



Protocol on Finance and Investment Baseline Study: Swaziland Country Report

November 2011



Protocol on Finance and Investment Baseline Study: Swaziland Country Report

A report reflecting the state of progress of implementation of the Protocol on Finance and Investment in SADC

Imprint

Published by:

Southern African Development Community (SADC) Secretariat
SADC Headquarters
Plot No. 54385
Central Business District Gaborone

Botswana

<http://www.sadc.int/>

Author: Genesis Analytics <http://www.genesis-analytics.com> (Ryan Short, Alyna Wyatt, Matthew Mathee, Mishkah Teladia, Jessica Benjamin)

Contact person for Genesis Analytics: Ryan Short (ryans@genesis-analytics.com)

This study was supported by

- Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH on behalf of the German Government and
- FinMark Trust.

November 2011

Table of Contents

LIST OF ABBREVIATIONS	IV
1. CONTEXT	1
2. STATUS OF FIP IMPLEMENTATION	1
2.1. Status of FIP Ratification	1
2.2. FIP Structures	2
2.2.1. Annex 1: Cooperation in Investment	2
2.2.2. Annex 2: Macroeconomic Convergence	4
2.2.3. Annex 3: Cooperation in Taxation and Related Matters	5
2.2.4. Annex 4: Cooperation and Coordination of Exchange Control Policy	5
2.2.5. Annex 5: Harmonisation of Legal and Operational Frameworks	6
2.2.6. Annex 6: Cooperation in Payments, Clearing and Settlement Systems	6
2.2.7. Annex 8: Cooperation in the Area of Banking Supervisory Matters	7
2.2.8. Annex 9: Cooperation in Respect of Development Finance Institutions	8
2.2.9. Annex 10: Cooperation on Non-Banking Financial Institutions and Services	8
2.2.10. Annex 11: Committee on SADC Stock Exchanges	9
3. CONCLUSIONS AND RECOMMENDATIONS	11
3.1. Conclusions	11
3.2. Recommendations	12
4. REFERENCES	14
5. APPENDICES	15
5.1. Appendix 1: List of Interviews	15
5.2. Appendix 2: Matrix of Commitments	16

LIST OF ABBREVIATIONS

BAFIA	Banking and Financial Institutions Act
BIS	Bank of International Settlements
BOT	Bank of Tanzania
CCBG	Committee of Central Bank Governors
CDS	Central Depository And Settlements System
CISNA	Committee of Insurance, Securities and Non-Banking Financial Authorities
CMSA	Capital Markets and Securities Authority
DFI	Development Finance Institutions
DSE	Dar es Salaam Stock Exchange
DTA	Double Taxation Avoidance
EAC	East African Community
EPZA	Export Processing Zone Authority
ESAAMLG	East and Southern African Anti-Money Laundering Group
FATF	Financial Action Taskforce
FCA	Foreign Currency Account
FIAS	Foreign Investment Advisory Service
FIP	Protocol on Finance and Investment
FIU	Financial Intelligence Unit
FSAP	Financial Sector Assessment Programme
GDP	Gross Domestic Product
IAIS	International Association of Insurance Supervisors
ICSID	International Centre for Settlement Investment Disputes
IFRS	International Financial Reporting Standards
IMF	International Monetary Fund
IOPS	International Organisation of Pensions Supervisors
IOSCO	International Organisation of Securities Commissioners
IPA	Investment Promotion Agency
JSE	Johannesburg Stock Exchange
MAC	Monetary Affairs Committee
MIGA	Multilateral Investor Guarantee Agency
MoF	Ministry of Finance
MoTI	Ministry of Trade and Industry
MSX	Mauritian Stock Exchange
NBAA	National Board of Accountants and Auditors

NCI	National Commission for Insurance
NCP	National Contact Point
NDC	National Development Corporation
NPS	National Payments System
NPSA	National Payments Systems Acts
NSSA	National Social Security Authority
REC	Regional Economic Community
RISDP	Regional Indicative Strategic Development Plan
RTGS	Real Time Gross Settlements
SADC	Southern African Development Community
SIDO	Small Industries Development Organisation
SME	Small and Medium Enterprises
TIB	Tanzanian Investment Bank
TIC	Tanzanian Investment Centre
TISS	Tanzanian Interbank Settlement System
TRA	Tanzanian Revenue Authority
USD	United States Dollar
ZIPA	Zanzibar Investment Promotion Authority

1. CONTEXT

Tanzania is one of the least developed countries in the world and has been the recipient of International Monetary Fund (IMF) packages, as well as extensive donor aid since the 1980s. The economy depends heavily on agriculture, which accounts for more than 40% of GDP (gross domestic product), provides 85% of exports, and employs about 80% of the work force. The World Bank, the IMF, and bilateral donors have provided funds to rehabilitate Tanzania's aging infrastructure, in effort to promote further trade and economic growth. Tanzania received the world's largest Millennium Challenge Compact grant, worth \$698 million in 2008 which was used to ease the impact of the global recession, along with expansionary monetary policies. GDP growth in 2009-10 was a respectable 6% per year due to high gold prices and increased production¹.

Tanzania is a member of the East African Community (EAC). The country is fully engaged with the processes and requirements for the establishment of the EAC, and "has focused its regional integration agenda on aligning to this regional economic community (REC). According to the Tanzanian Ministry of Finance, despite the countries dual membership, Tanzania remains committed to SADC.

One of the EAC's main coordinating and decision making structures is called the Monetary Affairs Committee (MAC), which is similar to the Committee of Central Bank Governors (CCBG) in the Southern African Development Community (SADC). The MAC guides policy coordination for the EAC's regional financial integration activities. EAC has a similar set of subcommittees to those in the SADC FIP structures, which deal with the technical issues (e.g. Banking Supervision, Payment & Settlement Systems). The establishment of the full monetary union has been fast-tracked by EAC Governors and roadmaps have been established for each of the particular technical areas. The Government of Tanzania has a dedicated ministry – The Ministry for East African Cooperation - responsible for coordinating and managing these processes.

