

TSA BRIEF ON THE REVIEW OF THE TANZANIA INVESTMENT BILL 2022

1: Overview and Context

Investment is a major driver of long-run growth and development, as well as the key to enhancing prosperity and boosting the economy. As SMEs and Startups makes the largest proportion of the private sector, creating an enabling environment can significantly unlock the potential for investment, economic growth, transfer of technology, job creation and contribute to country development. Through the Tanzania's government pro-business approach to attract investors, the values, and number of investments being registered in the country is rising steadily. The figure below provides an overview on total locally and foreign registered investments, employment created as well as total investment values according to Tanzania facts and figures 2021.

Miradi ya Uwekezaji Iliyosajiliwa, Mwaka 2021

Na.	Sekta	Miradi Iliyosajiliwa				Fursa za Ajira	Thamani (Dola za Marekani Milioni)
		Wazawa	Wageni	Ubia	Jumla		
1	Kilimo	6	8	5	19	2,516	251.1
2	Maliasili	0	1	0	1	20	0.7
3	Utalii	5	12	4	21	1,786	354.1
4	Uzalishaji viwandani	37	64	34	135	20,865	953
5	Ujenzi majengo ya biashara	8	12	4	24	3,344	1,318.30
6	Usafirishaji mizigo	14	6	5	25	2,989	149.3
7	Huduma za biashara	4	6	6	16	1,148	71.9
8	Huduma za kifedha	0	3	1	4	2,869	574.4
9	Rasilimali Watu	1	1	6	8	396	10
10	Nishati	0	0	1	1	92	4.1
11	Miundombinu ya kiuchumi	0	1	1	2	17,000	62.5
Jumla		75	114	67	256	53,025	3,749.30

Chanzo: Kituo cha Uwekezaji Tanzania

Literally, investment laws provide rules for the promotion and protection of investment. The Tanzania Investment Act 1997 was established to provide more favourable conditions for investors and for related matters. Against this backdrop, Tanzania Startup Association (TSA) being cognizant and appreciative of the Government efforts through the Ministry of Investments, Industry, and Trade in amending the current act through various stakeholders consultations. TSA has reviewed and submit recommendations on the Tanzania Investment Bill 2022, incorporated of high interests for the Startups and SMEs. TSA envisage that, adoption of the recommendations will significantly attract more investments, employment creation and contribute to economic growth.

2: MATRIX OF RECOMMENDATIONS REVIEW OF THE TANZANIA INVESTMENT BILL 2022

Sn	Area (Sections and Subsections)	Current Position	Recommendations	Justification
1	3 Interpretation Page 5	<p>“Capital” means all cash contributions, plant, machinery, equipments, buildings, spare parts, and other business assets other than good will which are not consumed in the regular operations of the business and have life of more than twelve months.</p> <p>“Foreign Capital” means convertible currency, plant, machinery equipments, buildings, spare parts, raw materials and other business assets other than good will that enters Tanzania with no initial disbursement of foreign exchange and intended for the production of goods and services related to an enterprise to which this Act applies.</p>	<p>The interpretation of the word “capital” and “foreign capital” respectively to include the word “software” to mean the programs and other operating information used by a computer.</p>	<p>(i) To eliminate the confusion that may arise for Investors since the word machinery, machines, and other business assets does not necessarily mean “software”</p> <p>(ii) Allowing investment to keep up with the pace of change in science and technology, particularly digital economy and thus shaping business development, thus promoting competition.</p> <p>(iii) Allows technology transfer, attracting investments in modern technologies, especially for Startups and SMEs businesses.</p>
2	Part 1 Preliminaries Page 3 and 4	<p>Missing recognition of Startups and SMEs being one of the strategic investment areas.</p>	<p>To add and phrase that, The bill to states and recognize Startups and SMEs as one of the strategic areas of investment.</p>	<p>Startups and SMEs make up a large part of the private sector. Statistics show that 95% of businesses are Startups and SMEs, of which there are approximately 4.5 million, and they employ more than 8 million people, and contribute to the national GDP by 35%. <i>(MIT Budget Speech 2021/2022, sourced from draft</i></p>

