

2013

# **CONFEDERATION OF TANZANIA INDUSTRIES (CTI)**

**SIMPLIFYING COMPLIANCE WITH REGULATIONS  
IN THE FOOD PROCESSING SECTOR TO ENHANCE  
THE EASE OF DOING BUSINESS**

## **POLICY PROPOSAL**

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## ACRONYMS AND ABBREVIATIONS

AGI	Association of Ghana Industries
ASDS	Agricultural Sector Development Strategy
BARA	Business Activities Registration Act
BEST-AC	Business Environment Strengthening in Tanzania – Advocacy Component
BOBS	Botswana Bureau of Standards
BOT	Bank of Tanzania
BRELA	Business Registrations and Licensing Agency
CEO	Chief Executive Officer
CSIR	Council for Scientific and Industrial Research
CTI	Confederation of Tanzania Industries
DANIDA	Danish International Development Agency
DDP	District Development Plan
EAC	East African Community
EIA	Environmental Impact Assessment
ELRA	Employment and Labour Relations Act
EPA	Environmental Protection Agency
FDB	Food and drug Board
FAGE	Federation of Association of Ghanaian Exporters
FRF	Fire and Rescue Force
FRI	Food Research Institute
GDP	Gross Domestic Products
GCLA	Government Chemist Laboratory Agency
GAP	Good Agricultural Practices
GEPC	Ghana Export Promotion Council
GMP	Good Manufacturing Practices
GASA	Ghana Standards Authority
GAEC	Ghana Atomic Energy Commission
HACCP	Hazard Analysis and Critical Control Points
IGC	International Growth Centre
IPC	Investment Promotion Centre
ISO	International Organisation for Standardisation
LMD	Legal Metrology Department
MDAs	Ministries, Departments and Agencies
MKUKUTA	Mkakati wa Kupunguza Umaskini Tanzania
MIT	Ministry of Industry and Trade
MLGRDE	Ministry of Local Government and Rural Development
MOFA	Ministry of Food and Agriculture
MOH	Ministry of Health
MOFEA	Ministry of Finance and Economic Affairs
NCS	National Certification Services
NEMC	National Environment Management Council
NEP	National Environment Policy
NFCC	National Food Control Commission
NMI	National Metrology Institute
NMO	National Metrology Organisation
NQI	National Quality Infrastructure
NQTL	National Quality Testing Laboratories
NSB	National Standards Body
NSI	National Standards Institute
NSGRP	National Strategy for Growth and Reduction of Poverty
OSHA	Occupational Safety and Health Agency

PAYE	Pay As You Earn
PMAYA	President's Manufacturer of the Year Award
PMOs	Prime Minister's Office
PPP	Public Private Partnership
PPRSD	Plant Protection and Regulatory Services Department
PSOs	Private Sector Organisations
QAU	Quality Assurance Unit
RBS	Rwanda Bureau of Standards
RBP	Regulatory Best Practices
RBP	Regulatory Best Practices
RIA	Regulatory Impact Assessment
RITA	Registration, Insolvency and Trusteeship Agency
RDB	Rwanda Development Board
RDS	Rural Development Strategy
SMEs	Small and Medium Enterprises
SPSS	Statistical Package for Social Scientists
TAEC	Tanzania Atomic Energy Commission
TAFOPA	Tanzania Food Processors Association
TAMPA	Tanzania Milk Processors Association
TEOSA	Tanzania Edible Seeds Associations
TBS	Tanzania Bureau of Statistics
TDB	Tanzania Dairy Board
TFDA	Tanzania Food and Drugs Authority
TIN	Tax Identification Number
TNBC	Tanzania National Business Council
TRA	Tanzania Revenue Authority
TTB	Tanzania Tea Board
TZS	Tanzanian Shillings
VAT	Value Added Tax
VSD	Veterinary Services Directorate
WB	World Bank
WMA	Weight and Measures Authority
WHO	World Health Organisation

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## EXECUTIVE SUMMARY

The overall objective of this advocacy project is to persuade the government to reform the regulatory process and simplify compliance in the food processing sector. For the purpose of producing strong evidence, the study was conducted by CTI to quantify and analyse the implications of multiple regulations on food manufacturers and recommend changes that will improve the regulatory system in the sector. The study entailed desk review of the regulations and legislation concerning food processing, case studies of selected enterprises, focus group discussions, visits to selected African countries and a survey of members and non-members of CTI. This document reports the study findings and proposes policy actions for desirable change. The report includes the inputs of various CTI partners, Private Sector Organisations' Roundtable as well as High Level Task Force drawn from the relevant Government Ministries, Departments and Agencies (MDAs).

The study generally shows that regulations governing the food processing sector are amenable and have a number of benefits such as ensuring public safety, protecting the environment, correcting market failures and promoting fairness. However, excessive regulations increase the costs of food processors, mainly due to duplication of the regulatory functions and fees charged by the regulators. In particular, the study indicates that:

- i) Although Tanzania has declared to promote the private sector in its policies, the food processing sector is still highly regulated with at least 22 laws directed at the sector and 15 regulators governing it. The key challenge is how to rationalise the regulations affecting food processors without placing an added burden on the private sector.
- ii) The lessons drawn from other African countries indicate that the food processing sector is commonly regulated by a number of regulators belonging to at least four different Ministries. However, all the countries studied are attempting to improve the regulatory framework governing the food processing sector by: introducing collaboration among regulators; developing the National Quality Infrastructure; creating awareness in the area of food safety; sharing facilities and analysis reports; dividing the roles among regulators; promoting self-regulation; and improving the state-business relationship.
- iii) The majority of food processors appreciate the value of regulations, but they have several concerns regarding their effect on the performance of their businesses. Food processors are concerned about the multiplicity of Regulatory Authorities, the duplication of regulations and the high cost of compliance. They feel that most regulators are motivated by revenue collection rather than facilitating enterprises to comply with the regulations.
- iv) The focus group discussions revealed that, although regulations protect consumers' health, over-regulation causes several problems being: wasting enterprises' time in attending to and following-up compliance issues; increasing costs to businesses due to multiple fees; the increasing number of informal operators; increased bureaucracy; and corruption.
- v) Since most enterprises recognise the importance of the Regulatory Authorities governing the food processing sector, they were fairly satisfied with the services offered by the Regulatory Agencies. However, the enterprises surveyed indicate that regulatory challenges have a significant statistical impact on the performance and competitiveness of their enterprises. The main impingements on the competitiveness of enterprises are the multiplicity of licences and inspections, the fees, delays and bureaucracy, the multiple testing of products, the cost of administration and lost sales, as well as reporting requirements and increased prices.

- vi) The impact of the regulations on firms and the industry as a whole is immense. Based on the estimations made, the total compliance cost of the sector is TZS 100 billion, which is equivalent to 40% of the tax contributed by the sector. The tax lost due to compliance costs is estimated to be 30% of the total compliance cost, which is equivalent to TZS 33 billion per year. It is estimated that the sector loses 5,000 direct jobs per annum due to over-regulation.
- vii) Although the government has attempted to review the regulations through the National Road Map, the impact of this initiative has not been significant for food processors because the speed of implementation of the proposed changes is still slow and the food sector has not been given the special attention it deserves.

From the analysis done in this study, the main regulatory issues that require policy attention and that guide the recommendations made in this proposal are as follows;

- The food processing sector is over-regulated mainly because of the fragmentation and duplication of regulators' tasks and coordination failure.
- Rent-seeking behaviour originating from the liquidity problems facing Regulatory Authorities.
- Weak and ineffective enforcement capacity of the Regulatory Authorities.
- The attitude of most Regulatory Agency staff is unsupportive of enterprises.
- Enterprises' weakness in complying with regulations.
- Inadequate capacity of the private sector to implement self-regulation.

The proposed actions aim to: i) promote reform of the current regulatory system and improve coordination of the regulatory tasks; ii) enhance the capacity of Regulatory Agencies to undertake their tasks more effectively; iii) address specific constraints that limit the effectiveness of compliance with standards by the food processing sector; iv) stimulate public awareness of food safety standards; v) encourage self-regulation and participation of the private sector in the regulatory activities; and vi) initiate a dialogue between the private sector and the government. On the basis of these objectives, the following policy actions are recommended for consideration by the Government, PSOs, enterprises and other stakeholders.

#### ***i) Harmonise and coordinate tasks of Regulatory Agencies***

- Harmonisation of business registration and licensing activities stipulated in: the *Business Licensing Act, of 1972 Cap 208, [R.E, 2002]*; *Business Names Registration Act (Cap 213)*; *Industrial Licensing and Registration Act, 10 Cap 46 [R.E, 2002]*; *Tanzania Food, Drugs and Cosmetics Act, 2003, Section 18*; *The Explosives Act, 56 Cap 45, [R.E 2002]*; *Fisheries Act, 22 of 2003*; *the Cashew nut Industry Act, 2009, section 12(1)*; *the Coffee Industry Act, 2001, section 12(1)*; and *the Tea Act, Cap 251, [R.E, 2002]*. Business registration and business licensing could be harmonised through cross-referencing whereby food processors could, for example, be registered only by BRELA and TFDA after complying with the requirements of the industrial licence, EIA and quality control that ensure good manufacturing practices.
- Harmonisation of the premises inspection activities stipulated in *the Tanzania Food, Drugs and Cosmetics Act, 2003, Sections 5 (2) (f), 18, 19, 20, 105 and 106*; *the Standards Act, 2009, Section 4 (2) (b)*; *the Dairy Industry Act, 2004, section 10 (r), (s)*; *Occupational Health and Safety Act, 2003, Sections 24 (1) - (4) and 64 (3)*, *the Business Registration Act, 2007, section 26(1)*, *Local Government District Authorities Act (Cap 287, R.E 2002)*, *Local Government Urban Authorities Act (Cap 288, R.E 2002)*; *the Environmental Management Act, Section 81*; and *the Public Health Act of 2009, 5(g)*,

7(a) and 118. Harmonisation of inspections could be achieved in one or a combination of the following ways; a) inspection of premises by TFDA, TBS, TDB, OSHA, Health Officers and NEMC to be carried out concurrently; b) LGAs not given power to inspect the premises of food processors that have already been inspected by TFDA and TBS, but instead LGAs will inspect informal food processors and traders; c) With exception of OSHA and NEMC, whose roles are quite specific, other regulators should share the inspection reports so as to limit the multiplicity of inspections; d) registration and inspection of factories/premises used for food processing be done by TFDA in consultation with other relevant Regulatory Authorities.

- Harmonisation and coordination of product testing. The laws establishing the agencies involved in product testing provide for the establishment of “a system of consultation and cooperation” as stipulated in the *Tanzania Food, Drugs and Cosmetics Act, 2003, Section 5 (2) (f), 18 & 20; the Standards Act, 2009, Section 4 (2) (b); Protection from Radiation Act, Section 1983, section 14(10); and the Dairy Industry Act, 2004, section 10 (r), (s)*. The following ways could be used to improve product testing: a) TBS, GCLA and TFDA to conduct product testing concurrently; b) TBS to focus on setting the product quality standards with TFDA enforcing the quality standards and setting of safety standards; c) Once the product has been tested by one of the regulators, the result can be shared with all the regulators.
- Coordination of licences and permits that relate to food hygiene and premises by introducing cross-referencing and introducing clauses which allow one authority to recognise the permit of authorities carrying out similar functions. For example, the permits and certificates issued by TFDA could be recognised by TBS, GCLA and LGAs. More specifically, a premises licence given by TFDA should be recognised by TBS and a product permit given by TBS should suffice for providing the food processor with a permit to operate. GCLA and LGAs should not perform this role.
- Coordination of EIA and inspection of environmental compliance stipulated in *Environmental Impact Assessment Act, 2004, section 8, Industry and Consumer Chemicals Act, 2003, the Sugar Industry Act, 2002, section 47 and the Fisheries Act, 2003, section 52, the Public Health Act, 2009*. NEMC should be mandated to conduct EIA and do inspections for environmental compliance in consultation with other relevant authorities.
- Establish the national accreditation system to support upgrading of laboratories and the inspection bodies to the International best practices and reduce cost for seeking these services from other countries.
- A review of the regulations should be supported by a Regulatory Impact Assessment (RIA) so as to consolidate the gains made in the reform process and prevent the introduction of a new regulatory burden. This will allow for mutually beneficial policymaking and management in terms of food safety and health for the three key players: consumers, private enterprises and the government.

## **ii) Review the budget allocated to Regulatory Agencies**

- Increase the budget allocated to Regulatory Authorities and promotes the collaborative model for funding regulators. This model allows for more adequate cost sharing whereby the government meets the cost of infrastructure and staff development, as well as operational and incidental costs. The clients, in this case, enterprises, meet the cost of the materials used to analyse the product and to pay the necessary fees rather than regulators attempting to maximise revenue through the fees charged.



- Harmonise the processes of implementing regulatory functions and collaboration in some activities as proposed in this proposal so as to increase economies of scale and reduce the compliance costs incurred by enterprises.
- Establish one-stop centres for key regulators where enterprises can accomplish all the necessary processes for compliance. This would enable enterprises to share some resources and minimise the fees that enterprises are charged.

### ***iii) Improve the human resource capacity of Regulatory Agencies***

- Build the human resource capacity for risk management and improve quality. An effective standards system requires adequate and sound technical skills for control, surveillance, diagnosis, inspection, certification, and risk management. Since all of these capacities entail costs that may not be affordable by the Regulatory Agencies, there is a need to revisit the funds made available to them for capacity building, depending on the priority areas identified by them.
- Improve the attitude of staff policing the enterprises to the risk-based management approach. The new approach should stress the role of standards in overcoming information asymmetry and reducing the transaction costs of firms, thereby promoting broader compliance and participation. The attitude of the staff of Regulatory Authorities could be improved through developing and enforcing the professional code of conduct, improving staff motivation, enhancing feedback and communication mechanisms between enterprises and regulators and training all staff in customer care.

### ***iv) Share facilities and infrastructure***

- The government should fund the modernisation of selected labs including TBS, TFDA, and GCLA laboratories, to ensure that they are ISO accredited for testing and analysing products, the results of which could be shared by all the other regulators. This may be the foundation on which to build an integrated laboratory system for an improvement in public health.
- A cooperative arrangement between the Regulatory Agencies should be considered to enhance the greater sharing of results from the accredited laboratories. This would encourage a coordinated effort resulting in a more rapid and effective response to clients.
- The authorised regulators develop and implement a process to electronically send data directly from certified laboratories to other regulators.

### ***v) Shift from end-product to both performance and process-based regulatory standards***

- Regulators should have frequent consultations with enterprises to provide them with coaching and guidance on how to comply with quality and safety requirements in the entire process of processing and preparing food for human consumption.
- Regulators need to prescribe exactly what action regulated entities must take to improve their performance and to share the checklist of actions with enterprises. This could be done through frequent forums organised for the regulators and the regulated.
- The government should support a continuing programme of training, retraining, and skills upgrading in basic hygienic practices in food processing, such as Hazard Analysis and Critical Control Points (HACCP), Good Agricultural Practices (GAP), and Good Manufacturing Practices (GMP).

***vi) Encourage enforced self-regulation to support standards management***

- The government to identify PSOs that could facilitate self-regulation in their specific sub-sectors and build their capacity to regulate enterprises. These include for example, TAMPA in the dairy sector, Tanzania Association of Food Processors (TAFOPA) in the SMEs sector, Tanzania Edible Seeds Association (TEOSA) and CTI for large manufacturers.
- Promote self-regulation at the company level where the labs of capable food processors are accredited by regulators and audited from time to time. This would enhance the capacity of food processors to comply and lead to fewer inspections that would ultimately reduce the costs of regulations.
- Train enterprises especially SMEs in the food safety and food hygiene requirements, and encourage them to comply voluntarily. Updates on food safety and food hygiene matters and encouraging the food processors to behave responsibly would reduce the number of fines and penalties imposed on enterprises after failing to comply.

***vii) Public education and consumer awareness***

- The Regulatory Agencies to design consumer education programmes and mobilise resources to fund the programmes in their mandated areas. This requires the government's commitment to support such programmes.
- Regulators to work with PSOs and other stakeholders to raise awareness of food safety and food hygiene issues. This could be done through mass media programmes that reach a large number of food consumers.

***i) LGAs focus largely on regulating informal food processors***

- The role of LGAs to be redefined so that they focus mainly on strengthening the food quality control capability of local informal food processors to ensure that they sell safe food.
- The LGAs should focus on improving the conditions under which street food is prepared and sold and improving vendors' knowledge about sanitation and food hygiene and the nutritional value of food through education and training.
- LGAs should also raise awareness of consumers about the nutrition and hygiene of street food and create an effective feedback mechanism for communication from consumers.

***viii) Promote public-private dialogue and Private-Public Partnership***

- PSOs dealing with food processing to establish a working group of stakeholders who will undertake continuous dialogue with the private and public sector. The role of PSOs will be to continuously inform the government on the regulatory challenges, to provide feedback to their members on the changes happening in the regulatory system and participate in facilitating the implementation of good practices.
- Regulators should explore ways of effectively accrediting and working with private laboratories to perform basic analyses of samples. This is a long-term proposal whereby the mechanism for using private laboratories is developed to ensure that it increases efficiency and reduces the costs to enterprises.
- PSOs to work with the public sector when regulations are reviewed. For example, both TAMPA and TDB are advocating the improvement of the regulations governing the dairy sector. Looking at their policy proposals, several common policy actions could be pursued jointly for quick and effective change.

### ***ix) Initiate the Reform Process***

- CTI should initiate the process of consulting with regulators and facilitate the preparation of draft bills (layman's Draft Bills) to be submitted to the Ministries responsible. The private sector would have to dialogue with the Ministries responsible for the preparation of a paper to be submitted to the Cabinet, followed by the formal process of reviewing the laws. The best strategy is to prepare Draft Regulations (Layman's Draft Regulations) and submit them to the Minister responsible, who will then submit them to the Attorney General (Chief Parliamentary Draftsman) for refinements and finalisation before signing and gazetting them.
- The processes that do not require a change in the law, such as collaboration between regulators as stipulated in the legislation, should immediately be implemented by the regulators responsible for them. Therefore, it is recommended that regulators dealing with food processing meet and discuss the strategies they can use to enhance collaboration among them. This could be a humble beginning of collaboration and harmonisation of the overlapping regulatory tasks and processes. Since all regulators have a recognised role and their independent mandates, it is proposed that the initial forums be organised by CTI and other PSOs in the sector so that regulators are able to come together.
- Each regulator to read the report and identify the issues that are within their control and start addressing them. For example, regulators need to start addressing their relationship with enterprises, as well as the issues of customer service, communication, improving the attitudes of staff and enhancing the facilitation and coaching roles. All these issues could be reflected in the Client Service Charter to be prepared by regulators.
- CTI to ensure that the recommendations given in this report are forwarded to the government to be used as input in the on-going formulation of Food Quality and Safety Policy. This policy will necessitate the review of the existing laws and regulations and minimize if not remove the overlapping.

The regulatory reform process should be coordinated under the Prime Minister's Office in order to get a strong political support and effectively address most issues that cut across several Ministries. The strength of the Prime Minister's Office lies in the fact that it does not have any inclination to a particular Ministry. Another advantage of using this strategy is that the proposed changes can be mainstreamed into the ongoing implementations of the National Road Map which is under the Prime Minister's Office. However, for the purpose of effective implementation of the proposed changes there is a need to ensure that Regulatory Agencies, PSOs and Ministries hosting various Regulatory Agencies participate in the process. Table 9 indicates the key change agents to be involved in the reform process.

## **1. INTRODUCTION**

### **1.1 Background**

One of the most important functions of the government is to create an enabling environment in which private enterprises operate. Clear policies and laws have to be put in place to foster a competitive environment for business enterprises, thereby increasing efficiency in the economy to the ultimate benefit of both consumers and producers. In many instances, the World Bank has highlighted the importance of reforming the regulatory framework in developing countries for unleashing a private sector response that leads to dynamic growth, and ultimately employment and income generation. Nevertheless, based on the Doing Business studies, there is growing evidence that the regulatory environment in Tanzania is unfriendly to private enterprises compared with other countries. Tanzania's ranking in the aggregate Ease of Doing Business Index has always been unfavourable, ranging from 124 to 131 out of 183 countries. Therefore, reforming the regulatory environment has received a lot of attention from Private Sector Organisations (PSOs), policy makers, development partners and the business community. There is strong encouragement for the government to improve the enabling environment, particularly the regulatory framework, on the basis that it will lead to increased growth in economic activity. The main point is that Tanzania needs a comprehensive regulatory reform agenda in response to both domestic and international factors<sup>1</sup>.

Tanzania has thus attempted to engage in regulatory reform in the last two decades. Since the early 1990s, the government has established within its various strategy documents a rationale for regulatory reform as a major part of its overall strategy for developing the private sector and for supporting private enterprises. The government is working in a wide area of regulatory reform, including business entry (registration and licensing), trading across borders, construction permits, and labour and commercial laws. It has endorsed the need for major improvements in regulatory governance through the adoption of good regulation practices guided by the Regulatory Impact Analysis (RIA). Likewise, development partners through the Business Environment Strengthening for Tanzania are supporting reforms and reviewing regulations as a strategy for achieving a competitive private sector that will engineer economic growth. Development partners have been advocating that the regulatory framework be simplified as an important step in the business sector becoming competitive locally and internationally. Simplification of the regulatory framework entails a wide range of possibilities, including removing and/or merging some regulations into a more manageable form and resolving inconsistencies and overlap within or between regulations. It includes reducing the burden of paperwork and the time taken to deal with requests for information. The aim of simplification is to reduce regulatory burdens without removing the protection that is necessary for customers, the environment and workers, or compromising standards and quality.

Despite the regulatory reforms taking place in Tanzania and ongoing advocacy initiatives to review the regulations and laws, the manufacturing sector is still highly regulated<sup>2</sup>. The main reason for this is to safeguard the interests of the public and ensure that manufacturers operate in accordance with health standards. According to the situational analysis done by CTI (2011), one of the manufacturing operations that are exceedingly regulated is the food processing sector. Several policies in Tanzania highlight the rationale for regulating food processing and promoting product quality and safety standards. The National Health Policy, for example, guides the regulation of food and food products manufactured and/or imported into the country. The

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<sup>1</sup> *Regulatory Capacity Assessment, 2010*

<sup>2</sup> CTI study, 2011

Food and Nutrition Policy (1992) covers extensively the issue of food hygiene and categorically insists that food quality standards must be maintained. In view of this, the government has established a number of Regulatory Authorities to regulate the food processing sector to ensure that food manufacturers comply with safety and health standards.

Then again, as regulators play their role, there is a concern by the private sector and food processors in particular about the impact of the regulatory framework on the performance of the sector. The issue is that most regulators have adversely affected the competitiveness of food processors by increasing the cost of doing business. Most regulators seek to generate income in the process of enforcing regulations leading to rent-seeking behaviour rather than facilitating the processors. Although various recommendations have been made, covering issues like reviewing and harmonising the regulatory framework, funding the Regulatory Authorities from the government budget and simplifying compliance with the regulatory framework, studies (e.g. TAMPA, 2010, TDB, 2010, CTI, 2011) indicate that compliance by the food processing sector is still too costly. At the same time, no remarkable measures have been taken to simplify and enhance the effectiveness of the regulatory framework for the sector.

Notwithstanding the concern about the impact of regulations on the food processing sector and the recommendations to harmonise overlapping regulations and review the regulatory framework, evidence is needed on the areas in which the specific regulations directed at the sector overlap and the extent to which enterprises are affected by those regulations. Obtaining this evidence would provide strong grounds for changing the policy framework and guiding policy makers, the private sector and development partners on how to enhance the regulatory environment. In particular, the development of a policy document focusing on a review of the regulations ought to be supported by research on the regulatory environment in the sector/industry of interest.

In view of the above background, CTI, the PSO that aims to promote the industrial sector in Tanzania, with the support of BEST-AC, engaged an independent consultant to undertake a study on regulations governing the food processing sector and to develop a policy proposal for simplifying the regulatory framework that will be used to guide the dialogue between the private sector and the government. Thus, this document presents the report and the proposed policy actions.

## ***1.2 Structure of the Report***

This report is organised as follows: The next section, which is part of the introductory chapter, gives an overview of the food processing sector in Tanzania, the rationale for reviewing the regulations governing the food sector and the scope of the work. Chapter two describes the approaches and methodology used to conduct the study and develop the policy proposal. Chapter three deals with the policy and regulatory framework that guide the regulations directed at the food processing sector in Tanzania. The chapter aims to show the policy direction of the country with regard to developing the food sector and the laws that established the existing regulators. The chapter also describes various Regulatory Authorities in Tanzania and their mandates to regulate the food processing sector. Chapter four presents the lessons learnt from other African countries involved in this study highlighting good practices for reviewing the regulatory framework. It covers the lessons from the countries visited and those generated by the literature.

Chapter five presents the findings regarding current regulatory practices in the food processing sector in Tanzania. The Chapter combines the lessons from the situational analysis, focus group discussion and the survey. It attempts to highlight the views of the stakeholders involved in the study and their ideas on how to review the regulatory framework for the food processing sector. Chapter six describes how the regulations affect the performance of the sector. It also shows the impact on the sector, so as to provide strong evidence on the need for a change in the policy. Chapter seven describes the laws requiring amendment, showing how regulations affecting food processing could be harmonised without adversely affecting the interests of the public and the competitiveness of the sector. Chapter eight concludes the report with recommendations for initiating the process of reviewing the regulations.

