

THE BOARD OF EXTERNAL TRADE ACT, 1978

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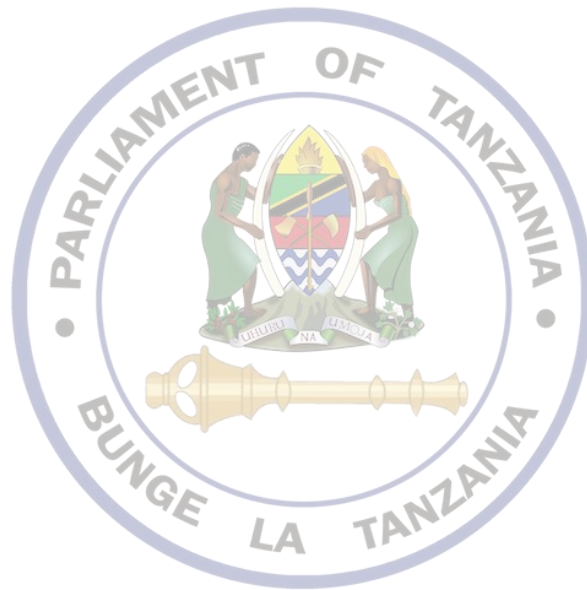
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THE UNITED REPUBLIC OF TANZANIA



No. 5 OF 1978

ASSENT,

Julius K. Nyerere
President

20TH MARCH, 1978

An Act to establish the Board of External Trade and to provide for the functions and powers of the Board in relation to external trade



ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

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| <p>1. This Act may be cited as the Board of External Trade Act, 1978, and shall come into operation on such date as the Minister may by notice in the <i>Gazette</i>, appoint.</p> | <p>Short title and commencement</p> |
| <p>2. This Act shall extend to Mainland Tanzania as well as to Zanzibar.</p> | <p>Application</p> |
| <p>3. In this Act, unless the context otherwise requires-</p> <p>"the Board" means the Board of External Trade established by section 4;</p> <p>"the Board of Directors" means the Board of Directors of the Board established under section 6:</p> <p>"Chairman" means the chairman of the Board of Directors appointed by the President under paragraph 1 (1) (a) of the Schedule to this Act:</p> <p>"Director-General" means the Director-General of the Board appointed under section, 12 (1):</p> | <p>Interpretation</p> |

"member" in relation to the Board of Directors means a member of the Board of Directors and includes the Chairman and the Vice-Chairman;

"Minister" means the Minister for the time being responsible for trade;

"Minister responsible for the parent Ministry" in relation to a person or body of persons, means the Minister for the time being responsible under the direction of the President for the principal business in which the person or body of persons is engaged or, if the President has not, for the time being, assigned responsibility for the business concerned to any Minister, the President;

"specified organization" means a person or body of persons declared under section 8 (1) to be a specified organization for the purposes of this Act.

PART II

THE BOARD OF EXTERNAL TRADE

Establishment of Board

4.-(1) There is hereby established a Board to be known as the Board of External Trade.

(2) The Board shall be a body corporate and shall-

- (a) have perpetual succession and an official seal;
- (b) in its corporate name be capable of suing or being sued;
- (c) subject to this Act, be capable of holding and purchasing or acquiring in any other way and disposing of any movable or immovable property.

Functions of Board

5.-(1) The functions of the Board shall be-

- (a) to advise the Government on matters relating to the formulation and development and the supervision and implementation of a national export policy;
- (b) to provide consultancy and advisory services in matters connected with external trade to the Government, specified organizations and any other person or category of persons which the Minister may approve;
- (c) to promote the documentation and dissemination of information on any aspect of research into any activity connected with external trade, carried out by the Board or any specified organization or any other person or institution, and may for this purpose publish any newspaper, journal or periodical or do any other thing designed to promote research into any matter which is necessary or desirable for the efficient development and implementation of the national external trade policy;
- (d) to advise and assist the Government, specified organizations and any other person or institution which the Minister may approve in the selection and employment of local or foreign consultants and advisors in relation to any project connected with external trade;

