MWEBESA
LAW GROUP

MONTHLY

Newsletter

ISSUE 09
JULY 2025

MWEBESA LAW GROUP

Editor's Note July Edition

"Some rules preserve history, others protect markets, but all demand that we pay attention."

Dear Esteemed Clients, Stakeholders and Readers,

As we step into the heart of the dry season, July brings with it a sense of clarity and focus, both in weather and in business. It is a time when many sectors begin to assess progress against mid-year goals, & compliance, planning, and strategy take centre stage. We hope this edition of our newsletter offers timely insights to support your decision-making during this critical period.

We begin with a piece that speaks directly to real estate developers & property owners in Zanzibar with a specific focus of Stone Town. While Stone Town's UNESCO status attracts admiration and investment interest, the legal obligations that come with heritage preservation are far from cosmetic. The article unpacks the regulatory landscape shaped by the Stone Town Conservation and Development Authority, where even basic repairs require permits, building materials are pre-determined, and failure to comply could mean hefty penalties or government takeover of neglected properties. Importantly, we have included this analysis with our Zanzibar-based clients and prospective developers in mind. With a fully operational branch in Zanzibar, **MWEBESA LAW GROUP** stands ready to support both local and foreign investors seeking to understand and comply with Zanzibar's conservation framework.

In our second feature, we provide a compliance-focused update on the agrochemical industry, a sector that remains vital to Tanzania's food security and export ambitions. From licensing and product registration to manufacturing standards and hazardous waste disposal, the legal terrain has grown increasingly technical. The article serves as both a checklist and a warning: non-compliance is no longer a tolerable oversight, especially as authorities ramp up inspections and enforcement.

Lastly, we turn to the issue of cartel conduct, a subject that continues to raise red flags across several sectors. Tanzania's Fair Competition Commission takes a strict stance on collusion, and the law leaves no room for argument once cartel behaviour is established. Whether price-fixing, bid-rigging, or market sharing, these practices are treated as per se violations, regardless of claimed economic rationale. Through legal analysis and sector-specific case insights, this article cautions businesses that the consequences of anti-competitive conduct, fines, reputational damage, and potential criminal liability can quickly outweigh any short-term commercial gain.

As always, we write not just to inform, but to challenge, provoke, and invite dialogue. We hope this edition leaves you not only informed, but inspired to think a little deeper, and perhaps ask a few more difficult questions of your own.

We look forward to your thoughts and to shaping the legal landscape together.

Happy reading!

The Editorial Team
MWEBESA LAW GROUP

LEGAL ASPECTS OF HISTORIC PRESERVATION AND PROPERTY RIGHTS IN ZANZIBAR

Zanzibar’s historic charm is undeniable, its ancient buildings, ornate doors, and centuries-old monuments tell stories of the island’s vibrant past. Its rich cultural and architectural heritage, particularly in Stone Town, has earned it a status as a UNESCO World Heritage Site. Yet Zanzibar is no longer just a relic of history; it is a rapidly modernizing destination. Surging tourism and economic growth have fuelled a rising middle class, driving demand for modern housing, updated infrastructure, and commercial development. This development has led to significant urban sprawl, as the city expands to accommodate its growing population and tourism industry. But these forces place unprecedented pressure on the already delicate balance between heritage preservation and modernisation.

For property owners in these heritage zones, preserving history comes with legal constraints. Imagine owning house, yet needing government approval to repair a leaky roof or restore aging walls. This is the daily reality in Zanzibar's protected zones, where conservation rules often collide with practical needs. Strict laws protect Zanzibar’s cultural treasures, making it difficult to renovate or even repair homes without government approval. While these rules safeguard the island’s heritage, they also restrict property owners’ ability to adapt or develop their buildings in response to the city’s ongoing urbanization.

