



**LEGENDGLOBE**  
**— ATTORNEYS —**

Quality and Timely Delivery of Legal Services

The background of the top half of the page is a photograph of a courtroom. In the foreground, there is a wooden gavel resting on a stack of papers. To the right, a pair of brass scales of justice is visible. The scene is lit with warm, golden light, creating a professional and serious atmosphere. A blue and gold geometric graphic element is overlaid on the left side of the image.

# **LEGAL GUIDELINES** **FOR CHINESE & OTHER** **ORIENTAL INVESTORS.**

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**PREPARED BY: LEGENDGLOBE ATTORNEYS**

Corporate Advisory, Litigation Management  
& Regulatory Compliance Practice.

**WITH FIRM PROFILE INSIDE**

# INTRODUCTION

In the current global economic equilibrium, the Chinese strength and economic muscles need not be emphasized. That is so because China is almost now a leading economic power house, with a huge economy which, sooner or later will surpass that of the USA. And most importantly China has surplus capital to invest elsewhere. For the last fifteen years or so, Tanzania has witnessed the inflow of investment from China particularly in construction, transport, industrialization, hospitality, importation of capital goods and to a small extent banking. Also, there has been a surge of importation of various merchandise from China from clothing to mobile phones. China has almost dominated the public transport sector through importation of buses. In short, therefore, Sino Investors are now playing an important role in the Tanzanian economy. The purpose of this legal guide is to provide in nutshell some important legal matters that Chinese & other oriental investors ought to know while venturing to invest in Tanzania and when they are already operational, regard being that the legal systems of two countries are quite different, hence causing some confusion and difficulties to Chinese investors.

## **The Country and its Governance System.**

Tanzania is situated in east Africa, slightly south of the equator. It borders **Kenya and Uganda in North, Rwanda, Burundi and Zaire in the west & Zambia, Malawi & Mozambique in the south.** To the east, it borders the Indian Ocean with beautiful beaches that stretch from Mtwara in the south to Tanga in the north. The country covers 945,087 square kilometers and has a population of more than Sixty Million (2021). Tanzania is a unitary state, comprising the Tanzania mainland & the Archipelago of Zanzibar. Tanzania is a multi-party democracy where political parties are allowed to operate and participate in periodic elections. The country is divided in several regions and districts. There is a two tier governance system that is the central government & the local government authorities scattered all over the country. The central government formulates & supervises the implementation of policies. The task of local government is to implement policies as directed by the central government under supervision and coordination of Regional Commissioners. Tanzania adheres to the rule of law, that is everything is done in accordance to the law, of which all people are bound to obey. Needless to say therefore, Tanzania is a very peaceful country with low crime prevalence. You can mingle very freely and safely indeed. The languages spoken widely are Kiswahili and English with few Chinese speakers. Tanzania is a member of several International Organisations.

## **Economic policies and Investment opportunities.**

Since the mid 1980s Tanzania opened up for foreign investments (FDI) by liberalizing its economy to allow private sector investment, both foreign and local. Due to robust and favorable policies and laws, coupled with political stability, there has been massive foreign investment in Tanzania ever since in almost all sectors. The government has retained some participation in few sectors, such as utilities provisions (with some participation of private sectors), railway transport, banking, insurance & social services such as education and health sectors. The government plays the role of regulator of the economy through various agencies and government departments. There are plenty of Investment opportunities in Tanzania in areas such as Agriculture & Agro industries, Manufacturing, Fishery & Forestry Industries, Mining, Oil and Gas Transport & Transportation, Real estate development, Financial Services (Insurance, Banking) Hospitality, Construction, Communication, Information Technology, Education, Infrastructure, Electricity Production etc.

## HOW TO START BUSINESS IN TANZANIA

In Tanzania you can start business using any of the following four methods

- (1) By incorporating a company
- (2) By registering a branch of your company
- (3) By registering a partnership or a joint venture and
- (4) By sole proprietorship. However the preference for foreign investing is to register a local company due to tax implications involved if the other options are taken. Concerning equity participation. There might be some special requirements in certain sectors. There is a set of documentation involved in all instances of registration done at BRELA. Normally lawyers & business consultants do registration work.



