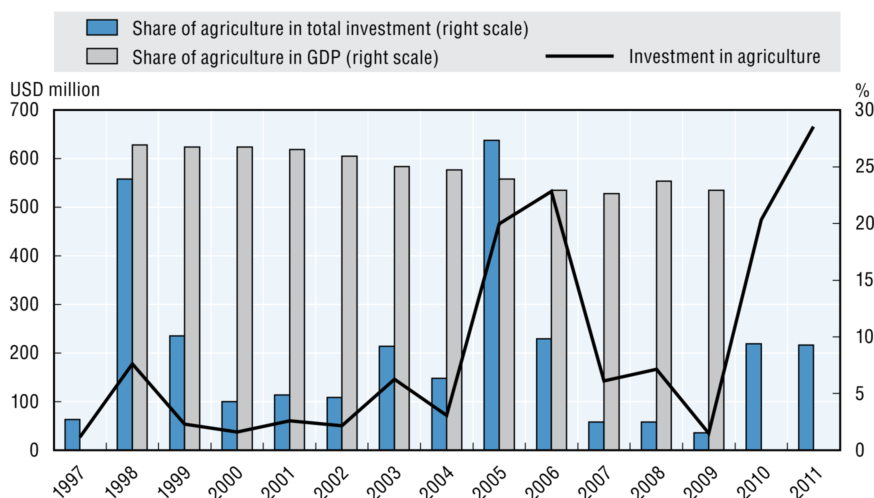
Figure 5.11. **Agricultural investment and share of agriculture in total investment and in GDP, 1997-2011**




*Source* : TIC, 2012 and MAFSC, 2009.

### *Investment per agricultural sub-sector*

Investment in agriculture as registered by the TIC has been channeled mostly to cash crops since 1997 (Figure 5.12). Within cash crops, 85% of the registered investments were made in sugar, 6% in coffee, 3% for cotton and sisal respectively, and 1% in tea. Within horticulture, 84% of investments targeted flowers. Within biofuels, jatropha attracted 62% of the investments. Within livestock, beef attracted 69% of the investment and poultry 12%. In all sub-sectors, investment of foreign origin exceeds significantly investment of domestic origin, but it might be partly due to the fact that only large domestic investments registered by the TIC are included in the data.

Investment in **biofuels** has surged worldwide. In Tanzania, large-scale investors are proposing biofuel projects amounting to up to several USD billion over 10-20 years (Sulle, 2009). By March 2009, about 20 companies had requested land for commercial biofuel production according to government figures, and the land area requested by each investor varied from 30 000 ha and 2 million ha. Some of these companies are already operating. The three privatised sugar companies, Mtibwa Sugar, Kilombero Sugar and Kagera Sugar, started to produce ethanol a few years ago to run factory machinery and vehicles and to cogenerate electricity

Figure 5.12. **Investment value per agricultural sub-sector, 1997-2012**

*Note:* The category "crops" refers to investments where the type of crop is not mentioned. The category "cash crops" does not include horticulture and biofuels. For the year 2012, only data of the first quarter is included.

*Source* : TIC, 2012.

and sell it to TANESCO. Prokon PV, a Dutch company, has been producing jatropha since 2005 on 10 000 ha through contract farming, and Donesta, a domestic company, has already acquired 2 000 ha and established 100 000 jatropha seedlings. The UK-based companies Sun Biofuels Ltd and CAMS Group have acquired respectively 8 000 ha and 45 000 ha. In 2006, the government signed a Memorandum of Understanding with SEKAB (Swedish Ethanol Chemistry AB, a large ethanol producer and distributor), the BioAlcohol Fuel Foundation BAFF and the Community Finance Company to form SEKAB BioEnergy Tanzania Ltd, but investment plans have been delayed. Finally, Bioshape Holdings bv Holland plans to acquire 81 000 ha, and FELISA targets 10 000 ha to produce palm oil-based biodiesel through a Tanzanian-Belgian private partnership.

Despite this growing number of biofuel investors, investments have **increased slowly**. While over 4 million ha of land have been requested, particularly for jatropha, sugar cane and palm oil production, only 640 000 ha have been allocated so far, and of these, only 100 000 ha had been granted formal rights of occupancy up to December 2008. The discrepancy between requests and allocations is partly due to the government moratorium that delayed some projects in order to finalise formal biofuel investment guidelines. These guidelines have been developed by the National Biofuels

Task Force established in April 2006 within the Ministry of Energy and Minerals and comprising 11 government agencies, ministries and executive offices, as well as two private sector representatives. It produced an initial draft of guidelines on biofuel production in August 2008 that was discussed by various stakeholders, including non-governmental organisations (NGOs). The guidelines have been released in November 2010. Biofuel investments may have also been slowed down by the global financial crisis.

While Tanzania offers a large potential for biofuel production, **yields remain low**. At present, palm oil and jatropha are the main biofuel crops grown in Tanzania. Palm oil productivity remains low with national average yields at around 1 500 litres per ha. While about 1.2 million ha would be suitable for palm oil cultivation according to the FAO and domestic demand is growing, little investment has been made in palm oil cultivation. Instead, local refineries and soap manufacturers import raw palm oil from Indonesia and Malaysia. Jatropha's oil yields are also low, even lower than other oil crops, but the plant can grow in difficult conditions, including arid and otherwise non arable areas, leaving prime areas available for food crop production (Sulle, 2009).

**Agro-processing** represents a significant share of the manufacturing sector. Its value addition has increased gradually over the last few years and accounted for up to 56% of the value added in manufacturing in 2008 (Table 5.1). The 5 153 registered agro-businesses amounted to 21% of all registered businesses nationwide in 2008 (IIDS, 2011).

Table 5.1. **Gross value added in agro-processing, 2004-08**

TZS million at 2001 constant prices

| | 2004 | 2005 | 2006 | 2007 | 2008 |
|---|---|---|---|---|---|
| Meat, fish and vegetables | 89 | 95 | 99 | 102 | 103 |
| Milk and dairy products | 7 | 7 | 7 | 8 | 9 |
| Grain mill | 106 | 103 | 105 | 107 | 106 |
| Bakery, coffee and biscuits | 83 | 90 | 85 | 100 | 134 |
| Beverages | 180 | 190 | 214 | 247 | 227 |
| Tobacco | 53 | 76 | 71 | 90 | 95 |
| **Total agro-processing** | **518** | **561** | **581** | **654** | **674** |
| **Total manufacturing** | **956** | **1 016** | **1 066** | **1 151** | **1 212** |

*Source:* IIDS, 2011 from Industrial Survey 2007-08 covering all registered manufacturers employing more than 10 workers.

### *Investment origin*

The government expects private investment, and **foreign direct investment** (FDI) in particular, to play a central role in transforming agriculture into a modernised and highly productive sector, as stated in the 2025 vision, especially in light of the limited public budget. However, agriculture is currently the sector attracting the smallest share of FDI, representing only 2% of FDI in 2008 (NBS, 2009).

In terms of **origin country**, the number of investment projects is divided almost equally between domestic, foreign and joint venture projects (Figure 5.13). In value terms, 55% of total investment has been domestic over the period 1997-2012 (Figure 5.14). As regards foreign investment, the European Union (EU) is the first largest investing region, with Sweden accounting for 16% of total investment in agriculture from the EU (because of an investment of USD 400 million in a sugar plantation and a power generation plant), the UK for 6%, and the Netherlands for 2%. Asia is the second largest investor in agriculture with India accounting for 6% of total investment in agriculture, followed by China with 2%. The United Arab Emirates account for 5% of total investment in agriculture, and the US, Kenya, and South Africa for 2% each.

Figure 5.13. **Number of investment projects in agriculture by origin, 1997-2011**

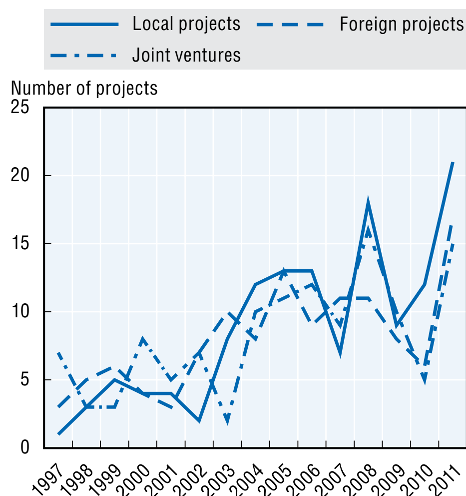
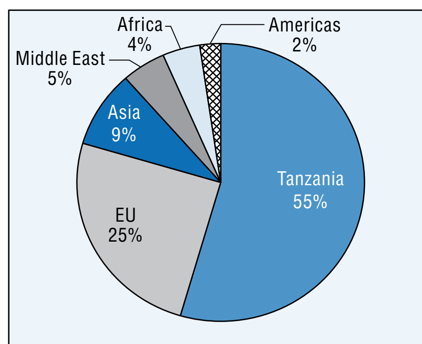



Figure 5.14. **Investment value per origin country/region of the company, 1997-2012**




*Note:* In Figure 5.14, the investment can be included in the category "Tanzania" even if some of the capital invested by the company originates from abroad, and vice versa. For 2012, only data of the first quarter is included.
*Source:* TIC, 2012.

Despite significant challenges, **multinational enterprises** are investing in agriculture, in particular through the privatisation of state-owned enterprises. For instance:

- *Kilombero Sugar Company Ltd*, a former state monopoly and the largest sugar producer, is now owned by South Africa's Illovo Sugar (55%), the government (25%) and ED&F Man Holdings Limited of the UK (20%). Private investors have already invested USD 20 million (see Box 5.5 for further details);
- *Mtibwa Sugar* was sold to Mauritian investors and covers more than 4 500 outgrowers supplying around 40-50% of the domestic sugar cane production;
- The Indian company *Karuturi Global* would spend USD 500 million acquiring and developing 370 000 ha of land for palm oil, cereal and sugar cane production;
- The Swedish company *Sekab* has requested 400 000 ha in Bagamoyo and 500 000 ha in Rufiji for sugar cane production;
- *Kilombero Plantations Ltd*, the Tanzanian subsidiary of the UK-based company Agrica, is developing 5 818 ha of rice in Kilombero Valley. Agrica began operations in Tanzania in September 2008. Over USD 35 million have been invested to date on land clearance, agricultural equipment, warehousing, rice mills, and irrigation by three investors: Norfund, the Norwegian investment fund for developing countries; Capricorn co-founded in 2001 by the first President of eBay; and Africa Agricultural Capital Fund, an investment fund focusing on agribusiness and promoting social and development impact. Agrica intends to invest another USD 30 million by 2016 to extend the irrigation system and cover more than 3 000 ha and to reach 5 000 smallholders, with the aim of trebling rice production.

## 5.2. Investment policy and promotion in agriculture

This section reviews the policy framework for investment in agriculture, and in particular for foreign direct investment in agriculture. It examines access to land by small and large investors, business licensing procedures, investment incentives, taxes and levies charged to agricultural producers and traders, and sub-sector regulations issued by various crop boards.

### *Background*

What measures has the government taken to ensure that regulations, legislation and policies for agricultural investment are transparent, accessible and clear for domestic and foreign investors? What specific measures are applied to promote investment in agriculture?

Significant efforts have been made to create an **enabling environment** for agricultural investment. NISC was established in 2000 to better co-ordinate the national investment policy and ensure coherence among the different institutions and ministries involved in investment policy and facilitation. The government encourages private sector participation in the development and implementation of legal and regulatory reforms and policy formulation and review. TNBC was created in 2001 to improve dialogue between the government and the private sector and better follow-up decisions (see Section 3.4). Chaired by the President, TNBC brings together government representatives, NGOs, and private sector umbrella organisations such as the Confederation of Tanzania Industries (CTI), TCCIA, and TPSF. The Agricultural Council of Tanzania (ACT) is a member of TPSF and gathers 3 million individual members across agricultural sectors, including 123 associations. ACT plays an advocacy role by organising Annual Policy Forums and conducting research on policies, including land, investment incentives, and tariff barriers. Furthermore, the government communicates with the horticultural industry through consultative meetings, negotiations, media and the Internet (TAHA, 2012), and TAFSIP development involved consultations with the private sector. Agricultural public expenditure reviews also provide opportunities for dialogue with investors and for ensuring they are aware of existing policies.

The **TIC** is the focal point for all investors' inquiries and facilitation of project start-ups (Section 3.2). It encourages joint ventures and disseminates investment information. It also serves as a one-stop centre for providing information about land acquisition, taxes, exemptions, and other investment incentives packages. The TIC promotes priority sectors, including agriculture and agri-business, through various channels such as its website, investors' guides, brochures in international conferences, forums, and embassies (TIC, 2012). It can also facilitate the resolution of land-related issues – although land issues are not its main focus (Table 5.2).

As mentioned earlier, various **policies** have been developed to support agricultural investment. In addition, the National Economic Empowerment Policy of 2004 aims at enhancing the participation of Tanzanian citizens in all economic sectors, including farmers, livestock keepers, fishermen, and

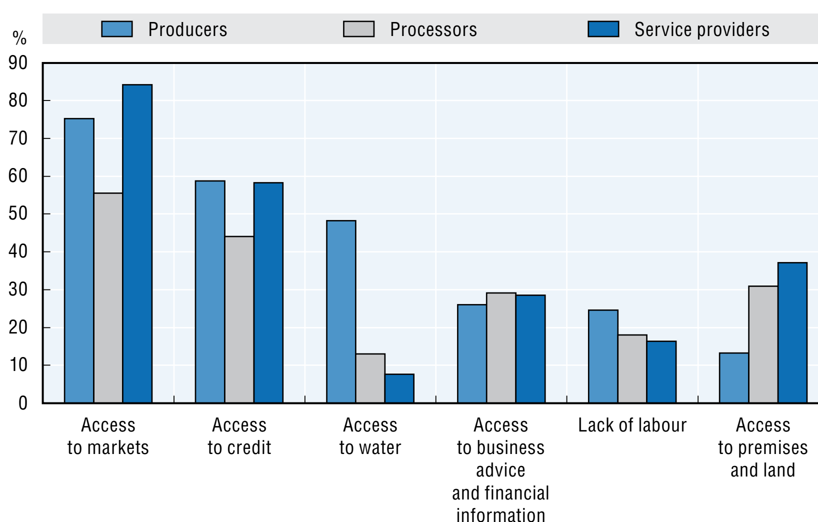
Table 5.2. **Issues facilitated by the TIC**

| Aftercare | 2006-07 | 2007-08 | 2008-09 | 2009-10 | 2010-11 |
|---|---|---|---|---|---|
| **TRA (Tax)** | 3 576 | 4 025 | 3 021 | 4 023 | 3 287 |
| **Labour** | 1 768 | 2 026 | 6 125 | 6 805 | 6 012 |
| **Immigration** | 1 678 | 1 854 | 4 343 | 5 754 | 5 992 |
| **Land** | 675 | 756 | 2 587 | 1 724 | 1 753 |
| **Business licensing** | 312 | 251 | 118 | 144 | 169 |
| **Company registration** | 312 | 241 | 281 | 175 | 99 |
| **Total** | **8 321** | **9 153** | **16 475** | **18 625** | **17 312** |

*Source:* TIC, 2012.

traders and empowering them economically, in particular by providing concessional loans and credit guarantees (see Section 3.6 for further details). The policy focuses in particular on: creating a favourable business environment for investment and economic growth; improving the tax system and its administration; simplifying licensing procedures; easing capital availability and enabling more Tanzanians to borrow; encouraging and strengthening co-operative development; using land as a springboard to accelerate empowerment; and supporting SMEs and attracting MNEs to promote social and economic development (PMO, 2012a).

Figure 5.15. **Perceived obstacles to agricultural growth, 2011**




*Note:* Each category interviewed could select several main obstacles. Thus, the sum of percentages per category does not add up to 100.
*Source:* AgFIMS 2011.

Despite these efforts, **significant obstacles** to investment and growth persist, access to markets being one of the major constraints according to agricultural producers, processors and service providers (Figure 5.15). Furthermore, following decentralisation, the links between central and local governments remain weak and the division of responsibilities unclear, which may undermine investment promotion efforts.

### *The regime for foreign direct investment*

Has the government taken steps to establish non-discrimination as a general principle underpinning laws and regulations?

While the company law is rather weak, the general commercial legal framework is quite strong, with laws largely consistent with international best practices (Section 2.2). Tanzania enjoys high levels of both political and economic **stability**. The country has never had a coup or a civil war, it has enjoyed consistent economic growth since 2002, and the currency is stable.

Agricultural businesses conducted or owned by foreign investors are **not discriminated** (Section 2.2). According to the World Bank indicators of FDI regulation, Tanzania has the maximum score of 100 in agriculture. The maximum share of foreign equity ownership in a greenfield FDI project or foreign mergers or acquisitions is 100%. There is no recent history of expropriation or nationalisation. Since the Foreign Exchange Act of 1992, capital and profit repatriation is not restricted, transfer payments can be made in foreign currency, and foreign investors must no longer register with the Bank of Tanzania (BoT). Moreover, since 1998, individuals and companies can obtain overseas loans without seeking BoT approval.

Nonetheless, a few regulations impose **higher constraints** on foreign investors (Section 2.2). In particular, while the Land Act has been modified to allow both domestic and foreign companies to use land as collateral for bank loans, foreign companies can be granted land rights for investment purposes only and need to obtain a TIC certificate before applying for such rights (see Section 3.5 for further details on TIC certificate). Investment thresholds for obtaining this certificate are three times higher for foreign investors than for domestic investors. Foreign investors also face thresholds for export turnover five times higher than for domestic investors to participate in Export Processing Zones.

### *Land tenure*

What steps have been taken to secure land tenure? How are land rights allocated, administered and protected at both the central and local levels? What measures have been taken to facilitate land rights acquisition?

First, this section examines the existing use of agricultural land. Second, it reviews the current land legislation, land tenure rights, in particular for foreign companies, and the land use policy. It also analyses existing challenges regarding the existing land tenure system, in particular related to land conflicts and expropriation and compensation mechanisms.

#### *Agricultural land*

Tanzania is endowed with about 94.5 million ha of land out of which 44 and 26 million ha would be suitable for agriculture and livestock respectively, according to TIC data. **Large discrepancies** on land use data exist. Cultivated land varies between 10.2 and 19.3 million ha depending on the source and land for livestock keeping and grazing between 26 and 35 million ha (Table 5.3). These differences might be partly due to differences in definitions.

As shown by FAO data, **agricultural land,** referring to the land area that is arable and under permanent crops and pastures, has increased from 34 to 35.5 million ha over the period 1990-2009 (Figure 5.16). Over this period, land under permanent crops has remained stable, while land under cereal production has increased from 2.5 to 5.1 million ha. Approximately 85% of the arable land is used by smallholders and pastoralists and the average per capita land holding is estimated at 0.12 ha (TAFSIP, 2011).

**Areas harvested** for major food crops have been rising over the last two decades, with land under maize, cassava, banana, paddy and wheat production being multiplied respectively by 2.0, 2.5, 2.6, 3.2, and 3.9 (Figure 5.17). In 2007-08, maize occupied about 37% of the food crop area, followed by pulses at 15%, sorghum at 11%, cassava at 10%, potatoes and paddy at 9% each.

Table 5.3. **Land use**

Million ha

| Source | 1997 National Reconnaissance Level Land Use and Natural Resources Mapping presented in Kironde 2009 | | Coverage in 2002 from ARU Land Cover Analysis 2007 published in NLUPF 2009-29 | |
|---|---|---|---|---|
| Land use | **Area** | **% of total area** | **Area** | **% of total area** |
| Cultivated land | 19.3 | 20.5 | 12.8 | 13.6 |
| Forest | 2.7 | 2.9 | 4.8 | 5 |
| Woodland | 37.4 | 39.6 | 31.4 | 33.2 |
| Bushland | 17.3 | 18.3 | 23.5 | 25 |
| Grassland | | | 15.1 | 16 |
| Mangrove forest | | | 0.15 | 0.2 |
| Forest plantation | | | 0.1 | 0.1 |
| Water features/Wetlands | 7.3 | 7.8 | 5.8 | 6.1 |
| Open land/Bare soils | 0.1 | 0.2 | 0.1 | 0.2 |
| Urban areas/Built up areas | 0.065 | 0.1 | 0.55 | 0.6 |
| **Total** | **84.3** | **89.4** | **94.3** | **100** |

*Source:* Ngowi, 2011.

| Total usable land | 94.5 |
|---|---|
| Arable land | 44.0 |
| Land under cultivation | 10.2 |
| Area suitable for irrigation | 29.4 |
| High development potential | 2.3 |
| Medium development potential | 4.8 |
| Low potential | 22.3 |
| Under medium and large scale farming | 1.5 |
| Range land | 50.0 |
| Suitable for livestock | 26.0 |

*Source:* TIC website, 2012.

| Type of Land | Area | % of total area |
|---|---|---|
| Smallholders | 4.1 | 4 |
| Large-scale agriculture | 1.1 | 1 |
| Grazing land | 35 | 38 |
| Forests and woodland | 44 | 48 |
| Other land | 4.4 | 5 |
| Arable land | 3.6 | 4 |

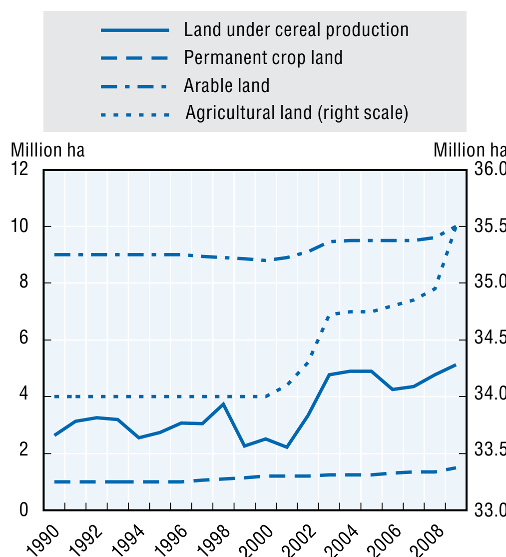
*Source:* Kironde, 2009.

