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TANZANIA



SECTION 1: COUNTRY OVERVIEW

1.1 GENERAL INFORMATION

Capital:	Dodoma (transfer from Dar es Salaam)
Population:	58.07 million
Currency of government (official) fees:	Tanzanian Shilling (TZS)
Language for filing IP applications:	English
GDP per capita:	2,780.1 (World Bank, 2020)
Human Development Index:	0.4 (World bank, 2020)
Main exports:	Gold, cashew nuts, precious metal ores or concentrates, unrefined copper and dried shelled vegetables.
Main imports:	Machinery, transport equipment, and petroleum and chemical products.

1.2 INTERNATIONAL IP AGREEMENTS AND CONVENTIONS

Tanzania is a contracting state to the following international legal instruments:

- ARIPO ⁽¹⁾, both the Banjul Protocol on Marks and the Harare Protocol on Patents and Industrial Designs;
- Berne Convention for the Protection of Literary and Artistic Works;
- Nice Agreement
- Marrakesh VIP Treaty
- Paris Convention for the Protection of Industrial Property;
- Patent Cooperation Treaty;
- TRIPS ⁽²⁾ Agreement
- UPOV ⁽³⁾ Convention
- WIPO Convention

Most of Tanzania's IP laws are TRIPS-compliant although, in practice, the level of implementation may be different from other countries. This may have an impact on the effectiveness of some IP enforcement issues.

¹ ARIPO: the African Regional Intellectual Property Organization

² TRIPS Agreement: Agreement on Trade-Related Aspects of intellectual Property Rights the World Trade Organization (WTO).

³ The International Convention for the Protection of New Varieties of Plants.

1.3 REGIONAL AGREEMENTS

- **AfCFTA Agreement** (Agreement Establishing the African Continental Free Trade Area) contains a Protocol on Intellectual Property Rights (IPR) which aims at the effective protection and promotion of IPR in Africa and may, therefore, have legal implications for Tanzania when it enters into force.
- **EAC Treaty** (Treaty for the Establishment of the East African Community): EAC has no regional IP agreements, protocols or registration systems in place. There is an EAC Regional Intellectual Property Policy.
- **SADC** (the Southern African Development Community) SADC has **no** regional IP agreements, protocols or registration systems in place. It has the **SADC Industrialization Strategy and Roadmap (2015-2063)** which includes a focus on promoting the use and enforcement of IP rights to encourage research and development and innovation amongst SADC countries.

1.4 LEGAL FRAMEWORK OF IP PROTECTION AVAILABLE IN TANZANIA

The following IP protection is available in Tanzania:

- 1) **trade marks:** national and regional (ARIPO);
- 2) **patents:** national and regional (ARIPO);
- 3) **utility models:** national and regional (ARIPO);
- 4) **industrial designs:** national and regional (ARIPO)
- 5) **plant breeders' rights:** national;
- 6) **copyright and neighbouring rights:** national and
- 7) **expressions of folklore:** (national);

1.5 IP REGISTRATION ROUTES

Important feature of IP in Tanzania

Tanzania is a republic that unites Tanganyika and Zanzibar (which is part of an archipelago including Pemba). However, Zanzibar retained its legislative independence in certain areas including in intellectual property (IP).

As a result, the IP regime in Tanzania entails two separate and independent legal systems for Tanganyika and Zanzibar, each of which has a separate IP office.

Regarding ARIPO designations, it is frequently asked whether a designation of Tanzania covers both Tanganyika and Zanzibar for enforcement purposes. ARIPO's position is that it does cover both territories since the accession to the Banjul and Harare Protocols was made by the United Republic of Tanzania. However, if in doubt, it is advisable to obtain legal advice.

IP protection in Tanzania can be secured at three levels: national, regional and international.

National

The eight types of IP mentioned above can be protected directly in Tanzania through the Business Registrations and Licensing Agency (BRELA). The seven types of IP mentioned above can be protected directly in Tanzania through the Business Registrations and Licensing Agency (BRELA).

Regional

Tanzania is a contracting party to ARIPO's Banjul Protocol on Marks and the Harare Protocol on patents, utility models and industrial designs. It is therefore possible to register trade marks, patents, utility models and industrial designs either nationally through BRELA or regionally, through ARIPO.

International

Tanzania is also a contracting party to the Patent Cooperation Treaty (PCT). It is therefore possible to register PCT-filed patent applications in which Tanzania is designated as country or in which it is designated under ARIPO which, as a region, is contracting party to the PCT.

Choosing a suitable registration route: trade marks, patents, utility models and industrial designs

- A **national** route is suitable when trade mark protection is required in Tanzania only.
- A **regional** route through ARIPO is suitable when multi-country protection of the abovementioned IP rights is required.
- An **international** route is advisable for trade mark protection only, when protection is required in more countries than are covered by the ARIPO regional trade mark system.

