

# **ANALYSIS OF INSTITUTIONS AND ORGANISATIONS INFLUENCING FOREIGN DIRECT INVESTMENT (FDI) IN TANZANIA.**

## **Abstract:**

The general objective of this paper is to analyse the actors and institutions influencing FDI in Tanzania. The paper mainly focuses on major organisations and institutional traits and arrangements affecting FDI in Tanzania and their comparison with Botswana. It also gives documentation on factors that create economic growth, both in the short and long term and the general roles of institutions and FDI in economic growth and development.

## **Chapter One.**

### **1.0 Factors that Create Economic Growth (Short and Long Run Perspective)**

According to Bruce Morris (1961), economic growth is achieved when a country “undergoes persistent increase in its national output of goods and services per capita over a period of time”. The inclusion of improvement in the general welfare of the populace in the definition of economic growth has been proposed by many scholars including Paul Streeten (1995). *Harrod-Domar model, Solow-Swan model, Rostow's stages of growth model, free market and institutions* are the parameters that provide clear understanding of factors creating economic growth in both short and long run. These factors are discussed below.

#### **1.10 Harrod-Domar Model:**

An early post-Keynesian model independently developed by Sir Roy Harrod in 1939 and Evsey Domar in 1946. It states that, the rate of economic growth in an economy is dependent on the level of savings and the capital output ratio. That is, the availability of funds for firms to borrow and invest depends on a country's level of savings. Investment increases the production of goods and services and consequently leads to increase in capital stock of an economy and generate economic growth. Therefore, economic growth of a country is highly dependent on its level of savings for investment purposes and the productivity of capital (the capital output ratio). Mathematically, it is expressed as:

Rate of growth (Y) = Savings (s) / capital output ratio (k).

The model implies that, economic growth can be achieved through government policies that encourage savings for investment and using that investment more efficiently through technological advances.

### **1.20 Solow-Swan Model:**

Another neo-classical economics model (an exogenous growth model) developed independently by Robert Solow and Trevor Swan in 1956 explains long-run economic growth by focusing on capital accumulation, labour/population growth, and increase in productivity, commonly referred to as technological progress. According to the model, short run growth is determined by increase in the capital investment (dependent on increase in the savings rate), labour force growth and depreciation rate. But in a long run, technological progress is the only factor that leads to long term economic growth and its sustenance.

### **1.30 Rostow's Stages of Growth:**

Based on historical approach, Walt Rostow developed five stages that countries pass through (based on varied length) to attain certain degree of development. Each stage highlights on the factors that contribute to an economy's growth leading to the next level.

1. **Traditional society:** Mainly agricultural economy with subsistence farming, little of which is traded and a rigid society with norms not encouraging savings and investment.
2. **Pre-conditions for take-off.** Mechanisation and increase in productivity in agriculture becomes more important leading to more trading. Start the process of national savings and investment and seek external source of funding.
3. **Take-off.** Characterised with saving ratio of about 10%, increase in investment and taxes, industrialization, infrastructural development, restructuring of institutions and agriculture relatively becomes less important while manufacturing assumes greater importance.
4. **Drive to maturity.** Diversification of industries, increased savings ratio between 10% and 20% and technological improvement leading to the spread of growth nationwide.
5. **Age of mass consumption.** High level of productivity of durable consumer goods and services, increased consumer expenditure and a shift towards tertiary sector activities leading to a flourished economy.

#### **1.40 Free Market:**

Free market is another major factor that drives economic growth. Paul Krugman (1995) explained this in his article “Dutch Tulips and Emerging Markets”. According to Krugman, “it is the belief that Victorian virtue in economic policy (free markets and sound money) is the key to economic development”. This is known as the Washington Consensus (Williamson, 1990). According to Rodrick (2005), fiscal discipline, competitive currencies, trade and financial liberalization and privatization are the main drivers of free market that contribute to economic growth. Krugman (1995) suggested that it is the basics for an economy to “take off”

#### **1.50 Institutions:**

According to Douglas North (1990), Institutions are the formal and informal rules of the game in a society. Rodrick, (2005) stated that “in the long run, the main thing that ensures convergence with the living standards of advanced countries is the acquisition of high-quality institutions”. Quality institution contributes to economic growth by harnessing the enforcement of contracts and protection of property which create an enabling environment for people and businesses to grow.

### **Chapter Two**

#### **2.0 General Roles of Institutions in Economic Development**

Understanding the role of institutions in economic growth and development is important for all economies but critical for emerging economies that are at the transitional phase towards; rule of law, institutional credibility, economic and political stability and characterised with weak institutional infrastructure.

