

# DIGITAL TRADE REGULATORY INTEGRATION

## COUNTRY PROFILE

### **Tanzania**



United Nations  
Economic Commission for Africa





# INTRODUCTION

The African Trade Policy Centre of the United Nations Economic Commission for Africa (ECA) has embarked on a Digital Trade Regulatory Integration (DTRI) initiative with four primary objectives:

- Provide information on digital services trade regulations that could facilitate the negotiation and implementation of the African Continental Free Trade Area (AfCFTA) Protocol on Digital Trade.
- Inform the development of a digital trade integration index that could become a component of the Africa Regional Integration Index.<sup>1</sup>
- Inform the addition of African countries to the Digital Services Trade Restrictiveness Index (Digital STRI), as developed by the Organisation for Economic Co-operation and Development.
- Offer a solid basis for further analytical work by ECA and others on digital trade.

The DTRI initiative researches the legal and regulatory environment associated with digital trade and will help African countries better understand and address barriers to the

growth and development of digital trade and e-commerce. Addressing the issues DTRI identifies will help promote digital trade and e-commerce and make it a more plausible choice for commercial transactions between businesses and consumers.

This country profile is based on observations from two datasets developed from the DTRI initiative. The first includes information on restrictions to digital services trade from 2014 to 2021 and is modelled after the Digital STRI. The second covers measures related to digital trade integration, beginning with the effective date of each measure, and reflects the latest available information. The legal and regulatory measures researched are categorized into policy areas in both digital services trade restrictions and digital trade integration, and the results are presented in the corresponding section of the profile. Where policy areas overlap, the profile presents results only once, to the extent possible.

This country profile presents the key findings for Tanzania. Information and communication technologies (ICT) are vibrant sectors of the Tanzanian economy. The Tan-

<sup>1</sup> See <https://arii.uneca.org/>.

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zania Communications Regulatory Authority has been the main industry regulator since 2003. The government has developed policy, legal and regulatory instruments to ensure the efficient and effective operation of the ICT sectors. These instruments include the Electronic and Postal Act of 2010,<sup>2</sup> the Cybercrime Act of 2015,<sup>3</sup> the Electronic Transactions Act of 2015,<sup>4</sup> the Finance Act of 2017<sup>5</sup> and several regulations and policies.

In Tanzania, mobile phone penetration has grown steadily and now stands at 89 per cent, while internet penetration is at 49 per cent.<sup>6</sup> Massive mobile phone use has led to greater financial inclusion through mobile money services and has helped build more resilient communities. As a result of these developments, the country has attracted investment in the digital services trade. Several digital companies such as the ride-hail-

ing platforms Uber and Bolt now operate in Tanzania, and online trading through social platforms (WhatsApp, Instagram and Facebook) has also increased substantially.

Despite these advances, digital development in Tanzania is still in its infancy. However, the government is working hard to create a conducive environment to attract investment in the digital sector and has identified achievable milestones over the near-to-medium term. For example, the government aims to boost internet penetration to 80 per cent by 2025 and to enhance its trade competitiveness to take advantage of the digital revolution (the fourth industrial revolution).<sup>7</sup> However, regulatory restrictions of various kinds hinder the advancement of digital trade. Creating a conducive regulatory environment is likely to attract local and international investors and consumers into Tanzania's digital marketplace.

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2 <https://ictpolicyafrica.org/en/document/osnitcit15?page=5>.

3 <https://www.tanzanialaws.com/principal-legislation/cybercrimes-act#:~:text=An%20Act%20to%20make%20provisions,and%20for%20matters%20related%20therewith>.

4 <http://www.parliament.go.tz/polis/uploads/bills/acts/1662105178-CHAPTER%20442-THE%20ELECTRONIC%20TRANSACTIONS%20ACT%20.pdf>.

5 <https://www.tcra.go.tz/uploads/documents/sw-1619083753-Tha%20Finance%20Act,%202017.pdf>.

6 See [www.tcra.go.tz/uploads/text-editor/files/december\\_1619156689](http://www.tcra.go.tz/uploads/text-editor/files/december_1619156689).

7 [www.ikulu.go.tz/speeches](http://www.ikulu.go.tz/speeches) (accessed on 5 May 2021).