**Reserves and forests** occupy most of the non-agricultural land area. Around 24 million ha are allocated to reserves, constituting the largest share of land resources (25%) allocated by any country in Sub-Saharan Africa. Reserves include national parks (4.2 million ha), game reserves (7.7 million ha), and forest reserves (10.1 million ha) (Ngowe, 2011). Out of a total of around 34 million ha of forests and woodlands, about 37% of forests are categorised as government reserved forests, 9% as private and village forests, and the remaining 54% as general land (USAID, 2011).

### *Land legislation*

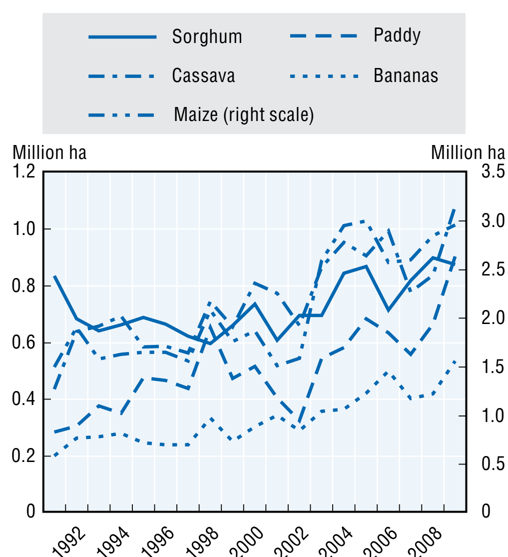
The **National Land Policy of 1997** aims at promoting a land tenure system encouraging an optimal and sustainable use of land resources and facilitating broad-based social and economic development. Its specific objectives include: promote an equitable distribution of and access to land by all citizens; ensure that existing land rights, especially customary rights, are recognised, clarified and secured in law; set ceilings on land ownership to avoid land concentration;

Figure 5.16. **Cultivated land areas, 1990-2009**




*Source:* WB WDI, 2012.

Figure 5.17. **Area harvested per food crop, 1991-2009**




*Source:* FAOSTAT, based on MAFSC data.

*Note: Arable land* includes land defined by the FAO as land under temporary crops (double-cropped areas are counted once), temporary meadows for mowing or for pasture, land under market or kitchen gardens, and land temporarily fallow. Land abandoned as a result of shifting cultivation is excluded of arable land. *Permanent crop land* is land cultivated with crops that occupy the land for long periods and do not need to be replanted after each harvest, such as cocoa, coffee, and rubber. This category includes land under cocoa, coffee, rubber, flowering shrubs, fruit trees, nut trees, and vines, but excludes land under trees grown for wood or timber. *Permanent pasture* is land used for five or more years for forage, including natural and cultivated crops. *Agricultural land* consists of arable land, permanent crop land and permanent pastures.

streamline existing land management systems; make more transparent the institutional arrangements in land administration and land dispute adjudication; and protect land resources from degradation (PMO, 2012a).

As introduced in Section 2.3, the **Land Act No. 4 of 1999** (LA) and the **Village Land Act No. 5 of 1999** (VLA) constitute the basis of the land legislation, drawing from the National Land Policy. They retain land ownership in the State with the President as trustee on behalf of citizens, making land tenure a matter of usufruct rights as defined by various leasehold periods and conditions. They maintain the dual land tenure system allowing for both granted and customary rights of occupancy, with the difference that customary rights are no longer "deemed" but "granted", therefore with equal status and effect.

The **Land Act No. 4 of 1999** aims to facilitate equitable distribution and access to land, in particular by recognising equal land rights to men

and women, to regulate the land market to ensure that smallholders and pastoralists are not disadvantaged, and to establish an independent, expeditious, and just adjudication of land disputes. The enforcement of the LA is under the responsibility of the Ministry of Lands and Human Settlements (MoL) and land is centrally managed by the Commissioner of Lands exercising full control on behalf of the President. Land procedures are detailed in the Land Regulations of 2011. The LA has been amended by the Land (Amendment) Act of 2004, which introduces in particular new clauses related to mortgage.

The **Village Land Act No. 5 of 1999** regulates the management and administration of village land. It provides a process for village councils to issue certificates of customary rights of occupancy and for a devolved system of registration, titling and dispute settlement at village level. It breaks new ground in women's rights rendering as invalid customary discriminatory practices against women.

The LA states that land falls into **three categories**:

- General land considered to be 2% of the land, mainly under urban use and supporting around 20% of the population. It is a residual category defined as all land which is not village land or reserved land. It is directly administered by the Commissioner of Lands.
- Village land considered to be 70% of the land and supporting 80% of the population. It is managed by the village council as an agent of the Commissioner. The VLA provides a wide scope for defining village land which covers: *i)* any land within the boundaries of a registered village; *ii)* land agreed to be the land of a given village according to the agreement between that village and its neighbours; *iii)* any land which villagers have been using or occupying for the 12 years preceding LA's enactment. Land under customary use and occupancy is implicitly defined as village land.
- Reserved land representing 28% of the land and made up of forests, national parks and game reserves. It also includes land reserved for public utilities and set aside for spatial planning and infrastructure development; land declared as hazardous by the Minister of Lands; land in natural drainage systems; and land set aside by various acts and ordinances. These lands are governed by a number of laws – nine laws are listed under the LA but many of them have subsequently been repealed with new legislation. While statutory or other bodies administrate these lands, the Commissioner has ultimate powers over their allocation (Ngowi, 2011).

Land rights allocation is **highly centralised**. The President has the authority to reclassify land categories, and in particular to transfer village land to another land category subject to compensation, while the Commissioner of Lands appointed by the President has the authority for deciding on land allocation. Land allocations committees established by the Minister of Lands at central, urban and district levels advise the latter on land rights applications. Their composition and function are stipulated in the Land Regulations of 2001. The Minister also appoints the 7 to 11 members of the National Land Advisory Council whose Chairman is appointed by the President. This Council advises the Minister and recommends changes on the land policy, the institutional framework and the jurisdiction of the institutions involved in land matters.

Despite recent legislation, land management remains **confusing** and cumbersome as authority is divided between the MoL and the district land offices of PMO-RALG. The former is supposed to provide leadership on policy and the latter on operational implementation but, in practice, both authorities have powers to regulate land uses, allocate land and control land development. Local officers operating on behalf of the Commissioner, as required by the LA, are thus answerable to two authorities, which creates a certain laxity of LGAs relying on the MoL for land-related activities (Kironde, 2009).

A **Strategic Plan for the Implementation of the Land Laws (SPILL)** is being carried out to implement existing land laws. It identifies 9 key areas, 39 strategic principles and 92 activities and its cost is estimated at around USD 240 million from 2005-06 to 2014-15. It has been designed to involve a large and systematic consultation process in order to meet the needs of all stakeholders and to harmonise with other development initiatives, including MKUKUTA and ASDS. One of its key feature, the public education, awareness creation and enhancement (PEACE) initiative, aims to ensure that all stakeholders know about and are committed to its developments. Though the SPILL was finalised in 2005, its implementation appears random and project-driven, partly due to insufficient funding.

### *Land tenure rights*

The LA provides for **various land tenure rights**. The main land tenure rights are rights of occupancy, primarily issued to Tanzanian citizens or groups of citizens. Organisations, associations, partnerships, or companies interested in acquiring rights of occupancy must show that the majority of their members or shareholders are Tanzanian citizens. Land can be allocated to foreign companies or associations only for investment purposes in accordance with the Investment Act of 1997 (Box 5.2 for further details). Rights of occupancy

can be bought, sold, leased and mortgaged – although their sale is restricted by various government controls.

**Granted rights of occupancy** (GRO) are granted on general and reserved land for a maximum period of 99 years, usually by fixed terms of 33, 66 or 99 years. GRO certificates must be issued in the name of the President. The Minister may require the payment of a premium to grant a GRO whose amount depends on the land value and that should be paid in one or more installments as determined by the Minister. The GRO holder may also pay a rent to the Commissioner or an authorised officer in installments and at time intervals determined by the Commissioner or stated in the GRO certificate. In determining the amount of the rent, the Commissioner should consider: the area of the granted land; the use of the land permitted by the GRO; the value of the land as evidenced by sales, leases and other dispositions of land in the market; and the premium to be paid on the GRO. When the GRO term expires, an occupier who has honored the terms of the occupancy should first be offered the opportunity to renew the occupancy before any other person is offered the land.

Although the decentralisation of land management has improved, the process to receive GRO remains **centralised for large land areas**. Regional land offices have been replaced by local and zone offices responsible for all land matters at the LGA level. District officials have powers to process all land issues at that level, except survey reports, valuation reports, and GRO applications that have to be handled and approved by the MoL. If LGAs have been delegated the authority to recommend GRO applications, the Commissioner should in any case either approve their recommendation or return it with a statement of reasons requesting LGAs to reconsider their recommendation. In practice, district land allocation committees review applications for GROs for land up to 200 ha, while above 200 hectares, the MoL provides a recommendation and approves the application. Once the application has been approved, the district land officer is notified about the approval. An application for a GRO must then include: land form 19, application fees, information required by the Commissioner, consent of local authorities, and a certificate of incentives granted by the TIC for foreign investors. Application fees are variable and include a survey fee, a registration fee, a preparation fee, and a stamp duty (MAFSC, 2012).

The process can be **quite long**. Without complications, it should take only 3 to 4 weeks. But if the land is held under customary rights, the Commissioner has to request occupiers to vacate the land within 180 days before the applicant can access the land (DAI, 2004). It can take an investor up to 10 years to obtain a certificate of occupancy through official channels.

As a result, the formal land market is very limited, the majority of which is in the urban areas, and most transactions occur in the informal market and involve leases (Ngowi, 2011).

**Customary rights of occupancy** (CRO) can be granted on village land by the village council to: the occupier of village land; a citizen who is a villager; a group of citizens who are villagers; persons who held that land under a deemed right of occupancy (i.e. title of a citizen or a group of citizens of African descent using or occupying land under customary law) immediately before the enactment of the VLA; or any other citizen. A person or group of persons, such as pastoralists, a co-operative or non-residents of the village, can thus apply for a CRO on land that they hold under customary rights. CROs can be held individually or jointly and are heritable and perpetual (but can also be granted in fixed terms). They can be transferred within the village or to outsiders with the permission of the village council. According to the Land Use Planning Act of 2007, land use plans are prerequisites for issuing CROs. The village council may require the payment of a premium as well as an annual rent for a CRO depending on the land value and to be paid to the village council in installments and at time intervals stipulated in the certificate of CRO (CCRO). A village council should not allocate land or grant a CRO without a prior approval of the village assembly. It should regularly report to the village assembly and take account of its views on land management.

CROs are formalised if the village has obtained a **certificate of village land** from the Commissioner. According to the VLA, certification procedures include compulsory agreement upon the perimeter borders among neighbouring villages. In practice, the historical context in which villages have been created and the breadth of VLA provisions for defining village land make the establishment of village land complicated (Ngowe, 2011). As a result, only about 3% of village land is certified (USAID, 2011). Villages must divide land into **three categories** as part of the certification process:

- *Communal land* available for common use (e.g. public markets and meeting areas, grazing land, burial grounds) and not for individual use, including investors. This is the most secure category of village land.
- *Occupied land* used or occupied by an individual, family or group of persons under customary law. A holder of a CRO on occupied land can lease or rent its land subject to village council restrictions.
- *Vacant or reserved land* (to be distinguished from the national land category "reserved land" mentioned above) available for future use as individual or communal land, encompassing unoccupied land.

CROs are **difficult to obtain**. According to the VLA, a landowner applying for a CCRO should submit a request to the village council that reviews the application. The village assembly must also review and approve the application before it can proceed. Once the landowner has given a written agreement to the stipulated conditions and paid the fees, the village council submits the application to the district land officer (DLO) for further processing for land above 200 ha. The DLO sends an adjudication team to the village to map the land. The CCRO is then signed by the applicant and returned to the DLO for registration. The time spent in completing the request for CCRO usually ranges from a month – when the certificate of village land and land use plan already exist – to six months. However, this process can sometimes take several years (AgCLIR, 2010).

CROs **do not necessarily provide higher land tenure security**. In both rural and urban areas, non-documentary forms of evidence can be used to establish claims to property (Kironde, 2009). The LA recognises land rights even without formal CROs. Many land transactions in rural areas tend to be informal and evidenced by an informal deed signed by representatives of traditional village authorities (USAID, 2011). Therefore, CCROs confer no differences in land occupancy and usage rights and no greater protection from state acquisition. Thus, villagers have very few incentives to apply for CCROs other than being able to sell and lease them with village council approval. Furthermore, while the decision to approve or refuse a land transfer is at the discretion of the village assembly for village land areas below 250 ha, the President can resort to compulsory land acquisition for the public interest or investment purposes for village land areas above 250 ha, subject to payment of compensation, thererby overriding existing rights of occupancy. Affected rights holders can register their unwillingness to transfer village land to general land but they cannot in effect refuse the land transfer (Ngowi, 2011).

While the law provides for **group land rights**, such rights are poorly recognised in practice. Both the LA and the VLA provide the framework whereby most rights held by individuals and groups are recognised under statutory or customary tenure. Customary resource use is also recognised in other laws, such as the Forest Act of 2002 that enables villages to declare their own village forest reserves on village land (Ngowi, 2011). However, procedures for establishing and managing group land rights in rural areas, particularly those of pastoralists and hunters and gatherers, are vague or non-existent in practice. Efforts to secure land and resource tenure for pastoralists are generally very limited, and large private investors can

appropriate pastoralists' land, often with direct or indirect support from the government. The view expressed in the SPILL is that pastoralists must modernise by reducing their herds and settling in one place (Kironde, 2009).

**Leaseholds** are derivative rights granted by holders of rights of occupancy (GROs or CROs). Rights holders may lease their right or part of it to any person for definite or indefinite periods, provided that the maximum term is at least 10 days less than the term of the right of occupancy.

**Residential licenses** are derivative rights granted by the state on general or reserved land, thus including TIC derivative rights. Any person without an official title on land acquired and occupied as his home for at least 3 years in an urban or peri-urban area can be granted a renewable residential license by the local authority for a term ranging from 6 months to 2 years.

Box 5.2. **Land tenure rights for large agricultural investors**

The LA defines a corporate body as non-citizen if the majority of its shareholders or owners are non-citizens. Domestic companies can obtain GROs on general and reserved land and CROs on village land. In contrast, foreign companies, and more broadly non-citizens, can be allocated land only for investment purposes as detailed in the Tanzania Investment Act of 1997. They may only obtain **GROs or derivative rights of occupancy for investment purposes** which should both be accompanied by a certificate of incentives granted by the TIC if the investment amounts to at least USD 300 000. Land for investment purposes should be identified, gazetted and allocated to the TIC. A GRO for investment purposes has to be submitted to the Commissioner and purchased from landholders. A derivative right of occupancy is issued by the TIC that should be first allocated a right of occupancy. It is defined as "*a right to occupy and use land created out of a right of occupancy and including a lease, a sub-lease, a license, a usufructuary right and any interest analogous to those interests*". It can be obtained on land held in the TIC land bank or from any other landholder willing to allocate its land for investment purposes. In case of competition for land, priority is given to domestic companies (PMO, 2012a). At the expiry of the GRO or derivative right granted to a foreign company, reversion of interests of land rights are vested in the TIC or any other authority as the Minister may decide. The Land (Amendment) Act of 2004 introduces a third type of land rights for non-citizens through joint ventures, i.e. "*a partial transfer of interest in land by a citizen for investment purposes approved under the Tanzania Investment Act of 1997 and operating as a joint venture to facilitate compliance with development conditions*".

Box 5.2. **Land tenure rights for large agricultural investors** *(cont.)*

**The TIC land bank is considered to be unsuccessful.** A land bank was created under the Investment Act to hold land for investment purposes. Three staff of the MoL have been stationed at the TIC to help secure land and prepare land titles under the TIC name (PMO, 2012a). However, the land bank does not function well as available land parcels are too few, small and scattered, either because most identified land is village land and the transfer to general land has not been undertaken, or because the TIC cannot afford acquiring GROs. As of 2008, 3.1 million ha of land had been identified as available for investment (TIC, 2008). However, only 50 000 ha would have been transferred to foreign investors between 2004 and 2009. In 2008, the TIC registered 270 land applications per year and had a backlog of 4 200 applications. As a result, foreign investors prefer to identify land themselves and sublease from citizens (AgCLIR, 2010). As for SAGCOT, several regional land banks in the Southern Highlands helped develop the Blueprint but very little land suitable for large investment has been registered so far.

To obtain **village land for investment purposes**, the process is usually as follows. The foreign investor identifies village land and meets the village council to seek approval of the request for land. The village council prepares a recommendation and submits it to the district land allocation committee for approval. Then the village assembly approves the request and the President transfers the land from village to general land. Compensation is paid to the village based on the agreement with the Commissioner. No village land should be transferred until the type, amount, method and timing of the payment of compensation has been agreed upon between the village council and the Commissioner. Finally, the investor obtains a GRO from the Commissioner. This procedure is only followed if the village land requested exceeds 250 ha. For smaller land areas, the village council submits recommendations for the land transfer to the village assembly which approves or refuses the transfer. In contrast to obtaining land from the TIC land bank, to obtain village land, investors have to start negotiations from the village level and then proceed upwards to the MoL until the final land transfer is approved by the President.

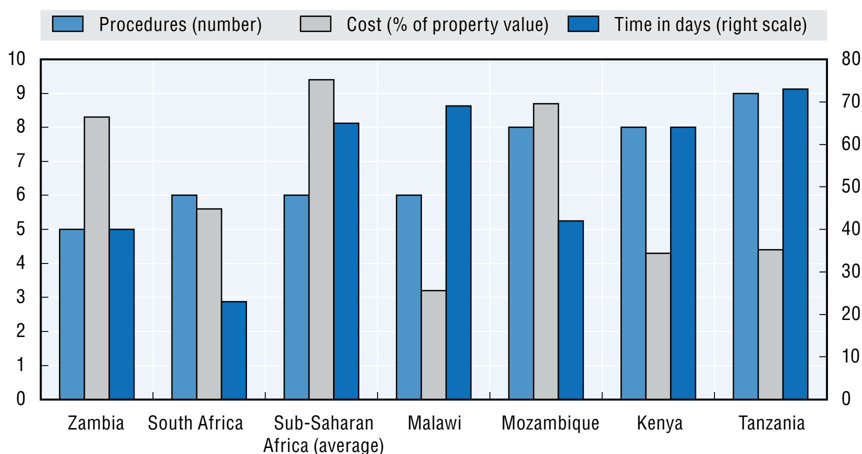
Efforts are being made to **facilitate access to land** by large investors. The MoL is establishing a land bank for agriculture, industry and tourism in collaboration with regional and district authorities. TIC will be able to access this land bank while keeping its own land bank. A Land Bank Authority would also be established in the next FY and have a revolving fund independent from the MoL. This authority was planned in the LA but has never been established. A team would be formed at the MAFSC to identify abandoned land to be revoked. The Rufiji Basin Development Authority, RUBADA, would be the main institution responsible for allocating land in SAGCOT. Finally, the VLA is planned to be reviewed by the Planning Commission.

A significant risk to fair and efficient land rights is **weak capacity and governance** in land administration at all levels, but particularly at the local level, due to limited financial and material resources, complex procedures and multiple reporting lines reducing transparency and accountability. On material resources alone, village councils do not have offices, stationary or filing cabinets (Ngowi, 2011). Most of the storage and retrieval of information on land titles is done manually. Information pertaining to any particular parcel is not integrated: a parcel's land use planning, survey, titling, transaction and land rent payment information is kept in separate files in the custody of different departments and units within the MoL, while some information is kept by LGAs. Files and their content are frequently misplaced (URT, 2012a). In a recent exercise to prepare Anti-Corruption Action Plans, 76 out of 109 districts listed corruption in land allocation as one of the most pressing problems. Special Presidential Committees, established shortly after the election of President Jakaya Kikwete in 2006 to solve land problems, noted that 75% of the disputes emanated from the action of public officials (Kironde, 2009). In response to corruption problems, land registration is currently frozen in much of the Southern corridor (SAGCOT, 2010b).

