PRACTISE OF REFORMING THE BUSINESS ENVIRONMENT:
The Case of Business Environment Strengthening for Tanzania Programme (BEST)

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by

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EXECUTIVE SUMMARY

This paper presents practical experiences in implementing reforms for improving the business environment using the Programme for Business Environment Strengthening for Tanzania (BEST). The paper starts with a brief background on some of the key economic reforms undertaken in Tanzania so far that are of significance and relevancy to the business environment and the private sector development in Tanzania. It also presents the local dimension to business and private sector concerns in Tanzania elaborating practical experiences, lessons learned, and challenges faced in the implementation of the BEST Programme.

Tanzania has come a long way in its efforts towards socio-economic development, and in transforming its economy from a state-led to a market oriented economy. A few years after independence in 1961, Tanzania chose the path of African socialism and self-reliance for national development. Under this path, almost all means of production and exchange were put under direct control of the State. As a result, major businesses were nationalized, and almost all private sector activities and private sector investments were suppressed.

Although the Policy of Socialism and Self-reliance recorded marked achievement in social development in the 1970s and early 1980’s especially in primary education, health services delivery as well as water supply and sanitation, the crowding out the Private Sector by the State led to an economic melt-down marked by a number of macro-economic imbalances, and consequently an economic crisis that lasted for over a decade.

Responding to the economic crisis, Tanzania since the mid 1980s has been undertaking a series of economic reforms, starting with Structural Adjustment Programmers that were followed by Economic Recovery Programme, and a series of reform programmes. Despite all these efforts the private sector remained weak, and was not fully recognized as a partner to economic development. The significance of the private sector in economic growth became obvious and recognized in 1990s. Since then, a number of initiatives were undertaken to strengthen and widen the role of the private sector in socio-economic development. At the national level, the Vision 2025, and its implementation tool, Poverty Reduction Strategy, and the subsequent National
Strategy for Growth and Poverty Reduction (NSGPR), popularly known in Kiswahili as MKUKUTA, that have were charted out emphasizes the significance of the private sector as the engine for growth in Tanzania. MKUKUTA places high priority on accelerating broad based growth by developing the sectors where the majority of the poor are found and those with the highest growth potential. Private sector development has been accorded special attention, as it is expected to contribute to realizing the national goals of accelerating growth, creating wealth, and reducing poverty.

With a view to facilitating the private sector to contribute effectively towards socio-economic development, an enabling business environment has been identified as among the key drivers. The policies and reforms that have been undertaken so far, have enabled Tanzania to put in place a stable fiscal and macro-economic framework for private sector growth. Nonetheless, there are certain areas that need further improvements so as to unleash Tanzania’s economic potential, including further improvements in the business regulatory environment. Currently, there are many legal requirements that were left over from the colonial and socialist era that create barriers to business and the private sector, while services rendered to the private sector by the public sector are still hamstrung by red tape, and lengthy bureaucratic procedures.

To further improve the business environment, while responding to these regulatory needs, the Government of the United Republic Tanzania with the support of four Development Partners namely; the Government of Denmark, through the Danish International Development Agency (DANIDA), the Government of Sweden through the Swedish International Development Agency (SIDA), the Government of Netherlands, and the Government of United Kingdom through the Department For International Development (DfID) embarked on implementing the Business Environment Strengthening Programme for Tanzania (BEST). This is a nationwide and cross-cutting Programme aimed at ensuring that Tanzania becomes a favorable place to do business for both local and foreign investors.

The BEST Programme is still in its initial stage of implementation, given that full fledged implementation started only in February, 2005. In this short, the programme has recorded marked achievement in creating practical space, and an opportunity for the private sector to contribute to policy and legislative processes. The programme
has managed to foster a true Public-Private Partnership spirit and thus, ownership of, and commitment to the Programme by both the public and private sectors. The participatory approach embedded into the implementation structures of the BEST programme has facilitated practical translation of decisions made at higher levels into concrete actions at implementation levels in a participatory manner, while providing for an effective feedback mechanism, accountability, transparency and good governance. (e.g. the BEST Programme provides for an avenue for realizing deliberations/decision made by the Tanzania National Business Council).

In addition, and more importantly, the programme ability to bring together a number of Development Partners with diverse policies and procedures to agree and use unified procedures is a testimony of a functional model of harmonized procedures. Whereas the BEST programme is funded by four Development Partners, its implementation is based on unified procedures. These unified procedures have facilitated smooth and timely implementation of activities, and therefore, paving the way to the realization of programme targets and milestone at the envisaged pace.