- (e) to co-operate with other bodies or organizations engaged in the provision of consultancy and advisory services in Tanzania and elsewhere in the formulation and implementation of measures calculated to foster, encourage and promote the expansion and wide use of modern techniques in conducting external trade;
- (f) to formulate and advise on the implementation, regulation and supervision of projects and programmes designed to expand trade relations between Tanzania and other countries and to promote the sale abroad of the products, of Tanzania.
- (2) In particular, but without prejudice to the generality of subsection - (1) and subject to any general or specific directions of the Minister, the Board may-
- (a) give advice to the Government and specified organizations on measures necessary for the development of an efficient system for the conduct of external trade, including advice on--
- (i) measures for the efficient co-ordination and supervision of a system of licensing for external trade;
 - (ii) the formulation and implementation of national policies in relation to domestic consumption, and export of products of Tanzania;
 - (iii) the formulation and supervision of the implementation of the best marketing system in respect of specified products intended for export;
- (b) undertake, either alone or in association with any other person or body of persons within or outside Tanzania, the establishment, equipment and management of a centre or centres within or outside Tanzania for the collection and dissemination of data and other information relating to the Products of Tanzania intended for export;
- (c) plan, co-ordinate and supervise, the participation by Tanzania in international trade fairs or exhibitions held in other countries;
- (d) undertake the planning, co-ordination, organization and management of international trade fairs or exhibitions held in Tanzania;
- (e) identify the needs of specified organizations in respect of man-Power resources required for the efficient conduct of external and external trade agreements with a view of securing the most programmes for the development of those resources;
- (f) advise the Government and specified organizations on credit policy and external trade agreements with a view of securing the most favourable terms for Tanzania.
- (g) advise the Government on necessary measures designed to secure-
- (i) the lowest rates possible of shipping costs payable by Tanzania for the transportation, of exports and imports to their final destination, and priority in the allocation of cargo to vessels which Tanzania has an interest.,

(ii) the simplification of documentation and expedition of procedures in relation to the clearance of imports and exports at points of entry and exit;

(h) to do any thing or enter into any transaction which, in the opinion of the Board of Directors, is calculated to facilitate the proper exercise of the functions of the Board under this Act.

Board of Directors

6.-(1) There shall be established a Board of Directors of the Board which shall, subject to this Act, be responsible for carrying out the functions and managing the affairs of the Board.

(2) The provisions of the Schedule to this Act shall have effect in respect of the constitution of the Board of Directors, its proceedings and other matters relating to A.

(3) The Minister may, by order in the *Gazette*, amend, vary or replace any of the provisions of the Schedule to this Act.

Minister may give directions to Board of Directors

7. The Minister may give to the Board of Directors directions of a general or specific character regarding the performance by the Board of any of its functions under this Act, and the Board of Directors shall give effect to every direction given to it.

PART III

POWERS AND OPERATIONS OF THE BOARD IN RELATION TO EXTERNAL TRADE

Declaration of exporting organizations

8.-(1) If, in regard to any person or body of persons whose business consists of or affects the export or import of products from or into Tanzania, it appears to the Minister that it is necessary or expedient in the national interest that the person -or body of persons should obtain the advisory or consultancy services of the Board, the Minister may, either on his own motion or at the request of the Minister responsible for the parent Ministry of that person or body of persons and after consultation with the Board of Directors, by order in the *Gazette*, declare the person or body of persons to be a specified organization for the purposes of this Act.

(2) When an order under subsection (1) has been made in relation to any person or body of persons, the Board shall exercise such functions in respect of that person or body of persons as the Board of Directors may deem necessary or desirable.

Board may call for information

9.-(1) For the purposes of the proper performance of its functions under this Act, the Board may, subject to regulations or directions made or given by the Minister in that behalf, require in writing any specified organization to furnish to it such information relating to external trade as the Board may specify.