**Most tenure rights remain informal.** Only 165 000 land parcels have been registered nationwide, most of them in urban areas. As a result, 90% of Tanzanians have no land certificates and lack formal tenure security. The number of people holding some land documentation is higher as many have been offered rights of occupancy but have not completed the full process. If it is assumed that each household has a land parcel, over 8 million land parcels should be registered (population estimated at 40 million and average household size of 4.9 people). Similarly, out of a total of around 13 000 villages, only 10 397 are registered and have demarcated their boundaries, 8 700 are surveyed, 1 000 have land use plans, 753 have village land certificates, and 30 have land registries (Kironde, 2009).

**Land registration** has accelerated but Tanzania's performance remains poor. Following a presidential directive ordering the MoL to speed up land allocation, 3 000 title deeds were issued to title holders in 2002 (DAI, 2004). In 2007, 7 778 land titles were issued and 3 940 individuals acquired CCROs – compared to only 5 618 and 1 600 respectively in 2006 (MAFSC, 2008). In June 2010 only, around 110 000 CCROs were issued. According to the National Bureau of Statistics, land owned under official land titles stood at 14% for 2012, an encouraging rise from 5.5% in 2011 (NBS, 2012). However, Tanzania still lags behind neighbouring countries in terms of the number of procedures and the time required to register property (Figure 5.18).

Figure 5.18. **Registering property, 2011**




*Source: Doing Business Indicators*, World Bank, 2011.

The **Comprehensive Action Plan 2013-14**, as part of the government roadmap on improvement of the business climate in Tanzania, aims to accelerate land registration. Short-term interventions include: training registry officers; educating applicants for title registration on acceptable procedures; removing the requirement to obtain a property tax clearance from the municipality in order to register land; appointing zonal government valuers to value land at the zonal level; and establishing a new geodetic control network. In the long term, interventions aim at: establishing electronic processing, storage and retrieval of land records through a computerised Integrated Land Registration System at headquarters and district offices; expediting the process of village land registration; improving property tax collection and raising public awareness on the obligation to pay taxes; and enacting a Valuation Act to remove the need for the chief government valuer to approve valuations for land transfers.

**Some of these activities have already started.** The MoL has held capacity building seminars and workshops for land officers. It has been restructured, in particular by re-staffing senior positions based on competency. A local area network has been set up at headquarters and computerisation is now moving to zonal offices. A website is also being constructed to provide information on land activities and enable applicants to file applications and lodge proceedings online. A needs assessment for a land registration system was conducted in 2009-10 and the system is now being designed. Finally, a Land Valuation Bill has been submitted to the Attorney General (see Section 2.3 for additional details).

*Land use*

Land use planning should precede land registration but, despite progress, most land use plans remain **incomplete** and investors have difficulty accessing information on land availability and quality, which discourages investment. Land use planning and management is governed by the Urban Planning Act of 2007 for urban areas and the Land Use Planning Act of 2007 (LUPA) for rural areas. The LUPA requires village councils to produce land use plans in a transparent and participatory manner before allocating land. These plans have to be rationalised in district plans elaborated by LGAs and approved by the Minister (Ngowi, 2011). With the support of the MoL, 26 district land use plans have been prepared. However, most of them are sectorally focused and not fully integrated (SAGCOT, 2010b). Furthermore, the land use data used by the TIC and the MAFSC reflect sectoral interests and does not consider agro-ecological realities, for instance by underestimating forest areas.

While the National Land Use Plan Commission (NLUPC) aims to harmonise and co-ordinate land use related policies and legislation, **data discrepancies on land use plans** persist as no focal point co-ordinates land use information and no efficient cadastral system records the legal status of land country-wide (PMO, 2012a). For instance, the NLUPC notes that around 1 100 villages have developed land use plans while only 850 land use plans have been recorded. This discrepancy results from the fact that some organisations other than the NLUPC, such as NGOs and district councils, assist villages to develop land use plans with little co-ordination at the central level (Ngowi, 2011).

The legislation provides for **public participation** on land use planning but is often not applied. Both Acts provide for public consultation in the preparation of land use schemes and for making all approved schemes available to the public. In addition, the National Land Use Plan 2009-29 promotes participatory land use planning to avoid conflicts between local communities and related stakeholders (PMO, 2012a). However, partly because of the need to speed up implementation, land use plans are prepared by public authorities without fully involving the public (Kironde, 2009).

Land rights holders must prove to the President or, in practice, his authorised officials that they are **using the land in a prescribed manner**, or else the government can revoke land rights according to conditions contained in the certificate of right of occupancy or in existing regulations (PMO, 2012a). For example, the Land Regulations of 2001 prescribe that one eighth of the arable land in a plot whose declared use is farming should be cultivated in the first year. During each of the next four years, the occupier should cultivate a

further one eighth of the arable land. In the fifth year and thereafter, he should cultivate at least five-eighths of the land.

**New legislation** should be passed to accelerate land use planning. A National Framework for Land Use Planning is to be endorsed by the Cabinet. A National Agricultural Land Use Planning and Management Framework Plan has been drafted by the MAFSC in June 2009. It provides guidance to prepare national, regional, district, village, and urban development plans. Its implementation largely depends on the effective implementation of such plans and the systematic co-ordination of various actors to implement sectoral plans. An Agricultural Land Resources Act is also being drafted to protect agricultural land (MAFSC, 2012). Furthermore, while land use planning is not part of SAGCOT mandate, the SAGCOT team has collected and collated a vast amount of relevant information that could be used to establish a Southern Corridor land use data set (SAGCOT, 2010b).

*Land conflicts*

As a result of unclear land tenure rights and land use plans, **the number of land conflicts is increasing**. In Kilosa district for instance, clashes between pastoralists and farmers have led to death and property destruction in 2009. Former political leaders have been accused of land grabbing on 25 000 ha. Land conflicts between large investors and local communities, in particular in horticulture, are also common. For instance, a MoU signed between Mpanda District Council and Agrisol Energy LLC for 300 117 ha has been criticised as it would displace over 160 000 Burundian refugees who have been residents in the area for over 30 years (Ngowi, 2011). Conflicts may also arise from the fact that land areas allocated to large investors can be left idle as investors may use speculate rather than invest in production (TPSF, 2012).

The Land Disputes Courts Act of 2002 provides for **a complex system of councils, tribunals and courts** to settle land disputes. It sets up a distinct dispute resolution establishment to speed up land dispute settlement consisting, in increasing order of importance, of the following institutions:

1. *Village Land Councils* allow for conflict resolution through mitigation and counseling close to where conflicts occur which is a positive move forward;
2. *Ward Tribunals* are empowered to mediate and determine all land disputes in their areas involving property valued under USD 3 100;
3. *District Land and Housing Tribunals* determine cases and adjudicate large disputes and disputes between villages involving property valued at

less than USD 52 000. They constitute the first land court bodies with professional lawyers appointed by the MoL. Lawyers are permitted but not required. Customary law is applied to resolve disputes over CROs;

4. *Land Division of the High Court* acts as an appeal court from both the Ward and District Land and Housing Tribunals on property valued above USD 52 000;
5. *Court of Appeal* has jurisdiction to hear appeals from the Land Division of the High Court (Kironde, 2009).

These various institutions have **not been effective** at speeding up land dispute resolution due to poor resources and capacities and the tendency to adopt time-consuming and expensive court-type of proceedings. Complaints relate in particular to the quality of village land councils and ward tribunals. Tribunals appear to be uneven with some able to reach reasonably good and consistent decisions, while others do not have a firm jurisprudence and are considered incompetent, politicised or corrupt. The courts are considered competent but very slow (AgCLIR, 2010). To address these weaknesses, the Commercial Court has now the power to determine mortgages. The government also aims at simplifying procedures as part of the process of reforming the Civil Justice system. Finally, an electronic case management system is developed to accelerate case adjudication and better use, manage and share case information (PMO, 2012b).

Responsibility for establishing the prescribed councils, tribunals and courts is split **between different ministries**, creating accountability problems. PMO-RALG is responsible for establishing village land councils and ward tribunals and the MoL for district land and housing tribunals, while the high court land division and the court of appeal are situated under the Ministry of Justice and Constitution Affairs. Above this system, the Commissioner of Lands can operate as an independent adjudicator and commission an inquiry into land matters, conduct proceedings, and reach determinations (Ngowi, 2011).

As a result of inefficient dispute settlement mechanisms, **the backlog is growing** (Table 5.4). Out of 33 163 cases received by District Land and Housing Tribunals between December 2005 and December 2008, only 48% were heard and decided upon (Kironde, 2009). By mid-2010, only around 20 000 cases had been resolved since the establishement of these tribunals (Ngowi, 2011).

Table 5.4. **Disputes at District Land and Housing Tribunals**

| | Disputes in the tribunals (brought over and new) | Disputes cases decided upon | Disputes cases carried over | % carried over |
|---|---|---|---|---|
| **2006-07** | 10 382 | 4 180 | 6 202 | 60% |
| **2007-08** | 15 422 | 6 770 | 8 652 | 56% |

*Source:* Kironde, 2009 (from Ministerial speeches to Parliament).

### *Expropriation and compensation*

Previous chapters focused on the legislation regulating the expropriation of large investors (Section 2.5). This section focuses mostly on the expropriation and compensation mechanisms of local communities when a large agricultural investor is granted village land as such land acquisition raises concerns as regards the social impact of the investment.

The LA states that **full, fair, and prompt compensation** should be paid to any person whose right of occupancy is interfered with by the state and should take into account the land market value, disturbance allowance, transport allowance, loss of profits or accommodation, capital expenditure incurred in developing the land, and any other cost. Interest at market value is chargeable on delayed compensation payment. The VLA also provides important safeguards to the expropriation process and compensation payment. Prior to transferring land from village to general land and extinguishing customary land rights, the village and the Commissioner of Lands must agree on a fair compensation level (Sulle, 2009).

While the legislation indicates how to **calculate compensation**, it remains difficult to implement. The Land Regulations of 2001 specify how to estimate compensation based on market value. However, land market value is difficult to calculate as informal land transactions are widespread and pricing can vary greatly. Thus, procedures for determining compensation vary and often use criteria based on particular resource values such as planted trees, or land improvements such as houses, rather than the actual land economic value, which is particularly detrimental for agricultural land (Sulle, 2009).

Furthermore, the compensation process is frequently **not fair and transparent** and does not meet legal requirements. The valuation is not independently vetted as the government expropriating the land carries out and approves the valuation. The various rates determined by the government are not subject to public debate and, once determined, are not reviewed for long (Kironde, 2009). Compensation may fail to compensate pastoralists, forest resource users as well as cultivators for the value of

lost annual harvests. In some cases, the government converts village land to general land without paying adequate compensation (USAID, 2011). In most cases, compensation is not paid on time and no remedial measures are taken as required by the law (Kironde, 2009). Complaints related to compensation usually do not succeed and the government has proceeded with project implementation even where cases are pending in courts. As a result, some investors turn away from the legislation and negotiate with local communities rather than with the local and central government to pay the compensation directly to affected rights holders and ensure an efficient and equitable process (Sulle, 2009).

Similarly, in most instances, **payments for land acquisition are yet to be made** as they are contingent on companies obtaining formal titles to land first and only a few companies, representing less than 100 000 ha, have finalised the process of obtaining derivative land rights or GROs. Investors usually make payments once the land has already been transferred to general land, which means affected communities shoulder a significant risk. One company commented that it would pay former land owners only after receiving derivative land rights as land would serve as collateral for bank loans required to finance the investment, thereby deviating from legal procedures (Sulle, 2009).

The Presidential Commission appointed by President Kikwete in 2007, also known as the **Bomani Commission**, was set up to probe the accusations of "plunder" of natural resources and gross human rights violations. It noted that Tanzania did not benefit sufficiently from the natural resources in the land and that "the citizens did not know the basic criteria for computing the compensation amounts when their land was taken for investment", indicating that "many people had been displaced without being paid the compensation or being allocated alternative places" (APRM, 2009).

**Various initiatives** have been taken to improve the compensation process. A Compensation and Valuation Act is currently in the Cabinet process to increase transparency in compensation and reduce the number of land disputes. A new Involuntary Resettlement Framework is also being developed in line with the World Bank Framework (Kironde, 2009). Finally, the Department for Land Valuation has established a research unit to investigate crop market prices and land value to establish standards for compensation rates (PMO, 2012b).

### *Business licensing*

How has the government streamlined administrative procedures to quicken and reduce the cost of establishing new agricultural investments?

Agricultural investors should register by obtaining a **certificate of registration**, an income tax clearance, and a tax identification number from the Tanzania Revenue Authority (TRA). They should also comply with some additional requirements to benefit from investment incentives (Section 3.5). Domestic companies must obtain a certificate of company incorporation and foreign companies a certificate of compliance from the Business Registration and Licensing Agency (BRELA) by paying fees that vary according to the company size and origin (below USD 400 for domestic companies and a further USD 800 for foreign companies). Agricultural business, except sole proprietorships and partnerships, must obtain such a certificate at BRELA, either directly or through the TIC. According to reports, the process takes no more than 5 business days from receipt of a completed application.

A substantial proportion of small-scale agricultural producers are organised into **co-operative societies** which must also register. Several primary co-operatives can form co-operative unions, which, in turn, can be part of a national co-operative federation. These co-operative societies are administered under the provisions of the Cooperative Societies Act of 2003 and registered by the Registrar of Cooperative Societies. The application requires a copy of the co-operative by-laws, a study demonstrating the viability of its intended operations, and the application form signed by 50 members. The considerable number of both primary co-operatives and co-operative unions throughout each district are evidence of the relative simplicity of the registration process (AgCLIR, 2010).

Once they are registered, some agricultural businesses must obtain **specific permits and licenses** depending on their activity. Primary agricultural businesses – involved in food crop and livestock production, horticulture (excluding floriculture), milk production, and the retailing of own farm primary production – are exempt from general business license requirements. In contrast, all agricultural businesses engaged in value addition, including trading, packaging, and processing, must hold an annually renewable general business license. Various institutions deliver specific licenses:

- LGAs for the purchase and processing of products bought directly from farmers.

- Semi-autonomous boards appointed by the MAFSC for the production, processing, and trade of tea, coffee, sugar, pyrethrum, cashew nut, cotton, tobacco, and sisal (see section below on crop boards).
- The Food and Drug Agency for the preparation, packing, processing, sale, storage, import and export of food products and the transport of meat and edible oils.
- The Ministry of Health for the trade, import, and export of meat, milk, and milk products, and the MLFD for the import and export of livestock and animal products.
- The MAFSC for seed production and trade, imports of biological control agents, and imports and exports of plants and plant products.
- The Ministry of Industries and Trade for all other agriculture-related business licenses and permits.

**Licensing procedures for agri-businesses are long**, in particular due to weak capacities, poor co-ordination between central and local government authorities, and a lack of awareness of applicants. For instance, district authorities may take up to three months to issue general business licenses to local businesses. Businesses that should receive licenses from LGAs must also be licensed at the central level, while information collected from businesses by central authorities remains unavailable to LGAs. A dairy processor reported that 18 separate pieces of paper were required, most on an annual basis, to license all his business activities. Another example relates to transport. At least six different certificates are required of every commercial vehicle carrying goods in Tanzania and almost all of them require annual renewal from different offices, thus increasing transport costs and creating opportunities for corruption at roadblocks (AgCLIR, 2010). However, while rent-seeking by licensing agents increases licensing costs, in most cases, the costs of delays are much more significant than the relatively minor costs of rent-seeking.

**Efforts** are made to reduce the number of licenses and permits and to accelerate business licensing. The TIC handles a number of requirements, as stated in the Investment Act, and liaises in writing with relevant authorities to secure the necessary licenses and approvals required by investors. The legal framework surrounding business licensing is due for imminent revision and could provide for a single central registry operated by BRELA, incorporating the registry of companies, general business licenses, and sector-specific licenses on a once-only basis that will not require annual review (AgCLIR, 2010). The MAFSC also intends to review relevant regulation to remove legal obstacles and streamline administrative registration rules and approval procedures, in

particular by developing performance charters for agencies administering business regulations (MAFSC, 2012).

### *Tax incentives and levies*

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What tax measures are applied to promote investment in agriculture, including by smallholders? Is the tax burden on agri-business appropriate to meet agricultural investment objectives?

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**Investment incentives** offered to agri-businesses consist mainly of tax exemptions. The TIC issues a certificate of incentives to domestic and foreign investors, granting them: reduced import duties, and lower value added taxes (VAT) and corporate taxes; fast-track renewals of licenses, residence and work permits; and guarantee against expropriation and nationalisation (Section 3.5 for further details). Kilimo Kwanza policy offers specific incentives in agriculture, including: no import duty on capital goods, farm inputs, and raw materials used as inputs to produce agricultural exports; no VAT on agricultural exports and domestically produced agricultural inputs; favourable investment allowances and deductions on agricultural machinery and implements; and reasonable corporate and withholding tax rates on dividends. Furthermore, Special Economic Zones (SEZ) focusing on agriculture are being developed, such as the Lake Tanganyika SEZ, and may offer specific investment incentives.

Goods exempted from **import duty** include in particular: greenhouse materials, irrigation equipment, tanks, containers, reservoirs, storage facilities, vehicles, fuel dispensers, high voltage power back ups, cold room utilities, equipment for dairy production, seeds, fertilizers, and pesticides. However, some exemptions are restricted through vehicle capping. Projects with investment capital between USD 100 000 and 500 000 can benefit from a maximum of 4 vehicles without import duty, and projects with investment capital between USD 500 000 and 1 million can benefit from a maximum of 8 vehicles. Vehicles more than 10-year old are not exempted from import duties (TRA, 2012). Furthermore, the exemption of import duty is not always enforced efficiently. For instance, horticultural investors must pay import duties on flower sleeves used as inputs to produce agricultural exports, unless they are individually labelled "for exports". But, in practice, this requirement cannot be met by investors as labelling flower sleeves exceeds the cost at which the sleeves are bought (TAHA, 2012). Procedures to grant import duty exemption could thus be relaxed to ensure that tax breaks are effectively applied.

 

**VAT** exemptions on agricultural exports and imports not always enforced, and existing VAT on crops can discourage agricultural production. The law requires any company reaching the threshold of USD 25 000 in annual turnover to register for VAT. As stated in the VAT Act of 2006, domestically produced agricultural inputs exempted from VAT include fertilizers, pesticides, insecticides, fungicides, rodenticides, herbicides, antisprouting products and plant growth regulators. While these exemptions are usually enforced, VAT exemptions on agricultural exports and imports are poorly enforced. Small exporters are particularly disadvantaged because they must pay VAT but, since they are not VAT registered, cannot claim any reimbursement. Moreover, government VAT auditors are reported as difficult to deal with. The process of VAT reimbursement is quite long and can easily be delayed if a document is missing. Exporters widely report that they have not received VAT reimbursement for years, with some mentioning that they have never been reimbursed (AgCLIR, 2010). As regards imports, an investor granted with VAT exemption on imports is usually provided with a list approved by the TIC. Nevertheless, customs officers frequently proceed to an additional verification of the list and cancel some items already approved by the TIC. A list of imported capital goods exempted from VAT should be adopted and irregularities between TIC and TRA clarified. Finally, VAT charged on crops could be reviewed. At the national level, over certain volumes, most crops are taxed with VAT based on volumes and not value, thus incentivising producers to focus on high value crops. At the district level, crops are also taxed with VAT, which hinders trade across districts (SAGCOT, 2010a).

Agri-businesses must also pay **income taxes**. The legal framework for paying income tax is sound and incorporates best international practices, although only about 400 000 businesses are registered according to the TRA. The framework includes individual income tax, corporate tax, a pay-as-you-earn system for employees, presumptive income tax for small individual businesses, provisional and final withholding taxes, and a capital gains tax. While corporate taxpayers are taxed at a fixed rate of 30% of profits, one of the highest rates in the region, individual taxpayers pay according to a graduated scale with the maximum rate being 30%, which may encourage SMEs to remain informal (AgCLIR, 2010).

Finally, agricultural producers have to pay to LGAs **service levies** at the rate of 0.3% of turnover, while agricultural buyers are required to pay **produce cess** at the rate of 3-5% of farmgate prices, which represents a significant fiscal burden. The produce cess rate varies across districts, although most districts

have resorted to the maximum allowable rate of 5% (against only 0.3% for an industrial producer). It does not consider if buyers have made profits or losses. In theory, produce cess is supposed to be paid by buyers but, in practice, buyers often pass the cost along to producers. In addition, while it should be paid by buyers and not producers (LGA Finance Act Cap. 290 by-laws) and businesses paying a service levy should not be charged with a produce cess (Finance Act of 1999), some producers have to pay the produce cess as they are also buyers. Villages also set their own agricultural tax which, confusingly, is also referred to as cess. Such tax depends on volumes and must be paid at the farmgate (AgCLIR, 2010).

While these taxes represent a significant source of revenue for LGAs, the government recognises the **negative impact** of the produce cess on agricultural productivity. Investors frequently debate about this burden. The Minister of Finance proclaimed that produce cess rates would be reduced from the range 3-5% to a fixed rate of 3% in 2010-11. However, this has not been implemented yet. The produce cess could be reviewed to ensure that investors that are both producers and buyers do not pay two taxes and to clarify how to determine farmgate prices. Cotton is already exempted from produce cess if it is sold in EPZ.