North (1990) and Williamson (1995) have been among the earliest groups of researchers highlighting the vital role of institutions and good governance in shaping countries’ path toward economic growth. With Douglass North (1990) definition of institutions as “the rules of the game in a society or, more formally, the humanly devised constraints that shape human interaction”, and the understanding from other literature on institutions, it can be deduced that these rules of the game are both formal and informal elements made up of *economic, political and social institutions* put in place to promote an enabling environment in which people and businesses can prosper and flourish.

Economic institutions contribute to economic growth by shaping the incentives of key economic actors in an economy and influence investments in physical and human capital, technology and the organization of production. It also determine the aggregate economic growth potential of an economy and the distribution of resources in a society. On the other hand, political institutions determines the constraints on and the incentives of the key actors in the political sphere. Examples; forms of government (democracy, dictatorship or autocracy) and the extent of constraints/check and balances on politicians and political elites. Social institutions are the cultural heritage of societies, set beliefs and norms carried forward over the generations. They forms the basic ways a society perceives the world and make choices in their daily transactions (path dependency).

Shirley (2005) stressed the importance of intuitions in economic development by identifying two sets of institutions that countries need in order to meet the challenges of development, with the first set based on Ronald Coase’s theory of transaction costs.

1. “Institutions that foster exchange by lowering transaction costs and encouraging trust”
2. “Institutions that influence the state to protect private property rather than expropriate and sabotage them”.

The effective interplay of economic, political and social institutions provides a country with institutional framework that meet these two institutional requirement of Shirley. Quality institutions promotes; contracts and contract enforcement, commercial norms and rules that motivate people to abide by laws. It also promote laws governing education and freedom of speech and effective monitoring of government. As opined by Rodrik (2005), “the main thing that ensures convergence with the living standards of advanced countries in the long run is the acquisition of high-quality institutions” He stressed on the importance of institutions through economic exchange on the market. These are summarised below:

<b>Market-creating institutions</b>	<b>Market-regulating institutions</b>	<b>Market-stabilizing institutions</b>	<b>Market-legitimizing institutions</b>
Property rights	Regulatory bodies	Monetary and fiscal institutions	Democracy
Contract enforcement	Other mechanisms for correcting market failures	Institutions of prudential regulation and supervision	Social protection and social insurance

Source: *A taxonomy of market-sustaining institutions* in Rodrik, D. (2005). Growth strategies. *Handbook of economic growth*, 1, 967-1014.

It could therefore be proposed that, quality institutions matters most for economic development since they provide conducive social and economic environment for the populace and investors by; enhancing security, reducing political risks, lowering cost of doing business, harnessing protection of property rights, curbing corruption, promoting freedom of expression and increasing probity, transparency and accountability.

According North (1990), *“In places where institutions increase the certainty that contracts will be honoured and property protected, individuals will be more willing to specialize, invest in sunk assets, undertake complex transactions and accumulate and share knowledge”* and these are very necessary elements for economic development. Since parties in a contract needs framework of rules and the guarantee of economic stability and certainty in making rational and optimized decisions, credible intuitions are prerequisite for economic development.

## **Chapter Three**

### **3.0 FDI and Economic Growth**

FDI refers to an investment made to acquire lasting interest in enterprises operating outside of the economy of the investor. The growth models and stages discussed in chapter one makes it clear that, capital accumulation, high investment and technology plays a central role in increasing productivity which leads to economic growth. Even though most emerging economies have abundant labour, increasing investment is always a challenge due to low domestic savings that are not enough to generate the required growth rate. This gap is filled by FDI through its additional external financing and the foreign firms technological spill over on local firms. The literature on FDI and economic growth in general points to a positive relationship between the two variables and demands detailed explanation that cannot be covered in this paper. Generally FDI is recognised and supported empirically and theoretically as important source of economic growth (Dunning, 2000; Bengoa and Sanchez-Robles, 2003). FDI has proven useful in the past to advance economic development and foster structural change in emerging economies for which Tanzania is not an exception. In particular, FDI plays important role in emerging economies development efforts by; supplementing domestic savings, generating employment, integrating local businesses into the global economy, transfer of modern technologies, increasing productivity and raising skills of local manpower. (Dupasquier and Osakwe, 2003). These positive spill-over of FDI in the host country harness economic growth and raise the living standards of the local populace. According to Tanzania

Investment Centre report 2012, FDI contributed to GDP growth and provided stable inflation rates in Tanzania from 1997 to 2011 (Fig 3.0).

