

Hon. Prof. Ndalichako meets ATE New Board

The Association of Tanzania Employers (ATE) new Board held its first meeting with Tripartite Partners preceded by the 63rd Management Board Meeting on 19th July 2023 at Sea Cliff hotel, Dar es Salaam.

The Minister of State, Prime Minister's Office, Labour, Youth Employment and Persons with Disabilities, **Hon. Prof. Joyce Lazaro Ndalichako (MP)** met the Board for introduction. In her speech, the Minister among other things emphasized on the legal mandate of the Tripartite, that Employers Organisations, Trade Unions and Government must work in Tripartite in addressing Employment and Labour matter.

Prof. Ndalichako also urged the new ATE Board to continue strengthening the relationship between the Association and its Stakeholders for conducive business environment and sustainable economy.



ATE Chairperson, **Mr. Oscar Mgaya** assured the Minister and Tripartite Partners of ATE' continuous support and cooperations with Social Partners.

He further mentioned that ATE in recent days has been engaged and forged relationships with different Stakeholders such as the Ministry of Education, Science and Technology to address various challenges of the labour market e.g. skills development

He also congratulated the Government for the improvements in various Labour and Employment Policies, Laws and Regulations which aims at improving the Business Environment and attracting investment in the country.



ATE CEO, **Ms. Suzanne Ndomba-Doran** shared a presentation about ATE, its genesis, evolution and strategy on its Business Agenda 2023-2025.



TUCTA representative, **Mr. Amani Msuya**, represented the Secretary General and congratulated ATE for organizing the meeting and asked for continued cooperation to address workplace challenges.



A cross section of ATE new Management Board, TUCTA representative together with the Chief Guest



A cross section of representatives from ATE Secretariat with the Chief Guest

A T E
ASSOCIATION OF TANZANIA EMPLOYERS
Employers' Choice

**WAZIRI NDALICHAKO
AKUTANA NA BODI MPYA
YA ATE NA WADAU**

JUMATANO TAREHE **19th** JULAI 2023

Prof. Joyce Lazaro Ndalichako (MB)
Waziri wa Nchi, OWM-KVAU

“Napenda kuchukua nafasi hii kuwapongeza sana mliochaguliwa kuwa wajumbe wa Bodi ya ATE kwa kipindi cha miaka mitatu ijayo, wengine mkiwa wajumbe wapya kabisa na wengine mkiwa wajumbe mnaoendelea na wenye uzoefu na Bodi hii.”

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Bw. Oscar Mgaya
Mwenyekiti wa ATE

“ATE tunaipongeza Serikali kupitia Sheria ya Fedha ya Mwaka 2023 imepunguza Tozo ya Kuendeleza Ujuzi (SDL) kutoka asilimia 4 hadi asilimia 3.5 na kuahidi kuipunguza taratibu ili kuendela kuwapunguzia wajiri gharama za kufanya baishara nchini.”

ATE MANAGEMENT BOARD 2023-2026

ATE Chairperson, **Mr. Oscar Mgaya**, Chief Executive Officer of TMRC

ATE Vice Chairperson, **Imelda Lutebinga**, Country General Manager, G4S Secure Solutions (T) Limited

ATE Immediate Past Chairperson, **Ms. Jayne Nyimbo**, General Manager of Cartrack

ATE Secretary to the Board, **Ms. Suzanne Ndomba-Doran**, Chief Executive Officer

1. ATE Social Services (Health, Education and Utilities) Sector

S/N	Name	Position at ATE	Organisation & position
1.	Prof. Aloyce Mvuma	Chairperson	Vice Chancellor of Mbeya University of Science & Technology
2.	Ms. Rose Tesha	Vice Chairperson	Country Director of ADD International Tanzania

2. Industries & Manufacturing Sector

S/N	Name	Position at ATE	Organisation
1.	Mr. Geoffrey Odhiambo	Chairperson	General Manager of East African Cables Tanzania Ltd
2.	Ms. Fauzia Malik	Vice Chairperson	Chief Executive Officer of Cool Blue/Super Mills

