



## Law to curb EAC trade barriers pending

A legislation aimed to curb cumbersome trade barriers within the East African Community (EAC) bloc is yet to be operationalised.

“The law is ready, but we need regulations. We have draft regulations but have yet to develop procedures,” Mr Kenneth Bagamuhunda, stated the EAC director general of Customs and Trade.

The EAC Elimination of Non-Tariff Barriers Act, 2015 was enacted by the East African Legislative Assembly (EALA) three years ago.

It is aimed at removing a string of non-tariff restrictions blamed for the low volume of intra-regional trade estimated at 13 per cent of all commerce in 2013.

Non-tariff Barriers (NTBs) often limit market access, quantities of goods traded through, among other things, increasing the prices of goods.

They come in various forms, including sanitary and environmental protection measures, import/export restrictions and arbitrary applications of rules of origin, among others.

## Verify your information online - BRELA

The Business Registration and Licencing Agency (BRELA), called on businessmen who registered their companies before February 1 2018 to verify their information online so that they could be accommodated in the new system.

BRELA Chief Executive Officer and Registrar of Companies, Frank Kanyusi said that the verification exercise was of paramount significance for businessmen since they will no longer need to travel all the way to Dar es Salaam because everything can be done online. “We want their information to be verified by themselves before loading them in the online system.

Those companies registered from February 1, this year, their information is already loaded in the system as required,” he said. He said for local company owners, they will need to put their numbers of Tax Payers Identification Number (TIN) and their National Identity Cards issued by National Identification Authority (NIDA) numbers.

“For non-citizens or foreigners who own companies they will be required to put the numbers of their valid travelling passports,” Mr. Kanyusi explained, noting that from now onwards there will be no paper work because everything is to be conducted on line.

## Government urged to adopt new land rights blueprint

The Voluntary Guidelines on responsible Governance of Tenure (VGGT) set out internationally accepted principles and standards for fair and responsible land governance. They also provide a framework that countries can use when developing their own strategies, policies, legislation, programmes and activities geared towards land ownership and usage.

## Around the World

### **New Zealand lawmakers approve bill to expunge historical gay sex convictions**

New Zealand’s parliament approved legislation to allow people who were previously convicted of homosexual offenses to have their criminal records wiped. The bill “seeks to reduce prejudice, stigma, and all other negative effects” that would come from a prior conviction for a homosexual offense. Homosexual conduct between consenting males over the age of 16 was not decriminalised until 1986. Those who have been convicted of homosexual conduct previously still carry that conviction on their record even though it has been decriminalised.

### **Malaysia parliament passes anti-fake news law**

The Malaysian Parliament passed an Anti-Fake News bill outlawing fake news in an effort to prevent corruption. The law seeks to criminalise acts and publications that would deceive the public. The bill describes “fake news” as: “any news, information, data and reports, which is or are wholly or partly false, whether in the form of features, visuals or audio recordings or in any other form capable of suggesting words or ideas.” Those convicted of violating the law can face a maximum USD 500,000 fine and imprisonment of up to six years. The fake news publication will immediately be removed from the media and the convicting Court may also require a public apology.

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The Ardhi University (ARU) in Dar es Salaam, through its land administration unit, has now embarked on a programme to create awareness among various stakeholders on how best the guidelines can be implemented in Tanzania.

According to Dr Agnes Mwasumbi, the coordinator for the programme at ARU: "This is at an initial stage and we want to see how it will be understood when key stakeholders have been informed about the model, because it is aimed at guiding policy makers and all those involved in addressing challenges that the country faces in management of land, fisheries and forests."

Dr Mwasumbi explained that they are voluntary and not legally binding or intended to replace existing national or international laws.

## Taxation must not be burdensome - JPM

President John Magufuli has tongue-lashed the Tanzania Revenue Authority (TRA) for pursuing aggressive strategies that push taxpayers beyond the boundaries of acceptable tax collections saying paying taxes should be an honourable obligation rather than a burden.

He directed Minister in charge of Finance and Planning as well as the Permanent Secretary in the Ministry to help seek an end to the challenges facing TRA and help improve relationships with taxpayers.

Expressing deep concern over the way TRA was fixing tax rates, the Head of State wanted everyone to pay fair taxes. He cited an example whereby TRA were charging property owners up to TZS 900,000 as property tax while the government had directed the authority to fix flat rates for all owners. "I have been informed how the authority is harassing people paying property tax."

"There are people in the authority who are not good. They are ready to destroy the good deeds of the authority and the country," pointed out the President, adding "All people should pay tax."