Nevertheless, there are potential drawbacks of FDI towards the development of an economy including; crowding-out local firms; market structure distortion; hampering indigenous entrepreneurial technology, deterioration of the balance of payments as profits are repatriated, conflicts with local communities and negative health and environmental impacts (OECD 2002). Cases of potential and actual conflicts between multinational enterprises undertaking FDI in Tanzania have been documented by Ngowi (2011). Bengos and Sanchez-Robles (2003) assert that even though FDI is positively correlated with economic growth, host countries needs certain requirements “adaptive capabilities” including: minimum level human capital, supporting legal and traditional institutions, effective regulatory framework, economic stability and liberalized markets in order to fully enjoy the above mentioned contribution of FDI towards economic development whiles minimising its drawbacks.

### **3.10 FDI in Tanzania**

The inflow of FDI in Tanzania was negligible just as its economic growth during the 1990s. But in the past decade, FDI in Tanzania has been the highest on average in the region (fig 3.10) According to UNCTAD’s 2014 World Investment Report, Tanzania attracted \$1.87 billion of FDI inflows in 2013, outstripping the traditional FDI destinations in East Africa, including Kenya. Tanzania has a total \$12.72 billion of FDI stock, a significant increase from \$620 million in 1995 (fig 3.11). This can be attributed to the increasing awareness of investors about the attractiveness of Tanzania as investment destination including Tanzania’s; high growth potential, strategic location, peace and political stability, attractive investment regimes and incentives, abundance of natural resources, membership of bilateral trade agreement and warm and hospitable social attitude towards investors.

According to the Tanzania Investment Centre report 2013, leading countries investing in Tanzania includes; South Africa, United Kingdom, Kenya, Canada, and China. Prioritized sectors of investment includes; agriculture and livestock development, natural resources, tourism, manufacturing, petroleum and mining, real estate, transportation services, ICT, financial institutions, telecommunications, energy, human resources, and broadcasting.

Despite the increasing figures of FDI inflows and the IMF and World Bank prediction of rapid growth of investment in Tanzania for the next decade, the country face a number of investment challenges most of which are intuitional related problems others including; lack of adequate power supply, poor infrastructure and, lack of designated land for investment projects.

## Chapter Four

### 4.0 Principal Laws and Regulations (Institutions) Governing FDI in Tanzania.

There is no one specific law regulating general FDI in Tanzania. The present framework governing FDI in the Mainland and Zanzibar is a combination of different state laws and sectorial regulations. As a result, controversies have held up in their implementation and regarded by foreign investors as a constraint on the establishment of profitable ventures in the country. The main principal laws and regulation are:

- ❖ Tanzania Investment Act, 1997
- ❖ Zanzibar Investment Promotion Act, 1986
- ❖ Private Partnership Act, 2010
- ❖ The land Act, 1999 |
- ❖ Petroleum (Exploration and Production) Act, 1981
- ❖ Mining Act, 1998 (amended in 2010)
- ❖ Banking and Financial Institution Act, 1991
- ❖ Foreign Exchange Act, 1992
- ❖ Capital markets and Securities Act, 1994
- ❖ Export Processing Zones Act, 2002
- ❖ Special Economic Zones Act, 2005
- ❖ Value Added Tax Act, 1997 (Amended in 2014)
- ❖ The Hotels Act 1963
- ❖ The Tourist Industry Licensing Act 1969
- ❖ Immigration Act, 1995
- ❖ Social Norms and Cultural Attitudes

#### **4.1 Major Organisations /Actors and their Roles in FDI in Tanzania.**

FDI in Tanzania is of priority at both national and subnational levels. Organisations and various actors in FDI operate and perform their roles by adhering to their sectorial regulations as well as combination of other relevant principal acts and certain level of subjectivity due to lack of a specific law regulating FDI in the country as stated earlier. Discussed below are the major Organisations and how they influence FDI in their respective institutional context. (Summarised in Fig 4.0)

- **Tanzania Investment Centre (TIC):**

The TIC was created by Tanzanian Investment Act of 1997 as “the primary agency of the government to coordinate, encourage, promote, and facilitate investment in Tanzania”. It is made up representatives from various ministries and sectors prioritised for investment. The agency helps investors to obtain permit, licenses, visas, and land and play the role of guide to the applicable acts and regulations that an investor may need to understand.

