

EXECUTIVE SUMMARY OF THE TANZANIA COUNTRY RISK ASSESSMENT

The CRA performed on Tanzania has investigated each human right from the Universal Declaration of Human Rights (UDHR) at three levels. First, the rights were investigated for areas of conflict between the prevailing national laws and international human rights law. Second, the prevailing social and cultural practices were analysed to identify any inherent human rights violations frequently perpetrated at the societal level. Third, each right was assigned an overall company risk rating, based on the ratings in the formal law and practice categories and the proximity to company operations. The results of the CRA produced the categorisation of 7 human rights as high-risk areas, 9 human rights as medium risk areas and 4 human rights as low-risk areas for companies operating in Tanzania. The following presents the overall results of the CRA, including a short description of each right. Section 5 in this report offers a detailed in-depth description of each right.

COMPANY RISK

The following rights received a red rating in the Company Risk category in the CRA, which indicates that these human rights constitute high-risk areas for companies operating in Tanzania. A short description of each right follows below.

- Right to Freedom from Discrimination (art. 2)
- Right to Own Property (art. 17)
- Right to Peaceful Assembly and Freedom of Association (art. 20 and 23)
- Right to Work and Just and Favourable Conditions of Work (art. 23, 24 and 25)
- Right to an Adequate Standard of Living (art. 22)
- Right to Health (art. 25)
- Right to Education (art. 26)

Right to Freedom from Discrimination (art. 2) constitutes a high-risk human rights area in Tanzania, and discrimination against women, refugees, and individuals with HIV/AIDS are significant societal problems. Gender based discrimination continues to be prevalent due to a continuance of traditional norms and family patterns where labour is divided according to gender – especially in rural areas – which often consign women to subordinate positions. Investigations of the manufacturing sector have revealed the existence of gender based wage discrimination. Approximately 10% of the Tanzanian population suffers from HIV/AIDS (WHO, 2003) and these people face discrimination, stigmatization and differential treatment, also in the workplace. Homosexuality is illegal in Tanzania and even though there is no systematic persecution of homosexuals, it is not prudent to openly acknowledge one's homosexuality.

Right to Own Property (art. 17) is a high risk human right area for companies operating in Tanzania due to violations of indigenous people's property rights and gender-based discrimination. Many of the customary laws in Tanzania place restrictions on women's rights, and women continue to face discrimination in matters of inheritance and property ownership of land. Indigenous pastoral and hunter-gatherer communities in Tanzania, such as the Maasai, the Barbaig and the Hadzabe people, have traditionally occupied areas rich in natural resources, and due to farming, wildlife conservation, national parks and mining activities, land has been taken away from these groups. The land alienation has led to a reduction in the indigenous people's resource bases, causing increased food insecurity.

Right to Peaceful Assembly and Freedom of Association (art. 20 and 23) is a high-risk human rights area for companies operating in Tanzania. The laws on trade union rights are in accordance with international standards; however practice is not, and violations of the rights take place. Political rallies and demonstrations have been interfered with by security forces, and opposition parties have had difficulties enjoying the right to assemble. Trade unions exist, but they are not very well organised. Moreover, the number of members is very low and discrimination of union members is a problem, especially in the private sector. According to the Trade Union Congress of Tanzania (TUCTA), the current privatisation is weakening the exercise of trade union rights, including collective bargaining due to a relaxation of the enforcement of adequate labour standards in order to attract foreign investment.



Right to Work and Just and Favourable Conditions of Work (art. 23, 24 and 25) constitutes a high-risk area that requires special attention from companies. Tanzania struggles with high unemployment (30%), so the opportunities for formal employment are very limited, particularly in the rural areas. 12% of the work force is employed in the informal sector (Tanzanian Government, 2005), where labour standards are inadequately enforced. Privatisation as well as the high unemployment rate has had a weakening effect on the conditions and welfare of workers. The process is said to subject workers to substandard working conditions, such as long hours, compulsory night shifts, job insecurity, poor remuneration, forced overtime work and denial of access to trade unions. Women, children, and people infected with HIV/AIDS constitute particularly vulnerable groups in the workforce.

Right to an Adequate Standard of Living (art. 22, 25) is a high-risk human rights area for companies operating in Tanzania and requires special attention from companies. Tanzania is one of the poorest countries in the world and living standards are generally poor; 20% of the population live below \$1 per day and 35% live below \$2 per day (UNDP, 2003). Even though the Government has defined a national minimum wage, the established wage is insufficient to maintain an adequate standard of living. Moreover, a large part of the work force is employed in the informal sector where people are often paid well below the minimum wage. Most of the social security schemes cover only a limited number of people, in particular those in the urban formal sector, but people working in the informal sector rarely have access to any kind of social security.