**Roadblocks** are commonly used by LGAs to control the transport of agricultural products between districts and to collect produce cess, which violates existing laws and causes delays resulting in crop damages. According to the Finance Act No. 15 of 2003, produce cess should be paid at the points of origin and roadblocks must not be used to collect the cess. The Prime Minister stated in October 2007 that "produce cess must be collected at the points of production" and instructed LGAs "not to use roadblocks to collect it". However, some LGAs do not have the capacity to implement these instructions. In the case of Babati district, produce cess collection has been sub-contracted to private agents that do not comply with the regulations (TAHA, 2012). The government is making efforts to remove such roadbloacks. Ad hoc roadblocks are now prohibited, and a study is being conducted in EAC to calculate the optimal number of weigh bridges so that all Ministries undertake controls at the same places.

### *Sub-sector regulation by crop boards*

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Does the government have a strategy for developing a sound business environment in specific agricultural sub-sectors?

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Cashew nut, coffee, cotton, pyrethrum, sisal, sugar, tea and tobacco are regulated by **crop boards** created in the late 1990s and early 2000s as part of the decentralisation process in order to increase the efficiency and independence of government agencies. Each of these Boards, regulated by Acts issued in 2001 and by the Crops Laws (Miscellaneous Amendments) Act of 2009, has the mandate to: regulate each sub-sector by administering licenses and enforcing quality standards; promote the development of the sub-sector; co-ordinate it through stakeholder meetings and data collection; set indicative crop prices; provide inputs and technical advice to enhance skills development and access to new technologies; facilitate R&D funding; and advise the government. These boards are also expected to administer agricultural extension in their respective sub-sectors, with the exception of the Tea Board which assigns extension services to the Tanzania Smallholders Tea Development Agency (DAI, 2004). A Cereals and Other Crop Board has been created in 2012 to promote other crops and stabilise prices through market interventions. All the regulations issued by these boards are subject to MAFSC approval.

The Crops Laws (Miscellaneous Amendments) Act of 2009 provides the boards with the authority to provide and monitor contracts between companies and local producers in order to protect smallholders, in particular by regulating **contract farming.** Every contract should be submitted to the board for scrutiny and registration. The board is expected to monitor its implementation to protect the rights of both parties. Any person being a financier, buyer, processor, investor or banker, should not partner with a registered farmer without a contract. A person contravening these provisions is liable on conviction to a fine of at least USD 3 800 or to imprisonment between 6 months and two years or to both.

While boards play a useful role by convening stakeholders and monitoring produce quality, they are centrally funded and may be subject to regulatory capture and political pressure, which may increase uncertainty for investors. Some boards **regulate the market** quite tightly (Box 5.3). Even though the boards have the power to revocate annual licenses at any time, they renew such licenses every year which increases uncertainty for investors. Licenses could be granted for longer time periods and revocated if investors do not comply with regulations. The Fair Competition Act of 2003 is drafted to achieve free and fair competition, but the boards are empowered to undertake activities limiting competition between buyers of commodities. Individual farmers or even farmers' associations producing cash crops are often not allowed to develop their own contracts with

buyers. Contracts are generally formed between a few large co-operatives as sellers and a similarly small group of domestic or international buyers. These contracts often involve minimum prices set by the boards (AgCLIR, 2010).

Box 5.3. **Examples of boards' regulations**

The *Coffee Board* grants licenses for every single step of the value chain, including for coffee buying, liquoring, processing, roasting, warehousing, central pulping, and exporting.

The *Cashew Nut Board* sets farm gate prices based on average production costs and by convening stakeholders' meetings at the warehouse, involving farmers, farmers' associations, input suppliers, and government agencies (LGAs, regional commissioners, and members of Parliament). Cashew nut growers can sell their output only through co-operative unions. Direct selling to private traders or processors is illegal. Since this measure has started to be enforced, prices received by cashew nut growers have increased threefold, in particular due to the use of the warehouse receipt system.

To be licensed, companies or individuals engaging in *tobacco* trading must process the tobacco in Tanzania. Unprocessed tobacco leaf cannot be exported. This provision intends to protect domestic processors. However, it may lower prices for tobacco producers as it reduces the number of buyers by increasing entry costs – as new entrants need to enter as both traders and processors.

The *Tea Board* requires licenses for businesses engaged in tea buying, processing, packaging, blending, and exporting. To help cover the costs of the Tea Board activities, district councils, smallholder associations and tea processors and blenders are charged respectively TZS 12, 8 and 1.50 per kg of made tea. One-year buying and processing licenses are obtained together as only processors are allowed to buy tea to protect growers from middlemen. While these licenses are free, the buyer/processor must present a Green Leaf Sale Agreement signed with producers every year ensuring that producers will effectively supply buyers/processors and that the latter will collect the harvest in due time. Following consultations and consensus among stakeholders, the Tea Board announces a minimum green leaf price. It also regulates contract farming through a very detailed regulation. In terms of exports, a Tea Board inspector must certify the quality of every export consignment to grant an export permit, which is usually completed within an average of 6 hours. This no-fee permit is valid for six months at which point it can be extended.

*Source:* DAI, 2004; Tea Board, 2012; MAFSC, 2012.

## 5.3. Sectoral policies encouraging investment in agriculture

Investment in agriculture relies on an integrated policy environment where a wide range of sectoral policies contribute to a sound investment climate. The section above showed that both domestic investment and foreign investment in the sector are constrained by a centralised land tenure system and uncertain land tenure rights, long business licensing procedures, relatively high taxes, and market restrictions imposed by several crop boards. Investment in agriculture can also be constrained by low social returns due to weak infrastructure and low human capital, and by high costs of finance due to disfunctioning local financial markets (Hausmann, 2008). This section aims to identify existing constraints related to access to agricultural inputs, infrastructure development, access to finance, human capital development and research, and trade policy that can explain low investment levels in agriculture.

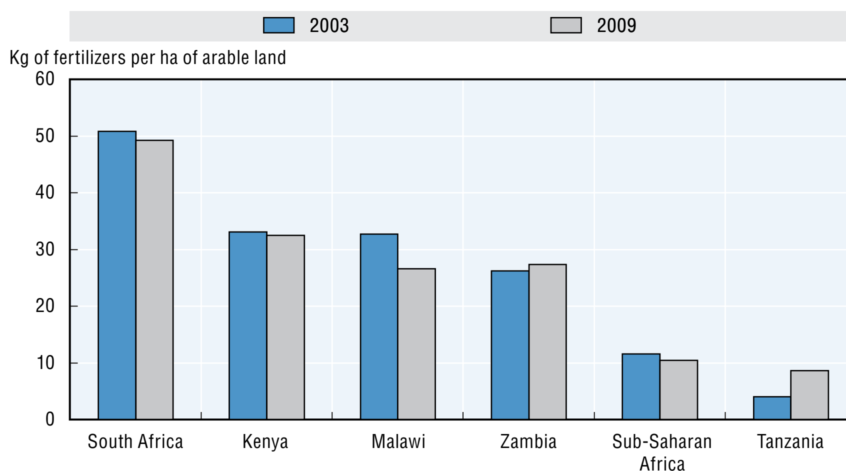
### *Agricultural inputs*

Does the government intervene in input markets?

The government intervenes in input markets, focusing mainly on fertilizers and seeds. **Fertiliser subsidies** to maize producers were introduced in 2003 in the Southern Highlands and expanded to the whole country in 2004. In 2008, they were extended to improved maize and paddy seeds, using vouchers under the name of NAIVS (National Agricultural Input Voucher System) which subsidised 50% of fertilizer and seed costs to eligible farmers in 11 regions. In 2009, the system was expanded to 20 regions. In 2009-10, these subsidies represented the single most important allocation area of the MAFSC budget (MAFSC, 2010). Currently, they target 95% maize producers and 5% rice producers with less than 2 ha. They cover half of the cost of 2 bags of fertilizers, 1 bag of top dressing, 10 kg of seeds per farmer, with the other half being paid by farmers. A total of 700 000 farmers benefited from this scheme in 2008-09, 1.5 million in 2009-10, and more than 2 million in 2010-11. Average maize yields in the 11 main targeted regions have increased by an estimated 36% above baseline levels. Despite poor rainfall in some areas in 2011, these vouchers would have contributed to the production of more than 600 000 tonnes of additional maize. The World Bank has supported this programme since 2007 but intends to end its support in 2012.

Despite this success, fertiliser subsidies may **not be the most efficient mechanism** to enhance access to fertilizers. They are costly and can create market distortions. They may not address the cause of poor access to fertilizers as fertilizers' supply may be limited by the market power of private traders rather than farmers' inability to afford them. For instance, sulphur is often bought at prices far above the production and transportation cost, and farmers go across the border to Mozambique to buy necessary inputs. Facilitating the licensing of new brand names for farming inputs and the entry of new importers may be a more effective and cheaper way than subsidies to facilitate access to inputs. In fact, the use of chemical fertiliser remains extremely low compared to neighbouring countries (Figure 5.19). In 2009, Tanzania used an average of 9 kg of fertiliser per ha, compared with 27 kg for Malawi, 53 kg for South Africa and 279 kg for China (SAGCOT, 2010a). Similarly, the national demand for improved seeds is about 120 000 tonnes annually while the average annual supply is 10 000 tonnes (8% of the demand). Only 5.7% of maize producers and 0.7% of paddy producers use improved seed varieties with fertilisers.

Figure 5.19. **Use of chemical fertilisers in selected countries, 2003-09**




*Source:* WB WDI, 2012.

Other more targeted government **initiatives** aim to enhance access to agricultural inputs. Previously, government-organised input funds collected money for next season's inputs by deducting a small amount of revenue from the production sold. However, such funds were mismanaged and failed to provide the promised inputs. They have been terminated. An agricultural input

trust fund (AGITF) was established in 1994 and has been issuing short term soft loans, in particular to farmers and farmers' groups, to buy agricultural inputs and machinery and has been relatively successful – although at a small scale (see finance section below). In the cotton sector, the Cotton Development Trust Fund (CDTF) facilitates input procurement on behalf of cotton producers, ginners and the Tanzania Cotton Board (TCB). The government is now trying to set up trust funds for each cash crop.

These initiatives have not significantly improved access to **agricultural equipment**. In 2008, the MAFSC reported that about 73% of all tractors were well over 15 years old. According to TAFSIP in 2011, 92% of the farm implements owned by households were hoes and 4% ox ploughs. Only 3% of the crop growing households owned tractors. The stock of tractors stood at 15 500, with only 9 500 being operational, and only 400 tractors were sold out annually against an annual demand of 1 800 units.

The **Tanzania Agricultural Partnership** (TAP) could be a valuable model to expand in order to enhance access to a wider range of agricultural inputs. TAP was launched in 2006 as a PPP managed by ACT and composed of public institutions, private companies, and international organisations. At the invitation of the Tanzanian government, the initial focus was on a fertiliser partnership but its scope has expanded to the full value chain. By facilitating and co-ordinating partners' activities around specific agricultural value chains, TAP has become a technical focal point and an institutional platform for value chain partnerships. It is already working with the private sector, donors and LGAs in all districts of the Southern Corridor. As the government approached Yara International in 2004 to supply mineral fertilisers to smallholders, Yara is now involved in TAP and prioritises the distribution of mineral fertilisers, including by establishing credit facilities for farmers and setting up storage facilities to develop a warehouse receipt system. Yara also intends to invest USD 15 million in building a dedicated fertiliser terminal at the Dar es Salaam port to increase handling rates at the ship-shore interface. According to the mid-term review carried out by the Norwegian Agency for Development Cooperation in 2009, TAP is progressing despite the relatively small number of farmers currently involved.

### *Infrastructure*

What measures are in place to promote agriculture-related infrastructure development?

While Chapter 4 focuses on infrastructure as a whole, this section provides first a short overview of the policy environment for infrastructure development drawing in particular from Chapter 4, and then examines more specifically policy challenges for developing agriculture-related infrastructure, in particular irrigation networks, storage and transportation systems, and information and communication technologies.

#### *Overview*

The lack of adequate infrastructure hinders private investment in agriculture and reduces the competitiveness of agricultural supply chains. Due to poor infrastructure development, Tanzania ranks 120 out of 144 in the 2012-13 *Global Competitiveness Report*, against only 104 out of 139 countries in the 2009-10 Report. **Poor infrastructure** is cited as one of the main factors behind the declining performance. Indeed, Tanzania ranks 132 out of 144 for infrastructure in the 2012-13 Global Competitiveness Report of the World Economic Forum (WEF).

**Electricity** appears to be the worst-performing infrastructure sector (Sections 4.1 and 4.4). Frequent power outages and prolonged power rationing generate heavy production losses for private companies. In 2010, only 1.8% of households had access to electricity in rural areas against 38.9% in urban areas (WB, 2010). Horticultural producers are thus forced to use expensive generators to supply electricity. Between June and September 2011, data obtained from 18 horticultural farms revealed that about USD 1 million was spent by all farms for operating generators. A flower or vegetable farm would spend about USD 12 000 per month for operating generators (TAHA, 2012). In consequence, less than 10% of fruits and vegetables are processed, 90% of cashew nuts are exported raw, and 40-60% of annual crops are spoiled due to the lack of processing capacities (TIC, 2008).

As highlighted in Chapter 4, **several challenges** must be addressed to enhance infrastructure provision, in particular in the energy sector. Public sector capacity in designing and negotiating infrastructure projects and co-ordination across different government levels remain weak. Competition in infrastructure provision in sectors where parastatal operation is inefficient is low. Infrastructure development and financing are complicated by the decentralised governance relying on underpowered LGAs. Performance

management and the capacity of regulatory authorities to meet infrastructure needs are irregular across infrastructure sectors. While regulation and oversight is plentiful in the roads and water sectors, the Energy and Water Utilities Regulatory Authority (EWURA) has little influence on the quality of electricity provision and government subsidies continue to support TANESCO despite its negative performance. Finally, the financial system remains too narrow and illiquid for infrastructure financing, limiting LGAs' capacity to borrow overseas for these purposes.

To address such challenges, the government has considerably **increased budgetary expenditures** for infrastructure development since 2009 through the Medium-term Public Investment Plan. The central government provides funding for agriculture-related infrastructure through strategic budget allocations, while LGAs rely on DADPs to fund such infrastructure. In addition, the recent PPP Act 2010, the PPP Regulations 2011 and the Public Procurement Act 2011 provide a comprehensive framework for **PPP design** and roll-out which should facilitate private involvement in infrastructure development, especially if the two PPP units and procurement entities implement them effectively and if project financing regulations are made more flexible and innovative, particularly for LGAs.

### *Irrigation*

Irrigation is an **efficient channel** to intensify agricultural production. Irrigation development would significantly enhance agricultural productivity as the output on irrigated land in Tanzania is currently more than twice that on non-irrigated land (WB, 2010). Further details on the water policy more broadly are provided in Section 4.1.

With numerous rivers and lakes, Tanzania has **enormous water resources** but the policy framework may impede rapid irrigation infrastructure development. Water for irrigation can be drawn from river flood basins, lakes and underground water sources. Irrigation potential varies across definitions. According to MAFSC, the country has 29.4 million ha of land suitable for irrigation out of which 2.3, 4.8 and 22.3 million have respectively a high, medium and low development potential, based on water and land resources and socio-economic potential. In contrast, the 2002 study on the National Irrigation Master Plan (NIMP) estimated the irrigation potential to be only 2.1 million ha. Despite this large potential and increased public expenditure on irrigation infrastructure, water rights and water fees may hinder irrigation infrastructure development.

Water rights allocation has been **gradually decentralised**. The Water Ordinance Act of 1974 stipulates that right registration is the only way to ensure that water use is considered legitimate. Since the Water Ordinance of 1959, the Minister appoints a principal water officer and delegates at basin level that have the authority to allocate water rights. Since 1997, the water officer is obliged to consider basin water boards' decision on water rights allocation. These boards were fully governmental up to the mid-1990s but the government started promoting stronger user participation and their members, although appointed by the Minister, have now to be drawn also from the private sector, NGOs and women's organisations. The government also initiated Water Users Associations (WUAs) to manage water at village and ward level and to be represented up to the basin level (IWMI, 2004). The National Water Policy of 2002 (NAWAPO) intends to devolve authority over water rights allocation to basin water sub-offices at so-called "catchment" level or even to local WUAs in order to ensure that beneficiaries participate fully in the planning, construction, operation and maintenance of community-based water supply schemes. Organisations owning community-based water supply schemes are also empowered to grant water access and to levy fees.

Stronger user participation in the newly established institutions intended to go hand-in-hand with **water pricing**. Only registration fees had to be paid before 2002, but the Water Policy introduced a system of water fees to improve cost recovery of basin-level water management services, stating that "economic instruments, including water pricing, charges, penalties and incentives, serve as an incentive to conserve water and reduce pollution of water sources". Water rights and fees apply to anyone diverting and abstracting even the smallest quantities of surface and groundwater for productive uses. All water users or users' groups are obliged to register at the Ministry of Water (MOW) to obtain a water right. The water right certificate indicates the purpose of the water use and the annual water volume entitled to the right holder. Water users have to pay an application fee equivalent to USD 40 to register the water right, plus an annual water user fee proportionate to the volume allocated and depending on the purpose of the water use. For irrigation purposes, the fee amounts to USD 0.03 per 1 000 $m^3$. The nine basin water boards are responsible for collecting these fees (IWMI, 2004).

The legislation on decentralisation and on water rights and fees has **never been implemented effectively**, in particular due to a confusing division of responsibilities (Section 4.1 for further details). The central government continues to play a significant role in water management and the co-ordination

of the nine water basins. While the Water Policy requires water users to organise themselves into associations, especially into WUAs, sub-catchment water users often feel more committed to the customary arrangements for access to and allocation of water than to the WUAs (Sokile, 2005). Significant problems also arose to collect water fees:

- The system costs the government more than it generates as **transaction costs** of charging scattered smallholders are often considerably higher than any net revenue gained from this category. The fees collected from large users have thus increasingly been spent to cover losses of taxing small-scale users.
- The system is particularly prone to **corruption** in at least three ways: arbitrary volume-based rate setting (scarce and unreliable data on water volumes consumed by users, absence of maps to locate water users, and absence of water control infrastructure and measuring devices); difficult water rights registration due to limited staff; and lack of transparent and accountable procedures to handle public revenues.
- Administration-based paper rights are largely **ineffective in regulating** actual water allocation and ensuring fair and sustainable water use. Governmental representation on the ground is too thin to effectively mediate in upstream-downstream conflicts, and the new system aggravates downstream water deprivation. Converse to the assumption that valuing water leads to reduced water use, well-organised water users located upstream now use more water as they have paid water fees, thus depriving downstream users even further. Earlier, downstream communities could have appealed to customary water management arrangements to solve disputes.
- Last but not least, the system does not recognise the dichotomy between formal and **informal socio-economic institutions** and thus lacks legitimacy at the local level.

Despite these difficulties in managing water rights, increased budgetary expenditures have allowed for **rapid development of irrigation infrastructure** over recent years. While the average annual rate of growth of the irrigated area was only 4.6% over the period 1993-2003, it reached 7.1% between 2001-02 and 2009-10, with the irrigated area increasing from 191 900 ha to 331 490 ha (Table 5.5). In 2012, the irrigated area reached 381 000 ha, with large and medium-scale irrigation schemes covering a total of 55 000 ha (14%) and small-scale irrigation schemes managed by smallholders representing the remaining area. According to the five-year development plan, the objective is to achieve 1 million ha irrigated by 2015-16 (MAFSC, 2012).

Table 5.5. **Irrigated area, 2001-2010**

Hectares

| | 2001-02 | 2002-03 | 2003-04 | 2004-05 | 2005-06 | 2006-07 | 2007-08 | 2008-09 | 2009-10 |
|---|---|---|---|---|---|---|---|---|---|
| **Irrigated area (ha)** | 191 900 | 200 895 | 227 486 | 249 992 | 264 388 | 273 945 | 289 245 | 310 745 | 331 490 |

*Source:* FAOSTAT, based on data from the Ministry of Water.

National-level irrigation schemes (i.e. above 50 ha) are **funded** by national irrigation development funds through ASDP. District-level irrigation schemes are financed by both DADG and the district irrigation development fund (DIDF) that are part of ASDP (representing 75% of ASDP irrigation fund) and allocated according to the same formula as agriculture recurrent block grants (see Section 5.1). DIDF is centrally located in the Ministry of Finance and governed by a Board consisting of representatives of the Ministry of Finance, ASLMs and water boards. DIDF finances irrigation schemes in selected water basins, such as inter-district irrigation schemes and complex irrigation infrastructure requiring higher financing levels than what can be accommodated by districts. It can also cover supplemental costs of small-scale district irrigation schemes. Only districts meeting the access criteria for LGDG can apply for DIDF. The government also intends to establish a fund independent from DIDF to finance irrigation infrastructure based on the local irrigation potential and implementation capacity that are not accounted for in DADG formula-based allocation (ASDP, 2006). To complement government funding, smallholders are expected to cover 20% of the cost of local irrigation infrastructure development by providing in-kind contribution, through labour for instance (MAFSC, 2012). Under ASDP guidelines, they also have to contribute 5% of their harvests to maintain and operate local irrigation schemes.