Useful information:

Representation

- Foreign applicants whose principal place of business is outside Tanzania must appoint a local agent. For local applicants this is optional. BRELA accepts signed powers of attorney without any need for notarisation. However, you should check with your IP service provider in Tanzania whether hard copies are necessary or scanned copies sent by email are acceptable. A list of ARIPO representatives (by country) is available at: <https://www.aripo.org/ip-agents/>

Trade marks

- The ARIPO trade mark system's multiclass and state designation system closely resembles the Madrid system and for this reason is often referred to as a 'mini Madrid'.
- The Banjul Protocol has not yet been implemented in the national trade mark laws of Tanzania, so it is not clear whether valid trade mark protection can be obtained in Tanzania via an ARIPO registration designating Tanzania.

- Tanzania is not party to the Madrid Agreement or Madrid Protocol. Therefore, international protection is not available in Tanzania.**
- Tanzania is a signatory to the Nice Agreement and uses the Nice Classification. Classifications based on the latest edition of Nice at the time of filing of an application are accepted.

SECTION 2: OVERVIEW OF IP ENFORCEMENT

Tanzania is a signatory of the WTO's TRIPS Agreement, and its laws are substantially TRIPS-compliant in terms of providing a legal framework for the protection and enforcement of IP rights. The judiciary, through the courts, enforces trade mark rights in Tanzania. The competent court for the adjudication of IP rights is the High Court of Tanzania.

The Business Registrations and Licensing Agency (BRELA) also engages constantly with other stakeholders who have a role to play in combating IP infringement. These include the Fair Competition Commission (FCC) which is housed in the Ministry of Industry and Trade.

The FCC has powers to investigate godowns and premises suspected of holding illicit and counterfeit goods. The aggrieved proprietor of a trade mark may therefore approach the FCC to seek a compliance order and orders for the forfeiture or destruction of counterfeit goods that infringe their trade mark.

Other crucial enforcement players in Tanzania include INTERPOL.

Despite the BRELA, the FCC and State efforts to curb IP infringement, rights holders must play a significant role in policing the use of their IP in Tanzania. They must constantly check that the industrial and commercial markets in which they sell their goods or services take appropriate action against the infringement of their IP rights by competitors, retailers or street vendors. Tanzanian Law entitles rights holders to take civil action against infringers to recover their lost revenue and/or to have the infringing products destroyed.

For copyrights, the Copyright and Neighbouring Rights Act of Tanzania provides for conservatory measures that seek to prevent infringements and also to preserve relevant evidence related to an alleged infringement. In addition, the Act empowers the police to conduct searches of premises where it is suspected that infringing goods are concealed, and to seize any offending goods.

SECTION 3: TYPES OF AVAILABLE IP PROTECTION

3.1 TRADE MARKS

National and regional, can be registered in Tanzania as explained below.

About national trade marks in Tanzania

If protection is required in the whole of the territory, trade marks have to be protected both in mainland Tanzania and in Zanzibar.

Benefits of registering a trade mark

- A registered trade mark gives the owner exclusive rights to use it to market their products and services; it gives the owner protection against others using the same mark or a similar mark without authorisation.
- In the long run, a well-maintained trade mark can build the owner's brand and become an asset to their organisation. This can enable them to expand their business by licensing it to others, franchising or obtaining finance.

3.1.1 Who can register a trade mark?

A natural person or a company, or any other entity can apply to register a trademark.

A natural person, a company or any other entity can apply to register a trade mark.

However, a person who does not have their place of business in Botswana needs a professional representative.

3.1.2 What are the registration requirements?

A trade mark application must contain the following:

- an application together with Form No.TM 1;
- applicant's name, nationality, physical address and occupation of the applicant;
- company name as it appears on Certificate of incorporation and physical address;
- payment of the prescribed official fee;
- a Power of Attorney, simply signed, no legalisation or notarisation is required.
- ten (10) printouts of the trade mark (except for word marks in ordinary type);
- a certified copy of the priority document, if applicable;
- a verified English translation if the proposed trademark is in another language; and
- a list of the goods and/or services, based on the Nice Classification, on which the trade mark will be used;
- prescribed application fees available from the BRELA website and a checklist of the documents submitted with the application.
- **Note that fees for colour marks are higher than for non-colour ones.**

Registration process:

BRELA examines applications for compliance with formal and substantive requirements. It can accept a trade mark for registration subject to the imposition of a condition, such as a disclaimer.

An accepted application will be advertised in the Journal for opposition purposes. After the opposition period of 2 months, the applicant can pay the registration fees and request the Registrar to issue the registration certificate.

3.1.3 What qualifies for registration?

Any visible sign used or proposed to be used on, in connection with or in relation to goods or services for the purpose of distinguishing, in the course of trade or business, the goods or services

of one person from those of another. A visible sign is defined as any sign including a word, name, brand, device, heading, label, ticket, signature, letter, number, relief, stamp, seal, etc. or any combination thereof.

