

# AN APPRAISAL ON THE LEGAL FRAMEWORK GOVERNING INTERNATIONAL TRADE IN TANZANIA AND ACCESSIBILITY OF THE INTRA-AFRICAN REGIONAL MARKETS

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## ABSTRACT

The article examines the appraisal on the legal framework governing international trade in Tanzania and how it facilitates accessibility of the intra – African regional market. Regional trade agreements are among the major international development arrangements of recent years within the WTO.<sup>i</sup>The General Agreement on Tariff and Trade (GATT 1994),<sup>ii</sup> allows its Members to formulate Preferential Trade Agreements (PTAs) through customs union and free – trade areas as an exception to the fundamental principle of Non–Discrimination. Tanzania is one of the founding members of the WTO as it joined the WTO on 1st January 1995,<sup>iii</sup>but the country still facing difficulties in accessing the intra –African regional markets. The article submits that the country has no specific legal framework governing International Trade. While the existing laws are scattered and insufficient in addressing trading issues at both national and international levels, the same are also not effectively implemented. To achieve this, the article employs library research method to critically examine relevant documentary sources. The study concludes and recommends that it is high time for the country to come up with a specific law to guide trade activities in the country with regards to PTAs. The country is also required to have a clear policy and specific regulations so as to facilitate the effective implementation for competitiveness in the intra - African market.

**Keywords:** Appraisal, Legal Framework, international trade law, intra-African Regional Markets and the United Republic of Tanzania.

## INTRODUCTION

Tanzania has no specific legal framework governing International Trade. However, there are laws which regulate non – discrimination, fair trade practices, rules on market access, subsidies and anti – dumping measures. However, these laws are admittedly not sufficiently implemented. Tanzania is a developing country situated in sub -Saharan Africa. It is among the founding members of the WTO which come into existence when the Marrakesh agreement was signed on 15<sup>th</sup> April 1994. The notification process was completed by January 1995, when accession to the WTO was completed. Going by the principle of the single undertaking, Tanzania is signatory to all WTO agreements including the General Agreement on Tariffs and Trade<sup>iv</sup> of which the rules of PTAs are one among the aspect which is provided under Article XXIV of the GATT. In Tanzania, trade is also seen as a central and pivotal pillar in attaining efficiency, productivity and International Competitiveness.<sup>v</sup>As a result, the sound and effective use of trade remedies, such as countervailing measures, is also considered as important for the development of trade in Tanzania. Therefore, in 2004, Tanzania enacted The Anti – Dumping and Countervailing Measures Act<sup>vi</sup> which makes provision for Anti – Dumping and countervailing measures and to provide for its administration and regulation of dumping and subsidies and related matters.

## TANZANIA AND THE MULTILATERAL TRADING SYSTEM

Tanzania is a contracting party to the outcome of the 1986 Uruguay Multilateral Trade Negotiations (MTN). It participated in the negotiations which took eight years but, her effective participation in every inch of the way, clause by clause, word by word, like any other country was severely constrained by her limited capacity technically and financially. This is very well reflected at our Permanent Mission in Geneva where the resources, including the personnel resources are over stretched because of very heavy demands by a series of formal and informal meetings and discussions going on in the WTO simultaneously.

In Tanzania, awareness and understanding of the WTO agreements are very weak within both the public and private sectors, and this explains why no action has yet been taken with regard to the implementation of the Uruguay Round Agreements (notifications and legislation). This is partly attributed to lack of or limited capacity in understanding what is to be done. Having

signed the Final Act of Uruguay Round and the Marrakesh Agreement, all the WTO Agreements became binding to Tanzania.

The effective implementation of WTO commitments by Tanzania continues to be hampered by lack of adequate financial, institutional, technological and technical capacities, a situation that will exacerbate Tanzania's participation in new and future negotiations. The country calls for a renewed commitment to technical cooperation through adequate provision of resources in the regular budget of the WTO and other core agencies according to their mandates. Further, the need for improved coordination is emphasized in the delivery of this assistance as a necessary requirement to facilitate effective participation on Tanzania's part. Tanzania has, however, in spite of those shortcomings, made efforts to comply with certain requirements such as establishing a National Enquiry Point and Acceptance of Code of Good Practice on Voluntary Standards.

## **POLICY AND LEGAL FRAMEWORK GOVERNING INTERNATIONAL TRADE IN TANZANIA**

### ***The National Trade Policy***<sup>vii</sup>

The goal of trade policy is to raise efficiency and widening linkages in domestic production and building diversified competitive export sector as the means of stimulating higher rates of growth and development.<sup>viii</sup> Specifically, trade policy also involves economic transformation towards an integrated, diversified and competitive entity capable of participating effectively in the preferential trade agreements and multilateral trading system.