2. STATUS OF FIP IMPLEMENTATION

2.1. STATUS OF FIP RATIFICATION

Tanzania is a founding member of SADC, having signed the SADC treaty on 17 August 1992 and ratifying it on 27 August 1993. Tanzania signed the Protocol on Finance and Investment (FIP) 18 August 2006, but has not deposited instruments of ratification with the SADC Secretariat.

According to the Ministry of Finance, the FIP was initially put toward the Tanzanian parliament in 2008. Comments were received from parliament; however the process was delayed due to a full governmental reshuffling. A ratification policy document was re-submitted to parliament in 2010. Again, the process was delayed due to elections. Newly-elected ministers then stated that they would need to go through a familiarisation process in order to understand the

¹ <https://www.cia.gov/library/publications/the-world-factbook/fields/2116.html>

substance and implications of the FIP.² Currently, the FIP is appearing before parliament again for ratification. It is expected that it will be ratified by the end of 2011³.

2.2. FIP STRUCTURES

While Tanzania is well-integrated into regional FIP structures (for example, having representation on all FIP subcommittees), FIP coordination within Tanzania is less effective. The SADC national contact point (NCP) is currently based at the Ministry of Foreign Affairs; however is non-conversant with regards to the FIP and its related structures. Based on the experience of the consultant, it is believed information flow between the NCP and other relevant national institutions presents a challenge. There is scope to improve this system, especially since some of the relevant Tanzanian FIP stakeholders do not receive information pertaining to relevant regional subcommittee activities (e.g. CISNA, Investment).

Perhaps in acknowledgement that in-country FIP coordination can be enhanced, the Ministry of Finance is fast-tracking a national FIP coordination committee. It is envisaged that the establishment of this coordination committee will support and improve on the SADC NCP's current capacity to coordinate FIP activities.

The SADC NCP arranged meetings with a number of officials⁴ that are not FIP stakeholders, and did not arrange meetings with tax officials, development finance institution (DFI) officials and non-banking financial institutions, which in turn constrained the consultant's ability to report on these annexes of the FIP.

2.2.1. ANNEX 1: COOPERATION IN INVESTMENT

Tanzania is ranked 93rd in the world for Protecting Investors on the World Bank Doing Business Report 2011. Tanzania scores 5 out of 10 in the *Strength of Investment Protector Index*⁵. Tanzania has scored a 5 consistently over the past 4 years⁶, indicating no progress in investor protection reform.

The National Investment Promotion Policy (1996) sets the policy framework for investment in the country⁷. The Tanzania Investment Act (1997) articulates the investment climate, incentives and conditions for investment promotion in the country including the establishment

² Reported in an interview with a Ministry of Finance official.

³ Information in this paragraph contributed by the Head of the Regional Integration Directorate of the Ministry of Finance

⁴ This includes the Ministry of Trade and Industry, MoF, External Finance Division and the Unit Head for Regional Integration who are not directly responsible for FIP activities.

⁵ <http://www.doingbusiness.org/data/exploretopics/protecting-investors>

⁶ <http://www.doingbusiness.org/custom-query>

⁷ Note: The National Investment Promotion Policy (1996) only governs mainland Tanzania. Zanzibar follows a different regime.

and mandate of the TIC⁸ as the national investment promotion agency (IPA). A number of Tanzanian government agencies are responsible for aspects of investment, for example the Export Processing Zone Authority (EPZA), special economic zones and the Zanzibar Investment Promotion Authority (ZIPA). In 2000, a National Investment Steering Committee was established to enable consultations with government regarding pertinent investment issues. The Tanzanian Presidency also established the Tanzanian National Business Council (TNBC), with both public and private representatives, primarily to review, and discuss implications of, the budget speech⁹. The responsibility of investment policy issues rests within the government; however, it has been shifted two or three times in recent years as a means of prioritizing investment within the most senior government ministry based on a recommendation of the World Bank (the Foreign Investment Advisory Service - FIAS). Investment policy is currently managed by the Prime Minister's Office. The constant change in mandate between government ministries has perhaps complicated Tanzania's involvement at SADC subcommittee level. However, Tanzanian investment subcommittee members remain committed to attending subcommittee meetings, and indicated that they will do so in the future.

Overall, the TIC is mandated to improve the local business climate and is given quite a broad scope. The only limit to the TIC's functions and responsibilities is cases where it is superseded by the Tanzania Investment Act. This act has three major guarantees; namely, to guard against nationalisation, to ensure foreign investors' expropriation of profits and dividends, and the right to seek remedy in local and international courts¹⁰. Further, Tanzania is a signatory to the ICSID (the International Centre for the Settlement of Investment Disputes) convention, a member of MIGA (the Multilateral Investor Guarantee Agency) and a signatory of the New York Convention (on the recognition and enforcement of foreign arbitral awards). The TIC has a core philosophy to leverage strategic investors who meet five criteria; namely, the size of capital should be USD 20 million or more, enterprise should be employment creating, enterprise should have a technology transfer component, enterprise should produce for export, and investments are prioritised that invest in disadvantaged regions of the country. Where these five criteria are met, investors are given special incentives, which are negotiated and documented by the National Investment Steering Committee (in an attempt to set suitable benchmarks)¹¹.

Tanzania offers tax incentives for investment, as well as additional provisions to strategic investors as described above. All investment promotion laws were grouped as incentives under one piece of legislation, the Miscellaneous Amendments of the Investment Act (1997). The content and provisions in these laws are published on leaflets and brochures, as well as the TIC website¹².

The TIC representative believes that a major incentive to join the EAC was due to its approach to investment. IPAs within the EAC have agreed that the region should be promoted as a

⁸ Tanzania Investment Center. <http://www.tic.co.tz/>

⁹ Information provided by TIC official

¹⁰ Tanzania Investment Act, 1997

¹¹ Information provided by TIC official

¹² Information available at: <http://www.tic.co.tz/>

single investment destination. This approach was taken to create a larger market, with greater opportunities and diversity. The TIC representative interviewed believes that SADC holds the same potential, but an effort should be made to minimise competition between regional blocs.