A trade mark is eligible for registration if it functions as a trade mark that is not generic or descriptive, that is to say a distinctive trade mark (TM), service mark or series mark (SM).

The following non-traditional trade marks are, in theory, registrable: 3-D marks, colours or a combination of colours. However, an applicant would have to prove that these trade marks are capable of distinguishing goods or services.

3.1.4 What cannot be registered?

A trade mark cannot be registered if is:

- is incapable of distinguishing the goods or services applied for;
- it is not graphically representable;
- it lacks distinctive character (in particular: the mark is descriptive, or it results directly from the nature of the goods, e.g., the shape of goods, or it is just necessary for obtaining a given technical effect, or it represents the essential value of the goods);
- its use conflicts with public order or public morality;
- it is capable of deceiving consumers with regard to any feature of the goods or services;
- it is a geographical name;
- it is identical with, or imitate the armorial bearings, flags and other emblems, initials, names or abbreviations or initials of name or official sign or hallmark of any state or organization.;
- it is a reproduction in whole or in part of well-known trade marks, business or company names;
- it is likely to deceive or cause confusion (e.g., trade marks which imply a false geographical origin or quality of the goods or services);
- it is substantially identical or deceptively similar to a prior trade mark application or registered mark in relation to the same, similar or closely related goods and services;
- relative grounds for refusal (and relative cancellation grounds) apply.

3.1.5 Where can I file an application?

- Business Registrations and Licensing Agency (BRELA).
- ARIPO, for regional marks, information on registration procedures are fees are available through this link: <https://www.aripo.org/ip-services/trademarks/>

3.1.6 How much does it cost?

Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Tanzania Shilling). Application forms and information on fees are available through this link: <https://ors.brela.go.tz/>

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals for Tanzania. A list is available through this link:
<https://www.aripo.org/ip-agents/>

Likely overall registration costs

An applicant can expect the cost of registering a trade mark to be in the region of the amounts set out in the table below (in Shillings), unless objections and other special circumstances that may increase the costs apply.

Description of Process/Service	Fees (TZS)
Application to the Registrar for protection of a TM/SM	50 000
Advertisement fee	15 000
Registration fee for a specification of goods included in one class for the first mark	60 000
Registration fee for a series of marks for a specification of goods included in one class for each subsequent mark	30 000
Total fees	155 000

3.1.7 How long does registration take?

The trade mark registration process takes 15-18 months from the filing date to complete, assuming that there are no unusual delays and no oppositions. This includes an opposition period of 2 months.

3.1.8 What is the duration of protection?

Tanganyika

A trade mark registration is valid for **7 years** from the filing date and is renewable for periods of 10 years. If priority is claimed, registration, and hence renewal, is calculated from the priority date.

Zanzibar

A trade mark registration is valid for **10 years** from the filing date and is renewable for periods of **7 years**.

3.2 PATENTS

Tanzania Patent Registrations

National and regional (ARIPO) patents can be registered in Tanzania in the following ways.

National

- at BRELA.

Regional

- for the Harare Protocol, through ARIPO.

All ARIPO member states except Mauritius and Somalia can be designated in an ARIPO patent application. ARIPO's designation system allows an applicant to choose one, some or all of the remaining 18-member states in a patent application. It is therefore also possible to file an ARIPO patent application in which Tanzania (or any other member state) is designated to achieve national patent protection but through a regional registration system.

Choosing between a national or regional patent registration for Tanzania

The decision about whether to register a patent in Tanzania through the national or ARIPO route is usually guided by the following considerations:

- **whether substantive examination is required or not:** although BRELA carries out formal examination of the patent it may also allow for substantive examination for inventions in specified technical fields
- **whether patent protection is required in Tanzania only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required;
- **cost-effectiveness:** ARIPO's centralised regional patent registration system is usually considered to be more cost-effective than a national patent registration approach.

Choosing between registration routes

Most patent applications for Tanzania are registered through ARIPO because it allows applicants to designate more than one country. It is more cost-effective to file a single application in ARIPO to gain patent coverage in two or more ARIPO member states.

Choosing a patent filing route

Tanzania is a member of the PCT. Patent applications for both the BRELA and ARIPO routes for Tanzania can also be filed through the PCT. However, the PCT provides a patent filing rather than a patent registration route.

National (BRELA) Patents

3.2.1 Who can register a patent?

- inventor (or successor in title) or an assignee of an invention can apply to register a patent.