### **1.3 An Overview of the Food Processing Sector**

The food processing sector comprises the largest proportion (34%) of manufacturing firms in Tanzania, accounting for 50% of the total formal employment in the manufacturing industry<sup>3</sup>. The sector entails various operations, by which raw foodstuff is made suitable for consumption, cooking or storage<sup>4</sup>. These operations include *inter alia* brewing beer and wine, milling, baking, making confectionery, animal and vegetable oils, sugar, dairy products, processing fruit and vegetables, soft drinks, fish and meat, distilling spirits and bottling mineral water. Such a wide variety of operations indicates the great potential of the sector to contribute to economic development in terms of generating employment, adding value to crops, improving diets and earning foreign exchange. The sector has the potential for value addition by SMEs, in terms of the linkages between primary production and processing and marketing. It has a multiplier effect that generates growth in related industries, such as packaging, those producing equipment for the food industry; agriculture; specialised storage and transportation; industrial and graphic design; civil, industrial and environmental engineering; food science and others.

In view of the role of food processing and its potential for future growth in Tanzania, several initiatives have been taken by the government to promote the competitiveness of the sector. Through initiatives like “Agriculture First” known as “Kilimo Kwanza” and the promotion of development corridors, Tanzania is putting a lot of emphasis on agro-processing, agribusiness and adding value to the raw food produced in the country. The need for a vibrant and competitive food processing sector is also highlighted in the policy framework. The main point is that a competitive food sector will contribute significantly to income generation, increased exports and improved welfare. Processing food is therefore seen as an important link in the value chain of the food sector in Tanzania.

Historically, food processing in Tanzania developed in pre-colonial days, the basic products being staples. The first phase government invested heavily in food processing plants, though the majority of them collapsed before they were privatised. Until 1985, firms dealing with food, beverage and tobacco constituted 23 percent of all manufacturing firms (and 30 percent of value added). Of the 161 firms in the sector, 69 were publicly owned, and 13 employed over 500 workers<sup>5</sup>. Large-scale public enterprises contributed 54 percent to value added and 61 percent to employment, while public enterprises as a whole contributed 81 percent to value added and 85 percent to employment<sup>6</sup>. In the late 1980s, the food processing sector began to underperform largely because of inefficiencies in the publicly owned processors. Value added, in real terms, declined by 45 percent and value added per employee declined by 40 percent.

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<sup>3</sup>Economic survey ,2009

<sup>4</sup>Encyclopedia Britannica Online, 2008

<sup>5</sup>Enterprise Map of Tanzania, 2012

<sup>6</sup>Ibid

From the early 1990s, the government launched a deliberate programme to restructure and privatise publicly owned enterprises so as to withdraw state control from the food processing sector. Since then, the country has witnessed a number of firms run by local investors performing inefficiently or going out of the business because they could not withstand competition from multinational companies and importers. The majority of privatised firms have completely closed down due to their inability to compete. By 2009/10, there were at least 90 medium and large-scale food processing firms employing about 9000 people<sup>7</sup>. However, some food processing activities are undertaken by the informal sector largely due to the challenge of compliance.

#### **1.4 Rationale for Reviewing Regulations and Laws Governing the Food Processing Sector**

This project was conceived with the view of *Simplifying Compliance with Multiple Regulatory Authorities* to enhance the ease of doing business for both members and non-members of CTI. The project was divided into two phases, whereby the first phase focused on conducting a situational analysis of the regulatory framework to ascertain the status of the multiple regulations and the ongoing initiatives to address the unfavourable regulatory environment in Tanzania. An analysis of the regulations, laws and compliance requirements in the manufacturing sector indicated that, although the regulatory system for the entire sector was complex with several overlapping laws and the duplication of regulatory functions, food processing was one of the sectors that were highly regulated<sup>8</sup>. It was also noted that to safeguard the interests of the public and to ensure that businesses in the food sector comply with hygiene and safety standards, the government has established a number of regulations to regulate food processing. There are regulations and laws governing business registration, licensing, permits and inspections. Other regulations relate to licensing to ensure that business operators in the food sector comply with the requirements of public welfare, health, the environment and the safety of consumers. The government has also enacted laws governing every sphere with the aim of safeguarding the areas for which regulators are mandated to be responsible. It has passed laws which empower the Regulatory Authorities to collect fees and charges from enterprises to finance some of their activities and operations.

In the face of government interventions in the food processing sector, several stakeholders have been complaining about the impact of the excessive amount of regulations and red tape on the performance and development of the food sector in Tanzania<sup>9</sup>. Although regulations governing food production, processing and marketing are good because they ensure the hygiene and safety of the nation's foodstuff, they increase producers' costs and potentially affect the competitiveness of food manufacturers. Thus the challenge is how to ensure that while the regulations maximise the benefits of increasing food hygiene and safety they do not increase the cost of doing business through high user fees and bureaucratic delays in the compliance process. The motivation for this advocacy project emerged from the belief that the government should improve the effectiveness of regulations so as to promote the competitiveness of the food processing industry and the private sector as a whole.

In the light of the findings of the situational analysis, CTI decided to focus on the second phase of the project on the food manufacturing/processing sector. The selection of the food processing sector was further influenced by several other factors. First, the potential of the sector is great given the recent move of the government to promote agriculture and agro-processing. Knowing that food processing is one of the key activities in agro-processing and that successful

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<sup>7</sup> Enterprise Map of Tanzania, 2012

<sup>8</sup> CTI, 2011

<sup>9</sup> See the report by TAMPA, 2010, CTI, 2011, TDB, 2011

development of the value chain in the agricultural sector is largely influenced by value addition in food processing, improving the regulatory environment in the sector is desirable. Second, while reviewing regulations in all sectors might be logical, CTI decided to focus on food processing so as to complete the project with the available budget and within the planned timeframe. Third, most regulations governing food processing affect other manufacturing sub-sectors, meaning that a review of the regulatory framework for the food processing sector will also contribute to the better performance of other sub-sectors.

### **1.5 Scope of Work**

The overall objective of this project is to persuade the government to reform the regulatory process and simplify compliance by the food processing sector. In order to achieve this objective, a study was conducted to quantify and analyse the implications of multiple regulations on food manufacturers and to recommend changes that would improve the regulatory system. The study informs CTI and other stakeholders about the impact of the regulatory bodies on CTI members, focusing on the food manufacturing sector and the challenges of compliance, and provides clear recommendations for solutions. Specifically, the tasks of the consultant are as follows;

- i) Prepare instruments to facilitate data collection from focus group discussions, members and non-members of CTI and the survey.
- ii) Facilitate focus group discussions and document the views and ideas of the participants.
- iii) Carry out an analysis of the qualitative and quantitative effects of the current regulatory framework on businesses in the food processing sector.
- iv) Gather CTI members' recommendations for improving/changing the current framework
- v) Visit Ghana and Rwanda, and study their regulatory framework as cases of best practice
- vi) Carry out desk research on other selected African countries and review their regulatory framework.
- vii) Facilitate a 1-day validation workshop with partners, aimed at:-
  - Sharing findings of the interviews/focus groups, desk research and visits to Ghana and Rwanda.
  - Present the proposed regulatory framework.
  - Obtain each partner's views of the issue and possible solutions/recommendations.
  - Compile comments from stakeholders.
- viii) Facilitate the 2-day PSO Roundtable meeting to:
  - Share findings of the workshop
  - Discuss further the proposed recommendations
  - Discuss a strategy for a dialogue meeting with the MDAs.
- ix) Consult with CTI to form a High-Level Task Force to:
  - Work on the proposed framework and draft proposals for the respective laws and regulations.
- x) Facilitate a 1-day dialogue meeting with MDAs and partners.
- xi) Make a presentation on the draft framework and recommendations to the MDAs.
- xii) Prepare a final report on the project which will include a policy proposal document with the proposed framework for the food manufacturing sector.

The findings presented in this report have been generated from the research undertaken by the consultant as well as inputs stakeholders' workshop, Roundtable Meeting, High-Level Task Force and a Dialogue Meeting with MDAs.



## **2. APPROACH AND METHODOLOGY**

### **2.1 General Approach**

The approach and methodology used to undertake this assignment are divided into two major phases being i) a study on the regulatory framework for the food processing sector ii) development and validation of the policy proposal, policy brief and fact sheets. In particular, the study was divided into four major stages, namely: i) debriefing to gain an understanding of the assignment; ii) desk research; iii) interviews and collection of data; and iv) preparation and validation of the report. Each of these stages is briefly described below.

#### **2.1.1 Debriefing to gain an Understanding of the Assignment**

The consultant had debriefing meetings with CTI and BEST-AC teams to fully agree on the modality for the project. In the meetings, the consultant presented the inception report and gathered ideas on how best to undertake the assignment. CTI was requested to support the consultant in terms of providing contacts of the members and other stakeholders to be involved in the study. The Confederation also provided the consultant with a reference letter describing the essence of the project and requested the cooperation of the members. During the debriefing meetings, the consultant collected and reviewed the information needed to develop the report for CTI, BEST-AC, regulatory authorities, TNBC and other stakeholders. The data generated at this stage guided the subsequent stages of the project.

#### **2.1.2 Desk Research**

The relevant documents and literature were extensively reviewed, including previous studies on regulatory issues, conference and meetings proceedings, policy documents, and laws and regulations governing food processors. The major tasks of the consultant were to identify the requisite information for desk review, to go through the literature and to compile and analyse the information gathered. The literature reviewed provided very useful information on the current status of the regulatory environment in Tanzania and the situation in other African countries. In particular, the aim was to gain an understanding of existing national policies and regulations focusing on the private sector, regulatory reform in the national context, national policies and institutions for regulatory reform, the progress that has been made on regulatory reform and the challenges and impact of the regulatory framework on the competitiveness of the private sector.

#### **2.1.3 Interviews, Focus Group Discussion and Collection of Data**

The study began with a situational analysis that was mainly done through interviews with selected members and non-members of CTI, regulators, informed experts and other stakeholders to gather their opinions on the issue of reforming the regulatory framework in Tanzania. Interviews were conducted in Dar es Salaam, Mwanza and Arusha. The consultant worked closely with CTI to identify the stakeholders interviewed. CTI played an important role in linking the consultant with its members. The interviews were unstructured and qualitative in nature to enable deeper understanding of the issue to be gained and to allow respondents to express their opinions freely. However, any quantitative data available were collected to provide evidence of the issues raised in the study. The sampling approach was therefore purposeful, targeting selected respondents who could provide the desired information.

After completing the situational analysis, the consultant facilitated focus group discussions in Dar es Salaam, Arusha and Mwanza. The participants in the focus group discussion comprised CTI outreach officers, selected enterprises and regulators. In total, 30 participated in the focus group discussions. The main purpose of the focus group discussion was to share the

preliminary findings of the situational analysis and generate ideas on how best to harmonise regulations governing the food processing sector. The consultant chaired all the focus group discussions and compiled the key findings. Although initially it was designed that the study would generate all the data through the interviews and focus group discussions, it was realised that data relating to the impact of the regulatory framework on the performance of the sector could not be generated in that way. Therefore, it was decided that a survey of both members and non-members of CTI would be conducted to measure the impact from a wider perspective.

The survey entailed 115 firms in Dar es Salaam, Mwanza and Arusha. Using a semi-structured questionnaire (see Appendix I), the consultant collected information on respondents' perception of the relevance of the regulators to the food processing sector, the level of enterprises' satisfaction with the services of the Regulatory Authorities and the estimated costs and time wasted on compliance. The consultant also measured the influence of the regulatory interventions on the competitiveness of the firms using 5-point Likert-scale questions. The data obtained from the questionnaire were analysed through basic descriptive statistics generated by the Statistical Package for Social Sciences (SPSS) program. The data from the surveyed firms and the general findings from the pivotal evidence that supports the argument for policy change.

For the purpose of comparing Tanzania's regulatory framework with other African countries, the consultant visited Ghana and Rwanda to review their regulations and draw lessons on good practice. The study of other countries was basically qualitative based on interviews with regulators, PSOs and selected enterprises. The main issues covered in the interview checklist (see Appendix II) include: identification of the regulators in the food sector; assessment of the review of regulations in the last ten years; assessment of how the regulatory framework is coordinated in the food sector; and documentation of the lessons on good practice in regulating the food sector. In Ghana, the consultant visited the Ghana Standards Authority (GSA), Food and Drug Board (FDB), Association of Ghana Industries (AGI), Fruit Processing and Marketing Association, and two food processors. In Rwanda, the consultant visited the Private Sector Foundation, Rwanda Bureau of Standards, Chamber of Agriculture and Livestock, and two food processors. The data obtained from the two countries and secondary information from other African countries are combined to generate the lessons from other countries.

#### ***2.1. 4 Development and validation of the Policy Proposal***

Developing the policy proposal entails several stages. First, the initial policy document with the study results and proposed regulatory reform was developed. Second, the policy proposal was presented to partners to share with them the experience of other countries and to gather the comments of stakeholders. Third, the revised report was presented to a working group of regulators to share the findings and generate more ideas for finalising the document. Fourth, the consultants in collaboration with CTI formed a High-Level Task Force to work on the proposed framework and draft proposals given to the respective regulatory authorities. Fifth, the proposal was presented to the relevant Ministries, Departments and Agencies (MDAs) and partners for their input before producing the final draft. Sixth, the consultant compiled the policy proposal, policy brief and fact sheet for submission. This process is considered to be rigorous enough to produce a strong proposal with viable options for the government to act on.

### **3. POLICY AND REGULATORY FRAMEWROK IN TANZANIA**

#### **3.1 Overview of National Policies and Strategies**

In recognition of the importance of the private sector, the Government of Tanzania has designed and implemented a number of policies and programmes supportive of the development of the sector. Most policies are derived from the Tanzania Development vision 2025 and the National Strategy for Growth and Reduction of Poverty (NSGRP). The vision 2025 aims to transform the country's agriculture-based economy into a competitive and dynamic semi-industrial economy, whereby efficiency in producing standard products and services becomes the source of competitive advantage. This transformation requires effective infrastructure, a business-friendly environment, strong investment incentives and access to capital to allow improvements in productivity. NSGRP II proposes the strategic intervention of instituting measures to promote a conducive and enabling business environment and to reduce the cost of doing business, by reforming the regulations governing the business environment, easing registration and licensing requirements to encourage both domestic and foreign investors, and improving market facilities and business infrastructure for small-scale enterprises. It also proposes improving the business environment further in order to reduce the cost of doing business for both large-scale manufacturers and SMEs.

The private sector development policies, strategies and programmes recognize the challenge of over-regulation and the need to promote the private sector in Tanzania. For example, the SME Development Policy (2002-2012) recognises that the complex, bureaucratic and costly legal, regulatory and administrative environment in Tanzania is one of the bottlenecks hindering SME development in the country. It also highlights that the high cost of compliance with the regulations may discourage potential entrepreneurs from formally setting up their businesses, while driving some existing enterprises out of business and those working for them into unemployment. In relation to the regulations, the policy states that the Government will enhance implementation of programmes aimed at simplifying and rationalising the procedures and regulations so as to encourage compliance and minimise transaction costs. The National Trade Policy (2003) emphasises the need to improve the investment environment of the private sector as a strategy for promoting trade. The overall strategy includes a reform of institutional structures and a change in cultural norms and practices in economic activities so as to set in motion the process of reorienting the economy towards an open market system targeting export-orientation. The Agricultural Sector Development Strategy (ASDS) aims to create an enabling and conducive environment for improving the profitability of the sector so that farm incomes are improved and rural poverty alleviated. The Sustainable Industrial Development Policy (SIDP 1996-2020) provides an overall framework for Tanzanian's future industrial development and lists specific national objectives, including making the industrial sector contribute more broadly and evenly to the creation of employment opportunities. The policy states that the government will put more emphasis on the development of industries by strengthening the capacity to support the industrial sector and improving the legal and regulatory framework as well as access to finance. The government will position itself to encourage investment in the sector by ensuring that trading practices and competition are fair, as well as to develop the social and economic infrastructure, including industrial support institutions.

Although most policies focus largely on promoting the private sector, some highlight the rationale for regulating the sector and promoting product quality and safety standards. The National Environment Policy (1997), for instance, underscores the need to ensure the

sustainability, security and equitable use of resources to meet the basic needs of the present and future generations without degrading the environment or risking health or safety. It focuses on preventing the degradation of land, water, vegetation and air, which are important for life. It highlights the need to conserve and enhance the biological diversity of the unique ecosystems of Tanzania, to raise awareness of the relationship between the environment and development, and to promote individual and community participation in environmental action. The National Health Policy (2007) aims to provide direction for improving and sustaining the health status of all the people, by reducing disability, morbidity and mortality, improving nutritional status and raising life expectancy. The policy established the Tanzania Food Drugs and Cosmetics Act, 2003 to regulate, *inter alia*, food and food products manufactured and/or imported into the country. The Food and Nutrition Policy (1992) covers extensively the issue of food hygiene and insists categorically that food quality standards must be maintained. To ensure that processed food meets nutritional requirements, the policy raises the need to control food quality standards. This implies that there should be effective supervision of foodstuff to ensure that it meets the standards before being distributed and consumed. The policy recognises however that food and nutrition issues require a multi-sector approach. While the roles of various Ministries are recognised in the policy, one of the roles of the Ministry of Industry and Trade is to effectively control the quality of food produced in the country and that imported from outside the country so that it meets the standards. The Local Government is responsible for ensuring that the food is sold in a clean environment. This shows that the issue of regulating the food industry is well articulated in the policy framework.

### **3.2 Laws and Regulations Governing Food Processing**

Tanzania has a number of laws and regulations governing food processing and production, consumer protection and quality control. Some regulations are directed at manufacturing firms in general and others are specifically directed at the food processing sector. Some regulations vary from one type of food to another depending on the manufacturing complexity of the food and the sub-sector to which it belongs. An analysis of the regulations and compliance requirements in relation to the food sector shows that the regulatory system in Tanzania is complex with several overlapping laws and a duplication of the functions of regulators. In total over 22 laws are directly or indirectly directed at the food processing sector.

#### **Laws and Regulations Governing the Food processing Sector in Tanzania**

- i) Tanzania Food, Drugs and Cosmetics Act, No. 1 of 2003
- ii) Environmental Management Act, No.20 of 2004
- iii) Standards Act, Act.No.2 of 2008
- iv) Dairy Industry Act, No.8 of 2004
- v) Fair Competition Act, No. 8 of 2003
- vi) Industrial and Consumer Chemicals (Management and Control) Act, No.3 of 2003
- vii) Sugar Industry Act, Cap 251 [R.E.2002]
- viii) Fisheries Act, No. 22 of 2003
- ix) Local Government (District Authorities) Act, Cap 287 [R.E.2002]
- x) Local Government (Urban Authorities) Act, Cap 288 [R.E.2002]
- xi) Local Government (Finance) Act, Cap 290 [R.E.2002]
- xii) Income Tax Act, No.11 of 2004
- xiii) Merchandise Marks Act Cap 85 [R.E.2002]
- xiv) Business Licensing Act No. 25 of 1972 (Cap 208 R.E 2002)
- xv) Business Activities Registration Act, 2006
- xvi) Public Health Act of 2009
- xvii) Cashew nut Industry Act of 2009
- xviii) Occupational Health and Safety Act No.5 of 2003

- xix) *Atomic Energy Act, 2002*
- xx) *Weights and Measures, 1982*
- xxi) *Fire and Rescue Force Act, No. 14 of 2007*
- xxii) *The Executive Agency Act, 1997*

Although most laws apply to manufacturing firms in general, the laws reviewed below have a direct impact on food processors. While some laws apply to particular food processors, others apply to all.

**a) *The Tanzania Food, Drugs and Cosmetics Act, No 1 of 2003:*** This Act provides for the control of food, drugs, medical devices, cosmetics, herbal drugs and poisons. It was enacted to regulate food and food products manufactured and/or imported into the country. The law established the Tanzania Food and Drugs Authority as a regulatory body responsible for national-wide compliance and enforcement of regulations and laws governing food and drugs. Section 5 empowers the Authority to: i) regulate all matters relating to the quality and safety of food, drugs, herbal drugs, medical devices, poisons and cosmetics; ii) regulate the importation, manufacture, labelling, marking or identification, storage, promotion, sale and distribution of food, drugs, cosmetics, herbal drugs and medical devices; iii) approve and register products regulated under the Act; iv) examine, grant, issue, suspend, cancel and revoke licences or permits issued under this Act; and v) prescribe standards of quality in respect of products regulated under this Act.

Further review of the act indicates that;

- Section 18 prohibits any person from manufacturing for sale, selling, and supplying or storing products regulated unless the premises are registered and issued with a licence or permit by the Authority.
- Section 22 prohibits a person from manufacturing for sale, selling, supplying, and importing or storing products regulated unless the product is registered and issued with a licence or permit by the Authority.
- TFDA has powers under section 21 to issue manufacturing licences, wholesale licences, retail licences or any other licence or permit as it deems fit, and it can vary any provision, suspend or revoke any licence issued under the Act as provided under section 25.
- The Authority has the power to inspect any premises for the purpose of Good Manufacturing practice (GMP), distribution and routine inspection after the product has been in the market (post-marketing surveillance). In order to perform its functions adequately, TFDA has the following regulations;
  - Import and Export of Food Regulations, 2006
  - Food Hygiene Regulations, 2006
  - Fees and charges, 2005
  - Treatment and Disposal of Unfit Food, 2006

The main issue is that the Act provides for the payment of *many fees* as almost all applications under the law must be accompanied by a fee. For instance, Section 18 provides that “every application for registration or renewal of registration of premises shall be made to the Authority in the prescribed form, and shall be accompanied by such fee as the Authority may prescribe”. Additionally, section 20 provides that “any application for a licence or permit under this Act shall be made to the Authority in the prescribed form and shall be accompanied by such fee as may be prescribed in the regulations”. This calls for *harmonisation of the application fees*. For instance, if a person makes an application to register premises to be used for the manufacture of food and an application for a licence to manufacture food, he should be given one licence and

pay one fee for both the premises and the licence to manufacture food. In this regard, sections 18 and 20 need to be harmonised to consolidate the requirements for applications and payment of fees.

Section 5 of the Regulations obliges persons involved in business operations (product dealers) to pay many fees in US Dollars (13 charges) as indicated below:

5-(1) the fees shown in the Schedule to these regulations shall be paid by a product dealer in connection with the following matters:-	
i) Laboratory sample analysis;	viii) Annual retention for registered products;
ii) Product evaluation and registration;	ix) Product alteration;
iii) Pre-registration GMP inspection;	x) Duplicate certificate, permit or licence;
iv) Annual medical representative permits;	xi) Restoration of licences certificates or permits
v) Certification of export;	xii) Trade fair permit; and
vi) Annual dealers licence/permit;	xiii) Laboratory training fees.
vii) Approval of product advertisement;	
Schedule 5 of the regulations requires pre-registration GMP inspection fees for each manufacturing site as follows: African countries: US \$ 3,000	
Outside Africa:	
i. Far East US \$ 3,500	
ii. Asia/India US \$ 3,500	
iii. Europe US \$ 4,000	
iv. USA US \$ 4,500	

Another issue is that the law gives *immense powers to the Minister of Health* to make several Rules and Regulations under one Act. For instance, section 39 empowers the Minister to make rules relating to milk, milk products and milk substitutes to: regulate any additions to milk intended for human consumption, any water or colouring matter, or any dried or condensed milk or liquid reconstituted from condensed milk; regulate the extraction of any matter or substance from milk intended for distribution or sale for human consumption; and regulate in any other way the composition and other dealings in milk, milk products and milk substitutes. Section 44 empowers the Minister to make regulations designed to secure the observance of sanitary and clean conditions and practices and wholesome methods in connection with the sale of food for human consumption, and the manufacture, transport, storage, packaging, marking, exposure for sale, service or delivery of food intended for human consumption. Therefore, there is a *need to amend the law to make one general provision to empower the Minister to properly exercise his powers to make a regulation with one provision. This could be done under section 122 which empowers the Minister on the advice of the Authority to make regulations with respect to any or all of the matters under this section.*

**ii) The Standards Act, Act.No.2 of 2009:** This Act provides for the standardisation of the specifications of commodities and services, the re-establishment of the Tanzania Bureau of Standards and an improvement in the provisions for the functions, management and control of the Bureau, as well as repealing the Standards Act, Cap130. The law established the Bureau of Standards<sup>10</sup> with the following powers and functions;

- undertake measures to control the quality of commodities, services and the environment of all descriptions;
- promote standardisation in industry and trade;

<sup>10</sup> See Section 3 and 4.

- approve, register and control the use of standard marks in accordance with the provisions of this Act;
- provide for the inspection, sampling and testing of locally manufactured and imported commodities with a view to determining whether the commodities comply with the provisions of this Act or any other law dealing with standards relevant to those commodities;
- assist industries in setting up and enforcing quality assurance and environmental management systems and procedures.

The Tanzania Bureau of Standards (TBS) sets standards and acts as a member of ISO providing International Standards to companies. The Agency certifies the imports and new company's products introduced into the market for a fee. The Act confers powers on the Bureau of Standards to issue a licence for standard marks. Any mark approved by the Bureau for any commodity or for the manufacture, production, processing or treatment of any commodity will be a standard mark in respect of it and TBS may, in like manner, cancel or amend that mark.