The trade function is seen as a central and pivotal pillar in the attainment of the mission of the economic sectors towards higher efficiency, productivity and international competitiveness. The argument for trade as the engine of growth and development in the face of globalization needs no emphasis. Unfolding developments in the political, economic and social spheres are bringing about tremendous changes and challenges in the business environment.<sup>ix</sup> These changes entail radical shifts in international economic relations, evident in the trade liberalization and globalization phenomenon.<sup>x</sup>

It has to be noted however that, the efficacy of trade policy depends on the establishment of a specific macro-economic, social and political environment. When fundamental changes occur in the underlying environment, the configuration of policy strategies also has to change. Consequently, this policy reflects the dynamics of Tanzania as an economy in transition towards a market system. By adopting the National Trade Policy, Tanzania commits itself to one direction of change, namely that of trade liberalization based on selectivity and a gradual process. In this regard, the policy provides some space for government intervention in the direction of trade subject to continuing conformity with obligations in the Multi-tasking System (MTS) and regional undertakings.<sup>xi</sup> The rationale however of the National Trade Policy includes changes in its socio-economic regime and political philosophy over the past four decades. Immediately after independence, Tanzania pursued free trade policy. In order to address the legacy of colonial inequality and underdevelopment, the Government adopted the Arusha Declaration whose policy focus was public ownership of the commanding heights of the economy, trade confinement and import substitution guided by protectionism.<sup>xii</sup> The formal trade policy was adopted in 1980 as part of this regime and focused solely on internal trade controls based on the concept of building a self-sufficient economy.

This policy addresses the critical issues facing the Tanzanian economy including; consolidating consensus on trade development measures that will entrench the continuing policy shift from a protected and controlled economy towards a competitive market economy; highlighting the central role and contribution of the trade function to the attainment of the primary goal of poverty eradication under the National Development Vision 2025; identifying measures for the development of the domestic market as a tool of inclusion and broad-based participation in economic activity based on improved market infrastructure, technology diffusion and access to market information; alignment of the national development agenda with regional and international trade obligations and maximization of the benefits of participation in regional and international trade arrangements.<sup>xiii</sup>

Adopting an appropriate framework of measures for the interim safeguarding of domestic industry and economic activity threatened by liberalization including identification of sectors to be protected, the rationale and costs of protection, the maximum duration for protection; and, how best to address the supply-side constraints that inhibit expansion of trade within the domestic and global market as the route towards rapid economic development.<sup>xiv</sup>

The policy also provides that, the time framework for the implementation should be 5 years from 2003 – 2007. In addition, the efficacy and the most articulate trade policy lies in the implementation of specific programmes and projects within a specific time.<sup>xv</sup> However, since 2003 up to present time, Tanzania trade policy has not been amended and leads to ineffective implementation of international trade and PTAs in particular and as a result limits the accessibility of intra – African Market.<sup>xvi</sup>

A trade policy reform is inevitable to the country so as to pursue better achievements under regional and multilateral trade arrangements. The policy should spell out connection with other sectors (such as agriculture, industry, infrastructure, energy and technology) and provide a framework for these sectors to adopt policies that complement rather than compete with each other.<sup>xvii</sup> It translates to Tanzanian's commitments at regional and multilateral level to solidify policy measures and create opportunity for their domestication. This will contribute to strengthening of regional integration and will in turn secure our country as a dependable and predictable trading partner.

### ***Anti – Dumping and Countervailing Measures***

Anti – dumping and countervailing measures are trade remedies against unfair trade practices. In Tanzania, dumping and countervailing measures are established in the Anti – Dumping and Countervailing Measures Act of 2004. This Act has been divided into several parts covering among other things, the establishment of the anti-dumping and countervailing measures advisory committee,<sup>xviii</sup> anti-dumping and countervailing provisions, determination of injury, initiation of investigation, provisions relating to evidence, provisional measures, price undertakings, imposition and collection of anti-dumping and countervailing duties, retroactivity provisions, duration and review of anti-dumping or countervailing duties and price undertakings, public notice and explanation of determination and miscellaneous provisions.<sup>xix</sup> It is an Act made for the purpose of making provisions for anti-dumping and countervailing measures, its administration, regulation of dumping and subsidies and to provide for related matters.<sup>xx</sup> This Act<sup>xxi</sup> is the core legislation that governs the operation of Tanzania Anti – dumping and countervailing measures. The Act expressly provides for the administrative procedures for the application of the two trade remedies. As regards the use of trade remedy in tortments, Tanzania is not an active user of such measures, because of the lack of regulations to govern its implementation, the absence of a permanent body and experts to deal with anti-

dumping and countervailing measures, lack of awareness on pursuing remedies available and financial dependency to donor countries that are normally dumping their products into our markets.<sup>xxii</sup>

Therefore, despite the fact that Tanzania has the national legislation to regulate the issue of subsidies and dumping of goods, the country has never been able to use effectively such legislation to protect her local industries and market against threat of or material injury caused by subsidies or dumping. Numbi,<sup>xxiii</sup> explains that the challenge is Tanzania's capacity and commitment to implement the Anti – Dumping and countervailing measures so as to offset the effect of subsidies. She argues that there is poor implementation of the measures.