This article explores the delicate balance between safe-guarding Zanzibar’s past and respecting the rights of those who own its historic spaces particularly within the Stone Town. What options do property owners have when heritage restrictions clash with modern needs? We will carefully examine Zanzibar's unique legal framework for heritage protection, exploring how it balances between individual property rights and collective conservation needs. Our analysis will shed light on both current regulatory challenges and emerging solutions that aim to protect Stone Town's legacy while addressing practical concerns of property owners.

Legal framework for heritage preservation

Zanzibar's architectural heritage is protected through an intricate legal framework designed to balance preservation with progress. At the heart of this framework stands the Stone Town Conservation and Development Authority (STCDA), established in 1994 and reinforced by amendments in 2010. As the primary custodian of Stone Town's UNESCO World Heritage status, the STCDA holds sweeping powers, from approving minor repairs on historic homes to overseeing major urban development projects. Its mandate ensures that every modification, whether to a merchant house's carved wooden door or an entire streetscape, adheres to strict conservation principles. This regulatory system operates through the following several key laws:

1. The foundational Stone Town Conservation and Development Act (1994) which gave rise to the STCDA specifically safeguards the architectural character of Stone Town, enforcing design standards that maintain its distinctive blend of Swahili, Arab, and European influences. This serves as both gatekeeper and enforcer of conservation norms.

2. The Antiquities Act (2002) which protects Zanzibar's monuments and artifacts, requiring permits for even modest alterations while strictly governing archaeological work.

3. The Town and Country Planning Act (1955), where though decades old, continues to shape urban development in ways that indirectly support heritage preservation through zoning and density controls.

4. The Fund for Preservation of Historical Heritage Act (2003) which provides crucial financial support, enabling restoration projects often funded by international partners like the World Bank .

Furthermore, a unique aspect of Zanzibar's heritage landscape involves Waqf properties . These are assets permanently dedicated to religious or charitable causes under Islamic law. The Waqf and Trust Commission Act (2007) governs these historically significant properties, which often include centuries-old mosques, madrassas, and charitable foundations. Their protected status adds another layer to Zanzibar's conservation framework, ensuring that these community landmarks remain intact for future generations.

Collaboratively, while this legal structure effectively shields Zanzibar's cultural treasures, it creates significant challenges for residents and developers. Modern development needs often clash with preservation rules, which sometimes stifles practical upgrades to plumbing, electrical systems, or other essential infrastructure.

Property rights vs Preservation

Stone Town's legal regime recognizes property ownership but firmly subordinates individual autonomy to the collective goal of preserving the city's architectural and cultural legacy. Property owners are subject to a rigorous approval process under the STCDA for any construction, renovation, or maintenance work, with their rights fundamentally shaped by the historic significance of their buildings.

The permit application process demands comprehensive documentation, including property deeds, detailed architectural plans, and local leader approval, all subject to non-negotiable fees. Each proposal undergoes strict scrutiny against the Conservation Master Plan, with approval contingent on maintaining historical authenticity. The temporary nature of permits - valid for only six months - creates additional pressure, while rejected applications face an appeals process that introduces political considerations through ministerial review.

Building classifications further complicate matters, creating a hierarchy of restrictions. Buildings within Stone Town are classified into three grades (I, II and III), each reflecting their historical significance & carrying distinct restrictions. Grade I properties, deemed of outstanding significance, exist in a near-permanent state of preservation where even minor repairs require historically accurate materials like non-hydraulic lime and mangrove poles. Grade II buildings allow some internal modernization of functional spaces like kitchens and bathrooms, provided exterior integrity remains untouched. Grade III properties, while more flexible, still prohibit structural changes without authorization.

These permissions exist alongside sweeping limitations designed to protect Stone Town's UNESCO status. The STCDA maintains absolute control over exterior modifications, enforcing specific material requirements and colour schemes; lime putty, light cream, or emulsion white for walls; maroon or silver corrugated iron for roofing. Even signage placement, size and design require approval. Noise ordinances further restrict property use, prohibiting amplified sound after 10 PM on weekdays and midnight on weekends.