2.2.2. ANNEX 2: MACROECONOMIC CONVERGENCE

Tanzania's inflation rate rose from 10.28% in 2008 to 12.14% in 2009, indicating that the country has not met the RISDP (Regional Indicative Strategic Development Plan)-FIP target of maintaining a stable inflation rate in the single-digit range (below 9.5%). According to the Ministry of Finance, this increase is due to the onset of the global economic slowdown, which was accompanied by rising food and oil prices, as well as the East African drought.

Tanzania's external debt remains within the target range of below 60% of GDP, at 21.7% in 2009¹³. Tanzania's fiscal deficit as a percentage of GDP expanded from 4.8% in 2008/2009 to 6.9% in 2009/2010¹⁴. Here, government's management of the fiscus has not converged on the target of maintaining fiscal deficits below 5% of GDP.

The BOT representative interviewed for this Annex is aware of the process of preparing reports on recent domestic economic affairs and presenting these at subcommittee meetings bi-annually. However, it was highlighted that countries do not apply consistent statistical methodology, making comparison difficult. The current IMF manual of 2000 is not applied consistently by all central banks in the region. This reduces the utility value of publishing reports and providing them to the SADC Secretariat for information exchange, since data is not comparable and data integrity issues may emerge.

The EAC has similar macroeconomic targets to those of SADC. Implementation and monitoring of these targets is conducted by the EAC's Monetary Affairs Committee. The BoT official interviewed stated that a challenge in both regional blocs is resources, both human and financial, and the need to build expertise in macroeconomic management.

A unique challenge facing Tanzania is that coordination between monetary policy and fiscal policy is lacking. Monetary policy is announced by the Governor of the BOT far more regularly than changes in fiscal policy are announced. The main problem here is that it creates a compromising situation, in which reserves and sovereignty may be surrendered from the BOT to Treasury¹⁵.

¹³World Bank. 2011. World Bank Databank. (available online) <http://databank.worldbank.org/ddp/home.do>

¹⁴ IMF. 2011. Article IV: Tanzania. (available online) <http://www.imf.org/external/pubs/ft/scr/2011/cr111105.pdf>

¹⁵ Information provided by BoT official

2.2.3. ANNEX 3: COOPERATION IN TAXATION AND RELATED MATTERS

It was not possible to meet with the MoF, Tax Policy officials or the Tanzania Revenue Authority (TRA). Information on taxation is available on the TRA website (<http://www.tra.go.tz>), the TIC website (<http://www.tic.co.tz>) and the MoF website¹⁶.

Double Taxation Avoidance (DTA) treaties have been signed with many countries. According to the Ministry of Finance, Tanzania has signed DTAs with Zambia and South Africa, and negotiations are underway with Mauritius and Botswana.

2.2.4. ANNEX 4: COOPERATION AND COORDINATION OF EXCHANGE CONTROL POLICY

Tanzania has no restrictions on current account transactions, having moved to IMF Article VIII status in 1996. However, Tanzania retains controls on both inward and outward financial (capital) flows. Inflows are restricted in that non-residents are not permitted to invest in Tanzanian government bonds or T-Bills, and are restricted in their acquisition of shares on the DSE. Outflows are restricted in that residents are not generally permitted to acquire offshore financial or physical assets or hold offshore bank accounts, except with BOT pre-approval. Exporters are required to repatriate export proceeds, although they may hold these funds in onshore Foreign Currency Accounts (FCAs), and it is not required to convert the proceeds into domestic currency¹⁷.

According to BOT officials interviewed, capital flows are more restricted on domestic residents than on foreigners who are able to provide proof of investment.

Tanzania has reported no changes in exchange control liberalisation since 2010. The Tanzanian shilling is not fully convertible¹⁸.

As a member of the EAC, Tanzania has committed to the regional roadmap for liberalisation of the capital account. The timeframe began in December 2010 and completes in 2015, when all exchange controls are fully liberated. However, the EAC member countries are already behind schedule as the activities meant to be completed in December 2010 were not achieved. Currently, a study is being conducted on currency convertibility within the EAC, focussing on what needs to be done to facilitate full convertibility. A team of experts have been commissioned to identify where the blockages are, and to advise on changes that need to be made to the Exchange Control and the Capital Markets and Securities legal and regulatory frameworks. It is logical that since the SADC roadmap is still to be completed, that EAC initiatives to achieve full liberalisation of exchange controls and full currency convertibility currently have greater momentum.

¹⁶ Ministry of Finance. http://www.mof.go.tz/index.php?option=com_content&task=view&id=37&Itemid=52 (accessed July 2011).

¹⁷ Keith Jeffries. Forthcoming. 'Status of Exchange Controls in SADC'

¹⁸ Reported in Keith Jeffries (Forthcoming)

2.2.5. ANNEX 5: HARMONISATION OF LEGAL AND OPERATIONAL FRAMEWORKS

The BOT Act is very closely aligned to the Model Law according to the BOT. For all intents and purposes the BOT is autonomous of government and accountable. The Bank meets requirements for operational independence in all areas other than the issue of the annual financial audit¹⁹. The Bank of Tanzania Act (2006) articulates that the Auditor-General must conduct the annual audit on the BOT, rather than the Bank being responsible for the audit itself. The Act makes allowance for consultation with the MoF; however direction cannot be taken from the Ministry. The BOT therefore remains autonomous and accountable in the pursuit of its primary objective to maintain price stability. It is interesting to note that prior to the Act of 2006, the Bank was entirely independent of government.

The BOT acknowledged that there will potentially be difficulties in the near future as Tanzania must align itself to two RECs and the Act must be reflective of this alignment. However, the Model Central Bank Act draws on and emphasises international best practise, should therefore allow the BOT to be aligned in most areas of operation and law.

The BOT representatives interviewed acknowledged that the capacity and experience of staff at the Bank is limited in many areas not only just relating to legal requirements.

2.2.6. ANNEX 6: COOPERATION IN PAYMENTS, CLEARING AND SETTLEMENT SYSTEMS

The Tanzanian National Payment Systems (NPS) modernisation project was launched in 1996 and is currently in the implementation phase. The strategy for this phase is stipulated in the 2005 NPS Vision and Strategic Framework. Tanzania has implemented the Tanzanian Inter-bank Settlement System (TISS), and a Real Time Gross Settlement System (RTGS) for the processing and settlement of large and time critical payments. An Electronic Clearing House Process has also been implemented. Based on these newly implemented structures, Tanzania completed a self-assessment to gauge whether systems were in adherence to the Core Principles for Systemically Important Payments and the BIS (Bank of International Settlements) Recommendations on Securities Settlement. Based on this process, the NPS Directorate have drafted documents outlining tools to improve oversight and risk mitigation²⁰.