# RESTRICTIVENESS OF THE REGULATORY REGIME FOR DIGITAL SERVICES TRADE

To assess the degree of restrictiveness among digital services trade in Tanzania, an in-depth review of policies, legislation and regulations on digital services trade restrictions was conducted under the five pillars of the Digital STRI:

- Infrastructure and connectivity.
- Electronic transactions.
- Payment systems.
- Intellectual property.
- Other barriers affecting trade in digitally enabled services.

## **Infrastructure and connectivity**

A regulatory framework for infrastructure connectivity is essential to facilitate digital trade. Infrastructure connectivity has four aspects: interconnection, vertical separation, market dominance and cross-border data flows. In Tanzania both mobile and fixed interconnection are overseen by the Tanzania Regulatory Authority, as stipulated in the Electronic and Postal Communi-

cations Act of 2010,<sup>8</sup> and interconnection prices are agreed between individual licensees. If an agreement on interconnection prices cannot be finalized, the authority will arbitrate between disputing parties and impose conditions. Regulations on accounting separation require infrastructure service providers to separate accounts, and the Electronic and Postal Act offers provisions for accounting separation. Requirements on interconnection between service providers are vital to reducing barriers to entry in digital trade.

The Tanzanian mobile telecommunication market has seven providers. While three of them are leading players, no one player has a dominant position. According to the Tanzania Communication Regulatory Authority Quarterly Update 2021, the top three firms were Vodacom (29.4 per cent market share), Airtel (27.2 per cent) and Tigo (24.7 percent).<sup>9</sup> In addition, data protection laws are crucial to guarantee the smooth flow of cross-border data. There are as yet no data

<sup>8</sup> <https://ictpolicyafrica.org/en/document/osnitcit15?page=5>.

<sup>9</sup> [https://www.tcra.go.tz/uploads/text-editor/files/Communications%20Statistics%20December%202021\\_1643809069.pdf](https://www.tcra.go.tz/uploads/text-editor/files/Communications%20Statistics%20December%202021_1643809069.pdf).

protection regulations in Tanzania, but draft bills were introduced in 2006 and 2014.

### **Electronic transactions**

A regulatory framework for electronic transactions is vital to facilitate digital trade. In 2015, Tanzania passed the Electronic Transactions Act of 2015 to help the country tap the potential of the digital economy and regulate electronic transactions.<sup>10</sup> Although efforts have been made to create an environment conducive to electronic transactions, both locally and internationally, improvement is still needed. According to the Tanzanian Revenue Authority, online tax registration and declaration are possible for value added taxes but not yet for income taxes, though efforts are under way to digitize income tax payments.

Tanzania adopted the United Nations Model Law on Electronic Commerce in 2015, but it is not a signatory to the United Nations Convention on the Use of Electronic Communications in International Contracts or the United Nations Convention on Contracts for International Sales of Goods. Nonetheless, electronic transactions, digital signatures and contracts are legally recognized in Tanzania under Sections 6–8 of the Electronic Transactions Act of 2015.

Additionally, through the Bank of Tanzania, the government requires interconnectivity between mobile money providers, a requirement that has removed cross-platform transaction barriers and increased mobile

financial transactions. The country does not adhere to internationally standardized rules for cross-border transactions, however. The legislation and regulations in force do not explicitly protect confidential business information or offer an online mechanism for cross-border trade dispute settlement.

### **Payment systems**

Payment systems are the primary components for facilitating digital trade. The National Payment System Act of 2015 regulates digital payment systems in Tanzania.<sup>11</sup> The act does not discriminate against specific payment settlement methods as long as they abide by the laws in force. Furthermore, the act does not impose restrictions on internet banking or insurance transfers but allows financial service providers to set a limit. The government adheres only partially to international payment security standards. For instance, Tanzania has adopted ISO/IEC 7816, an international standard for electronic identification cards with contacts, but has not enacted the Model Law on Electronic Commerce of the United Nations Commission on International Trade Law.

### **Intellectual property rights**

Intellectual property rights regulations can facilitate investment in digital trade by providing safeguards for developers and creators and ensuring the protection of trademarks, trade secrets, copyrights and other intellectual property rights. The Trade and Service Marks Act of 1986 amended in

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<sup>10</sup> <http://www.parliament.go.tz/polis/uploads/bills/acts/1662105178-CHAPTER%20442-THE%20ELECTRONIC%20TRANSACTIONS%20ACT%20.pdf>.

<sup>11</sup> <http://parliament.go.tz/polis/uploads/bills/acts/1452062539-ActNo-4-2015-Book-1-10.pdf>.