## Ministers get 7-day ultimatum...JPM demands concrete solutions to business challenges

President John Magufuli issued a seven-day ultimatum to all ministers to work on critical challenges haunting the business community in the country.

He particularly directed the Minister of Finance and Planning, Dr Philip Mpango and Tanzania Revenue Authority (TRA) Commissioner General Charles Kichere to meet and deliberate on the best strategy to reduce the burden of backlog taxes to traders. Speaking at the 11th Tanzania National Business Council's (TNBC) meeting at State House in Dar es Salaam, the business community raised concern over the outstanding debts that were accumulated over many years.

Responding, Dr Magufuli ordered the ministry and TRA to meet with businesspeople and renegotiate on the outstanding amount that can fairly be paid to ease the tax burden that threatens many businesses in the country. "We should have a human face and avoid being too rigid because the government relies on the business community to raise revenue," said the president, arguing that if for instance the businessperson owes TRA money that was accumulated in 10 years, the taxman can forego five years and collect the amount accumulated for five years.

## Around the World

### Lawsuit against Saudi Arabia for involvement in 9/11 terror attacks moves forward

A judge for the US District Court for the Southern District of New York denied Saudi Arabia's motion to dismiss a lawsuit for involvement in the September 11 2001, terror attacks. Victims and families of victims originally brought suit against Saudi Arabia and the Saudi High Commission for Relief in Bosnia and Herzegovina (SHC). The claim against Saudi Arabia alleged responsibility for its agents who "directly and knowingly assisted the hijackers and plotters who carried out the attacks." The claim against the SHC was that charity organizations under its control gave "financial and operational support" to al Qaeda, allowing the group to conduct the attacks.

### Cambridge Analytica accused of violating election laws

Government watchdog group Common Cause filed a pair of legal complaints accusing Cambridge Analytica LTD and its affiliates of violating federal election laws that prohibit foreigners from participating in the decision-making process of US political campaigns. Filed with the Federal Election Commission (FEC) and the Department of Justice, Common Cause names multiple other defendants all of which are non-US citizens.

President Magufuli directed all ministers whose dockets traders blamed during the discussions to address the raised issues within one week, with the view of improving the country's business environment. The business hurdles that traders complained of include nuisance taxes that affect trade and investment in the country, bureaucracy within the government institutions and indiscriminate imports that flood the domestic market, rendering the home manufactured goods uncompetitive, as well as outdated laws.

## EAC oaths bill deferred over penalties

Debate on the East African Community (EAC) Oaths Bill, 2017 was deferred to another date for failure to indicate penalties to those who would violate it once enacted.

Some lawmakers with the East African Legislative Assembly (EALA) also wanted the proposed law to be the preserve of a certain category of staff and not all in the service of the EAC.

"There is a serious void in the legislation because there is no mechanism to deal with the violators", said the Counsel to the Community Anthony Kafumbe. He said during the second reading of the draft of the proposed legislation that it did not indicate how to deal with persons who would violate when passed and enacted.

The bill was introduced into the Assembly by the Chairperson of the EAC Council of Ministers and read for the first time at the EALA plenary session in Kampala. It wants newly-recruited staff members of the EAC, its organs and institutions to be subjected to an oath of allegiance upon assuming duties.

Besides those recruited in the employment or service of the Community, those required to take oath are to include persons appearing before judicial or quasi-judicial organs or institutions of EAC. These are to include those required to give evidence at the East African Court of Justice (EACJ), the judicial organ of the Community handling cases and disputes from across the region.

## Ensure local content in energy sector

Petroleum Upstream Regulatory Authority (PURA) has warned companies that are yet to comply with the local content upstream activities of ensuring Tanzanians secure employment to do so or face consequences.

Local content regulations require that all the jobs that can be done by Tanzanians should be reserved for citizens and not offered to foreigners.

"In previous years, before the establishment of PURA, the situation was bad as many jobs which could be done by Tanzanians were taken by foreigners. But in collaboration with other institutions we have significantly reduced such jobs held by foreigners," said the regulator's acting Director General Charles Sangweni.

In an effort to ensure local people were fully benefitting from the country's natural gas, the regulator in collaboration with other public institutions has initiated a campaign to encourage youth to study oil and gas activities at vocational colleges to ensure that all positions are taken up by them.

Mr Sangweni said that companies must operate by considering the local content upstream activities, saying failure to such conditions the law would take its course.

## Around the World

### Trump signs memorandum calling for tariffs against China

US President Donald Trump signed a presidential memorandum calling for the US Trade Representative to develop a list of proposed tariffs against goods from China. The trade representative has 15 days to publish the list of proposed tariffs, which will undergo a period of notice and comment. After the notice and comment, the trade representative will implement and publish the final tariff increases against China's goods. The trade representative will also pursue a dispute settlement with China in the World Trade Organization (WTO).