### ***Fair Trade***

Tanzania enacted various laws to promote and protect effective competition in markets and preventing unfair and misleading market conduct. There is the Fair Trade Practices Act<sup>xxiv</sup> which regulates unfair trade practices so as to avoid offering less treatment to foreign investors as provided under Section 17 of the Act.<sup>xxv</sup> In addition, Section 18<sup>xxvi</sup> provides the basis for non-discrimination under Tanzania trading environment. The Fair Competition Act<sup>xxvii</sup> also, promotes and protects effective competition in trade and commerce, to protect consumers from unfair and misleading market conduct and to provide for other related matters.<sup>xxviii</sup> Fair competition issues are governed by the Fair Competition Act,<sup>xxix</sup> which covers among other things for restrictive trade practices, misleading and deceptive conduct, unfair business practices, unconscionable conduct, implied conditions in consumer contracts, manufacturer's obligations, product safety and product information, product recall, offences, penalties and remedies, appeals to the fair competition tribunal, fair competition commission, fair competition tribunal, national consumer advocacy council, inconsistency with other laws, miscellaneous provisions and consequential amendments.<sup>xxx</sup>

Again, under section 3 of the Fair Competition Act, the objective of the said Act is to enhance the welfare of the people of Tanzania as a whole by promoting and protecting effective competition in markets and preventing unfair and misleading market conduct throughout Tanzania in order to increase efficiency in the production, distribution and supply of goods and services, promote innovation; maximize the efficient allocation of resources; and protect consumers.<sup>xxxi</sup>

The idea of adopting competition Law and policy is due to the need of embracing the liberal philosophy of market driven economy. Before enactment of the Fair competition Act in 2003, Tanzania had the fair-Trade Practices Act,<sup>xxxii</sup> which was enacted in 1994, which covered four main areas; namely, restrictive business practices, abuse of market power, control of monopolies and concentration of economic power through mergers and acquisitions and consumer protection.<sup>xxxiii</sup> Therefore, the Fair-Trade Practices Act 1994 was repealed and replaced by the fair competition Act in 2003.

The important point to note is that the Fair Competition Act establishes an independent institution, the Fair Competition Commission, for the enforcement of competition issues.<sup>xxxiv</sup> The compliance can be through complaint initiation, investigations, hearing and determination in accordance with the Fair Competition Act and the Fair Competition Commission Rules and procedures.<sup>xxxv</sup> The Fair Competition Commission Rules and procedures, deal with the handling of all complaints.

The Act further, establishes the Fair Competition Tribunal which is a specialized and independent quasi-judicial body that combines expertise in economics and business with expertise in law whose function is to hear and determine cases involving competition and regulatory issues arising from orders and decisions of the Fair Competition Commission (FCC) and regulatory authorities namely Surface and Marine Transport Regulatory Authority (SUMATRA), Tanzania Communications Regulatory Authority (TCRA), Energy and Water Utilities Regulatory Authority (EWURA) and Tanzania Civil Aviation Authority (TCAA).

Although, the Fair Competition Tribunal and Fair Competition Commission are established under the Fair Competition Act, 2003, the Tribunal should be clearly distinguished from the Fair Competition Commission as each one has distinctive functions and powers.<sup>xxxvi</sup> Whereas the Fair Competition Commission administers and ensures compliance with the Fair Competition Act, 2003 and decides matters at first instance, the Tribunal is an appellate body that hears appeals from orders and decisions of the Fair Competition Commission and regulatory authorities. In other words, the Fair Competition Tribunal is at the apex of competition and regulatory framework in Tanzania.<sup>xxxvii</sup> Section 99 allows the fair competition commission to make rules of procedures on how to carry out its duties and responsibilities.<sup>xxxviii</sup> Among other things, the rules of procedure provide and cover for, administration provisions,

delivery of documents, handling of the complaints, which includes investigation of complaints and the procedure of hearing.<sup>xxxix</sup>

Further, the rules cover for merger procedures, exemption of agreement other investigation, studies and inquiries as well as general provisions. The said rules have two schedules which includes forms and guidance of the Fair Competition Act. Therefore, in regard to the issue of promoting fair competition, Tanzania is an active user of the competition Law and Policy, but these are mostly for the domestic or local investors.

### ***Non -Discrimination***

Non-discrimination requires that a country should not discriminate between her trading partners; and her own and foreign products, services or nationals.<sup>xl</sup> There are two main principles of non-discrimination in WTO law: the most –favoured nation (MFN) treatment obligation and the nation treatment obligation. To ensure that Tanzania gets a free market and free flow of capital, the government enacted the Capital Markets and Securities Authority Act.<sup>xli</sup> This Act also facilitates the establishment of the Capital Market (Foreign Investors) Regulations,<sup>xlii</sup> which allows the participation of the foreign investors into capital markets securities of Tanzania without limitations under the Regulations.<sup>xliii</sup> Furthermore, is the Tanzania Trade Development Authority Act<sup>xliv</sup> which was enacted purposely for the establishment of the Tanzania Trade Development Authority as provided under Section 4 of the Act.<sup>xlv</sup> The Act empowers the authority to be the adviser to the government on matters relating to formulation, development, supervision of trade policies, strategies and gives power to the authority to organize fair trade and market access.<sup>xlvi</sup> However, the Tanzania Investment Act<sup>xlvii</sup> protects local industries by providing local investors better treatment compared to foreign investors as per Section 2(2) of the Act.<sup>xlviii</sup> In addition, the Tanzania Trade Development Authority Act fosters better market access conditions for Tanzanian products and services at domestic, regional and international markets.<sup>xlix</sup>