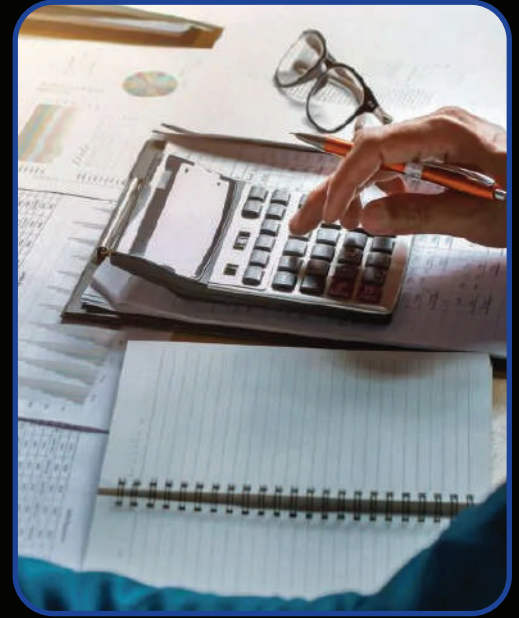
## TAXATION SYSTEM IN TANZANIA

The first thing that must be done immediately after incorporation of the company or starting a business in other ways as listed above, is to register with the Tanzania Revenue Authority (TRA) in order to obtain a TIN Number (Taxpayer identification Number) & the initial tax clearance certificate. In Tanzania there are various taxes payable to the Government through the Tanzania Revenue Authority. They include corporate tax, income tax (Pay as you earn (payee) for employees), skill levy, value added tax (not compulsory unless you meet the set threshold which is now Tshs 500,000,000 gross income). For importation, custom excise and VAT are payable. There are obligations to file various tax returns monthly and annually in accordance with the Tax Administration Act. There are other lesser taxes charged depending on the sector & those that are directly levied by local governments depending on the locality of business. Tax evasion of whatever magnitude is a serious criminal offense.



## IMMIGRATION & LABOR RELATION MATTERS

Foreign Investors employees who are not TANZANIAN need to obtain working and resident permits after applying the same from the immigration department (for residence permits) and Labor Department (working permits). This must be done prior to starting work. However the regulation provides quotas for employment of foreigners that may be granted automatically upon payment of relevance fees. There are several agents who undertake the process including lawyers Local and foreign workers (employees) must have employment contracts that comply with Tanzania Labor Laws. These employment agreements must be prepared carefully to avoid future conflict in their implementation. In Tanzania employees are not fired or terminated at will. Procedures are to be followed. But first and foremost, there must be good reasons to do so. It is advisable to seek legal assistance during preparation of employment contracts and whenever it is necessary to terminate an employee, to avoid successful litigation by the respective employee.



## FINANCIAL SYSTEM AND BANKING

The legal tender in Tanzania is a Tanzanian shilling. The lowest denomination is a shilling and the highest in a ten thousand shilling note. Almost all major currencies in the world are exchangeable in Tanzania through commercial banks and bureau de changes. They include USD, EURO, BRITISH Pound, and Japanese Yen. Also, East African currencies and South Africa Rand are also exchangeable. Chinese money (Renminbi) is yet to become popular like other major currencies.

In Tanzania there is a very vibrant banking sector composed of commercial banks and financial institutions providing a multitude of banking services under a very strict supervision of the B.O.T under the Bank of Tanzania Act and the Banking and Financial Institution Act and the regulations made under them. Because of this good and strict supervision there are hardly any bank failures in Tanzania. Banks are licensed to operate in Tanzania by the Central Bank upon compliance with the provided legal requirements.

There are only one or two banks from China that operate in Tanzania. Lending practices and other banking operations are tailored in the British and American systems. Thus for instance one cannot borrow without having a tangible security, unless it is a very special circumstance. Major banks include **CRDB BANK PLC, NMB BANK PLC, NBC LIMITED, EXIM BANK TANZANIA LIMITED and STANDARD CHARTERED LIMITED**. There are more than 40 banks & financial institutions that operate in Tanzania. Most of them are privately owned. For opening accounts banks may need the BRELA documents, business licenses and directors' identification documents.

There is also a robust insurance Industry that is regulated by Tanzania Insurance Regulatory Authority with several operators. Third party Insurance is compulsory for all vehicles operating in Tanzania except for government vehicles. Insurance companies are licensed by TIRA upon compliance with the conditions as provided.