Although the BEST Programme has managed to record the above-mentioned achievements, there are a number of challenges being faced, that emanate from the cross-cutting nature of the Programme, as well as the status and infancy of the private sector in Tanzania. Of great challenge, is the lack of capacity of Small and Medium Enterprises to fully take advantage of the reforms under the BEST Programme. Another challenge is lack of cross-cutting statutory mandate that is necessary for the Implementation and Coordination Unit to oversee and ensure quality of the intended results. With regard to the later challenge, it is expected that as implementation of the BEST Programme continues, stakeholders will see the need to intervene by equipping the implementation and coordination unit with the requisite statutory mandate.
**ABBREVIATIONS**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>ACMA</td>
<td>Advocacy Component Management Agent</td>
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<td>BEST</td>
<td>Better Regulation Unit</td>
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<td>BR</td>
<td>Better Regulation</td>
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<td>BSC</td>
<td>Best Steering Committee</td>
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<td>BSPS</td>
<td>Business Sector Programme Support</td>
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<td>CCG</td>
<td>Changing the Culture of Government</td>
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<td>CDR</td>
<td>Commercial Dispute Resolution</td>
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<td>CTI</td>
<td>Confederation of Tanzania Industries</td>
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<td>DANIDA</td>
<td>Danish International Development Agency</td>
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<td>DFID</td>
<td>Department for International Development</td>
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<td>ERP</td>
<td>Economic Recovery Programme</td>
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<td>ESAP</td>
<td>Enhanced Structural Adjustment Programme</td>
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<td>FSRP</td>
<td>Financial Sector Reform Programme</td>
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<td>IF</td>
<td>Integrated Framework</td>
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<td>LGRP</td>
<td>Local Government Reform Programme</td>
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<td>LSRP</td>
<td>Legal Sector Reform Programme</td>
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<tr>
<td>M &amp; E</td>
<td>Monitoring and Evaluation</td>
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<td>MDAs</td>
<td>Ministries, Departments and Agencies</td>
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<td>NESP</td>
<td>National Economic Survival Programme</td>
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<td>NSGPR</td>
<td>The National Strategy for Growth and Poverty Reduction</td>
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<td>PASS</td>
<td>Private Agricultural Sector Support</td>
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<td>POPP</td>
<td>President’s Office, Planning and Privatisation</td>
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<td>PPP</td>
<td>Public Private Partnership</td>
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<td>PSA</td>
<td>Private Sector Advocacy</td>
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<td>PSD</td>
<td>Private Sector Development</td>
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<td>PSRC</td>
<td>Parastatal Sector Reform Commissioned</td>
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<td>PSRP</td>
<td>Public Service Reform Programme</td>
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<td>RIA</td>
<td>Regulatory Impact Assessment</td>
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<td>SAP</td>
<td>Structural Adjustment Programme</td>
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<td>SIDA</td>
<td>Swedish International Development Agency</td>
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<td>SMEs</td>
<td>Small and Medium Enterprises</td>
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<td>TCCIA</td>
<td>Tanzania Chamber of Commerce, Industry and Agriculture</td>
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<td>TGNP</td>
<td>Tanzania Gender Networking Programme</td>
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<td>TIC</td>
<td>Tanzania Investment Centre</td>
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<td>TNBC</td>
<td>Tanzania National Business Council</td>
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<td>TPSF</td>
<td>Tanzania Private Sector Foundation</td>
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<td>TRC</td>
<td>Tripartite Review Committee</td>
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<td>TWGs</td>
<td>Technical Working Group</td>
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1.0 INTRODUCTION

1.1 Purpose the Paper

The purpose of this paper is to share practical experience in implementing reforms for improving the business environment using the Programme for Business Environment Strengthening for Tanzania (BEST) as an illustration. This paper begins with a brief background on some of the key economic reforms undertaken in Tanzania with a specific focus on how the business environment and the private sector have evolved over the past two and a half decades of market liberalization.

Upon this background the paper presents the local dimension to business and private sector concerns in Tanzania elaborating practical experiences, lessons learned and challenges faced in the implementation of the BEST Programme. The paper ends by presenting issues for discussion.

1.2 Historical Background

Since independence, in December 1960, Tanzania has come a long way in its efforts towards socio-economic development. Five years after independence, Tanzania chose the path of socialism and self-reliance for national development. This policy was marked by the promulgation of the Arusha Declaration in 1967. Almost all means of production and exchange were put under direct control of the State. Under the Arusha Declaration, almost all private sector activities and private sector investments were suppressed, while major businesses were nationalized.

Nationalization at the time was considered essential so as to attract investments in areas that were considered important to national development. Emphasis was placed upon investments in strategic developmental areas and in areas that were neglected during the colonial area, especially the provision of social services in rural and urban areas.

In order to take forward and realize the goal of the Arusha Declaration there was an extensive involvement of the State in production and commercial activities. Among the strategies used was the establishment of many of State Owned Co-operations also
known as Parastatals to carry out productive and commercial activities as well as provide essential services.

Under these initiatives, the State recorded marked achievement in Social Sector development in the 1970s and early 1980's especially in primary education, health services delivery as well as water supply and sanitation. Nonetheless, over time, the State owned Cooperation and Parastatals become inefficient producing extremely below capacity. The situation was aggravated by poor management, which led to high rates of resources utilization (both financial and human) that did not match the outputs produced. Eventually, most of them collapsed.

It should also be noted that most of these State Owned and Parastatals operated as monopolies under heavy State intervention and influence. Under these conditions the Co-operations and Parastatals did not operate according to market principles but according to the needs of the State. As a result, business acumen and entrepreneurship were not fostered. When they collapsed the State was still in control to the extent that there was not a conducive environment for private sector emergence and growth.

The crowding out the Private Sector by the State led to an economic melt-down marked by a number of macro-economic imbalances in particular, fiscal crisis and a draw-down of foreign reserves accompanied by budgetary deficits, balance of payment deficits, growing debt burden, rising inflation and weakening productive and service sectors. Under these circumstances, the basic necessities could not be availed to consumers while the manufacturing sector suffered the lack of capital goods and intermediate goods.

The demand for goods and services (that would have been provided the collapsing State Owned Cooperation and Parastatals) was so high, that it necessitated the emergence of an underground (informal sector) economy characterized by survival-led entrepreneurship. Even though this informal sector thrived, it could not meet the high demand for goods and services at the time. In particular, it was not able to provide the massive capital goods and intermediate goods needed to revive the dying State Owned Cooperation and Parastatals. In the face of the deteriorating public co-operations, the informal sector continued to grow in terms of numbers and diversity.
of goods and services produced. However, despite its growing size, it found itself confined to the underground, unable to break through to becoming formal businesses, and therefore, also, unable to develop into a full fledged Private Sector. As an underground economy, the informal sector operated parallel to the dwindling formal business sector that continued to be administratively controlled by the State.

1.3 Economic Reform

The coupling of the deterioration of the State Owned Cooperation and Parastatals with the inability of private sector to surface aggravated the economic crisis in the wake of worsening terms of trade for Tanzania’s major exports as a result of collapsing world market prices. By the early 1980’s the economy of Tanzania had deteriorated to the extent that Tanzania was the World’s second poorest country in terms of GDP per capital. The GDP growth rate averaged 2.2% per annum while the population was growing at a rate of 3.2% per annum. By 1983 the GDP growth rate had declined even further to 1.5% per annum. Inflation rate was at 34.1% in 1983 while the exchange rate was extremely overvalued. Tanzania’s foreign debt was growing at an alarming rate almost doubling from USD2.6 billion in 1980 to USD 4.3 billion in 1987 while debt service averaged 61% of loan disbursement in 1987. Foreign reserves dwindled to the extent that by 1986 reserves could hardly cover 0.9 months import bill. Trade deficit jumped from USD 713 million in 1985 to USD 874 million in 1987. For example, between 1985/89 Tanzania imported goods worth USD 1,270 million while exports fetched only USD 436.5 million. Physical and communication infrastructure were in very poor state, while financial institutions and financial service delivery were also in poor state and severely underdeveloped.