Therefore, in order for the country to access the intra –African regional market, there is a need for the country to facilitate financial and institutional capacity, sufficient and reliable aspects, political pressure, technicalities of the rules on countervailing measures and to establish a trade unit under the Ministry of Industry and Trade, in order to have effective implementation of national, regional and international rules.<sup>1</sup>

### ***Rules on Market Access***

International trade is a key driver for economic development. However, based on earlier discussions, trade can only materialize when one trading country has the required access to the market of another trading country or could easily transport goods across national borders without any hindrances.<sup>li</sup> Market access means the openness of a country's market to foreign goods and services.<sup>lii</sup> Therefore, it can be argued that international trade cannot exist without access to domestic markets of trading countries. Market access matters and every trading country aspires to have greater market access. According to WTO perspective, market access for goods means the conditions, tariff and non-tariff measures, agreed by members for the entry of specific goods into their markets.<sup>liii</sup>

The elimination of tariff (custom duties) and non-tariff barriers is vital in creating regional markets in developing regions like Tanzania. In the present time, regional markets are more important for increasing market access and can bring positive economic growth. Tanzania has the Excise (Management and Tariff) Act,<sup>liv</sup> which regulates tariffs in the country. The Act regulates matters relating to import procedures, the computation of duties, and exemptions and remission of duties. The Finance Act<sup>lv</sup> also provides tariff schedule for Tanzania.

## **BOOSTING TANZANIA TRADE IN THE INTRA – AFRICA REGIONAL MARKET**

### ***The Role of the Government***

The government can play a decisive role in effecting the competitiveness of the economic activities within her boundaries. The government can provide the appropriate incentives for domestic firms to upgrade the quality of their economic activities, through provision of education facilities and communication infrastructure.<sup>lvi</sup> Different authors have stated that, the critical role of modern democratic governments is to create a sustainable and efficient economic system.<sup>lvii</sup> With regards to upgrading competitiveness of the resources and capabilities within the country, the Tanzanian government must create and effectively communicate to its constituents a distinctive and challenging economic vision. In addition, the government must ensure that the institutions responsible for translating that vision into reality are both willing and able to adjust to the changes of view, required of them by a learning and innovation driven economy.<sup>lviii</sup>

It is the responsibility of governments to ensure that the availability, quality and cost effectiveness of general-purpose inputs match up to their global competitors. Governments also need to create and sustain institutional framework and ethos that facilitates a continuous upgrading of resources and capabilities within its jurisdiction. This means that markets for wealth creating assets function efficiently. Furthermore, the entrepreneurship is adequately motivated. Thus, consumers are persuaded to be more demanding of technical standards and product quality.<sup>lix</sup>

Therefore, Tanzania government needs to create an enabling policy environment if it is to successfully stimulate the productive capacities in order to enhance trade competitiveness of the country in the regional and multilateral trading system. In addition, the government must provide the necessary infrastructure and institutional support for the exporters in order to ensure that exports meet the technical standards in the export market.

### ***Technical Assistance***

Technical assistance to developing countries is a very important aspect even in the WTO and it is one among the essential aspects of trade.<sup>lx</sup> Technical assistance for trade policy creation, negotiations and the implementation of the regional and multilateral agreements, usually consists of many activities including, seminars, workshops, training programs on trade rules and procedures, negotiating skills, legal advice and assistance with preparing draft laws as well as support for economic and social research.<sup>lxi</sup> Technical assistance involves partnerships among a great number of agencies in both donor and recipient countries, each of which usually has its own distinct priorities, operating arrangements, timeframes and financial resources.<sup>lxii</sup>

The most important point to note is that technical assistance comes with its own unexpected challenges such as inadequate funding, biased content, donor driven priorities, inadequate assessment and articulation of needs and weak support for local capacity.<sup>lxiii</sup> Therefore, the Tanzanian government should not take technical assistance as a whole but the country must have other strategies to deal with its trade issues and challenges.

### ***The Role of the Private Sector***

The private sector plays an important role in enhancing economic development in the country. Private sector means a basic organization principle of economic activity where private ownership is an important factor, markets and competition drive production, private initiative

and risk-taking set activities in motion.<sup>lxiv</sup> Thus, private sector covers the poor and rich individuals as well as businesses engaged in risk taking activities to earn profits and income through market exchange. It also, applies to farmers and multinational corporations.<sup>lxv</sup> Therefore, the private sector enhances trade competition and leads to economic development.<sup>lxvi</sup> It allows the government to reduce waste and gain the fiscal space needed for greater investments in all sectors of the economy including infrastructure.<sup>lxvii</sup> Thus, the private sector has been the engine of growth, generating sustained income which allows investments and long-term investments.