Enforcement mechanisms demonstrate the system's severity. Violations can trigger fines up to 20 million shillings, mandated demolition at owner expense, or even property confiscation. The STCDA possesses authority to intervene directly in cases of neglect, including seizing and renting out poorly maintained buildings to fund necessary repairs.

This framework creates inherent tension between private ownership and public conservation interests. A tension vividly illustrated by the 2020 collapse of the House of Wonders (Beit al-Ajaib). This iconic 1883 landmark, celebrated as Zanzibar's first electrified building, suffered catastrophic structural failure due to neglected maintenance, water damage, and termite infestation, exposing critical flaws in the preservation system. Investigations into the incident exposed not only the technical vulnerabilities of aged structures but also systemic failures in Zanzibar's preservation system such as delays in restoration approvals, chronic underfunding, and insufficient monitoring of structural health. The event catalysed legal & policy discourse around responsibility, raising pressing questions about whether heritage protection should rest solely on public authorities or include clearer duties for private stakeholders. It also renewed calls for expedited permitting, public-private financing mechanisms, and proactive audits of historic buildings.

1. The Zanzibar Urban Services Project, 2021.
2. Any property which the original owner based on Islamic religion grounds has devoted it to help religious cause or to cater for specific matters or specific persons. Any properties that can be contributed permanent without destroying its originality

Recommendations

The bureaucratic burden, from frequent permit renewals to local leader consultations, raises tension about the practicality for owners bearing preservation costs without corresponding flexibility. Supporters argue these measures are essential to safeguard Stone Town's unique character and tourism value, while critics question whether the balance has tipped too far toward collective control, potentially discouraging private investment in heritage properties. The challenge remains to preserve the past without stifling the present. To that end, we recommend the following reforms:

1. **Streamline permit and approval processes: The STCDA can should consider the following:**

   a. Establish an expedited review process for emergency structural repairs, particularly for Grade I and II buildings. Applications for critical maintenance (e.g., termite treatment, roof repairs, or foundation stabilization) should be prioritized, with decisions issued within 30 days.

   b. Increase the validity period for renovation permits from six months to two years for major restoration projects, reducing bureaucratic burdens on long-term conservation efforts.

   c. Develop an online submission system for permits, complete with checklists for required documents (e.g., structural assessments, material specifications) to minimize delays that discourage compliance caused by incomplete applications.

   d. Maintain a roster of STCDA-certified architects and engineers specializing in heritage restoration to guide property owners through compliant designs, reducing back-and-forth revisions.

2. **Institutionalize structural audits for at-risk buildings.**

Zanzibar's historic buildings require routine technical evaluations. We propose that the STCDA, in partnership with professional engineers and conservation architects, develop a formalized audit program, targeting high-risk or Grade I properties, for preventive inspections. This would help detect early signs of degradation and reduce the likelihood of catastrophic failures like that of the House of Wonders.

3. **Tax relief for compliant owners.**

Offer property tax reductions or exemptions for owners who adhere to conservation guidelines and maintain their buildings to STCDA standards.

Conclusion

The stones of Stone Town have weathered centuries of change. The question now is whether our policies will help them endure or hasten their decline. Zanzibar's heritage preservation framework has reached a pivotal moment where strategic action can no longer wait. While the current legal structure provides a necessary foundation, particularly for Stone Town's protection, three critical gaps demand immediate attention. First, outdated laws must evolve to fairly balance private property rights with public preservation needs. Second, token community consultations must transform into genuine partnerships that value local knowledge and needs. Third, innovative funding solutions are urgently required to make conservation sustainable beyond donor projects. For property owners, this means fairer systems that reward stewardship rather than punish it with unaffordable mandates. For the STCDA, it means balancing enforcement with empowerment, using its authority not just to penalize but to facilitate, fund, and educate. And for Zanzibar as a whole, it means treating Stone Town not as a frozen museum but as a living community, where historic walls house vibrant futures.