Generally, it acts as a one stop facilitative centre for investors and approve investor projects in order for them to enjoy the available investment incentives and tax benefits as stipulated in VAT Act 1997. The centres’ functions cut across various ministries and sectors and hence abide by their laws and regulations. But sometimes it bypass the approval of sectorial ministers and this leads to mistrust and controversies especially over labour issues and allocation of land with the labour, and lands ministries respectively. TIC is regarded as the guardian of the Tanzanian Investment Act 1997 and has acquired amongst the business community in Tanzania an enviable reputation for good sense, courtesy, and a willingness to help, inform and advise prospective investors. Similarly, Zanzibar Investment Promotion Agency (ZIPA) also offer the same services in Zanzibar.

- **Business Registration and Licensing Agency (BRELA)**

According to the Business Licensing Act 1972, all foreign investors wishing to operate a commercial business venture in Tanzania must first be licensed as a business with the BRELA. It is under the Ministry of Industry and Trade but to some extent has its own bylaws (which according to the Tanzania Investment Act 1997, should not contradict with the activities of the Ministry of Industry and Trade) giving the agency the mandate to register certain kinds of businesses. But in Zanzibar, FDI registration is handled directly by Zanzibar Investment Promotion Agency and may liaise with relevant ministries if necessary. These agencies have



made licensing procedure and documentation requirements fairly straightforward t overly onerous as previous. But it is also unclear in the Investment Act to what extent the BRELA have discretion in the issue of Certificate of Incentives to investors after registration which according to the Investment Act, 1997 is to be done by the TIC, but BRELA has such power according to its bylaws set by the Ministry of Industry and Trade. This is a clear manifestation of some of the controversies and conflict of scope that occurs between organisations in the implementations of different investment regulations as a result of lack of a specific law on FDI.

- **National Investment Steering Committee (NISC)**

Because there are several institutions dealing with FDI in Tanzania and the scope of conflict in terms of policies, treatment and information, the President in September 2000, set up the NISC to ensure coordination and consistency among the different government ministries, sectors, agencies and their respective institutions. This was recommendation from a super-national organisation (United Nations Industrial Development and Organisations' (UNIDO)) on investment regulations for the development of Tanzania institutions influencing investment and trade. It is chaired by the Prime Minister, and membership includes the Ministers of Finance, Planning, Agriculture, Industry and Trade, and Lands and Settlement Development, as well as the Attorney General, the Governor of the Central Bank and the Executive Director of TIC. The Committee operates on UNIDO's guidelines/restrictions but it powers goes beyond the above listed principal laws and it is responsible for; identifying and resolving legal, regulatory and administrative barriers to investment, addressing legal and administrative issues involving two or more ministries/government agencies and ensures consistency in application of regulations. It role plays an important role in building investors' confidence in the country's institutions and investment framework.

- **Tanzanian National Business Council (TNBC)**

TNBC is a committee established under Presidential order in 2001 and chaired by the President. Its aim is to provide the private sector, including foreign investors, the access to the President in order to discuss barriers to efficient business operations. It membership comprises of; 50% government representatives and 50% private sector leaders and non-governmental organization such as the Confederation of Tanzania Industries (CTN) and the Tanzanian Chamber of Commerce, Industry and Agriculture (TCCIA). On behalf of the private investors, the council lobby to keep investors' concerns visible at the forefront of the national agenda and make

market reforms at the highest levels of government. It plays a pivotal role in Tanzania where support for private sector led development still faces numerous challenges due to the lengthiness of central planning processes. The council harnesses the implementation of government policies on regulatory changes aimed at; enforcing rule of law, streamlining business registration and operations, removing labour and market rigidities, avoiding corruption, enforcing property rights and enhancing transparency. Similarly, Zanzibar Business Council (ZBC) was established and launched in October 2005 to serve the functions.

- **Commercial Court:**

According to Tanzania legal system (Constitution of 1977) which is based on English Common Law, The High Court of Tanzania is in charge of all commercial cases. There are three specialized divisions Commercial, Labour, and Land. The Labour and Land divisions have exclusive jurisdiction over their respective matters, while the Commercial division is without exclusive jurisdiction. Subject to financial limitations, the District and Resident Magistrate Courts also have original jurisdiction in certain commercial cases. The Tax Appeal Act and the Fair Competition Act, 2003 of Tanzania established the Tax Revenue Tribunal and the Fair Competition Act as other quasi-judicial bodies for related commercial cases. Apart from the court and quasi-judicial bodies, there are alternative dispute resolution procedures such as the Reciprocal Enforcement of Foreign Judgments Act (REFJA) which is also effective. Tanzania being state member to both the International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA) also harness it commercial disputes settlement. Upon all these commercial legislations, selection and appointment of commercial court judges in Tanzania is criticized for its non-transparent nature. The Tanzania judiciary was the second most corrupt institution, according to the 2013 Transparency International Global Corruption Barometer.