Furthermore there are several International Financial Consulting services companies operating in Tanzania. These include Pricewaterhousecoopers (PWC), Deloitte and Touche, and Ernest Young from where one can obtain tax and financial consulting services, including corporate audits. There are also many local small firms that provide such services. There is only one stock exchange (Dar es Salaam Stock Exchange) where shares and other financial securities are traded

## LICENSING & OTHER COMPLIANCE/ REGULATORY MATTERS

There is a general legal requirement to have a license before commencing business in Tanzania depending on the nature and type of business. General business licenses are procured from local governments of the given area. Industrial licenses are issued by BRELA upon compliance with some legal requirements.

There are a number of sectoral licenses and permits that are issued by sectoral regulatory authorities. Major among the regulatory authorities available include;

EWURA – It regulates oil marketing, water and electricity

TICRA – it regulates communication, Postal services and information technology generally.

BRELA – It is concerned with registration of Business, Industrial licensing and Administration of the Companies Act, Trademarks Act, Copyrights and other intellectual rights/properties .

TANAPA – Regulates commercial hunting of Wild Animals and other regulatory matters.

T.T.B – It is concerned with promotion of tourism and hospitality sectors generally.

TANROADS/TARURA – They regulate and supervise road constructions and management but have no licensing authority

TBS It is concerned with regulation and certification of standards

LATRA – It regulates ground transport (passenger and luggage transport)

TPA – It owns and regulates ports in Tanzania and water transportation generally.

OSHA – It regulates industrial and working place safety.

ERB – It regulates engineering /construction activities.

TFDA – It regulates importation, production and use of pharmaceuticals in Tanzania.

Crops Marketing Boards – There are concerned with regulation of agriculture produces. They include Sugar Board, Cotton Board, Cashew Nuts Board. All major cash crops have their boards. Food crops are regulated by two cereal Boards

NEMC – It is concerned with environment management and regulation.

TCC – It deals with all matters pertaining competition

TFC – It regulates the production and market of agricultural fertilizers.

Professional Regulatory bodies – NBAA, ERB, TLS and many others.

TIC – It is concerned with promotion of foreign investment, including the provision of land for industrial agriculture under derivative rights. It owns specified pieces of land for that purpose all over the country for use by foreign investors. Usually foreign investors register with the center prior to commencement of business. In brief, prospective investors need to make sure that sectoral regulatory issues are complied with by contacting relevant regulatory authorities. Those may be at the preparatory stage of investment or before the project takes off. (i.e. commissioning of a factory) or when already operational.

## CRIMINAL JUSTICE SYSTEM.

In Tanzania, there is a well-functioning criminal justice system. There is a well-functioning Police Force with stations all over the country that deals with prevention of crimes, ensuring security of the people and their properties and arresting the culprits and investigating crimes. Certain conducts are deemed to be crimes and will attract the attention of police for necessary action. These include fighting in public, assaulting a person causing breach of peace i.e. bringing chaos in public places, hunting wild animals for trophy without necessary permits, having a firearm without permit, driving without a driving license, destroying property of another person or killing and wounding another person in whatever manner. If anything like this is done to a person, a report must be made at a police station that may lead to arrest, eventual prosecution and imprisonment in the prison.

## ACQUISITION OF LAND

For foreign investors land for investment will only be acquired from the Tanzania Investment Center as derivative rights for use for the specified period. Land for such use is scattered all over the country. There is also land available in special export Economic Zones established in various places in the country. To acquire land from the Tanzania Investment center an investor must register with the center first. As discussed above land is allocated at a fee and annual payment of land rents and tax.

## DISPUTE RESOLUTION SYSTEM/MECHANISM

Most commercial disputes are solved through the country court system which functions very well and effectively. The lowest court is the Primary Court followed by the District Court, then High Court. The Highest court is the Court of Appeal. There are also specialized courts, the most important being the High Court Commercial Division, which deals with Commercial Disputes, the High Court Labor Division deals with labor related matters and the High Court Land Division that deals with land and Investment related matters. Also, there is a commission for Mediation and Arbitration that deals with Labor related matters at a lower level. Tax Revenue Appeals Tribunal and Tax Revenue Appeal Board are for tax matters, Competition Tribunal for all competition and regulatory matters from various regulatory authorities and procurement Board for procurement disputes. There are elaborate mechanisms/procedures to approach the relevant Court or Tribunals of which it is almost necessary to use legal expertise. Legal practice offices are scattered all over the country with varied legal costs.