Section 18 of the Act empowers the Minister to declare any mark which has been approved by the Bureau in respect of any standard prescribed or recognised by the Bureau for any commodity or the manufacture, production, processing or treatment of any commodity to be a standard mark in respect of it and may, in like manner, cancel or amend that mark. The Law prohibits a person from applying any standard mark to any commodity except under a licence issued by the Bureau unless that commodity complies with the relevant standard or has been manufactured, produced, processed or treated in accordance with the standard. The law further provides that the issuance of a licence shall be at the discretion of the Bureau or the person acting under its authority, and the licence may be issued subject to conditions to be specified in it and subject to the payment of any fees which may be prescribed.

The law has *provisions that overlap* other laws, such as the Tanzania Food, Drugs and Cosmetics Act. There are no cross-references among the related provisions of the Standards Act and the Tanzania Food, Drugs and Cosmetics Act. This could create confusion and the overlapping of powers of TBS and TFDA which seem to have similar powers and functions as regards regulating the quality of food. Both TBS and TFDA are empowered to appoint inspectors who exercise almost the same functions. They are both empowered to conduct frequent inspections to ensure that the food is of the required standard. Both of them test for product safety and quality before registering the products. The Government Chemistry Laboratory Agency is also empowered to perform quality analysis of foodstuff produced by companies. The Agency inspects chemicals that are imported, particularly the raw materials used in the production process. This calls for *harmonisation through cross-referencing to reduce the overlapping and unnecessary bureaucracy in relation to business. These laws need to be amended to create a one-stop compliance centre for TBS, TFDA and the Government Chemistry Laboratory Agency.*

**iii) The Environmental Management Act, No.20 of 2004:** This Act provides for a legal and institutional framework for the sustainable management of the environment; it outlines the principles for management, impact and risk assessment; it provides for the prevention and control of pollution and waste management; it establishes environmental quality standards, compliance and enforcement; and provides for implementation of the National Environment Policy. This is the main law for all issues relating to the environment and health.

Section 81 of the Act imposes an obligation to undertake an Environmental Impact Assessment (EIA) for several projects, including industries involved in processing and manufacturing. A permit or licence to carry out any project or undertaking in accordance with any written law shall not entitle the proposed developer to undertake a project or activity without an environmental impact assessment certificate issued under this Act. The Act empowers the Minister responsible to make a recommendation to the licensing authority that the project should not be licensed or, where the licence has been issued, be cancelled if the project or undertaking does not comply with the environmental standards set by the Act.

The law's provisions overlap those of other laws, such as the Standards Act, the Industrial and Consumer Chemicals (Management and Control) Act, and the Tanzania Food, Drugs and Cosmetics Act and Fisheries Act. Additionally, there are statutes that have provisions governing environmental issues. For example, the Industrial and Consumer Chemicals (Management and Control) Act, 2003, has introduced the concept of Environment Management Plan, which outlines the activities to be undertaken to prevent and control any adverse effects to health and the environment. This means that manufacturing industries governed by this Act are subject to environmental matters stipulated by the Environment Management Act, 2004. In addition, there are no cross-references among the related provisions of these laws. The Act just mentions any written law without specifying any law in particular. This could also create confusion and the overlapping of powers among TBS, Local Government Authorities, NEMC and TFDA, which seem to have similar powers and functions as regards regulating the quality of food, health and the environment and other related commodities. *The laws therefore need to be amended to create a one-stop compliance centre for all institutions that require environmental compliance for manufacturing food.*

Section 140 seems to be out of date and confusing as it mentions the Tanzania Standards Act of 1975 which has been replaced by the Standards Act of 2009. The provision empowers the National Environmental Standards Committee established under the Tanzania Standards Act of 1975 to submit to the Minister a proposal for environmental standards criteria. Under the Standards Act of 2009, there is no provision establishing the National Environmental Standards Committee. Furthermore, section 142 empowers the National Environmental Management Council to enforce environmental quality standards. This requires *section (140) to be amended to bring it into line with the Standards Act of 2009. The laws need to be amended to create a one-stop compliance centre for all institutions that require environmental compliance for manufacturing food.*

**iv) The Dairy Industry Act, No.8 of 2004:** This Act, which repeals the Dairy Industry Act, 1965, provides for the production, regulation and promotion of the dairy industry, the establishment of the Tanzania Dairy Industry Board and other related matters. This Act applies to milk and milk products intended for sale. Dairy is defined to mean the premises used for the production, processing, or manufacture of milk and milk products for sale. The Tanzania Dairy Board was established by this Act and is vested with the functions relevant to the effective implementation of the Act. The Act provides the Board with the power to inspect, provide certificates and charge fees. For example,

- i) Section 17 provides that a person who deals with milk or milk products must register with the Board to undertake milk production, processing or marketing, or to import or export milk or milk products, as well as dairy inputs suppliers, manufacturers or importers and retailers



- ii) Regulation 7 of 2007 provides for the issuance of a Certificate of Registration upon payment of the registration fee. The certificates issued under these regulations remain valid for one year subject to renewal.
- iii) Section 19 provides the Board with powers to revoke or suspend the registration of a registered person who fails to comply with the terms and conditions of the registration.
- iv) Section 20(1) provides that on registering the persons specified under the Act, renewals of registration are issued upon payment of the fees prescribed in the Fourth Schedule of Regulation 9 of the Dairy Industry (Registration of Dairy Industry Stakeholders) Regulations.
- v) The Board has powers to appoint inspectors and has put in place the Dairy Industry (Duties and Powers of the Inspectors and Analysts) Regulations of 2007.

**v) *The Fair Competition Act, No. 8 of 2003:*** This Act promotes and protects effective competition in trade and commerce, and protects consumers from unfair and misleading market conduct. It regulates restrictive trade practices such as anti-competitive agreements, the misuse of market power, mergers and acquisitions. The law further protects consumers through regulating misleading and unfair business practices, deceptive and unconscionable conduct, conditions implied in consumer contracts, manufacturers' obligations, product safety and product information and other related matters. It established the Fair Competition Commission<sup>11</sup> with the power to study government policies, procedures and programmes, legislation and proposals for legislation so as to assess their effects on competition and consumer welfare and to publicise the results of such studies.

Section 49(I) of the Act provides for restrictions on the supply of unsafe goods. The provision prohibits the supply of goods that are intended to be used, or are of a kind likely to be used, by a consumer if the goods are of a kind in respect of which there is a prescribed consumer product safety standard and which do not comply with that standard. This provision is likely to be in conflict with the provisions of other laws such as TFDA.

**vi) *The Industrial and Consumer Chemicals (Management and Control) Act, No.3 of 2003:*** The Industrial and Consumer Chemicals (Management and Control) Act, 2003 established the National Chemist Laboratory with the power to ensure that any chemical producer complies with the GMP and undertakes EIA before undertaking operations. This act also empowers the Chemical Laboratory Agency to issue a licence for producing, transporting, importing, exporting, storing and dealing in chemicals for a prescribed fee. This overlaps the provisions of other Business Licensing Authorities.

The procedure for applying for a licence seems to be cumbersome without a clear and short-term framework. There is no cross-reference between this law and other laws such as the Environmental Management Act that provides for Environmental Impact Assessments. In addition, there is no coordination between the regulatory bodies established under this law and other bodies mandated to do related tasks.

**vi) *The Sugar Industry Act, Cap 251 [R.E.2002]:*** This Act makes provisions for the establishment of the Sugar Board of Tanzania and the National Sugar Institute, to provide for the improvement, development and regulation of the sugar industry and matters related thereto. The Act established the Sugar Board of Tanzania. This Board is basically responsible for all

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<sup>11</sup> See Section 62, Fair Competition Act, 2003.

matters pertaining to the improvement, development and regulation of the sugar industry in Tanzania. The Board is mandated to issue licences to sugar manufacturers and small plant operators and to register exporters, importers and industrial users of sugarcane, etc<sup>12</sup>. It has also the power to issue sugar import and export licences. All licences are issued subject to the payment of various fees, whose amount is not indicated in the parent Act. Penalties for contravening the law are a fine of thirty million shillings or three years' imprisonment<sup>13</sup>.

**vii) The Fisheries Act, No. 22 of 2003:** Section 22 of the Act prohibits persons from fishing, collecting, gathering, processing or manufacturing fish products or the products of aquatic flora; selling or marketing fish, fish products, aquatic flora or the products of aquatic flora; and importing or exporting fish, fish products, aquatic flora or the products of aquatic flora, unless he applies for and is granted by the Director or any other authorised officer a licence in respect of such activity. Section 24 provides for standards for the quality and management of fish and fish processing and for monitoring quality management programmes and the application of Hazard Analysis and Critical Control Point (HACCP). Section 52 of this Act prohibits persons from undertaking any development activities, without undertaking an Environmental Impact Assessment in accordance with any other written laws of Tanzania. Additionally, the Act empowers the Minister responsible to impose the mandatory licensing and registration all fishing vessels, which could also be registered under the Business Licensing Act.

**viii) The Local Government (District Authorities) Act, Cap 287 [R.E.2002]:** Local Governments (District Authorities) are entrusted with immense powers to make by-laws to regulate various matters including the manufacture of food and the payment of fees and levies. In particular, sections 153-162 empower local governments within districts to make by-laws for their area of jurisdiction, which entails the payment of fees and levies by food manufacturers.

**ix) The Local Government (Finance) Act, Cap 290 [R.E.2002]:** This Act makes provision for sources of revenue and the management of the funds and resources of local government authorities and for matters connected with or incidental to securing the proper collection and sound management of finances in the local government system. The Local Government (Finance) Act and Local Government (District Authorities) Act empower LGAs to make by-laws to regulate various matters, including the payment of fees and levies for the manufacture of food in their area of jurisdiction. More specifically, section 16 empowers LGAs to impose taxes and rates. This section mandates LGAs to make by-laws imposing such rates to be paid by the inhabitants, or such categories of inhabitants, for or in connection with such services, things, matters or acts as the authority may describe or specify in the by-laws in question. Sections 7, 8 and 9 provide for Sources of revenue of district councils, sources of revenue of township authorities and sources of revenue of village councils. These provisions empower LGAs to impose so many taxes, fees and other charges on any business, including those producing and manufacturing food within their jurisdiction. Therefore, there is a need to amend sections 7, 8, 9 and 16 of the Act to simplify the taxes, charges and other fees and related tax laws through centralising all charges and taxes in a one-stop centre.

**x) The Income Tax Act, No.11 of 2004:** This Act makes provision for the charging, assessment and collection of income tax as well as ascertaining the amount to be charged and matters incidental thereto. Generally, this law and other tax laws provide for compulsory registration. The 4<sup>th</sup> Schedule of the Act specifies the transactions for which a Taxpayer Identification

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<sup>12</sup> See Section 12 and 13 of The Sugar Industry Act 2001

<sup>13</sup> *ibid*, Section 16

Number (TIN) is required. This requirement means that upon incorporating or registering a business the party concerned must immediately register with the TRA and produce the TIN prior to securing a licence to undertake the business for which the entity was established. Such a complicated and cumbersome requirement discourages informal enterprises from formalising their businesses. The Value Added Tax (VAT) obliges person whose taxable turnover exceeds, or the person has reason to believe will exceed, the turnover prescribed in the regulations made under the Act, to make application to be registered within thirty days. Apart from this Act, there other tax laws administered by different institutions which give overlapping powers to tax manufacturers and place an unnecessary burden on businesses, especially those of food manufacturers. Thus, the tax laws need to be amended to to simplify the taxes, charges and other fees and to harmonise them with other tax laws through centralizing all charges and taxes in a one-stop centre.

**xi) The Merchandise Marks Act Cap 85 [R.E.2002]:** This Act provides for controlling the use of marks and trade descriptions in relation to the merchandise mark. The Act is also relevant to businesses related to food products and the food manufacturing sector as it controls counterfeits and provides for the offences of forgery and the deceptive application of trademarks. It is implemented using the Merchandise Marks Regulations, 2008, which mainly focus on controlling counterfeit and sub-standard goods, including food products. However, the Act defines neither counterfeit nor sub-standard goods. There is no clear provision as to whether the persons who sell counterfeit or sub-standard goods commit an offence. There is no clear cross-border provision under the law. The inspectors under the Fair Competition Commission are given immense discretionary powers by the law and regulations to inspect and seize impound or destroy or any goods and products they think are sub-standard or counterfeit. In this case, there is a need to review and amend the laws to clearly address the counterfeiting of goods and the sale of sub-standard goods. The Act should define “Counterfeiting” to include, but not limited to, manufacturing, producing, packaging, repackaging and labelling. The Law needs to address the question of how to deal with businesses that import products from foreign countries where the production of counterfeit goods is not strictly regulated. There is a need to introduce a clear provision for a criminal offence, specifically for counterfeiting the origin of food products.

**xii) The Business Licensing Act No. 25 of 1972 (Cap 208 R.E 2002):** This is the main Act that provides for the licensing of all businesses and for related matters. The Act prohibits any business from operating without a licence. The function of the Act is threefold: i) to regulate businesses; ii) to raise revenue from licensing; and iii) to gather and retain information on businesses. The regulatory objective of the Act is fulfilled through the use of pre-approval. The system of licensing is applied to all firms and individuals, regardless of the size and nature of the business being undertaken. The regulatory function of the Act is duplicated by the licensing provisions contained in more than 634 sector-specific statutes that regulate certain economic activities that are perceived as prejudicing public interests in some way.

Tanzania has a universal business licensing regime enforced by the Business Licensing Act (Act No. 25 of 1972) as amended by the Business Licensing (Amendment) Act (Act No.9 of 1980). The Business Licensing Act (1972) gives effect to a universal pre-conditional approval to operate a business in Tanzania, which places the burden of proof of compliance with standards on the individual entrepreneur and vests considerable discretionary power on government officials, particularly at the local government level. The Act creates a multiplicity and duplication of processes, including the cumbersome pre-approval system that acts as a barrier to business

growth. The Act provides for a business licensing regime which creates the potential for a great deal of overlapping and duplication in the licensing process among Regulatory Authorities using cross-cutting legislation.

There is a need to repeal the Business Licensing Act, No. 25 of 1972, Cap 208 [R.E 2002] and limit licensing to sector-specific areas of necessity. There is also a need to implement the Business Activities Registration Act, 2007, which could replace the Business Licensing Act. The proposed business regulatory regime under the Business Activities Registration Act, 2007 needs to reflect other related laws administered by Regulatory Authorities such as TFDA, TBS, OSHA, TRA, LGAs and others. This could be effectively done by creating provisions that cross-refer to other related laws. There is also a need to provide a legal provision that will remove the requirement for businesses that are licensed under sector laws to obtain a licence under the Business Licensing Act.

**xiii) The Business Activities Registration Act, 2007:** This is an Act that provides for the establishment of a business activities registration system, business registration centre and other related matters to provide for the following.

- Section 8(a) of the Act provides that the regulatory function of the Centre is to register all business undertakings, business entities and enterprises in the area of its jurisdiction.
- Compliance by regulated and unregulated businesses: Under section 11(1), it shall be necessary to obtain a certificate of registration from the Registration centre in respect to every business.
- Issuance of Certificate of Registration: Section 11(2) requires any business not regulated under any written law shall upon application be issued with a certificate of registration.
- Inspection: Section 26(1) of the Act empowers the Minister responsible for local government to appoint such number of officers of the local authority to be inspectors for the purpose of the Act.

Therefore, there is a need to implement the Business Activities Registration Act, 2007 by preparing effective and simplified regulations under the Act. The proposed business regulatory regime under this Act needs to reflect other related laws administered by Regulatory Authorities such as TFDA, TBS, OSHA, TRA, Local Government Authorities and others. This could be effectively done by creating provisions that cross-refer to other related laws.

**xiv) The Cashew Nut Industry Act of 2009:** This Act provides for the establishment of the Cashew Nut Board to regulate the production, grading, and processing of cashew nuts, to market the kernels and to provide for other related matters. The Act is also relevant to the food manufacturing sector as it obliges every cashew nut dealer, whether a buyer, processor, importer, exporter, warehouse owner or operator, to register with the Cashew Nut Board. Section 15 obliges any person registered as a cashew nut buyer, seller, processor, exporter, importer, warehouse owner or operator to apply for a licence. The decision of the Minister under section 15 is final and this is contrary to the principles of natural justice under the Constitution of the United Republic of Tanzania. The dealers in cashew nuts are also obliged to obtain a business licence under the Business Licensing Act.

**xv) The Public Health Act of 2009:** The main objective of the Act is to provide for the promotion, preservation and maintenance of public health with a view to ensuring the provision of comprehensive, functional and sustainable public health services to the general public and to provide for other related matters. The Act provides that the District/Urban Authority shall ensure

that food is not manufactured except on premises registered in accordance with the relevant laws. The Authority shall ensure that all premises registered for food manufacturing maintain and adhere to the prescribed public health standards throughout the duration of registration. The Act empowers the Authority to make by-laws, among other things,

- prohibiting the manufacturing and sale of adulterated food,
- ensuring milk products intended for human consumption comply with the prescribed standards
- ensuring that the transport, storage, packaging and marketing of any food intended for public consumption is done in strict observance of sanitary and clean conditions and practices and using wholesome methods
- ensuring that prescribed cases of food poisoning are reported
- ensuring the inspection and control of infected food
- furnishing the authorised officer with general powers to examine and seize any food which is, or which appears to him to be, unfit for human consumption
- requiring any person to comply with any order calling for information regarding the composition of substances in food
- prescribing the general provision for the good performance and effective carrying out of the provisions of the Act.

Some provisions of this Act are very similar to the Environmental Management Act, 2004 as both laws require inspection for environmental compliance, which might cause duplication and overlapping powers among the institutions implementing these laws. Neither law has a clear cross-referencing provision. There are only a few clear cross-references while most provisions are almost the same. The Act provides for a legal and institutional framework for the sustainable management of the environment, principles for managing the environment, preventing and controlling pollution, managing waste and ensuring the quality of environmental standards.

**xvi) Occupational Health and Safety Act No.5 of 2003:** The main objectives of the Act are to repeal the Factories Ordinance, to make provision for the safety, health and welfare of persons at work in factories and other places of work, to provide for the protection of persons other than persons at work against hazards to health and safety arising out of or in connection with the activities of persons at work, and to provide for connected matters. Section 15 the Act provides for the registration of factories or workplaces. The Chief Inspector is given discretionary powers to enter such particulars in relation to every factory and workplace as he may consider necessary. The Act obliges the owner or occupier of a factory or workplace to register such factory or workplace and obtain a certificate of registration or compliance licence. The Act established the Occupational Health and Safety Agency (OSHA), which checks the company's premises and inspects the health, safety and dwelling of workers and of workplaces. It inspects the working environment and the equipment used in operational activities. OSHA is responsible for coordinating the provision of health services for employees of these institutions, with technical support from the Regional Secretariat and Ministry of Health.

The procedures for obtaining a certificate of registration and compliance licence appear to be cumbersome and time consuming. Additionally, the provisions of this Act overlap other laws such as the Tanzania Food, Drugs and Cosmetics Act, No. 1 of 2003, the Environmental Management Act, No.20 of 2004, the Standards Act, Act.No.2 of 2008, the Dairy Industry Act, No.8 of 2004 and the Industrial and Consumer Chemicals (Management and Control) Act, No.3 as all these laws give discretionary powers to inspectors to inspect premises at any time and take legal action over non-compliance.

**xviii) The Atomic Energy Act, 2002:** This Act established the Tanzania Atomic Energy Commission (TAEC) and provides for its functions in relation to controlling the use of ionising and non-ionising radiation sources and promoting the safe and peaceful use of atomic energy and nuclear technology. The Commission is empowered to issue various licences upon application being made to the Commission on the prescribed form and the prescribed fee being paid, subject to such conditions or limitations as may be deemed fit or necessary to impose. Section 5 empowers TAEC to regulate the safe and peaceful use of atomic energy, promote and expand the contribution of atomic energy and nuclear technology to health and prosperity throughout the United Republic of Tanzania. Section 30 provides for the mandatory requirement for any manufacturer, importer and exporter of foodstuffs specified in the relevant regulations to obtain a radioactivity analysis certificate from the Commission before the said food is imported into the country or exported from the country or distributed for human and animal consumption. The headquarters of the Commission are in Arusha and the Commission is not decentralised to other regions. This leads to unnecessary costs and consumes the time of those complying with this law.

Part four of the Act deals with controlling the radioactivity in foodstuffs and section 28 provides that the provisions of this part shall be read together with the Tanzania Food, Drugs and Cosmetics Act, 2003. This provision is one of the best provisions of the laws and regulations that regulate food production, food processing and business in food as it provides for cross-referencing with the provisions of other laws. Other related laws need to provide provisions like this to harmonise and simplify the implementation of laws. For instance, section 29 further provides that "Save as is provided for under this Act, the Commission shall, in consultation with the Tanzania Food and Drugs Authority and other competent institutions, establish a system designated for the control of radioactivity in foodstuffs".

**xix) The Fire and Rescue Force Act, 2007:** The Fire and Rescue Force Act provides the Commissioner or any fireman or other person authorised by him in writing the right to enter any premises and inspect the fire safety standards. The Act also states that an applicant to the fire and rescue service shall pay the Commissioner for the services of any fireman and for the use of equipment fees as may be prescribed by the Minister. The provisions of this Act overlap other laws due to the fact that each law requires the inspection of premises to be done by inspectors who have discretionary powers to inspect premises at any time and take legal action over non-compliance.

**xx) The Weights and Measures Act, 1982:** This Act revises and consolidates the laws relating to weights and measures and provides for the introduction of the International System of Units (SI) and related matters. According to section 11-(1), unless otherwise permitted by this Act, every contract, bargain, sale or deal made, whereby any work, goods, wares, merchandise or other thing is or are to be, or is or are done, sold, delivered, carried, measured, computed, paid for or agreed by weight or measure, shall be made and had according to one of the relevant units of measurement specified in the First, Second, Third, Fourth, Sixth, Seventh and Eighth Schedule to this Act or to some multiple thereof. Section 9 empowers the Minister to procure and cause to be maintained standard equipment, which he may from time to time determine as being proper and necessary for the verification of standards of weights and measures. The duties of an assizer shall be: (a) to carry out verification of weights, measures, weighing and measuring instruments; (b) to care for and maintain any working standards which may be entrusted to his care; (c) to keep records and make such reports as the Commissioner may require; (d) to give effect to the directions of the Commissioner; and (e) generally to exercise

such other powers and duties as may be conferred or imposed by this or any other Act or by regulations made under this Act.

**xxi) The Executive Agencies Act 1997:** This Act makes provision for enabling the establishment and operation of semi-autonomous Executive Agencies within the ambit of Government Ministries for the purpose of providing public services in selected areas in a more efficient and effective manner and for related matters. An Order made under sub-section (1) shall specify the Department in relation to which the Agency is established and this may be done in respect of more than one Department of the same Ministry or, with the approval of another Minister concerned, may be made so as to include a department of another Ministry having similar functions, and it shall set out, in a Framework Document, the functions, aims, role, objectives, authority, performance standards and any other particulars of the Agency as approved by the Chief Secretary, taking into account any existing laws. According to section 12 (I), the funds of an Executive Agency shall consist of moneys received by the Agency for goods or services provided under the authority of this Act and any other such moneys borrowed, received by or made available to the Agency for the purpose of carrying out its functions.

### **3.4 An Example of Compliance in Food Manufacturing**

Based on the reviewed regulations, the basic process for licensing the food manufacturer is as follows;

- i) Apply for clearance of the proposed company name at BRELA
- ii) Incorporate the Company with BRELA so as to obtain a business licence
- iii) Apply to TRA for the Tax Identification Number and PAYE scheme
- iv) Apply for a business licence from the regional trade officer or from the Ministry of Industry and Trade (depending on the nature of the business)
- v) Premise Registration Certificate. In order to obtain this certificate, premises are inspected by TFDA through the Local Authority Health Officers
- vi) Apply for Food Manufacturing Licence. This requires the manufacturing plant to be inspected so as to ensure that it has the correct layout of facilities and the necessary machines, etc.
- vii) Apply to the local Government authority for site inspection and building permit.
- viii) Divisional or district Local Government Authority's Health Officer inspects premises on which food is to be manufactured
- ix) Inspection by NEMC to check environmental compliance and the Environmental Impact Assessment.
- x) Inspection by the Fire and Rescue Force
- xi) Chemical inspection by Government Laboratory Agency for radiation
- xii) Inspection and registration of the factory by the Ministry of Labour after which the factor obtains a certificate of registration or compliance licence, valid for twelve months
- xiii) The Ministry of Labour uses inspection agencies to check on machinery layout, occupational health and safety, light intensity and proper ventilation, noise, fire appliances and boilers.
- xiv) TFDA tests for product safety and quality and registers it.
- xv) Inspection by OSHA to check compliance with labour standards
- xvi) Inspection of weights and measures
- xvii) The health status of employees is checked on a quarterly basis.
- xviii) TBS tests each product to ensure that it meets minimum standards.
- xix) Registration of staff with the NSSF.

### ***3.6 Some Reflections on the Policy and Regulatory Framework***

The review of the policy framework indicates that, because Tanzania intends to promote the private sector, there is also the provision for regulating various sectors and industries to safeguard the interests of the public. Thus the policy framework attempts to attain greater performance of the private sector while at the same time maintaining good business practices. Most regulations affecting the private sector and the mandates of regulators are therefore drawn from the country's policy framework. The regulations are designed to integrate the informal sector into the formal sector through the registration, training and licensing of informal business operators. However, the key challenge is to rationalise the way in which the sector is regulated without adding unnecessary costs and placing too many burdens on the private sector while ensuring that good business practices are attained. Therefore, a mix of sectoral policies and programmes that provide for an enabling environment for enterprise development and private sector engagement could favourably influence the rate and shape of growth of the sector. This highlights the necessity of forging an enabling environment that is supportive of private sector development through carefully crafted and focused policy interventions. These interventions should ensure the engagement of the private sector through innovative partnerships, cost-sharing arrangements and meaningful participation of the sector. Although the key role played by government is mainly legislative and regulatory, it could strategically engage the private sector in market-based solutions tailored as cost-effective alternatives or complements to legislation. Once the government is aware of the private sector's role in addressing many of the problems affecting the efficiency of dairy chains, a PPP could easily be established.