Tanzania has implemented a “Green Book” on payments systems, which provides a legal and regulatory plan to facilitate information sharing between countries’ central banks. This interface is being developed with other countries, including oversight mechanisms²¹.

According to the BOT, the EAC institutional structure for payments and settlement systems is more advanced than the SADC project. There is full harmonisation of EAC member states’ payments system and all EAC countries have adopted the SWIFT platform. Benchmarks for risk management have also been developed, such that all foreign exchange risk has been

¹⁹ The Bank of Tanzania Act (2006).

²⁰ Information obtained at <http://www.bis.org/cpss/paysys/Tanzania.pdf>

²¹ Information provided by BoT official

mitigated. Countries have approved EAC regulations to ensure that these risk management measures are enforced in all banks in the EAC region. The EAC has also implemented a cross-border reporting system to enable information sharing between member states²². The fully linked EAC RTGS for high-value payments is due to go live in August.

In terms of moving forward on the regional agenda, a significant challenge exists in that many member states have not drafted and adopted National Payments Systems Acts (NPSA) but use the Central Bank Acts as regulation legislation. Tanzania is currently in the process of promulgating a NPSA, but the Bank of Tanzania Act does contain legislation to provide for payments systems in the meantime.

It is important to note that the BOT has acknowledged the relevance of mobile payments platforms for the consumer markets of both the EAC and SADC, and the importance of including these in discussions to keep a pace with innovations and relevant technological advances.

According to the BOT official interviewed, technology is available to ensure that Tanzania can be linked to two different regional blocs' RTGS. However, the political landscape still needs to be navigated regarding the implications of single-currency versus multi-currency RTGS.

2.2.7. ANNEX 8: COOPERATION IN THE AREA OF BANKING SUPERVISORY MATTERS

The BOT implements regulatory and supervisory policies and practises that are aligned with the recommendations of the Basel Committee. In fact, the Banking and Financial Institutions Act (BAFIA) of 2006 draws heavily on the Basel Core Principles for Banking Supervision. Tanzania was evaluated in the World Bank and IMF's Financial Sector Assessment Programme (FSAP) in 2003. This evaluation brought about a review of the BAFIA Act.

Another FSAP was conducted in 2009, in which it was concluded that the BOT is largely compliant with 17 of the Core Principles, materially compliant with four Core Principles and non-compliant with four Core Principles. The areas of non-compliance are largely areas of onsite processes. The BOT followed up the 2009 FSAP with a self-assessment in 2010. It was found that the BOT is fully compliant with five Core Principles, largely compliant with 19 and materially non-compliant with one. The area of non-compliance is to do with country transfer risk, which relates to information sharing between jurisdictions as the mainland and Zanzibar are regulated separately. Additionally, Tanzanian law allows information sharing with other banking regulators across borders but there is less clarity on sharing information internally between national regulators. Tanzania has not committed to compliance with Basel II or Basel III and is still reviewing documentation on the requirements for compliance.

The BoT is regulated by the Tanzanian National Board of Accountants and Auditors (NBAA). Legislation was passed in 2004, stating that all entities (including banks) must have accounting and auditing processes that are compliant with the International Financial Reporting Standards (IFRS)²³.

²² Information provided by BoT official

²³ All information in this section reported by Bank of Tanzania officials

Tanzania is a signatory of the East and Southern African Anti-Money Laundering Group (ESAAMLG) Memoranda of Understanding²⁴, showing commitment to the implementation of banking supervision practises that reduces money laundering in the region. Notably, the Deputy Governor of the BoT is Chairman the National Multi-disciplinary Committee of Anti-Money Laundering. Tanzania also established a Financial Intelligence Unit (FIU) in 2008/9, based on the Anti-Money Laundering Act of 2006 and to implement the Anti-Money Laundering regulations enacted in 2007²⁵. Tanzania has participated in a self-assessment process to assess the country's progress in implementing the Financial Action Taskforce (FATF) Forty Recommendations plus Nine Special Recommendations²⁶.

Tanzania underwent an ESAAMLG mutual evaluation in 2010²⁷, which highlighted a number of shortcomings and made recommendations are currently being implemented. The main area of contravention is that two laws operate in Tanzania, one governing the mainland and the second governing Zanzibar. In order to overcome this challenge, policy reforms are needed. The BOT has designed a policy document highlighting these areas of reform²⁸.

2.2.8. ANNEX 9: COOPERATION IN RESPECT OF DEVELOPMENT FINANCE INSTITUTIONS²⁹

Three Tanzanian development finance institutions (DFI) are members of the DFI Network. The Tanzanian Investment Bank (TIB) primarily serves the commercial market place and acts as both a credit and savings institution. Small Industries Development Organisation (SIDO) is the institution mandated to advocate for small and medium enterprises (SME) development in the country. It has a credit channel for SME's lending and savings advisory. The National Development Corporation (NDC) is mandated to identify and lead the development of projects which have high inherent catalysts to enhance exploration of economic growth potentials in the country and should be leading Tanzania's collaboration with other DFIs in SADC from a pooling of resources and project identification perspective.

2.2.9. ANNEX 10: COOPERATION ON NON-BANKING FINANCIAL INSTITUTIONS AND SERVICES³⁰

Non-banking financial institutions operating in Tanzania are regulated by the Social Security Regulatory Authority (SSRA), the Tanzania Insurance Regulatory Authority (TIRA) and the

²⁴ <http://www.esaamlg.org/mcp/index.php>

²⁵ Information provided by Bank of Tanzania officials

²⁶ http://www.esaamlg.org/reports/view_me.php?id=197

²⁷ http://www.esaamlg.org/reports/view_me.php?id=197

²⁸ Information provided by Bank of Tanzania officials

²⁹ Note: The consultant team did not meet with representatives from these organisations and information is based on desktop information.