These crises signaled a need for movement towards a market economy through the adoption of policies that would facilitate smooth transition from an administratively State controlled economy to a functioning free market economy. Since early 1990s Tanzania has undertaken a series of economic reforms. These reforms represented a shift from public sector-led economy towards market liberalization and promotion and encouragement of private sector initiatives. The first of these major reforms was the National Economic Survival Programme (NESP) introduced by the Government
in 1981. The NESP aimed at redressing the economic decline, halting the economic crisis and promoting economic growth.

The NESP was however, severely under-funded and could not adequately address the scope of the economic crisis that faced the nation. During its implementation, even the gains that were realized in the early to mid 1970s were under threat and living conditions were on the decline. New measures were necessary that would address issues of economic growth as well as reverse deteriorating conditions in the social sector.

In this regard, the Government with the support of the World Bank adopted the three-year Structural Adjustment Programme (SAP) in 1982 that was shortly followed by the Enhanced Structural Adjustment Programme (ESAP) Programme from 1984-85. Basically, the SAP and ESAP were aimed at macro-economic stability through liberalization of producer prices, depreciation of the Tanzania Shilling by 40%, increasing government wages by 30% and eliminating of food subsidies. Measures also included the establishment of Own Fund Import Scheme to support the import of goods that were critically needed to revive the economy. Even though these early developments towards a shift from State controlled economy were welcome at national and international level, they were not adequately designed or funded to bring about the desired liberalized market economy.

Among other things, the reforms under SAP and ESAP did not focus on reviving and developing the private sector that was essential to tap the opportunities that were created by liberalization efforts. In addition, the SAP and ESAP, like the NESP, come into effect with resources to meager to enable the Government realize the intended results. The SAP and ESAP also came into effect with stringent conditionalities that to a large extent reduced national ownership of the reforms. Furthermore, the stringent and sometimes unrealistic conditionalities resulted into untimely disbursements of funds, which led to untimely implementation, and at times non-implementation of planned activities.

To address the shortcoming of SAP and ESAP, and push forward economic reforms, the Government embarked on a three-year Economic Recovery Programme (ERP I)

The ERP I and ERP II put emphasis on fiscal performance and structural reforms, namely building administrative capacity for reform management, better fiscal discipline, promoting private sector by deregulating investments and divesting Parastatals. Also, emphasis was placed on supporting primary education and development of basic infrastructure as well as restructuring of the financial sector to respond to the needs of the private sector. The aim was to continue with market liberalization efforts, promote higher productivity in agriculture and in manufacturing, address fiscal instability, reform pricing policies including import and export policies, liberalization of foreign exchange, control of budget deficits, and improve fiscal management.

Despite all these efforts the private sector was still suppressed and not recognized as a partner to economic development. It was not until the 1990s that the significance of the private sector in economic growth became obvious and recognized.

Even though the reforms that were undertaken signaled an opening for formal private sector activities, there was hesitation and at times reluctance on the part of the private sector to unleash entrepreneurial initiatives in the absence of clearly articulated policies to protect and safeguard investments. In an effort to encourage private sector investments the then President of the United Republic of Tanzania, H.E. Ali Hassan Mwinyi, made a Declaration in 1992 to encourage private sector operators and invited investors to Tanzania assuring them protection of their investments. The Declaration installed confidence in the minds of people to engage in private sector activities in Tanzania. The Declaration also invited broad participation of the private sector and civil society organization in policy-making process and the implementation of the economic reforms. The Government further embarked on policies that aimed at privatization of the State Owned and Parastatals. Some strategic State Owned and Parastatals were set aside for joint ownership and management by the Government and the Private Sector.

Momentum for Private Sector Development was gained during the Third Phase Government of the United Republic of Tanzania under H.E. President Benjamin
William Mkapa. During this phase a number of initiatives were undertaken to strengthen and widen the role of the private sector. To speed up and ensure that privatization was done as efficiently as possible, while adhering to international best practices, the Parastatal Sector Reform Commissioned (PSRC) was established in 1992 to drive the process of privatization in order to create a competitive market economy. Since its establishment, the PSRC has completed 724 divestiture transactions. Among these is the divestiture of 307 units and disposal of 417 non-core assets. These privatization initiatives have systematically gone hand in hand with the revision of outdated policies and strategies, as well as formulation of new polices in support of business and private sector development. These policies and strategies have resulted into fiscal and macro economic stability, leading to the development of a solid background upon which to strengthen the business environment in Tanzania.

Since the mid 1990s, there have been massive improvements in physical infrastructure as well as communications. In addition there has been financial discipline and the results are impressive. Inflation rates have dropped from 34.1% in 1983 to 4.2 in 2004, foreign currency reserves have increased to USD1.6 billion, the equivalent of eight months of imports in 2004. Improvements in expenditure controls and financial management have resulted into drastic reduction of domestic and foreign debt. Moreover, the growth rate of the Gross Domestic Product jumped from 1.5% in 1983 to 6.7% in 2004 per annum, while domestic revenue collection has increased significantly to 160 billion Tanzania shillings per month in 2004.

Even with these positive developments, the Government continues to implement macro-economic and fiscal reforms that among other things aim to facilitate and strengthen the Private Sector. These include the Financial Sector Reform Programme (FSRP), the Legal Sector Reform Programme (LSRP), the Public Service Reform Programme (PSRP), the Local Government Reform Programme (LGRP), and the Business Environment Strengthening Programme for Tanzania (BEST).

These reforms are enshrined in the National Strategy for Growth and Poverty Reduction (NSGPR), popularly known in Kiswahili as MKUKUTA. The NSGPR spells out that the private sector is the engine for growth, and that it is expected to play a significant role in job creation, wealth generation, and poverty reduction. MKUKUTA places high priority on accelerating broad based growth by developing he sectors where the majority of
the poor are found and with the highest growth potential. In his context private sector development is accorded special attention, as it is expected to contribute to realizing the national goals of accelerating growth, creating wealth and reducing poverty. This is to be realized through improved business environment, and institutional and human capacity building, leading to improved productivity, and increased trade and investments. Public-Private Partnership, and thus Public Institutions interface with the private sector have also been identified as an important aspect in improving the business environment.