3. Private Security Services Sector

S/N	Name	Position at ATE	Organisation
1.	CPA Eric Sambu	Chairperson	Managing Director of SGA
2.	Mr. Mustafa Kashakala	Vice Chairperson	Managing Director of Cachson Risk Management

4. Banking and Financial Institutions Sector

S/N	Name	Position at ATE	Organisation
1.	Mr. Ibrahim Mwangalaba	Chairperson	Managing Director of Maendeleo Bank
2.	Ms. Tusekelege Mwaikasu Joune	Vice Chairperson	Executive Director of Tanzania Bankers Association

5. Agriculture, Forest & Fishing Sector

S/N	Name	Position at ATE	Organisation
1.	Adv. Jaffari Ally	Chairperson	Director of TPC Ltd
2.	Ms. Lucy Magembe	Vice Chairperson	Country Director of Tanzania Nature Conservancy

6. Hospitality and Tourism Sector

S/N	Name	Position at ATE	Organisation
1.	Adv. Kennedy Edward	Chairperson	Chief Executive Officer of Hotel Association of Tanzania (HAT)
2.	Mr. Nassir Swedi	Vice Chairperson	Country Manager of Sense of Africa, Tanzania.

7. Commerce & Trade Sector

S/N	Name	Position at ATE	Organisation
1.	CPA. Pius Maneno	Chairperson	Executive Director of the National Board of Accountants and Auditors (NBAA)
2.	Mr. Gaston Kikuwi	Vice Chairperson	Chairman of VIBINDO

8. Mining & Construction Sector

S/N	Name	Position at ATE	Organisation
1.	Eng. Benjamin J. Mchwampaka	Chairperson	Executive Secretary of Tanzania Chamber of Mines
2.	Mr. Dhruv Jog	Vice Chairperson	Managing Director of Advent Constructions

9. Transport & Communication Sector

S/N	Name	Position at ATE	Organisation
1.	Mr. Bakari Machumu	Chairperson	Executive Director of Mwananchi Communication Limited
2.	CPA Mrisho Yassin	Vice Chairperson	Chief Executive Officer of Swissport Tanzania

10. Oil & Gas Sector

S/N	Name	Position at ATE	Organisation
1.	CPA Anael Samuel	Chairperson	Managing Director of Songas Limited
2.	Mr. Mohamed Mohamed	Vice Chairperson	Managing Director of TIPER

ATE participated in the High Court, Labour Division Stakeholder's Meeting

The Association of Tanzania Employers (ATE) as one of the key Tripartite Partners, the Trade Union, Government, Court, and the Tanganyika Law Society (TLS) participated in the High Court Labour Division Stakeholder's Meeting held on 14th July 2023 at JNICC, Dar es Salaam.

The theme of the Meeting was ***“The Importance of Resolving Labour Disputes through Arbitration in Promoting a Sustainable Economy: The Role of Courts and Stakeholders.”***

The Principal Judge of the High Court of Tanzania, **Hon. Mustapha Siyani** among other things insisted on the importance of resolving Labour Disputes through Arbitration. Addressing participants of the meeting, the Deputy Minister, Prime Minister's Office, Labour, Youth, Employment and Persons with Disabilities, **Hon. Patrobas Pascal Katambi (MP)** acknowledged various initiatives by the High Court in resolving Labour Disputes including the use of technology to deliver justice on time.

The Judge of the High Court of Tanzania Labour Division, **Hon. Dr. Yose Joseph Mlyambina**, mentioned various steps that the Labour Court has continued to take, particularly the use of Information Technology in the administration of justice and encouraged the Court's members to use the established systems and learn from it as well as attending the trainings that the Court has been offering to its members every week at the Court. Speaking on behalf of the Employers, ATE CEO, **Ms. Suzanne Ndomba-Doran** explained various challenges relating to resolving of labour disputes and emphasized that mediation reduces costs and improves work relationships. She also mentioned the initiatives by ATE in collaborations with Stakeholders in resolving workplace disputes.