³⁰ Note: The consultants did not meet with representatives from these organisations and information is based on desktop information from the internet and CISNA reports.

Capital Markets and Securities Authority (CMSA). Tanzania is a member of the International Organisation of Securities Commissioners (IOSCO), but is not a member of the International Association of Insurance Supervisors (IAIS) and the International Organisation of Pension Supervisors (IOPS)³¹.

Tanzania appears to be committed to the activities of Committee of Insurance, Securities and Non-Banking Financial Authorities (CISNA) and have attended recent meetings. For example, the subcommittee at the recent meeting agreed that CISNA members should continue to submit insurance statistical information to the Tanzania regulator NCI who would take the responsibility to collate these statistics, which will then be posted on the CISNA website.

The Capital Markets and Securities Act (1994) is supplemented by various regulations that are promulgated by the Minister for Finance. This Act and corresponding regulations are currently under review to be in line with developments that have taken place in the financial services market at both national and international levels³².

2.2.10. ANNEX 11: COMMITTEE ON SADC STOCK EXCHANGES

The Dar es Salaam Stock Exchange (DSE) has 16 listed firms. Tanzania makes allowance for cross-listing of firms, and to date five Kenyan firms have listed on the DSE with their primary listing on the Nairobi Stock Exchange³³. Most foreign investors on the DSE are from the United States or the United Kingdom, and a few others from other markets. Foreign investor transactions on the DSE amount to almost 50% of all transactions³⁴.

The DSE uses an automated system for transactions within the exchange, as well as an automated clearing and settlement system. The BOT still maintains the central depository and settlements system (CDS) for government bonds, however, this is currently under review and the proposed Bill is intended to provide a legal framework for the establishment, operation and regulation of Central Depositories in Tanzania³⁵. The settlements cycle ranges between T+3 and T+5 days. The DSE does not as yet have a provision for settlement guarantees; instead investors need to make pre-settlement arrangements for funding³⁶.

The DSE is regulated by the CMSA, which is a member of IOSCO. All stock brokers and investment advisors operating in Tanzania are subject to supervision and regulation by the CMSA. Compliance to these regulations is taken very seriously, as evidenced by the recent delisting of companies for non-compliance to capital market regulations. However, the

³¹ Information on international bodies' websites.

³² http://www.cmsa-tz.org/lagislation/legisla_pipeline.htm

³³ According to the DSE representative, the cross-listing is primarily for regional representation in support of the integration in EAC as the Kenyan stocks are relatively illiquid and not active on the DSE.

³⁴ Note that foreign investor transactions are limited to be below 60% of all transactions. The DSE representative interviewed stated that this was purely a political decision to maintain Tanzanian ownership.

³⁵ http://www.cmsa-tz.org/lagislation/legisla_pipeline.htm

³⁶ Information provided by DSE representative

regulatory process and provisions is currently under review³⁷. The DSE is aligned to EAC listing requirements, which are based on those used by the NSX³⁸.

Tanzania contributes to the Committee on SADC Stock Exchanges (COSSE) meetings and information sharing by reporting on market developments. Despite evidence of information exchange, the DSE representative interviewed stated that no activities of COSSE have had a big impact as yet, although it is anticipated that this may change with the launch of COSSE's new strategic plan. Moreover, the DSE representative believes that the system of information exchange through the COSSE Secretariat is inefficient.

DSE officials have benefited from capacity building through COSSE, for example through site visits to the Johannesburg Stock Exchange (JSE) and the Mauritius Stock Exchange (MSX). The BOT, the CMSA and Ministry of Finance joined the DSE to visit South Africa in order to gain insights into the municipal bonds market. The DSE have also visited the Bank of Mauritius in order to learn from the experiences of their payments and settlement division and banking supervision department, since this has important corollaries for the functioning of stock exchange payments and settlements systems³⁹. The DSE representative interviewed stated that the exchange has received very good assistance from other SADC exchanges, especially in terms of setting up rules and regulations.

With regards to regional integration, the EAC stock exchanges have linked to their national payment systems, and the DSE representative interviewed believes it will be useful to link national CDS to the EAC regional system. EAC brokers have also established a network whereby securities can be traded across the EAC since it is far more effective to trade directly broker to broker. Issues, like facilitating high levels of transparency and enabling quick, safe and efficient settlement, remain. The EAC is also moving towards licensing allowances and requirements for regional stock brokers.

Through its EAC membership, the DSE is also working towards harmonisation to allow capital to move more smoothly across borders within the region. A key initiative in this process is to agree on common classification criteria for countries, so that companies do not have to relicence in each country in which they want to operate or list. The EAC is about 20% or 30% along the way in this process⁴⁰.

SADC could potentially implement some of these actions to improve the coordination amongst SADC exchanges.

³⁷ Information provided by DSE representative

³⁸ Information provided by DSE representative

³⁹ Information provided by DSE representative

⁴⁰ Information provided by DSE representative

3. CONCLUSIONS AND RECOMMENDATIONS

3.1. CONCLUSIONS

FIP implementation can be improved if domestic coordination and communication between FIP stakeholders improves. Despite obstacles to domestic coordination, Tanzania is represented on all subcommittees except Annex 1 (Investment) and Annex 2 (Macroeconomic Convergence), where the consultant could not confirm that a government official attends these subcommittees. Further, and based on interviews, it appears that the level of awareness of the overarching goals of the FIP, and familiarity with the commitments under all eleven annexes, of the FIP are both low. However, since the Ministry of Finance is fast-tracking the establishment of a domestic FIP coordination committee in Tanzania, it is believed that country-level coordination will become more effective and efficient.

The alignment to EAC is may complicate the domestication of the FIP. Tanzania has made good progress in areas where EAC and SADC goals are in alignment. However, it is possible that decisions will become more complex where EAC and SADC goals differ, for example when Tanzania has to link to a regional payment system or align to a regional Central Bank's requirements. This will require firm and decisive commitments from politicians and decision makers.

Investment: Tanzania's Investment Act, articulating investor guarantees coupled with membership to the relevant international conventions, are the foundations of a strong investor protection climate. The TIC is a member of the IPA forum and quite keen to cooperate within regional economic communities as they see this as the manner in which they can increase the opportunities to potential investors.