Right to Health (art. 25) constitutes a high-risk human rights area in Tanzania that requires special attention from companies. Inadequate occupational health and safety (OHS) standards and environmental hazards are widespread, especially in the informal sector and in small and medium-sized companies where the majority of the work force is employed. Workers are often unaware about OHS issues and are unprotected from occupational accidents and diseases. The health status in Tanzania is generally poor, and the HIV/AIDS epidemic further stresses an already drained healthcare system. The age structure of the labour force, the level of workers experience and extent of training, the productivity of workers and the social costs for employees have been severely affected by the HIV/AIDS epidemic. In addition to HIV/AIDS, other diseases such as malaria and tuberculosis are prevalent in Tanzania.

Right to Education (art. 26) is a high-risk human rights area in Tanzania due to the continued occurrence of child labour. The law that provides for compulsory, free and universal education is inadequately enforced and access to education is low. Enrolment in primary school is below 50%, lower for girls than for boys, and is even less in secondary school. Child labour is estimated as a serious problem in Tanzania, and according to a survey conducted by the Ministry of Labour in cooperation with the International Programme on the Elimination of Child Labour (IPEC) in 2000-01, almost 40% of children between 5 and 17 years were reported to be engaged in economic activities (4,7 million out of 12 million children), and 47% were engaged in housekeeping activities. Of these 4,7 million employed children, it was estimated that 1,2 million were engaged in the worst forms of child labour, including sectors of commercial agriculture, mining, domestic service, or prostitution.

COMPANY RISK

The following rights received a yellow rating in the Company Risk category in the Tanzania CRA which indicates that these human rights constitute medium-risk areas for companies operating in Tanzania. A short description of each right follows below.

- Right to Life, Liberty and Security of Person (art. 3)
- Right to Freedom from Forced Labour and Servitude (art. 4)
- Right to Freedom from Torture, Cruel, Inhuman or Degrading Treatment or Punishment (art. 5)
- Right to Privacy (art. 12)
- Right to Family Life (art. 16)
- Right to Take Part in Government (art. 21)



- Right to Food (art. 25)
- Right to Adequate Housing (art. 25)
- Right to Participate in Cultural Life (art. 27)

Right to Life, Liberty and Security of Person (art. 3) is a medium risk human rights area for companies in Tanzania. There have been no reports of political motivated killings by the Government or government agents in recent years, nor any reports on politically motivated disappearances. However, arbitrary arrest and detention is a serious problem, and supporters and members of political opposition parties are especially subjected to such treatment. The police force is considered to be corrupt and violent, and human rights abuses are seldom prosecuted.

Right to Freedom from Forced Labour and Servitude (art. 4) is a medium risk human rights area in Tanzania, with violations carried out both by public and private perpetrators. The Government has been criticised by human rights groups for making prisoners work on government-projects, such as road repair and construction outside the prison, even though it is prohibited by law. The current privatisation is in general said to be leading to poorer working conditions, and recent investigations in the mining industry have revealed that workers in some cases have been forced to work overtime. Tanzania is a source, transit, and destination country for women and children trafficked for the purposes of forced labour and sexual exploitation

Right to Freedom from Torture, Cruel, Inhuman or Degrading Treatment or Punishment (art. 5) is a medium risk human rights area for companies in Tanzania. Torture is a problem in Tanzania, and there are several reports on torture, threats, and mistreatment of suspected criminals and prisoners. The police are rarely prosecuted for the abuse. Prison conditions are harsh and life threatening; food is inadequate and prisoners die from diseases such as malaria, HIV/AIDS, cholera, and dysentery. Corporal punishment is practised both as a penalty for ordinary criminality, and in schools, families and care institutions. Most of these violations take place within the governmental sphere, and the company should protect itself against complicity in any of these violations.

Right to Privacy (art. 12) is categorised as a medium risk human rights area for companies operating in Tanzania primarily due to reports of private companies testing applicants for HIV/AIDS and refusing to hire infected people. Approximately 10% of the Tanzania population suffers from HIV/AIDS (WHO, 2003). In regard to violations carried out within the governmental sphere, there have been reports about security forces that conduct warrantless searches, and monitor private telephones conversations and correspondence of citizens and foreign residents. However, since these types of privacy violations are carried out within the governmental sphere, companies will only have limited influence on such policies and practices concerning the citizens' privacy.

Right to Family Life (art. 16) is a medium risk human rights area for companies operating in Tanzania. The size and growth of the informal sector have – in general – resulted in a decline of work conditions and maternity benefits, and women working in the informal sector rarely have access to maternity leave and benefits. The family structure in Tanzania is traditional with a traditional pattern of sex roles; the "family" in Tanzania usually refers to the extended family but does not include a homosexual union of any type whatsoever.

