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Knowledge to Wisdom

THE UGANDAN APROACH TO THE FACILITATION OF FOREIGN DIRECT INVESTMENT (FDI): THE NEED FOR SOME ADJUSTMENTS

CHARLES CHIDOZIE AJAEGBU

College of Higher Degrees and Research, Kampala International University, Kampala, Uganda

ABSTRACT

This study investigated the effects of investment facilitation on investments, particularly Foreign Direct Investment (FDI), in Uganda, since the enactment of the Investment Code Act in 1991. It used mostly secondary data and interviews on investments facilitation in Uganda. The Research Design was ex post facto, and the Analysis qualitative. The findings showed that investment facilitation impacted on FDI inflow into Uganda in a mixed manner; as with the exception of investment protection, including the swift and equitable resolution of investment disputes, and unrestricted repatriation of investment proceeds, the country fared badly in other aspects of investment facilitation.

To improve the effectiveness of investment facilitation, it was recommended that the Ugandan government and indeed the whole of the East African Community (EAC) region should address the challenges related to the processing of investment applications by adopting the Rwanda's One-Stop Centre strategy of trade and investment facilitation, and granting of waivers to Trans-National Companies (TNCs), amongst others. It was further recommended that political interference and high levels of corruption, the country's and the region's weak infrastructure, and the delay in the resolution of commercial disputes in Uganda need to be resolved also for the country and the region to achieve a reasonable level of retention of foreign investments.

KEYWORDS: Investment Facilitation, Foreign Direct Investment, Trans-National Companies

INTRODUCTION

Background of the Study

The issue of economic growth has assumed a heightened dimension since the end of the Second World War; given the associated destruction of most world economies. Since then, counties have looked for ways to satisfy the growing desires of their citizens for improved standards of living. In the search to stimulate domestic output and expand their markets, the developed world started to foray into other economies, especially those of the developing nations. The latter, desirous to improve their own economic well beings, and in competition with one another, started positioning themselves in good stead to attract such foreign investments. These foreign investments manifested in the activities of Trans-National Companies (TNCs). The TNCs do not invest out of hunches. Their investment decisions are often influenced by several factors or motives, such as *market, efficiency, resource*, asset creation, and state strategic objectives.

United Nations Conference on Trade and Development (UNCTAD) and its partner organizations have undertaken several studies to ascertain the motives behind the investment decisions of TNCs. These motives have been found to differ amongst TNCs. Surveys undertaken by these organizations on outward investing firms from developing countries confirm that, of these motives, the most important one for developing countries' TNCs is the market-seeking FDI, while the efficiency-seeking FDI is the second most important motive, and is conducted primarily by TNCs from the relatively more advanced developing countries. Quite expectedly, most resource seeking FDI are in developing countries and much created-asset-seeking FDI are in developed countries. Also, some governments (the Chinese, for example) have

encouraged TNCs from their home countries (especially the State-owned ones) to venture abroad and secure vital inputs, such as raw materials, for their home economies. In terms of location of FDI, the net result of the relevant drivers, advantages and motives is that most investments are in certain developing countries because of similarities in consumer markets, technological prowess or institutions, or are within their regions thus neighboring countries with which they are familiar (UN, 2006:xxvii).

At the regional level, the experience of East African Community (EAC) in attracting foreign investments has not been encouraging. The greatest asset of the economic bloc is its abundant natural resources. Yet, in spite of this, and as remarked by President Jakaya Kikwete of Tanzania, the EAC region has only 0.9% of Foreign Direct Investments (FDI) into developing countries (The New Vision Newspaper, Monday, 10th May, 2010). With a combined population of over 130 million people and a total Gross Domestic Product (GDP) of about $70b, the EAC ought to be in a better stead to attract foreign investors who can expect to benefit from a regional market that has an emerging middle class and a single tariff structure across the five member states of Burundi, Kenya, Rwanda, Tanzania and Uganda.

On the local scene, Uganda's record in attracting foreign investments has been remarkable, with over 4,000 projects licensed since the Uganda Investment Authority (UIA) was set up in 1991 up till 2010. Also, the country's accumulated planned investment for the same period was $12b, with over 440,000 jobs created. The recent discovery of oil in the country has further heightened investors' interest in its economy.

However, having attractive investment prospects, and even attracting foreign investments into an economy is one thing, and retaining them and possibly getting a greater share of their investment wallet is another. This appears to be the bane of foreign direct investment into Uganda and the whole of the EAC, where non-tariff barriers (NTBs) like the poor state of infrastructure and power shortages still hamper trade and investment. The absence of a robust railway network, for instance, undermines trade and investment in the region's bulky resources that include agricultural products and minerals, as the roads linking the region are in sorry states. It is the same story for the state of infrastructure in Uganda itself. This pushes up the cost of doing business in the country and in the EAC region in general (The New Vision Newspaper, 10th May, 2010). These would need to be addressed if the country and the region hope to continue to attract and retain meaningful amounts of foreign investments.