3.2.2 What are the registration requirements?

A patent application must contain the following:

- request for grant of a patent must be made in English on the prescribed form No. P.2;
- the full name and address of the applicant(s) including their nationalities and country principal place of business (if there are several applicants, the proportion of their entitlement must be mentioned if it is not equal);
- the patent title, abstract, description, claims and drawings;
- statement justifying that certain disclosures be disregarded;
- statement that the applicant is the inventor (if applicant is not the inventor, a sworn statement must be provided to justify the applicant's right to file a patent application);
- the Deed of Assignment, if the applicant is not the inventor;
- claim to priority rights, if appropriate, indicating number, country, and filing date of the application which priority is claimed and a statement as to whether the certified copy of the earlier application is accompanied to the application (if not the date when will be furnished must be indicated);
- the prescribed application fees;
- when the patent is accepted: a letter of acceptance together with the publication and grant fees.

3.2.3 What qualifies for registration?

A patent must meet the following requirements:

- **novelty** which must be absolute novelty in that the invention must be a new characteristic which is not known in the body of existing knowledge in its technical field. It must not be anticipated by prior art;
- **inventive step** which means that, having regard to prior art, the invention is not obvious to a person skilled in the art;
- **susceptible of industrial applicability** in that it can be used in any kind of industry, including agriculture, and
- **patentable invention under national patent law.**
Unregistrable patents in Tanzania are those related to the treatment of humans or animals or to pharmaceutical inventions. These inventions are not patentable to avoid undue restrictions to access to medical care and medicines by people or animals in need.

3.2.4 What cannot be registered?

The following inventions cannot be patented:

- a discovery of a plant, animal, microorganism or substance as found in nature, including the human body;
- a scientific theory or mathematical method;
- a literary, dramatic, musical or artistic work or other aesthetic creation;
- a scheme, rule or method for doing business, performing mental acts or playing a game;

- methods for the treatment of the human or animal body by surgery or therapy, including diagnostic methods practised in relation to them, except products for use in any such methods;
- an invention whose commercial exploitation is necessary to protect public order or morality, including the protection of human or animal health, plant life or to avoid prejudice to the environment;
- plants and animals other than microorganisms;
- essentially biological processes for the production of plants or animals.

3.2.5 Where can I file an application?

National applications, non-Convention, Convention and PCT national phase applications must be filed at BRELA.

Regional applications can be filed at BRELA or, clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings.

3.2.6 How much does it cost?

National (BRELA) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Tanzania shilling, TZS). Application forms and information on fees are available through this link: <https://ors.brela.go.tz/>

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals for Tanzania. A list is available through this link: <https://www.aripo.org/ip-agents/>

Likely overall registration costs for a BRELA patent

An applicant can expect the cost of registering a patent to be in the region of the amounts set out in the table below (in Shillings), unless objections and other special circumstances that may increase the costs apply.

Type of Fee	BRELA Fees (TZS)
Application fees for grant of patent	12 000
Grant of patent fees	10 000
Fee for publication of patent application	3 000
Total fees	25 000

ARIPO-route patent registration fees

Fees must be paid through ARIPO and in USD if an applicant chooses to register a patent for Tanzania using the ARIPO route. ARIPO's fees are reviewed regularly. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>

Fees that are required at the stage of filing an application as follows:

Type of Fee	ARIPO Fee USD
Application fee, regardless of the number of states designated in the application	232
State designation fee	85 per state (multiplied by the number of designated states)
Mandatory annuity fee: for PCT-based applications, the first ARIPO annuity fee will usually be due and must be paid with the application fee	50 per state (multiplied by the number of designated states)
Total fees, assuming only Tanzania is designated and payment of first annuity fee	317
Total fees, assuming all 18 Harare Protocol states, including Tanzania, are designated and payment of first annuity fee	2 662

Note on professional fees

Professional fees vary depending on several factors, such as the level of experience of the professional concerned and the time spent on a task, amongst others.

It is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

3.2.7 How long does registration take?

National patent applications in Tanzania take approximately 18-24 months to complete the registration process unless the subject matter is complicated or is related to a specified field, and the patent application is referred to substantive examination. If substantive examination occurs, it is completed on average within 24-36 months from the filing date of the application.

If the applicant does not request the substantive examination within 3 years, the application is deemed to have been abandoned.

Regional-route Tanzania applications are substantively examined by ARIPO and take 3-4 years on average to complete registration, assuming that there are no objections.

3.2.8 What is the duration of protection?

Protection lasts 20 years from the filing date, subject to the payment of annual maintenance fees.

3.2.9 When are renewal fees paid?

National patents

Renewal fees are paid from the first anniversary of the filing date up to the 14th year. Late payment is possible, with a corresponding surcharge, within a grace period of 6 months after the due date.

Annuities

The following government (official) fees are currently applicable:

ARIPO-route Tanzania patents

Renewal fees are payable up to the 19th year. Before payment, it is advisable to confirm the amount of the fees on the ARIPO website as the official fees may change. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>

Annuity Year	Renewal Fee (TZS)
1	4000
2	5000
3	6000
4	7000
5	8000
6	9000
7	10 000
8	11 000
9	12 000
10	13 000
11	14 000
12	15 000
13	16 000
14	17 000

3.3 UTILITY MODELS

In some jurisdictions utility models are referred to as 'petty patents' because they are similar to

patents but require less stringent conditions for registration and are registered for a shorter term than a conventional patent.