FROM PRODUCTION TO DISPOSAL: NAVIGATING LEGAL & REGULATORY COMPLIANCE FOR AGROCHEMICALS.

INTRODUCTION

The Agricultural sector is one among the fastest developing sectors in the country currently employing nearly 65% of Tanzanians and contributing about 30% of the county's GDP. And this agricultural revolution rides on the back of agrochemicals play a significant role by enhancing productivity, crops protection against pests, weeds and diseases and improving soil fertility. While the use of agrochemicals is common amongst agriculturalists, if poorly handled agrochemicals could lead to despicable atrocities on the environment, health and regulatory concerns.

The management of agrochemicals is not just a regulatory issue, rather a matter of national food security, public health, and environmental conservation. Though the production, trade and use of agrochemicals is not an entirely new concept, the legal and regulatory compliance on matters of agrochemicals remains a maze for many businesses, agriculturalists, and policymakers. For agrochemical dealers, compliance has become the ultimate competitive advantage. Tanzania's regulators now wield digital tracking systems, surprise inspections, and six-figure fines against violators. The 2021 ban of 44 dangerous pesticides proved the government's willingness to prioritize health over short-term profits. This article maps the minefield of modern agrochemical regulation, not to recite laws you already know, but to reveal the operational insights separating compliant market leaders from penalized offenders. Understanding these rules is essential for anyone who cares about the future of agriculture in Tanzania.

THE COMPLIANCE ECOSYSTEM: LICENSING, PRODUCTION, IMPORT CONTROL AND DISPOSAL

A. Fertilizer Compliance

The manufacturing and distribution of fertilizers in Tanzania is primarily governed by the Fertilizer Act, No. 9 of 2009 and the Fertilizer Regulations of 2011. The Tanzania Fertilizer Regulatory Authority (TFRA) is the statutory body charged with licensing, inspections, and overall regulatory oversight. All fertilizer products and manufacturing entities must be formally registered with the TFRA prior to commencement of operations. This includes submitting detailed applications accompanied by product samples, proof of company registration, and compliance with Good Manufacturing Practices (GMP).

TFRA enforces stringent standards on labelling, packaging, and product disclosure. Fertilizer labels must display TFRA registration numbers, detailed nutrient compositions, and batch tracking information, all presented in both English and Swahili. Manufacturing facilities must meet infrastructure standards, including dust control systems, designated storage for raw materials, and proper disposal mechanisms. Production data and distribution movements are reported digitally through the Fertilizer Management Information System (FMIS), which allows TFRA to monitor the supply chain in near real-time.

For foreign manufacturers, registration is not permitted unless they are represented by an in-country agent, reflecting Tanzania's policy of territorial accountability. The regulatory environment is further supported by the Tanzania Fertilizer Society and similar industry bodies that routinely hold workshops to reinforce compliance awareness and legislative updates.

Importation of fertilizers is governed under Regulation 48 of GN No. 350 of 2011. Importers must apply for an import permit, submit representative samples for laboratory analysis, and await the issuance of a Certificate of Analysis before receiving clearance. Non-compliant shipments are either re-exported, destroyed, or denied entry. Compliance is also tied to regional customs standards under the East African Community framework, with the Tanzania Revenue Authority (TRA) enforcing tariff classifications and border inspections.

B. Pesticide Compliance

Pesticides are regulated under the Plant Health Act, No. 4 of 2020 and its implementing regulations (GN No. 284 of 2023), with the Tanzania Plant Health and Pesticides Authority (TPHPA) serving as the central regulator. Manufacturing pesticides in Tanzania requires an operating license from the TPHPA and a certified Environmental Impact Assessment from the National Environment Management Council (NEMC), reflecting the environmental sensitivity of these substances.