The government of Tanzania recognized the integral role of the private sector towards achieving economic recovery and that it has the potential to contribute to development through effective and quality service delivery. In this regard the government is required to continue to refine its policies to create a conducive and enabling environment for the private sector to compete in the intra – regional and global market. Thus, the government formulated the Tanzania Private Sector Foundation (TPSF),<sup>lxviii</sup> for the purpose of promoting the private sector and social and economic development in Tanzania. It is noted that, the TPSF is the voice of the private sector and the umbrella body for private sector associations and corporate bodies in all sectors of the economy, including trade associations.<sup>lxix</sup>

In order to enable Tanzanian traders and business people to improve their ability to access the markets, support is needed to improve productivity, efficiency and quality through providing export knowledge and technical assistance particularly for local manufacturers to comply with standards in the intra – regional and global competition. In addition, there is a need for developing a network of traders and business people at the district and regional level within Tanzania purposely, to educate them on domestic and intra – regional market opportunities in the manufacturing industry and on the strategies to exploit the opportunities.<sup>lxx</sup>

The Tanzanian government is required to formulate the right policies that create a favourable environment for the private sector, including enacting reasonable, clear and ascertainable legal rules and providing adequate financial support. Further, the government is required to involve the private sector in reviewing, formulating and implementing of policies in order to win their commitment.

### ***Agricultural Sector***

The agricultural sector offers an important opportunity to drive African economic growth and boost intra – African Trade. For instance, millions of tons of sugar are imported into intra – African trade export markets and yet the sugar industry is a potential for Malawian and Mozambique exporters.<sup>lxxi</sup> Tanzania in particular is required to take both legal and policy measures to stop exporting primary agricultural products. Further, the low level of value addition must be corrected by discouraging exportation of primary products. Hence, it is necessary to develop more commercial agriculture and products processing industries. For example, fruit juice and concentrate instead of raw fruits. Tanzania should meet the market standards in Eastern and Southern Africa for commercial agricultural products like tea and coffee, tropical fruit and vegetables. Thus, Agribusiness will create job opportunities, wealth creation and solve the urban migration problem.

### ***Power Infrastructure***

Poor power infrastructure affects much the growth of manufacturing capability and competitiveness of the manufacturing industries due to production cost which is related to the cost of power. For instance, in Tanzania, there is insufficient capacity, low access, poor reliability and high costs of power. This hinders long term economic growth and competitiveness in the market. In addition, sufficient power infrastructure is essential for development of industries and the economy in general. Sustainable economic development is mostly achieved only if there is easy access to modern, reliable and efficient energy supply services.<sup>lxxii</sup>

### ***Transportation Infrastructure***

Good transportation infrastructures reduce trade costs, and as a result, it promotes trade development and economic growth. Modern and well-connected transport infrastructure will facilitate and enhance domestic, regional and international trade by lowering cost of transacting trade, and make African countries including Tanzania more competitive. The Tanzanian government should continue emphasizing on strengthening road networks to link rural areas across the country and air transport as well as port facilities to reduce trading costs.

With regards to air transport and the aviation industry, they facilitate greater efficiency and competition. This is due to the fact that it is common for a passenger to fly through a third

country, often outside Africa, when flying to another African country due to the absence of direct flights.<sup>lxxiii</sup> For example, a flight from Tanzania to South Africa should take more hours than to Kenya but this is not the case due to diverting flights. It is also cheaper to fly to Europe than to a much closer African country due to the various taxes and overfly charges. The flight from Tanzania to Uganda *via* Rwanda costs much more than a direct flight from London to Entebbe.<sup>lxxiv</sup>

Coming to rail transportation, it is similar to the road networks. It is also under developed. Most railway networks in Africa, including Tanzania, were originally constructed to facilitate raw material transportation and hence there are few feeder lines to link local markets as well as the regional market. It is noted that, there is a little effort towards cooperation in regional road building in Africa because of border restrictions to protect domestic trade. However, the efforts must be increased to ensure the completion of the ongoing and planned international corridors<sup>lxxv</sup> so as to facilitate easy transportation of goods across the Africa continent.

The railway lines are particularly important in transiting a large number of passengers and for freighting cargo from the far-flung rural areas where the agriculture and mining activities are located to the cities and ports. More efforts are need to ensure that ongoing projects of railways are completed. This will lower the cost and time of freighting, and as a result it will promote intra – Africa trade.

With a very large area and rural population, there is a huge potential for a viable railway transport within the Tanzanian nation, East Africa and Africa in general. Further, railway transport has been described as the fastest, safest and the most cost-effective mode of transportation for large numbers of passengers from rural to urban areas and ports.<sup>lxxvi</sup> The rail provides an excellent and faster alternative for moving large volumes of goods over long distances.<sup>lxxvii</sup>

## CONCLUSION

The article analyzed laws and policies regulating international Trade especially on Trade remedies in Tanzania. These include National Trade Policy, the Anti – Dumping and Countervailing Measures Act, the Fair Competition Act, the fair Competition Commission Procedures and Rules, Tanzania Investment Act, Tanzania Trade Development Authority Act,

Capital Markets Securities Act, Capital Markets and Securities (Foreign Investors) Regulations. However, these existing laws are scattered and insufficient in addressing trading issues at national, regional and international levels, the same are also not effectively implemented.

Through such analysis, it became clear that in Tanzania trade is also seen as a central and pivotal pillar in the attaining efficiency, productivity and International Competitiveness.<sup>lxxviii</sup> Thus, the sound and effective use of trade remedies, such as countervailing measures is considered critical for the development of trade in the country. However, the article reveals that, although Tanzania adopted the national trade policy and enacted trade legislation, the country does not have a specific legal framework governing international trade locally and regionally.