Macroeconomic Convergence: Tanzania is only within the target of one RISDP-FIP macroeconomic convergence indicator, external debt to GDP at 21.7%.

Taxation: It is not possible to accurately assess this area. However, Tanzania is only in early stages of establishing the country's network of DTAs within SADC. Information from the Ministry of Finance suggests that Tanzania has entered into negotiations with two SADC countries, in order to further expand the country's network of DTAs in SADC.

Exchange Controls: The current account has been liberalised since 1996 as a result of the programme of reforms to acquire IMF Article VIII status, however little progress has been made to liberalise the capital (and financial) account.

Legal and Operational Frameworks: The BOT is an autonomous and independent institution. Various Acts and Regulations have recently been reviewed and the National Payment System Act is currently under development.

Payment, Clearing and Settlement Systems: Tanzania has implemented the TISS, an RTGS, as well as an electronic clearing house system. The NPS Directorate has drafted documents ensuring that the entire system is aligned to the Core Principles for Systemically Important Payments and the BIS Recommendations on Securities Settlement.

Banking Regulatory and Supervisory Matters: According to the self-assessment in 2010, the BOT is fully compliant with five Core Principles, largely compliant with 19 and materially non-compliant with one. The BOT is fully aligned to the IFRS and is a member of the ESAAMLG. Based on the Anti-Money Laundering Act of 2006, the FIU is busy implementing the Financial Action Taskforce (FATF) Forty Recommendations plus Nine Special Recommendations.

Development Finance Institutions: Three institutions are members of the DFI network. However, since it was not possible to meet with these DFIs, it is not possible to establish progress in FIP implementation in this regard.

Non-banking financial institutions: Three institutions regulate the non-banking financial institutions in Tanzania: the National Social Security Authority (NSSA), the National Commission for Insurance (NCI) and the Capital Markets and Securities Authority (CMSA). Tanzania is a member of IOSCO. The CMSA and the NCI attend CISNA meetings.

SADC Stock Exchanges: The DSE is a member of COSSE but it appears that it is progressing more effectively on cooperation activities with the stock exchanges of the EAC. The DSE listing requirements are aligned to the Nairobi Stock Exchange and have five stocks cross-listed from the NSX.

3.2. RECOMMENDATIONS

Firstly, Tanzania is urged to ratify the FIP instrument. It is critical that this is done so that the country is bound to the commitments articulated in the protocol.

Secondly, it is commendable that, as the Ministry of Finance claims, Tanzania is in the process of establishing a suitable coordinating unit. Tanzania is urged to prioritise this activity, and ensure that stakeholders in this coordinating unit understand the components of the FIP and have a relevant mandate to allow the unit to have authority over the processes of FIP implementation.

Given the commitment and fast-tracking of activities to the establishment of the EAC monetary union, appropriate thought and due consideration should be undertaken regarding the feasibility of being part of two RECs.. It should be remembered, that integration to two different RECs will always be a complex and intricate process, therefore it is advisable that significant energy and resources is expended to ensure that stakeholders understand the implications of the dual harmonisation and integration processes of SADC and EAC on the Tanzanian financial sector. Specifically, it is critical to that a representative from the government attends the **Investment subcommittee** and participates in the discussions on the regional investment policy framework and other relevant issues contained in Annex 1 of the FIP.

The BOT representatives highlighted the inconsistent use of macroeconomic statistical methods, and the fact that insufficient capacity exists in many countries to use these effectively. This leads to difficult in comparing country reports to each other. **Capacity building would serve to improve consistency and comparability of SADC member states data.**

Given Tanzania's current experience developing and implementing the required roadmaps and processes to guide EAC integration, Tanzania could share the experience and learnings with SADC member states to drive the FIP implementation process. Particular areas of experience

include for example, exchange control harmonization and cooperation amongst stock exchange.

4. REFERENCES

<https://www.cia.gov/library/publications/the-world-factbook/fields/2116.html>

<http://www.doingbusiness.org/data/exploretopics/protecting-investors>

<http://www.doingbusiness.org/custom-query>

Tanzania Investment Center. <http://www.tic.co.tz/>

Tanzania Investment Act, 1997

World Bank. 2011. World Bank Databank. (available online)

<http://databank.worldbank.org/ddp/home.do>

IMF. 2011. Article IV: Tanzania. (available online)

<http://www.imf.org/external/pubs/ft/scr/2011/cr11105.pdf>

Information provided by BoT official

Ministry of Finance.

http://www.mof.go.tz/index.php?option=com_content&task=view&id=37&Itemid=52

Keith Jeffries. Forthcoming. 'Status of Exchange Controls in SADC'

The Bank of Tanzania Act (2006).

<http://www.esaamlg.org/mcp/index.php>

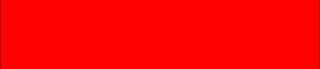
5. APPENDICES

5.1. APPENDIX 1: LIST OF INTERVIEWS

Annex Subcommittee	Institution	Name
N/A	Ministry of Foreign Affairs, Regional Integration	Ms Grace Mujuma
N/A	Ministry of Industry and Trade	Mr. Ambroce Brixio Lugenge
N/A	Ministry of Industry and Trade	Mr Bonfiace A. N. Michael
N/A	Ministry of Industry and Trade	Mr Ismail Hussein Mfinanga
Investment	Tanzania Investment Centre	Mr A.S. Kagomba
N/A	Ministry of Finance and Economic Affairs, Regional Integration Unit	Mr Ngosha S. Magonya
N/A	Ministry of Finance and Economic Affairs, Regional Integration Unit	Ms Judica Omarl
N/A	Ministry of Finance and Economic Affairs, Policy & Research Dept.	Mr Abu Baka Kilapo
Legal and Operational Frameworks	Bank of Tanzania	Mr Nyanduga Mukiryra
Macroeconomic Convergence and Legal and Operational Frameworks	Bank of Tanzania	Mr Peter L. Kadesha
Financial Markets	Bank of Tanzania	Mrs Judith K. Ndissi
IT Forum	Bank of Tanzania	Ms Maureen Mbowe-Jiliwa
Banking Supervision	Bank of Tanzania	Ms Salva A. Kazimoto
Banking Supervision	Bank of Tanzania	Victor Tarimoga
Banking Supervision	Bank of Tanzania	Mr A. A. Ukhotya
Payment Systems	Bank of Tanzania	Ms. Lucy Kinunda
COSSE	Dar es Salaam Stock Exchange	Mr Mshindo M. Ibrahim
COSSE	Dar es Salaam Stock Exchange	Mr Emmanuel F. Nyalali