- **Ministries:**

- ❖ Ministry of Land, Human settlement and Development: Land Ownership in Tanzania and Zanzibar is vested in the Government. The Land Act and the Village Land Act 1999 empowers the Land Ministry to make land available to private sector investors on a leasehold basis. Local districts prepare and submit “land use plans” (land banks) purposes to the ministry. The Ministry then demarcates such lands (land allocation and site development for FDIs) and subsequently transfer the distribution responsibility

of the land to the TIC. Land rights is then granted by the TIC to the investor on a leasehold basis for a maximum period of 99 years according to the Land Act. Due to this long procedures in acquisition of land and as the economy keeps growing, foreign investors may experience delay in obtaining land and there would be lack of transparency in the administration of applications for land. But this system of providing Land isn't applicable in the mining, oil and natural gas sectors, where the Ministry of Mining and Energy have the sole responsibility of granting mineral rights to investors.

- ❖ According to the Mining Act 1998 and the Petroleum Act 1980 of Tanzania, all firms investing in the mining or petroleum sectors are required to obtain registration and approval administered by the Ministry of Energy and Minerals. The ministry assesses and issues certificate separately from the one issued by BRELA under the Ministry of Trade and Industry.
- ❖ Similarly, investors in tourism businesses have to secure licences both centrally from Ministry of Tourism and Natural Resources and TIC (with reference to the Tourist Industry Licensing Act 1969) and locally from local authorities which goes down to the traditional leaders. But there is lack of formalities and coordination as and when these arrangement descends from the national level to the local level and sometimes, local authorities are omitted. This leads to conflict between investors and local citizens when investors start operation on local lands.
- ❖ The Ministry of Labour and Employment based on the Immigration Act of 1995(as amended by the Financial Laws Act of 1997) is in charge of labour issues. Management and administration of expatriate employment and basic legislation covering immigration to Tanzania purposely for investment is controlled by the ministry but has been assigned to the TIC as per the Tanzania Investment Act, 1997. The Act gives the Labour Commissioner within the ministry the power to approve or deny all work permit applications from foreigners. The Labour Commissioner also determines if all possible efforts have been explored to obtain a local expert before approving any application. In Zanzibar, the responsibility for expatriate immigration is been allocated to the ZIPA.
- ❖ Ministry of Industry and Trade have wide-ranging mandate based on the Investment Act and the Fair Competition Act and its sectorial regulations. These includes those activities performed by the TIC. It harnesses foreign investment by providing and enforcing; intellectual property rights, sectoral developments and competition policies and general regulation on external trade.

## Chapter Five

### 5.0 Institutional Traits and Arrangements Influencing FDI in Tanzania.

Tanzania made a tangible progress in its investment institutional arrangements and rule of law during early 2000s due to the enactment of the 1997 Investment Act. Even though there are relatively good institutions and organisation currently influencing FDI in Tanzania as compared to other African countries such as Ghana, over the past decade, the increasing rate of FDI inflows, the dynamism of world business environment and the general social attitude of Tanzanians towards foreign investors has dramatically changed making the existing institutions and organisations increasingly dysfunctional. In this chapter, I discussed the current institutional traits and arrangements influencing FDI in Tanzania.

- **Transparency and Accountability**

The Open Government Partnership report in 2013 demonstrated that, there is lack of openness (transparency) in Tanzanian investment operations and public reporting system. Tanzania made major strides in putting investment procedures to improve transparency and accountability by joining the Open Government Partnership (OGP), initiation of a Freedom of Information Act and making the national budget, data, land for investments, and procurement processes available to the general public. But these progress has been slow, for instance, the government preparation towards adoption a Freedom of Information Act was formally tabled in Parliament in early 2014 but not yet passed. Accountability remains as a challenge and legal, regulatory, and accounting systems of Tanzania often lack transparency and are not fully consistent with international norms. These makes setting up a profitable business in the country more difficult.