INVESTMENT FACILITATION

Scope of Investment Facilitation

Investment facilitation refers to actions taken by governments designed to attract foreign investment and maximize the effectiveness and efficiency of its administration through all stages of the investment cycle. To harness the advantages of foreign investment, it is critical that governments have investment procedures in place that do not unnecessarily increase the costs or risk of doing business, or constrain business competition; which individually or collectively lower productivity and growth (APEC, 2008:2-3).

Investment facilitation covers a wide range of areas, all with the ultimate focus of allowing investment to flow efficiently and for the greatest benefit. The main principles of facilitation include transparency, simplicity and predictability. In investment facilitation, the costs of opacity far outweigh the costs of enhancing transparency. Investors look for an investment environment that is stable, and that offers international best practice standards of protection, including the swift and equitable resolution of investment disputes. A sound investment facilitation strategy ensures that all investment applications are dealt with fast, fairly and equitably. It also requires creating and maintaining transparent and sound administrative procedures that apply for the lifetime of the investment, including effective deterrents to corrupt

practices. Finally, investment facilitation is enhanced by the availability of quality physical infrastructure, high-standard business services, talented and flexible labour force, and the sound protection of property rights (APEC, 2008: 2-3).

Investment facilitation, therefore, can be said to cover the processing of investment applications, ease of doing business, investment protection, dispute resolution, and repatriation of investment proceeds. Investors are concerned with the ease with which investment applications are processed and approved, as well as that of registration or incorporation of their businesses. The ease of doing business in any economy affects the costs of operations in that country. Thus, the state of infrastructure and the availability of support services are key in attracting and retaining foreign investment in any economy. The foreign investors are also worried about the safety of their investments throughout the investment lifetimes and the guarantees they have against compulsory acquisition or nationalization of their investments without adequate and prompt compensations. The manner of resolution of business and investment disputes are also considered by investors. The mechanisms for the resolution of investment disputes between the foreign investors and the host government and government organs, as well as the judicial and other processes for the settlement of commercial disputes are of immense interest to the foreign investors. Finally, foreign investors would wish to be guaranteed of the ease of repatriation of the proceeds of their investment as well as payment of compensation in the event of nationalization of their businesses.

Multilateral Investment Facilitation

Apart from the efforts of individual national governments at facilitating foreign investments, several multilateral organizations such as World Bank, United Nations Conference on Trade and Development (UNCTAD), and Organization of Economic Cooperation and Development (OECD) have active programs in support of strengthening facilitation practices as part of broader investment promotion policies. The World Bank is at the forefront of these efforts, providing information services and diversified technical assistance to help governments and relevant intermediaries involved in promoting investment enhance their ability to respond effectively to investor needs. UNCTAD analyses trends in FDI and their impact on development, compiles data on FDI, provides advisory services and training on international investment issues, helps developing countries improve policies and institutions that deal with FDI, and assists these countries to participate in international negotiations on investment. The OECD has developed investment policy instruments, such as the *Framework for Investment Policy Transparency* and the *Policy Framework for Investment,* to assist governments in developing frameworks for investment facilitation.

APEC and Investment Facilitation

The Asia Pacific Economic Cooperation (APEC) has designed its Investment Facilitation Action Plan (IFAP) to constructively complement the existing international efforts. IFAP is a consensus plan on investment facilitation that reflects the specificities and priorities of APEC members. While it is non-binding, the IFAP reinforces APEC's commitment to significantly enhance regional economic integration (APEC, 2008:2-3).

Since its inception in 1989, APEC has emphasized the importance of investment facilitation through practical activities in its work program. In 1995, APEC Leaders adopted the Bogor Goals of free and open trade and investment in the Asia-Pacific region by 2020. In addition, they committed to accelerate APEC's trade and investment facilitation programs. Investment facilitation accordingly is one of the aims of APEC's 1995 Osaka Action Agenda (OAA). APEC member economies are continuing with efforts to enhance transparency of investment regimes, improve investment climates and encourage and facilitate free and open investment in the region. The APEC's 2007 report on *Strengthening Regional Economic Integration* emphasizes the need to improve further the investment climate in APEC member economies and refocuses APEC's investment liberalization and facilitation agenda on concrete initiatives that accelerate

regional economic integration and reduce behind-the-border barriers (APEC, 2008:2-3).