				<i>SMEs financing Strategy 2022).</i>
3	<p>Application</p> <p>Section 2 (2) a</p> <p>Page 4</p>	<p>The business specified for the purpose of this section, which may enjoy the benefits and protection provided under this Act, are those which.</p> <p>2(2)(a) if a wholly owned by a foreign investor or if a joint venture, the minimum investment capital is not less than Tanzania Shillings equivalent of US dollar five thousand (USD 500,000).</p>	<p>To reduce the Minimum investment capital provided under 2(2)(a) from Tanzania Shillings equivalent of US dollar five thousand (USD 500,000) to Tanzania Shillings equivalent of US dollar one hundred thousand (USD 100,000) minimum investment capital Startups and SMEs business either a wholly owned by a foreign investor or if a joint venture.</p>	<p>To reduce the gap for insufficient investment capital.</p> <p>Evidence shows that, at the initial stage of business growth, Startups, and SMEs usually seek investments worth \$20,000 to \$250,000, which is challenging. Changing the provision under section 2(2)(a) will be a good step to help increase investment in Startups and SMEs businesses which can be through partnerships and thus stimulate the economy and employment.</p>
4	<p>The Board</p> <p>Section 9</p> <p>Page 10 and 11</p>	<p>9.-2(1) There is hereby established a Board of the Centre, which shall be responsible for the discharge of the functions of the centre.</p> <p>In additional</p> <p>Section 9(2)(b) provides that, “the board shall consist of two representatives from the private sector”</p>	<p>To add the provision that,</p> <p>Under Section 9(2)(b) there should be one (1) Member from Sector Associations "PSOs" for effectively and efficiently representing Startups and interests.</p>	<p>Startups and SMEs form the largest proportions of the Private sector in Tanzania. Statistics from TCCIA show that, 95% of Tanzanian businesses are SMEs. So it is important to have a representative on the board.</p>
5	<p>Benefits</p> <p>Section 22</p> <p>Page 18</p>	<p>22.-(1) A business enterprise in respect of which certificate is granted under this Act shall be entitled to the benefits which are applicable to that enterprise under the provisions of the Income Tax Act, The Customs Tariff Act, the Value Added Tax Act,</p>	<p>Adding a subsection</p> <p>That, “there will be an establishment of a special window" at the centre "TIC" to serve and support Startups and SMEs businesses in accordance with this bill.</p>	<p>This additional benefits shall serve as the incentive to help serve Startups and SMEs in the entire investment area as well as the mentioned benefits as stated in Section 22(1) of this bill.</p>

		or of any other Witten law for the time being on force.		
OTHER GENERAL RECOMMENDATIONS				
6	Functions of the center. 6 (1), (a-n) Page 8-10	Provides that, “For the purpose of section 6(1), the center shall”....., perform various roles as provided under section 6(1) and subsections (a-n).	To add a new subsection (o), “The center shall provide support to encourage investment in Startups and SMEs businesses.”	Stimulating technological investment in the pace of digital economy and technology development in Startups and SMEs businesses. This will help the development of technology, access to employment and promote the country's economy.
7	Part three Provisions relating to investments Page 14 & 15	18(4) the relevant authority which receives the request under subsections (3) within fourteen working days of receipt of the request, issue the required licence or approval or serve as a written objection to the center.	To add, a phrase to define “use of technology” to fasten licence application and issuance, as shown below. “The center shall ensure use of technology to receive and review applications to reduce the number of days mentioned, i.e. fourteen working days (14) and thus help reduce the number of days.”.	Aligning to subsections 8(1) and 8(2), as it mentions, establishing an electronic integration system. ” as well as In order to keep up with the pace of the digital economy, For example, Rwanda investment Code 2021 provides that, If the application file for registration of the investment is complete, the Board registers the investment, and issues an investment certificate to the registered investor within two (2) working days from the date of receipt of the application.
		18(6) If the application for a permit or approval is rejected by the relevant authority, the investor may appeal to the Minister responsible for the relevant licence or	To change the power of the Minister under section 18(6) to be as shown below. The investor can appeal to the relevant authority, including the National	To avoid an environment that weakens the efficiency because appealing to the Minister may take a lot of time to be worked on.

		approval in accordance with the law that governs the issuance of the licence or approval.	Investment Committee or the Supreme Court.	
8	Benefits for strategic investments or special strategic investments Section 23 (2) Page 19.	23(2)(a)(i) if locally owned, the minimum investment capital is not less than Tanzania shillings equivalent of US Dollar Twenty Million (US\$ 20,000,000).	The bill to provide a literal meaning of the terms “strategic investments or special strategic investments” including the priority sectors. The term “ Strategic Investment ” investments or special strategic investments can be placed in the TRANSLATION section "3" page 5.	For clarity. Also, complying with the country's priorities, national vision 2025, especially in strategic sectors of economy where majority business are based.
9	NA	Payment of registration and facilitation fee to obtain a registration certificate. The investment center charges Tanzanian Shillings equivalent to US\$ 1100	To change the provision to accommodate the interests of the startups, as shown below. That, Startups and SMEs business shall not be charged facilitation fee.	Providing relief, by reducing the costs that increase the burden on the business operations for Startups and SMEs.
10	NA	Challenges related to Capital Gains Tax for investors.	Reducing the Capital Gains Tax from the current rate of twenty percent (20%) for non-resident to ten percent (10%) for Investors in Startups and SMEs businesses.	For attracting more investment in Startups and SMEs businesses.

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