2002,<sup>12</sup> the trade and service marks regulation of 2000<sup>13</sup> and the Copyright and Neighbouring Rights Act of 1999<sup>14</sup> regulate intellectual property rights. The legislation guarantees trademark and copyright protections for foreign and local firms without discrimination and sets out judicial enforcement measures and remedies, as well as criminal enforcement proceedings and penalties. For example, a person whose intellectual property rights are in imminent danger of being infringed upon or have been infringed upon may institute proceedings against the infringer in Tanzania.

### **Other barriers affecting trade in digitally enabled services**

In addition to the issues discussed above, there are several other areas where Tanzani-

an law affects trade in digitally enabled services. For example, under the Employment Regulation Act of 2015, foreigners can work in Tanzania only when no local experts are available for the task.<sup>15</sup> In addition, to obtain a work permit, requesting firms must have a succession plan for foreigners to hand over work products to locals when the term of the work permit expires. This requirement raises barriers to entry to Tanzania's digital labor force, especially in areas where there is a deficiency of local talent.

Tanzanian regulations also place restrictions on content creators, requiring them to be licensed and requiring licensees to use content moderation tools to filter prohibited content.<sup>16</sup> Licensees also must have a local physical presence in Tanzania, raising barriers to entry for foreign firms.

12 [https://www.brela.go.tz/\\_brela\\_uploads/documents/4\\_2002.pdf](https://www.brela.go.tz/_brela_uploads/documents/4_2002.pdf).

13 <https://wipolex-res.wipo.int/edocs/lexdocs/laws/en/tz/tz021en.html>.

14 <https://www.aripo.org/wp-content/uploads/2018/12/Tanzania-Copyright-Act.pdf>.

15 [https://procedures.tic.go.tz/media/The%20non-citizens%20\(employment%20Regulations\)%20Act,%202015.pdf](https://procedures.tic.go.tz/media/The%20non-citizens%20(employment%20Regulations)%20Act,%202015.pdf).

16 [https://www.tcra.go.tz/document/The%20Electronic%20and%20Postal%20Communications%20\(Online%20Content\)%20Regulations,%202020](https://www.tcra.go.tz/document/The%20Electronic%20and%20Postal%20Communications%20(Online%20Content)%20Regulations,%202020).

# INDICATORS OF DIGITAL TRADE INTEGRATION

This section discusses measures related to the level of digital trade integration in Tanzania. The regulatory regime of digital trade integration was assessed under 11 pillars:

- Tariff and trade defence on measures applied to intraregional imports of information communications technology (ICT) goods.
- Public procurement of digital goods and services.
- Foreign direct investment for digital trade.
- Intellectual property rights.
- Telecommunications infrastructure and competition.
- Cross-border data policies.
- Domestic data policies.
- Intermediary liability and content access.
- Quantitative trade restrictions.
- Standards.
- Online sales and transactions.

Since the findings for some of these pillars are discussed in the previous section on Digital STRI, to the extent possible, a du-

plicative discussion is avoided in this section.

## Foreign direct investment

Creating a conducive environment for foreign investors is essential to boosting the engagement of the private sector and its contribution to economic growth. Partnerships between foreign and local investors are highly desirable to ensure that profits earned in Tanzania remain in the country and to encourage foreign firms to train local workers and build the capacity of the local workforce. Under the Converged Licensing Framework adopted in 2010, the Tanzania Communications Regulatory Authority issues four types of licenses in the telecommunications sector: for network facilities, network services, application services and content services.<sup>17</sup> The government welcomes foreign investment in the sector but reserves a percentage share for local investors. Holders of licenses for network facilities and network services are required to offer a minimum of 25 per cent of the company's shares to the public through an

<sup>17</sup> <https://www.tcra.go.tz/uploads/documents/sw-1619018762-General%20Guidelines.pdf>.



initial public offering on the stock market. A majority of shareholders of content service license companies must be Tanzanian citizens.

### **Intermediary liability and content access**

Intermediary liability protection is the critical foundation of digital trade policies in the platform economy. The Cybercrime Act of 2015 offers safe harbour provisions concerning intermediary liability.<sup>18</sup> For instance, service providers are required to terminate or suspend any subscriber account that shares prohibited content within two hours of any report of such activities. Furthermore, the online content regulations issued in 2020 require all online service providers, including bloggers, to have an operating license.