The Guest of Honour, Guest Speakers and Participants of the Meeting

ATE participated at the Business and Human Rights Symposium

ATE participated in the Business and Human Rights Symposium organised by Global Compact Network Tanzania held on 6th July 2023 at Four Points by Sheraton Hotel in Dar es Salaam. This year's discussion focused on Action to Expand Global Practice to Ensure Migrant Workers Rights in the Country.

ATE CEO, **Ms. Suzanne Ndomba-Doran** as one of the Panelists highlighted on the Freedom of Association, Application of Work Permits, Social and Legal Protections Policies for Migrant Workers in the country. Responding on why companies employ Migrant Workers, She shared that there are a number of reasons including the skills gap in the labour market. Other Panelists were the Chief of mission of IOM Tanzania, **Mr. Maurizio Busatti**, ILO Representative, **Ms. Chiku Semfuko**, Managing Director of ARS IURA, **Ms. Ruth Shah-Wigley** and a Representative from HakiRasilimali, **Mr. Francis Mkasiwa**.

While giving welcoming remarks, the Executive Director of the Global Compact Network Tanzania, **Ms. Marsha Macatta-Yambi** said that the Symposium has brought together Key Stakeholders from Business Community, Government Representatives, Civil Society Organisations to discuss and share Best practices and explore ways to integrate Human Rights considerations into Business Operations in Tanzania.

The Meeting was also attended by TUCTA Acting Secretary General, **Mr. Said Wamba** who emphasized on the role of Stakeholders engagement in addressing challenges associated with Migrant Workers.



Panel discussions during the Business and Human Rights Symposium held on 6th July 2023 at Four Points by Sheraton Hotel in Dar es Salaam.



A cross section of participants of the Business and Human Rights Symposium

Every Good Employer is a Member of the Association of Tanzania Employers

The Validation Workshop of the Survey finding on OSH, Green Transition & GBV at Workplaces

The Association of Tanzania Employers (ATE) held a Validation Workshop of the Survey Findings on Occupational Safety & Health (OSH) Compliance Issues, Adoption of Green Transition and Elimination of Gender Based Violence (GBV) at Workplaces. The Workshop was held on 18th July 2023 at Four Points Hotel in Dar es Salaam.

Prior to this workshop, ATE conducted a survey to understand the levels of understanding, compliance and associated challenges on these three areas faced by Employers in Tanzania.

The findings and recommendations of the survey will be used to design training modules that will be offered by ATE to members later this year in collaboration with other Stakeholders including Occupational Safety & Health Authority (OSHA) and Confederation of Danish Industries (DI).

The Workshop was attended by Redefine Africa Ltd (ATE Consultants), Members from the Manufacturing Sector specifically from the Food & Beverages Industry and Social Partners.



ATE Meeting with ESAMI

ATE CEO, **Ms. Suzanne Ndomba-Doran**, accompanied by **Ms. Anabahati Mlay**, Senior Projects Officer had a meeting with ESAMI Director General, **Prof. Martin M. Lwanga** who was accompanied by **Prof. Leon Malisa** and **Dr. Lucky Yona** at ESAMI headquarters in Arusha on 27th July 2023.

The meeting was essential in strengthening the partnership between the two Institutions and for the growth and prosperity of the Female Future Programme, which ATE is partnering with ESAMI.

Since its Launch in 2016, ATE has worked with ESAMI to deliver the Female Future Programme in Tanzania with an objective of increasing the number of women in decision making processes as well as adding to the efforts towards achieving gender equality on top leadership positions especially in the Private Sector.



ATE attended a Tripartite Technical Meeting in Dodoma

The Association of Tanzania Employers (ATE), Central Zone Office represented Employers to a Tripartite Technical Meeting in Dodoma on 13th and 14th July 2023 aiming at reviewing and accommodating tripartite managements comments and improve the Third Generation Decent Work Country Programme (DWCP III) for the United Republic of Tanzania

This Technical Meeting was co-chaired by the Prime Minister's Office-Labour, Youth, Employment and Persons with Disabilities and Zanzibar Employers Association (ZANEMA) and among others attended by representatives from the PMO-LYED, the Trade Union Congress of Tanzania (TUCTA), in Mainland Tanzania including the President's Office-Labour, Economic Affairs, and Investment (POLEAI), ZANEMA, Zanzibar Trade Union Congress (ZATUC), in Zanzibar, and the ILO Technical Staff, as part of the ongoing process of finalizing the DWCP III.