It is therefore high time for the country to come up with a specific law to guide trade activities in the country with regards to PTAs. The country is also required to have a clear policy and specific regulations so as to facilitate the effective implementation for competitiveness in the intra - African market. In addition, this might be a better solution and step forward to the effective implementation of international trade laws including preferential trade arrangements.

## **BIBLIOGRAPHY**

- African Union, (2010) Trade Liberalization, Investment and Economic Integration in Africa Regional Economic Communities towards the African Common Market and Economic Community, AU Conference of Ministers of Trade 6<sup>th</sup> Ordinary Session 29 October – November, Kigali, Rwanda.
- Agarana, M, Anake, T and Okagbue, H. (2016) Optimization of Urban Rail Transportation in Emerging Countries Using Operational Research Techniques, Applied Mathematics.
- Agarana, M, Anake, T and Okagbue, H. (2016) Optimization of Urban Rail Transportation in Emerging Countries Using Operational Research Techniques, Applied Mathematics. Available at [https://www.wto.org/english/tratop\\_e/devel\\_e/build\\_tr\\_capa\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/build_tr_capa_e.htm).

- Brown, V, (2017) *The Road to Yamoussoukro*, Journal of Comparative Urban Law and Policy, 2017, pp. 229. Available at: <https://readingroom.law.gsu.edu/jculp/vol1/iss1/17>  
CAFOD 'Submission to the defra consultation on Sugar Reform '2004 Action Aid 3 available at <http://www.cafod.org.uk/var/storage/original/application/php0s6Mes.pdf>
- Christopher, H and Onyango (2010) Liberalization of Services and its Implication on Cross – Borders Agricultural Trade in Eastern Africa.
- Cosmas, J. (2019) Harmonising Tanzania Legal Framework with World Trade Organisation Trade Rules: How Well is Tanzania Fairing? *LST Law Review*, Vol.2, No. 2, p. 106-117.
- Dunning, J. H. (1999) *Governments, Globalization and International Business*.
- Foster, N and Stehrer, R. (2010) Working Paper Preferential Trade Agreements and the Structure of International Trade. Available at <http://siteresources.worldbank.org/INTAFRREGTOPTRADE/Resources/15TradePolicyREDESIGN.pdf>.
- Inaamul, H and Majidali (2005) on their Article *WTO's July Package and Developing Countries: Preferring Pragmatism to ideology*.
- Jean – Pierre, C and Jean – Christopher, M. (2011) 'Beyond Market Access' in Jean – Pierre, C, D *et al*, *Preferential Trade Agreement Policies for Development*, A Handbook, the World Bank Washington, DC.
- Jean P and Jean C, (2011) Editors, *Preferential Trade Agreement Policies for Development*, A Handbook, the World Bank Washington, DC.
- Jita, B and Mousum, B, (2012) International Trade Offers National Services and goods that are not Available within its Territories and provide Access to a Bigger Market, *MS Journal of Management Science*, Vol. 3(I),
- John, W, and Daughtery, J.R. (2002) Market Definition and International Trade, *Current: International Trade Law Journal*.
- Justice, E, (2003) the African Union: Building a Dream to facilitate Trade development and debt Relief, *Current: International Trade Law Journal*.
- Kessie, E. (2008) The participation of Developing Countries in GATT/WTO-Lecture presented at the University of the Western Cape.

- Mbogoro, D.K. (1998) Global Trading Arrangements and their Relevance to Tanzania Economic Development: Challenges and Prospects, Friedrich Ebert Shifted! Dar es Salaam.
- Mkwezalamba, M. M, and Chinyama, J. E. (2005) Implementation of Africa's Integration and Development Agenda: *Challenges and Prospects*.
- Numbi, C.T. (2013) The Implementation of Countervailing Measures in Tanzania: Challenges and Constraints, for the LL.M Thesis, University of the Western Cape, South Africa.
- OpokuAwuku, E. (2016) Developing and Least – Developed Countries and Mega – Regional Trade and Investment Agreements in European Yearbook of International Economic Law, Bungenberg, M, Herrmann C, Krajewski, M. et al.ed.
- Paul Brenton, Nora DiHel, Ian Gillson, (2011) et al. Regional Trade Agreements in Sub – Saharan Africa: Supporting export diversification, Africa Trade Policy Notes 15 11.
- Peter, V.B. (2008) the Law and the Policy of the World Trade Organisation: Text, Cases and Materials 2<sup>nd</sup> Ed, Cambridge University Press.
- Sako, S, and Kararach, G. (2007) Capacity building for the promotion of trade and investment in Africa, Challenges and Strategies, The African Capacity Building Foundation.
- The Tanzania Citizen News, Private Sector's Role in Industrializing Tanzania, published on 12/6/2019. Available at <https://www.thecitizen.co.tz/oped/Private-sector-s-role-in-industrialising-Tanzania/1840568-5154046-r4lnbq/index.html>.
- The United Nations High Commissioner for Human Rights, Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, 2001.
- Tolman, R. (2005) Position of the National Corn Growers Association. Paper presented at the World Trade Organization Impacts on U.S. Farm Policy Conference, New Orleans, LA. June.
- Vanroyeen F, the Agreement on the Implementation of Article VI of the GATT/WTO. Lecture presented at the University of the Western Carpe South Africa, (25/02/2019)
- Williams, B. R. (2014) African Growth and Opportunity Act (AGOA); Background and Reauthorization, Current Politics and Economics of Africa , Vol. 7.
- World Bank. (1995) Private Sector Development in Low – Income Countries.