## **4. LESSONS FROM SELECTED AFRICAN COUNTRIES**

### **4.1 Overview of the Countries Visited**

The consultant visited Ghana and Rwanda to study their regulatory frameworks and generate lessons that would inform policy change. Ghana has been one of Africa's fastest growing economies over the past decade. Between 2000 and 2009, Gross Domestic Product (GDP) per capita rose by 63%<sup>14</sup>. The food sector in Ghana accounts for nearly 30 percent of Ghana's manufacturing sector, where the manufacturing industry contributes 25 percent of Ghana's GDP. The food sector covers a range of activities that are quite similar to Tanzania's food processing operations, including the processing of meat, fish, fruit, vegetables, oils and fats, and the manufacture of dairy products, milled grain products, starch and starch products and prepared animal feed. Although the food sector is still small and the domestic food chain is dominated by small and medium-scale businesses that process locally grown foods, Ghana has made several policy and regulatory reforms to improve the regulatory framework. In view of this, CTI considered Ghana to be a viable case study.

Rwanda is a small country located in East Africa. The country has embarked on modernising its legislative and regulatory framework for trade and investment, with the aim of fostering a modern and competitive private sector. Rwanda has steadily improved its business environment in a number of areas, increasing its ranking in the World Bank's Doing Business indicators. Thus the World Bank has called Rwanda *"one of the most active reformers of business regulation worldwide this decade"*, being ranked in the top 20 global reformers in the 45<sup>th</sup> position in the Doing Business Report (2012). The current government has been emphasising the promotion of a viable manufacturing sector and food processing sector in particular, and has made adequate resources available to comply with accepted standards. The food and agro-industries dominate the sector, comprising almost 35% of the total number of local industries. However, several informal businesses operate in the food processing area providing traditional products, such as banana wine or sorghum beer, meat, fruit juices, cereal and cassava flour and bread. Efforts are being made by the government to encourage these informal food processors to convert to the formal sector, for example by improving the regulatory framework and simplifying the compliance process. The choice of Rwanda was therefore motivated by its commitment to reviewing regulations and promoting investment.

### **4.2. Food processing Regulatory Framework in Ghana**

The review of the regulatory framework for the food processing industry in Ghana entailed identifying the major regulations and Regulatory Authorities responsible for regulating the sector, and assessing the real practice on the ground by interviewing selected regulators, PSOs and selected enterprises. The findings indicate that laws governing the food processing sector are classified into legislation on standards, legislation on food and drugs, legislation on the environment, laws on animal products and laws governing occupational safety and health. Ghana has twelve major institutions and agencies for controlling food activities. However, there is an on-going review of the statutes to realign the functions and responsibilities of these agencies to overcome overlapping areas. The National Codex Committee of Ghana is active in advising the government on matters relating to food safety. The Committee has developed a database of experts capable of handling food safety in the country. The country is finalising the process of establishing the National Quality Infrastructure, which will streamline the activities of

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<sup>14</sup> An Enterprises Map of Ghana, 2012

regulatory agencies in the food industry to ensure that the necessary food control systems are effective to ensure food safety.

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### **Legislation on Food Processing in Ghana**

#### **Legislation on Standards**

- i) *Standards Decree, 1967 (NLCD, 199), superseded by the Standards Decree, 1973 (NRCD 173)*
- ii) *Ghana Standards (Certification Marks) Rules, 1970 (LI 662)*
- iii) *Ghana Standards (Certification Marks) (Amendment) Rules, 1970 (LI 664)*
- iv) *Standards (Amendment) Decree, 1979 (AFRCD 44)*
- v) *Ghana Standards Board (Food, Drugs and other goods) general Labelling Rules, 1992 (LI 154)*
- vi) *Weights and Measures Act, 1975*

#### **Legislation on Food and Drugs**

- i) *Food and Drugs Law, 1992 (PNDCL 305B)*
- ii) *Food and Drugs (Amendment) Act, 1996 (Act 523)*
- iii) *Animals (Control and Importation) Ordinance (Cap 247)*
- iv) *Diseases of Animals Act, 1961 (Act 83)*
- v) *Local Government Act, 1961 (Act 54); 1993 (Act 462)*
- vi) *Fire and Rescue Act, 1963, Amended in 1997*

#### **Legislation on the Environment**

- i) *Environmental Protection Agency Act, 1994 (Act 490)*
- ii) *Pesticides Management and Export Control Act, 1996 (Act 528)*

#### **Laws on Animal Products**

- i) *Animals (Control of Importation) Ordinance (Cap 247)*
- ii) *Diseases of Animals Act, 1961 (Act 83)*
- iii) *Veterinary surgeons law (1992)*
- iv) *Local Government Act 1992 (Act 462)*
- v) *Fisheries Act (2002)*
- vi) *Fisheries Regulations (2010)*

#### **Laws governing occupational Safety and Health**

- i) *Radiation Protection Regulations 1993 (Legislative Instrument 1559)*
- ii) *Environmental Protection Agency (EPA) Regulations and EPA Standards Act 490*
- iii) *Workmen's Compensation Law 1987*
- iv) *Legislation and Policy on Occupational Safety and Health 2000*
- v) *Labour Law of 2004*
- vi) *Environmental Assessment Regulations 1999, L.I1652*

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The main Regulatory Agencies actively governing the food processing sector in Ghana include;

i) **The Ghana Standards Board (GSB):** GSB is the national statutory body with overall responsibility for standardisation and the quality assurance of goods and services for both the local market and for export. GSB was established by the Standards Decree, 1967, and superseded by the Standards Decree, 1973. The Board is also the custodian of the Weights and Measures Decree (NRCD 326, 1975). GSB has seven (7) divisions, namely, Standards, Metrology, Inspection, Testing, Certification, Finance and Administration. It is mandated to undertake: national Standards development and dissemination; testing services; inspection activities; product certification scheme; calibration, verification and inspection of weights, measures and weighing and measuring instruments; pattern approval of new weighing and measuring instruments; destination inspection of imported high-risk goods; promoting quality

management systems in industry; and advising the Ministry of Trade, Industry on standards and related issues.

Article 3(2)(k) of GSB provides an opportunity for the Board to cooperate with representatives of any industry, or with any government department, local authority or other public bodies or persons with a view to securing the adoption of standards. The GSB has decentralised its activities to the countryside to cover the whole nation.

*ii) **The Food and Drugs Board (FDB):*** FDB is the national regulatory body under the Ministry of Health with the responsibility of implementing the Food and Drugs Law of 1992, (PNDCL 305B) and of regulating the manufacture, importation, exportation, distribution, use and advertisements of food, drugs, cosmetics, medical devices and household chemicals with respect to ensuring their safety, quality and efficacy. FDB is mandated to: define the food safety policy in collaboration with other institutions involved with food safety, which is a challenge but it seems to be doing well; inspect food premises; inspect premises; undertake post-market surveillance; and undertake research on food standards and legislation.

*iii) **Local Government Authorities (LGAs):*** Among the functions of LGAs in Ghana is to inspect all meat, fish, vegetables and all other foodstuff and liquids of whatever kind or nature intended for human consumption, whether exposed for sale or not, and to seize, destroy and otherwise deal with all foodstuff or liquids that are unfit for human consumption and to supervise and control the manufacture of foodstuff and liquids of whatever kind or nature intended for human consumption. The functions of local Government bodies are to: build, manage, license and control slaughterhouses; regulate the slaughter and provide for the inspection of animals intended for food for humans; establish, erect, equip and maintain cold storage depots for the inspection of meat and to make and sell ice.

*iv) **Veterinary Services Directorate (VSD) of the Ministry of Food and Agriculture (MOFA):*** VSD is responsible for the control of meat hygiene, meat inspection, animal health (ante-mortem & post-mortem) and the management of abattoirs.

*v) **Ghana Atomic Energy Commission:*** The Biotechnology and Nuclear Agriculture Research Institute and the Radiation Technology Centre of the Ghana Atomic Energy Centre Commission (GAEC) are responsible for providing radiation services. The Ghana Standard GS 210:2007 specifications for Irradiated Food are used to regulate irradiated food.

*vi) **Environmental Protection Agency (EPA):*** Amongst the functions of EPA is the issuance of environmental permits and pollution abatement notices for controlling the volume, types, constituents and effects of waste discharges, emissions, deposits or other sources of pollutants, and of substances which are hazardous or potentially dangerous to the quality of the environment or any segment of the environment. Food processing companies need to comply with the environmental requirements.

*vii) **The Ghana National Fire Service*** was established in 1963 by Act 219 with the primary aim of fighting and extinguishing fires, and to render humanitarian services. Subsequently, in 1997 the Ghana National Fire Service Act (Act 537) was passed to re-establish the Ghana National Fire Service with the objective of preventing and managing undesired fires and other related matters with an expanded mandate. Food processors' premises are required to be inspected by

the National Fire Service and be awarded a certificate upon compliance with fire safety requirements.

**viii) Occupational Health and Safety:** Ghana has not yet established a specific institution for governing health and safety issues at workplaces because of fragmented legislation governing occupational health and safety. As a result, several institutions are involved in dealing with occupational safety and health compliance in the Ghana food processing industry, including EPA, Department of Factory Inspectorate, Labour Commission, GSB and GAEC.

#### **Ghana National Codex Committee**

*The National Codex Committee-Ghana is a consultative group reporting to the Government on matters of food safety and Codex issues. It also sets up sub-committees or expert groups to formulate responses on proposals from the CAC. The NCC is made up of the following representatives:*

- Ministry of Food and Agriculture (MOFA)
- Nutrition and Public Health Directorate of the Ministry of Health (MOH)
- Department of Nutrition and Food Science, University of Ghana, Legon (UG)
- Ghana Standards Board (GSB)
- Food and Drugs Board (FDB)
- Food Safety Experts
- Ministry of Local Government, Rural Development and Environment
- Ghana Export Promotion Council (GEPC)
- Ministry of Trade, Industry, Private Sector Development & Presidential Special Initiatives
- Consumers' Association of Ghana
- Food Research Institute (FRI) of the Council for Scientific and Industrial Research (CSIR)
- Federation of Association of Ghanaian Exporters (FAGE)
- Association of Ghanaian Industries (AGI)
- Ministry of Finance and Economic Planning

*The NCC is also actively involved in matters of food standards and safety in Ghana. It has therefore taken steps to reorganise its Sub-Committees to make them more responsive to changing trends in food safety issues. A database of experts capable of handling food safety has therefore been developed. This database spans experts involved in the entire food chain. Scientists, health professionals, nutritionists and other experts in related fields are also active in matters brought up by the NCC. The NCC is harnessing local expertise to introduce HACCP and adopt its principles into food safety management in Ghana.*

#### **National Quality Infrastructure**

*The Ministry of Trade and Industry (MOTI) is making strenuous efforts to establish the National Quality Infrastructure which will streamline the activities of Regulatory Agencies in the food industry to ensure that food control systems are effective and necessary to ensure food safety. Ghana has the National Quality Award, an annual Award to recognise Ghanaian companies which excel in quality management and quality achievement. Under the Auspices of the Ministry of Trade and Industry and Ministry of Food and Agriculture, the Ghana Standards Board and the Food and Drugs Board set the criteria, and the safety and reliability standards required for all manufacturing industries in Ghana. The National Quality Awards has positioned Ghana as a quality-conscious country and it encourages manufacturers to attain the ISO certification ultimately making quality excellence a national culture. The National Quality Awards is organised under the Auspices of the Excellence Awards Foundation.*

#### **4.2.1 Observations from the Field Interviews**

The consultant interviewed two regulators (GSB and FDB), the Association of Ghana Industry (AGI), the Fruit Processing and Marketing Association of Ghana as well as two enterprises.

Overall, all respondents felt that the food processing sector must be regulated to ensure that food processors comply with safety and health standards.

Interviewed regulators had the feeling that the duplication of regulations in the Ghanaian food processing sector is minimal. *Although there are a lot of regulators in Ghana, we have agreed that FDB should take the lead in enforcing regulations in the food processing sector*, said the Director General of GSB. The main role of GSB is to set the standards in the food processing sector which are enforced by the FDB. *LGAs basically deal with the informal sector, especially the street food sellers and they offer health certificates to personnel*, said the Director General of GSB. Of interest, if the processor is certified by the GSB and FDB, LGAs have no authority to govern the processor. This helps to reduce duplication of the activities of regulators and to encourage processors to formalise their businesses.

It was noted that GSB and FDB collaborate in some of their activities, including inspections, and the sharing of reports and laboratory facilities. Before introducing such collaboration in 2007, there were several overlaps in regulating the food processing sector, especially in relation to inspection and market surveillance. For instance, inspections done by FDB for the purpose of registration used to overlap inspections conducted by GSB for certification and conformity assessment. Post-market surveillance activities by GSB as a step in the certification process overlapped the FDB inspection at the borders, markets and warehouses. Destination inspection by GSB for conformity assessment overlapped the inspection by FDB to enhance coordination of the registration, importation and post-market surveillance activities; and export certification, which GSB considered a conformity assessment activity relating to goods to be exported and felt that it was within its legal mandate, could overlap the FDB tasks of food production, premises inspection or registration of foodstuff. The overlap implied that, for example, manufacturers and importers could be subjected to two tests, where one test was sufficient and adequate, thus duplicating efforts and imposing unnecessary costs on the private sector.

However, currently, FDB is the Central Food Safety Agency for Ghana, in charge of coordinating all activities relating to the regulation of food safety. In this capacity, FDB implements the policy decisions of the Ministries concerned (MOFA, MOH, and MLGRDE) and enforces the standards set by GSB, through inspections and conformity assessments, either directly or through relevant agencies, such as the districts and municipalities. The functions of GSB are mainly focused on setting standards and registering products and, in line with its public sector status, on those standards where there is moral hazard and/or asymmetry of information. In the domain of food safety standards, this concerns the standards for inputs (pesticides, feed additives, fertilizer, etc) and all food-borne contaminants with a potential risk to public health, such as microbiological organisms, heavy metals and other contaminants. Although GSB feels that they should also be in charge of conformity assessments, there is a proposal that recommends that the responsibility for setting standards and initial registration should be kept firmly separate from inspections, conformity assessment and certification, because of the potential risk of conflict of interests. Under these arrangements, GSB as the official standard setting Agency would be in charge of mandatory functions, whereas FDB and EPA would be in charge of managing voluntary functions. Assigning the initial registration of a product to GSB could also potentially conflict with its proposed responsibility for setting standards. However, entrusting the initial registration of a product to an enforcement Agency (FDB), which would also be responsible for subsequent conformity assessment of that product, would establish a more significant conflict of interest situation. According to the Director of Inspection at GSB, *once the product certification is done by GSB, the report is sent to FDB for them to enforce the standard.*

*Unless they need to check the conformity of the selected product, FDB does not retest the products that are already standardised by GSB. The technical committee of FSB that is responsible for developing standards has a member from FDB. Both GSB and FDB have at least one Board member from each other, and this has been very instrumental in enhancing their collaboration. FDB also collaborates with the National Board for Small Scale Industries (NBSSI), the Herbal Medicine Association, Pharmaceutical Association, Consumers Associations and Government Ministries involved in food processing as well as tertiary institutions. For example, to facilitate the compliance of small food processors, GBS lowers the fees charged to SMEs provided that they are registered by the NBSSI. The Board offers training courses in collaboration with tertiary institutions on quality control and standard issues. GBS collaborates with the LGAs to govern the quality of street food and vended products in terms of training and inspections. The LGAs in this case focus on safety matters at the local level. They also work with the Health Officers from the Ministry of Health, offer training and conduct inspections on health-related issues.*

Ghana is developing a food safety policy that would facilitate the sustenance of effective links, define responsibilities and enhance coordination among food safety agencies. The policy is also expected to clarify overlaps in regulatory roles for effective food safety management along the food chain. According to the CEO of FDB, the policy is being developed by the FDB with support from the World Health Organisation (WHO). Additionally, to ensure the safety and quality of food and drugs for the public, FDB is collaborating with allied institutions, including GSB, the Ministry of Food and Agriculture and its agencies such as the Veterinary Services Department (VSD) and the Plant Protection and Regulatory Services Department (PPRSD) among others. The CEO added that the FDB would improve the capacity of the analytical laboratory, intensify post-market surveillance activities, establish a Food Safety and Quality Assurance protocol and procedures for SMEs involved in food processing and intensify the training of street food vendors and traditional caterers.

***FDB efforts to improve service delivery***

*FDB has attempted to improve its service delivery in different ways. First, the Board invests in training staff to ensure that they maintain professionalism. Second, they have offices in all regions of Ghana with a customer service section. Third, with support of development partners, they have invested substantially in public education on safe food and quality compliance. Fourth, the Board has improved staff communication and internal operational systems to be able to provide quick service. Fifth, FDB has attempted to improve the working environment and motivate staff to deliver professional services. Sixth, they have regular stakeholders' meetings with importers, manufacturers, food vendors etc. to gather ideas on how to enhance their services. These meetings have been very instrumental in improving their services.*

The operational challenges faced by regulators in Ghana are similar to the ones found in Tanzania. The interviewed regulators raised the issues of limited budget, limited human resource capacity, lack of adequate infrastructure including labs, vehicles and equipment and consumers' limited awareness of quality issues. Regulators feel that most informal food processors operate under inappropriate conditions and therefore they do not comply with standards. In this case, the role of LGAs is critical. Regarding human resource capacity, regulators are facing the challenge of labour turnover, whereby some staff are poached by private companies. Therefore, in an attempt to cover their budget deficits, regulators charge minimal fees for product testing, certificates, advert approvals and licences. However, the government pays the salaries and covers a substantial part of the operational costs of the regulatory authorities.

According to the interviews held with PSOs, the private sector in Ghana does not feel that there is a serious duplication of the regulatory functions, though small food processors find it expensive to meet the regulatory costs. The Association of Ghana Industries (AGI) has developed a collaborative relationship with regulators and is now recognised as a government partner. It has the opportunity to: look at the legal bills prepared by the government and make comments; monitor budget implementation and make comments; attend meetings on the budget before it is approved; develop the private sector development strategy; and promote compliance with standards in various sectors. However, a major concern raised by AGI is corruption, which basically emerges from the attitude of some of the staff of regulatory authorities. Although this was not substantiated by specific data, it was felt that there were some elements of corruption in some regulatory authorities. AGI is active in advocating for a better business environment in Ghana. It was for instance successful in influencing the government to amend the VAT Act, 2004 to exempt VAT-registered manufacturers from VAT for imported raw materials, provided that the manufacturer is a member of AGI.

An interview with the owners of two processing companies revealed a number of issues that are worth noting. First, the regulatory system in Ghana has been improving and the regulators in recent years have become more customer-oriented. Second, cooperation between GSB and FDB has eliminated duplications in product testing and certification. *The best thing about the current arrangement is that FDB recognises the certificate offered by GSB*, commented one respondent. The enterprises visited felt that the cost of regulating was nominal and was not significant to the enterprise given the service offered by the regulators. Then again, the main concern was about coaching and training. The respondents felt that the regulators needed to improve the coaching and training of the enterprises so as to institutionalise self-regulation in the industry. The other concern of enterprises is that imported products are subsidised more than locally manufactured products. Enterprises were also concerned about duplication of the regulations governing occupational safety and health due to the presence of five regulators handling it, namely EPA, the Department of Factory Inspectorate, the Labour Commission, GSB and GAEC. This is mainly because of fragmentation of the laws governing safety and health issues in the industrial sector. However, Ghana is currently drawing up the Safety and Health Policy that will guide the regulations.

### **Key lessons**

- The food sector in Ghana is regulated by a number of regulators from different ministries. This reflects the situation of food regulations in many other African countries. However, since 2006 the country has been active in reviewing the regulations and streamlining the functions of regulators. This is still an ongoing process and the country is now developing the food and safety policy as well as National Quality Infrastructure. The proposed National Quality Infrastructure and National Food and Safety Policy are expected to further streamline the regulations in Ghana and further improve the regulatory framework.
- Institutional separation between the responsibility for standard setting and giving advice and between the responsibility for standard control and enforcement to avoid a conflict of interests between the setting of standards and their monitoring and enforcement has been done to some extent with the support of its development partners. This is an effective way of reviewing the regulatory framework.
- The capacity of laboratories over the last decade has improved significantly whereby Ghana now has ISO 17025 certification capacity for some analyses. For example, both

GSB and FDB have an ISO-accredited microbiological lab and an ISO-accredited chemical lab. The Food Research Institute (FRI) has ISO-accredited labs which provide services to GSB and FDB.

- The Regulatory Authorities have attempted to institutionalise a customer-oriented culture and develop a positive relationship with enterprises. The institutions visited have invested substantially in improving the physical facilities and service delivery, as well as developing human resource capacity.
- PSOs have managed to develop a collaborative relationship with the regulators and government agencies and are now seen as partners rather than counter institutions. Interestingly, PSOs are generally positive about the conduct of regulators, though they feel that they need to transform more.
- Public education and creating awareness of health and safety issues are considered to be one of the key strategies for increasing compliance in the Ghanaian food industry. Regulators have successfully managed to increase public awareness of health and safety issues.
- In order to minimise the interference of LGAs with enterprises' operations, the law stipulates that the LGAs are mandated to govern the informal food processors that are not regulated by the GSB and FDB. This arrangement is good since it minimises the fees and time required for food processors to comply. It also encourages food processors to formalise and comply with standards in the industry.
- The sharing of reports and working with other regulators in the governance of the Regulatory Authorities have enabled Ghana to address some of the challenges relating to the duplication of regulatory functions. Investing in modern laboratory facilities and the sharing of regulators' lab facilities are among key developments in the food processing sector.
- Regulators in Ghana, as in other developing countries, are underfunded, leading to the challenges of budget constraints and limited capacity to deliver. Although the government of Ghana has been funding most of the regulators' operational costs, most reform activities have been funded by development partners. This has worked because regulators in Ghana have been proactive in mobilising resources from development projects.
- Enterprises recommend the promotion of self-regulation practices in the food processing sector through private sectors organisations in collaboration with the regulatory authorities. This is basically an avenue for PPPs.
- The National Codex Committee has been active in advising the government and sharing experience in how to improve the regulatory framework in the food sector. This is important since regulating the food processing sector requires joint efforts to coordinate the activities of regulators and ensure that the food sold is up to the required standard.

#### ***4.3 Regulatory Framework in Rwanda***

The regulatory framework of Rwanda has been greatly affected by the history of the country. The 1994 genocide destroyed Rwanda's fragile economic base, severely impoverished the population, and eroded the country's ability to attract private and external investment. However, over the last 10 years, Rwanda has made significant progress in stabilising and rehabilitating its economy. Even with the remarkable development of the private sector, the regulatory framework in the food processing sector is yet to be developed to a level comparable with Tanzania. This is due to the smallness of the private sector which is basically developing. The main regulators dealing with the food processing sector are the Rwanda Bureau of Standard (RBS), the Ministry of Health, Ministry of Labour, LGAs, the Rwanda Revenue Authority (RRA)



and the Rwanda Environment Management Agency (REMA). Contrary to Tanzania, most regulatory functions in the food processing sector are centralised to a few institutions. Although several regulatory functions are performed by the Ministries, Rwanda is devolving to Agencies to perform regulatory activities.

**i) Rwanda Bureau of Standards (RBS):** RBS, a public institution established by Standards Act 3, 2002 and reviewed by the Standards Act 43, 2006, is responsible for undertaking all activities pertaining to the development of standards, quality assurance and metrology in the country. RBS is responsible for inspecting agricultural products entering and leaving the country and for inspecting and certifying food-handling premises, in collaboration with the Ministry of Health. RBS is mandated to make standards, to offer certificates, and conduct inspections and market surveillance in collaboration with the Ministry of Health. RBS has been able to strengthen collaboration with stakeholders such as the Ministry of Trade and Industry, the Rwanda Development Board, and district and sector officials to have an improved and harmonised market surveillance scheme. It actively participates in market surveillance activities within member countries of the East African Community (EAC) by implementing the harmonisation of market surveillance activities for compulsory standards in partner states. RBS is currently transforming its structure to have a more effective one that will be able to meet the needs of the growing private sector.

***RBS is transforming its structure***

*RBS is undergoing structural changes following a new national quality policy. The new policy is in line with the country's goal of enhancing the efficiency and effectiveness of the National Quality Infrastructure (NQI). The new structure will make RBS become the National Standards Body (NSB) which will be comprised of the National Standards Institute (NSI), National Quality Testing Laboratories (NQTL) and the National Certification Services (NCS). It will be responsible for the development of national standards as well as conformity assessment (testing and certification) services. The NSB will also be responsible for issuing SPS certificates on behalf of the Ministry of Agriculture. Once restructured the new standards body will house the National Metrology Organisation (NMO) comprising the National Metrology Institute (NMI) and the Legal Metrology Department (LMD). The NMI provides calibration and maintenance services while the LMD provides verification (testing) and approval of measuring equipment. Inspection activities currently under the NSB will be transferred to the National Inspectorate Board to avoid conflict of interest. The NSB shall report to the Ministry responsible for Trade and Industry. The National Inspectorate Board will be an autonomous body responsible for carrying out inspections to protect the public and the environment from dangerous, counterfeited and low quality products and services. It will provide professional and independent inspection services in all sectors throughout the supply chain to meet the specific needs of regulators, manufacturers, suppliers of goods and services and any other interested party. The other part will be the Rwanda Accreditation Services (RAS) which will be responsible for accreditation of private and public Conformity Assessment Service Providers.*

**Rwanda Environment Management Authority (REMA):** REMA was established in 2005 to oversee the implementation of environmental law and policy through education and sensitisation; law enforcement and monitoring, and capacity building support to other institutions. To achieve its objectives, REMA has to work with and through the public and private sector and civil societies. Thus the structure of REMA accommodates operational links at these levels in order to enhance service delivery to its stakeholders.