- **Participation**

Investors in Tanzania are represented through numerous private associations such as the Confederation of Tanzania Industries (CTI) and Tanzania Private Sector Foundation (TPSF). But foreign investors complain the government is not sufficiently responsive to their concerns. According to a report by the CTI in 2015, proposed investment laws and regulations are sometimes published in draft form for foreign investors' comments but these comments are not fully considered and rarely have impact on the final

submitted legislation. For instance, the draft policy on the fifth edition of the “Taxpayers’ Service Charter”, a charter which stipulates taxpayers’ rights, obligations, incentives and service standards expected from the Tanzania Revenue Authority (TRA), was published for foreign investors comments but government didn’t consider them in the final legislation submitted to parliament in 2014 for approval. Another case as well was the introduction of a new Value Added Tax Act in 2014. It faced strong opposition from the private sector investors but was still passed by Parliament and has been operational since July 2015.

- **Property right protection**

Property rights protection is an important issue for FDI, especially in relation to the statutory and practical protection of brands, logos, technology and products (intellectual properties) the loss of which has been a cause for concern of investors in emerging economies. In the category of registering property (World Bank’s Ease of Doing Business report), Tanzania ranking has fallen six places from 117 in 2014 to 123 in the 2015 (UNCTAD report, 2014). The Fair Competition Commission (FCC), housed in the Ministry of Industry and Trade, is charged with protecting of intellectual property rights and settling related disputes in Tanzania through the Patent Act and the Trade Services Marks Act (both enacted in 1987). Tanzania is a member of the African Regional Industrial Property Organization (ARIPO); and the World Intellectual Property Organization (WIPO) but still there is lack effective statutory and administrative mechanisms to comprehensively identify counterfeits, pursue nation-wide investigation and punish infringements. Even if caught, vast majority of offenders pay lower fine rather than engaging in the court process which is widely regarded as slow, inefficient, capable of influence (especially at lower levels) and easily corruptible and cases may be drag on for years.

- **Attitude toward Foreign Investors**

Tanzania has been one of the most politically stable countries in Africa despite the blend of different religions. (Muslims, Christians, and Indigenous beliefs). Foreign investors generally receive domestic treatment in Tanzania regardless of their religion. Socially, Tanzanians have warm and hospitable cultural attitudes and display a positive and pleasant reception to foreigners. This contributed to Tanzania award of the first

position worldwide in the investors after care service category awards by World Investment Promotion Agencies (WAIPA) in 2007. But recently, there have been a twist and many Tanzanian citizens feel that foreign investment has led to exploitation of Tanzanian resources especially in the extractives industries. This has resulted in conflict between investors and residents in some areas. In Arusha, some of these conflicts have led to violence and recent case is the controversies on the discoveries of natural gas discovery by Statoil. While the business climate has generally improved over the past decade, recently the legacy of socialist attitudes has risen, sometimes resulting in suspicion of foreign investors by local citizens.

- **Corruption**

In Tanzania, corruption persists mostly in government procurement, taxation, privatization and customs clearance. To foreign investors, corruption is a major concern. The U.S Department of State (2015) reported that, “U.S. businessmen have identified petty corruption, particularly among customs and immigration agents and traffic police, as an obstacle to investment.” Giving or receiving a bribe in Tanzania is a criminal offense, regulations are applied impartially to both foreign and domestic investors but enforcement of laws and penalties are largely ineffective. Cases related to corruption have progressed slowly in court and only few-publicized scandals have resulted in prosecutions. Consistently, Tanzania has been rated poorly for its perceived corrupt business practices by the Transparency International (TI). TI’s 2015 Corruption Perception Index (CPI) placed Tanzania at 117 out of 168 countries surveyed, with its score dropping since 2012 (see fig 8). TI’s 2013 Global Corruption Barometer (GCB) for Tanzania reported the police being perceived as most corrupt followed by the judiciary.

To deal with corruption, Tanzania joined the UN Convention against corruption. The government has put in place national anti-corruption strategy including the; Anti-Corruption Bill and the Prevention and Combating of Corruption Bureau (PCCB) Act, in 2007. These institutions alongside international, regional, and local watchdog organizations are responsible for combating corruption in Tanzania. But this couldn’t hold the waters since the country was hit by a large scandal in its energy sector in late 2014.