Right to Take Part in Government (art. 21) is a medium risk human rights area for companies in Tanzania. Tanzania introduced the country's first democratic elections in 1992 and the transition to democracy has generally been considered relatively peaceful and successful. However, opposition parties sometimes suffer harassment and persecution and in general have less possibility to enjoy their right to assemble. Corruption is widespread and a very serious problem, creating a serious obstacle to development and limiting accessibility to justice for vulnerable groups.

Right to Food (art. 25) constitutes a medium risk human rights area for companies in Tanzania due to the necessary caution companies must assume when purchasing land, and ensuring that employee wages provide enough income for food. Tanzania's economy is predominantly agricultural, primarily coming from production of food crops supplemented by livestock, forestry, hunting and fishing. Agriculture is the main source of income for 80% of the population, and approximately 85% of the total labour force works in agriculture. Environmental degradation, mainly caused by shifting



cultivation and other land use forms unsuitable for fragile ecosystems, is a problem for Tanzania's indigenous peoples and companies need to ensure that its activities do not damage land that is used or intended for food production.

Right to Adequate Housing (art. 25) is categorised a medium risk human rights area for companies operating in Tanzania. The general state of housing is poor. Slum areas are growing and a large part of urban population live in areas exposed to risks such as floods and diseases which lack many basic services such as clean water, sanitation, waste disposal systems, access roads, and health and education services. Also in rural areas, housing standards are inadequate and access to basic services is poor. According to statistics from the UNDP 2002, 27% of the population do not have access to an improved water source and 54% do not have access to improved sanitation.

Right to Participate in Cultural Life (art. 27) is a medium risk human rights area in Tanzania primarily because of the threat to the indigenous way of life. Groups such as the Masaai, the Barbaigs and the Hadzabe people have been subject to a number of violations. Some indigenous groups have been forced to leave their original dwelling places and other groups have had their graveyards and other traditional places destroyed. People have been compelled to settle permanently and become integrated into the general society, especially the Hadzabe, resulting in economic as well as cultural deprivation. Indigenous people are also vulnerable in relation to work due to their preference to wear traditional garments that sometimes may not be in line with company requirements concerning work wear.

COMPANY RISK

The following rights received a green rating in the Company Risk category in the Tanzania CRA which indicates that these human rights constitute low-risk risk areas for companies operating in Tanzania. A short description of each right follows below.

- Right to Fair Trial and Recognition as a Person before the Law (art. 6,7,10 and 11)
- Right to Freedom of Movement (art. 13)
- Right to Freedom of Opinion, Expression, Thought, Conscience and Religion (art. 18 and 19)
- Right to Intellectual Property (art. 26)

Right to Fair Trial and Recognition as a Person before the Law (art. 6,7,10 and 11) is a low risk human rights area for companies operating in Tanzania. The right is rated a high risk area at the practice level, however this is largely due to widespread corruption and government policies and activities over which companies rarely have influence. The enjoyment of the right is in practice very often outside of companies' spheres of influence, nonetheless the company must be aware of complicity in violations. The judiciary is under-resourced, inefficient, bureaucratic, and corrupt, and access to justice is limited for the poor, women and minorities. There is serious lack of lawyers and the courts suffer from huge backlogs. Arbitrary arrest and detention is a problem in Tanzania, and it is not uncommon for citizens to be detained for months without a trial.

Right to Freedom of Movement (art. 13) is a low risk human rights area for companies in Tanzania. The right is generally respected by the Government even though there are some minor exceptions which could have an impact on companies in Tanzania. For example, Tanzania's indigenous people have lost parts of their land due to farming, wildlife conservation, national parks and mining, and been forced away from their lands, sometimes to give way to foreign companies. Tanzania has a high number of refugees (800.000 according to UNHCR, 2005), and refugees face violations of the right to movement due to restrictions on their right to leave the refugee camps and move outside them. The restrictions have a negative effect on the refugees' opportunities to access markets, land and employment.

Right to Freedom of Opinion, Expression, Thought, Conscience and Religion (arts. 18 and 19) is a low risk human rights area for companies in Tanzania. Abuses generally occur at the hands of the Government and outside the influence of companies. Freedom of speech is reported to be partially limited while freedom of the press is acceptable with a growth in independent media. There are no restrictions or obstacles to the operations of human rights organisations. The right to



religion is in general respected; however the secular Government has prohibited religious organisations from involvement in politics.

Right to Intellectual Property (art. 26) is a low risk human rights area for companies in Tanzania and generally complied with by the Government. However, Tanzanian legislation is not sensitive to traditional knowledge, and the intellectual property rights of indigenous people are not specifically protected. Counterfeiting is to some extent a problem in Tanzania and not really protected by the intellectual property laws.

For specific recommendations on how to minimise these risk areas, please refer to the recommendations in the focal areas or under the particular right in section five.