## ENDNOTES

- <sup>i</sup>Foster, N, Johannes, P and Robert, S, (2011) impact of preferential trade agreements on the margins of international trade, *Economic Systems*, Vol. 35, no. 1, p. 84-97.
- <sup>ii</sup> See Article XXIV of the General Agreement on Tariff and Trade, 1994.
- <sup>iii</sup> Available at [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/org6\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/org6_e.htm) (accessed on April 11, 2021).
- <sup>iv</sup> See the General Agreement on Tariff and Trade, 1994.
- <sup>v</sup> Ministry of industry and trade, the United Republic of Tanzania – Trade Policy for a competitive economy and export – led growth, 2003.
- <sup>vi</sup> See Anti - Dumping and Countervailing Measures Act, 2004.
- <sup>vii</sup> The National Trade Policy of 2003.
- <sup>viii</sup> The National Development Vision, 2025.
- <sup>ix</sup> Paragraph 1.1 of the National Trade Policy of 2003.
- <sup>x</sup> Paragraph 1.2 of the National Trade Policy of 2003.
- <sup>xi</sup> See Hong Kong WTO Ministerial Briefing Rules: Regional Agreement Building Blocks or stumbling Blocks? Available at [HTTP://www.wto.org/English/the\\_WTO-e/minist-e/minist\\_05-e/brief-e/brief09-e.htm](HTTP://www.wto.org/English/the_WTO-e/minist-e/minist_05-e/brief-e/brief09-e.htm) accessed on November 7, 2019.
- <sup>xii</sup> See Paragraph 1.3.1 of the National Trade Policy of 2003, para 1.3.1.
- <sup>xiii</sup> See Paragraph 3.1, 3.2 and 3.3 of the National Trade Policy of 2003.
- <sup>xiv</sup> *Ibid.*
- <sup>xv</sup> Paragraph 6 of the National Trade Policy 2003.
- <sup>xvi</sup> The experience also shows that, the nation is adept in formulating good policies, but the implementation has been wanting and many policies end up largely unimplemented, or with limited realization of underlying objectives as provided under the National Trade Policy of 2003, Para 6.4.1.
- <sup>xvii</sup> See Kenya Trade Policy, 2017.
- <sup>xviii</sup> See Part II of the Anti – Dumping and Countervailing Measures Act, 2004.
- <sup>xix</sup> See Part III of the Anti – Dumping and Countervailing Measures Act 2004.
- <sup>xx</sup> See the Preamble of the Anti – Dumping and Countervailing Measures Act, 2004.
- <sup>xxi</sup> The Anti – Dumping and Countervailing Measures Act, 2004.
- <sup>xxii</sup> Cosmas, J, (2019) Harmonising Tanzania Legal Framework with World Trade Organisation Trade Rules: How Well is Tanzania Fairing? *LST Law Review* 2, no.2, p.106-117.
- <sup>xxiii</sup> Numbi, T. C, the Implementation of Countervailing Measures in Tanzania: Challenges and Constraints.
- <sup>xxiv</sup> Act No. 4 of 1994.
- <sup>xxv</sup> *Ibid.*
- <sup>xxvi</sup> *Ibid.*
- <sup>xxvii</sup> *Ibid.*
- <sup>xxviii</sup> See the Preamble of Fair Competition Act of 2003.
- <sup>xxix</sup> Fair Competition Act of 2003.
- <sup>xxx</sup> See Section 3 of the Anti – Dumping and Countervailing Measures Act, 2004.
- <sup>xxxi</sup> *Ibid.*
- <sup>xxxii</sup> The history of Fair Competition Law and Policy in Tanzania.
- <sup>xxxiii</sup> *Ibid.*
- <sup>xxxiv</sup> The fair completion Commission is established under Section 62 of the Fair Competition Act, 2003
- <sup>xxxv</sup> Fair Competition Commission procedure and Rules, 2013 (GN, 73 OF 2013).
- <sup>xxxvi</sup> See Part XII and XIII of the Fair Competition Act 2003.
- <sup>xxxvii</sup> See Part XIII of the Fair Competition Act, 2003.
- <sup>xxxviii</sup> Fair Competition Act, 2003.
- <sup>xxxix</sup> See the Fair Competition Commission Procedure and Rules, 2013.
- <sup>xl</sup> *Ibid.*
- <sup>xli</sup> {Cap. 79 RE 2019}.
- <sup>xlii</sup> GN.No. 338 of 2014.
- <sup>xliii</sup> Capital Market (Foreign Investors) Regulations), GN. No. 4 of 2014, and see also Cosmas, J, (2019) Harmonising Tanzania Legal Framework with World Trade Organisation Trade Rules: How Well is Tanzania Fairing? *LST Law Review*, Vol.2, No. 2, p. 106-117.
- <sup>xliv</sup> Act No. 4 of 2009.
- <sup>xlv</sup> *Ibid.*
- <sup>xlvi</sup> See Section 5 of the Tanzania Trade Development Authority Act, 2009.
- <sup>xlvii</sup> Cap. 147 RE 2019.

