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Executive summary

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Executive summary

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

Tanzania's legal framework for investment remains complex, and to some extent outdated.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

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

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

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

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

Key policy recommendations

Rationalise investor rights and obligations and make them easily accessible

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

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

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

Increase land tenure security for agricultural investors

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

Enhance private investment in public infrastructure

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

Better promote and facilitate investment for both domestic and foreign firms

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