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**National Strategy for Growth and Poverty Reduction (NSGPR)**

The NSGPR states that, "The private sector has an important role to play in achieving poverty reduction outcomes because of its central role as the engine for economic growth. The government is reducing its role to core functions of policy formulation, economic management, provision of economic and social infrastructure, and legal and regulatory framework, maintenance of law and order as well as selected areas of public-private sector partnership. The factors that hinder the active private sector participation in the economy will be addressed through friendly trade and investment policies."

The NSGPR emphasizes Private Sector Development (PSD) through community-based initiatives and partnership with civil society organizations; and scaling up private-public partnership consultation mechanisms in support of the participation of the private sector not only in business but also in the provision of services (ibid.).

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Although the above-enumerated policies and reforms have enabled Tanzania to put in place a stable fiscal and macro-economic framework, there are certain areas that need further improvements so as to unleash Tanzania’s economic potential. Among other areas is the regulatory environment. For example, there are many legal requirements that were left over from the colonial and Socialist era that create barriers to businesses and the private sector. Also, the process of establishing and running a business is still complicated and expensive while services rendered to the private sector by the public sector are still hamstrung by red tape and lengthy bureaucratic procedures. Furthermore, access to capital by SMEs is highly limited due to existing financial sector regulations as well as problems related to land ownership and its use as
collateral, recognizing that land is the most readily available asset to the poor in Tanzania. Also, business development skills and services are extremely limited and, where available, too expensive to be afforded by SMEs. In addition, business opportunities especially for SMEs are limited, labour laws are outdated, and are not responsive to the needs of the free market economy. Regulatory reforms that have also been undertaken have not transformed the practices of the agricultural sector from a dominantly subsistence sector towards market orientation.

Regulatory and administrative constrains raise cost of doing business by invoking unnecessary hassles and cost of either following the regulations or having to find ways of doing round the regulations, and act as barrier to development by keeping a large proportion of the private sector actors out of the formal sector, while inhibiting opportunities to adopt forms of business that are more consistent with development in a competitive environment.

The Doing Business Report for 2005 shows that it takes 35 days to start a business in Tanzania, with 13 procedures, whereas cost of starting a business is 161.3% of GNP per capita. The diagnosis Report of the Formalization of Assets of the Poor of Tanzania and Strengthen the Rule of Law, September, 2005, identifies 67 bottlenecks in the legal systems that are responsible for the exclusion of the poor and account in part for their inability to create wealth. The report indicate that one needs to undergo 10 stages, 103 steps, 379 days, and it costs US$ 5506 to legally incorporate a private company in Tanzania; 13 stages, 68 steps, 8 years, and it costs US$2252 to get a building permit in urban areas; 5 stages, 74 steps, 1286 days, and it costs US$1022 to collect a debt by executing a court decree; and 9 stages, 92 steps, 390 days, and it costs US$11964 to resolve a commercial dispute at a commercial court.

To further improve the business environment, while responding to these regulatory needs, the Government of the United Republic Tanzania with the support of four Development Partners namely; the Government Denmark, through the Danish International Development Agency (DANIDA), the Government of Sweden through the Swedish International Development Agency (SIDA), the Government of Netherlands, and the Government of United Kingdom through the Department For International Development (DfID) embarked on implementing the BEST Programme. This is a nationwide and cross-cutting Programme aimed at ensuring that
Tanzania is a favorable place to do business by both local and foreign investors. A better understanding of the dimensions of the Tanzanian Private Sector is nonetheless important for so as to enable the reader to clearly articulate the expectations, as well as challenges under the BEST Programme, and therefore, appreciate the importance of the BEST Programme. Details on the BEST Programme are therefore preceded by a presentation on the dimensions of the Tanzanian Private Sector in the following section, Section 2.0. Description of the BEST Programme follows in Section 3.0.
2.0 LOCAL DIMENSIONS TO THE TANZANIAN PRIVATE SECTOR

Economic Reforms in Tanzania have enabled the Public Sector to abdicate from much of its previous productive and direct business operations. The Public Sector has reduced its roles to core functions of policy formulation, economic management, provision of economic and social infrastructure, as well as legal and regulatory framework, maintenance of law and order, and selected areas of public private sector partnership. These developments basically, leave the Private Sector as an engine of growth, and a sole player in generating the economic growth needed to achieve the poverty reduction targets set out in the National Policy Framework. The Private Sector has assumed the role of producing goods, rendering services, and undertaking exchange activities.

Despite the sustained efforts to revive the economy of Tanzania and empower the Private sector, the private sector is still at its infancy. Over 80 percent of private enterprises in Tanzania fall in the category of SMEs and many of these operate in the informal sector. The diagnosis Report of the Formalization of Assets of the Poor of Tanzania and Strengthen the Rule of Law, September, 2005 shows that about 98 percent of businesses in Tanzania are informal, that is to say, they operate outside the legal system, while about 89 percent of all property in Tanzania are owned outside the legal system (extralegally). It is clearly seen that the private sector in Tanzania is dominated by the informal sector.

Looking at the SMEs, regardless whether urban or rural based they lack adequate finance, and technical and managerial skills. They also lack proper facilitative infrastructure and market information, and are properly linked to external market. SMEs also face unfriendly and variable administrative impediments too complex for them to overcome with the limited resources at hand. Furthermore, SMEs are disproportionately inhibited by excessive and conflicting regulations, which make transition from the informal to the formal sector very difficult.

The Government, the Private Sector and Development Partners recognize the limitations of the SMEs in Tanzania, and acknowledge the extensive work that remains to be done to bring about a fully functioning private sector. As already stated, there are a number of major initiatives that are ongoing, notably the BEST...
Programme and which aims at reducing the cost of doing business, removing the regulatory and administrative barriers to formal business, and thereby laying the ground for formalization of businesses. The Government has also accorded special attention to the formalization of assets and properties of the poor through a special initiative popularly known in Kiswahili as MKARABITA.