5.2. APPENDIX 2: MATRIX OF COMMITMENTS

Colour	Status
Achieved	
Partially achieved	
Not achieved	
Not assessed	
Not applicable	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
None	None	FIP instrument ratified by all member states.		SADC Secretariat	
None	None	National FIP coordinating structures in place to facilitate better FIP implementation.		SADC Secretariat	
Annex 1: Cooperation in Investment	5,6,8,9,27	Existence of domestic investment law that: Protects investors, allow repatriation of profits, allows access to courts		Tanzania Investment Center (www.tic.co.tz)	All three present = green

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 1: Cooperation in Investment	21	Signatory to international conventions: New York Convention		http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html	Member = green
	21	Signatory to international conventions: ICSID		http://icsid.worldbank.org/ICSID/FrontServlet	Member = green
	21	Acceded to international conventions: MIGA		http://www.miga.org/about/index_sv.cfm?stid=1695	Member = green
	8	Investment policies, information etc. easily accessible to investors		Tanzania Investment Center (www.tic.co.tz)	
	23	MS has an active IPA		Tanzania Investment Center (www.tic.co.tz)	
	2	Member ranked above (or equal) to OECD average rating of the Strength of Investor Protection Index	5	http://www.doingbusiness.org/data/exploretopics/protecting-investors	Better than or equal to OECD average = green; worse = red
	19	Regional Investment Policy Framework is drafted and agreed to by MS	No standard framework yet exists in the region.	Investment subcommittee	
	19	MS's national policies and regulations comply with the Regional Investment Policy Framework and/or the minimum principles for investment regimes in the region.	Not Assessed (not measured in 2011)	Tanzania Investment Center (www.tic.co.tz)	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 1: Cooperation in Investment	23	Evidence of events and activities run by IPA Forum and attended by MS IPAs	The SADC IPA forum has been established, however the most recent event was poorly attended by CEOs of IPAs operating in MS	Investment subcommittee	
Annex 2: Macroeconomic Convergence	2,3,4	Inflation rate low and stable (< 9%)		Ministry of Finance	Within range = green; out of range = red
	2,3,4	Public and publicly guarantee debt to GDP < 60%		Ministry of Finance	Within range = green; out of range = red
	2,3,4	Budget deficit to GDP ratio at widely accepted prudent levels (< 5%)		Ministry of Finance	Within range = green; out of range = red
	5,8	Cooperation/Information Sharing: submission of data to SMSD		Ministry of Finance	
	7	Cooperation/Information Sharing: participation in peer review panel	N/A	Ministry of Finance	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 2: Macroeconomic Convergence	7	The Peer Review Mechanism is approved for establishment and operational	Discussions towards establishment of the mechanism are on-going. Framework and guidelines have not yet been adopted. Generally, MS are supportive of the Peer Review Mechanism, but have specific concerns which need to be addressed at subcommittee level.	Macroeconomic Convergence subcommittee	
Annex 3: Cooperation in Taxation Matters	5.3	Number of DTAs signed with other SADC member states		TRA	< = 6 red, 7 - 10 orange, 11 - 14 green
	2	Up to date and publicly available tax database (national)		www.tic.co.tz	
	2	Up to date information submitted to SADC Tax Database (when fully operational)	N/A	TRA	
	6..6	Signatory to the Mutual Agreement for Information Exchange with member states (AATM)	N/A	TRA	
	6	Harmonised to the regional guidelines for the administration of Indirect Taxes	N/A	TRA	
	4	Harmonised to the regional tax incentives guidelines	N/A	TRA	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 3: Cooperation in Taxation Matters	3	Tax officials participate in capacity building activities		TRA	
	5	Existence of Model Double Taxation Avoidance Agreement	Model DTAA and Commentary approved and adopted by all member states.	Tax Subcommittee	
	4	Guidelines for the appropriate treatment of tax incentives drafted and approved for adoption by MS.	Drafting of guideline documents still in progress.	Tax Subcommittee	
	4	A Fiscal Model for cost benefit analysis developed and approved by Ministers of Finance. Fiscal Model must comply with items articulated in Art. 4 section 5.	Cost Benefit Analysis model not yet developed.	Tax Subcommittee	
	6	SADC Agreement for Assistance in Tax Matters (AATM) approved and signed by all member states (multi-lateral agreement).	Finalised in 2008, waiting for approval by Ministers of Justice/Attorneys General awaiting clearance and signature by Summit.	TRA	
	6	Guideline for the administration of indirect tax in the region is approved for adoption by member states.	Still under review by the Indirect Taxation working group.	TRA	
	7	Mechanism for the Settlement of Tax Disputes developed and approved by Ministers of Finance.	Has not been developed or approved for implementation	TRA	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 4: Cooperation on Exchange Control	2a	Liberalised Current Account		Bank of Tanzania	
	2a	Liberalised Capital (Financial) Account		Bank of Tanzania	
	2c,3.1.c	Full Currency Convertibility		Bank of Tanzania	
	2d, 3d	Collect and publicise data on foreign exchange transactions (e.g. automated cross border reporting system)		Bank of Tanzania	
	2a	Roadmap for exchange control liberalisation in current and capital (and financial) account transactions is drafted and approved	The roadmap has been drafted by the subcommittee. All countries except the DRC have signed and approved the roadmap, and so it has not been implemented as yet.	Exchange Control subcommittee	
Annex 5: Harmonisation of Legal and Operational Frameworks	3b	Autonomy/independence of Central Bank		Bank of Tanzania	
	2	Compliant with SADC Central Bank Model Law (when/if made binding)	N/A	Bank of Tanzania	
	4.2	Adoption of price stability as mandate		Bank of Tanzania	
	3c	Ability of Central Bank to set own budget	No (MoF and Presidency set part of budget)	Bank of Tanzania	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 5: Harmonisation of Legal and Operational Frameworks	2e	Extent to which central bank can lend to government	Yes - but is limited to holding of government securities, and is repayable within 12 months of date of issue	Bank of Tanzania	
	3	Existence of Model Central Bank Law	The Model Central Bank Law has been drafted and approved by all SADC member states	Legal and Operational Frameworks subcommittee	
	2	Roadmap for the establishment of a Common Central Bank developed and approved.	Legal & Operational Committee has recently been tasked with the development of a roadmap for the establishment of a single Central Bank. No progress yet on this matter.	Legal and Operational Frameworks subcommittee	
Annex 6: Cooperation on Payments Systems	3a	Payments systems in place domestically		Bank of Tanzania	
	3c, 3e, 4.1.c	Risk mitigation strategy implemented	Yes - uses EAC, but recent self-assessment revealed that reforms and improvements are necessary	Bank of Tanzania	
	4.1.d	Existence of national payments system law	Currently drafting - no unified legal framework	Bank of Tanzania	
	2	National payment system law aligned to regional model law	N/A	Bank of Tanzania	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 6: Cooperation on Payments Systems	2, 3d	MS linked to SADC regional payments systems (when operational)	N/A	Bank of Tanzania	
	2	Model Payment System Law developed and approved	Law is being drafted and is to be approved at regional level	Payments System subcommittee	
	3	Model Payment System Strategy is developed.	This is not in place yet. However, the strategy is being developed for the CMA countries to be piloted in this sub-regional bloc. The intention that this will allow a 'tried and tested' strategy to be rolled out to the rest of the region	Payments System subcommittee	
Annex 7: Cooperation in the area of ICT	3, 4	Legal framework for data privacy in place	Not Assessed (not measured in 2011)	Each Central Bank & IT Forum	
	3	Standard regarding ICT systems interpretability in place	Not Assessed (not measured in 2011)	IT Forum	
	3.5	IT Governance framework adopted for the region.	Not Assessed (not measured in 2011)	Each General Bank & IT Forum	
	3	ICT communication Infrastructure to connect member states in place	Not Assessed (not measured in 2011)	IT Forum	
Annex 8: Cooperation in Banking and Regulatory Supervision	2	Compliant with the 25 BASEL core principles	Compliant with 17, partially compliant with 4	Bank of Tanzania	Less than 20 = red; 21 to 25 orange; 25 green