## ABOUT LEGENDGLOBE ATTORNEYS

Legendglobe Attorneys is a medium sized firm, specializing in advisory, regulatory, compliance legal services & commercial litigation management, consisting of three principals and staff with experience in the specified areas ranging more than 25 years. The resumes may be provided on request. The firm is willing to provide to clients its general commercial and business terms to enable them to make informed decisions based on their budgets and needs. The firm's principals have the history of working for high end local and international clients thus acquiring vast, robust and deep knowledge in the areas specified above.

## ABBREVIATIONS

NEMC – NATIONAL ENVIRONMENT MANAGEMENT COUNCIL  
TPA – TANZANIA PORTS AUTHORITY  
TTB – TANZANIA TOURIST BOARD  
TBS – TANZANIA BUREAU OF STANDARDS  
TLS – TANGANYIKA LAW SOCIETY  
CRB – CONTRACTORS REGISTRATION BOARD  
ERB – ENGINEERS REGISTRATION BOARD  
TFDA – TANZANIA FOOD AND DRUGS AUTHORITY  
BRELA – BUSINESS REGISTRATION AND LICENSING AUTHORITY  
OSHA – OCCUPATIONAL SAFETY AND HEALTH AUTHORITY  
TRA – TANZANIA REVENUE AUTHORITY  
TFA – TANZANIA FERTILIZERS REGULATION AUTHORITY  
TIC – TANZANIA INVESTMENT CENTER  
TANROADS – TANZANIA ROADS AGENCY  
TARURA – TANZANIA RURAL AND URBAN ROADS AGENCY  
LATRA – LAND TRANSPORT REGULATORY AUTHORITY  
EWURA – ENERGY AND WATER UTILITIES REGULATORY AUTHORITY  
TCC – TANZANIA COMPETITION COMMISSION



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## ABOUT US

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Legendglobe Attorneys is a distinguished legal firm with a dynamic team of Partners, Associates, & Consultants who bring a wealth of professional experiences from various fields, encompassing both legal & non-legal domains. Our team members have backgrounds in academia, consulting, research, banking, investment, finance, and environmental law, providing us with a diverse range of expertise to cater to our clients' needs.

 **CLIENT-CENTRIC APPROACH:**

We tailor our legal solutions to our clients' specific needs, ensuring that their objectives and goals are met effectively.

 **INTERNATIONAL PERSPECTIVE:**

We have a keen understanding of the cross-border legal complexities that businesses face, allowing us to guide our clients through these challenges.





 **COMMITMENT TO EXCELLENCE:**

Our team is known for its dedication to excellence, attention to detail, & a strong work ethic, ensuring that our clients receive the best possible legal support.

 **ETHICAL STANDARDS:**

Integrity and ethical practice are the cornerstones of our firm, ensuring trust & reliability in all our endeavors.

 **CONTINUAL LEARNING:**

We emphasize continuous learning & professional development to provide our clients with the most current and effective legal advice.

 **COMMUNITY ENGAGEMENT:**

We are actively involved in various social and pro bono initiatives, contributing to the betterment of society & promoting access to justice.

# THE PRINCIPALS / KEY PERSONNEL OF THE FIRM

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## GABRIEL SIMON MNYELE.

He is the Lead Partner of the firm. He has 30 years experience in practice that combines academic, consultancy, advisory, research, litigation and public administration. He has worked at the Institute of Finance Management, Open University of Tanzania and Law School of Tanzania, where he taught laws of Banking, Company, Tort, Family and Civil Procedure. He is remembered for designing a master's degree program that is currently in use at the Open University.



**MR. MNYELE** has done major consultancies and provided legal advice such as in establishment of **TACAIDS** and **ZACAIDS**, preparation of new Labor Laws currently in force, establishment of warehousing receipt system, establishment of a community bank, and preparation of syllabus for Tanzania Institute of Bankers and privatization of Tanzania Film Company. He has advised various clients on the nature of ESCROW accounts, formation of Joint Ventures, Taxation of Employment income and salary review, tax implication of construction agreement, legal implication of employee's AIDS screening, foreign exchange legal regime, immigration law, dissolution of trusts, employment terminations, intellectual property acquisition, handling of labor disputes and new labor laws, due diligence for taking over purposes, drafting an alternative NGO Act on behalf of an umbrella **NGO** organization, redundancy package for workers voluntarily separating with the employer, foreign corporate guarantees and its legal implication, to name but a few. With regard to litigation, **Mr. Mnyele** has been in the limelight in most major litigations in Tanzania. He has litigated much in banking matters, constitution, intellectual property, real estate and media law.