(2) The information furnished to the Board under this section shall be kept by the Board for purposes of record, and may be dealt with or disposed of in such manner and for such purposes as the Minister may approve or direct.

(3) Every specified organization which is required to furnish information under subsection (1) shall comply with the requirement, and any specified organization which refuses or fails to comply with that requirement shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings.

10.-(1) Save where the Minister directs otherwise, information relating to external trade furnished or made available to the Board pursuant to section 8 shall be treated as confidential.

Disclosure of
information
an offence

(2) Subject to subsection (3), any member of the Board of Directors or any officer of the Board who discloses to any person, except for the purposes of the performance of his duties or the exercise of his powers under this Act, any information furnished to the Board pursuant to section 8, or any information which was in any other way acquired by the member or (as the case may be, the officer in the performance of his duties or the exercise of his powers under this Act, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both that fine and imprisonment.

(3) Subsection (2) shall not apply to the disclosure of information made for the purposes of any legal proceedings instituted under this Act or for the purposes of a report relating to those proceedings.

(4) Subject to subsection (3), where, in the performance of its functions, the Board discloses to any institution or person any information furnished to it pursuant to section 8, subsection (2) shall apply to that institution or that person as if references in that subsection to a member of the Board of Directors or an Officer of the Board were references to a member or an officer of the institution or, as the case may be, the person to whom the Board discloses the information.

11.-(1) The Minister may, after consultation with the Board of Directors, make regulations necessary or desirable to give effect to the purposes and provisions of this Act.

Power of
Minister to
make
regulations

(2) Without prejudice to the generality of the power conferred by subsection (1), the Minister may make regulations-

- (a) requiring persons or bodies of persons, specified in the regulations, engaged in or connected with external trade operations to furnish to the Board information relating to any aspect of external trade;
- (b) prescribing the form and manner in which and the period within which any information required to be furnished or made available to the Board under this Act shall be furnished or made available to the Board;
- (c) requiring specified organizations or other persons or categories of persons to pay fees for services rendered to them by the Board;
- (d) prescribing any other thing which under this Act is required or permitted to be prescribed.

(3) Regulations made under this section shall be published in the *Gazette*.

PART IV

ADMINISTRATIVE AND FINANCIAL PROVISION

- Appointment of employees 12.-(1) The President shall appoint upon such terms, and conditions as he may specify a Director-General Of, the Board Who be the chief executive officer of the Board.
- (2) The Board of Directors may; from time to time appoint such number of other employees of the Board as it may deem necessary for the proper and efficient conduct,. of the business and activities of the Board.
- Remuneration of members of the Board of Directors 13,(1) Subject to subsection (2). the members shall be entitled to such remuneration, fees or allowances for expenses as the Minister may, upon the recommendation of the Board of Directors, prescribe from time to time.
- (2) No. remuneration, fees or allowances, except such allowances for expenses as may ~ be expressly authorized by the Minister, shall be paid to any member who is a public officer.
- Superannuation benefits 14. Subject to subsection (4), the Board of Directors may, from to pensions, the Board of Directors may-
- (a) grant, gratuities. or other retirement allowances of benefits to the employees of the Board;
- (b) -establish and contribute to a superannuation fund or a medical benefits fund for the employees of the Board;
- (c), require any employee of the Board to contribute to the superannuation fund or medical benefits fund and fix the amounts and method of payment of the contribution.,
- Power of Board of Directors to delegate 15.-(1) Subject to subsection (4), the Board of Directors My. from time to time, by instrument in writing under the seal of the Board, delegate to any committee of its members or to any employee of the Board any of its functions or powers under this Act, so that the delegated functions or powers may be exercised by the delegate m accordance with the terms of the instrument of delegation.
- (2) A delegation under this section may be made to the holder of an office Under the Board specifying the office but without naming the holder, and in that case each successive, holder of the, office, in question and each person who occupies or performs the duties of that office,, may, without any further authority, exercise the delegate function or power in accordance with the delegation made.
- (3) The Board of Directors may at any time revoke a delegation made under this section and no, delegation made under this section shall prevent the Board of Directors, from Itself exercising the function or power delegated.
- (4) The Board of Directors shall not delegate-
- (a) its power of delegation; or
- (b) the power to approve the annual budget or any supplementary budget, the annual balance sheet or any statement of accounts.