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 8: Cooperation in Banking and Regulatory Supervision	2	Self-assessment audit happening on annual basis		Bank of Tanzania	
	Annex 14	Membership of ESAAMLG & completion of a mutual evaluation		Bank of Tanzania	
	Annex 13	Compliant with international standards for auditing and accounting - IFRS		Bank of Tanzania	
	2, 4	Regional agreement on framework for central bank supervision.	Harmonisation of banking supervision and regulatory principles in progress.	Banking Regulatory and Supervisory subcommittee	
Annex 9: Cooperation on Development Finance Institutions	3, 9	Participate in regional development projects through cooperation in pooling of funds, project identification, project management.	Not assessed	Not a member of DFRC: http://www.sadc-dfrc.org/index.php?id=9	
	3f, 7	Attending capacity building activities organised by DFRC (secondment, work placement, training)	Not assessed	Not a member of DFRC: http://www.sadc-dfrc.org/index.php?id=10	
	Annex 1	PPP: Establishment of PPP Policy Framework, Legal Framework, Institution Framework	Not assessed	Ministry of Trade and Industry or relevant ministry	
	2	The DFI network and DFRC are established and active.	Yes.	SADC Secretariat	
	11	Regional Insurance Guarantee system in place and approved.	The Regional Insurance Guarantee scheme has not been agreed upon or implemented.	DFI Network	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 9: Cooperation on Development Finance Institutions	3	Number of regional development projects in progress (where regional refers to projects with benefits to more than one country, or with more than one country collaborating on a project)	Only evidence of regional projects is DBSA projects, which are not necessarily attributable to the DFI network. No collaboration between DFIs on regional development projects.	DFI Network	
Annex 10: Cooperation on Non-Banking Financial Institutions and Services	7	Membership of IOSCO (harmonising to international standards)		http://www.iosco.org/lists/display_members.cfm?memID=1&orderBy=none	
	7	Membership of IOPS (harmonising to international standards)		http://www.iopsweb.org/document/14/0,3343,en_35030657_35030370_35152654_1_1_1_1,00.html	
	7	Membership of IAIS (harmonising to international standards)		http://www.iaisweb.org/IAIS-members-31	
	3, 4, 5	Committed to information sharing (Multi-lateral agreement signed by all CISNA members)		NSSA, NCI, CMSA	except Seychelles
	10	Participating in capacity building activities	Not assessed	NSSA, NCI, CMSA	
	9	Alignment to SADC regulatory framework for Non-Banking Financial Institutions (when drafted and approved)	N/A	CISNA	

Annex	Article	Indicator	Status 2011	Source/Institution	Criteria
Annex 10: Cooperation on Non-Banking Financial Institutions and Services	9	SADC regulatory framework for non-banking financial institutions established and approved for the region	SADC Framework is not yet developed. But progress has been made in that member states' NBFIs authorities have been tasked with drafting the various components of the framework.	CISNA	
Annex 11: Cooperation in SADC Stock Exchanges	2	Cooperation: Member of COSSE		Dar es Salaam Stock Exchange	
	2	Cooperation: Information Exchange		Dar es Salaam Stock Exchange	
	2.3	Participate in capacity building activities (either attend or host)		Dar es Salaam Stock Exchange	
		MS harmonised to SADC common principles.	Not Assessed (not measured in 2011)	Dar es Salaam Stock Exchange	
	2.5	MS who are completing the minimum standards for surveillance and risk assessment.	Not Assessed (not measured in 2011)	Dar es Salaam Stock Exchange	
	2.7	Extent of diversification of the registered market participants on MS stock exchange (% individuals, % trusts, % corporates)	Not Assessed (not measured in 2011)	Dar es Salaam Stock Exchange	