- **Investment Dispute Settlement**

Despite the legal mechanisms discussed in chapter four, foreign investors complain that there are inefficiencies in investment dispute settlement. Lack of court capacity remains an issue, with cases currently backlogged two to four years. Tanzania movement from manual to computerized arbitration system recently aiming at solving business related disputes within a short period of time helped but backlogs still remains. Disputes involving foreign investors are mostly ruled in favour of the state and government fail to honour its terms as agreed during dispute resolution. Currently, the Tanzania arbitration act does not follow the provisions of the International Centre for Settlement of Investment Disputes (ICSID) and New York conventions (super-national institutions which Tanzania is a state member). This manifested recently in the case involving Standard Chartered Bank – Hong Kong and the Tanzania Electric Supply Company (TANESCO). “On April 23, 2014, the Tanzanian High Court ordered both parties in on-going ICSID arbitration proceedings to refrain from “enforcing, complying with or operationalizing ICSID regulation, a decision made by the Tribunal in ICSID proceedings from February 12, 2014. Experts have interpreted the ex-parte injunction as a clear breach of the provisions of the ICSID convention and the actions of the High Court put Tanzania in violation of its international law obligations” (U.S department of State report on Tanzania, 2015). As a result, foreign affiliates are normally loath to take contract, debtor or employment disputes to court, and seek resolution outside the legal system.

- **Land Tenure System**

Land ownership remains restrictive in Tanzania and all land in Tanzania belongs to the state. There is a lot of complexity in the procedures for obtaining a lease or certificate of occupancy of land for both citizens and foreign investors. Limited land has been surveyed and investor have to go through bureaucratic procedures from the ministries down to the local authorities during the registration which delays the acquisition of title deeds.

## **Chapter Six**

### **Tanzania Vis-à-Vis Botswana**

Historically, Botswana has been a stable democratic country and the threat of political violence is considered low. Botswana enjoys among the highest economic growth rates with regards to global economic trends. There has been nationwide commitment towards attracting investment just as in Tanzania but Botswana have limited investment incentives and regimes facilitating FDIs. On the other hand, Botswana has a “Performance Management System” ensuring transparency, accountability and for evaluating organisation and institutions influencing FDI. A 2014 report by the World Justice Project ranked Botswana number one on its regional rule of law index. Investment regulation are clear and efficiently implement than those in Tanzania. For example in Botswana, corruption is punishable by 10 years imprisonment term, a fine of USD 50,000, or both. Botswana has a reputation for a relative lack of corruption and a willingness to prosecute corrupt officials. Transparency International ranks Botswana as the least corrupt country in Africa (28 out of 168 economies in 2015 compared to Tanzania 117 fig 6.0). Nevertheless, there has been an increasing trend of corruption related cases which is evidenced in the reduction of Botswana score since 2012 (fig 6.0). With land for investment purpose, there are more alternatives to acquire land in Botswana (through freehold, state and tribal land) as compared to Tanzanian sole source of land acquisition (state land). Property right are well protected. In 2014, Botswana authorities seized counterfeit items valued over USD 3 million (World Intellectual Property Organization report 2015). Starting and maintaining a foreign business involves certain bureaucratic procedures making it slow but faster than registration procedures in Tanzania. The World Bank ranked Botswana 72 compared to Tanzania 139 out of 189 economies in the category of Ease of Doing Business 2016 (fig 6.10).

### **Conclusion and Recommendation:**

From the analysis of institutions, organisations and institutional traits influencing FDI in Tanzania vis-à-vis Botswana, it is clear that Tanzania is lagging behind other comparatively high-growth economies. I highly recommend the establishment of new and quality institutions aimed at reforming organisation and updating investment frameworks to suit the modern business environment inside and outside Tanzania. But care should be taken in this process since most countries that encounter institutional inefficiencies try to ‘copy and paste’ laws and regulations that worked perfectly for other countries, which in reality do not work. With this initiative, Tanzania would be able to increase its FDI inflows and achieve its highly proposed economic growth rate as predicted for the next decade by the World Bank and IMF.