16. The funds and resources of the Board shall consist of-
- (a) such sums as may be provided by Parliament for the purposes of the Board;
- (b) any sums "or Property which may become payable to the Board under this Act or any other written law or which may vest in the Board in any manner in the performance of its functions.
- 17.-(1) If the President, either on his own motion or on the advice of the Minister, considers that it is in the national interest that any person or any body or category of persons, engaged in the United Republic in any business or activity which affects or benefits from the national export policy should contribute to the funds of the Board for the furtherance of the objects for which the Board is established, he may, by order in the *Gazette*, require that person or that body or category of persons (hereinafter referred to as the specified enterprise") to contribute such amount and in such manner as may be specified in the order.
- (2) Every contribution required to, be made under subsection (1) shall be paid by the specified enterprise to the Board, and the amount so payable shall be a debt due to the Board and may be recovered from the specified enterprise as a civil debt by a suit at the instance of the Director-General or any person authorized by him in that behalf.
- (3) Where any amount of contribution is due from any specified enterprise, the Director-General may file in a court of a Resident Magistrate having jurisdiction over the area in which the specified enterprise carries on business, a certificate stating —
- (a) the name and address of the specified enterprise from whom, the amount is due; and
- (b) the amount due,
- and upon the certificate being lodged in court the certificate shall be deemed to be a plaint duly lodged under Order XXXV of the Civil Procedure Code, 1966, and the court shall proceed in the matter in, accordance with the provisions of that Order, and in the event of a judgment being given in favour of the plaintiff the court shall pass a decree for payment by the defendant to the Board of the amount found due together with interest thereon at five, *per centum* per month " from the date on which the certificate was filed until payment.
- (4) The provisions of subsection (3) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a court of a Resident Magistrate.
- (5) Every certificate filed in a court of a Resident Magistrate pursuant to the provisions of subsection (3) shall, unless the contrary is proved, be conclusive, evidence of the truth of the statements contained in that certificate.

Funds of the Board

President may require certain enterprises to contribute to the funds of the Board

Acts, 1966 No. 49

Annual and supplementary budget

18.-(1) Subject to subsection (2), "financial year" in this Act means any period not exceeding twelve consecutive months designated by the Board of Directors as the accounting period of the Board.

(2) The first financial year of the Board shall commence on the date when this Act comes into operation and may be of a period longer or shorter than twelve months.

(3) Not less than two months before the beginning of every financial year (other than the first financial year) the Board of Directors shall, at a meeting, pass a detailed budget (in this Act called the "annual budget") of the amounts respectively-

(a) expected to be received, and

(b) expected to be disbursed,

by the Board during that financial year, and whenever circumstances so require, the Board of Directors may pass a supplementary budget in any financial year.

(4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may approve.

(5) Forthwith upon Directors shall submit to the Minister for his approval the annual budget or, as the case may be, the supplementary budget the Board of passing any annual budget or any supplementary budget.

(6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove it or may approve it subject to any amendments which he considers fit.

(7) Where the Minister approves any annual or supplementary budget, with or without amendment, the budget, as approved by him shall be binding on the Board of Directors which, subject to subsection (8), shall confine the disbursements of the Board within the items and amounts contained in the applicable estimates as approved by the Minister.

(8) The Board of Directors may-

(a) with the sanction in writing of the Minister make disbursement notwithstanding that disbursement is not provided for in any budget;

(b) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of the alteration of expenditure Emits becoming necessary.