**Local Government Authorities:** The Organic Act 29, 2005 determines the administrative entities for local government and establishes their number, boundaries and structure. The role

of LGAs is focused on town planning, the construction of rural roads, transport, hygiene and sanitation and environmental protection.

### **Key Observations**

- Rwanda is still facing some weaknesses in the enforcement of regulations, largely as a result of inadequate capacity and manpower in the regulatory agencies. The general problem has been recognised by the government, which is establishing an Inter-Ministerial Task Force to review the state of implementation of standards and codes, and to promote and sustain existing efforts to raise awareness of corporate governance issues in the public and private sphere. It will ensure that the relevant regulatory and enforcement bodies are actively enforcing the laws, including the Rwanda Revenue Authority (RRA), the Rwanda Environment Management Agency (REMA) and RBS.
- Since 1994, the government of Rwanda has been engaged in ambitious reform programmes to re-establish state institutions and reorganise the public administration for better service delivery and execution of government policy.
- The introduction of annual local government performance contracts is the most recent initiative to increase the accountability of local governments. The local government performance contract is an implementation device for the District Development Plan (DDP), which includes a mixture of national and local priorities. Each contract is signed by a District Mayor and the president of Rwanda.
- As more companies and consumers operate businesses at national, regional and overseas levels, more Quality Assurance Unit work involves national, regional and international cooperation. The Quality Assurance Unit (QAU) cooperates closely with other Rwanda Bureau of Standard's Departments to achieve its objectives.
- Not only has QAU established internal cooperation, but it has established mutual cooperation with other organisations nationally (with REMA, RDB, Districts, etc), regionally and internationally through formal and informal agreements. The scope of the cooperation falls into various activities that cover training, complaints handling, certification and testing, etc, to promote a sound consumer approach.
- With good cooperation, the public has been empowered with accessibility to free information to help them exercise their rights and avoid deception regarding the products they consume; RBS has also provided a platform for consumers to make complaints regarding sub-standard products and to enable them to make good and effective choices when buying goods.
- RBS has greatly improved service delivery and efficiency. For example, if the business has met all the requirements for the product registration, the RBS takes a maximum of three days to register the product. Even if the product is not registered the client must get feedback within three days.
- There is a zero tolerance of corruption in Government Ministries and Agencies, and this is practically done. This has been possible because the government is very keen to manage bureaucracy in Government Agencies through the Prime Minister's Office.
- The PSOs are involved in developing the standards with the Regulatory Authorities through the Private Sector Federation. The state-business relationship has been improving and the private sector is becoming more active in making decisions that affect the sector.
- RBS accredits some companies' labs and has a limited role in accrediting companies. For example, some labs of Inyange Industries Limited, the biggest beverage company, have been accredited by RBS.

- Enterprises feel that RBS has been playing too big a role and in some cases it fails to be effective. Therefore, they propose that some of the roles of RBS should be decentralised to be played by other regulators.
- Rwanda has been successful in developing private-public communication. Key government officials are accessible through their mobile numbers and the service charter requires them to respond to public needs on time. Regarding regulators, enterprises are very positive about the effectiveness of the interactions and communication between enterprises and regulators.
- Rwanda Development Board (RDB) acts as one-stop centre for both local and foreign companies. For example, through RDB, the business registration process is completed within one day provided all the required documents are made available.

#### ***4.4 Regulatory Framework in Other African Countries***

The review of the regulatory framework in other African countries indicates that the food processing sector is generally regulated by a multiple of regulators. For example, the agencies which carry out food safety and control activities in Kenya are spread over four major ministries: the Ministries of Agriculture, Health, Livestock and Fisheries Development, and Trade and Industry, which houses the Kenya Bureau of Standards. The enforcement functions include inspecting and monitoring food and premises for catering and manufacturing, abattoirs, fish-landing sites, imports and exports of foods and planting material among others. Codex standards are used as reference documents for the development of food standards. The National Codex Committee (Contact Point-Kenya Bureau of Standards) links all the Regulatory Agencies and food chain stakeholders, research institutes and universities. However, the functions are not properly coordinated and need strengthening.

In Botswana, the responsibility for food control, food safety and food quality is shared by four ministries. The Ministry of Health coordinates the implementation of the Food Control Act and Public Health Act (including food regulations under these Acts) through the National Food Control Board. The Ministry of Local Government, through the local authorities, implements the Township Act and all other Acts providing for food control, particularly food inspection. The Ministry of Industry and Trade implements Acts on the licensing of food industries, Consumer Protection and standardization. National food standards are prepared by the Botswana Bureau of Standards (BOBS) in collaboration with other key stakeholders. These standards are mainly based on Codex standards. International, regional and bilateral food control cooperation is coordinated by the National Food Control Board.

The food control services in Zambia are distributed across a few main stakeholders, namely, the Ministries of Health, Agriculture, Commerce, Trade and Industry and local government and Housing. The Ministry of Health is responsible for policy formulation, developing and reviewing legislation pertaining to food safety and implementation is carried out by the Central Board of Health, created under the Act of parliament through the District Health Boards. The Ministry of Agriculture provides the same service through the plant quarantine and livestock development services, whose responsibilities are to protect against plant and animal diseases, respectively. The Ministry of Commerce, Trade and Industry is responsible for registering food industries and also houses the National Food Safety Committee. The Food and Drugs Board, with a membership drawn across the Board, advises the Minister of Health on issues relating to food safety. The Zambia Bureau of Standards is responsible for certifying food products and uses voluntary standards as opposed to the Ministry of Health which uses mandatory standards.

#### ***Synopsis of Lessons from African Countries***

- i) With the exception of Rwanda, where the private sector is being developed, all the other African countries studied have multiple regulatory authorities.
- ii) The countries studied appreciate the need for improving the regulatory framework for the food processing sector in order to reduce the cost of doing business and increase the competitiveness of the sector.
- iii) Ghana has demonstrated the value of collaboration among the Regulatory Authorities and this has reduced the cost of doing business
- iv) The National Quality Infrastructure being developed in Ghana appears to be a viable strategy for improving the coordination of the regulatory authorities.

- v) Creation of awareness and education are considered critical in the area of food safety and for improving consumers' and processors' understanding of food safety issues.
- vi) Most Regulatory Agencies face liquidity problems because of the limited budget allocated by the government. Therefore, the majority of them rely on donor funds for capacity building and on fees to subsidise some of the operational costs.
- vii) Fragmentation and duplication of tasks in many countries appear to be due to the complexity of regulating the food sector. Most countries have at least four ministries governing standard and safety issues within the food processing sector. To simplify the regulations some countries such as Ghana are encouraging regulators to collaborate and to promote reference points among regulators.
- viii) Ghana has tried to address the challenge of lack of resources and inadequate facilities by sharing accredited lab facilities, reports and governance of the institutions. The country has also invested in its labs so as to get international accreditation.
- ix) The division of roles demonstrated in Ghana where, for example, the LGAs deal with informal enterprises and food standards are set by GSB and enforced by FDB, is a useful lesson that could be emulated by Tanzania. This not only reduces the multiplicity of inspections and fees, but it also encourages informal enterprises to formalise.
- x) Ghana and Rwanda have developed a strong link between PSOs and regulators and PSOs are supporting regulators in promoting quality standards.

## **5. REGULATORY PRACTICES IN FOOD PROCESSING SECTOR IN TANZANIA**

### **5.1 Introduction**

One of the tasks of the consultant was assess the regulatory practices in the food processing sector in Tanzania. This assessment was done at three levels; the situational analysis, the focus group discussion and the survey. The findings from these assessments are presented in this Chapter.

### **5.2 Findings from the Situational Analysis**

The analysis of regulations governing the food processing sector in Tanzania shows areas in which they overlap and the consequent regulatory cost borne by enterprises in the sector. The evidence from interviews with various enterprises indicates that most of them recognise the value of regulations for maintaining an orderly environment. There is a feeling, though, that most regulators are motivated by revenue collection rather than facilitating enterprises to comply with the regulations. Additional costs incurred by enterprises of complying with the regulations include: cost of familiarisation with the regulations and planning how to comply; remuneration for staff/experts to facilitate companies to comply with the regulations; higher operational costs; licence fees or other charges imposed by the regulations; and the cost of meeting the reporting requirements imposed by the regulations. The enterprises are also concerned about the time wasted, delays, bureaucracy, corruption and the inconvenience caused by the regulations. The additional cost of transporting food (emanating from the extra money paid to transporters), the disappointment of customers due to the lack of reliability, and the spoilage of foodstuff affecting the efficiency of enterprises are among the challenges facing food processors. This shows that the additional regulatory costs incurred by firms operating in the food processing sector increase the burden on businesses, thereby affecting their ability to compete.

The study shows that several factors contribute to over-regulation in the food processing sector. First, is the multiple uncoordinated inspections of premises, with a variety of regulations aimed at food hygiene and safeguarding the safety of employees. All these contribute to the regulatory complexity found in the dairy sub-sector, for instance. Second, is the multiple uncoordinated testing of products, whereby the authorities involved in the periodic testing, at a fee, of processed food products destined for the market impose increased costs on enterprises. Even if the testing fee is high, the main cost in this case is the lost market opportunity while waiting for the results and the necessary permits. Third, is the multiplicity of licences/permits for premises and products, whereby the average food processing business producing about six different products is required to have more than 15 licences/permits for their premises (including vehicles) and products, most of which have to be renewed annually. Fourth, the legal framework does not provide for a clear division of responsibilities of for coordination and communication between inspecting authorities, with the result that there is a duplication of efforts by. Fifth, the legal control measures in the sector translate into stringent obligations for businesses, while it does not provide for the accountability or transparency of the state's controlling bodies. Sixth, the bureaucracy involved in the regulatory process, the waste of enterprises' time and resources, delays, corruption, frustration and unnecessary inconvenience affect the operations of enterprises significantly. Seventh, the government's use of regulation as a source of revenue motivates rent-seeking behaviour rather than facilitating enterprises to comply.

### **Evidence from Enterprises visited**

*This study entailed visiting six selected enterprises in the food processing sector from which the evidence presented in this chapter was drawn. The evidence presented below demonstrates the effect of regulations on the food processing firms visited.*

**Case 1:** *This is a large food processing company based in Dar es Salaam, dealing specifically with ice cream, mineral water and juice. The company appreciates the value of regulations for maintaining food safety and fair competition. However, the problem is that there are too many regulations and unnecessary inspections, sometimes done by different regulators. The main agencies regulating this company are the Tanzania Bureau of Standards (TBS), under the Ministry of Industry and Trade; the Food Security Department and Tanzania Tropical Research Institute under the Ministry of Agriculture; the Tanzania Food and Drugs Authority (TFDA) under the Ministry of Health; Occupational Safety and Health Authority (OSHA); Fire and Rescue Force (FRF); Tanzania Atomic Energy Commission; Government Chemist Laboratory Agency; Customs Inspections; BRELA and TRA. The aspects regulated by various regulators in this company are as follows:*

- *TFDA controls the quality, safety and effectiveness of foodstuff produced by the company in an endeavour to protect consumers' health. It regulates the importation, production, distribution, storage and sale of foodstuff to the market. TFDA conducts frequent inspections to ensure that the food is of the required standard. It inspects imported chemicals and registers new products launched by the company for a fee. TFDA also certifies the vehicles used for marketing and transporting the company's products.*
- *The Tanzania Bureau of Standards (TBS) sets standards and acts as a member of ISO providing quality International Standards to the company. The Agency certifies the imports and the company's new products introduced in the market, for a fee.*
- *The Government Chemist Laboratory Agency performs quality analysis of the foodstuff produced by the company and inspects the chemicals imported, for a fee.*
- *OSHA checks the company's premises and conducts inspections of the health, safety and well-being of workers and the workplace. It inspects the working environment and the equipment used in the operational activities, for a fee.*
- *The Tanzania Atomic Energy Commission (TAEC) inspects imported chemicals (raw materials) and exports of processed food products, for a fee.*
- *The Tanzania Tropical Pesticides Research Institute deals with the surveillance, quarantine, inspection of end products and the issuing of the Phytosanitary Certificate to certify the absence of pests and pest damage in the company's products.*
- *The Food Security Department provides a food safety permit to the company for the imports.*
- *FRF under the Ministry of Home Affairs inspects the fire prevention equipment, such as fire extinguishers.*
- *Customs inspections: The Government has sub-contracted private companies to certify exports (e.g. COTECHNA). Their role is to certify that buyers' requirements (as expressed in the letter of credit) are met. These private companies certify quality, quantity, price and packaging.*
- *Weights and Measures are responsible for fair trade transactions through certification of the Weights and Measures.*

*According to this company, the major challenges of the regulatory system include the presence of a multiplicity of regulatory bodies, duplication of similar functions, delays, the waste of time and high fees. For example:*

- i) *To manufacture some of its products, the company requires "Ascorbic Acid" for fermentation purpose. For this single item, four regulatory bodies have to be approached for certification. The Chief Government Chemist Office has to test the chemical to see whether it is fit to be used for processing food products. This office provides the Chemical Permit after verification. TFDA tests the same chemical before providing a permit to use it. TBS has to provide certification for the same item. The Tanzania Atomic Energy Commission comes in to see whether the item is harmful or not. The Tanzania Atomic Energy Commission performs this*

function from its headquarters in Arusha and it is the company that has to make arrangements for the sample to be tested there. All these regulators charge a fee for their services.

- ii) The company imports wheat to process various food products. Because wheat is an agricultural product, the company must obtain an import permit from the Tanzania Tropical Research Institute. It also requires a Food Safety Permit from the Food Security Department under the Ministry of Agriculture. Then, TFDA issues the Food Import Permit. The Tanzania Atomic Energy Commission is supposed to check for harmful radiation. All these bodies test the quality of one item and all of them charge a fee for their services.
- iii) In most cases, the launching of new products by the company is delayed due to multiple regulations for similar items, especially the importation of inputs. This causes a lot of inconvenience and compromises business opportunities.
- iv) Most of the Regulatory Authorities charge fees in terms of percentages. For example, the Government Chemist Laboratory simply registers the name of the chemical and charges 0.5% of the CIF price. GCL, TFDA, TBS, TTPRI, TAEA and the Food Security Department charge 0.5% of the CIF or FOB value of the consignment being exported or imported, respectively.
- v) The company has employed three professional staff specifically to deal with compliance activities. The three officers are full-time staff, always busy making sure that all compliance issues are handled properly. As most payments for compliance are done through a Bank, one officer spends almost all the time dealing with Bank transactions.
- vi) The motivation of most regulators is to collect revenue rather to focus on their quality and standards control function. In some cases, the regulatory officers dare to earn extra income from the business in the execution of their functions.

**Case 2:** This is a group of companies based in Arusha. Established in 1978, the group has grown from a small trading enterprise into a leading player in Northern Tanzania in petroleum products, edible oil, logistics and animal feed. The Company's main line of business has been the importation and distribution of petroleum products and branded cooking oil to its customers. The group's activities are located in Tanzania, Kenya, Uganda, Zambia, Malawi and the Democratic Republic of Congo. It is therefore regulated by a wide range of Regulatory Authorities within and outside the country. The interview with the Executive Director of the group focused mainly on the regulatory challenges to their business operations in Tanzania. During the interview, it was pointed out that the company is regulated by TBS, TFDA, OSHA, NEMC, Ministry of Home Affairs (FRF), Chemist Laboratory Agency, the National Food Control Commission, BRELA, LGAs, WMA and the Tanzania Atomic Energy Commission. The company complains about the inefficiency and the attitudes of the staff of the Regulatory Authorities and duplication of similar functions.

Some of the specific concerns about the regulations are as follows;

- i) Certification and permits cause unnecessary delays to business operations. In 2006, they wanted to introduce a new line of business. The process to get permits took (2) years without accomplishing it. The group decided to shift the investment worth \$30 million to Uganda where the company is now contributing significantly to Government revenue. It has received several awards from the Government of Uganda for tax contribution.
- ii) The attitude of the Regulatory Authorities toward the private sector is such that they act as if they are the police. For example, "TBS recently raised its annual charge by 89% and started to implement that without prior communication to business people" said the interviewee. "This tendency is common in the regulatory authorities".
- iii) There have been several incidents when the company trucks have been stopped for a check-up and the drivers have been asked to offer bribes to the staff of the Regulatory Authorities otherwise the trips would be halted.
- iv) The company is registered with the Export Processing Zone Authority (EPZA) and exempted from LGA levies. This information has been communicated to the LGAs, but, Local Government officers continue to harass the company requiring it to pay local taxes.
- v) The TBS certificate is not recognised by TFDA while the two agencies conduct a similar



analysis and they belong to the government.

**Case 3:** The Company is based in Mwanza, dealing in beverages and soft drinks in the Lake zone. It is a big company which achieved the HACCP Certificate in 2005 and ISO 2200 Food and Safety Management Certificate in 2007. The company has received several local and international awards ,including the President's Manufacturer of the Year Award (PMAYA) for Large Industries in 2007. The interview with the Managing Director revealed that compliance is not a big challenge to the company. They have engaged professional staff to deal with regulatory issues and they don't feel the impact of regulatory costs. The MD claims that the company is prepared for compliance and they comply. He also feels that it is the obligation of business people to pay taxes. However, he acknowledges that small businesses are more affected by the regulations than large ones. He was of the opinion that regulators need to educate and support small businesses on compliance issues. They ought to maintain a good relationship with entrepreneurs and improve the efficiency of their operations. Although the response of this company about regulations was promising, there are some concerns that are shared by other enterprises, such as improving the relationship between regulators and the business community, improving the efficiency of regulators and creating awareness of compliance. This shows that when enterprises are prepared and regulators behave like facilitators, there is the possibility of increasing the compliance rate and reducing costs to businesses.

**Case 4:** This is a case which combines the opinions and views of four medium and small-scale companies operating in Arusha. The companies involved in this case deal in grain milling, the production of wine, dairy processing and food processing (tomato sauce, jams and chilli sauce). Overall, these companies complain of over-regulation, the high cost of compliance, the attitude of and lack of support of regulators and the lack of capacity to comply with the regulations. The company that deals in grain milling raised the issues of harassment by TRA staff, bureaucracy in dealing with the regulatory authorities, the high fees charged by TBS and TFDA and the municipal levies charged every three months. The company producing wine was greatly concerned about the large number of regulatory agencies, including BRELA, TBS, TFDA, LGAs, OSHA and TRA. The main concern was about the duplication of similar functions, the time needed to deal with regulators and the costs involved. The dairy-processing company was also concerned about ineffective LGA by-laws, the unnecessary taxes and levies charged by the LGAs, and duplication of regulatory functions by the agencies responsible for them. It is not clear which regulator is responsible for co-ordinating the dairy sector. The food--processing company was of the opinion that the regulations are good and justifiable. Nevertheless, the majority of regulators do not guide enterprises, but rather focus on fines and fees. Most regulatory services are centralised in Dar es Salaam and their fees are charged in dollars. They do not share information with enterprises effectively. In general, the customer service of most regulators is poor and disappointing.

**Case 5:** This is a case of a small enterprise in Mwanza that deals in the production and distribution of wine. Although this company is small, it has been granted the standard quality mark by TBS. The Owner and Managing Director complained of too many regulators, the lack of expertise of some Regulatory Authority officers and ineffective communication between regulators and enterprises. The main areas of duplication are premises inspections and the testing of products by TBS, TFDA and OSHA. Most inspectors look at the same parameters, but it was noted that they do not share the results. The inspection takes too much time and imposes increased costs on enterprises. However, regulations have a positive aspect in relation to businesses, such as quality control and customer safety. The TBS quality mark has enabled the company to improve the image of its products. The interviewee was quite happy with TBS's service and he felt that TBS should work together with TFDA so as to reduce duplication of premises inspection and product testing.

**Case 6:** This is a Vegetable Oil Manufacturing Company operating in Mwanza. The interview with the Managing Director revealed a number of issues that are quite similar to what was observed in other companies. The most prominent regulators dealing with this company are TBS, TFDA, Government Chemist, OSHA and the city council. The company spends about 25 million shillings on

*complying with the regulatory requirements. The major challenges facing the company are: i) most regulators are looking for money rather than regulating businesses; ii) TFDA is very bureaucratic and lacks competence to deal with business people; iii) TRA in Mwanza uses police tactics to deal with taxpayers rather than facilitating them to pay taxes. According to the MD, "TRA in Mwanza operates as if it is not a part of the National Tax Authority, and so the Government needs to do something about this"; and iv) Most regulators operate in isolation and so they need to be coordinated. The interviewee suggested that there should be a one-stop centre to enable business people to comply with the regulations. This calls for an urgent amendment to the policies to improve the investment climate in the country.*

Although the opinions of the interviewed enterprises were collected independently, certain issues and suggestions were common. In general, the following issues were observed from the fieldwork;

- i) All enterprises concur that the regulations are necessary and businesses cannot run harmoniously without them. Regulations protect the health and safety of customers, they help businesses to improve quality and ensure that there are fair business practices.
- ii) All enterprises were concerned about the multiplicity of regulatory authorities, duplication of regulations and the high cost of compliance. One of the major concerns was inspection of the same parameters by different regulators, with each authority charging a fee for the inspection.
- iii) The majority of the enterprises feel that the regulatory functions of TBS, TFDA and the Government Chemist could be harmonised. For instance, the results of the analysis by TBS or the Government Chemist could be shared by all.
- iv) While large enterprises are compelled to employ professional staff/experts to handle regulatory issues, small firms cannot afford it. Some companies engage up to three staff to undertake compliance activities. This is costly for the companies and it affects their competitiveness.
- v) The motivation of most regulators is to collect revenue rather than facilitating enterprises to comply with the regulations.
- vi) Both small and large enterprises are concerned about the time wasted, delays, bureaucracy, corruption, frustration and the inconvenience caused by the regulations. This shows clearly that the concern is not only about the monetary costs incurred by enterprises but also the opportunity cost of complying with the regulations.
- vii) The majority of enterprises claim that compliance fees add to the costs of businesses and lead to increased prices of their products and services. This makes businesses less competitive.
- viii) The attitude of staff of the Regulatory Agencies must be rectified. Almost all business people interviewed complained about harassment by government officials from the regulatory authorities. In general, regulators are seen as the police rather than facilitators.
- ix) Communication between the Regulatory Authorities and enterprises is ineffective. As a result, most business enterprises lack adequate information on the requirements for compliance. It is therefore being suggested that the Government needs to increase awareness of compliance issues.
- x) The ineffectiveness of the regulatory system and unnecessary delays discourage investment in the country. As a result the country misses employment opportunities.
- xi) Although most enterprises complain about the cost of complying with the regulations and the logic behind their complaints is convincing, none of them had computed the total actual cost of complying with the regulations. Some companies were able to

estimate the costs incurred, but this requires further follow-up and a review of the financial statements of the respective companies in order to find out the exact cost of complying with the regulations.

- xii) Both large and small enterprises were concerned about LGA levies and harassment. Though most of the nuisance taxes at the LGA level have been abolished, it is possible that some LGAs continue to charge these taxes. However, the ongoing study by TCCIA will reveal the truth.
- xiii) While some regulators such as TBS, TFDA, OSHA and LGAs cut across all sectors, some are specific to certain sectors. It appears that the food processing sector, including the dairy sub-sector, is the most regulated sector mainly for health reasons. Even though regulating the sector is justified, there is a need to conduct more studies that will generate results to guide further rationalisation of the regulatory system.
- xiv) The majority of interviewees, including the owners of the companies visited, are averse to the regulatory authorities. The language used and the feelings noted during the interviews demonstrate their attitude to the regulators. This threatens the possibility of a Public Private Partnership (PPP).
- xv) All enterprises are of the opinion that there is a need to improve coordination of the activities of the regulatory authorities. Even if they have to duplicate their functions, they could visit enterprises together as a team to save time. This would also reduce costs and save Government resources.

### ***5.3 Findings from the Focus Group Discussion***

In addition to the findings from enterprises, the focus group discussions identified a number of benefits of the regulations governing the food processing sector, including but not limited to: i) enhancement of the confidence of customers concerning quality; ii) enabling easy market access; iii) minimising loss through compliance with standards iv) protection of consumers' health; and v) ensuring that consumers get the right quantity of the products they buy. On the other hand, the negative impact of over-regulation as pointed out by focus group discussion include; i) wasting inspectors' time in attending to and following up compliance issues; ii) increasing costs for businesses due to multiple fees; iii) overcharging enterprises as regulators treat their services as a source of income; iv) the emergence of informal operators; v) unintended consequences such as corruption and the black market; and vi) making the industry less competitive. With regard to the effectiveness of the current regulatory system, several challenges were noted. The high cost of compliance encourages some food processors to avoid compliance and creates unfair competition in the industry. The current regulatory framework does not provide an effective mechanism for enforcing and coordinating regulatory activities.