<sup>xlviii</sup> *Ibid.*

<sup>xliv</sup> See Section 5(1)(d) of the Tanzania Trade Development Authority Act, 2009.

<sup>li</sup> *Ibid.*

<sup>lii</sup> See Chapter Three.

<sup>liii</sup> <http://www.businessdictionary.com/definition/market-access.html> (accessed on 23/03/2021).

<sup>liii</sup> See Article XXVIII of the General Agreement on Trade and Tariff 1994.

<sup>liv</sup> Cap. 14 R.E 2008.

<sup>lv</sup> The Finance Act, 2020.

<sup>lvi</sup> See Dunning, J. H. (1999) *Governments, Globalization and International Business*, p. 114.

<sup>lvii</sup> *Ibid.*

<sup>lviii</sup> *Ibid.*

<sup>lix</sup> *Ibid.*

<sup>lx</sup> See World Trade Organization Building Capacity available at [https://www.wto.org/english/tratop\\_e/devel\\_e/build\\_tr\\_capa\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/build_tr_capa_e.htm). (Accessed on 11/03/2020).

<sup>lxi</sup> *Ibid.*

<sup>lxii</sup> Donors include multilateral and bilateral development agencies, NGOs, industry groups, academic centres, think tanks and philanthropic foundations. Key multilateral agencies involved in implementing trade related technical assistance include the International Trade Centre, UNCTAD, UNDP, the World Bank, and the WTO. See Deere C International Trade Technical Assistance and Capacity (2005) Human Development Report Office.

<sup>lxiii</sup> See Deere, C. (2005) International Trade Technical Assistance and Capacity Human Development Report Office.

<sup>lxiv</sup> See the Business Development Report, (2017) Available at <http://www.oecd.org/>. (accessed on 12/11/2018).

<sup>lxv</sup> See the World Bank, Private Sector Development in Low – Income Countries, 1995, p. ix.

<sup>lxvi</sup> *Ibid.*

<sup>lxvii</sup> Increase of Private Sector in Asia has stimulated the financial sector and attracts substantial foreign investment, particularly in infrastructure and the stock market. China’s private sector facilitates industrial development. See the World Bank, Private Sector Development in Low – Income Countries, 1995, p. 1.

<sup>lxviii</sup> Tanzania Private Sector Foundation was formally incorporated under the Companies Act (CAP 212) as a company limited by guarantee on 4<sup>th</sup> November, 1998. Available at <https://www.devex.com/organizations/tanzania-private-sector-foundation-tpsf-125107>. (Accessed on 10/03/2020)

<sup>lxix</sup> See <https://www.devex.com/organizations/tanzania-private-sector-foundation-tpsf-125107>. (accessed on 10/03/2020).

<sup>lxx</sup> The Tanzania Citizen News, Private Sector’s Role in Industrializing Tanzania, published on 12/6/2019. Available at <https://www.thecitizen.co.tz/oped/Private-sector-s-role-in-industrialising-Tanzania/1840568-5154046-r4lnbq/index.html> (accessed on 10/03/2020).

<sup>lxxi</sup> See CAFOD ‘Submission to the defra consultation on Sugar Reform ‘2004 Action Aid 3 available at <http://www.cafod.org.uk/var/storage/original/application/php0s6Mes.pdf> (accessed on 10/03/2020).

<sup>lxxii</sup> Castellano, A. Kendall, A. Nikomarov, M. (2015) et al ‘Brighter Africa – the growth Potential of the Sub – Saharan Electricity Sector 8 available at <https://www.norfund.no/app/uploads/2020/02/McKinsey-Brighter-Africa-The-growth-potential-of-the-sub-Saharan-electricity-sector-2015-PDF.pdf> (accessed on 10/03/2020).

<sup>lxxiii</sup> Brown, V. (2017) *The Road to Yamoussoukro*, Journal of Comparative Urban Law and Policy, p. 229. Available at: <https://readingroom.law.gsu.edu/jculp/vol1/iss1/17> (accessed on 10/03/2020)

<sup>lxxiv</sup> *Ibid.*

<sup>lxxv</sup> The trans – African Corridors network of nine highway totaling 66,683 km running through most parts of the African Continent and is funded by UNECA, AFDB, African Union and some international Organization. See <https://muckrack.com/andy-coghlan/articles>.

<sup>lxxvi</sup> Agarana, M, Anake, T and Okagbue, H. (2016) Optimization of Urban Rail Transportation in Emerging Countries Using Operational Research Techniques, *Applied Mathematics*, Vol. 7, p. 1117.

<sup>lxxvii</sup> *Ibid.*

<sup>lxxviii</sup> Ministry of industry and trade, the United Republic of Tanzania – Trade Policy for a competitive economy and export – led growth 2003.