In short, **Mr. Mnyele** is an all weather lawyer who can organize and manage a major consultancy and also litigate very complicated matters at ease. He graduated from the University of Dar es Salaam in 1992 and at the University of Warwick UK for a masters in International Economic Laws in 1996 and was admitted to the bar on the 14th day of December 1997.

## **G.B MLIPANO - RESIDENT CONSULTANT**

He has 30 years' experience working with the government of Tanzania up to the level of Senior State Attorney and the Bank of Tanzania where he gained a vast experience on regulation of banking and labor matters in general. He left the Bank of Tanzania in 2020 to engage in private practice. He was admitted to the bar in 2009. He holds an LLB degree from the University of Dar es Salaam which he obtained in 1992 and an LLM in Maritime Laws from the University of Malta.



He is an expert in legal opinions and other advisory services and drafting of complicated contracts. He has superb writing, research and drafting skills in legal and non-legal matters and down to earth analytical skills. He shall be responsible for corporate advisory services and other support services.

## **ES MNYELE – RESIDENT CONSULTANT**

For 22 years he was working as a senior banker with a reputable bank. He left the bank to concentrate on legal practice and other private activities in 2018. He had reached a level of director. His area of interest includes financial laws (banking inclusive) real estate, labor laws, hospitality industry and taxation. He is a cross cutting and a consummate professional. He holds an Advanced Diploma in Accountancy from the Institute of Finance Management.



He is a holder of a CPA degree (Certificate Public Accountant) issued by NBAA (National Board of Accounts and Auditors), a Master of Business Administration (MBA) from Hull University, United Kingdom where he specialized on General Management, a Bachelor of Laws from Open University of Tanzania and a Post Graduate Diploma in Legal practice from Law School of Tanzania where he passed in a first sitting. He was admitted to the Bar in 2014. He shall coordinate financial law unit practice Apart from the principals, the firm has employed competent professional associates and support staff to assist in provisions of required legal services competitively and competently.

# AREAS OF PRACTICE.

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Based on accumulated experiences the firm will engage in general and specific areas of practice as follows;

## GENERAL REGULATORY ADVISORY & COMPLIANCE LEGAL SERVICES.

- Promotion of business entities/registration of businesses
- Supporting corporate business clients in fulfilling corporate compliances provided under the Companies Act and advising them on implications and processes involved in that regard.
- Undertaking merger and acquisition.
- Advising on various corporate matters and other legal issues
- Corporate/commercial litigation.
- Drafting all types of contracts.
- Reviewing and opinion on various contracts to ensure that they comply with Tanzania legal requirements.
- Handling transfer of shares generally including preparation of shareholders and joint ventures agreements
- Doing company/land searches and other due diligence exercises.
- Registration of trademarks and patents.
- Advising on negotiation strategy from a legal point of view.
- Acting as corporate conveyancers and sales agents of real property
- Corporate litigation management.





## **BANKING AND LEASING**

- Preparation of security documents such as loan agreements, debentures, mortgage deeds, chattel transfer deeds, leasing agreements letter of hypothecation, equipment leasing and asset acquisition agreements
- Handling the registration of the documents above (perfection of securities)
- Undertaking receivership of properties and companies and liquidations (corporate recoveries)
- Legal advisory services on banking law generally.
- Land/company searches and other due diligence exercises.
- Advice on foreign exchange regulations.
- Debt collection on behalf of banks and other lenders.
- Handling legal proceedings arising under the Banking and Financial Institution Act, 2006 such a petition to transform a financial institution such a petition to transform to a bank and petitions for affirmation of mergers, takeovers and re-organizations.
- Monitoring obstructive methods used by borrowers to frustrate recovery measures for instance by obtaining ex parte injunctions or using spouses to sue
- Undertaking litigation arising from banking transactions..