Accounts and audit

19.-(1) The Board of Directors shall cause to be provided and kept proper books of accounts and records with respect to-

(a) the receipt and expenditure of money by, and other financial transactions of, the Board;

(b) the assets and liabilities of the Board, and shall cause to be made out for every financial year a balance sheet showing the details of the income and expenditure of the Board and all its assets and liabilities.

(2) Within six months of the close of every financial year the accounts, including the balance sheet of the Board in respect of that financial year shall be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act, 1968.

Acts, 1968
No. 1

(3) Every audited balance sheet shall be placed before a meeting of the Board of Directors which, if it adopts it shall endorse the balance sheet with a certificate that it has been so adopted.

(4) As soon as the accounts of the Board have been audited, and in any case not later than six months after the close of the financial year, the Board of Directors shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report, if any, on that statement made by the auditors.

20. The Board of Directors shall, within six months after the close of the financial year, cause to be prepared and submitted to the Minister a report dealing generally with the activities and operations of the Board during that year and accompanied by-

Annual
Report

- (a) a copy of the audited accounts of the Board;
- (b) a copy of the auditor's report, if any, on the accounts; and
- (c) such other information as the Minister may direct.

21. The Minister shall, as soon as practicable after receiving them, lay before the National Assembly the audited accounts of the Board together with the auditor's report, if any, on the accounts and the annual report of the Board.

Laying of
accounts
before
National
Assembly

PART V

GENERAL PROVISIONS

22. Without prejudice to the provisions of section 284A of the Penal Code or of the Specified Officers (Recovery of Debts) Act, 1970, or of the Parastatal Employees (Recovery of Debts) Act, 1974, no act or thing done or omitted to be done by any member of the Board of Directors or by any employee of the Board shall, if done or omitted *bona fide* in the execution or purported execution of his duties as a member of the Board of Directors or an employee of the Board, subject him to any action, liability or demand of any kind.

Protection
from
personal
liability
Cap. 16
Acts, 1970
No. 7
Acts, 1974
No. 37

23. Where any order, direction or requirement made or given by the Minister or the Board of Directors under this Act is not required to be published in the *Gazette*, the order, direction or requirement shall be brought to the notice of persons affected or likely to be affected by it in any manner determined by the Minister or the Board of Directors:

Notification
of orders,
etc

Provided that if the order, direction or requirement is published in the *Gazette*, all persons shall be deemed to have had notice of it.

SCHEDULE-(Section 6(2))

Composition of Board of Directors	<p>1.-(1) The Board of Directors shall consist of-</p> <p>(a) a Chairman, who shall be appointed by the President;</p> <p>(b) the Director-General;</p> <p>(c) ten members appointed by the Minister on the recommendation of one each of :-</p> <p style="padding-left: 20px;">(i) the Ministry of Agriculture;</p> <p style="padding-left: 20px;">(ii) the Bank of Tanzania;</p> <p style="padding-left: 20px;">(iii) the Ministry of Communications and Transport;</p> <p style="padding-left: 20px;">(iv) the Ministry of Finance and Planning;</p> <p style="padding-left: 20px;">(v) the Ministry of Foreign Trade, Zanzibar;</p> <p style="padding-left: 20px;">(vi) the Ministry of Industries;</p> <p style="padding-left: 20px;">(vii) the National Bank of Commerce;</p> <p style="padding-left: 20px;">(viii) the Ministry of Natural Resources and Tourism;</p> <p style="padding-left: 20px;">(ix) the President's Office;</p> <p style="padding-left: 20px;">(x) the Ministry of Trade;</p> <p>(d) five other members appointed by the Minister.</p> <p>(2) The Board of Directors may appoint any member or any employee of the Board to be the Secretary of the Board of Directors.</p>
Vice-Chairman	<p>2. The members shall elect one of their number to be the Vice-Chairman of the Board of Directors, and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, and shall be eligible for re-election.</p>
Tenure of appointment	<p>3.-(1) A member, other than the Director-General, shall, unless his appointment is sooner terminated by the President or, as the case may be, by the Minister, or he ceases in any other way to be a member, hold office for the period specified by the President, the case of the Chairman, or by the Minister, in the case of any other member, in the instrument of his appointment or if no period is so specified, for a period three years from the date of his appointment, and shall be eligible for re-appointment.</p> <p>(2) Any member appointed under paragraph 1 (a) or (d) may at any time resign his office by giving notice in writing to the President or, as the case may be, to the Minister, and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the President or the Minister, he shall cease to be a member., -</p>
Appointment of temporary member	<p>4.-(1) If any member appointed under paragraph 1 (c) is for any sufficient cause unable to perform duties as a member he may appoint a person from the organization institution which he represents to represent him during the period of his</p> <p>(2) If any member appointed under paragraph 1 (d) is by reason of absence from the United Republic or illness or other sufficient cause unable to perform his duties as a member, the Minister may appoint a temporary member in his place, and the temporary member shall hold office until the resumption of duty of the substantive member or until the term of office of the substantive member expires, whichever occurs first.</p>
Meetings of Board of Directors	<p>5.-(1) The Board of Directors shall ordinarily meet for the transaction of its business at the times and at the places determined by it, but shall meet at least once every three months.</p> <p>(2) The Chairman, or in his absence the Vice-Chairman, may at any time call a special meeting of the Board of Directors, and shall call a special meeting upon a written request by a majority of the members in office.</p>