The areas of regulatory overlaps are related to: inspection of premises (TDB, TFDA, TBS, NEMC, FRF, LGA); production (TDB, TFDA, TBS, weights and measures); product transportation (TDB, TFDA; Veterinary Department under the Ministry of Livestock Development); inspection of premises and equipment (TFDA, TBS, LGA, NEMC, OSHA etc); labelling (TFDA, TDB, WMA); registration (TDB, BRELA); and licensing (TFDA, TBS, LGA, Relevant Ministry). Therefore, the findings from the focus group discussion are similar to enterprises' opinions and generally suggest that the regulatory system in the food sector adds to the costs to enterprises and affects their competitiveness.

### ***Key Observations from the Focus Group Discussion***

- i) The government is currently implementing the roadmap to improve the regulatory framework in the country, and so there is a need to track the progress and see how the food processing sector will benefit from the envisaged changes. However, a further follow-up of this issue by the consultant reveals that the roadmap process has not been effective due to the complexity of reviewing the regulations, which requires a sector-based approach, based on the challenges each sector is facing.
- ii) Regulators admitted that sometimes they meet in the field, especially during market surveillance, which causes confusion in the market. A key concern of enterprises is which regulator is responsible for inspections and carrying out market surveillance. Some enterprises are also visited by LGAs even after being inspected by the primary regulators in the sector.
- iii) Regulation of the food sector is justifiable and understandable as there are so many risks of an un-regulated sector. Regulations force the sector to comply with safety and health requirements and reduce the possibility of diseases that might affect the workforce and reduce productivity. Then again, the main concern was not the regulations, but rather duplication of the regulatory functions.
- iv) Regulators need to adopt the business-like approach been adopted by other government agencies. Participants noted that the regulators need to transform their operations that would encourage entrepreneurs to comply voluntarily.
- v) Most enterprises have developed strategies for coping with the regulatory requirements. Some of the strategies identified during the focus group discussion are: employing an officer responsible for compliance issues; engaging a consultant to help them cope with compliance requirements; strengthening the quality control departments; negotiating with regulators to get temporary licences while addressing the weaknesses identified.
- vi) Most regulators do not have a schedule for inspections, which makes it difficult for enterprises to plan. However, the regulators noted that a schedule for inspections could motivate enterprises to make temporary adjustments in order to temporarily meet the regulatory requirements. They noted that where a schedule for inspections is given, the time of the inspection is not specified.
- vii) The enterprises suggested that regulators organise educational forums for them to make them aware of, and guide and coach them on compliance issues. In Arusha, for instance, the participants agreed to initiate regular meetings between regulators and enterprises that will focus on coaching, sharing experiences and the challenges of compliance, and promoting self-regulation and voluntary compliance.
- viii) The issue of corruption was perceived to originate from both enterprises and regulators. It was noted that even though some staff of Regulatory Authorities could be corrupt, some enterprises collude with those staff. Although the non-compliance of some enterprises was perceived as one of the sources of corruption, the bureaucratic process and delays were seen to be the root cause of the problem.
- ix) Lack of information and awareness of the regulatory requirements causes some enterprises not to comply. Some processors spend a substantial amount of money on their factories before getting proper guidance on the environmental impact assessment, design of the premises, the standard of machines, etc. As a result, after investing heavily, some enterprises are shocked when they are required to improve/change their premises to comply with good manufacturing practices. This suggests that there is a need for enterprises to work closely with manufacturers at the conception of an idea.
- x) Food processors should know exactly who the authorised regulators are and their roles. In this case, the role of primary and secondary regulators must be clarified and the areas where they duplicate their functions must be harmonised. However, as most regulators

belong to different Ministries and are established by the law it is not easy to group them into primary and secondary regulators. The strategy is to scrutinise their roles, identify the areas in which they duplicate their functions and recommend avenues for harmonisation.

- xi) It is important to involve the MDAs responsible for implementing the regulations governing the food sector at all stages because they are the ones making policies and implementing them. This could be an opportunity for developing a positive relationship in the dialogue process.
- xii) The enterprises observed that some fees are charged in dollars. This makes it expensive for them due to the instability of the exchange rate. However, for the same reason, regulators felt that the products transacted in dollars should also be charged in dollars.
- xiii) The government should consider establishing a one-stop centre for all regulators or at least a reference centre that would provide information to regulators and coordinate their activities. This however was perceived to be a challenge since the regulators belong to different Ministries and their mandates derive from the acts that established them.

#### **5.4 Survey Findings**

For the purpose of complementing the findings generated from the situational analysis, focus group discussions and reviewed literature, a survey of 115 food processors was conducted to assess their perception of the regulatory authorities. Because the situational analysis mostly included members of CTI, most of which were large enterprises, it was desirable to get the views of other enterprises, in particular food processors' perception of the relevance of the existing regulatory authorities, their level of satisfaction with the services of regulators and their perception of the impact of the regulations on the competitiveness of food processors. In this section, a summary of the findings generated from the survey is presented.

##### **5.4.2 Profile of the Firms Studied**

The analysis of the profiles of the firms studied focused on the sub-sectors covered, location of the firms, number of employees and the year of establishment. In terms of the sub-sectors, the respondents were asked to indicate the sub-sector to which their enterprises belonged at the time of the survey. As shown in Table 1, over 36% of the firms were involved in grain milling, 20% in making biscuits, bread and cakes, 9.6% in making confectionery and 5.2% in producing beverages. All the other sub-sectors form a small proportion of the surveyed firms, each comprising less than 2% of the sample. Over 14% of the firms covered were involved in activities other than the ones included in the questionnaire, such as processing animal feed, salt, cassava and tea. Although the sub-sectors covered in this study do not show all the food processors in Tanzania, they indicate that the food processing sector is quite diverse. However, some of the activities that are not highly represented, such as the processing of sugar, tea and coffee, are mostly done by a few firms. In view of this, the sample covered in this study is reasonably representative of food processors.

The study covered the major commercial cities of Tanzania, namely Dar es Salaam, Arusha and Mwanza, where most food processors are also found. The statistics indicate that 50 % of food processors in Tanzania are in Dar es Salaam, 13 % in Arusha and 11% in Mwanza (URT, 2010). Given that Dar es Salaam is the largest commercial city with the highest concentration of food processing activities, 84% of enterprises were drawn from Dar es Salaam. The distribution of the firms covered in Dar es Salaam is such that 48.9% were in Kinondoni, 31.1% in Ilala and

20% in Temeke. This distribution reflects the concentration of business enterprises in the region revealed by the National Economic Survey (URT, 2010).

The number of employees is classified in a way that is consistent with the definition of enterprise size stipulated by the SME Development Policy. As shown in Table 2, composition of the sample is dominated by small food processors when the size is measured by number of employees. The predominance of small firms in the sample mirrors a more general pattern of firm distribution in the country, where medium and large firms are a considerably small minority. This is also the case in the food processing sector, where the majority of food processors are micro and small enterprises. This could well demonstrate the “missing middle”, which is quite common in developing countries. For the purpose of this study, this sample is adequate because the main aim of the survey was to complement the views of the members of CTI, most of which are large enterprises.

**Table 2: Number of Employees**

Category of the Firm	Number of employees	Frequency	Percent
Micro-enterprises	1-4	19	16.5
Small enterprises	5-49	81	70.4
Medium enterprises	50-99	3	2.6
Large enterprises	100 and above	12	10.4

Most enterprises (77.8%) were established before 2010, with the largest proportion depicting a high frequency (72%) of firms established within 10 years. On the whole, the mean age of the firms in the sample is 8 years. This shows that the majority of the firms were already established businesses, which had been operating for at least three years. However, in view of the fact that the study focused on the regulations affecting businesses at all stages of their development cycle, the findings from the businesses at different stages are relevant.

**Table 1: Food Processing Sub-sectors Covered**

	Frequency	Percent
Fish Processing	3	2.6
Grain Milling	42	36.5
Milk Processing	3	2.6
Edible Oil Processing	5	4.3
Confectionery	11	9.6
Fruit Processing	2	1.7
Biscuits and baked products	23	20.0
Manufacturing canned food	3	2.6
Beverages	6	5.2
Others ( <i>processing animal feed, salt, cassava and tea</i> )	17	14.8
<b>Total</b>	<b>115</b>	<b>100.0</b>

#### **5.4.3 Enterprises' Perceptions of the Relevance of the Regulatory Authorities**

One of the objectives of this study was to assess the enterprises' perception of the relevance of the main Regulatory Authorities governing the food sector in Tanzania. This assessment is done to provide evidence on the overriding view that some regulators in the food processing sector are redundant. In this case, enterprises were asked to give their perception of the relevance of regulators in the sector using a Likert-scale question with a scale ranging from very important to

very unimportant. As shown in Table 3, 67 % of enterprises involved in the study recognise the importance of the Regulatory Authorities governing the food processing sector in Tanzania. The proportion of enterprises that felt that regulators were unimportant is relatively small, comprising 12% of the sample. Therefore, the majority of enterprises appreciate the importance of regulators governing the food processing sector. This is consistent with situational analysis findings (CTI, 2011) that enterprises recognise the value of regulations in the food sector because of the need to maintain public health and welfare.

However, the degree of importance attached by enterprises to specific regulators differs. The regulators perceived to be very important are Tanzania Food and Drug Authority (TFDA) - 53% and Tanzania Bureau of Standards (TBS)-30%. Other important regulators, though not perceived as being very important are National Environmental Management Council (NEMC), Business Registration and Licensing Agency (BRELA) and Local Government Authorities (LGAs). Although very few enterprises (11.40%) rated Local Government Authorities (LGAs) as a very important regulator, 42.1% rated them as important. This is surprising as there have been a lot of complaints about the barriers caused by the LGAs (Charles, 2012) to the operations of enterprises in the manufacturing sector. However, one explanation could be the fact that LGAs are close to the enterprises surveyed, most of which were small and perhaps, due to the nature of food processors' operations, they had closer interactions with them.

The rating of the Weights and Measures Authority (WMA) is relatively low as 15.50% of enterprises rated WMA as a very important authority and 37.2% as an important regulator. This might reflect the fact that the WMA's role has been perceived as one of the functions that should be under TBS's Metrology Unit to reduce duplication of regulatory functions. The experience of other African countries (e.g. Ghana and Rwanda) also shows that the weights and measures section is placed within the Bureau of Standards. Surprisingly, the Business Registration and Licensing Agency (BRELA), which is considered to be an important authority as regards business formalisation was ranked low, with over 23.5% of respondents considering it to be very unimportant and 19.4% rated it as unimportant. Other regulators such as Occupational Safety and Health Authority (OSHA), FRF and the Veterinary Department (CTD) are considered to be quite relevant. The results also show that over 40% of respondents rated it as unimportant.

**Table 3: Enterprises' Rating of the Relevance of Regulatory Authorities**

	BRELA	TBS	TFDA	NEMC	OSHA	LGA	WMA	FRF	VTD	TAEC	Average
Very Important	27.3%	30.4%	53.0%	22.8%	22.6%	11.4%	15.5%	24.2%	26.0%	28.2%	34%
Important	13.9%	50.4%	36.5%	50.9%	49.6%	42.1%	36.9%	38.4%	34.0%	12.8%	33%
Somewhat Important	11.3%	17.4%	10.4%	21.1%	25.2%	42.1%	34.0%	30.3%	12.0%	17.9%	22%
Unimportant	19.4%	0.0%	0.0%	4.4%	1.7%	2.6%	9.7%	6.1%	20.0%	23.1%	7%
Very Unimportant	23.5%	1.7%	0.0%	0.9%	0.9%	1.8%	3.9%	1.0%	8.0%	17.9%	5%

#### **5.4.4 Enterprises' Rating of their Satisfaction with Regulatory Authorities**

The study assessed the level of enterprises' satisfaction with the services offered by the Regulatory Authorities governing the food processing sector. Using a Likert-scale question, with a scale ranging from very satisfied to very dissatisfied, the findings indicate that only 12.1% of enterprises were very satisfied with the services offered by the Regulatory Authorities (see Table 4). The majority of respondents (40%) were fairly. Given these findings, it was important to assess the level of satisfaction with the services offered by each regulator to get a more detailed picture. A comparison of the level satisfaction with the Regulatory Authorities shows

that respondents were mostly satisfied with the services of TFDA, BRELA and TBS with the degree of satisfaction being higher than 50% for each regulator. On the other hand, respondents were very dissatisfied with the services of WMA and TAEC. The services of other regulators such as LGAs, FRF, VTD, OSHA and NEMC were fairly satisfactory, with less than 45% of respondents together rating each of them as satisfactory and very satisfactory.

**Table 4: Enterprises' Ratings of their Satisfaction with the Regulatory Authorities**

	BRELA	TBS	TFDA	NEMC	OSHA	LGA	WMA	FRF	VTD	TAEC	Average
Very Satisfied	24.6%	15.4%	32.8%	3.4%	8.2%	9.2%	9.1%	7.1%	17.6%	10.5%	12.1%
Satisfied	28.1%	36.9%	43.3%	39.0%	34.4%	24.6%	10.9%	41.1%	23.5%	5.3%	25.1%
Somewhat Satisfied	17.5%	32.3%	22.4%	45.8%	54.1%	50.8%	47.3%	30.4%	35.3%	42.1%	40.4%
Dissatisfied	17.5%	10.8%	1.5%	8.5%	3.3%	13.8%	25.5%	19.6%	17.6%	21.1%	16.0%
Very dissatisfied	12.3%	4.6%	0.0%	3.4%	0.0%	1.5%	7.3%	1.8%	5.9%	21.1%	6.4%

#### 4.4.5 Impact of Regulations on Enterprises' Competitiveness

Measuring the impact of the regulations on the competitiveness of a firm is quite complex since the performance of a firm is affected by many factors. However, one way of finding out the effect of the regulations on the competitiveness of a firm is to assess its perception of the extent to which various regulatory challenges impinge on its competitiveness. This study used a Likert-scale question to examine the perception of enterprises of the effect of various compliance issues identified in the situational analysis on their competitiveness. The value added, in this case, is examining the perception of a larger sample of enterprises rather than relying on the qualitative findings of the previous study. The results show that there is a variation in enterprises' perception of the effect of specific aspects of the regulations on their competitiveness. The five aspects that had a significant impact on the competitiveness of the firms are delays and bureaucracy (40.3%), increased product price due to the cost of complying with the regulations (40%), multiple licensing (33.3%), rent-seeking behaviour (32.3%) and multiple testing of products (30.2%). Other regulatory challenges with a significant impact are the annual fees charged by regulators (29.7%), multiple inspection of premises (25.4%) and repetition of similar regulatory functions (23.4%). These findings indicate that the multiplicity of inspections, duplication of regulatory functions, bureaucracy and delays and the high charges imposed by regulators affect the competitiveness of food processors. Indeed, the rent-seeking behaviour of regulators is likely to be associated with the bureaucracy involved in attempting to raise finance for running their operations. This suggests that unless regulators are adequately funded, it is not easy to manage the rent-seeking behaviour. It is also important to note that factors like increased product prices due to compliance costs and increased costs due to rent-seeking behaviour mostly have a negative effect on the competitiveness of the firms.

**Table 5: Enterprises' Responses on the Extent to Which Regulations Affect Competitiveness**

Competitiveness Impingements	Very significant	Significant	Somewhat significant	Not significant	Not significant at all
Multiple licensing	33.3%	9.5%	7.9%	12.7%	36.5%
Multiple site Inspections	14.8%	36.1%	32.8%	13.1%	3.3%
High business registration fees	15.6%	45.3%	31.3%	6.3%	1.6%
Multiple inspections of premises	25.4%	22.2%	15.9%	23.8%	12.7%



Delays and bureaucracy caused by regulators	40.3%	6.0%	9.0%	9.0%	35.8%
Annual fees charged by regulators	29.7%	18.8%	29.7%	17.2%	4.7%
Multiple testing of products	30.2%	11.1%	23.8%	22.2%	12.7%
Cost of administration	14.1%	15.6%	26.6%	32.8%	10.9%
Cost of lost sales due to restricted access to markets	14.3%	22.2%	23.8%	28.6%	11.1%
Cost of vehicle inspections	14.8%	16.4%	19.7%	37.7%	11.5%
Repetition of similar regulatory functions	23.4%	15.6%	10.9%	25.0%	25.0%
Cost of meeting the reporting requirements	16.4%	11.5%	23.0%	27.9%	21.3%
Rent-seeking behaviour (corruption)	32.3%	12.9%	4.8%	19.4%	30.6%
Increased product prices due to high cost of complying with regulations	40.0%	33.8%	13.8%	3.1%	9.3%
High local government fees	13.8%	38.5%	33.8%	6.2%	7.7%
Fire inspection fees	12.7%	33.3%	33.3%	12.7%	7.9%
Reduced product range due to regulations	11.7%	26.7%	33.3%	16.7%	11.7%
Cost of reduced sales due to limited access to market	11.7%	26.7%	33.3%	16.7%	11.7%
<b>Average</b>	<b>21.9%</b>	<b>22.3%</b>	<b>22.6%</b>	<b>18.4%</b>	<b>14.6%</b>

To further assess the impact of the regulations on the competitiveness of food processors, a one-sample t-test was applied to measure the level of significance of each challenge. According to the results from the 114 firms which responded to this question, all regulations have significant impact on enterprises' competitiveness, with t distribution at 95% confidence interval ( $p= 0.00$ ). These findings suggest that enterprises are generally concerned about the significant impact of the multiplicity of regulatory interventions, duplication of functions and both the direct and indirect costs of complying with the regulations. Since one of the greatest predictors of managers' compliance with regulations is what they perceive to be the effect of regulations on the competitiveness of their enterprises, it is important for regulators to be aware of the findings of the study. Although the challenges posed by the regulations do not have a uniform effect on businesses, having an understanding of how enterprises perceive them and their effect on their competitiveness is critical.

**Table 6: Significant Impingements on Food Processors' Competitiveness**

<i>Multiple licensing</i> <i>Multiple site Inspections</i> <i>High business registration fee</i> <i>Multiple inspections of premises</i> <i>Delays and bureaucracy caused by regulators</i> <i>Annual fees charged by regulators</i> <i>Multiple testing of products</i> <i>Cost of administration</i> <i>Cost of lost sales due to restricted access to markets</i>	<i>Cost of vehicle inspections</i> <i>Repetition of similar regulatory functions</i> <i>Cost of meeting the reporting requirements</i> <i>Rent-seeking behaviour (corruption)</i> <i>Increased product prices due to high cost of complying with regulations</i> <i>High local government fees</i> <i>Fire inspection fees</i> <i>Reduced product range due to regulations</i> <i>Cost of reduced sales due to limited access to market</i>
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A further analysis was done to assess the ratio of compliance cost to annual sales lost by enterprises, and establish the correlation between the compliance cost and sales lost. The underlying assumption of this analysis is that if the compliance cost has a significant effect on sales, it affects the competitiveness of enterprises. The compliance cost is measured in terms of the cost of registering the business and premises, inspections, product testing, workers'

inspection and annual fees. The findings show that the average ratio of compliance cost to sales lost is 8%. When the annual cost of paying the staff responsible for compliance is included in the costs of the firms, the average ratio goes up to 12%. It should be noted that the compliance cost considered here does not include the indirect costs associated with the time wasted on compliance issues, and the opportunity costs incurred due to interference of the regulators with the enterprises. Furthermore, the findings presented indicate that there is a positive correlation between the total compliance cost and sales lost. The results show that an increase in the compliance cost positively relates to sales lost with an effect size of over 57%. This could affect the competitiveness of the firms significantly, bearing in mind that this is just one of the factors affecting the performance of firms.

## **6. IMPACT OF THE CURRENT REGULATORY FRAMEWORK**

### **6.1 Quantification of Cost of Compliance**

Regulations have an impact on the behaviour and performance of the regulated firms. The cost of food regulations include the industry's cost of compliance, borne by both the industry and the consumers of its products, as well as the administrative cost borne by taxpayers and the deadweight loss associated with taxation. Since administrative burdens increase transaction costs in the market and impede the competitiveness of food firms, excessive administrative burdens can reduce competitiveness as scarce resources are used to meet legal requirements concerning the safety and quality of food. However, compiling the compliance cost is not simple and straightforward because a number of assumptions need to be made regarding the type of business, the products/services offered, the size of the business, its location, number of employees, the level of technology used, and regulators controlling the business. Unfortunately, compiling the cost from the regulators' perspective is not feasible, because they provide a list of the fees they charge enterprises for the various services offered. Calculating the cost to enterprises requires a thorough cost analysis to establish what proportion of their costs goes on compliance. Therefore, in this study various sources of data are used to demonstrate the magnitude of the regulatory cost to firms.

### **6.2 Impact on the Enterprises: Observations from the Selected Enterprises**

Some observations were made from two milk-processing companies operating in Dar es Salaam<sup>15</sup>. For the purpose of this report the two companies are referred to as Ma-Milk and Chuchu respectively. Ma-Milk<sup>16</sup> Enterprise started its operation in the mid-90s in one of the suburbs of Dar es Salaam City. Ma-milk, a family milk business started as Milk Kiosk selling hot milk. The source of milk was the few dairy cows kept in the back yard of their residence on the edge of the city. In 1996, Ma-Milk secured a milk-cooling tank, with a capacity of 1000 litres per day, from one of the dairy projects operating in Tanga, on agreeing to be an agent and distributor of the milk from Tanga milk producers. In 1998, Ma-Milk set up a batch pasteurizer using biomass energy<sup>17</sup> (sawdust) and packed milk in plastic pouches using Pronto type manual Milk Sealers. Ma-Milk then managed to handle up to 3000 litres per day. As Ma-Milk ventured into processing milk, it became visible to an army of regulatory authorities. As capacity increased to 5000 litres per day, Ma-Milk started to source milk from neighbouring regions. Currently, Ma-Milk processes 8000 litres of milk per day sourced from 13 milk-collection centres. As with most dairy plants in Tanzania, Ma-Milk is regulated by more than 15 regulatory bodies with overlapping roles<sup>18</sup> and functions. *The fees range from 200,000 to as high as 2,000,000 (average 300,000) for most certificates and licences. Un-receipted payments (graft) are in the range of 300,000 per service/item. The most tedious is the permit for transporting milk, which is issued at a fee of 20,000 shillings by Ministry of Livestock Development, Ministry of Health and District Authorities.* For Ma-Milk to transport milk through three districts requires five permits. The vehicle has to be inspected several times. If one permit is not there, the vehicle is detained. Ma-Milk strongly criticises this tendency of policing by some regulatory authorities. One

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<sup>15</sup> These cases were extracted from the report prepared by TAMPA (2010) on rationalization of regulatory framework. The companies were revisited to verify the information presented in this report.

<sup>16</sup> The real name is reserved for confidentiality reasons

<sup>17</sup> Regardless of lack of automated electrically operated heat exchange pasteurizer, electricity was and is still one of the most expensive utilities in Tanzania

<sup>18</sup> TFDA and TBS test products and certify. Neither agrees on the results of the other.

institution just repeats<sup>19</sup> the roles of other institutions. The time taken to secure a licence/permit or certificate takes 7 days to over a month.

Chuchu Milk Ltd<sup>20</sup> is a mini-dairy located in Dar es Salaam. It is a family enterprise, which started 10 years ago to process and sell milk from the family cows. To legalise her business the owner had to obtain 11 licences and permits from Government Agencies at a total cost of TZS 380,000. Many queues and months later, these documents now decorate a whole wall in her small office. Most of these licences/permits have to be renewed every year at a cost of about TZS 450,000, but that was not her worry, but the fact that over the last six months the milk truck has been stopped from time to time for inspection by District Officials. These inspections are quite unpredictable and since the truck passes through six districts, the delay has frequently caused the whole consignment of milk to be spoilt. Each spoilage inflicts a loss of TZS 1.2 million, as often the truck is stopped in the middle of nowhere and the “inspectors” have no equipment or competency for the task. For a “fee” they would happily let the vehicle pass without inspection. The amounts involved in these bribes are relatively small (TZS 5,000,000) in comparison with the losses, but it will not end once the precedence has been set. When she complained about this to the Ministry responsible for livestock, she was referred back to the District Local Government Authorities. But the truck already has a permit for transporting milk from the Tanzania Food, Drugs and Cosmetics Authority, a National Government Agency. Now it appears she has to pay for six more permits from the district local authorities on a regular basis. She cannot understand why one permit is not enough to safeguard health and safety standards.

### **6.3 Impact of Regulations on the Food processing Sector**

Based on data generated from the Economic Survey (2010), the documents reviewed and this study, the impact of the regulations on the food processing sector and the economy as a whole is extrapolated. As shown in Table 7, the food processing sector currently contributes TZS 972 billion shillings to the economy. The number of people formally employed in the sector, according to the economic survey data, is 40,864. The sector currently generates tax revenue of TZS 248 billion. The total compliance cost is estimated from the survey to be TZS 100 billion, which is equivalent to 40% of the tax contributed by the sector. The ratio of the total compliance cost to the total costs of food processors is 17%. The tax lost due to compliance costs is estimated to be 30% of the total compliance cost which is equivalent to TZS 33 billion per year. Based on the assumption that the number of people employed reflects the capacity lost, the sector loses 5,000 people per annum due to over-regulation. It should be noted that the employment figure provided here refers to direct formal employment. However, a large number of people are employed temporarily or indirectly in the value chain of the food sector. According to the IGC study, 2010 and the DANIDA study of 2012, the sector employs more than 3 million people in the entire value chain. Using the same proportion of employment lost per annum, the sector loses 360,000 indirect jobs due to over-regulation.