All pesticide products must undergo a rigorous registration process, which includes submission of detailed chemical formulations, toxicological data, and efficacy studies conducted across multiple trial sites. Products containing banned substances such as Paraquat or Endosulfan are automatically disqualified. TPHPA also mandates facility inspections to verify GMP adherence, ranging from appropriate containment systems and ventilation protocols to worker safety and waste treatment mechanisms.

Labels must include TPHPA registration numbers, hazard symbols, and safety instructions in Swahili and English. Manufacturers are further required to maintain effluent treatment systems and implement spill management protocols. Annual environmental audits are mandatory for continued licensure, with breaches attracting penalties of up to TZS 100 million or suspension of operations for up to five years.

Compliance enforcement has been visibly active in recent years. Several manufacturers have faced recalls, fines, or closure orders due to poor storage practices or failure to renew licenses. Between the year 2018 and 2021 the government conducted a review and 44 pesticides were found to be harmful to human health and environment. Following the identification of the harmful pesticides the government through TPHPA started tracking down to stop the use of the said pesticides and has been continuing with the routine inspections of warehouses and shops so as to combat the manufacturing and distribution of the banned agrochemicals. TPHPA also operates a digital pesticide tracking system to strengthen post-market surveillance, ensuring that even after approval, products are continually monitored for safety.

Import and export of pesticides mirror the fertilizer procedures in principle but demand greater scrutiny due to the hazardous nature of the substances involved. All imports must be tested, certified, and permitted by the TPHPA. Similarly, exports must be supported by documentation from the importing country and are prohibited where the pesticides include internationally restricted or domestically banned substances. Improper labelling or undocumented shipments risk seizure, fines, or permanent blacklisting.

C. Disposal of agrochemicals

Disposal of agrochemical waste, whether obsolete products, expired stock, or empty containers, is a critical, though often overlooked, component of regulatory compliance in Tanzania. Both fertilizers and pesticides are subject to strict environmental and public health safeguards under the Environmental Management Act (2004) and the Environmental Management (Hazardous Waste Control and Management) Regulations, GN No. 389 of 2021, with oversight by the NEMC and the relevant sector regulators: TPHPA for pesticides and TFRA for fertilizers.

Under Tanzanian law, waste generated from agrochemicals is categorized as hazardous due to its potential toxicity, corrosiveness, and environmental reactivity. As such, manufacturers, traders, and users, including farmers are under a statutory obligation to ensure the safe and legally compliant disposal of these substances. Section 53 of the Plant Health Act, 2020, for instance, requires all parties in the pesticide value chain to take responsibility for obsolete pesticides and their containers.

Before disposal, an entity must apply for a Disposal Permit from the TPHPA (or TFRA for fertilizers), which is issued in consultation with NEMC. This ensures that disposal methods align with national and international environmental protection standards, including those under the Basel Convention on hazardous waste management. Where there is evidence that the agrochemical waste poses imminent harm to public health or the environment, the regulator may issue a Pesticide Control Order directing immediate disposal. Non-compliance may lead to regulatory enforcement, including fines, cost recovery orders, or license revocation.

Permitted disposal methods vary by the nature of the chemical. Common practices include secure landfilling, high-temperature incineration, or chemical neutralization, often conducted through licensed hazardous waste handlers. Empty containers, if not returned under government-approved take-back programs, must be triple-rinsed and punctured to prevent reuse and environmental leakage. Improper disposal such as open dumping, burning, or reuse of containers for water or food storage, is punishable under both environmental and public health laws. Offenders may face heavy fines, civil liability for environmental damage, or even imprisonment.

CONCLUSION

The regulation of agrochemicals in Tanzania from production, trade, usage and disposal represents a critical balance between agricultural productivity & environmental stewardship. For companies, this means integrating disposal planning into product lifecycle management, from labelling and packaging to after-sale stewardship programs. However, sustained compliance will depend not only on the private sector's adherence to statutory requirements but also on the state's capacity to enforce consistently, streamline procedures, and offer technical guidance.