The team strategically focused on the comments and inputs provided in various areas such as country context improved as well as ensuring knowledge of labour migration and its importance for the national development.



Members of the Technical Tripartite Meeting in a group photo during a meeting held in Dodoma



Members of the Technical Tripartite Meeting working on the document

ATE attended the official closing of “On job” Training for Hotel Workers in Arusha

The Association of Tanzania Employers (ATE) participated in the official closing of the *On Job* Training for Hotel Workers held in Arusha and the Guest of Honour was the Minister of State, Prime Minister’s Office, Labour, Youth, Employment and Persons with Disabilities, **Hon. Prof. Joyce Lazaro Ndalichako (MP)**.

In her speech, **Hon. Prof. Ndalichako** stressed that her Ministry will continue providing the needed support to improve skills gap for the growth of the Tourism Sector in the country, likewise the implementation of Skills Development Programmes, Apprenticeship, Internship, Recognition of Prior Learning and On Job Trainings.

ATE CEO, **Ms. Suzanne Ndomba-Doran**, congratulated the Government in collaboration with other Stakeholders for its various efforts in addressing challenges related to Skills gaps and she also urged the trained workers to use the acquired skills to increase efficiency at their workplaces. She concluded by assuring the participants continued support from the Association in addressing various labour and Employment challenges.

The event was also attended by the Secretary General of TUCTA, **Mr. Hery Mkunda** who put emphasis to the Hotels on the provision of quality services in the Hotel Sector for the growth of the Tourism Sector in the country.

TPSF Acting Executive Director, **Mr. Rafael Maganga** also congratulated the Government on these efforts and assured them of continued support.



TVET Project

ATE visited VETA Mikumi, VETA Kihonda and VETA Mzinga to participate in the selection process for the second batch of students under the TVET Project with Trade Union Congress of Tanzania (TUCTA), Danish Industry (DI) and Danish Trade Development Agency (DTDA). The students from these training institutions will learn courses on fitter mechanics, food production, industrial & domestic electrical installation and refrigeration & air conditioning courses. This project is part of initiatives by ATE in collaborations with TUCTA on skills development in partnership with DI & DTDA.



ATE and TUCTA paid a courtesy visit to students from batch one of the TVET Project who are doing practical training on the Food Production course in Morogoro.

TVET Project



The Association of Tanzania Employers (ATE) participated in the Curriculum Review Workshop of the TVET Project in Morogoro which was aimed to review the TVET short course curriculum. The workshop comprised of TVET teachers & representatives from Don Bosco, VETA Centres & Mzingu VTC and was officially opened by the Secretary General of TUCTA Mr. Herry Mkunda.



CHANGE IN VAT-DEFERRAL REGIME

No more deferral of VAT on imported capital goods but rather on only locally manufactured capital goods thus creating a Policy shift dilemma

What is a deferral of VAT on capital goods?

Deferment means a postponement of payment of the Value Added Tax in respect of capital goods (TRA website). This is a policy instrument that provides room for an investor to delay or postpone or settle the payment of Value added tax (VAT) on capital goods to a later period/date. Normally, this is based on fulfilling certain legal and operational requirements including fundamentally the applicant must be conducting an economic activity that will generate taxable supplies (that is goods or services will be charged VAT). The period to which VAT payment is deferred may differ from one jurisdiction to another.

Why is it given to investors?

This policy regime has been embraced by countries including Tanzania Mainland to provide investment relief and enable investors to have a smooth landing when starting an investment that requires the purchase of certain capital goods as may be prescribed in tax laws. It is basically a facilitative window to investors that allows them not to incur a significant cost immediately at the start of their investment however, one is given time to procure, install, and use capital goods to manufacture taxable supplies and pay VAT at a later period.