**MKARABITA**

MKARABITA stands for Mkakati wa kurasimisha Mali na Biashara Tanzania, in English this a Strategy to Formalize Properties and Business in Tanzania. This initiative was spearheaded by H.E. President Benjamin William Mkapa, the President of the United Republic of Tanzania in year 2004. MKURABITA is another illustration of the Government’s Commitment to promote the Private Sector as the engine of growth. Its goal is to transform the predominant informal sector into a formal one, and therefore pave the way for private sector development. Among its specific objectives, is to enable the poor in the informal sector to accredit their properties in a manner that enables them to access credit using whatever resources they have at hand as collateral.

Organizational capacity is among the major the problems for the private sector in Tanzania. As a result of its infancy, even the existing big businesses have been confronted with this problem resulting into weak capacity to engage in constructive dialogues with the Government.

The situation is nonetheless changing following the extensive Economic Reforms and commitment by both the Government and the Private Sector to work as partners towards economic development and poverty reduction. A number of umbrella Private Sector Organizations and Associations, such as the TPSF, TCCIA, CTI, and TGNP, VIBINDO have been established to be able to articulate their needs to the wider public and strengthen their capacity to dialogue with the Government. This, together with the support of Development Partners has facilitated modalities to institutionalize the then ad-hoc consultative dialogues between the Public and Private Sector. This is being done for example, through the Public Expenditure Reviews, Annual Consultative Meetings and meetings of the Special Tax Task Force,
Of particular significance, is the establishment of the Tanzania National Business Council (TNBC) as a forum for Public and Private Consultations.

**Tanzania National Business Council**

TNBC was established by a Presidential Circular in September 2001 to provide for a forum for public/private sector consultations. It is composed of balanced memberships from the Public and Private Sectors. It became fully operational in March 2002. The Council is chaired by the President of the United Republic of Tanzania, and its Vice-Chairman is the President of the Private Sector Foundation.

The TNBC function through consultative meetings held twice a year. This brings together key players in Public and Private Sectors who are members of the TNBC to discuss and agree on key issues pertaining to private sector development and economic growth. So far, the TNBC has successfully conducted 3 Council Meetings. The first was in March 2002 which was also used to launch the TNBC. The Second meeting was held in November 2004 and the third in March 2005.

The TNBC has also facilitated one Local Investors Round Table that was held in June 2002 and five International Investors Round Table meetings. The first of the International Investors Round Table was held in July 2002, the second in May 2003, the third in November 2003, the fourth in November 2004 and the fifth in May 2005.

TNBC stands as an example of success in setting up a forum for discussion that builds a desired stronger and sustainable Public Private Partnership (PPP).

Although the TNBC has recorded success in conducting dialogue at the central level, it has not yet conducted such dialogues at lower levels. Under these circumstances the bulk of Tanzania’s private sector (in terms of numbers) that is predominantly SMEs are yet to be part of these dialogues. The TNBC recognized this fact and efforts are now under way to facilitate regional TNBC meetings which will be followed by district level consultative dialogue.
3.0 THE BEST PROGRAMME

The BEST programme is a cross-cutting, multi donor financed Government Programme that aims at strengthening the business environment in Tanzania by firstly, reducing burden on business by removing regulatory and administrative constraints, and secondly improving quality of services provided by the Government to the private sector, including commercial dispute resolution.

3.1 The Rationale and Objective of the BEST Programme

As already stated, the private sector has been earmarked as the engine for economic growth in Tanzania. Among the key enabling factors to a strengthened business environment is a conducive regulatory environment. The BEST Programme is therefore central to achieving this objective, and is designed to provide businesses with the enabling environment they need, thereby enhancing economic growth and achieving rapid and poverty reduction. The Programme is fully consistent with, and takes forward national development priorities and policy initiatives, as identified in the NSGPR, the Integrated Framework (IF) for Trade Development\(^1\) which prioritize legal and regulatory environment reforms and other policies such as, the National Trade Policy, and the Small and Medium Enterprises Development Policy.

The BEST Programme is designed to provide businesses with the enabling regulatory environment they need to thrive and operate efficiently. The specific objectives of the BEST Programme are as follows:

(i) To reduce the burden on businesses by eradicating as many procedural and administrative barriers as possible;

(ii) To improve the quality of services provided by Government to the private sector, including commercial dispute resolution;

(iii) To enhance the capacity of Private sector to advocate for and demand a better business environment.

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3.2 Components of the BEST Programme

The BEST Programme is to achieve the above objectives by implementing five inter-linked components. The five components as depicted in Figure 1 are better regulation (BR), improving commercial dispute resolution (CDR), strengthening the Tanzania Investment Centre (TIC), changing the culture of Government (CCG), and empowering Private sector Advocacy (PSA).

**COMPONENT I: ACHIEVING BETTER REGULATION A**
- Business Licensing Reforms
- Business Registration and Licensing Agency (BRELA) Reforms
- Land Law Reforms
- Labour Law Reforms
- Taxation Reforms
- Agriculture Reforms
- Import/Export Reforms

**COMPONENT II: COMMERCIAL DISPUTE RESOLUTION**
- Building Capacity for CDR
- Reforming Courts and Legal Procedures
- Clearing Case Backlog
- Alternative Dispute Resolution mechanisms

**COMPONENT III: CHANGE OF GOVERNMENT CULTURE**

**COMPONENT IV: TANZANIA INVESTMENT CENTRE (TIC)**

**COMPONENT V: PRIVATE SECTOR ADVOCACY**

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STRENGTHENED BUSINESS ENVIRONMENT
- EMPOWERED PRIVATE SECTOR
- ECONOMIC GROWTH
- REDUCED POVERTY
Each component addresses the need for constructive change in specific, priority areas as presented in Table 1 below:

<table>
<thead>
<tr>
<th>Component</th>
<th>Areas of Focus</th>
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| Achieving Better Regulation | • Removal of unnecessary regulations  
• Revision and simplification of outdated legislation and regulations  
• Preparation of required legislation and regulations  
• Putting in place a sustainable process for ensuring business-friendly laws, regulations and administrative procedures  
• Strengthening capacities for regulatory reforms |
| Improving Commercial Dispute Resolution | • Improved access to commercial justice by SMES and big business alike  
• Improved speed and quality of services provided by the court system to businesses, in particular commercial dispute resolution.  
• Diversification of channels for commercial justice delivery, including alternative dispute resolution |
| Strengthening the Tanzania Investment Centre | • Increasing the number and value of local and foreign investment in Tanzania  
• Enhancing the promotion of Tanzania as an investment destination |
| Changing the Culture of Government | • Improved “customer service” ethos for services provided to the private sector by the Public and the Judiciary |
| Empowering Private Sector Advocacy | • Improved capacity of private sector stakeholders to identify regulatory problems and solutions and advocate for an improved business environment |