Despite increased funding in recent years, **irrigation coverage remains low**. The target of the National Irrigation Master Plan adopted in September 2002 of 1 million irrigated ha by 2010 has not been reached and has been postponed to 2015-16. In 2002, only 1.8% of the cultivated area was irrigated and Tanzania had realised 8.6% of its irrigation potential, compared to almost 100% in South Africa (Table 5.6). In the nine districts visited by MAFSC in 2008, an average of 29% of the irrigation potential was realised. It reached 26% in Rungwe, 22% in Kilombero, and 3% in Mufindi against up to 57% in Iringa and 67% in Same (MAFSC, 2008). Discrepancies in the proportion of irrigation potential achieved may be due to differences in the definition of irrigation potential. In particular, areas physically suitable for irrigation may not be

economically viable, due to high distance to markets and low crop value. A spatial simulation exercise exploring economic viability concluded that rates of return on large-scale irrigation schemes were relatively low, amounting to no more than 3% on average. In contrast, small-scale irrigation could be both physically and economically viable on 300 000 ha, located mainly in the northwest and southeast regions, which would allow to double the existing irrigated area. Related investments amount to USD 1 billion, with average rates of return up to 27% (WB, 2010).

Table 5.6. **Irrigated area in selected countries, 2001-2010**

| | Malawi | Kenya | Mozambique | Zambia | Tanzania | South Africa |
|---|---|---|---|---|---|---|
| **Year of estimation** | 2002 | 2003 | 2001 | 2002 | 2002 | 2000 |
| **Irrigated area (ha)** | 56 390 | 103 203 | 118 120 | 155 912 | 184 330 | 1 498 000 |
| **Irrigated area (% of cultivated area)** | 1.9 | 1.8 | 2.5 | 6.0 | 1.8 | 9.5 |
| **Irrigation potential realised (%)** | 34.8 | 19.1 | 3.8 | 29.8 | 8.6 | 99.9 |

*Source: FAO Aquastat Database*, 2012.

The government is making **efforts** to accelerate irrigation infrastructure development, in particular by preparing a National Irrigation Policy to support ASDP implementation. Regulations of the Environment Management Act of 2004 are being drafted to support sustainable water resource management (WB, 2010). The National Irrigation Master Plan should be revised in 2012 and an Irrigation Act should be passed soon, including measures for cost recovery and promoting further farmers' contribution to the development and maintenance of irrigation systems. Finally, a database on existing irrigation schemes (types and crops covered) is being developed (MAFSC, 2012).

### *Storage and transportation*

Good logistics and transportation systems are critical to build efficient agricultural value chains, in particular as most products cannot be preserved easily in tropical climate. However, **the lack of storage facilities and the poor road network** generate considerable losses for both producers and traders, resulting in low returns, and reduce the competitiveness of agricultural supply chains.

**Storage and cold chain facilities** often do not exist, even between or at larger markets. Most agricultural goods are currently stored at markets in

baskets or bags on the ground. Cold room facilities remain inadequate at ports and international airports. Thus, products are often sold directly from the field at harvest when prices are lowest. They may deteriorate before being sold on to retailers and final customers, thus hindering time arbitrage by traders. As a result, post-harvest losses are estimated at 35% (AgCLIR, 2010), reaching respectively 13, 26, 42 and 50% for rice, cassava, tomatoes and fruits/vegetables (MAFSC, 2012).

However, in terms of **logistics performance,** Tanzania has improved compared to other countries, ranking 88 in 2012 on the International Logistics Performance Index (LPI)[3] against 95 in 2010. In comparison, Kenya dropped from 99 in 2010 to 122 in 2012.

While up to 86% of existing trunk and regional roads were in good conditions in 2012 (see Table 4.2 in previous chapter), as a proportion of the full road network – including district and feeder roads – this only amounts to 34.55%. Nearly 80% of the rural population thus has inadequate access to road networks. Tanzania has fewer paved roads than any other country in the region aside from Rwanda and Uganda (Section 4.1 for further details). A 2004 study estimated that the effects of **transport costs** constituted 33% of the total Effective Rate of Protection (ERP), implying that the share of explicit tariff was about 67%. Ocean freight from Asia to Dar es Salaam may cost USD 60-100 per tonne, while land transport charges between Kigoma and Dar es Salaam costs up to USD 100-160 per tonne (IIDS, 2011). Consequently, although recent trade reforms have led to a notable import growth, they have not been effective in promoting exports. In addition to poor road condition, roadblocks and weighting stations constitute the most common cause for transport delays. Besides legitimate controls, the trucks are often stopped by bribe-seeking police members. According to transport professionals, a truck can be stopped 10 to 15 times on its way from Dar es Salaam to Iringa and the amount of an acceptable bribe ranges from USD 2 to 4. In fact, transporters highlight police corruption as the main business constraint (Eskola, 2005).

The limited size and poor functioning of storage and transport facilities constrains **agricultural export** growth. For instance, Israel has recently confirmed its demand for sweet potatoes, stating that it could import from Tanzania up to 40 tonnes of sweet potatoes a week. However, the lack of adequate transport and cold room facilities for shipping consignment discouraged Israel to proceed with these imports. Cold room facilities would open significant export opportunities for fruits, such as avocados, to the Middle

East, geographically closer and imposing less stringent requirements than the US and the EU (TAHA, 2012).

The government has pursued **several initiatives** to improve transportation systems. The integrated road project aims to open up transport networks, in particular rural roads in key agricultural areas (Section 4.1 for more details). The Marketing Infrastructure Value Addition and Rural Finance Programme (MIVARF), funded with a USD 64 million loan approved by the concessional window of the African Development Bank, will be co-ordinated by the PMO starting in 2012-13 and targets 500 000 poor households. It aims to improve in particular rural market infrastructure based on a comprehensive needs assessment survey and the use of PPPs. It also intends to encourage value addition and enhance smallholders' access to finance by increasing the outreach of formal and informal financial institutions and improving the legal and policy framework for rural microfinance.

In terms of **storage facilities,** the National Food Reserve Agency (NFRA) offers storage facilities for the strategic grain reserve and has already evaluated the costs of building additional storage facilities (MAFSC, 2012). Its stocks have significantly increased over the last few years, from 131 937 tonnes in September 2007 to 200 053 tonnes in September 2011. In August 2012, NFRA signed an agreement with WFP Tanzania to provide domestic maize to WFP throughout the region, formalising the current purchasing arrangement between NFRA and WFP which has, to date, included sales of 90 000 metric tonnes of maize. In 2012 and 2013, up to 200 000 metric tonnes of grain a year could be made available to WFP for its operations throughout Africa. Farmers participating in the WFP's Purchase for Progress (P4P) initiative can thus engage in forward delivery contracts with both agencies. They also receive training on marketing, crop quality, and crop aggregation at community level. The government could also promote PPPs between agribusinesses and port and airport authorities to upgrade existing cold room facilities for better conservation of perishable products.

### *Information and communication technologies*

Access to information and communication technologies (ICTs) contributes to strengthening agricultural value chains by providing regular and reliable market information to agricultural producers and linking them with existing markets and potential buyers. ICTs have **expanded considerably** over recent years. The number of mobile subscribers has risen by 22% over the last year, reaching 25.6 million by May 2012. Mobile

phone penetration stands at around 47% and eight licensed mobile phone operators are operating. Data operators and Internet service providers have increased from 25 to 80 between 2004 and 2010. ICT development has been particularly critical to enhance mobile banking that helps extend banking facilities to unbanked communities (Section 4.1 for further details).

The government provides **agricultural market information** which includes farmgate, wholesale and retail prices and free on board prices for four sub-sectors, namely food crops, export crops, livestock and agricultural inputs. It intends to help farmers and traders to make informed production and marketing decisions. The information is available in newspapers, on websites, such as *www.lmistz.net* for livestock, and on cell phones through short message services (SMS). For instance, the Coffee Board provides coffee producers with market information on their mobile phones (MAFSC, 2010). Furthermore, community information telecenters have been established in some villages (PMO, 2012a).

As regards **livestock**, a Livestock Information Network and Knowledge System (LINKS) provides regular information on livestock prices and volumes on most of the major livestock markets in Ethiopia, Kenya and Tanzania, along with information on forage conditions, disease outbreak, and water supply. Real time market information is available on request via SMS, e-mail, radio systems and Internet. LINKS is a sub-project of the Global Livestock Collaborative Research Support Programme GL-CRSP (*http://glcrsp.ucdavis.edu*) being implemented by Texas A&M University and funded by USAID.

Despite real progress in ICT development, **poor awareness** and low education level of smallholders and livestock keepers keep hindering the access to and the use of such information as a tool to identify marketing opportunities (MAFSC, 2008).

### *Finance*

This section provides an overview of the challenges faced by large and small-scale agricultural investors to access credit by first describing the financial institutions involved in the agricultural sector and the various financial services offered to agricultural investors, and by subsequently examining current policies aiming to facilitate access to credit in the sector. For further information on access to finance by SMEs, you can refer to Section 3.6 of this review.

*Existing financial institutions*

What is the state of competition in the formal financial sector? How important is the role of the informal financial sector in providing credit to farmers? What is the role of microfinance?

The financial sector has been undergoing **remarkable development** in the last few years. Several financial institutions have been licensed, and products and services have diversified and their number has increased (Triodos, 2011). In 1991, the financial sector reform aimed at gradually opening credit markets, achieving flexible interest rates, and enhancing financial intermediation. The Banking and Financial Institutions Act of 1991 and the Bank of Tanzania Act of 1995 authorised private banks and recognised the need for an autonomous central bank to formulate monetary policy and regulate the financial sector. Several studies have shown that such reforms have had an appreciable impact on the development of the financial system. The entrance of private banks has increased competition and resulted in new and more efficient financial services. State-owned banks have been restructured to comply with stringent prudential requirements and face competition (APRM, 2009).

As a result of these reforms, a **wide range of financial institutions** are funding the agricultural sector: commercial banks accounting for 90% of the institutional credit in agriculture; government schemes, including a presidential fund established in 2006 which provides credit to informal actors; microfinance institutions (MFIs); and informal lending institutions, such as Savings and Credit Cooperative Societies (SACCOS).

Nonetheless, despite the increasing involvement of a few **commercial banks**, bank competition in the sector remains low. Commercial banks are reluctant to invest in agriculture perceived as a risky sector with low returns. Most often, they lend at high interest rates and on a short term basis to fund working capital – in 2008, short-term credit accounted for more than 70% of institutional lending to agriculture. Still, some large commercial banks have successfully financed the sector. About 35% of CRDB Bank's lending portfolio goes to agriculture, mainly cashew, coffee and cotton. CRDB Microfinance Company provides wholesale lending to 445 SACCOS in 19 regions, while CRDB provides capacity-building support to over 200 SACCOS and MFIs with the support of the Financial Sector Deepening Trust (FSDT). To expand its outgrower financing services, CRDB plans to help establishing SACCOS that would offer savings and remittance services. CRDB has also started to introduce ATMs and debit cards for SACCOS. Exim Bank is also involved in the sector. Since 2003,

it has managed on behalf of the government an Agricultural Input Fund amounting to USD 1.9 million, and used for loans to primary associations, SACCOS and individual farmers. It also provides value chain finance for export crops, especially cashew, coffee and cotton, as well as non-traditional crops, such as sesame and pulses. Finally, some banks successfully offer agricultural finance through institutional arrangements with informal and semi-formal service providers (Triodos, 2011).

As regards **microfinance**, the main players, registered as companies limited by guarantee, societies or trusts, include: PRIDE Tanzania (more than 90 000 active borrowers), FINCA Tanzania (above 43 000), SEDA (above 17 500), BRAC Tanzania (above 50 000) and the Presidential Trust Fund (above 10 000). These MFIs are mostly credit-driven and based in urban or semi-urban areas, but the first three are also starting to attract savings. PRIDE and FINCA have already reached financial self-sufficiency (APRM, 2009).

**Savings and Credit Cooperative Societies** (SACCOS) are informal savings and credit institutions, serving mainly agri-businesses. Their membership and their lending to agriculture have been increasing continuously since 2007. In FY 2007-08, their membership increased from 1.3 to 1.6 million (23%), their savings from USD 65 to 115 million (77%), and their loans to members from USD 96 to 170 million (57%). By March 2013 the number of registered SACCOS in Tanzania had reached 5 559. Their membership also increased largely between 2008 and 2010, and in many districts, it more than doubled. In 2011, it reached 970 665 members for a total of 5 346 SACCOS, while shares, savings and deposits by members amounted to USD 266 million (68% increase vs. 2010) and credits to members USD 418 million (16% increased vs. 2010) (Budget Speech, 2012). It should be noted that membership numbers are not very reliable as they differ vastly depending on the source (Triodos, 2011).

While the SACCOS are growing, they remain **weakly regulated** by the Cooperative Societies Act of 2003. The Cooperatives Audit and Supervision Corporation is mandated to conduct an annual external audit of all SACCOS, but in practice, the MAFSC Registrar of Cooperatives supervises SACCOS only weakly. BoT would be better place to regulate the SACCOS as financial institutions (Triodos, 2011).

Weak regulation results in **unsustainable lending practices** and dramatic variations in the quality of services and management practices of SACCOS. SACCOS often take loans from commercial banks and repackage them into higher-risk, smaller loans for farmers, co-operatives, and traders. These SACCOS, emphasising loans over savings, suffer from low repayment rates, some as low as 30%, and face difficulties making timely debt payments.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Another common practice is to charge for savings accounts, which discourages savings. One SACCOS indicated that no deposit accounts accumulated interest, and that all deposit accounts were charged USD 0.2 per month unless a minimum deposit of USD 355 was reached (AgCLIR, 2010). The absence of risk-pooling mechanisms, combined with the geographic concentration of rural SACCOS' clients, increases the risk of failure. A SACCOS, commonly cited as one of the best-performing SACCOS, noted a 45% three-year average repayment rate for agricultural loans, coinciding with three years of insufficient rainfall that drastically reduced the production of its members who largely grow the same crops.

Various other **informal savings and credit groups** provide financial services in the agricultural sector. Village community banks (VICOBA) are village-based groups providing access to very thin credit lines to community members and using reputational risk and community-based enforcement mechanisms rather than formal agreements to guarantee repayment. As the staff works on a voluntary basis, they can provide a large amount of small value credit at low interest rates (5% compounded every three months), being competitive with commercial banks and SACCOS. Certain VICOBAs have established relationships with commercial banks. For example, CDRB has provided capital resources, institutional support and management training through VICOBAs. In addition, community conservation banks are supported by the World Wildlife Fund in various regions, as part of conservation programmes. Finally, 3 000 agricultural marketing co-operative societies (AMCOS), scattered in the whole country, are involved mostly in cashew nut, coffee, cotton and tobacco production and marketing and offer various financial services to growers.

### *Access to credit*

What types of financial products are offered to small and large agricultural investors? Do collateral requirements prevent some investors from accessing credit? Is there a credit information system?

Agriculture offers **large opportunities** for financial institutions. More than half a million agri-businesses would be commercially viable, representing a significant market potential. Furthermore, 90% of agribusiness owners would invest in production capacity to expand their business if they had surplus income, and 78% of them would save if they had access to financial services (AgFMIS, 2011).

However, access to credit remains a **serious constraint** for most large and small agri-businesses. With only 44% of the population having access to any financial service, Tanzania has one of the worst records in Africa. According to Triodos, in 2011, 8% of the rural population had access to formal financial institutions (banks and insurance companies), 4% to semi-formal institutions (mostly MFIs and SACCOS), 28% to informal institutions (community-based entities and service providers) and 60% was excluded from the financial system. According to AgFMIS in 2010-11, only 13% of borrowing agribusiness owners borrowed from banks, 16% from SACCOS, and 49% from friends and family.

In **the formal sector**, lending to agriculture remains low. While lending to agriculture by domestic commercial banks has tripled between 2005 and 2008, it has decreased by 9% between 2008 and 2009 from USD 431 to 354 million due to the global financial crisis (MAFSC, 2010). In 2011, only 13.7% of total credit went to agriculture, fishing, hunting and forestry (Table 5.7). Most credit went to personal loans (20.7%) and to trade (20.4%). In 2008, 92% of the domestic lending to agriculture went to agricultural trading, with only 8% going to agricultural production (SAGCOT, 2010a). Access to banks is mainly limited by distance (36% of unbanked business owners) and requirements (26%) but also by a lack of knowledge to open a bank account (16%) (AgFMIS, 2011). Indeed, the poor development of financial services in agriculture results not only from low supply, related to inadequate rural infrastructure, and thus high transaction costs and risks for financial institutions, but also from weak demand for such services, due to low levels of financial literacy (APRM, 2009). According to AgFMIS 2011, 24% of businesses who do not borrow cannot borrow because of a lack of knowledge about credit sources and ways to access them.

The lack of **collateral** remains a critical constraint to access credit. Commercial banks require a collateral covering 125% of the credit amount. The Land (Amendment) Act of 2004 allows the use of land as collateral. However, using land as collateral is often not an option as smallholders rarely have registered land rights and CCROs are not accepted (USAID, 2011). Bank officers indicated far greater confidence in their ability to enforce loans secured by movable property, bank accounts or future income, than those secured by land, because the former do not require resolution through land tribunals (AgCLIR, 2010).

Table 5.7. **Loan distribution by sector, 2008-12**

In percent

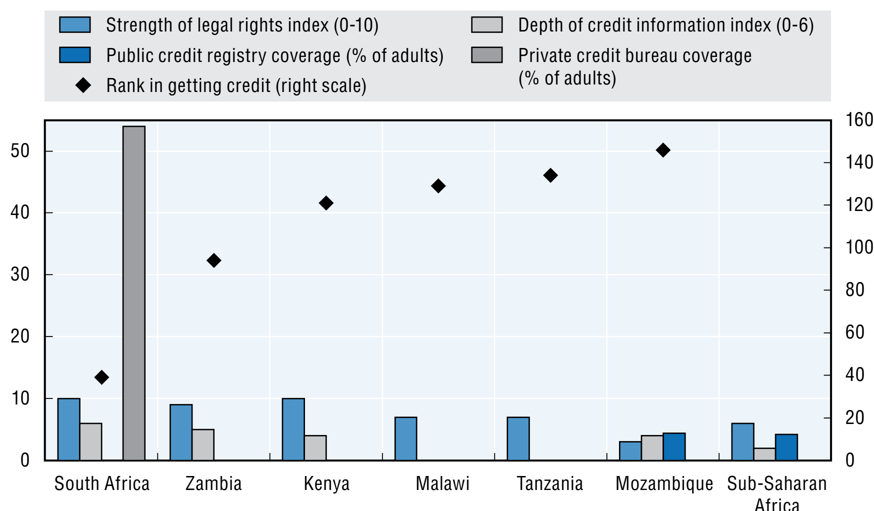
| Sector | 2008 | 2009 | 2010 | 2011 | Up to March 2012 |
|---|---|---|---|---|---|
| Agriculture, fishing, hunting and forestry | 10.5 | 10.3 | 13.0 | 13.7 | 12.9 |
| Building, construction and real estate | 5.0 | 5.0 | 6.1 | 8.3 | 8.7 |
| Education, health and other services | 11.5 | 10.8 | 6.7 | 5.0 | 4.7 |
| Electricity, gas and water | 4.7 | 4.6 | 4.9 | 4.6 | 4.5 |
| Financial intermediaries | 2.8 | 2.2 | 2.4 | 2.4 | 2.6 |
| Leasing | 0.3 | 0.1 | 0.2 | 0.2 | 0.2 |
| Manufacturing | 14.0 | 11.7 | 13.5 | 12.2 | 11.9 |
| Mining | 0.9 | 0.4 | 0.6 | 0.6 | 0.6 |
| Personal loans | 21.2 | 21.7 | 21.7 | 20.7 | 22.0 |
| Tourism, hotels and restaurants | 4.1 | 4.4 | 5.0 | 5.6 | 5.3 |
| Trade | 18.7 | 19.0 | 17.5 | 20.4 | 19.9 |
| Transport and communication | 7.3 | 9.3 | 9.2 | 7.4 | 7.9 |
| Warehousing and storage | 0.1 | 0.1 | 0.0 | 0.2 | 0.0 |

*Source:* BoT, March 2012.

Consequently, the **informal financial sector** remains the major source of financial services for agricultural investors, particularly in rural areas. Despite the considerable support given to microfinance in recent years, the impact of microfinance on access to financial services has been negligible. At the end of 2009, all MFIs had only 233 000 active borrowers and 357 000 depositors. In addition, MFIs have been lending at higher interest rates than commercial banks, averaging 30% (Triodos, 2011). SACCOS may have the greatest potential to expand credit supply to agriculture as they have an extensive presence in rural areas, rely on cheap branches unlike banks and MFIs, and are familiar with rural credit. Currently, they also have greater available funding than other informal institutions. However, 62% of them indicate that regulation hampers the delivery of financial services. They would need better training facilities and access to appropriate technology and risk management instruments to develop further (AgFIMS, 2011).