What has been the practice in Tanzania Mainland?

For a while now (about 8 years), Tanzania has been implementing this policy regime but applicable to only imported capital. That is, an investor upon fulfilling certain requirements as prescribed by the various tax laws may be granted VAT deferral for up to 10 years on imported capital goods by the Commissioner General of Tanzania Revenue Authority (TRA). In addition to other requirements, as prescribed in the tax laws, this policy is applicable only if the imported capital has not been procured for resale but rather to conduct an economic activity that generates a turnover of at least ninety percent (90%) of taxable (vatable) supplies (See Value Added Tax Act, Cap 148; Section 11 (sub-section 1 up to 10) and the VAT embodied on each unit of the imported capital good must have VAT element exceeding TZS 20,000,000. Goods imported whose VAT is less than 20,000,000/- shall be treated as normal and shall follow normal rules of calculation of taxes by Customs laws and procedures. The deferment is due within ten years.

It should be noted that, for the sake of VAT deferment, the items that fall under the wing of VAT deferment are plant and machinery only. Spare parts and other decorative items are not eligible for VAT deferment.

What is the new policy regime being adopted in Tanzania?

Through the Finance Act 2023, the Value Added Tax, Cap 148 has been amended to introduce two policy shifts.

First, to put a stop to the application of Section 11 of the Value Added Tax Act, Cap 148 on imported capital goods effective 30th June 2026. This means investors who wish to import capital goods and enjoy VAT deferral policy instruments should do so between now and the end of the fiscal year 2025/26, specifically 30th June 2026.

Second, the Act has been amended to allow VAT deferral policy to apply to locally manufactured capital goods while adhering to the same requirements as prescribed in the tax laws (see Finance Act, 2023; VAT Act, Cap 148 Section 11 (1 up to 10)).



Legal analysis on whether termination of Employees as the result of liquidation is subject to retrenchment procedures

Liquidation is a total closure of the company or entity's while retrenchment means reduction of number of workforces at the workplace due to operational requirements.

Both retrenchment and liquidation have the effect of ending the employment relationship. The line of difference between the two is that retrenchment may end only some job position and the company/entity continues to operate while in liquidation, all the job position comes to an end and the company ceases to operate.

Procedure for retrenchment is guided by the whole of section 38 of the Employment and Labour Relations Act, Cap 366 R.E 2002. The said provision much emphasizes on consultation between employer and employee and if the consultation fails then the matter to be referred to CMA for mediation and decision (In case it goes for Arbitration).

The core question here is whether the procedures retrenchment should be applicable in the same manner as in liquidation.

The above question was perfectly answered by the Court of Appeal presided by His Lordship Justice of Appeal Hon Justice Ndikain the cases HAIDER MWINIMVUA & 99 OTHERS Versus DIB AND FBME where the Court had this to say;

“Retrenchment is used restrictively to mean the discharge of surplus labour due to operational requirements in a continuing or running undertaking. It does not apply to the instant case where FBME was closed down and wound up under compulsory liquidation pursuant to the provision of Banking Act.”

From the above proposition, the Court made it clear that, for the case of liquidation, one need not observe all the processes of retrenchment as the company is going to cease to exist.

To make it clearer and more precise, there are some of the retrenchment procedures which are totally inapplicable in liquidation cases. For instance, measures to avoid or minimize retrenchment exercise, selection criteria and the like.

Also in liquidation, the law does not make it mandatory to refer the matter to CMA in case of disagreement between the employer and the employee (s) in consultation processes as it is opposed to retrenchment where such observation is mandatory.

Suffice to say that the meeting point between the two cases i.e., liquidation and retrenchment is consultations to avoid any element of surprises.

The terminal benefits may also be the same which may include one month salary in lieu of notice, salary for the last working days, repatriation and subsistence allowance (if applicable) accrued leave (if any) and certificate of service.

To ensure compliance, you may wish to revisit your company policy to see what it says or provides with regard to terminal benefits in case of retrenchment or liquidation