### 3.3. Expected Results of the Best Programme

Figure 2 below present a description of expected output, which will result into reduced burden and costs of doing, improved quality of services provided by Government to the private sector, including commercial dispute resolution; enhanced advocacy capacity of Private, and ultimately enhanced economic growth and poverty reduction. Below is an illustration of what achieving each output will entail.
Figure 2: Expected Results of the Best Programme

**BETTER REGULATION ACHIEVED**
- A simple and efficient business registration and deregistration system, with well-kept business statistics.
- Simplified and transparent land acquisition procedures and regulations with greater access to land mortgage and finance.
- A modern labour regulation framework that is consistent with international standards and one that suits private sector employment.
- A harmonised local and central government tax system.
- Reduced cost of doing business and greater compliance to regulations by businesses and especially SMEs i.e. formalising the informal sector.
- Increased investment in the agriculture sector and greater access to support services such as research and expertise, finance, and marketing.
- Simplified and efficient import and export procedures.

**COMMERCIAL DISPUTE RESOLUTION (CDR) IMPROVED**
- A fundamentally reformed commercial dispute resolution system and an alternative dispute resolution system with greater effectiveness made available.
- Enhanced access to the Commercial Court.
- Simplified Civil Procedure Code.
- The Injunction / Adjournment culture combated.
- Backlog of commercial cases cleared.
- Greater integrity in the court system achieved.
- Improved enforcement of judgements.
- Greater willingness by financial institutions to provide loans to SMEs.

**CULTURE OF GOVERNMENT CHANGED**
- Changed mindset and orientation of the public sector to enhance private sector growth.
- Better quality services delivered by Government to the private sector.
- Greater private sector compliance with business regulations.

**PRIVATE SECTOR EMPOWERED**
- Greater private sector influence in creating government policies and regulations.
- Enhanced private sector contribution to the economy.

**STRENGTHENED BUSINESS ENVIRONMENT**
- Empowered private sector
- Economic growth
- Reduced poverty

**TANZANIA INVESTMENT CENTRE (TIC) STRENGTHENED**
- Greater access to information on investment opportunities and trends provided.
- Increased investments by local businesses especially SMEs as well as foreign investors.
3.4 The Beneficiaries of the BEST Programme

Ultimately, all Tanzanians will benefit from the faster economic growth flowing from a more enabling environment for businesses in Tanzania. The immediate beneficiaries of the BEST Programme will be businesses in the private sector, which will be able to exploit commercial opportunities more effectively and profitably. It is important to stress that from the perspective of the BEST Programme, the private sector includes businesses of all sizes and stages of development: from small traders in the informal sector, to large established manufacturing companies, to potential new foreign and indigenous investors. All these businesses contribute to the growth of the national economy and all will benefit from a more enabling environment. Even more importantly, the programme emphasizes the creation of an environment conducive to the inclusion of women and youth in mainstream economic activity.

However, it is particularly important that small businesses should benefit more given that small businesses are currently relatively disadvantaged. Small businesses are disproportionately inhibited by excessive and conflicting regulation, which make the transition from the informal to the formal sector very difficult. This creates the phenomenon of the “missing middle” in which the economy includes a large number of very small businesses and a few large well-established businesses, lacking the dearth of the fast growing entrepreneurial businesses, which are the life-blood of growth in many successful economies.

Government will also be a key beneficiary of the BEST Programme. The programme will enable the Government to establish more constructive and effective interaction with the private sector, and to become a more effective player in the national economy. The BEST Programme does not seek to make the State less important: rather, it seeks to raise awareness and promote the challenging role for Government in a liberalized market economy as stated in the NSGPR.
3.5 Structures of Implementation and Management

The implementation of the programme started in 2004 after extensive consultation with stakeholders, (the Government, Private Sector and Development Partners). The first year of implementation concentrated on establishing the necessary implementation systems and management structures. Full-fledged implementation started in January 2005.

The Better Regulation Unit, under the President’s Office, Planning and Privatization has been established to manage and coordinate the implementation the four Government Components of the BEST Programme, namely; Achieving Better Regulation (BR), Improving Commercial Dispute Resolution (CDR), strengthening the Tanzania Investment Centre (TIC), Changing the Culture of Government (CCG).

BRU works with implementing Sector Ministries, Institutions and Agencies to drive forward the regulatory reforms identified in the programme document while shouldering the responsibility and accountability for use of resources provided under BEST.

The BRU is also charged with the responsibility of ensuring linkages and inter-dependence between the five components of the BEST Programme. It also expected to facilitate the creation of nucleus for a permanent “better regulation” function within the government advocating for private sector interests across government.

The design of the BEST Programme provides a three-tier implementation hierarchy; the decision making tier, the Tripartite Review Committee (TRC); the management and advisory tier, the Best Steering Committee (BSC); and the technical and consultative tier through BEST Technical Working Groups.

3.5.1 The Tripartite Review Committee (TRC)

The TRC plays a decision-making role. The broad mandate for budgetary approval and subsequent Monitoring and Evaluation (M&E) of programme implementation is located in the Tripartite Review Committee (TRC). The TRC is a joint committee comprises of the Government, BEST Development Partners and Representatives of
the Private Sector. The TRC triggers the release of funds through approval and authorization of work plans and budget that are prepared by the Better Regulation Unit (BRU) in collaboration with relevant Ministries, Departments, and Agencies (MDAs). The TRC also monitor the implementation of the Programme. In this regards, the BRU prepares and submits quarterly progress report to the TRC, which are evaluated by the TRC against BEST-planned activities and milestone.

3.5.2 The Best Steering Committee (BSC)

The BEST Steering Committee (BSC) is the central forum that binds BEST together and links the analytical level operating around the BRU with the decision-making level, the TRC. The primary function of the BEST Steering Committee is to provide hands-on collective management and guidance of the effective undertaking of BRU’s cross-sectoral mandate through consensus on regulatory reforms. The BSC comprises of key Government and private sectors stakeholders representatives.