(3) The Chairman, or in his absence the Vice-Chairman, shall preside at meeting of the Board of Directors. In the absence of both the Chairman and the Vice-Chairman the members present shall one of their number to preside over the meeting.

(4) The Chairman, or in big absence the Vice-Chairman, may, and shall, upon the request of a majority of the members, invite any person who is not a member to participate in the deliberations at any meeting of the Board of Directors, but any person so invited shall not be entitled to vote. , ,

6. The Quorum at any meeting of the Board of Directors shall be half of the members it) office. ,

Quorum

7.-(1) Subject to sub-paragraph (2), questions proposed at a meeting of the Board of Directors shall be decided by a majority of the-votes of , the members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote in addition to his deliberative vote.

Decision of the Board of Directors

(2) A decision may be made by the Board of Directors without a meeting by circulation of the relevant papers among the members, and the expression in writing of the views of the majority of the members, but any member shall be entitled to require that the decision be deferred and the subject matter be considered at a meeting of the Board.

8.-(1) The Board of Directors shall cause to be recorded and kept details of all business conducted or transacted at its meetings, and the minutes of each meeting of the Board of Directors shall be read and confirmed, or amended and confirmed, at the next meeting of the Board of Directors and signed by the person presiding at that meeting.

Minutes of meetings

(2) Any minutes purporting to be signed by the person presiding at a meeting of the Board of Directors shall, in the absence of proof of error, be deemed, to be a correct record of the meeting whose minutes they purport to be.

9. The validity of any act or proceeding of the Board of Directors shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

Vacancies, etc., not to invalidate proceeding

10.-(1) All regulations, appointments, instruments, contracts and other documents required to be sealed shall be deemed to be lawfully executed by or on , behalf of the Board or the Board of Directors if sealed with the official seal of the Board and Signed'

Execution of documents

(a) the Chairman and the Director-General; or

(b) the Director-General and any other member or employee of the Board authorized, in writing in that behalf by the Board of Directors.

(2) The official seal of the Board shall not be affixed by any person to any instrument or document under sub-paragraph (1) except, in the case of the Chairman, in the presence of the Director-General or, in the case of the Director-General, in the presence of any other member of the Board of Directors, or of an employee of the Board, authorized in writing in that behalf by the Board of Directors.

11. Subject to the provisions of this Schedule, the Board may regulate its own proceedings

Board of Directors may regulate its proceedings

Passed in the National Assembly on, the twenty-second day of February, 1978,



Clerk of the National Assembly