As a result, Tanzania is **poorly ranked** in terms of access to credit by the *World Bank Doing Business Report*, being ranked 134 while South Africa is ranked 39, Zambia 94 and Kenya 121. It has neither a public credit registry nor a private credit bureau (Figure 5.20).

Figure 5.20. **Getting credit in selected African countries, 2013**




*Note:* The higher the country's rank in getting credit, the less performing the country (out of a total of 185 countries).
*Source: Doing Business Indicators*, World Bank, 2013.

### *Policy measures*

How does the regulatory framework contribute to a well-functioning financial market for agricultural investors? Has the government taken any measures to facilitate access to credit, such as by providing credit guarantees, relaxing loan regulations or offering business development services?

The government has implemented **various policies and initiatives** to facilitate access to credit in the agricultural sector. Policies aim at expanding rural financial services, in particular by promoting microfinance development. The following initiatives have also been undertaken: opening an agricultural finance window at the Tanzania Investment Bank (TIB), establishing an agricultural bank and an agricultural input trust fund, regulating the warehouse receipt system, developing credit guarantees schemes, and setting up a credit reference bureau.

In terms of **policies**, the government formulated the National Microfinance Policy in 2000, which intends to: establish a framework for the development of microfinance operations; co-ordinate interventions; and describe the roles of implementing agencies and the tools to be applied (APRM, 2009). Consequently, the number of MFIs increased from 62 in 2002 to 86 in 2005, while MFI membership increased from 5 522 to 12 203 over the same period

(APRM, 2009). In addition, in 2006, the Bank of Tanzania Act and the Banking and Financial Institutions Act mainstreamed microfinance in the financial system, and allowed any bank to provide soft loans with low interest rates and more flexible repayment periods and collateral requirements (MAFSC, 2012). In 2008, the government enacted a Financial Leasing Act that supports the TIB in providing leasing financing. Finally, a BoT committee has co-ordinated the elaboration of a Rural Financial Services Strategy, based on a study conducted by FSDT, to improve and expand rural financial services. It has yet to be endorsed by the Cabinet and should be available by 2013 (MoF, 2012). A regulatory framework for a commodity exchange is also currently being developed and the commodity exchange should be established soon (PMO, 2012a).

In terms of initiatives and programmes, the **Tanzania Investment Bank**, a government-owned development bank, opened an agricultural finance window to provide short and medium term loans at concessional interest rates (5-8% against 15%) to agricultural investors, and in particular SMEs. By March 2012, TIB agricultural window had extended 81 loans worth USD 15 million, out of which 42 loans were extended to SACCOS, 32 to agri-business companies, and 7 to MFIs. While smallholders have the priority and benefit from a lower interest rate, they must have collateral. In FY 2012-13, the government plans to allocate USD 19 million to the TIB as a whole.

**Tanzania Agricultural Development Bank** (TADB) is being established as a major component of Kilimo Kwanza second pillar, to mobilise financial resources from the government, development partners, private financial institutions, and community-based organisations. According to Kilimo Kwanza business plan, TADB is to be formed as a private company registered under the Companies Act, with the government being the promoter and majority shareholder. As a financial institution, it should also seek BoT licensing. It will not be among the 32 commercial banks supervised by BoT, but rather a special bank playing a development role. Its main function would be to finance lending facilities for agricultural projects in commercial and community banks, SACCOS and MFIs, and to administer specific credit lines for agriculture on behalf of the government, BoT, and international lending institutions (Triodos, 2011). The government plans to allocate USD 25 million to TADB in FY 2012-13. China may also provide some financial support to launch it (AgCLIR, 2010).

At a small scale, the **Private Agricultural Sector Support Limited (PASS),** established in 2000 by the government with the support of DANIDA, provides business development services and funding to private commercial farms and related businesses. Per August 2010, PASS had assisted 6 500 farmers

and issued USD 5 million of loans to finance agricultural inputs and irrigation schemes. PASS also facilitates access to credit from commercial banks, including CRDB, NMB, TIB, Exim Bank and FBME Bank (Triodos, 2011).

An **agricultural input trust fund** (AGITF), established in 1994, has been issuing short term soft loans to individual farmers, stockists of agricultural and livestock inputs, district agricultural inputs trust funds, registered farmers' groups and water users' associations, and co-operative societies, such as SACCOS. AGITF covers five different types of loans, namely for fertilisers and seeds, tractors, power tillers, irrigation equipment, and tractor rehabilitation. Funds are channeled through community banks or SACCOS, and AGITF works with district agricultural officers to identify and assess applications. TIB selection criteria apply and include: 50 acres of collateral to get a loan for a tractor; contribution to 30% of the costs to receive a group loan; and applications dealt with on a "first come, first served" basis.

**AGITF performance** has improved, but the amount and value of loans issued remains low. As the repayment rate was only 25-30% up to 1998, the fund was stopped, but started operating again in FY 2001-02. The repayment rate reaches now 75%. If the loan is not repaid, the collateral can be sold by AGITF. Up to 50 cases are in court currently, and 20 collaterals have already been sold in 2012. Currently, the MAFSC funds most of the AGITF budget (USD 1.6-1.9 million in 2012). Around USD 2.2-2.5 million per year operate as a revolving fund, and available funds are growing slowly. From FY 2003-04 up to 30 March 2012, AGITF has issued the following loans: 744 loans for purchasing tractors worth USD 16 million, 1 639 loans for agricultural inputs worth USD 16 million, 216 loans for power tillers worth USD 884 121, and 273 loans for rehabilitating tractors worth USD 764 133. Out of USD 19 million of loan applications each year, only USD 6 million meet the criteria and USD 3.8 million are disbursed (MAFSC, 2012).

The **warehouse receipt system** could be quite efficient in providing credit to agricultural producers, but its coverage remains limited. The Warehouse Receipt System Act of 2005 and its regulations of 2006 provide the legal and regulatory framework for this marketing system that allows individual farmers, farmers' groups, associations and co-operatives to deposit their produce at a warehouse and be given in return up to 70% of the value of the deposited produce, the remaining portion being paid once the produce is sold. The produce value depends on the produce quantity and quality. The Warehouse Licensing Board, established in FY 2006-08, grants licenses to warehouse operators and inspectors and approves warehouse receipts books. In 2010, this board licensed 34 warehouses (over

500 metric tonnes) (AgCLIR, 2010). The system was successfully piloted for cashew nuts in Mtwara region in FY 2007-08, but the challenge is now to extend it to other crops, such as coffee, cotton and tobacco, and to ensure its sustainability (MAFSC, 2008).

To address the issue of lack of **collateral**, the government initiated MKURABITA, implemented from 2004 to 2007 (although still running on paper), to facilitate decentralised and cost effective registration of land and informal real estate and business assets (PMO, 2012a). A bill on using movable assets as collateral has recently been drafted by BoT. The Second Generation Financial Sector Reform Programme under BoT is also working on establishing a credit reference bureau. Related regulations appeared in the Gazette in May 2010 and the necessary equipment is being installed and potential users are being trained (PMO, 2012b). Data is also collected from financial institutions and could be used by private credit bureaus. The Tanzania Bankers' Association plans to develop a credit bureau using this data once it is available.

As regards **credit guarantees**, over 80% of existing credit guarantee schemes are devoted solely to agriculture. They include in particular the government-owned export and the SME credit guarantee schemes (Section 3.6 for further details), PASS, Rabobank Sustainable Agriculture Guarantee Fund (SGAF), and ARIZ funded by the French Development Agency. The SME credit guarantee scheme, established in 2004-05 and managed by BoT, is particularly relevant for the agricultural sector. Up to now, 22 commercial banks have signed deals with BoT – although only 11 are actively using the guarantee – and individual loans currently guaranteed under the scheme amount to USD 7.8 million. The National Microfinance Bank (NMB) has successfully used this scheme to provide pioneering warehouse receipt services to cashew farmers. NMB has strengthened its experience in SME funding by using this scheme and can now extend loans to SMEs without using it. NMB's current lending portfolio to cashew farmers has increased to around USD 37 million, against only USD 3 million prior to the scheme. However, banks that have not signed up to the scheme expressed concerns about its implementation, including: unclear administrative processes and claims procedures; difficulty to settle disputes with BoT; doubt about the available funding; and risk of the scheme being removed with a regime change, leaving some defaulted loans not reimbursed. This scheme has been suspended in 2008 but should be reactivated.

As for **portfolio guarantees**, they are relatively new but are growing. Providers with active guarantees include Growing Africa's Agriculture (AGRA)

through Kilimo Kwanza and FSDT, and USAID Development Credit Authority. Guaranteed lending currently amounts to USD 54 million, and estimated use to date to USD 20 million.

While **agriculture insurance** is crucial to help farmers mitigate risks, it is almost non-existent in Tanzania, beyond specific insurance products offered by private insurance companies to large agri-businesses. The insurance sector has only penetrated about 1% of GDP in terms of premiums. To address this challenge, the government has launched a trial service of crop insurance in June 2012, as a first step towards a full-fledged crop insurance. The pilot project is underway in Kilimanjaro and Manyara regions, and BoT and the Tanzania Insurance Regulatory Authority are finalising the formation of a special unit to oversee the establishment of such insurance services, with the support of the World Bank. The main beneficiaries would be food crop producers.

In addition, CRDB is using risk management instruments for its clients in the agricultural sector, in particular by developing hedging strategies. The first transaction took place in 2004 by guaranteeing a minimum price to a cotton client through the purchase of a put option on the international market. Microensure, an insurance intermediary dedicated to serving poor households, is also developing a weather insurance index, managed by SIDO and cushioning sunflower farmers against weather vagaries in Handeni district. Six automated weather stations, equipped to measure rainfall, temperature, humidity and wind speed, have already been earmarked for the programme (The Citizen Correspondent, 1 October 2012). As for financial services, access to insurance is not only also constrained by low supply but also by weak demand, resulting from a lack of knowledge about how to access insurance (40% of uninsured businesses) and how it works (39%) (AgFMIS, 2011). Policies aiming to develop and expand insurance mechanisms should thus consider these two complementary dimensions.

### *Human resources*

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Do the education system and public extension services meet the human resource needs of agricultural investors? What efforts are made to improve the access to, the quality and the effectiveness of extension services?

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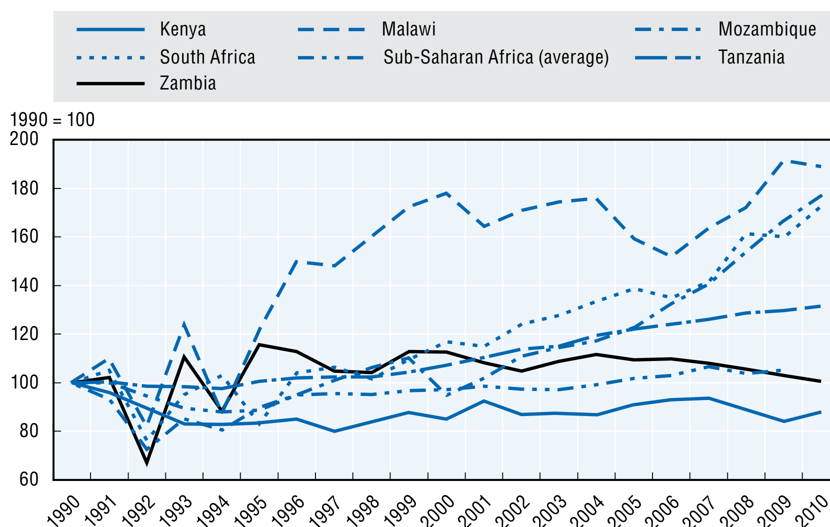
After analysing labour productivity growth over the past two decades, this section examines existing policies to provide agricultural extension services, and thus increase labour productivity.

Over the last two decades, **labour productivity** growth in agriculture in Tanzania was stronger than in Kenya and Zambia, but weaker than in

Malawi, Mozambique, and South Africa (Figure 5.21). As total employment in agriculture has increased since 1990, this growth has been driven by agricultural production growth.

Figure 5.21. **Labour productivity in agriculture in selected African countries, 1990-2010**




*Note:* Labour productivity is calculated as the value added in agriculture per unit of agricultural labour.
*Source:* WB WDI, 2012.

Although the demand for extension services has been increasing both in quantity and quality, **extension services have been reduced**, in particular following the decentralisation of agricultural extension to LGAs that was not associated with sufficient transfer of funds. With the Local Government Act No. 6 of 1999, MAFSC function as regards extension services was reduced to providing technical support to LGAs. Its entire field staff was transferred to LGAs, thus reducing its involvement and undermining its capacity to co-ordinate services. Furthermore, in 2005, ASDS rationalised MAFSC role and functions, and significantly reduced its staff. MAFSC extension staff comprises now 52 extension workers, managed by 13 senior staff. Only four of them hold a Master of Science degree and 10 a bachelor degree. The rest of the staff holds a 2-3 year agriculture diploma.

Under the MAFSC, various **agricultural training institutes** keep training extension staff, including:

- The Training Institute of Ukiriguru, the oldest agricultural institute of Tanzania managed by MAFSC Department of Research and Training, that aims at implementing MAFSC policies by training agricultural technicians and farmers in improved agriculture and community development.
- Sokoine University of Agriculture training graduates in agricultural development.
- The Kilimanjaro Agricultural Training Centre (KATC) offering specialised short courses in agriculture, including practical trainings and field tours to field staff and farmers, with an emphasis on irrigated rice farming.
- The Research and Training Institute of Uyole, established in 1970 as part of the joint agriculture training and research project with Nordic countries, providing short and long-term trainings in agriculture at certificate and diploma levels (PM0, 2012a).

Over the last five years, **the number of trained extension officers has increased,** but does not meet existing needs. In 2012, the MAFSC assigned more than 2 000 extension workers to LGAs (PMO, 2012a). In FY 2011-12, it aimed at enrolling 3 500 students as extension workers to reach the certificate and diploma level (MAFSC, 2012). The government has also strengthened MAFSC training institutes and farmers' training centres by rehabilitating the buildings and retooling the staff (SADC, 2010). As of July 2012, a total of 7 974 extension officers were posted in local authorities and an additional 651 extension officers were stationed at local authority headquarters (MAFSC, 2012). However, interviews suggest that no more than one or two extension officers support each district, each covering over 500 households. The government intends to increase the number of extension workers to 11 000, but this would still require each extension worker to deal with more than 100 households (AgCLIR, 2010).

At the district level, the absence of **transport facilities** hinders efficient service provision by extension officers who must cover vast areas and a large number of villages. For instance, in 2008, only 20 vehicles, 88 motorbikes and 108 bicycles were available in the nine districts visited, with respectively 60%, 39% and 89% of them in bad condition. In contrast, at least two vehicles, 46 motorbikes and 38 bicycles would be needed per district on average (MAFSC, 2008).

While the main **training approach** is still based on a traditional model of technology transfer from experts to farmers, the training of trainers (ToT) approach has already proved successful, with 930 farmers trained as trainers and 69 750 acquiring knowledge through this approach. KATC has introduced this approach in paddy irrigation schemes, increasing

production from 2 to 6 tonnes per ha. About 6 711 Farmer Field Schools (FFS) of around 20-25 farmers each also operate in Tanzania, relying on participatory training methods incorporated in DADPs. In Mkindo village (Mvomero District), the FFS approach contributed to increase rice production from 2.5 to 6 tonnes per ha. In addition, 166 Ward Agricultural Resource Centres (WARCs) have been constructed through DADPs to provide agricultural information to farmers, extension workers and the public. These centres are managed by farmers at the ward level. They can become meeting centres, allowing farmers to share experience and expertise with researchers and extension workers (SADC, 2010).

Strong **farmers' organisations** can increase farmers' income by strengthening the integration of value chains. TIC records show that over 90% of FDI in agriculture reached crop sub-sectors where smallholders were organised, for instance via smallholder co-operatives or integrated producers' schemes. Such schemes currently exist for sugarcane, tea, sisal, and dairy production and allow for extension services provision by large agri-businesses and trading companies (Msuya, 2007). However, most existing farmers' organisations still lack the education and experience needed in price negotiations with experienced international buyers. Individual farmers are often willing to accept the relatively low prices offered by buyers coming to the village, especially when cash from the last harvest has already been used. Strengthening existing farmers' organisations should thus be a priority of extension services as an effective way to improve farmers' incomes.

Although human resource development remains a core function of the government, the provision of extension services by **the private sector** is encouraged, in particular in the production of beef, dairy, poultry, small ruminants, horticulture, and tobacco. Prior to 1999, the important government role in extension services provision did not provide room for co-ordinating with private companies and non-profit agencies that provided extension services. As the public sector has gradually withdrawn from the provision of agricultural services and from the control and ownership of major means of production, the private sector and NGOs have increasingly participated in agricultural production, processing and marketing, in particular by developing extension services. The private sector provides such services mainly for cash crops, especially coffee, tea and tobacco (AgCLIR, 2010).

### *Research and innovation*

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Are agricultural research and development (R&D) institutes adequately funded and staffed? Are there measures to encourage regional R&D collaboration? Has the government taken specific measures to promote linkages between agricultural extension and R&D? Is private sector participation encouraged?

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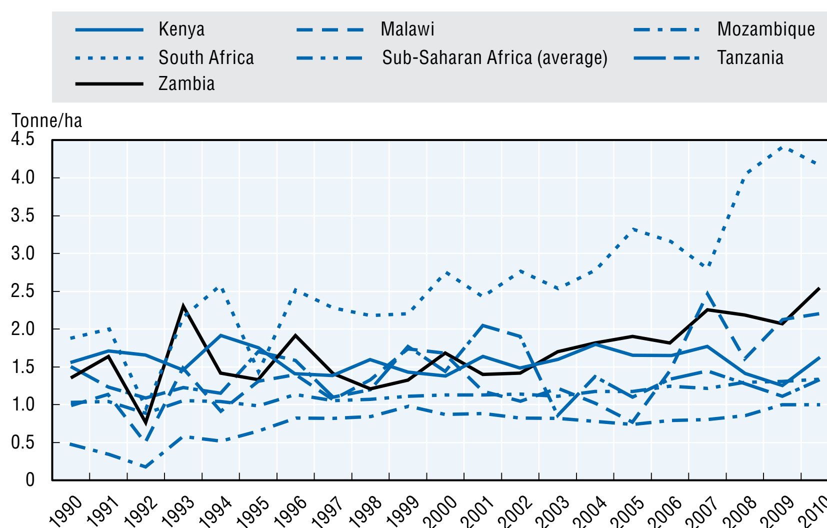
After analysing crop yields in Tanzania over the past two decades, this section briefly describes existing R&D institutions, reviews recent trends in R&D public expenditures and provides an overview of R&D regional programmes.

Despite recent efforts, **agricultural yields** remain low in Tanzania. MKUKUTA aimed to increase agricultural growth from 5% in 2002-03 to 10% in 2010, in particular by improving access to research. ASDP intends to enhance farmers' access to and use of existing agricultural technologies through farmers' empowerment to increase demand and agricultural service provision (PMO, 2012a). Despite these objectives, cereal yields in Tanzania have not increased over the last two decades, while they have significantly increased in Zambia and South Africa (Figure 5.22). In 2010, cereal yields were lower than in these two countries but also than in Kenya and Malawi. According to MAFSC in 2008, crop yields in Tanzania would reach only between 20 and 40% of their potential. As for livestock, commercial breeds represent only 2% of the beef cattle against 98% of indigenous Zebu. Consequently, milk yield is very low at less than 400 litres per lactation (TIC, 2008).

**Public agricultural R&D** is co-ordinated by the Department of R&D of the MAFSC (DRD). It aims to increase agricultural productivity by generating client-oriented technologies. DRD has a network of 22 major research stations and sub-stations in the seven agro-climatic zones, including seven zonal agricultural R&D institutes. It develops and disseminates new technologies through this network, in collaboration with LGAs. Technology is transferred first from research institutes to extension workers, in particular Village Agriculture Extension Officers (VAEO), through trainings. It is then transferred to farmers' groups through farm visits and Farmer Field Schools. DRD also administers the Tengeru Horticultural Research and Training Institute created in 1975, and the Selian Agricultural Research Institute established in 1980 by the Canadian International Development Agency as part of the Tanzania-Canada wheat project to provide research support to Hanang wheat farms. Since 1989, the Selian Institute has been designated as zonal

Figure 5.22. **Cereal yields in selected African countries, 1990-2010**




*Source:* WB WDI, 2012.

headquarters for R&D and training for the Northern zone of Tanzania (PMO, 2012a). Academic institutions are also sub-contracted to conduct research and provide trainings.

To facilitate technology transfer, the government has strengthened **linkages between R&D and extension services** by improving the management and increasing the funding of the zonal agricultural R&D institutes, and by implementing a client-oriented R&D management approach (CORDEMA). These initiatives aim to build greater farmers' influence into the choice of research programmes and to improve research monitoring. The government has also strengthened Zonal Information and Extension Liaison Units (ZIELUs) in each of the seven agro-ecological zones. The ZIELUs are based within each zonal agricultural R&D institute to disseminate agricultural knowledge and information, and to strengthen research-extension-farmer linkages, linking downward with LGAs, farmers' groups and networks, and upward with ASLMs (SADC, 2010).