3.5.3 Technical Working Groups (TWGs)

Technical working groups (TWG) drawing from major stakeholders in relation to specific reforms are used in all technical processes in the implementation of the Programme. The use of Technical Working Group builds on participatory principles, while building capacity the ensuring sustainability.

The use TWGs draws a fine balance between the need for retaining the ownership of reforms in the hands of responsible sector ministries while ensuring a suitable level of BRU intervention and involvement to match with the requirements for effective coordination, adoption and application of international best practices in reforms. Hands-on-management for certain activities is also necessary in view of overall accountability for the use of available financial and technical resources.
3.4.4 Advocacy Component Management Agent

The BEST Programme document further stipulate that an Advocacy Component Management Agent (ACMA) shall be established and procured competitively to manage the implementation of the fifth Component of the BEST Programme, the Private sector Advocacy (PSA). The management of the PSA therefore falls in the direct hands of the Private Sector.
4.0 WHY IS THE BEST PROGRAMME SO TIMELY?

The BEST Programme was conceived at a time when the Government of Tanzania was implementing the Poverty Reduction Strategy, and subsequently was included in the National Strategy for Growth and Poverty Reduction (NSGPR). The NSGRP aims at achieving the national aspirations enshrined in the National Development Vision 2025. The NSGPR spells out the roles that the BEST programme would fulfill in the overall development framework. The BEST programme also came at a time when key national policies for the promotion of private sector development were already in place.²

At the time of the BEST Programme design, the Government of Tanzania was giving priority to public institutions interfacing with the private sector through increased dialogue. However, the government also recognized that meaningful public-private sector dialogue could come only when formal businesses (and not the informal sector) interface with the public sector.

In view of the large informal sector and its inability to fully interface with the public sector, the Government earmarked the removal of barriers to formalization of business including the reduction and elimination of red tape in business registration and licensing and emphasis was also placed upon review of regulations that hinder private sector development as well as the re-organizing the most important tasks of government to ensure better service delivery to the private sector. This is encapsulated in the goal and objectives of the Local Government Reform Programme, which was then on going. This provided a fertile ground upon which the BEST programme could implement its initiatives for changing the culture of government.

Furthermore, the BEST programme came at a time when regulatory reforms were on going in key areas including, labour and land reforms and that were complimentary to the objectives of the Programme in terms of private sector support. Also, significant changes were taking place in the financial sector through the Financial Sector Reform Programme (FSRP) aimed at enhancing capacity of financial institutions in Tanzania as well as foster easier access to credit by SMEs. To add to these positive

² Among others, these Policies include the Trade Policy, Investment Policy, and an SME Policy.
developments, the BEST programme came at a time when Tanzania was implementing reforms of regulatory institutions with a view to strengthening capacity through the Legal Sector Reform Programme (LSRP).

Even during its current implementation the BEST Programme is complementary to many ongoing initiative through the Business Sector Programme Support (BSPSII) by DANIDA, Private Agricultural Sector Support (PASS) also by DANIDA, as well as MKURABITA.

To compliment all the above initiatives, the BEST Programme focuses on Regulatory Reforms that are very essential to business community and Private Sector Development, but which have not been fully covered by the other ongoing reform initiatives.

4.2 What are the Major Achievements So far?

The performance of a programme is usually measured sequentially against processes, outcomes, and outputs. The BEST Programme is still in its initial stage of implementation. The kick-start phase focused on the in initial setting-up of operational systems, and structures, as well as raising the awareness about the Programme. The kick-start phase has just been completed. Full-fledged implementation of the Programme started in February, 2005. This is too short a period to record visible achievements in terms of outcomes and outputs, particularly for a regulatory programme as complex as the BEST programme. However, despite the short period of implementation, there are a number of emerging positive lessons that are worth sharing.

In this short period of time, the programme has recorded marked achievement in creating practical space for the private sector to contribute in policy and legislative process. The programme has managed to catalyze and foster a true Public-Private Partnership spirit and thus, ownership and commitment by both the public and

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3 It should be noted that reforms under the BEST Programme must follow length legislative processes.
private sectors. Technical Working Groups (TWGs) that draw from the Public and Private Sectors are involved in all technical processes in the implementation of the Programme. The use of TWGs builds upon participatory principles that enable stakeholders from the Public and Private Sectors to work together as equal partners. This participatory approach embedded into the implementation structure of the BEST programme has facilitated practical translation of decisions made at higher levels into concrete actions at implementation level in a participatory manner. In addition, the approach provides for an effective feed-back mechanism, and the enhancement of accountability, transparency and good governance. In doing so, the BEST Programme is among the avenues that Tanzania is using to concretize deliberations/decisions made by the National Business Council (TNBC) and investors round table meetings that conducted jointly by Public and Private Stakeholders. The TRC, BSC, and in particular TWGs under the BEST Programme provides an opportunity for private sector representatives to share information and exchange views with government officials, and contemplate on matters discussed during the investors round tables meetings and embed them in the BEST reforms.

In addition, and more importantly, the ability by the BEST Programme together a number of Development Partners with diverse policies and procedures to agree and use unified procedures is a testimony of a functional model of harmonized procedures. Whereas the BEST programme is funded by four Development Partners, its implementation is based on unified procedures, including harmonized financial management procedures, procurement procedures and unified report requirements, under the coordination of one lead donor at a given point in time. These unified procedures have facilitated smooth and timely implementation of activities, and therefore, paving the way for the realization of programme targets and milestone at the envisaged pace.