Tanzania Utility Model Registrations

National and regional (ARIPO) utility models can be registered in Tanzania in the following ways.

National

- at BRELA.

Regional

- for the Harare Protocol, through ARIPO.

Choosing between a national or regional utility model registration for Tanzania

The decision about whether to register a utility model in Tanzania through the national or ARIPO route is usually guided by the following considerations:

- **cost:** it may be more cost-effective to proceed through the national route if protection is required in Tanzania only;
- **whether utility model protection is required in Tanzania only or in multiple jurisdictions:** applicants will usually opt for the ARIPO route if multiple-jurisdiction protection is required;
- **duration of protection:** the duration of protection of a national utility model registration is 7 years, whereas it is 10 years for an ARIPO-registered utility model. This difference may influence preference for the ARIPO registration route.

Most utility model applications for Tanzania are registered through ARIPO because it allows applicants to designate more than one country in a utility model application. It is more cost effective to file a single application in ARIPO to gain utility model coverage in two or more ARIPO member states.

National (BRELA) Utility Models

3.3.1 Who can register?

An inventor or assignee of an invention can apply to register a utility model.

For conversion, a request for conversion of the patent application must be submitted together with all the documents filed in the patent application. An application may not be converted more than once.

3.3.2 What qualifies for registration?

Under the Patents (Registration) Act, a registrable utility model must meet the following requirements:

- **novelty:** the invention must be a new characteristic and must not be anticipated by the prior art;

- **industrial applicability:** the invention must be useful in any kind of industry.

3.3.3 What cannot be registered?

The following inventions cannot be registered as utility models in Tanzania:

- the use of which is contrary to law or public morality;
- for processes, powders or liquids, or chemical compositions, pharmaceuticals or foodstuffs;
- utility models that form part of the state of the art, that is, those that were made available to the public by means of a written description anywhere in the world or by public use in Tanzania before the filing or priority date.

3.3.4 Where can I file an application?

National applications for utility models must be filed at BRELA.

Regional applications can be filed at BRELA or, clearly indicating that they are regional applications, through ARIPO. Applications filed through ARIPO can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings. If an applicant wishes to obtain a utility model instead of a patent in Tanzania on the basis of an international application, this must be indicated in the international application when filed.

3.3.5 How long does registration take?

National (BRELA) utility models: the usual time frame is 15-18 months.

Regional-route filed BRELA applications are substantively examined by ARIPO and take longer than national utility model applications to reach registration. These applications can take 24-36 months to complete registration, assuming that only minimal official actions are needed and there are no objections.

3.3.6 What is the duration of protection?

In Tanzania, the duration of a utility model is 7 years from the filing date. It is not renewable.

ARIPO-registered utility models have a duration of 10 years from the filing date.

3.4. INDUSTRIAL DESIGNS

Tanzania Industrial Design Registrations

National and regional (ARIPO) industrial designs can be registered in Tanzania in the following ways:

Regional

- for the Harare Protocol, through ARIPO.

It is possible to file an ARIPO design application in which Tanzania or any other country is designated to achieve national design protection but through a regional registration system.

Choosing between a national or regional industrial design registration for Tanzania

The decision about whether to register a design in Tanzania through the national or ARIPO route is usually guided by the following considerations:

- **whether design protection is available in Tanzania or only in ARIPO.** It is currently not possible to apply through the national filing system for industrial design protection in Tanzania because the regulations implementing the Act providing for the registration of industrial designs are still pending and have not yet entered into force.
- The only other available route is the ARIPO (regional) route in which Tanzania can be designated as one of the countries for industrial design protection.
- **cost-effectiveness:** ARIPO's centralised regional design registration system is usually considered to be more cost-effective than a national design registration approach;
- **time-effectiveness:** ARIPO, national offices tend to be considerably slower to process design applications. Time is usually of essence to proprietors because designs are often short-lived. As a result, time-conscious applicants usually tend to prefer to register their designs through the ARIPO route instead of the national route.

Examination and novelty of designs for Tanzania

ARIPO carries out a formal examination of designs, but member states are given the opportunity to carry out a substantive examination if their national laws require it.

REGIONAL (ARIPO) Industrial Designs

3.4.1 Who can register?

A creator or assignee of an industrial design can apply to register a design designating Tanzania through ARIPO.

It is possible for two or more persons or companies to jointly own and apply for the registration of an industrial design.

3.4.2 What qualifies for registration?

An industrial design is registrable if it is new. For a creation to qualify for design registration it must clearly identify novel features of the design in terms of:

- shape;
- configuration;
- pattern and/or ornament.