Beyond legal risk, non-compliance can erode market trust, disrupt operations, & expose stakeholders to environmental and health liabilities. As Tanzania positions itself to modernize its agricultural base and align with global best practices, agrochemical compliance must be understood as a full-cycle obligation, beginning at production and ending at safe disposal. The future of sustainable agriculture in Tanzania will depend not just on what we produce, but how responsibly we manage the tools that make that production possible.

1. Commercially produced, usually synthetic chemical compounds such as fertilizers, pesticides including insecticides, herbicides, fungicides that are used to improve the production of crops

2. https://www.thecitizen.co.tz/tanzania/news/national/tanzania-bans-44-pesticides-unsafe-for-human-health-and-the-environment-4203210

CARTELS IN TANZANIA: STRATEGIC COOPERATION OR COMPETITION VIOLATION? A LEGAL AND ECONOMIC ANALYSIS FOR ENTERPRISES

A. Introduction

While legitimate industry collaboration can drive innovation and efficiency, the boundary between lawful coordination and anti-competitive conduct is critically thin. Economic cartels distort market dynamics by enabling companies to collude for unfair financial gain, undermining competition and harming consumers. These secret alliances between competitors to manipulate markets, pose a grave threat to free enterprise, consumer welfare, and national economic stability through price-fixing, market sharing, output restrictions, and bid-rigging. They violate competition law by replacing free-market principles with artificial controls. In Tanzania, the Fair Competition Act, Cap. 285 (FCA) enforced by the Fair Competition Commission (FCC) expressly prohibits such practices treating violations with severe penalties, to safeguard a level playing field. This article explores Tanzania's regulatory framework, analyses key legal challenges, and provides practical guidance for businesses to navigate compliance and avoid severe penalties.

B. Understanding Cartels

Cartels are clandestine agreements between competitors intended to neutralize the forces of market competition. Rather than relying on efficiency and innovation, cartel members coordinate their behaviour to gain unearned economic advantage, most often through fixing prices, allocating markets, rigging bids, restricting output, or orchestrating collective boycotts. These practices are universally condemned in competition law due to their corrosive impact on market integrity and consumer welfare. Under Section 9(1) of Tanzania's FCA, cartel conduct is classified as a per se violation, meaning that such conduct is automatically unlawful, without the need to prove actual market harm or anti-competitive effect. The law singles out prohibited acts which include:

a. Price-fixing: Competitors agreeing to set prices artificially.
b. Collective boycotts: Coordinated refusal to deal with specific suppliers or customers.
c. Output restrictions: Deliberately limiting production to manipulate supply.
d. Bid-rigging: Colluding to predetermine tender outcomes.
e. Market or customer allocation: Agreements to divide markets or customers to avoid competition.

These prohibitions reflect a strict liability approach that mirrors global antitrust standards, such as those seen in South Africa, the EU, and the United States.

C. Economic impact of cartel conduct

Cartels operate as a hidden tax on economies, extracting value from consumers while stifling productive sectors. Their corrosive effects are particularly pronounced in structurally concentrated markets like the petroleum industry, where collusion can ripple across the entire supply chain. When competitors conspire to restrict output or fix prices, the immediate victims are consumers, who face inflated costs and diminished choices. In Tanzania, suspected collusion among fuel importers led to artificial shortages, triggering retail price surges that cascade into transportation, agriculture, and manufacturing. These distortions embed inflationary pressures into the economy, eroding purchasing power and disproportionately affecting low-income households. Consumers and businesses, faced with shortages or exorbitant official prices, inevitably seek alternatives through informal channels, where unregulated vendors sell adulterated or smuggled products at slightly lower prices. While these underground transactions may offer temporary relief to frustrated buyers, they come at a steep societal cost, depriving governments of tax revenue, exposing consumers to unsafe products, and further destabilizing legitimate markets.