## **LABOR/INDUSTRIAL RELATIONS LAW AND IMMIGRATION**

- Advising on various matters on employment, particularly on employment contracts and contractual requirements generally and their implementation, including the drafting of the said agreements.
- Advising on appropriate procedure to be followed in disciplinary proceedings against the employees. The emphasis in this regard is to prevent successful post termination litigation by advising the proper way that termination should be undertaken and payment of terminal benefits and compensation to dismissed employees with a view to preventing unnecessary litigation.
- Advising on redundancy and retreatment procedure.
- Making appearances at CMA the High Court Labor Division and the court of Appeal on matters arising from Labour Laws.
- Securing residence and working permits.

## NATURAL RESOURCES LAW (OIL, GAS AND MINERALS)

- Reviewing PSA and HCA agreements and other contracts to ensure that they are in compliance with Tanzania Legal regime regulating the petroleum gas and mining industry.
- Formulating and drafting agreements to form consortium for undertaking operational and implementation work for extractive industry.
- Undertaking acquisition of various licenses in Oil, Gas and Mining industries, including renewal of some as required.
- Undertaking litigation pertaining to natural resources law..

## COMPETITION LAW

- Undertaking procedural requirements under the competition law for merger and acquisition and other transactions of similar nature.
- Process merger and acquisition both under the competition law and the Companies Act.
- Undertaking various litigation arising from the Fair competition Act and its regulations.

## REAL PROPERTY LAW

- Providing input for acquisition of land (real estate)
- Consummating various real estate transactions by preparation of documents necessary for the same and their perfection.
- Processing partition and unit title transaction
- Processing subdivisions.
- Preparations and perfection of transfers.
- Preparations and perfection of complex leases.
- Preparation of construction joint ventures.
- Review construction agreements of landed property.



## REGULATORY COMPLIANCE

- Apart from general company law compliances, the firm, based on the acquired knowledge and experience, shall focus on sectoral advisory services on regulatory matters. It shall provide support services on acquisition of sectorial licenses permits and necessary registrations. This is crucial because, following liberation of the economy, several laws have been enacted to regulate specific sectors of the economy and provisions of services. The laws created agencies to regulate respective sectors specifically. The firm shall act as a link between respective regulatory agencies and the clientele in terms of compliance requirements. The clientele shall be categorized in clusters of practice as follows.
  - Agriculture, Fisheries, Forestry, Wildlife and Hunting and Environment.
  - Mining, Oil and Gas
  - Transportation, Aviation and Communication.
  - Energy, Utilities and construction.
  - Tourism, Hospitality, Sports and Leisure.
  - Health, Education and Professionals regulation
  - Banking, Insurance and Social Security
  - Non-Governmental organizations and Local embassies.
  - Governance and Government.
  - Employment and Industrial relations

In addition to that the firm shall handle specialized litigation arising from the decision of regulatory agencies such as LATRA, EWURA, TICRA, the government procurement activities, TRA and the Competition Commission.

## CHINESE/ORIENTAL INVESTORS SPECIAL DESK.

There is no dispute that China is now an economic powerhouse having substantial surplus to invest abroad. In recent years we have witnessed a surge of Chinese business people coming to invest in Tanzania. Our experience has shown that Chinese investors have been facing a number of problems in that regard due to differences in legal systems between Tanzania and China in almost all aspects. To guide the Chinese and other oriental investors the firm shall prepare a booklet to provide guidance to Chinese Investors on establishing business in Tanzania, initial compliances generally and sectorial, immigration and residence permits, taxation generally common criminal offenses, requirements for sector wise compliance, Environmental compliance, Labor Law requirement among others. This shall help the investor to avoid hurdles that they may face in their business undertakings

# SOME OF OUR PAST & PRESENT CORPORATE CLIENTS.



- Parastatal Sector Reform Commission
- Ministry of Co-operative and Marketing
- The Prime Minister's Office-Tanzania Aids Commission (TACAIDS)
  - Ministry of Labour, Youth, Sports and Social Welfare-
  - UNDP
- Business Times Ltd/Business Printers Limited
- National Board of Accountants and Auditors
  - KLM Netherlands Air
- Tanga Dairies Cooperative Union Ltd
  - Mohamed Enterprises Limited
  - Agricultural Inputs Trust Fund
  - Government of Libya
- Tanzania China Friendship Textile Ltd





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