Multiple design applications are possible in ARIPO, provided that all the designs are embodied in a single set of articles and belong to the same class.

3.4.3 What cannot be registered?

The following cannot be registered:

- designs that are contrary to the law, public policy or morality;
- designs for articles that are primarily literary or artistic in character, such as paintings, sculptures, drawings, enamelling, engravings, embroidery, photographs, sculptures, architecture and works of artistic craftsmanship;
- designs consisting solely of a change in the colour of already known designs;
- designs whose features correspond to or are determined by functions to be performed by the products.

3.4.4 Where can I file an application?

Regional-route design applications can be filed, through ARIPO. Applications filed through ARIPO for Tanzania designs can be filed electronically, by email, registered mail, fax, by courier or in person. Online ARIPO application fees have a 20 % discount to encourage online filings.

3.4.5 How much does it cost?

ARIPO-route design registration fees

These fees are paid through ARIPO. ARIPO's fees are reviewed regularly. The latest fees are available through this link: <https://www.aripo.org/fee-schedules/>

Application fees, are as follows:

Type of Fee	ARIPO Fee (USD)
Application fees, regardless of the number of states designated in an application	40
State designation fees	10 per state (multiplied by the number of designated states)
Total fees, assuming that only Tanzania is designated in the application	50
Total fees, assuming that all 18 Harare Protocol states, including Tanzania, are designated in the application	220

Note on professional fees

Professional fees vary and it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

3.4.7 How long does registration take?

The proceedings from the first filing to registration take approximately 9-12 months. This includes a period of 6 months for states to examine and decide if a design will have legal effect in their territories after ARIPO has issued them with a notice of intention to register a design.

3.4.8 What is the duration of protection?

ARIPO-route design registrations are valid for 10 years, with no possibility of extension.

3.5. PLANT BREEDERS' RIGHTS

About Plant Breeders' Rights in Tanzania

Although Tanganyika and Zanzibar are considered a United Republic, no unified IP law has been enacted. Therefore, Tanzania and Zanzibar have different laws and different IP registries for plant breeder rights (PBRs), also known as plant variety protection. PBRs are a sui generis system of IP rights designed specifically to protect new varieties of plants.

Tanganyika

PBR protection has been available on mainland Tanganyika since 2004, under the Tanzanian (mainland) Plant Breeders' Rights Law (2002) (repealed Tanzania Act). This Law was replaced by the United Republic of Tanzania Plant Breeders' Rights Act (2012) (new Tanzania Act), which came into force on 1 June 2013.

Zanzibar

PBR protection became available more recently in Zanzibar. on 2 January 2015, by the enactment of the Zanzibar Plant Breeders' Rights Act (2014) (Zanzibar Act). Before this, PBR protection was not available in Zanzibar.

These two Acts mirror each other with the vast majority of the Zanzibar Act reading the same as that of the new Tanzania Act. Certain amendments made to the new Tanzania Act and the careful drafting of the Zanzibar Act allow the PBRs granted in either Tanzania or Zanzibar to be enforced in both territories. This paved the way for the United Republic of Tanzania's accession to the 1991 Act of the International Union for the Protection of New Varieties of Plants (UPOV 1991) on 22 October 2015, and its entry into force on 22 November 2015.

3.5.6 Who can register?

An application for registration can be made by, or on behalf of, the following:

- a person or institution that bred or discovered and developed a variety, or their successor in title;
- the employer of the person who bred or discovered and developed a variety or who has commissioned the employer's work.

Foreign applications are usually filed by an applicant that is a citizen or resident of a reciprocating country. A local agent must file a power of attorney in support of such a PBR application.

3.5.7 What qualifies for registration?

To qualify for registration a variety must be:

- novel: it must be a new variety of plant genera and species at the date of filing; and
- distinct, uniform, and stable (DUS).

3.5.8 What cannot be registered?

The following subject matter cannot be registered as PBRs:

- anything that does not constitute a new plant variety under the Tanzanian PBR Act;
- plant varieties that are not novel, distinctive, uniform and stable.

3.5.9 Where can I file an application?

The registration of PBRs is done by the Plant Breeders' Rights Office (PBRO) under the Minister for Agriculture. The Plant Breeders' Rights Office is responsible for the protection of plant breeders' rights in Tanzania through the granting of rights to the owners of such varieties and registering them.

An application filed with the PBRO of Tanganyika is considered to be an application for the same variety filed in Zanzibar and vice versa.

Registration procedure

- The Registrar of the PBRO examines an application submitted for registration, checking novelty and DUS requirements. They may refer to UPOV for examination guidelines.
- If the variety is registrable, the Registrar invites the applicant to pay for publication of the notice of application in the Government Gazette and in a newspaper of vast circulation.
- The publication notice must contain:
 - the applicant's name and address;
 - the filing date of the application;
 - the proposed denomination;
 - any other information required by the Regulations in force at the time of advertisement.
- The opposition period is 2 months. The Minister of Agriculture and any member of the public can file an opposition.
- If there is no opposition within the 2-month period, the Register will issue a registration certificate called a Certificate of Grant.