The harm extends beyond prices; cartels undermine the very mechanics of supply and demand, replacing market discipline with artificial scarcity that benefits a select few at the expense of the many. The long-term consequences are equally severe. Cartels create a hostile environment for innovation and competition by erecting artificial barriers to entry. Small and medium-sized enterprises, often the lifeblood of economic diversification, find themselves locked out through predatory pricing or exclusionary supply arrangements. In sectors dominated by cartels, inefficiency thrives as incumbents, insulated from competitive pressure, have little incentive to improve quality, reduce costs, or innovate. This stagnation perpetuates a cycle of underperformance, leaving entire industries ill-equipped to adapt to technological shifts or global competition.

The broader economy suffers, too, as potential investors view cartel-infested markets as high-risk environments. When pricing and supply chains are vulnerable to manipulation, capital flows elsewhere, depriving the country of the foreign direct investment needed for sustainable growth.

Perhaps most insidiously, cartels breed a culture of cynicism toward market institutions. When consumers and businesses repeatedly witness collusive behaviour going unchecked, their faith in competitive markets diminishes. Tanzania's Fair Competition Commission recognizes this threat, prioritizing cartel enforcement not just as a legal imperative but as a cornerstone of economic stability.

D. Legal arsenal against cartels

Tanzania has adopted a multi-tiered enforcement structure designed to detect, deter, and punish cartel conduct. The FCC is the primary investigative and enforcement body under the FCA. It has broad powers to conduct dawn raids, issue subpoenas, & review business practices suspected of collusion. It can:

a. Void unlawful agreements under Section 9(3)
b. Issue compliance orders enforceable as court judgments (Section 58);
c. Impose fines of up to 10% of a firm's annual turnover for cartel violations (Section 60). Where harm can be quantified, a further fine equal to twice the loss may be imposed;
d. Pursue personal liability against directors who orchestrate or condone anti-competitive conduct.

In 2011, the FCC faced a defining moment in its enforcement history when it launched an investigation into allegations of coordinated market manipulation by Oil Marketing Companies (OMCs). The case centred on a sudden, industry-wide reduction in fuel supply, a move that coincided with a regulatory adjustment to fuel price caps by the Energy and Water Utilities Regulatory Authority (EWURA). What made this supply drop particularly suspicious was its timing and uniformity: approximately 14 OMCs scaled back imports almost simultaneously, despite no apparent external disruptions to justify such a synchronized response.

In 2011, the FCC faced a defining moment in its enforcement history when it launched an investigation into allegations of coordinated market manipulation by Oil Marketing Companies (OMCs). The case centred on a sudden, industry-wide reduction in fuel supply, a move that coincided with a regulatory adjustment to fuel price caps by the Energy and Water Utilities Regulatory Authority (EWURA). What made this supply drop particularly suspicious was its timing and uniformity: approximately 14 OMCs scaled back imports almost simultaneously, despite no apparent external disruptions to justify such a synchronized response.

The FCC, exercising its broad inquisitorial powers under the FCA, scrutinized the OMCs' conduct and found compelling evidence of coordination. Under Tanzanian competition law, even indirect collusion, such as parallel business decisions that collectively distort the market, can constitute a violation if they demonstrate a concerted effort to manipulate supply or pricing. Here, the sheer uniformity of the OMCs' import reductions, paired with the absence of independent commercial justifications, pointed unmistakably to collusion. The FCC determined that this coordinated conduct amounted to an illegal output restriction under Section 9(1)(c) of the FCA, a per se offense that does not require proof of actual harm to the market, only proof of the anti-competitive agreement itself.

Furthermore, the case established that an anti-competitive agreement need not be formalized in writing or through physical contracts to violate competition law. The FCC's ruling clarified that a "meeting of the minds" demonstrated through parallel market conduct and coordinated actions among competitors, could itself constitute sufficient evidence of a prohibited agreement under Section 9(1) of the FCA. This interpretation aligns with modern antitrust enforcement principles, recognizing that sophisticated cartels often operate through tacit understandings rather than explicit written contracts. The decision thus empowered regulators to look beyond traditional documentation and consider behavioural patterns, market anomalies, and circumstantial evidence when investigating potential collusion.