### HRW urges Eastern Caribbean countries to repeal 'buggery' laws

Human Rights Watch (HRW) urged Eastern Caribbean countries to repeal colonial "buggery" laws. Among a variety of requests, HRW urged the countries, including Antigua and Barbuda, Barbados, Dominica, Grenada, St. Kitts and Nevis, St. Lucia, and St. Vincent and the Grenadines, to repeal all laws that criminalise consensual activity among sex couples, pass laws defining rape in gender-neutral ways, and conduct awareness raising campaigns for the LGBT community.

The acting Director General added that the government was continuing to create a conducive environment that would attract investors to pump their money into Tanzania. He said currently there were more than ten companies dealing with upstream activities in various parts, including Mtwara and Lindi.

## Freedom of expression not absolute, Dar argues as Media Services case start

Hearing of a case challenging the Media Services Act, 2016 has begun, with the government maintaining that the freedom of expression and information was not absolute.

A principal state attorney told the First Instance Division of the East African Court of Justice (EACJ) this year that the new media law was reflective of both the country's 1977 Constitution and the East African Community (EAC) Treaty.

The media stakeholders through the Media Council of Tanzania (MCT), Legal and Human Rights Centre (LHRC) and the Tanzania Human Rights Defenders Coalition (THRDC) had filed a case challenging some articles in the law.

The Applicants opposed several articles of the legislation, claiming they impinged freedom of the press and freedom of expression.

The complainants further argued that some of the provisions contravened the EAC Treaty which urges member states to abide by and protect the principles of good governance, democratic rules and rule of law, among others.

"We pray for dismissal of the reference, costs to be met by the applicants and any other order of the Court may deem suitable", pleaded the state attorney.

The panel of three EACJ judges presiding over the case comprises Principal Judge Lady Justice Monica Mugenyi, Justice Fakihi A. Jundu and Justice Dr Faustin Ntezilyayo.

Tanzania Parliament enacted the 2016 Media Services Act No. 12 on November 16 2016, and President John Magufuli assented it to law immediately.

The MCT, LHRC and THRDC allege at the Court that the Act is a threat to press freedom and freedom of expression and thereby violates Tanzania's obligation to uphold and protect human and people's rights standards as stipulated in Articles 6(d) and 7(2) of the Treaty.

The Media Services Act, according to the parties to the suit, comes as an unjustified restriction on the freedom of expression and of the press, which is a cornerstone of the principle of democracy, rule of law, accountability, transparency and good governance.

The petitioners want the Court to declare that the cited provisions violate the EAC Treaty and the freedom of expression and information.

They also want the regional Court to cease application of the same and consider repealing them to conform to the EAC Treaty.

The case is expected to continue in May after both parties file their written submissions.

## Around the World

### **Bollywood star Khan jailed for five years for poaching antelope**

An Indian Court jailed Bollywood star Salman Khan for five years for poaching, a sentence likely to derail the career of one of the country's most popular actors. Khan, 52, was found guilty of violating wildlife laws by killing a blackbuck, an endangered species of antelope, in 1998. Four other Bollywood actors accused in the case were acquitted.

### **UK appeals Court rules electronically transmitted software not a 'good'**

The UK Court of Appeal ruled that software is not a 'good', overruling the lower Court opinion. The issue on appeal was whether the sale of a license to use software counts as a "sale of goods" under the UK's commercial regulations. The Court ruled that it did not, as the software was given to the buyer electronically and not on a "tangible medium."

### **ICC prosecutor calls for end to violence in Gaza Strip**

International Criminal Court (ICC) chief prosecutor Fatou Bensouda called for an end to the violence that has recently taken place in the Gaza Strip and raised the possibility of ICC prosecutions against Israel and Hamas. In her statement, Bensouda cautioned both sides about the "deteriorating situation" that has engulfed the region: Since 30 March 2018, at least 27 Palestinians have been reportedly killed by the Israeli Defence Forces, with over a thousand more injured, many, as a result of shootings using live ammunition and rubber-bullets. Violence against civilians in a situation such as the one prevailing in Gaza could constitute crimes under the Rome Statute of the [ICC].

## Zanzibaris' bid to challenge Union legality hits snag

The First Instance Division of the East African Court of Justice (EACJ) has struck out an application filed by one Rashid Salum Adiy and 39,999 other Zanzibar citizens versus the Revolutionary Government of Zanzibar, Chief Secretary of Revolutionary Council of Zanzibar and United Republic of Tanzania.