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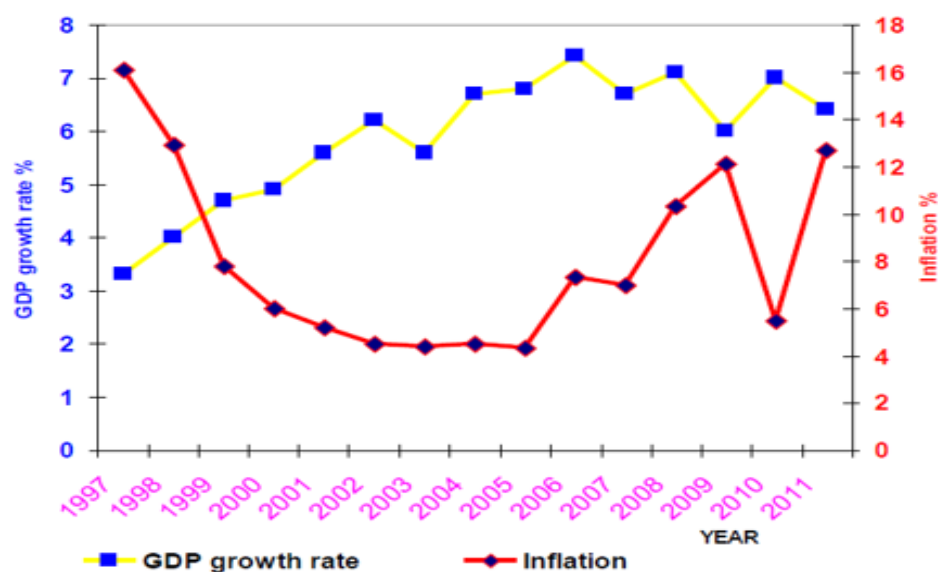
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## List of Figures and Tables

Fig 3.00 GDP growth rate and inflation 1997-2011



Source: TIC report August 2012.

Fig 1: Fig 3.10. Magnitude of FDI inflow to EAC. (\*Ethiopia^^ Burundi\*)

Country	FDI/GDP			FDI/GFCI			FDI/Export			FDI per capita		
	02-05	06-09	10-13	02-05	06-09	10-13	02-05	06-09	10-13	02-05	06-09	10-13
Tanzania	3.79	4.35	6.30	0.18	0.15	0.19	0.20	0.18	0.22	12.77	19.68	35.78
Uganda	3.53	5.93	5.18	0.17	0.27	0.21	0.28	0.31	0.23	9.63	24.00	26.60
Ethiopia	4.04	1.44	1.39	0.13	0.05	0.04	0.29	0.11	0.10	5.24	3.41	5.87
Rwanda	0.27	1.89	1.52	0.02	0.09	0.06	0.03	0.16	0.12	0.62	8.21	9.20
Kenya	0.29	0.76	0.67	0.02	0.04	0.03	0.01	0.04	0.03	1.29	6.52	7.48

Source: World Bank staff own calculations, based on data from World Development Indicator (2014).

Fig 3.20: FDI inflows trend in Tanzania.

YEAR	2008	2009	2010	2011	2012	2013
FDI Inflow (US\$ BB)	1.383	0.953	1.813	1.229	1.800	1.872
FDI Stock (US\$ BB)			8.762	9.278	10.842	12.715

Source: UCTAD World Investment Report, 2014.

**Fig 4.0 Actor and their Roles facilitating FDI in Tanzania.**

Organisations and Actors	Roles in FDI
Tanzania Investment Centre (TIC)	Coordinates, encourages, promotes and facilitates FDI by providing advice on investment related issues.
National Business Council (NBC)	Investors round table discussion advise the Government areas that need improvement
Planning Commission.	Oversees planning issues that affect government investment policy and coordinates work TIC
Ministry of Trade and Industry	Wide-ranging mandate: external trade, intellectual property rights, sectoral developments and competition policies.
Ministry of Energy and Minerals	Oversees energy and mineral development, including FDI promotion in mining
Ministry of Lands and Urban Settlement	Planning regulations, land allocation and site development for FDIs
Ministry of Labour	Labour laws, conditions of employment and work permit for foreign investors
Tanzanian Revenue Authority (TRA).	Enforces tax laws and collect revenues.
Business Registration and Licensing Agency	Business licensing and business registration
National Investment Steering Committee	Investment policy formulation and solving problems of investors on a fast track basis.

Source: TIC report, 2013.

**Figure 6.0: Corruption perception index.**

Rank	Country/territory	2015 Score	2014 Score	2013 Score	2012 Score
117	Tanzania	30	31	33	35

Rank	Country/territory	2015 Score	2014 Score	2013 Score	2012 Score
28	Botswana	63	63	64	65

Source: Transparency International, 2015.

**Fig 5.1: Ease of Doing Business.**

Economy	Ease of Doing Business Rank ▲	Filtered Rank	Starting a Business	Dealing with Construction Permits	Getting Electricity	Registering Property	Getting Credit	Protecting Minority Investors	Paying Taxes	Trading Across Borders	Enforcing Contracts	Resolving Insolvency
Botswana	72	3	28	11	10	3	10	7	6	3	21	3
Tanzania	139	15	21	21	3	22	33	20	26	40	3	12

Source: World Bank Ease of Doing Business, 2016.