### **Domestic data policies**

Domestic data policies are vital to ensure the safety of personal and business data. Investors and consumers are more confident about investing in or using digital services when the safety of data is guaranteed by law. Tanzania has no data protection laws, but a data protection bill has been under discussion since 2006. Additionally, another draft data protection bill introduced in 2014 is under discussion. Currently, the government (police officers) can access personal data with a search warrant, without a court order, during a criminal investigation. Sections 34 and 35 of the Cybercrime Act allow

a police station or a law enforcement officer to collect or record traffic or content data associated with a specified communication during a specified period.<sup>19</sup> The licensee is required to store subscriber communication data for one month and then submit it to the Tanzania Communications Regulatory Authority. The licensee is not permitted to share the data with a third party.

### **Online sales and transactions**

Online sales and transactions are an important component of trade since the share of trade in goods and services that takes place online has been growing. To engage in modern day international trade, a country needs to have mechanisms in place that facilitate the interoperability of platforms. In Tanzania, a separate license is not required to engage in e-commerce activities; an ordinary business license is sufficient. Online content creators do require a license, however. The Electronic Transactions Act imposes no restrictions on the delivery of legal products.<sup>20</sup> Importers must pay the taxes required by law, and there is no de minimis value on digital trade. Furthermore, businesses must be registered under Tanzanian law to qualify for the local domain “co.tz.”

Consumer protection legislation is essential to boost the use of digital services by ensuring their safety and guaranteeing value for money. Tanzania does not have an explicit consumer protection law, but Sections 28–32 of the Electronic Transactions Act address consumer protection by specifying

18 <https://www.tanzanialaws.com/principal-legislation/cybercrimes-act#:~:text=An%20Act%20to%20make%20provisions,and%20for%20matters%20related%20therewith.>

19 <https://www.tanzanialaws.com/principal-legislation/cybercrimes-act#:~:text=An%20Act%20to%20make%20provisions,and%20for%20matters%20related%20therewith.>

20 [https://ictpolicyafrica.org/en/document/osnitcit15?page=3.](https://ictpolicyafrica.org/en/document/osnitcit15?page=3)

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the duties of suppliers, giving guidelines for order execution times, detailing consumers' rights to cancelation and governing unsolicited services. The act is not clear on the mechanism for handling complaints and disputes, however, which likely lowers consumer confidence in digital trade. Similarly, the Electronic and Postal (Consumer Protection) Regulations of 2018 do not contain provisions on online dispute resolution procedures.<sup>21</sup>

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<sup>21</sup> <https://www.article19.org/wp-content/uploads/2018/05/Tanzania-Online-Content-Regulations-2018-Final.pdf>.

# CONCLUSION AND RECOMMENDATIONS

In recent years, Tanzania has taken steps to create a conducive environment for digital trade. However, there are still gaps in legislation that likely are restricting digital services trade and digital trade integration. The government needs to update legislation to enhance the country's competitiveness. For example, data protection and consumer protection legislation have not yet been enacted. Both are crucial for promoting investment, facilitating international trade and guaranteeing consumer safety and confidence in digital markets. Such legislation would create a more conducive environment for digital trade. Tanzania also has yet to enact legislation or adopt international standards on digital trade, which are crucial to ensure interoperability and guarantee intellectual property rights protection when conducting international trade. Furthermore, the government has not set a de minimis value for digital trade, which could encourage greater adoption of digital trade.

Efforts are therefore still needed to boost and attract investment in digital trade. The following legislation should be considered by the government:

- **Data protection legislation:** fast-tracking the drafting and enactment of data protection legislation, which is crucial to protect personal data (processing and movement of data).
- **Consumer protection legislation:** drafting a consumer protection bill on top of the consumer protection regulations under the Electronic and Postal Act of 2010, to promote consumer confidence in digital trade. Current consumer protection regulations lack vital components needed to protect consumers in the digital market.
- **De minimis rule:** conducting further research on the de minimis threshold to foster digital trade competitiveness and draw consumer involvement in the digital market.
- **International standards and laws:** adhering to international standards, especially on payment security and intellectual property rights. Compliance with international standards guarantees protection for both investors and consumers.

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Printed in Addis Ababa, Ethiopia by the ECA Printing and Publishing Unit.  
ISO 14001:2015 certified. Printed on chlorine free paper.