The application was seeking the EACJ to allow the case challenging the legality of the Union of Tanzania to be heard in Zanzibar.

Rashid Salum Adiy and 39,999 others had earlier filed the case before the First Instance Division challenging the Union of Zanzibar with the Mainland under the United Republic of Tanzania.

The respondents to the case were the Revolutionary Government of Zanzibar, the Chief Secretary Revolutionary Council of Zanzibar and the United Republic of Tanzania.

The Court in its ruling read by the Principal Judge, Justice Monica Mugenyi, was concerned with the unprofessional manner in which the applicants approached the Court and rejected the matter because it the application was not supported by a valid power of attorney. The applicants also attempted to use Kiswahili in Court while the treaty provides for English to be used.

## We've now allowed ordinary people to judge our Courts' performances' – CJ

Chief Justice, Professor Ibrahim Juma said the ongoing reformation process in the judiciary pillar entails making sure that Court users, in this case ordinary Tanzanians, are given the opportunity to review and evaluate how the primary, regional and High Courts deliver their respective services to ensure satisfaction.

"We are striving to make sure that our Courts, magistrate and judges meet international standards of service provision, but this is not enough, we want to go beyond international standards and become an exemplary institution when it comes to providing justice to our people so that even other countries will come to Tanzania to learn how it is done," said the Chief Justice.

The Chief Justice was addressing some 220 Judges, Magistrates, Registrars and other Court workers from all over the country during the Judiciary of Tanzania Workshop on Judiciary Strengthening Project (JSP) Mid-term review taking place at the Arusha International Conference Center (AICC), where he stressed people-focused judicial services.

The Chief Justice also called for 'easy to digest,' language of the Courts, pointing out that most of the proceedings, judgments and even legal statements are currently being published in English, while majority of Tanzanians are more conversant with Kiswahili. "That is why even 'The Judiciary' website is visited by few people, mostly judges, lawyers and magistrates who understand the English language as well as Courts vocabularies; ordinary people will definitely steer clear of that," he added.

## New plan to harmonise bankruptcy laws

The government of Tanzania acting through the Registration, Insolvency and Trusteeship Agency (RITA) is in the final stages of preparing a bill on harmonising the legal frameworks that govern the bankruptcy of companies and investors in the country.

## Around the World

### Homophobic laws in Caribbean could roll back in landmark case

Trinidad and Tobago could make legal history in the Caribbean this week by rolling back longstanding homophobic laws. A High Court judge, will deliver his verdict in a landmark case brought by a private citizen which, if successful, would set a legal precedent for removing similar laws in countries across the region.

In March 2017, Jason Jones, an LGBT activist, took the government of Trinidad and Tobago to Court, filing a lawsuit to strike down the so-called "buggery law", which dates from British rule. Jones argues that section 13 of the island's Sexual Offences Act, which criminalises anal sex, is unconstitutional because it violates his right to privacy, liberty and freedom of expression

### Former South Korea president faces formal corruption charges

South Korean prosecutors formally charged jailed ex-president Lee Myung-Bak with a slew of corruption charges, including bribery, embezzlement and abuse of power. These charges make him the country's fourth leader to face a criminal trial in almost two decades.

The Seoul Central District Prosecutor's Office has charged Lee with taking a total of 11 billion won (USD 10M) in bribes from his intelligence agency and other business groups, including Samsung.

The RITA acting manager for Insolvency and Trusteeship said the agency is working on a draft bill for a law that would fill the vacuum in those areas. RITA is statutorily charged with the task of supervising on behalf of the government the bankruptcy processes involving investors in Tanzania.

Currently, the country's legal frameworks that govern the process of winding up and closing business enterprises are scattered all over the statute books... And, when business insolvency processes are complex, the business environment becomes unfriendly for prospective investors.

Mr Makoko cited some of the pieces of legislation that are unclear when it comes to governing business exit as including the Finance and Banking Act (2006), the Co-operative Societies Act (2013), the Business Activities and Registration Act of 2007, the Insurance Act (2009) and the Bankruptcy Act of 1930.

## CJ invalidates fees charged on copies of Court documents

In his Direction No 1 of 2018 to all Registrars, Court Administrators and other senior judicial officers, Prof. Juma quashed payments for copies of judgments, rulings, orders, decree and drawn orders of specified Courts, countrywide.

The move came into effect on March 6, 2018 and applies to all copies of documents before the High Court, Courts of Resident Magistrates, District Courts and Primary Courts.

"I direct that no fees shall henceforth be payable by parties to civil proceedings in respect of any judgment, ruling, decree, orders or drawn orders in the High Court, Courts of Resident Magistrates, District Courts and Primary Courts," the CJ ordered.