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<sup>19</sup> NSSF inspects all taxes rather than dealing with social security issues duplicating functions of TRA.

<sup>20</sup> The real name is reserved for confidentiality reasons.

**Table 7: Impact of Regulations on the Food processing Sector**

<b>Impact on the Food processing Sector</b>	<b>Percentage</b>	<b>Count</b>	<b>TZS in Billion</b>
National Gross Domestic Product (URT, 2010)			32,293
Manufacturing Industry Contribution to GDP (URT,2010)	8.6		2,777
Contribution of Food Processing Sector to GDP (35% of manufacturing industries)	35		972
Corporate tax (30%) –TRA	30		248
Formal employment level of the manufacturing sector		75,025	
Formal employment level in the food--processing sector (Over 50% of manufacturing sector)		58,000	
Compliance cost (based on the ratio of compliance cost to sales turnover (12%))	12		100
Food Processing earnings (URT, 2010)			825
Food Processing costs (URT, 2010)			590
Ratio of compliance cost to food processing costs	17		
Valued Added to GDP (URT, 2010)			235
Corporate tax (30%) lost	30		33
Average time lost per year in days		11	
Average amount spent on staff involved in regulations per month in millions			2.1*
Employment lost per annum based on the same level of compliance costs	12	5,000	
Employment in the entire value chain		3,000,000	
Indirect employment lost per annum	12	360,000	

\*The figure of average amount spent on staff dealing with regulations is in millions of shillings

## 7. POTENTIAL AREAS FOR AMENDMENT OF THE CURRENT REGULATORY FRAMEWORK

### 7.1 Areas for Amendments with Potential for Quick Win-Win Results

The main task of this assignment is to propose a regulatory framework that is more conducive than the existing one for the food processing sector. The proposal recognises the value of regulating the sector without imposing additional and unnecessary costs on enterprises and the public. Because all the regulations cannot be reviewed at the same time, the regulations that have been excessively duplicated are focused on. The potential areas for amendments are described and those likely to produce quick win-win results are proposed. This analysis helps to guide the proposed policy actions in the next Chapter.

**Table 8: Potential Areas for Regulatory Amendment**

S/N	Legislation	Legal Issue(s)	Proposed Amendments for quick win-win result
1	<p><b>The Tanzania Food, Drugs and Cosmetics Act, No 1 of 2003 and Regulations made under this Act.</b></p> <p>The Act established the Tanzania Food and Drugs Authority (TFDA)</p>	<p><b>Inspection &amp; Registration of premises- Sections 18, 19&amp;20</b></p> <ul style="list-style-type: none"> <li>• Give TFDA powers to register and inspect premises</li> <li>• Lack of legal cross-reference provisions and coordination.</li> <li>• Other Agencies such as TBS, LGA, NEMC and OSHA are also empowered to do the same under their respective laws</li> <li>• Create overlapping provisions (powers) with other laws establishing other regulatory Authorities such as TBS, LGA and OSHA</li> <li>• Multiple licences for premises by TFD, LGA and OSHA under their respective laws</li> </ul>	<p>Amend laws to provide for cross-referencing and coordination. This will enable joint enforcement, such as inspections, which will save costs and time. Amendments of laws for harmonisation will also reduce overlapping and unnecessary bureaucracy hindering business.</p> <p>Amend law to provide one-stop centre for licensing which will reduce cost of doing business and increase competitiveness</p> <ul style="list-style-type: none"> <li>• <i>Registration and inspection of factories/premises used for food processing should be done by TFDA in consultation with other relevant Regulatory Authorities.</i></li> <li>• <i>A good example of a law with cross-reference provisions is the Dairy Industry Act, of 2004, which recognises TFDA.</i></li> </ul>
2	<p><b>The Standards Act, Act.No.2 of 2008 and Regulations made under this Act.</b></p> <p>The Act established the Tanzania Bureau of Standards (TBS)</p>	<p><b>Regulating standards on goods and products-section 18</b></p> <ul style="list-style-type: none"> <li>• Creates overlapping provisions (powers) with other laws due to lack of clear cross-reference provisions and coordination. For example, both TBS and TFDA are empowered to conduct frequent inspections</li> </ul>	<p>Amend laws to provide for cross-referencing to facilitate joint enforcement such as inspections and standardisation of food products, which will save costs and time. A good example of law with cross-reference provisions is the Dairy Industry Act which recognizes TFDA</p> <ul style="list-style-type: none"> <li>• <i>Regulating standards of goods and products should</i></li> </ul>

		and test for product safety and quality to ensure that the food is of the required standard	<i>be done by TBS in consultation with other relevant Regulatory Authorities</i>
3	<p><b><i>The Industrial and Consumer Chemicals (Management and Control) Act, No.3 of 2003</i></b></p> <p>established the National Chemist Laboratory with the power to require manufacturers to undertake Environmental Impact Assessment (EIA) before undertaking operations</p>	<p><b><i>Requires Environmental Impact Assessment (EIA)</i></b></p> <ul style="list-style-type: none"> <li>Creates overlapping provisions (powers) with other laws (such as the Environmental Management Act, 2004), the Fisheries Act, Public Health Act and Agencies (such as NEMC) due to the lack of clear cross-referencing and coordination. These Laws and Institutions also require an EIA before undertaking operations</li> </ul>	<p>Amend laws to provide for cross-referencing and coordination in undertaking EIA and inspections. This will enable joint enforcement such as EIA and inspections, which will save costs and time. This will also reduce overlapping and unnecessary bureaucracy hindering business</p> <ul style="list-style-type: none"> <li><i>EIA should be coordinated and regulated by NEMC in consultation with other relevant Regulatory Authorities</i></li> </ul>
4	<p><b><i>The Environmental Management Act (EMA), No.20 of 2004</i></b></p>	<p><b><i>Requires Environmental Impact Assessment (EIA)-section 81</i></b></p> <ul style="list-style-type: none"> <li>Like the Industrial and Consumer Chemicals Act and the Fisheries Act, this Act might also create overlapping provisions due to the lack of clear cross-references as the Act (EMA) also requires an EIA. Institutions established under both laws might have overlapping enforcement powers.</li> </ul>	<p>EMA needs to be amended to provide for cross-referencing and coordination in undertaking EIA and inspections. This will enable joint enforcement such as EIA and inspections which will save costs and time</p> <ul style="list-style-type: none"> <li><i>The Law should only mandate NEMC to regulate EIA in consultation with other relevant Regulatory Authorities</i></li> </ul> <p>This will also reduce overlapping and unnecessary bureaucracy hindering business</p>
5	<p><b><i>The Sugar Industry Act, Cap 251 [R.E.2002].</i></b> The Act established the Sugar Board of Tanzania with power to regulate the sugar-manufacturing industry</p>	<p><b><i>Licensing (section-12) and Inspections of premises (section- 18) used to produce and sell sugar products</i></b></p> <p><b><i>Requires Environmental Impact Assessment -section 47</i></b></p> <p>Like other laws establishing the Regulatory Authorities such as TFDA, TBS, OSHA, LGA, this Act also provides for discretionary powers of inspection and the issuing of various licences. This also creates overlapping provisions due to the lack of clear cross-referencing with other relevant laws establishing regulatory</p>	<p>This Act needs to be amended to provide for cross-referencing and coordination in undertaking similar matters relating to the issuing of licences and inspections. This will enable joint enforcement such as licences and inspections which will save costs and time</p> <p>This will also reduce overlapping and unnecessary bureaucracy hindering business and will be more cost-effective</p> <ul style="list-style-type: none"> <li><i>The Law should only mandate NEMC to regulate EIA in consultation with other relevant Regulatory Authorities</i></li> </ul>

		bodies with similar functions and powers.	
6.	<b><i>The Fisheries Act, No. 22 of 2003.</i></b> This Act has similar provisions on the requirement of EIA to other laws such as the Environmental Management Act and The Industrial and Consumer Chemicals (Management and Control) Act	<b><i>Require Environmental Impact Assessment (EIA)-section 52 and inspection (sections 36-37)</i></b> <ul style="list-style-type: none"> <li>Creates overlapping provisions on enforcement powers with other laws mentioned due to the fact that it has no clear cross-referencing provisions.</li> </ul>	This Act needs to be amended to provide for cross-referencing and coordination in undertaking EIA and inspections. This will harmonize EIA requirements and inspections which will save costs and time <ul style="list-style-type: none"> <li><i>EIA should be coordinated and regulated by NEMC in consultation with other relevant Regulatory Authorities</i></li> </ul>
7.	<b><i>The Local Government (District Authorities) Act, Cap 287 [R.E.2002] and The Local Government (Urban Authorities) Act, Cap 288 [R.E.2002]</i></b> These laws empower Local Governments Authorities to make by-laws to regulate various matters, including the payment of fees and levies by food manufacture in their area of jurisdiction.	<b><i>Licensing, registration of business and inspection of premises-</i></b> <ul style="list-style-type: none"> <li>The provisions of these two laws and the by-laws made under them empower LGAs to impose many taxes, fees and other charges on any business including food production and manufacture within their area of jurisdiction. One business entity can be subjected to many charges</li> </ul>	These laws need to be amended, along with other laws providing similar powers and functions to create a one-stop centre and one authority responsible for regulating food and business in food. This will ensure harmonised powers for regulating food, issuing licences and doing inspections, which will save costs and time. Cross-reference provisions with other relevant laws are also required here.
8	<b><i>The Public Health Act of 2009</i></b> The Act provides that the District/Urban Authority shall ensure that food is not manufactured except in the premises registered in accordance with the relevant laws.	<b><i>Inspection for environmental compliance-sections 5(g), 7(a) and 118</i></b> This law creates overlapping provisions (powers) with other laws due to the lack of clear cross-reference provisions and coordination. Both TBS and TFDA are empowered to conduct frequent inspections and test for product safety and quality to ensure that the food is of the required standard	There is a need to amend this law to provide for cross-referencing with other laws to facilitate joint enforcement with agencies such as ( TFDA, LGA, TFDA, NEMC and GCLA) in matters relating to the inspection of premises and regulation of food products, which will save costs and time <ul style="list-style-type: none"> <li><i>The Law should only mandate NEMC to do inspections for environmental compliance in consultation with other relevant Regulatory Authorities</i></li> </ul>
9.	<b><i>Occupational Health and Safety Act No.5 of 2003</i></b> The Act established the Occupational Health and Safety Agency (OSHA) which checks the company's premises and conducts inspections of the health, safety and dwelling	<b><i>Licensing, registration and inspection work place factories and premises-Sections 24 (1) - (4) and 64 (3),</i></b> As noted earlier in other laws, this Act can also create overlapping provisions (powers) in matters relating to	<i>This Act needs to provide for cross-referencing with other laws to facilitate joint enforcement by agencies such as TFDA, LGA, TFDA, NEMC and GCLA in matters relating to the licencing, registration and inspection of premises, which will save costs and time</i>



	of workers and workplaces. It inspects the working environment and the equipment used in operational activities.	the registration and inspection of premises with other laws due to the lack of clear cross-referencing. OSHA's powers can conflict with those of other regulatory bodies and agencies such as TFDA, LGA, TBS and NEMC as they are all entrusted with similar powers and functions	<ul style="list-style-type: none"> <li>• <i>The Law should allow OSHA to deal with the inspection of the working environment in workplaces and factories.</i></li> <li>• <i>Registration and inspection of premises or factories processing food should only be done by TFDA.</i></li> </ul>
10	<b><i>The Atomic Energy Act, 2002</i></b>	<b><i>Power to enter(s-46) and inspect (s-49)premises</i></b> As observed above in other laws, this Act can also create overlapping provisions (powers) in matters relating to the inspection of premises with other laws due to the lack of clear cross-referencing.	This Act needs to provide for cross-referencing with other laws to oblige the Agency to consult other relevant Agencies/Authorities such as TFDA, LGA, TFDA, NEMC and GCLA to facilitate joint enforcement of agencies
11	<b><i>The Merchandise Marks Act</i></b>	<b><i>Inspection of food products and premises.</i></b> <ul style="list-style-type: none"> <li>• Lack of legal cross-reference provisions and coordination.</li> <li>• Power of registration and inspection of premises.</li> <li>• Both FCC and TFD under their laws have the same power to deal with counterfeit food products</li> </ul>	This Act in line with the TFDA Act needs to provide for cross-referencing to facilitate joint enforcement of agencies <ul style="list-style-type: none"> <li>• <i>The Law should only allow FCC in consultation with TFDA to inspect food products and premises for the purpose of dealing with counterfeit food products</i></li> <li>• <i>Inspection of working environment in workplaces and factories.</i></li> </ul>
12	<b><i>Cashew-nut Industry Act,2009</i></b>	<b><i>Registration (s 12), licensing(Ss 15&amp;16)and inspection (s.22)</i></b> The laws oblige dealers in cashew nuts to register their business and warehouse and possess a licence. The law further empowers inspectors to inspect premises or any place where cashew nuts are processed. Like other laws discussed above, this Act can also create overlapping provisions (powers) in matters relating to the inspection of premises with other laws such as TFDA Act due to the lack of clear cross-referencing. TFDA also has the power to inspect any food including cashew	<ul style="list-style-type: none"> <li>• <i>The Law should only allow TFDA in consultation with the Cashew Nut Board to inspect food products including cashew nuts.</i></li> <li>• <i>The Law should only allow the Warehouse Receipts Board in consultation with Cashew Nut Board to inspect Warehouses</i></li> </ul>

		<p>nuts.</p> <p>The Warehouse Receipts Act has similar provisions that empower the Warehouse Board to inspect any warehouse.</p>	
13	<b><i>The Tea Act, 1997</i></b>	<p><b><i>Registration (s 14), licensing(Ss 15&amp;16)and inspection (Ss17 &amp;s 18</i></b></p> <p>The laws oblige dealers in tea to register their business and warehouse and possess a licence. The law further empowers the inspectors to inspect premises or any place where tea is processed. Like the other laws discussed above, this Act can also create overlapping provisions (powers) in matters relating to the inspection of premises with other laws such as TFDA Act due to the lack of clear cross-referencing. TFDA also has the power to inspect any food including tea</p>	<ul style="list-style-type: none"> <li>• <i>The Law should only allow TFDA in consultation with the Tea Board to inspect food products including tea. This can be done by amending this law to provide for cross-referencing with other laws</i></li> </ul>
14	<b><i>Warehouse Receipts Act</i></b>	<p><b><i>Registration (s 14), licensing(Ss 15&amp;16)and inspection (Ss17 &amp;s 18</i></b></p> <p>The Act provides for the mandatory registering and licensing of warehouses including those used for food products. The law further empowers the inspectors to inspect premises or warehouses. Like the other laws discussed above, this Act can also create overlapping provisions (powers) in matters relating to the inspection of premises with other laws such as the Cashew Nuts Act, Tea Act and other related laws.</p>	<ul style="list-style-type: none"> <li>• <i>The Law should only allow the Warehouse Board in consultation with other relevant Authorities to inspect warehouses.</i></li> <li>• <i>This can be done by amending this law to provide for cross-referencing with other laws</i></li> </ul>
15	<b><i>The Tanzania Coffee Industry Regulations, 2003</i></b>	<p><b><i>Registration and licensing(Part V &amp; VI) inspection &amp; Coffee Warehouse (section 59), Quality control (Ss17 &amp;s 18</i></b></p> <ul style="list-style-type: none"> <li>• Lack of cross-referencing provisions</li> <li>• Overlaps with TBS in matters relating to quality and</li> </ul>	<ul style="list-style-type: none"> <li>• <i>The Act needs to be harmonised with other laws through amendments and providing for cross-referencing</i></li> <li>• <i>The Law should only allow the Warehouse Board in consultation with other relevant Authorities to inspect warehouses</i></li> </ul>

		<p>standards</p> <p>The Act has many provisions relating to the registering and licensing of dealers in coffee. The law provides for the mandatory registering and licensing of warehouses including those used for food products. The law further empowers inspectors to inspect premises or warehouses. This Act can create overlapping provisions (powers) in matters relating to the inspection of premises with other laws such as the Warehouse Receipts Act, Standards Act, TFDA Act and other related laws.</p>	<ul style="list-style-type: none"> <li>• <i>The Law should only allow TBS in consultation with the Coffee Board to deal with the quality and standards of Coffee products</i></li> </ul>
16	<b><i>The Business Registration Act, 2007</i></b>	<p><b><i>Inspection</i></b> section 26(1) &amp; 27</p> <ul style="list-style-type: none"> <li>• Lack of legal cross-reference provisions and coordination.</li> <li>• Power of business registration and inspection of Premises.</li> </ul> <p>This Act can create overlapping provisions (powers) in matters relating to the registration of businesses and inspection of premises with other laws due to lack of clear cross-references</p>	<ul style="list-style-type: none"> <li>• <i>The Act needs to be harmonised with other laws through amendments and providing for cross-referencing</i></li> <li>• <i>All business activities should be registered only by BRELA in consultation with Local Government Authorities under this Act.</i></li> </ul>

## **6. CONCLUSIONS AND RECOMMENDATIONS**

### **6.1 Key Conclusions**

The study shows that generally regulations in the food processing sector are acceptable and have a number of benefits, including ensuring public safety, protecting the environment, correcting market failures and promoting fairness. However, the excessive number of regulations increases the costs of food processors due to duplication of regulatory functions and the fees charged by the regulators. The costs of regulations governing the food processing sector are excessively high, mainly because the regulatory responsibilities are fragmented across several different Government Ministries operating under different laws, with resulting overlaps and gaps. Based on the findings of the study the following key conclusions are made;

- i) While Tanzania has declared that it seeks to promote the private sector in its policies, the food processing sector is still highly regulated with at least 22 laws directed at the sector and 15 regulators governing it. The key challenge is therefore the issue of rationalising the regulations affecting the food processing sector without adding unnecessary costs and imposing an unnecessary burden on the private sector while ensuring that good business practices are in place.
- ii) The lessons drawn from other African countries indicate that the food processing sector is commonly regulated by a number regulators belonging to at least four different Ministries. However, all the countries studied appreciate the value of improving the regulatory framework for the food processing sector by introducing collaboration among regulators, developing the National Quality Infrastructure, raising awareness and providing education in the area of food safety, sharing lab facilities and analysis reports having a clear division of roles, promoting self-regulation and improving the state-business relationship.
- iii) Evidence from the interviews held with enterprises reveals that the majority of enterprises appreciate the value of regulations, but there are several concerns regarding their effect on business performance. Enterprises are concerned about the multiplicity of regulatory authorities, duplication of regulations and high cost of compliance. They feel that most regulators are motivated by revenue collection rather than facilitating enterprises to comply with the regulations. Some regulators charge fees in dollars.
- iv) The findings from the focus group discussions indicate that while regulations protect consumers' health, over-regulation causes several problems, including wasting enterprises' time in attending to and following up compliance issues, increasing costs for businesses due to multiple fees, increasing the number of informal operators, as well as bureaucracy and corruption. Regulators are therefore challenged to adopt business-like approach to transform their operations so that entrepreneurs are encouraged to comply voluntarily.
- v) The survey findings indicate that most enterprises generally recognise the importance of the regulations governing the food processing sector, as the majority of them were fairly satisfied with the services offered by the regulatory authorities. The enterprises surveyed indicated statistically that the regulations have a significant impact on performance and competitiveness of their enterprises. The main impingements on their competitiveness are the multiplicity of licensing and inspections, fees, delays and bureaucracy, multiple testing of products, cost of administration, lost sales, reporting requirements and increased prices.
- vi) The impact of regulations on firms and the industry as a whole is immense. While regulations increase costs and affect the competitiveness of firms they impact the whole industry in terms of the cost to industry, and the loss of sales, employment and taxes.

Based on the estimations made, the total compliance cost of the sector is TZS 100 billion, which is equivalent to 40% of the tax contributed by the sector. The tax lost due to compliance costs is estimated to be 30% of the total compliance cost, which is equivalent to TZS 33 billion per year.

- vii) Although the government has attempted to review regulations through the National Roadmap, this initiative has not been significantly beneficial to food processors because the speed of implementation of the proposed changes is slow and the food sector has not been given the special attention it deserves. Participation of the private sector in implementing the intended reforms is still limited and there are still a number of institutional weaknesses in the Regulatory Authorities that are not addressed in the Government Roadmap.

## **6.2 Key Issues Requiring Policy Attention**

From the analysis done by this study, the main regulatory issues that require policy attention and which guide the recommendations made in this proposal are as follows;

- i) ***The food processing sector is over-regulated mainly because of fragmentation and duplication of regulators' tasks and coordination failure.*** The lack of a clear mechanism for sharing the roles and responsibilities of regulators leads to the repetition of inspections, testing of products, certification, the issuing of permits and reporting. The source of this problem is regulatory ambiguity, as each Regulatory Authority has its own piece of legislation originating from the Ministry to which it belongs.
- ii) ***Rent-Seeking Behaviour originating from the liquidity problems facing the Regulatory Authorities.*** Due to budget constraints, Regulatory Agencies have been enhancing their efforts to raise revenues from their inspection and certification activities. Most agencies use their mandates to maximise revenue rather than facilitating food processors to meet regulatory requirements.
- iii) ***Weak and ineffective enforcement capacity of the Regulatory Authorities.*** Most Regulatory Authorities have limited human resource capacity, poor infrastructure and limited outreach. For example, due to limited human resource capacity, TFDA has delegated some of its enforcement functions to LGAs, usually Health Officers. However, Health Officers at LGAs have had limited training in food safety inspection, and because they have other duties, food safety is not their priority. TAEC is based in Arusha with limited outreach in other parts of the country. In addition, overlapping responsibilities have fragmented the capacity of existing laboratories which could benefit from economies of scale and scope. Due to their limited capacity, existing labs have not yet been accredited internationally.
- iv) ***The attitude of most Regulatory Agency staff is unsupportive of enterprises.*** In many instances, enterprises are harassed by the staff of Regulatory Authorities and are not treated as clients. Therefore, regulators are seen as the police rather than facilitators. The communication between the regulating authorities and enterprises is ineffective. As a result, most business enterprises lack adequate information on the requirements for compliance. The attitude of staff also contributes to unnecessary delays, bureaucracy and time being wasted.

v) **Enterprises' weakness in complying with regulations.** Although enterprises appreciate the value of regulating the food processing sector, some collude with inspectors, which encourage corruption. Some enterprises are not proactive in finding out about the regulatory requirements and ensuring that they comply before the intervention of regulators.

vi) **Inadequate capacity of the private sector to implement self-regulation.** As the role of the private sector in managing standards is critical, PSOs need to have the capacity to self-regulate in their respective sector. However, the PSOs have limited capacity for providing the necessary feedback and training their members in the required standards. PSOs are few and operationally limited, focusing mainly on the immediate concerns and interests of their members. Most of them depend on the meagre resources from their members.

### **6.3 Proposed Policy Actions**

In view of the findings of this study and their implications, a number of policy actions are recommended. The proposed actions aim to i) promote reform of the current regulatory system and improve coordination of the regulatory tasks ii) enhance the capacity of Regulatory Agencies so that they undertake their tasks more effectively iii) address specific constraints that limit the effectiveness of compliance with standards by the food processing sector iv) stimulate public awareness on food safety and quality standards v) encourage self-regulation and the participation of the private sector in regulatory activities vi) initiate a dialogue between the private sector and the government on how to improve the competitiveness of the food processing sector. The following policy actions are recommended for consideration by the Government, PSOs, enterprises and other stakeholders;

#### **i) Harmonise and coordinate the tasks of the Regulatory Agencies**

The management of food safety is a multi-sectoral affair, often involving several ministries and local governments. This requires effective harmonisation and coordination of regulatory activities that would be achieved by amending the laws that cause duplication of regulations through the provision of cross-references and the joint enforcement of specific regulatory tasks. Although all the regulations cannot be harmonised at the same time the areas providing opportunities for the harmonisation of regulations are as follows;

- Harmonisation of the business registration and licensing activities stipulated in: the *Business Licensing Act, of 1972 Cap 208, [R.E, 2002]*; *Business Names Registration Act (Cap 213)*; *Industrial Licensing and Registration Act, 10 Cap 46 [R.E, 2002]*; *Tanzania Food, Drugs and Cosmetics Act, 2003, Section 18*; *The Explosives Act, 56 Cap 45, [R.E 2002]*; *Fisheries Act, 22 of 2003*; *the Cashew nut Industry Act, 2009, section 12(1)*; *the Coffee Industry Act, 2001, section 12(1)*; and *the Tea Act, Cap 251, [R.E, 2002]*. Business registration and business licensing can be harmonised through cross-referencing where the food processor after fulfilling all the conditions is registered only by BRELA and TFDA. For processors to be registered by TFDA they must comply with the requirements of the industrial licence, EIA and quality requirements that ensure good manufacturing practices. Additionally, business registration and business licensing can be harmonised through cross-referencing where the food processor after fulfilling all the conditions is registered through one mandated Institution. The Regulatory Authorities should be supported to undertake some joint registration and licensing processes electronically.