The government has significantly increased expenditures on agricultural R&D over the last decade (Figure 5.23). According to Agricultural Science and Technology Indicators (ASTI), Tanzania is **one of Africa's big eight** along with Nigeria, South Africa, Kenya, Ghana, Uganda, Ethiopia, and Sudan, i.e. one of the countries driving regional growth in agricultural R&D spending. Agricultural R&D spending has increased by USD 48 million from 2001 to 2008, one of the

biggest increases in Sub-Saharan Africa after Nigeria and Ghana, with an average annual growth rate of 10% over this period. While the agricultural R&D system has traditionally been highly dependent on donor funding with considerable fluctuations, the share of government funding has significantly increased from 25.5% to 59.7% between 2000 and 2008, while the share of donor funding decreased from 55.9% to 29.4% over the same period. Most R&D growth has taken place in the higher education sector, with DRD spending on salaries remaining relatively stable since 2001 (ASTI, 2011).

In contrast, the **research intensity ratio** (i.e. agricultural research spending relative to agricultural GDP) has remained very low over the last decade, averaging 0.3 over the period 1996-2008, against 1.3 in Kenya or 2.6 in South Africa (Figure 5.24). In 2008, there were only 42 public agricultural research staff per million agricultural labourers against 67 in Zambia, 79 in Kenya, and 622 in South Africa (ASTI, 2011). Furthermore, R&D staff is not particularly well-trained. In 2008, the share of public research staff with PhD was 25%, against 34% in Kenya and 46% in South Africa; the share of public research staff with postgraduate degrees was 71%, against 83% in Kenya and 88% in South Africa. R&D staff focus might not allocated efficiently as 52% of researchers were working on crop development against only 16% working on livestock, although livestock generates up to 25% of agricultural GDP (ASTI, 2011).

Improved regional co-operation in agricultural R&D can help address these weaknesses. The **First Agricultural Productivity Programme for Eastern Africa** 2009-2015, partly funded by the World Bank, aims at: enhancing regional specialisation in agricultural research by establishing regional centres of excellence (Tanzania will focus on rice, Uganda on cassava, Kenya on dairy, and Ethiopia on wheat); increasing collaboration in agriculture training; and facilitating the transfer of agricultural technology, information, and knowledge across national boundaries. In particular, it intends to improve the availability of seeds and livestock germplasm by supporting seed multiplication, strengthening the enabling environment for regional seed and breed trade, and improving the capacity of seed and breed producers and traders.

Similarly, the **Association for Strengthening Agricultural Research in Eastern and Central Africa** (ASARECA) promotes regional collaboration to produce technologies, knowledge and innovation systems as sub-regional public goods. It is a sub-regional not-for-profit association established in 1994 by ten member countries,[4] represented by their national agricultural R&D institutes. It covers seven programmes: staple crops, high-value non staple crops, livestock and fisheries, agro-biodiversity and biotechnology, natural resource management and biodiversity, policy analysis and

Figure 5.23. **Agricultural R&D spending, 1996-2008**
Constant 2005 USD

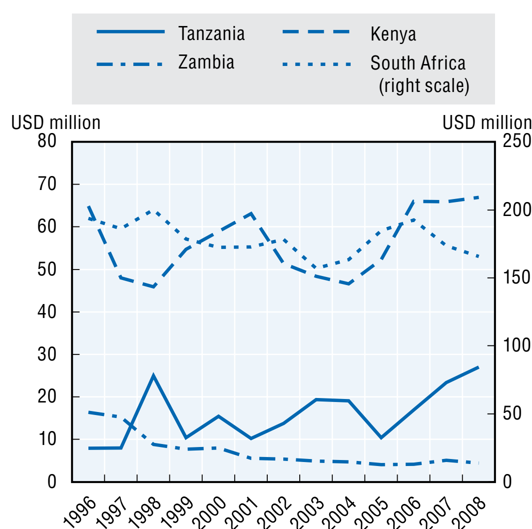
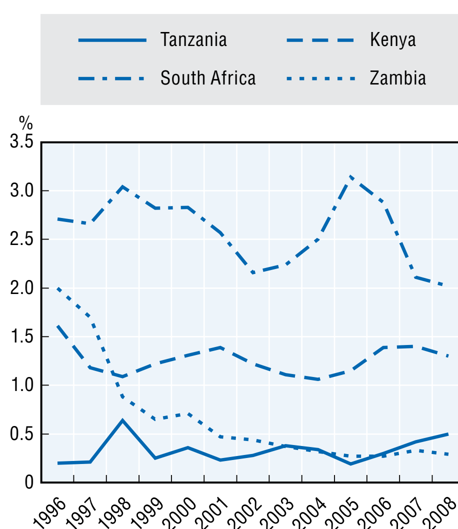



Figure 5.24. **Agricultural R&D intensity ratios, 1996-2008**




*Source:* ASTI, 2011.

advocacy, and knowledge management and upscaling. ASARECA is working with CAADP country teams to accelerate country roundtable processes.

The active participation of the **private sector**, co-operative societies, and crop boards in R&D is encouraged. Indeed, the National Agricultural Policy of 1983 was replaced by the Agricultural and Livestock Policy of 1997, which allowed for more private sector involvement in R&D, and led to the creation of private research institutes, including the Tea Research Institute of Tanzania (TRIT), the Tobacco Research Institute of Tanzania (TORITA) and the Tanzania Coffee Research Institute (TACRI). Furthermore, patenting for seed producers has been legislated in 2002 to foster further research. The private sector is also allowed to produce, distribute, and market seeds.

### *Trade*

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What recent efforts has the government undertaken to facilitate agricultural trade? Are there any administrative, fiscal or regulatory barriers hindering agricultural trade? Has the government entered into bilateral or regional trade agreements?

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Trade policies can support more and better agricultural investment by expanding opportunities for scale economies, facilitating the integration into global supply chains and boosting productivity and rates of return on investment. This section examines the characteristics of current agricultural trade and highlights existing trade policies that may hinder investment in the sector.

While the value of crop exports has increased in recent years, Tanzania still offers a large potential to increase crop export earnings further. The **export value** of cashew nut, coffee and cotton has been increasing since 2003 (Figure 5.25). Between 2008 and 2010, traditional export crops contributed on average to 16.5% of total goods exports and their value increased by 25% – from USD 347.5 million in FY 2008-09 to USD 433.5 million in FY 2009-10 – due in particular to the increase of tobacco world prices. For the fifth year in 2009-10, tobacco was the main source of foreign currency earnings (MAFSC, 2010). In contrast, the value of food crop exports has been declining since 2003 (Figure 5.26).

While the export value of cash crops has increased in recent years, **export volumes** of such crops have declined or are marginally above the volumes of 1990. Interestingly, the volume of crop board export commodities (cashew nut, coffee, cotton, pyrethrum, sisal, sugar, tea and tobacco) have grown by 22% only over the period 1990-2008, against 218% for non-crop board commodity exports. However, this difference may be due not only to regulatory restrictions imposed by crop boards but also to non-tariff barriers imposed by importing countries.

Measures to **liberalise trade** were taken in the early 1980s. The National Trade Policy of 2003 aims to stimulate trade development by increasing market access through improved market infrastructure and dissemination of market information. The agricultural marketing systems development programme initiated in 2005 also intends to improve market access, in particular by supporting agricultural marketing policy development, empowering producers, developing market linkages, providing financial services, and establishing rural market infrastructure. Tanzania has also participated in a number of international trade agreements and negotiations in both multilateral and regional frameworks, and established Export Processing Zones (Sections 3.5 and 3.6 for further details). As a result, Tanzania is well placed in terms of the time and the costs to import and export compared to neighbouring countries (Figures 5.27 and 5.28).

Figure 5.25. **Export value of major exported cash crops, 2003-10**

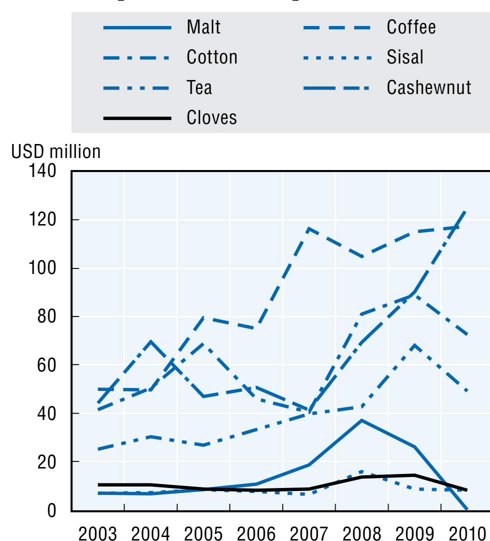
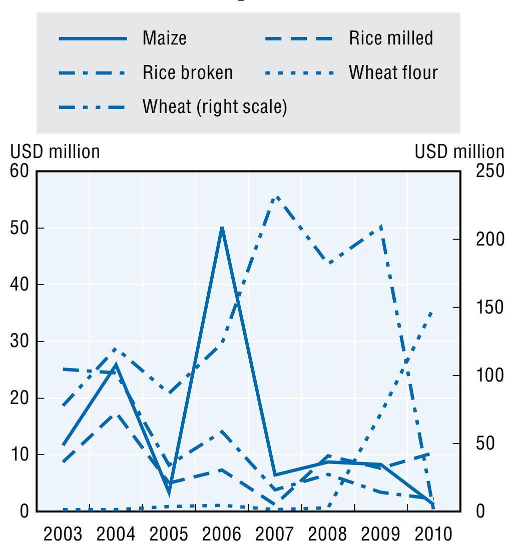



Figure 5.26. **Export value of major exported food crops, 2003-10**




*Note:* Although tobacco is a major export cash crop, data is missing and is not included in Figure 5.25.
*Source:* FAOSTAT, based on TRA data.

However, **trade flows can still be hindered** across some borders. For instance, good clearance at the customs office of Namanga border is quite long as the maintenance of newly installed technologies is claimed to be difficult. This border is particularly important for producers and traders transporting their produce to Jomo Kenyatta international airport and purchasing agricultural inputs from Kenya. Producers must sometimes wait for more than 24 hours at the border with their truckloads. If the new technology is not reliable enough, a backup system could be set up to avoid delays generating high losses (TAHA, 2012).

Furthermore, periodic **export bans** on maize and rice may prohibit access to larger and often closer regional markets, thereby lowering domestic prices, and reducing farmers' incentives for investments that can increase long-term supply. For instance, an export ban on maize was in place from July to December 2011 to ensure sufficient domestic supply. Maize farmers, traders and millers noted that the ban created negative effects as domestic maize farmers lost an opportunity to sell their output in export markets that may have offered higher prices, and flooded the domestic market, further suppressing domestic prices relative to regional prices. These lower prices eventually prompted some maize farmers to shift to less profitable crops (AgCLIR, 2010).

Figure 5.27. **Time to export and import, 2011**

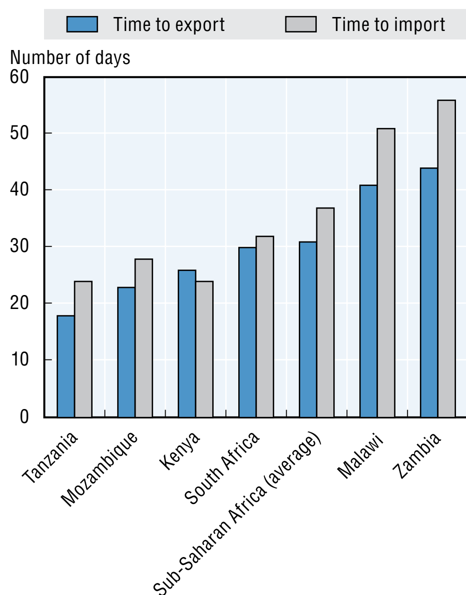
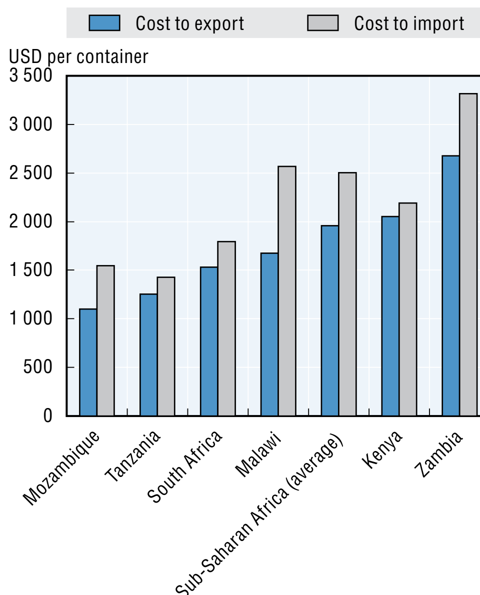



Figure 5.28. **Costs of trade, 2011**




*Note:* The **time** calculation for a procedure starts from the moment it is initiated and runs until it is completed. Sea transport time is not included. It is assumed that neither the exporter nor the importer wastes time and that each commits to completing each remaining procedure without delay. Procedures that can be completed in parallel are measured as simultaneous. But it is assumed that document preparation, inland transport, customs and other clearance, and port and terminal handling require a minimum time of 1 day each and cannot take place simultaneously. The waiting time between procedures – for example, during unloading of the cargo – is included in the measure. **Cost** measures the fees levied on a 20-foot container in USD. All the fees associated with completing the procedures to export or import the goods are taken into account. These include costs for documents, administrative fees for customs clearance and inspections, customs broker fees, port-related charges and inland transport costs. The cost does not include customs tariffs and duties or costs related to sea transport. Only official costs are recorded.
*Source: Doing Business Indicators*, World Bank, 2011.

Similarly, **export taxes** can limit investment. Export taxes are imposed on raw cashew nuts to support domestic agro-processing and increased from 10% to 15% in FY 2009-10. Although export taxes can be used to invest in public goods and thus foster agricultural investment, they may negatively impact investment in cash crops in the short term. Their costs and benefits should thus be assessed. In addition, the government unilaterally imposed VAT on horticultural exports in 2010 without consulting the industry (AgCLIR, 2010).

Trade regulations hinder not only cross-border trade but also **domestic trade**. As mentioned above, crop boards impose significant restrictions on domestic cash crop trade. District councils may also undermine such trade. An extension service near Arusha noted that district councils tightly controlled the number of

licenses issued for transporting goods into and out of the districts, thus limiting the number of traders and increasing transport costs (AgCLIR, 2010).

At the **regional level**, Tanzania is a member of the East African Community (EAC) and the Southern Africa Development Community (SADC). EAC aims at strengthening economic integration of EAC countries, including by facilitating trade, while SADC intends to establish a free trade area within SADC countries (Section 2.6 for further details).

## 5.4. Responsible investment in agriculture

Large-scale private investments in agriculture can bring the necessary expertise, financing capacities and marketing networks to enhance the competitiveness of agricultural production and value chains. They can lead to employment creation, particularly through backward and forward linkages and multiplier effects. However, these large-scale investments can also have adverse social and environmental impacts. Policies, laws, and regulations must be well-designed and effectively implemented to ensure that investors behave responsibly and bring both economic and social benefits to the host country at the national and local levels, while guaranteeing a sustainable use of natural resources.

After defining responsible business conduct (RBC), this section analyses two major inter-related challenges faced by Tanzania to encourage responsible investment in agriculture, namely social sustainability and environmental management.

**RBC** entails compulsory compliance with internationally recognised standards and domestic laws and regulations, such as those on human rights, environmental protection, labour rights, financial accountability, competition and taxation. It also implies responding to societal expectations communicated by channels other than the law, e.g. via NGOs, local communities, and trade unions. Private voluntary initiatives addressing this latter aspect of RBC are often referred to as corporate social responsibility. In order to promote recognised RBC concepts and principles, such as those recommended in the OECD Guidelines for Multinational Enterprises, public policies should provide an enabling environment which clearly defines the respective roles of and promotes dialogue between government, business and civil society.

RBC relies on **wide stakeholder consultations** to formulate laws and design policies. In Tanzania, draft agricultural regulations are first discussed among stakeholders and ASLMs are deeply involved (PMO, 2012a). Once comments have been incorporated, regulations are sent to the Attorney General for vetting, and the responsible Minister signs them before they are published in the

Government Gazette. Policy formulation also involves concerned stakeholders, including donors. The legislation provides for stakeholders' fora to be used as decision-making bodies in specific sub-sectors and as mechanisms for LGAs preparing by-laws for implementing regulations at the local level. Agricultural laws and policies are publicly available in government bookshops, at MAFSC legal unit, at the Attorney General's Chamber, at crop boards, at district authorities, and on their respective websites. Most of them are accompanied with guidelines and/or operational manuals to facilitate implementation. Translation of these documents into Swahili is progressing (MAFSC, 2012).

### *Social sustainability*

What laws and regulations do govern RBC in agriculture, in particular as regards tenure rights over natural resources and labour standards? What mechanisms are in place to ensure that local communities can: access timely and accurate information on large investments affecting them; negotiate with investors; and ensure equitable benefit-sharing arrangements?

The social sustainability of large-scale investments relies on the active involvement of local communities from the outset and on a fair distribution of the economic benefits between private companies and these communities. Social sustainability allows investors to harvest long-term benefits of their investments. First, this section looks at land rights issues and examines existing business partnership models between large investors and smallholders as mechanisms to ensure that local communities benefit from capital inflows, technology transfer and backward and forward linkages brought by large investors. Second, it examines existing labour standards in Tanzania and their enforcement in agriculture.

Clear and secure **land rights** are a necessary condition to ensure that local communities benefit from large-scale investments. However, low land rights registration levels, the weak implementation of land laws leading to their circumvention by government officials and some investors, and the significant power granted to the President over land allocation, raise concerns about the fairness and transparency of land allocation to investors (Box 5.4). Even if customary land rights have been strengthened in the legislation, they are often not recognised in practice, in particular on pastoral lands which can thus be easily redistributed to large investors. As the TIC land bank does not offer appropriate land for investment, investors identify themselves "unused" village land over which villagers may in fact have customary land rights, despite not being officially registered. In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addition, the President can resort to compulsory land acquisition for the public interest or for investment purposes for village land areas above 250 ha, thus overriding existing rights of occupancy. After land is transferred from village to general land, the land reverts to the TIC once the investor ends production and not to villagers who previously owned the land. Of most concern is the high risk taken by communities when payments for land acquisition are to be made only once investors have obtained formal land titles, i.e. once land has already been transferred to general land (Section 5.2 for further details).

While the VLA and the Law of Contract state that local communities should be involved in contract negotiation with investors through village councils, **consultations** between investors and villagers on land allocation are often neither transparent nor inclusive. Action Aid Tanzania studies find that consultations with villages are often reduced to one meeting where agreements can be made without contracts, and that project scopes are defined before meeting with villagers who have thus little influence on the negotiation. Corruption and a lack of transparency are frequent before and after reaching an agreement, in particular due to information asymmetries. Villagers often make a decision based on information received from the investor and are rarely informed of possible negative consequences, which does not fulfill the conditions for free, prior and informed consent. While investors are familiar with the investment process and guided by the TIC, villagers are often illiterate and do not have access to relevant documents nor are aware of their rights, in particular due to the lack of land use plans. None of the villages visited possessed a written contract stating the amount of land given to the investor. Finally, most villagers do not have the financial means or sufficient knowledge of the legal system to pursue their cases (Theting, 2010).

These challenges are even more **important to address** as food prices are likely to remain on a rising trend and agriculture will attract further large-scale investment. In particular, countries with limited arable land and freshwater resources will continue to invest heavily in agricultural production to secure their food supply, mainly by leasing or buying arable land in countries offering abundant agricultural land, such as Tanzania.

In this context of insecure land rights, **partnerships** between large investors and smallholders, such as contract farming arrangements or equity-based joint ventures, can allow large-scale investors to access land while increasing collaboration with local communities, thus enhancing social sustainability. The Crop Law has been amended and the Cereals and Other

Box 5.4. **Land allocation to Sun Biofuels**

Muhaga Village, one of the 11 villages leasing land to Sun Biofuels, allocated 1 500 ha to Sun Biofuels, out of a total of 5 000 ha of village land. Despite the fact that two consultative meetings were organised to agree on land allocation (oral agreement on the investment in the first meeting, and additional information received from Sun Biofuels in the second), villagers felt that the project was already agreed upon between the government and Sun Biofuels before these meetings. Furthermore, as a Member of Parliament was present at meetings, downward pressure was exerted on the village council. Villagers have requested a copy of the contract, but have not received it yet.

Due to the lack of land registration, villagers had to self-report their land rights to Sun Biofuels to determine payments. Thus, Sun Biofuels could not control who had rights to payments, and several villagers felt they were not adequately paid for giving up their land rights. In addition, the price of land was not negotiable and estimated by Dar-Es-Salaam university representatives, providing space for underestimating it.

*Source:* Theting, 2010.

Produce Act enacted to ensure that smallholders obtain maximum benefits from contract farming arrangements.

In particular, the cashew nut board issued the Cashew Nut Industry Act No. 18 of 2009 regulating **contract farming** in this sub-sector. The contract between a registered cashew nut farmer and a cashew nut financier, buyer, processor or any person interested in sponsoring cashew nut production and marketing, must be in the prescribed standard form and contain: the names, addresses, and status of the registered farmer and the financier; obligations of the parties; type of facilitation granted to the farmer; and terms and conditions imposed on the farmer. Every contract must be submitted to the cashew nut board for perusal, approval and registration. Any person supporting a registered cashew nut farmer must sign such a contract. A contravening person can be fined at least USD 3 800 and/or imprisoned from six months to two years. The board has the mandate to monitor contract implementation to protect the interests of both parties (CNB, 2009).