He said the Court Fees Rules, 2018, which are undergoing final touches before their promulgation shall revoke the Court Fees Rules, 2015, making copies of judgment, ruling, decree, orders or drawn orders readily available to the parties fee-free. According to the Court Fees Rules, 2015, payments for the Court documents depend on the level of the Court, but the minimum amount per copy was TZS 5,000.

## Bitcoin poses challenges as BoT calls for caution

Following growing appetite among Tanzanians to invest in cryptocurrencies, the Bank of Tanzania (BoT) is studying how the new phenomenon can be regulated.

A cryptocurrency is a digital, or virtual currency, that uses cryptography for security. A defining feature of digital currencies is the fact that they are not issued by any central authority, making them theoretically immune to government interference or manipulation. One such currency is the bitcoin.

Among companies in the country involved in the business, according to a survey, is Cryptocurrency International Tanzania Limited (CITL), which provides a platform for buyers to acquire digital cash using credit cards.

The director of National Payment Systems at BoT, Mr Bernard Dadi, said that the concept of cryptocurrencies was still new in the country, and central banks around the world were still grappling with the intricacies of the technology.

"BoT is currently studying internet currencies with a view to finding a permanent regulatory solution," he said. Mr Dadi added that the cryptocurrency business was available to anyone with access to the Internet, adding that this made its regulation difficult.

## Around the World

### Alarm as government rewrites UK 'torture guidance' in secret

A British government guidance paper that is intended to prevent the country's intelligence officers from becoming involved in human rights abuses is being rewritten in secret, much to the alarm of civil liberties groups. Rights activists are deeply worried that the UK government may be tempted to water down the guidance at a time when the US president, Donald Trump, has said he hopes to restore waterboarding "and a hell of a lot worse" and has nominated Gina Haspel as the next head of the CIA. Haspel reportedly oversaw a secret CIA prison in Thailand, where a terrorism suspect was tortured.

### Facebook personal data use and privacy settings ruled illegal by German Court

Facebook's default privacy settings and use of personal data are against German consumer law, according to a judgement handed down by a Berlin regional Court.

The Court found that Facebook collects and uses personal data without providing enough information to its members for them to render meaningful consent. The federation of German consumer organisations (VZBV), which brought the suit, argued that Facebook opted users in to features which it should not have.

He added that BoT was consulting with prominent international financial institutions as well as peer central banks on the way forward.

## PPRA launches national e-procurement system

According to a statement released by PPRA Chief Executive Officer, TANePS supports the entire public procurement circle from planning to contract management.

“It is based on the public procurement laws, particularly Part XI of the Government Notice (GN) No. 446, which provides regulations governing procedures for electronic procurement,” reads part of the statement.

The statement reads that accordingly and in line with Regulation 343 of GN No 446, features of TANePS include user registrations, e-Tendering and e-Purchasing. Other features include e-Auction, e-Payment and e-Contract management.

As a first step, TANePS will be piloted in 100 selected procuring entities, consistent with Regulation 342(1) of GN No. 446, on procurement of common use items, medicines and medical supplies.

The statement reads that training for pilot procuring entities will be held during March 2018, whereas the system has been opened since February 27 2018 for suppliers, especially those interested in contracts under framework agreements, to register themselves as users.

However, prior to registration, business community is hereby referred to training materials that are provided in the form of video and manuals to enable it to familiarise with system features.

## Why government differentiates banks' local content participation

The government has explained why it differentiates the use of local banks in petroleum and mining industries in its recent regulations governing the two sectors of the national economy.

The issue emerged at a workshop organised by KPMG in Tanzania to sensitize and discuss local content issues in the extractives industry.

Under the 2017 Petroleum (Local Content) Regulations published last May, companies are required to transact their businesses through a Tanzanian bank.

But according to the 2018 Mining (Local Content) Regulations, which became effective in January this year, the rules require mining firms to use indigenous Tanzanian banks.

A ‘Tanzanian bank’ is defined in law as any bank licensed by the Central Bank of Tanzania to conduct banking business. On the other hand, an “indigenous bank” is one that has 100 per cent Tanzanian shareholding – or, at least, a majority shareholding that is Tanzanian.

However, the acting Director General of the Petroleum Upstream Regulatory Authority (PURA), Mr Charles Sangweni, argued that the petroleum industry is more capital-intensive than mining. This factor influenced the Tanzanian authorities “to relax the use of banks for firms conducting petroleum activities”.

## Amendments to the Land Act imposes restrictions on mortgages

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