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LEGAL NEWS

10 September 2026



Foreign Arbitration in Tanzania's Extractive Sector Restored

In 2017, the Government of the United Republic of Tanzania enacted the Natural wealth and Resources (Permanent Sovereignty) Act, Cap. 449 [R.E. 2023] (the Permanent Sovereignty Act). The Permanent Sovereignty Act, among others, reaffirms Tanzanians' permanent sovereignty over natural resources; mandates the Government to exercise ownership and control of natural resources for and on behalf of the people; and vest the natural resources in the President who holds them for and on behalf of the people.

One of the critical provisions under the Act concerns disputes resolution. The Permanent Sovereignty Act, vide section 11(1), prohibits subjecting permanent sovereignty over natural wealth and resources (resource sovereignty) to the proceedings in any foreign court of tribunal in accordance with Article 27(1) of the Constitution of the United Republic of Tanzania, 1977. Prior to 2020, section 11(2) provided that for purposes of section 11(1), disputes arising from extraction, exploitation or acquisition and use of natural wealth and resources shall be adjudicated by judicial bodies or other organs established in the United Republic and in accordance with laws of Tanzania. This Act triggered debates and concerns among investors and other stakeholders, considering that Tanzania has a number of Mines Development Agreements, Production Sharing Agreements, and Bilateral Investment Treaties which provide for disputes resolution clauses that allow foreign arbitration.

In 2020, vide the Arbitration Act, the word "established" was deleted, implying that disputes arising from extraction, exploitation or acquisition and use of natural wealth and resources could be adjudicated by judicial bodies or other organs in the United Republic and in accordance with laws of Tanzania. This implies an international or foreign arbitral tribunal should be seated in Tanzania, albeit not necessarily established in Tanzania.

In 2026, the National Assembly has passed the Written Laws (Miscellaneous Amendments) (No. 2), Act No. 7 of 2026. This Act amends various pieces of legislation including the Permanent Sovereignty Act. It provides that notwithstanding its provisions under section 11, where an agreement provides for a special arrangement relating to proceedings, seat of arbitration or jurisdiction in disputes arising from extraction, exploitation, or acquisition and use of natural wealth and resources, and such agreement has been approved by the Cabinet, the application of the provisions of section 11 shall not prejudice the implementation of such agreement. This implies that the existing agreements would not necessarily be subjected to the Permanent Sovereignty Act. However, some aspects would need to be considered, including the Cabinet's approval over the existing agreements. Despite the Cabinet approval requirement, this amendment could be a significant turning point insofar as creating investment enabling environment is concerned.

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To read the Amendments, [click here](#)

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ECRA Attorneys offers professional services in various areas of the law ranging from Taxation (both tax litigation and tax advisory); Corporate; Employment; Immigration; Intellectual property; Litigation, Arbitration and Regulatory; Engineering, Procurement and Construction (EPCs-related Services); Banking and Project Finance, Real Estate; Capital Market and Securities; Oil and Gas, Mining Law; Competition Law; Telecommunications and ICT Law; Payment Systems Law; Insurance Law and International Trade Law and Financing.

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