The number of farmers engaged in contract farming has **increased** over the years as farmers have seen the benefits of such schemes. Successful examples can be cited (Box 5.5). According to data collected from LGAs, 1.2 million smallholders were involved in contract farming in 2009-10 (defined

as a partnership between smallholders and an agri-business company for the production of commercial products detailed in formal contracts) and 1.6 million in outgrower schemes (defined as a partnership that may not involve formal contracts). Farmers engaged in contract farming are located in 14 regions, with most of them located in Tabora, Mara, Ruvuma, Mbeya, Iringa, Kigoma and Shinyanga. Farmers involved in outgrower schemes are present in nine regions, with most of them in Iringa. Their number is growing in regions producing cash crops, such as coffee and sugar cane (MAFSC, 2010).

Such partnership models can be strengthened and expanded by the recent endorsement of international guidelines on land tenure. By signing the New Alliance for Food Security and Nutrition in September 2012, G8 members, the government of Tanzania and the private sector, confirmed their intention to take account of the Voluntary Guidelines on the **Responsible Governance of Tenure of Land, Fisheries and Forests** in the Context of National Food Security, adopted by the Committee on World Food Security in May 2012, as well as the Principles for Responsible Agricultural Investment (PRAI) endorsed by the G8 and G20. They intend to work together to develop pilot programmes to implement these guidelines and principles, which would help designing and disseminating successful models of partnerships between large investors and smallholders in Tanzania.

Box 5.5. **Successful partnership models**

**Sugar production**

Four private companies, Mtibwa Sugar Estates, Kilombero Sugar Company Limited (KSCL), Kagera Sugarcane Estates and Tanganyika Plantation Company, supply almost all domestically produced sugar cane. Domestic sugar cane production has been growing at a much faster rate since 2000, as a result of the privatisation of these sugar cane estates and the adoption of outgrower models. Smallholders' sugar cane production increased from 0.9 million tonnes in 1999-2000 to 1.6 million tonnes in 2004-05, accounting for 68% of the domestic production in 2004-05. In 2006, Mtibwa Sugar Estates and KSCL were partnering with about 14 000 smallholders.

Box 5.5. **Successful partnership models** *(cont.)*

KSCL is a well-known example of successful contract farming. Privatised in 1998, it is currently owned by the South African company Illovo Sugar (65%), the Tanzanian government (25%), and the UK-based sugar trading company EDF&Man (20%). At first, farmers supplying KSCL faced several impediments to expand production: lack of access to finance, health, education and technology; limited infrastructure; skills deficiencies; weak representation; and high farm plot fragmentation (average plot size of 0.8 ha per outgrower) To address these constraints, KSCL established systems to interface with its suppliers, including an outgrower department, and supported infrastructure development and bulk input supply. The cane supply agreement signed between KSCL and cane growers was developed over 3 years and through 50 meetings. It describes the payment mechanism and the division of proceeds and is reviewed every three years. KSCL also became actively engaged in community development and has invested over USD 3.5 million since 1998 in community projects, in particular by establishing the Kilombero Community Trust in 2001 funded by the profits earned from leasing 1 200 ha of land for cane farming.

Furthermore, KSCL joined a partnership in 2002 with the International Finance Corporation (IFC) and the Africa Project Development Facility, to increase the tonnage produced by cane growers. The partnership convened a multi-stakeholder team involving representatives from outgrower associations, the local business community, KSCL and the local government. Donor-funded training programmes on agriculture, business and leadership helped build farmers' capacities. DANIDA and IFC served as loan guarantors for farmers. An outgrower road fund and the Swiss Agency for Development and Cooperation supported infrastructure development. Over the first two years of the partnership, the number of outgrower farms increased from 2 760 to over 5 000, cane production area grew by 43.7% and the annual harvest tonnage by 42.5%.

Currently, KSCL sugar cane supply comes from 10 000 ha of estate land and 13 000 ha of outgrowers' land, but outgrowers' productivity remains much lower than estate productivity: 40-42 tonnes per ha against 90-100 tonnes per ha. While KSCL supplied inputs and trainings to outgrowers and was involved in planting and harvesting at the start of the project, outgrowers are now considered as independent enterprises. KSCL targets to pay 60% of the proceeds to outgrowers, against only 56% currently. KSCL may build another sugar plant if irrigation systems are expanded to improve outgrowers' productivity.

Box 5.5. **Successful partnership models** *(cont.)*

**Tea production**

Since 1995, Tanzania Tea Packers Limited (TATEPA) has been engaged in tea growing, processing, blending, marketing and distribution. It is the largest domestically-owned private company and the third largest on the stock exchange, with 2 000 shareholders and 200 employees. In Rungwe, its subsidiary company, Wakulima Tea Company (WATCO), has built a Company (WATCO), has built a successful partnership with smallholders. Through the Rungwe Small Tea Growers Association, Rungwe smallholders own 25% of WATCO shares. The yields of the 15 000 tea producing smallholders involved in this scheme have improved consistently and significantly since 2000, increasing from 1 to 5 tonnes per ha over the period 2000-04, with tea quality meeting WATCO's standards. These yields could increase further to reach yields of tea estates averaging 9 tonnes per ha.

**Rice production**

Kilombero Plantations Ltd (KPL), the Tanzanian subsidiary of the UK-based company Agrica, is developing 5 818 ha of rice in Kilombero Valley (Section 5.1). Norfund and its co-investors have introduced the System of Rice Intensification (SRI) that has already raised smallholder's yields from 2 to 8 tonnes per ha in Madagascar and India. Drawing from SRI, KPL organises demonstration workshops for smallholders and provides them with extension advice as well as improved seeds and SRI tools to improve their yields and contract them as suppliers. In 2010, KPL smallholders, trained by a visiting expert from India, doubled their yields and, in 2011, the SRI project was extended to 250 farmer households.

*Source:* Msuya, 2007; Bekefi, 2006; Illovo, 2012.

In addition to land rights, another major issue for enforcing RBC standards in Tanzania relate to labour rights. Several laws and regulations impose **labour standards**, in particular the Employment and Labour Relations Act No. 6 of 2004 and the Labour Institutions Act No. 7 of 2004. Tanzania has been a member of the International Labour Organisation (ILO) since 1962 and has participated in ILO annual international labour conferences to adopt international labour standards. To date, Tanzania has ratified 45 ILO Conventions out of a total of 185, as well as 194 ILO Recommendations. Various provisions of these ratified standards have been integrated into national labour laws and regulations (APRM, 2009).

Within the Ministry of Labour, the labour administration and inspection services department must ensure that employers are not only aware of these provisions, but also **abide to them**. Labour inspection visits are carried out to work places, and awareness raising campaigns, seminars, workshops on the right and obligations imposed by labour laws conducted and disseminated through the media. Each regional labour office sets aside two days per week to provide advice and information on the labour legislation.

While Tanzania has also been subjected to ILO procedures to examine the application of standards and has benefited from assistance in this regard, **ILO standards** are still not adequately enforced, in particular due to the reluctance of some employers to recognise trade unions at workplace and to accept labour inspectors in their premises (APRM, 2009). As most plantations are subject to regular inspections for labour conditions and occupational safety and health, formally employed plantation workers usually benefit from better work conditions than most agricultural workers. Between 25 000 and 50 000 plantation workers are represented by a labour union on the private plantations where they work. In contrast, most informal agricultural workers receive little attention from government agencies, labour unions or employer associations. The worst forms of child labour persist in Tanzania, and generally involve agriculture, including coffee, sisal, tea and tobacco plantations, in addition to mining and quarrying, piecework manufacturing, domestic service and commercial sex (AgCLIR, 2010).

### *Environmental management*

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Do existing environmental policies, laws and regulations effectively ensure a sustainable use of natural resources? Do they promote access to clean and energy-efficient technologies?

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Investments intended to increase agricultural production in the short term can lead to ecosystem degradation in the long term, by degrading land, depleting water resources and leading to losses of pristine forests and biodiversity. Such investments may also have indirect external impacts, including greenhouse gas emissions or impacts on river basins occurring far from the location of the investment itself but directly linked to it (FAO, 2010). Indeed, Tanzania faces various **environmental challenges** resulting from agricultural development, in particular deforestation, over-grazing and abuse of water resources. This section provides an overview of environmental challenges related to agriculture, and examines existing policies and legislation aiming to improve environmental management.



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Relatively few hard data measure the extent of degraded land in Tanzania, but anecdotal evidence demonstrates **accelerated land deterioration**. Poor agricultural practices, the cultivation of unsuitable marginal lands, inappropriate or excessive use of agricultural technologies and chemicals, and over-grazing lead to soil degradation and erosion, and biodiversity loss. In turn, soil erosion increases flood and drought frequency and intensity as well as downstream sedimentation in dams, irrigation systems and rivers. It disrupts ground water recharging, resulting in lower agricultural productivity and water availability and in desertification, thus reducing food production and undermining food security in the long term.

Furthermore, Tanzania has one of the highest **deforestation** rates in Africa, in particular due to the expansion of cultivated areas and the widespread use of wood for fuel. About 40% of Tanzania's land area is classified as forestland. Between 1990 and 2000, Tanzania lost an average of 412 300 ha of forest per year, an annual deforestation rate of almost 1%. In the following five years, this rate increased to 1.1% per year. The 17 million ha of forests located on general land are the most vulnerable to deforestation as they are in "open access" (USAID, 2011).

To mitigate environmental degradation caused by large-scale agricultural investors and establish mechanisms guaranteeing sustainable resource use, Tanzania has signed various international treaties and agreements on environmental management and sustainable development that have been mainstreamed in national laws, policies, and programmes. In particular, Tanzania has promulgated the **National Environmental Management Policy** in 1997 (NEP). This policy identifies six major environmental problems: land degradation; lack of accessible, good quality water for both urban and rural inhabitants; environmental pollution; loss of wildlife habitats and biodiversity; deterioration of aquatic systems; and deforestation. It encourages adopting a multi-sectoral approach to environmental management by integrating environmental concerns into sectoral policies, and provides guidance on sectoral policies, including agriculture and livestock policies, which thus contain provisions on environment management, in particular by requiring environmental impact assessments (EIA). The NEP promotes shared responsibility without blurring the specific mandates and responsibilities assigned to each institution.

In agriculture, **NEP objectives** are as follows: better land management through soil erosion control and soil fertility improvement; reduced encroachment in public lands, including forests, woodlands, wetlands and pastures; environmentally-sound use of agro-chemicals; expanded mixed

farming through multiple cropping, intercropping, crop rotation and agro-forestry; improved water use efficiency in irrigation; and better control of agricultural run-offs of agrochemicals to minimise water pollution. As for livestock, objectives include in particular: improved and well-protected grazing lands and well-preserved feed resources; increased use of mechanisms for resolving conflicts among different land use interests; and well-managed livestock migration.

The **Environmental Management Act** of 2004 provides for the implementation of the NEP and of international environmental instruments, by outlining principles for environmental management, such as the precautionary principle, the polluter pays principle, and public participation in environmental management policies. The Act sets up the institutional framework for environmental management. The Vice President's Office is responsible for co-ordinating policy implementation, and various Ministries and LGAs for managing specific natural resources and environmental services. In particular, the Minister responsible for the environment is empowered to: establish binding economic instruments, such as price-based measures, user charges and subsidies; and oblige individuals and firms to consider environmental consequences and to internalise environmental costs and benefits. The Act also requires companies to protect communities' rights to a clean, safe and healthy environment and to preserve the environment. It provides for compensations to persons or communities as victims of corporation's actions against safe environmental management (APRM, 2009). The upcoming Agricultural Resource Management Act and the upcoming Irrigation Act should further protect agricultural land and water for irrigation (MAFSC, 2012).

Adverse environmental effects arising from private investment in agriculture are often due to the lack of proper **environmental impact assessment** (EIA) prior to the investment and to the absence of effective environmental management system during its implementation. To address such concern, the Environmental Management Act prescribes that any person, being a project proponent or developer, must carry out and cover the costs of an EIA before the project start. The National Environment Management Council manages the EIA process that ends with the issuance of an EIA certificate by the minister responsible for the environment.

Despite the existence of EIA and Audit Regulations issued in 2005, the EIA process remains slow and biased. Several interviewees stated that EIAs did promote better environmental management but that the process was often slow and discouraged developers (AgCLIR, 2010). While project proponents or developers must align with government EIA guidelines, they can specify

their own terms of reference, thereby directly influencing the content of the EIA report and undermining the objectivity of the process. Furthermore, the various regulatory and oversight institutions involved in environmental management have little or no influence on the conduct of private companies. For instance, many companies do not compensate environmental damages resulting from their activities, despite the establishment of the Environmental Appeals Tribunal and the National Environmental Trust Fund (APRM, 2009).

To address more particularly the issue of **soil degradation**, the government formulated the National Strategy on Urgent Actions on Land Degradation and Water Catchments in 2006 to restrict cultivation on the steep slopes in the highlands and reduce desertification. Some farmers have thus been relocated to lowlands, following government directives. Restricting habitation and cultivation in fragile areas can efficiently promote vegetation regeneration. However, it also results in intensive exploitation of the lowlands and may increase land use pressure in these areas. The VLA also promotes sustainable land management, as follows: "A CRO holder should ensure that persons occupying and working the land will keep and maintain it in good state; farm the land in accordance with the practice of good husbandry customarily used in the area, if the land is used for farming; and use the land in a sustainable manner in accordance with the highest and best customary principles of pastoralism practiced in the area, if the land is used for pastoral purposes."

To reduce **deforestation** rates and promote sustainable forest management, the government formulated the National Forest Policy in 1998. This policy encourages community and private sector involvement in forest management by establishing different categories of forest: forest reserves, corresponding to village land designated by local communities as protected forest; individual, group and community forests with full ownership rights; and joint forests, where communities share user rights and management responsibilities with the government. Consequently, local communities have entered into forest management agreements with the forest department. To date, however, participatory forest management has not significantly reduced the deforestation rate. Programmes are expensive and time-consuming, and local forest departments often lack sufficient human and financial resources. The benefits to communities have not been sufficient to offset their loss of unrestricted use of forest resources (USAID, 2011).

Another more recent initiative could help reduce deforestation rates. Based on the National Framework for Reducing Emissions from Deforestation and Forest Degradation (REDD) developed in 2009, a second draft of a national

**REDD+** strategy was produced in June 2012, along with its action plan. This strategy is closely linked to MKUKUTA and the National Forest Programme of 2001, which promotes sustainable forest management. A national REDD+ Trust Fund and a National Carbon Monitoring Centre will be established to implement the strategy.

Sound environmental management in agriculture should also rely on **energy-efficient technologies** preserving natural resources. The National Energy Policy of 2003 encourages energy efficiency in irrigation, agro-processing and the search for alternative and cheaper energy sources for agricultural development, such as solar, wind and biogas energy. NEP objectives also include minimising wood fuel consumption by promoting wood fuel energy efficiency and renewable energy sources. Finally, the draft National Agricultural Policy of 2012 emphasises the need for alternative energy sources in rural areas and for a more efficient use of natural resources (MAFSC, 2012).

Furthermore, several policies promote access to **clean technologies** and encourage their adoption by SMEs, in particular the Sustainable Industrial Policy of 1996, the Agriculture and Livestock Policy of 1997 and the NEP. In addition, the cleaner production centre of Tanzania (CPCT) was established in 1995, as a component of UNEP-UNIDO Programme. It is hosted by the Tanzania Research and Industrial Development Organisation, thus linking it to both the Ministry of Industry and Trade and the Ministry of Environment. It aims to promote clean production by facilitating the transfer of technical information, know-how and technology to industrial enterprises and environmental management agencies in Tanzania (Bekefi, 2006). By 2007, about 69 companies had benefited from its activities.

## *Notes*

1. PADEP aimed to reduce rural poverty by increasing food production and farm incomes and assets through small agricultural projects managed by communities and farmers' groups. Communities identified agricultural development interventions to be funded by PADEP and received a grant matching their contributions. Although PADEP benefited around 7 520 households in five districts, it faced several implementation challenges, including: farmers' slowness to provide matching contributions; lack of resources for extension services; price inflation increasing implementation costs; lack of processing and storage facilities resulting in low producer price; and identification of projects whose costs exceeded budgets (APRM, 2009).
2. The following section has been contributed by Jesús Barreiro-Hurlé member of the MAFAP team at FAO building on Ilicic-Komorwska et al. (2012).

3. International LPI is based on the assessment of foreign operators located in the country's major trading partners. It is a weighted average of six components, including: efficiency of the customs clearance process; quality of trade and transport-related infrastructure; ease of arranging competitively priced shipments; competence and quality of logistics services; ability to track and trace consignments; and frequency with which shipments reach the consignee within the scheduled or expected time.
4. Burundi, Democratic Republic of Congo, Eritrea, Ethiopia, Kenya, Madagascar, Rwanda, Sudan, Tanzania, and Uganda. South Sudan joined ASARECA more recently.

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# ANNEX 5.A1

## *The Monitoring African Food and Agricultural Policies (MAFAP) Project*

The Monitoring African Food and Agricultural Policies (MAFAP) project, implemented by FAO in collaboration with OECD with major funding from the Bill and Melinda Gates Foundation, seeks to provide African policy makers and their development partners with the best possible information on the impacts of policies and investments affecting agriculture and food security. It aims to support decision-making at national, regional and pan-African levels, and thereby contribute to the CAADP of the New Partnership for Africa Development (NEPAD).

MAFAP currently provides indicators to monitor policies and market development in ten African countries: Burkina Faso, Ethiopia, Ghana, Kenya, Malawi, Mali, Mozambique, Nigeria, Tanzania and Uganda. These quantitative indicators are comparable across commodities, countries and over time, providing the basis for informed investment decisions and evidence-based policy dialogue at national, regional and international levels. Two main types of indicators are provided:

- Indicators of incentives and disincentives to farmers and wholesalers based on price analysis. This is done for individual commodities which are selected to represent a significant percentage of the total value of production and to cover most of the major agricultural exports and imports and other commodities important for food security. For Tanzania, price analysis has been undertaken for the following ten commodities: beans, cashew nut, coffee, cotton, cow milk, maize, rice, sorghum, sugar and wheat. The results of this analysis can be found on the project website *www.fao.org/mafap*.
- Indicators of the level and composition of public expenditures in support of agriculture. This is done considering a broad definition of public expenditures which includes not only agricultural-specific expenditures

but also other expenditures of importance for agricultural development, such as investments in rural infrastructure.

By analysing the information captured in these two types of indicators in light of the agricultural policy objectives of each country, the MAFAP project provides an assessment of the impacts and coherence of agricultural policy measures and public expenditures.

The adoption of a broad definition of public expenditures in support of agriculture implies screening public expenditures that occur in all government bodies that may implement policy measures in support of agriculture, be they sector-specific or more general, like rural development. As regards Tanzania, in addition to expenditures undertaken by agencies responsible for agricultural matters (i.e. ASLM and LGAs), all government budget votes were examined and all the budget lines in support of the development of the food and agriculture sector were included in the analysis. In particular, expenditures in support of the food and agriculture sector were identified in the budgets of the following Ministries: Finance; Communication, Science and Technology; Energy and Minerals; Lands, Housing and Human Settlements Developments; Health and Social Welfare; Natural Resources and Tourism; Education and Vocational Training; Works; Prime Minister's Office and President's and Vice-President's Offices.

While all expenditures are considered when measuring the level of expenditures, the analysis of its composition focuses only on policy transfers to the sector, excluding administration costs such as the costs of formulation, implementation and evaluation of agricultural policies. Data on administration costs are collected separately, which allows for establishing the shares of administrative costs in overall government spending and for analysing the efficiency of public expenditures.

Each budget item is classified according to the way it is implemented. Expenditures are classified either as agriculture-specific or agriculture-supportive. The former relate to monetary transfers that are specific to the agriculture sector (i.e. for which agriculture is the only, or major, beneficiary of a given expenditure measure), while the latter comprise public expenditures that are not specific to agriculture but have a strong influence on agricultural sector development. Within the agriculture-specific category, a distinction is made between support to the different agents of the value chain (i.e. farmers, input suppliers, processors, consumers, traders and transporters) and general sector support to all agro-food sector agents collectively (i.e. agricultural research, inspection services, extension services). Within the agriculture-supportive category, a distinction is made between rural education, rural health and different types of rural infrastructure (i.e. road, water and sanitation, energy).

In addition, for each item budgeted and spent, amounts are recorded together with the source of funds (domestic or donor), thus allowing analysis and comparison of donor and domestic expenditure priorities.

The above information on the MAFAP project has been prepared by: J. Barreiro-Hurlé (FAO); J. Ilicic-Komorowska (OECD); F. Maro (Economic and Social Research Foundation – Tanzania); and H. Pascal (Ministry of Agriculture, Food Security and Cooperatives – Tanzania). Further readings are available at *www.fao.org/mafap/mafap-products/en/*.

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