3.5.10 How much does it cost?

You should obtain up-to-date information about the fees from the PBR section of the Ministry of Agriculture's website here: <https://www.kilimo.go.tz/index.php/en/about/plant-breeders-right-unit>

3.5.11 How long does registration take?

Unless substantive objections are raised against an application or there are unusual delays, a PBR application takes 12-15 months to complete registration, including the opposition period of 2 months.

3.5.12 What is the duration of protection?

Under Section 33 of the PBR Act, a PBR registration's term is 20 years from the date of the grant except for trees and vines whose breeder's right will expire after 25 years from the date of grant.

The term may be extended for an additional 5 years, by a written notice to the Registrar given by the holder of the breeder's right 6 months before the expiration of the original term.

3.5.13 When are renewal fees paid?

Annual maintenance fees are payable during a PBR right's term of protection. Details of renewal fees can be obtained from the Ministry of Agriculture's website here: <https://www.kilimo.go.tz/index.php/en/about/plant-breeders-right-unit>

3.6 EXPRESSIONS OF FOLKLORE

About traditional knowledge and handicrafts in Tanzania

Tanzania does not have a defined and comprehensive legal framework for the protection of traditional knowledge.

Currently, there is no legislation or mechanism available for the protection of rights arising out of the use and exploitation of traditional knowledge, except for folklore, for which protection is provided by the Copyright and Neighbouring Rights Act.

ARIPO provides a regional framework for the registration of traditional knowledge in ARIPO member states, including Tanzania under its Swakopmund Protocol on the Protection of Traditional Knowledge and Expressions of Folklore, but the registration system has so far been significantly underutilised, with no applications recorded at present.

The Copyright and Neighbouring Rights Act of Tanzania does provide for some aspects of protection of Expressions of Folklore. However, it does not provide a comprehensive mechanism for the protection of traditional knowledge.

3.6.1 Who can register?

Applicants for the registration of traditional knowledge can be individuals but are usually a community acting through a duly appointed community representative.

An individual creator of an expression of folklore can also apply.

3.6.2 What qualifies for registration?

- Any expression of folklore developed and maintained in the United Republic of Tanzania;
- Any original work in respect of the works listed below qualifies for protection:
 - (a) folk tales, folk poetry, riddles;
 - (b) folk songs and instrumental folk music;
 - (c) folk dances, plays and artistic forms of rituals; production of folk art;

- (d) drawings, painting, carvings, sculpture, pottery, terracotta, mosaic, woodwork, metal ware, jewellery, baskets, costumes;
- (e) traditional musical instruments.

3.6.3 What cannot be registered?

Expressions of folklore cannot be registered if the subject matter does not fall within the definition of expressions of folklore and if it cannot be established that they are identifiable with a specific community or culture of Tanzania.

Expressions of folklore cannot be registered if they are contrary to law, public order or morality.

3.6.4 Where can I file an application?

An application for registration must be submitted to the National Arts Council of Tanzania (BASATA):

3.6.5 How much does it cost?

National (BASATA) fees

Registration fees consist partly of government (official) fees and partly of professional fees, as indicated below.

Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Tanzania shilling, TZS). Application forms and information on fees are available through this link: <http://www.basata.go.tz>

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

Likely overall registration costs for a BASATA expression of folklore

It is advisable to check the fees that are in force through this link: <http://www.basata.go.tz/>

3.6.6 How long does registration take?

It takes 6-9 months although processing times vary.

3.6.7 What is the duration of protection?

The duration of protection of expressions of folklore in Tanzania is 25 years, not renewable.

Government (official) fees

The fee schedule is published in a statutory instrument. Both local and foreign applicants may pay these fees using the local currency (Tanzania shilling). Application forms and information on fees are available through this link: <http://www.basata.go.tz>

Professional fees

Professional fees vary so it is advisable to obtain comparative quotes of fees from at least three ARIPO-accredited professionals. A list is available through this link: <https://www.aripo.org/ip-agents/>

Likely overall registration costs for a BASATA expression of folklore

It is advisable to check fees that are in force. You can use this link: <http://www.basata.go.tz/>

3.7 COPYRIGHT AND NEIGHBOURING RIGHTS

Tanzania has many famous traditional dance styles, including the *ing'oma*, *magosi*, *samba*, *mwambulo* and *ipenenga*. These dance styles are unique, rhythmic, and expressive. Apart from for entertainment, they are also used for healing and storytelling.