- Harmonisation of the premises inspection activities stipulated in *the Tanzania Food, Drugs and Cosmetics Act, 2003, Sections 5 (2) (f), 18, 19, 20, 105 and 106; the Standards Act, 2009, Section 4 (2) (b); the Dairy Industry Act, 2004, section 10 (r), (s); Occupational Health and Safety Act, 2003, Sections 24 (1) - (4) and 64 (3), the Business Registration Act, 2007, section 26(1), Local Government District Authorities Act (Cap 287, R.E 2002), Local Government Urban Authorities Act (Cap 288, R.E 2002); the Environmental Management Act, Section 81; and the Public Health Act of 2009, 5(g), 7(a) and 118. Harmonisation of inspections could be achieved in one or a combination of the following ways; a) inspection of premises by TFDA, TBS, TDB, OSHA, Health Officers and NEMC to be carried out concurrently. This implies that regulators form a team of competent inspectors made up of representatives from each Agency that would jointly carry out the regulatory tasks of inspections and then share the results. b) LGAs should not be given power to inspect the premises of food processors that have already been inspected by TFDA and TBS, but instead LGAs would inspect informal food processors and traders c) With the exception of OSHA and NEMC, whose roles are quite specific, other regulators should share the inspection reports so as to limit the multiplicity of inspections d) registration and inspection of factories/premises used for food processing should be done by TFDA in consultation with other relevant regulatory authorities.*
- Harmonisation and coordination of products testing. The laws establishing the agencies involved in product testing provide for the establishment of “a system of consultation and cooperation” as stipulated in the *Tanzania Food, Drugs and Cosmetics Act, 2003, Section 5 (2) (f), 18 & 20; the Standards Act, 2009, Section 4 (2) (b); Protection from Radiation Act, Section 1983, section 14(10); and the Dairy Industry Act, 2004, section 10 (r), (s). The following ways could be used to improve the harmonisation of product testing a) TBS, GCLA and TFDA to conduct product testing concurrently b) TBS focuses on setting the product quality standards and TFDA enforces the quality standards and sets the safety standards c) Once the product is tested by one of the regulators, the result should be shared with all regulators. In line with this proposal, there is also a proposal for introducing autonomous inspectorate body to be established which will approve competence and will operate under international best practices and carry out inspection on behalf of other bodies. To improve harmonisation of product testing; there should be established autonomous laboratories operating on international best practices proved by accreditation. This laboratory will provide testing services to facilitate requested services and Autonomous Standard setting body.*
- The Government to establish the national accreditation system to support upgrading of laboratories and the inspection bodies to the International best practices and reduce cost for seeking these services from other countries.
- Coordination of licences and permits that relate to food hygiene and premises could be improved by introducing cross-referencing and introducing clauses that allow one authority to recognise the permit of authorities carrying out similar functions. For example, the permits and certificates issued by TFDA could be recognised by TBS, GCLA and LGAs. More specifically, a premises licence given by TFDA could be recognised by TBS and a product permit given by TBS could suffice for providing the food processor with a permit to operate. GCLA and LGAs should not perform this role.
- Coordination of EIA and inspections of environmental compliance stipulated in *Environmental Impact Assessment Act, 2004, section 8, Industry and Consumer Chemicals Act, 2003, the Sugar Industry Act, 2002, section 47 and the Fisheries Act, 2003, section 52, the Public Health Act, 2009. NEMC should be mandated to conduct*

EIA and do inspections for environmental compliance in consultation with other relevant authorities.

- The review of regulations should be supported by the Regulatory Impact Assessment (RIA) so as to consolidate the gains made in the reform process and prevent the introduction of a new regulatory burden. Taking advantage of the “consultation and cooperation” provisions of various laws, the RIA methodology should be institutionalised on an inter-agency basis. This will allow for mutually beneficial policymaking and management in terms of food safety and the health of the three key players: consumers, private enterprises and the government.

### ***ii) Review the budget allocated to Regulatory Agencies***

Secure adequate funding to strengthen the Regulatory Agencies and lessen the possibility of regulatory capture. To this end, a funding model is needed to ensure that regulators have the resources to carry out the tasks entrusted to them. In many instances, regulators are funded through a combination of public revenue and fees and penalties paid by industry. However, the limited funding available to Regulatory Agencies is closely related to the problem of their rent-seeking behaviour. In order to address this concern, the following recommendations are made;

- Increase the budget allocated to Regulatory Authorities and promote the collaborative model of funding regulators. This model allows for more adequate cost sharing where the government meets the cost of infrastructure, staff development, operational costs and other incidental costs. The clients, in this case enterprises, meet the costs of the materials used in product analysis and pay the necessary fees rather than regulators attempting to maximum revenue through the fees charged.
- Harmonise the process of implementing regulatory functions and collaboration in some activities as proposed in this report so as to increase economies of scale and reduce the compliance cost of enterprises.
- Establish one-stop centres for key regulators where enterprises accomplish all the necessary processes for compliance. This would enable enterprises to share some resources and minimise the fees charged to enterprises.

The proposed actions are in line with the national economic empowerment policy that states that business licensing should be used as a means of coordinating and monitoring economic activities rather than as a source of income. It would also mean that Regulatory Authorities remain regulators only rather than collecting fees from enterprises and shrinking the economy.

### ***iii) Improve the human resource capacity of the Regulatory Agencies***

Human resource development is one of the key needs of Regulatory Agencies in Tanzania as most regulators have a shortage of qualified personnel. The preventive approach requires inspectors to have substantial knowledge of various fields and areas. It is therefore necessary to set up suitable training programmes for inspectors and other technical staff, whose work requires technical skills and investigative methodology. Some of the ways that could be used to build the capacity of the human resources in the Regulatory Authorities are as follows;

- Enhance the human capacity for risk management and improve quality. An effective standards system requires adequate and sound technical skills for controlling, surveillance, diagnosis, inspection, certification, and risk management. Since this all entails costs that may not be affordable by the Regulatory Agencies, there is a need to revisit the funds made available to the Regulatory Agencies and increase the budget for capacity building depending on the priority areas identified by them.



- Improve the attitude of staff policing the enterprises to have a risk-based management approach. The success of any reform process not only depends on changing the laws but also the attitude of the regulators. If regulation is seen as a policing operation to identify and control improper conduct, especially where there is deep suspicion of the private sector, it is likely to be counterproductive. The new approach should therefore stress the role of standards in overcoming information asymmetry and reducing the transaction costs of firms, thereby promoting broader compliance and participation. The attitude of the staff of Regulatory Authorities could be improved through developing and enforcing a professional code of conduct, improving staff incentives, enhancing feedback and communication mechanisms between enterprises and regulators and training all staff in customer care. This would improve the relationship between the regulators and their clients and enhance voluntary compliance.

#### ***iv) Share facilities and infrastructure owned by regulators***

The laboratories owned by Regulatory Agencies do not cover the whole country; they are sometimes understaffed, and are too few in number, leading to delays in following the procedures. In order to meet the imperatives relating to analyses on time and their reliability, it is necessary to bring the laboratories closer to the inspection stations, and to make the laboratory accreditation mechanisms more dynamic. Therefore, sharing testing facilities and test results will enable the accredited laboratories to satisfy more clients at a lower cost. This would ensure the long-term goal of food safety by strengthening multi-disciplinary laboratory collaboration. In order to achieve this, the following proposals are made;

- The government should fund the modernisation of selected labs, for instance those of TBS, TFDA and GCLA, to ensure that they are ISO accredited for performing product testing and analyses, produce the results of which should be shared by all other regulators. This could be the foundation for building an integrated laboratory system for the advancement of public health. Integrated laboratories would advance the sharing, equivalency and acceptability of laboratory results in support of public health goals.
- Consider cooperative agreements between the Regulatory Agencies that would enhance the greater sharing of results from the accredited laboratories. Such cooperative agreements would encourage a coordinated effort resulting in a more rapid and effective response to clients. Establishing clear procedures and points-of-contact for information sharing and joint enforcement efforts would further enhance the effectiveness of the existing labs. The authorised regulators could develop and implement a process to electronically send data directly from certified laboratories to other regulators.

#### ***v) Shift from end-product to performance and process-based regulatory standards***

Most Regulatory Agencies have been focusing largely on certification, product testing, market surveillance and other control activities. For more effective regulations that would enable Tanzania to achieve the goal of fully protecting public health, regulators ought to shift their emphasis from measures targeting outcomes (e.g. quality of products) to performance and process-based measures (i.e., imposition of specific quality assurance methods). The change in regulatory orientation is justified on the grounds that regulators would become facilitators rather than police. Process-based regulations shift the primary responsibility for safety from the government to the private sector (since the government becomes the auditor of the industry's own programmes). This is sometimes referred to as a move from a "command and control" approach to one stressing a responsible private sector. The proposed approach would be based

on preventive mechanisms involving both regulators and enterprises. In order to formulate process-based regulations the following actions are proposed;

- Regulators should have frequent consultations with enterprises to provide them with coaching and guidance on how to comply with quality and safety requirements in the entire process of processing and preparing food for human consumption.
- Regulators need to prescribe exactly what actions regulated entities must take to improve their performance and share the checklist of actions with enterprises. This could be done through frequent forums organized between regulators and the regulated. There is a need for food processing sector to adopt ISO 22000 (the Food Safety Management Systems which include Hazard Analysis Critical Control Point and Good Hygienic Practice), and ISO 14000 (the Environment Management System for continuity and consistence in Quality and Safety compliance). The adoption will ensure self regulatory system within the industry.
- The government should support a continuing programme of training, retraining, and skills upgrading in basic hygienic practices in food processing, such as Hazard Analysis and Critical Control Points (HACCP), Good Agricultural Practices (GAP) and Good Manufacturing Practices (GMP).

#### ***vi) Encourage enforced self-regulation to support standards management***

Enforced self-regulation is a mix of state and business regulatory efforts to ensure that standards are complied with. The government lays down broad standards which companies must then satisfy with the support of the private sector organisations. PSOs are expected to have procedures in place to deal with non-compliance and regulators would play a regulatory role as they oversee businesses' efforts to self-regulate and would impose public sanctions for non-compliance. Therefore, instead of the government and the food processing industry continuing to fulfil the traditional and adversarial roles in the regulatory system, the government and the industry would look at one another as partners as neither party would be able to ensure food safety independently. Also, as the quality of the processed food is affected by the quality of the raw materials, self-regulation would allow processors to manage quality throughout the production process, much like in other food processing facilities. The regulators therefore would afford PSOs the flexibility to devise systems and rules which would enable food processors to meet the broad standards in the value chain. The efforts of regulators would then be directed at those sub-sectors, which are either unable or unwilling to effectively self-regulate. For this to be achieved the following proposals are made;

- The government to identify PSOs that could facilitate self-regulation in their specific sub-sectors and build their capacity to do so. These include TAMPA in the food processing sector, Tanzania Association of Food Processors (TAFOPA) in the SMEs sector, Tanzania Edible Seeds Associations (TEOSA) and CTI for large manufacturers, etc.
- Self-regulation to be promoted at the company level where the labs of big food processors are accredited by regulators and audited from time to time. This would lead to the enhanced capacity of food processors to comply and to less inspections that would ultimately reduce the cost of complying with regulations.
- Enterprises, especially SMEs, to be trained in the requirements of food safety and food hygiene, and encourage them to comply voluntarily. Updates on food safety and food hygiene matters and encouraging food processors to behave responsibly would reduce the number of fines and penalties imposed on enterprises that fail to comply.

#### ***vii) Public education and consumer awareness***

To enable consumers to play a more effective role in protecting themselves from food-borne diseases and supporting regulators in identifying sub-standard products, health education is essential. When consumers are quality and safety conscious, they are able to complement the efforts of food control agencies in encouraging the food industry to provide good quality and safe food. In some instances, consumers encourage food processors to sell unsafe food as they buy it mostly because of ignorance of the safety requirements of foodstuff. For instance, consumers should be aware of checking things like the expiry date, food content and some basic safety requirements. If the government agenda is to really protect public health, there is a need to offer consumer education as there is plenty of food sold by informal sellers, which is sometimes unprocessed and sometimes unsafe. Therefore, the following actions are proposed;

- The Regulatory Agencies should design consumer education programmes and mobilise resources to fund the programmes in their mandated areas. This requires the government's commitment to support such programmes.
- Regulators should work with PSOs and other stakeholders to raise awareness of food safety and food hygiene issues. This could be done through mass media programmes that reach a large number of food consumers.
- The Government should support establishment of a strong Consumer Association body responsible for consumer issues regarding to quality and safety of products. The same will also inform the government about consumers' dissatisfaction on quality and safety of the products in the market. There is a need to learn from other countries on the structure and performance of the consumer associations.

#### ***viii) LGAs to focus largely on regulating informal food processors***

Most micro and small food processors are not regulated by the Regulatory Agencies responsible for governing the sector, although these processors and informal food sellers sell unprocessed food to people. For example, only 2% of processed milk is sold by formal processors and therefore controlled by the Regulatory Agencies, the remaining 98% of milk being consumed directly from the farm or sold by informal milk vendors. A lot of food products are currently being manufactured by entrepreneurs and small businesses in residential homes and back yards where sanitary conditions are lacking. These conditions pose a risk to consumers and limit the ability of committed entrepreneurs to expand their businesses. Whilst this is often recognised by the processors, their options for remedying the situation are very limited. Unfortunately, nobody is governing informal food processors and food vendors, as LGAs still concentrate on the formal processors who are already accredited by TBS and TFDA. This not only adds costs to formal food processors, but it also encourages informality and increases the risk of many people eating unsafe food. On the basis of this, the following recommendations are made;

- The role of LGAs should be redefined so that they focus mainly on strengthening the food quality control capability local informal food processors and ensure that they sell safe food.
- The LGAs should focus on improving the conditions under which street food is prepared and sold and improving vendors' knowledge about sanitation and food hygiene and the nutritional value of different types of food through education and training.
- LGAs should also make consumers aware of the nutrition and hygiene of street food and create a mechanism of effective feedback and communication from consumers.

#### ***ix) Promote public-private dialogue and Private-Public Partnership***

Improving quality management is a continuous process that requires a sustainable dialogue between policymakers and government administrators, regulators, food processors and other

interest groups (exporters, producers, consumers, etc.) at the national level. One of the issues requiring public-private dialogue is on the role of the private sector in implementing quality standards in the entire food chain. This approach requires the various stakeholders responsible for implementing these measures (including food Regulatory Agencies, associated government agencies, farmers and producers, business operators, vendors and consumers of food) to have the necessary knowledge, skills and abilities. Further, an essential element of a co-regulatory approach is cooperation between the public and private sector in creating and enforcing regulations. On the basis of this, the following recommendations are made;

- PSOs dealing with food processing should establish a working group of stakeholders who will promote continuous dialogue between the private and public sector. The role of PSOs would be to continuously inform the government on the regulatory challenges, to provide feedback to their members on the changes happening in the regulatory system and to participate in facilitating the implementation of good practices.
- Regulators should explore ways of effectively accrediting and/working with private laboratories to perform basic analyses of samples. This is a long-term proposal, whereby the mechanism of using private laboratories is developed to ensure that they increase efficiency and reduce costs to enterprises. It requires the right institutional setting, the capacity of private laboratories to be in place and the cost and contribution of the government to be made clear.

#### ***x) Initiate the reform process***

Based on the observations made in this policy proposal, it is recommended that the reform process should be initiated immediately for the food sector to become competitive not only in Tanzania but also in the region. This calls for the joint efforts of CTI, other PSOs, regulators and the other key stakeholders. In view of this, the following proposals are made;

- CTI should initiate the process of consulting with regulators to facilitate the preparation of the draft bills (layman's Draft Bills) to be submitted to the relevant Sector Ministries. The private sector would have to dialogue with these Ministries in order to prepare the cabinet paper to be submitted to the Cabinet, and then the formal process of reviewing the laws would follow. Since most regulations are made by the Ministries responsible, it is recommended that the proposed amendments of Regulations or new Regulations should be submitted to the appropriate Ministers. The best strategy is to prepare Draft Regulations (layman's Draft Regulations) and submit these to the Minister responsible, who would then submit them to the Attorney General (Chief Parliamentary Draftsman) for refinements and finalisation before signing and gazetting.
- The processes that do not require a change in the law, such as collaboration between regulators stipulated in the legislation, should immediately be implemented by the appropriate regulators. Therefore, it is recommended that regulators dealing with food processing meet and discuss the strategies they could use to enhance collaboration among them. This could be a humble beginning of collaboration and harmonisation of the overlapping regulatory tasks and processes. Since all regulators have a recognised role and independent mandates, it is proposed that initial forums be organised so that CTI and other PSOs in the sector and regulators are able to come together.
- Each regulator reads the report identifies issues that are within their control and start addressing them. For example, regulators need to start addressing the issues of relationship with enterprises, customer service, communication issues, improving attitude of staff and enhancing the facilitation and coaching roles.
- CTI to ensure that the recommendations given in this report are forwarded to the government to be used as input in the on-going formulation of Food Quality and Safety

Policy. This policy will necessitate the review of the existing laws and regulations and minimize if not remove the overlapping.

### 6.3.1 Recommendations on the Implementation of the Proposed Policy Actions

The regulatory reform process should be coordinated under the Prime Minister's Office in order to get a strong political support and address most issues that cut across several Ministries. The strength of the Prime Minister's Office lies in the fact that it does not have any inclination to a particular Ministry. The other advantage of using this strategy is that the proposed changes can be mainstreamed into the ongoing implementation of the National Road Map which is under the Prime Minister's Office. However, for the purpose of effective implementation of the proposed changes there is a need to ensure that Regulatory Agencies, PSOs and Ministries hosting various Regulatory Agencies participate in the process. On the basis of this, Table 9 indicates the key change agents to be involved in the reform process.

**Table 9: Proposed Policy Actions and Change Agents**

S/N	Proposed Policy Action	Proposed Change Agents
1	Harmonise and coordinate the tasks of Regulatory Agencies	PMOs, Regulatory Agencies (TFDA, BRELA, TBS, NEMC, OSHA, TDB GCLA, TAEC), MOH, MIT, MOF, Attorney General (Chief Parliamentary Draftsman), National Assembly, Crop Boards and Other relevant Government Departments
2	Review the budget allocated to Regulatory Agencies	PMOs, MOF, MOH, MIT, TRA, Regulatory Agencies (TFDA, BRELA, TBS, NEMC, OSHA, GCLA, WMA)
3	Improve the human resource capacity of Regulatory Agencies	MOF, Regulatory Agencies (TFDA, BRELA, TBS, NEMC, OSHA, GCLA, WMA, TAEC)
4	Share facilities and infrastructure owned by regulators	Regulatory Agencies (TFDA, TBS, GCLA), MOF, MOH, MIT and Other relevant Government Departments
5	Shift from end-product to performance and process-based regulatory standards	Regulatory Agencies (TFDA, TBS, GCLA), MOF, MOH, MIT
6	Encourage enforced self-regulation to support standards management	Regulatory Agencies (TFDA, BRELA, TBS, NEMC, OSHA, GCLA, WMA)
7	Public education and consumer awareness	Regulatory Agencies (TFDA, BRELA, TBS, NEMC, OSHA, GCLA, WMA, TAEC)
8	LGAs focus largely on regulating informal food processors	LGAs, PMOs, PMO-RALG
9	Promote public-private dialogue and Private-Public Partnership	PSOs involved in food processing (CTI, TCCIA, TWCCIA, TAESA, TAMPA, TAFOPA, TAEC), TNBC, TPSF, Regulatory Agencies, PMOs & LGAs
10	Initiate the Reform Process	CTI, PSOs involved in food processing (CTI, TCCIA, TWCCIA, TEOSA, TAMPA, TAFOPA), TNBC, TPSF, Regulatory Agencies (TFDA, BRELA, TBS, NEMC, OSHA, GCLA, WMA, TAEC), PMOs, LGAs,

As a way of initiating a strategic dialogue, CTI is advised to circulate the policy brief from this document to key change agents and selected champions who are likely to support the reform process. A wide circulation of the report could also enable the association to communicate the challenge to all key stakeholders and establish collaborations that will facilitate envisaged actions to be taken.

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## Appendix 1: Questionnaire for Enterprises

### CONFEDERATION OF TANZANIA INDUSTRIES (CTI) REGULATORY FRAMEWORK IN THE FOOD PROCESSING SECTOR

#### Introduction

The purpose of this questionnaire is to seek your objective opinions regarding the regulatory framework governing the food processing sector. The evidence to be generated through this questionnaire will be used to develop a policy proposal that aims to influence the government to review and rationalize the regulatory system in the sector. Please take a few minutes to fill in the questionnaire and ensure that you provide us with reliable data for producing an appealing report and policy proposal.

#### Section 1: Demographic Data

1. Sub-sector to which your business belongs (tick in the space provided)

Fish processing		Fruit processing	
Grain milling		Biscuits and baked food	
Milk processing		Manufacturing of canned food	
Edible oil processing		Sugar processing	
Confectionery		Beverages	
Others: List them			

2. Which regulators do you consider to be relevant in the food processing sector?

	Very Important	Important	Somewhat Important	Unimportant	Very Unimportant
Business Registration and Licensing Agency (BRELA)					
Tanzania Bureau of Standards (TBS)					
Tanzania Food and Drug Authority (TFDA)					
National Environment Management Council (NEMC)					
Occupational Health and Safety Authority (OSHA)					
Local Government Authority (LGA)					
Weights and Measures Authority					
Fire and Rescue					
Veterinary Department					
Ministry of Health					
Tanzania Atomic Energy Commission					
Tanzania Dairy Board					
Fisheries Department					
Others (please state them)					

3. Kindly rate your level of satisfaction with the services of the following regulatory authorities

	Very Satisfied	Satisfied	Somehow Satisfied	Dissatisfied	Very dissatisfied
Business Registration and Licensing Agency(BRELA)					
Tanzania Bureau of Standards (TBS)					
Tanzania Food and Drug Authority (TFDA)					
National Environment Management Council (NEMC)					
Occupational Health and Safety Authority (OSHA)					
Local Government Authority (LGA)					
Weights and Measures Authority					
Fire and Rescue					
Veterinary Department					
Ministry of Health					
Tanzania Atomic Energy Commission					
Tanzania Dairy Board					
Fisheries Department					
Others (please state them)					

4. Kindly indicate the estimated monetary value (*and show whether it is significant or not significant*), and then indicate the time taken to complete the following regulatory activities in the business.

<b>Regulation/Activity</b>	<b>Cost (TZS)</b>	<b>The cost is significant</b>	<b>The cost is not significant</b>	<b>Time taken to complete the process (days)</b>
<b>1. Starting the business</b>				
Formulation of MEMAT				
Site inspection				
Building permit				
Premises inspection				
Business registration and licensing				
Registration of machinery				
Installation inspection				
Depot registration				
Vehicle inspection & registration				
Environmental Impact Assessment				
Provisional tax / TIN				
<b>2. Operating the business</b>				
Premises inspection				
Vehicles inspection				
Equipment inspection				
Fire inspection				
Installation inspection				
Weights and measures inspection				
Workers' health inspection				

Manufacturers' licence (annual)				
Product testing & registration				
Evaluation of the product promotional materials				
Annual payments (licence/permits)				
Laboratory sample analysis				
Product quality standard testing				
Product standard certification (annual)				
Fire inspection fee				
Local government levies and contributions				
Company returns				

5. Indicate the extent to which the following factors hinder competitiveness of your business (*Tick the appropriate answer*)

	Very Significant	Significant	Somehow significant	Not significant	Not significant at all
Multiple licences and permits					
Site inspection					
Business registration fee					
Multiple inspection of premises					
Delays and bureaucracy caused by regulators					
Fees charged by regulators (annual payments)					
Multiple testing of products					
Cost of administering the regulation					
Cost of lost sales due to restricted access to markets					
Cost of vehicle and equipment inspections					
Repetition of similar regulatory functions					
Cost of meeting the reporting requirements					
Rent-seeking behavior (corruption)					
Increased product prices due to regulations					
Local government fees					
Fire inspection fees					
Reduced product range due to regulations					
Cost of reduced sales due to limited access to market					
Others: Please specify					

6 Kindly estimate the impact of the regulatory framework on your business in terms of;

Impact	Estimated figure
Sales lost (Tshs)	
Employment lost (number of people)	
Capital lost (Tshs)	
Machine capacity lost( hours)	
Exports lost (Tshs)	
Time lost per year (days)	
Taxes lost (Tshs)	
Others: Specify	

7 . Please provide the following data about your business

Year of establishment		Number of full-time employees	
Turnover in 2011 (Tshs)-Estimates		Number of part-time employees	
Capital investment (Tshs)*		Location (district)	
Form of business ownership*		Annual total operating costs of your business	
Annual pay to staff/consultant responsible for compliance			

\*Capital investment excludes investment in properties

\*Form of ownership: sole proprietorship, company or partnership

8. Suggestions on how best the regulatory framework for the food sector could be improved

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9. Name of the Company

(Optional): \_\_\_\_\_

10. Title of the respondent (Optional):

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11. Contact of the Respondent (Optional):

\_\_\_\_\_

11. Name of the Data Collector:

\_\_\_\_\_

**THANK YOU FOR YOUR COOPERATION**

## *Appendix 2: ISSUES OF DISCUSSION WITH AGI*

1. Description of regulatory system for the food sector in Ghana – who are the major regulators, which acts established them and how do they function?
2. What has been done in the last ten years to review the regulations in Ghana? Any specific harmonization in the food sector? How was it achieved?
3. What challenges are still there and how are they being addressed?
4. How is the regulatory framework coordinated in the food sector?
5. How are the Private Public Partnerships working in Ghana especially in the food sector?
6. What is the process of reviewing regulations in Ghana? (if you have any specific example, it will add value)
7. How are different regulators coordinated in the food sector? What are challenges of coordinating them and how these challenges are addressed?
8. How is Ghana compared with other West African countries in terms of business environment in the food sector?
9. Documentation of acts and regulations in the food sector