The consequences were swift and severe. The FCC imposed penalties on the implicated OMCs, sending a clear deterrent message to the industry. Crucially, the case also underscored the Commission's willingness to pursue not just corporations but individual executives, a provision explicitly allowed under Tanzanian competition law to ensure accountability at the highest levels of corporate decision-making. The sanctions had an immediate effect: within months of the FCC's intervention, fuel import volumes stabilized, market supply normalized, and the artificial scarcity that had threatened economic stability dissipated.

E. Strategic advice for Tanzanian businesses

In an increasingly regulated and competitive business environment, proactive compliance is a necessity. To safeguard against regulatory enforcement and reputational damage, businesses / business owners especially those operating in sectors prone to collective behaviour must institutionalize robust competition law compliance. The following strategies are recommended. To avoid liability and regulatory scrutiny, businesses should:

i. Avoid all forms of competitor coordination: Even seemingly innocuous exchanges such as sharing future pricing intentions, discussing customer allocation, or production volumes can be construed as collusion. Businesses must enforce a zero-tolerance policy on any form of information exchange with competitors that relates to pricing, supply, or market strategies, regardless of whether it occurs formally, informally, or through industry associations.

ii. Maintain evidence of independent commercial conduct: In the event of an investigation, the ability to demonstrate that decisions such as pricing, production volumes, or customer selection were taken independently is critical. Businesses should document the rationale behind key commercial decisions, including internal memos, board resolutions, and market analyses. This can serve as vital exculpatory evidence if cartel allegations arise.

iii. Seek legal advice before entering coordinated arrangements: Where joint ventures, industry alliances, or shared logistics are contemplated, legal advice should be obtained at the earliest stage to ensure compliance with the Fair Competition Act. Legal counsel can help assess whether proposed collaboration poses a risk of being perceived as a de facto boycott or supply restriction, and can advise on structural safeguards or exemptions (if any) under the law.

iv. Institutionalize competition law compliance programs: Businesses should develop and implement internal compliance frameworks tailored to their industry, size, and risk exposure. These programs should include periodic training for directors, managers, and frontline staff on the scope of prohibited conduct under the Fair Competition Act.

F. Conclusion

In today's interconnected economy, where businesses are under constant pressure to preserve margins and market share, the temptation to engage in coordinated behaviour can be strong. However, the legal landscape in Tanzania offers no safe harbour for anti-competitive conduct. Collective boycotts and output restrictions, in particular, are treated with zero tolerance under the Fair Competition Act and rightly so, given their far-reaching harm to economic stability, consumer welfare, and investor confidence.

At the heart of compliance is not just adherence to law, but a commitment to ethical, independent business practice that fosters healthy competition & long-term sustainability. Regulators in Tanzania, such as the FCC and sectoral bodies like EWURA, are increasingly proactive in investigating and penalising cartel conduct. Companies that ignore this reality not only risk substantial fines and reputational damage, but also stand to lose credibility with partners, regulators, and the public. For forward-thinking businesses, this presents an opportunity not a threat. Those that integrate competition law compliance into their governance structures gain a competitive edge. They become trusted players in the market, resilient in the face of scrutiny and well-positioned to scale.

MWEBESA
LAW GROUP

DAR ES SALAAM (HQ)

House No. 113, Plot No. 948,
Chole Road, Masaki
P. O. Box 23077
Dar es salaam, Tanzania

ZANZIBAR BRANCH

Block 024, Plot No 55
Mbweni Road, Mazizini, Unguja
Zanzibar, Tanzania

For more information:

Phone: +255 767 348 716 / +255 742 812 125
+255 716 955 304

Email: info@mwebesalaw.co.tz

www.mwebesalaw.co.tz