Furthermore, the BEST Programme has managed to galvanize support for reforms at grass-root level through out the country though consultations, sensitization and awareness raising. Feed-back from various part of the country indicate acceptance and eagerness on the part of the stakeholders to embrace the reforms and the opportunities that will be availed to promote the development of the private sector. This heightened awareness of the Programme is one of the factors that will enable the
BEST Programme to reach more of its intended beneficiaries. Nonetheless this eagerness should not overshadow the fact that most of these grass-root beneficiaries are Macro Small and Medium Enterprise whose capacities are still low to enable them effectively tap into the opportunities created by the reforms under the BEST Programme. That is to say, capacity building measures, in particular entrepreneurial skills are among the major needs for BEST stakeholders.
5.0 PRACTICE AND CHALLENGES

Most challenges that are being faced in the implementation of the BEST Programme emanate from among other things the assumptions that were made during the formulation of Programme. These include the following:

(a) The President Office, Planning and Privatization as Ministry with cross cutting mandate was expected to influence decision making power of the other implementing Ministries
(b) As Management Unit, BRU is assumed to play only a limited role in the actual implementation
(c) The Private Sector in Tanzania is developed enough to fully participate in the implementation of the BEST Programme and benefit accordingly.
(d) SMEs are organized and capable enough to take advantage of the reforms under the BEST Programme.
(e) The Programme assumes that the use of Regulatory Impact Assessment would be a sufficient tool to ensure quality of legislation and regulations.

5.1 The Cross Mandate of the POPP

The Better Regulation Unit (BRU) in the President Office Planning and Privatization (POPP) is responsible for managing and coordinating the implementation of the BEST Programme. It should however, be recognized that the BEST Programme is a nation-wide Programme cutting across a number areas, including business licensing, business registration, land laws reforms, labour laws reforms, taxation reforms, agricultural reforms, and reforms in commercial dispute resolution. In view of the crosscutting nature of these reforms, implementation lies in the respective Ministries, Departments and Agencies where the specific reforms are taking place. These MDA therefore, the have the final decision-making mandate.

The thrust in the implementation of the BEST Programme is to bring together different relevant stakeholder from both the Public and Private Sector to work together in a participatory manner so as to ensure that the outputs of the BEST Programme, in particular legislation and regulation are business friendly. In this regard
the BRU works with the number of Technical Working Groups (TWGs) whose members are drawn from the Public and Private sector. Members of these TWGs, who are experts in respective fields, have the role of ensuring that the quality and due process in the implementation of the reforms, such the final products draw from international practices and are business friendly.

It should be noted that the choice of housing the BRU in the POPP was strategically made to enable BRU influence the process of reforms in implementing MDAs and decide the quality of the final outputs. However, while the POPP has significant influence over the implementing MDAs, the final statutory decision-making powers lies with respective MDAs. This limits the extent to which the BRU can assure quality of the final products.

In practice, the BRU in collaboration with TWGs prepares a piece of legislation, which it submits, to the respective Ministry for onward legislative processes. At this point the Ministry may decide to change the content of the legislation and submit its own version according to its own wishes. There is no mechanism in place to ensure that what was finally agreed in a participatory manner through a TWG is upheld in the respective Ministries.

It should further noted that some of the reforms take away the controlling powers and “certain benefits” of respective MDAs, and therefore may not be accepted at face value.

5.2 BRU as Management Unit

As already pointed out, the BRU as a Management unit is assumed to play only limited in the actual implementation. The Better Regulation Unit (BRU) manages the implementation of the BEST Programme. Its major role is to manage, coordinate, facilitate, support, fast-track, and report the BEST reforms that cut across a number of sectors. Respective Ministries and Institutions are the key implementers of the BEST Reforms. Even though the BRU is charged with the mandate of fast tracking the reforms, it does not have powers to push the implementers in respective
Ministries to undertake the reforms at the required pace. In view of this fact, and in order to ensure timely delivery of outputs, the BRU with its limited human resources has found itself undertaking actual implementation of the reforms.

5.3 Maintaining Participatory Processes

The Private Sector is represented in all of the TWGs of the BEST Programme, and has shown great commitment to ensuring the realization of objective of the BEST Programme. Nonetheless, given the history of the underdevelopment of the Private Sector in Tanzania, the representation of the Private Sector in BEST TWGs does not match the diversity requirements of the reforms under the BEST Programme. Experience has further shown that while the BEST Programme places emphasis on SMEs, the greatest influence in the TWGs comes from big business. This is due to the fact that the SMEs do not have the expertise required to effectively contribute to the ongoing reforms. Even among the big Businesses there has not been diversity of expertise, this limits the overall influence of the private sector on the ongoing reforms.

5.4 RIA as an Instrument for Quality Assurance

Regulatory Impact Assessment (RIA) has been identified as a key tool for quality assurance regulatory reforms under BEST Programme. RIA facilitates the assessment of impacts of a proposed legislations and regulations so as to weigh the costs and benefits. This enables the mitigation of negative impacts in the processes of preparing legislation and regulation. While RIA is useful in this regard, the Tanzania experience has shown that its effectiveness depend on how widely it is understood, accepted, institutionalized and enforced as a standard requirement.
5.5 Effective Reach of Targeted Groups

The BRU has successfully disseminated information about the BEST Programme, at Central, Regional, and District level using a number of channels. Feedback from stakeholders show that the Programme is highly appreciated and considered timely. It has however be noted that SMEs at the key target beneficiaries do not have the capacity to fully absorb and utilize the benefits and opportunities created by the BEST Programme. Particularly limiting is lack of knowledge and skills among SMEs to operate formal businesses and benefit from the improved regulatory environment. Under these circumstances the BEST Programme may fail to create and fill “missing middle link” as envisaged by the Programme.

5.6 Attribution to the BEST Programme: Direct Output vs. Impacts

Direct outputs of the BEST programme can be easily measured and accounted for. It should however be noted that there are a number of other reforms and initiatives that are geared towards improving the regulatory environment and strengthening the Business environment. The challenge of the BEST Programme is therefore to distinguish and separate the impacts of BEST Programme on the Business environment. While the indicators for measuring the short term effects and long terms of impacts of the BEST Programme are being considered, the potential confounding factors should not be underestimated. Since the BEST Programme is conceived within the broader framework of NSGPR it is more appropriate to consider its overall impact under this framework.
6.0 ISSUES FOR DISCUSSION

6.1 What strategies could be used in the short and long term to enable the private sector in particular SMEs in Tanzania participates and benefit fully from the BEST programme?

6.2 What measures could be used by the BRU to ensure that it can assure quality control of the reforms (final outputs) in the presence of statutory powers that are vested in the implementing MDAs?

6.3 What additional tools could be used with RIA to ensure that regulations are developed in accordance with international best practice?
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