About Copyright and Neighbouring Rights in Tanzania

Tanzania has a dedicated Act for the protection of copyright and neighbouring rights, namely the Copyright and Neighbouring Rights Act, 1999 (Act No. 7 of 1999).

Tanzania is not a signatory to the WIPO Copyright Treaty nor the WIPO Performances and Phonograms Treaty.

It is also a member of the Berne Convention for the Protection of Literary and Artistic Works of 1886 as revised at Paris in 1971

3.7.1 Can I register?

Copyright is **not** a registrable right in Tanzania. It exists automatically when any original work is created in one of the categories that is protected by the Copyright And Neighbouring Rights Act.

Tanzania is a member ARIPO which is currently considering the possibility of creating a voluntary copyright registration system for its Member States. It remains to be seen if this system will become a reality.

3.7.2 What qualifies for protection?

Any original work in the categories listed below qualifies for protection:

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) audio-visual works;

- (e) sound recordings;
- (f) broadcasts;
- (g) films;
- (h) cable programmes;
- (i) typographical arrangements of published editions.
- (j) architecture works;
- (k) performance;
- (l) phonograms;
- (m) expression of folklore carried out in Tanzania.

3.7.3 What cannot be protected?

- any work whose subject matter does not qualify for legal protection.
- any work whose author is not Tanzanian by:
 - 1) citizenship; or
 - 2) domicile; or
 - 3) by virtue of being incorporated in Tanzania.
- any work that is contrary to law, public order or morality;
- laws and decisions of courts and administrative bodies as well as official translations;
- news of the day published, broadcast or publicly communicated by any other means;
- any idea, procedure, method of operation, concept principle, discovery or mere data, even if expressed, described, explained, illustrated or embodied in a work.

3.7.4 What are examples of acts permitted in relation to copyright works?

Permitted acts that do not infringe copyright include:

- fair dealing: copyright in a work is not infringed by any fair dealing for the purposes of research or private study by the person using the work. Fair dealing does not apply if the person who reproduces the work knows or has reason to believe that it will result in copies of substantially the same material being provided to more than one person at substantially the same time;
- fair dealing for purposes of criticism, review or news reporting use of the work by way of illustration in publications, broadcasts, programs distributed by cable, or sound or visual recordings for educational use;
- copies made to replace or conserve library or archival copies of works;
- distribution by cable or any work broadcast, where the beneficiaries of the distribution by cable live in one and the same building;
- use of anonymous or pseudonymous works, subject to conditions;
- use of work for parliamentary or judicial proceedings or inquiries;
- reproduction of works of art and of architecture in an audiovisual or video recording, and the communication to the public of the works so reproduced, if the said works are permanently located in a place where they can be viewed by the public;
- quotations from copyright works;

- recording, by any broadcasting organisation for the purpose of its own broadcasts and by means of its own facilities, in one or several copies, of any work that it is authorised to broadcast, subject to conditions;
- public readings and recitations.

3.7.5 What acts are not permitted in relation to copyright works?

Unpermitted/restricted acts include:

- reproducing the work;
- publishing the work;
- importing the work into Tanzania or exporting it from Tanzania, otherwise than for personal and private use;
- causing the work to be transmitted in a cable programme service, unless the service transmits a lawful broadcast and is operated by the original broadcaster;
- making an adaptation of the work.

3.7.6 What is the duration of protection?

The duration of copyright protection is as follows:

- **literary works:** the lifetime of the author (or last surviving author in the case of co-authored works) plus 50 years;
- **performers and recording rights:** 50 years from the end of the calendar year in which the performance took place;
- **an audiovisual work, a collective work, a photograph, or a computer program:** 50 years from the end of the year in which the work was made available to the public with the consent of the owner of the copyright or, failing such an event, 50 years from the making of the work or 50 years from the end of the year in which the work was made;
- **a sound recording:** 50 years from the end of the year in which the recording was first published;
- **a broadcast:** 50 years from the end of the year in which the broadcast first took place;
- **a programme-carrying signal:** 50 years from the end of the year in which the signal was first emitted to a satellite;
- **a published edition:** 50 years from the end of the year in which the edition was first published;
- **a work of applied art:** 25 years from the making of the work.

3.7.7 Can I renew copyright after its term of protection expires?

Copyright cannot be renewed in Tanzania once its term has expired. The work lapses into the public domain at the end of the term of protection.

Links to legislation:

ARIPO: <https://www.aripo.org/member-states-laws/>

Links to institutions:

AfCFTA – Africa Trade House, Ambassadorial Enclave, Liberia Road, Ridge, Accra Ghana: <https://au.int/en/cfta>

ARIPO – African Regional Intellectual Property Organization: <https://www.aripo.org/>

BRELA: Business Registrations and Licensing Agency: <https://www.brela.go.tz/>

National Arts Council of Tanzania (BASATA): <http://www.basata.go.tz/>

SADC – Southern African Development Community: <https://www.sadc.int/>