Other regional investment blocs, such as EAC, has a few lessons to learn from the trade and investment facilitation programs of APEC.

National Investment Facilitation- the One Stop Shop or Centre

A *One Stop Shop or Centre* is defined as a place where an investor deals with one single institution to obtain all the necessary approvals and documentation in one streamlined and coordinated process. The operation of this would thereby reduce the number of bureaucratic procedures that hampers investment flows through increased costs and time wastages. The key departments which constitute the *One Stop Shop or Centre* would be brought under one roof and administration of a Division (Njuguna Mugo, 2007).

Related Studies on Investment Facilitation and Fdi Inflow

Studies indicate that corruption essentially has a negative impact on FDI. It, not only causes a reduction in FDI inflow (How), but also a change in the composition of countries of origin of the FDI (Where). Thus, while corruption results in relatively lower FDI from countries that have signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, it could result in relatively higher FDI from countries with high levels of corruption. This suggests that while laws against bribery abroad may act as a deterrent against engaging in corrupt practices in foreign countries in some cases, in other cases, it may not have such effects as investors who have been exposed to bribery at home may not be deterred by corruption abroad, but may instead seek to invest in countries where corruption is prevalent (Cuervo-Cazurra, Alvaro, 2006).

A study applies the dynamic econometric methodology empirically to investigate the location determinants affecting Foreign Direct Investment (FDI) inflows in China. At first, based on datasets of time series, constructing the Error Correction Model (ECM) and applying co integration theory, long-run and short-run effects of location determinants affecting FDI inflows in China are examined. The derived evidences show that some location determinants have different magnitudes and relative importance in both long-run and short-run effects in attracting FDI inflows in China. Secondly, based on the different source countries of FDI inflows in China, it is found that combinations of the location determinants affecting FDI inflows from the different source countries in China have significant differences. FDI inflows from the Newly Industrialized Economies (NIEs) and Association of South-East Asian Nations (ASEAN) have the strong characteristics of the export-oriented FDI. In contrast, FDI inflows from the developed countries and west Europe tend to present the characteristics of the market-oriented FDI (Li Xinzhong, 2003).

Despite the dramatic increase in total FDI flows to developing countries in the last few years, the bulk of the inflows have been directed only to a limited number of countries. Thus, it has been argued that developing countries might enhance their attractiveness as locations for FDI by pursuing policies that raise the level of local skills and build up human resource capabilities. A study empirically tests the hypothesis that the level of human capital in host countries may affect the geographical distribution of FDI. The empirical findings are: (a) human capital is a statistically significant determinant of FDI inflows; (b) human capital is one of the most important determinants; and (c) its importance has become increasingly greater through time (Noorbakhsh, Paloni and Youssef, 2001).

An investigation is carried out involving the interplay between economic freedom, Foreign Direct Investment (FDI) and economic growth using panel data analysis for 18 Latin American countries for 1970–1999. Results indicate that economic freedom in the host country is a positive determinant of FDI inflows. Further, FDI is positively correlated with

economic growth in the host countries. The host country requires, however, adequate human capital, economic stability and liberalized markets to benefit from long-term capital flows (Bengoa and Sanchez-Roble, 2003).

The study suggests that the use of investment incentives focusing exclusively on foreign firms, although motivated in some cases from a theoretical point of view, is generally not an efficient way to raise national welfare. The main reason is that the strongest theoretical motive for financial subsidies to inward FDI, the spillovers of foreign technology and skills to local industry, is not an automatic consequence of FDI. The potential spillover benefits are realized only if local firms have the ability and motivation to invest in absorbing foreign technologies and skills. To motivate subsidization of foreign investment, it is therefore necessary, at the same time, to support learning and investment in local firms as well (Blomstrom and Kokko, 2003).

The study on China investigates the impacts of agglomerations on FDI inflows: whether different types of industry FDI flows will respond differently in the CP-system and whether FDI origin and firm scale matter in affecting FDI flows. A database consisting of a population frame of 37,742 firm-level manufacturing and services joint ventures investing in Guangdong in 1998 was used. The open door policy of China's economic reform since the 1980s has attracted heavy Foreign Direct Investment (FDI) flows into China and especially to Guangdong (particularly the Pearl River Delta region, PRD) and induced significant economic growth during the past two decades. While there exist various classical theories of FDI in attempting to identify the determinants of FDI inflow and to explain the behavior of FDI flows, limited attention has been given from the perspective of agglomeration effects generated by a Core-Periphery (CP) relation. Empirical results show that the agglomerations of the CP relation have affected FDI flow patterns. While both manufacturing and services FDI and sources of investment responded differently to the impacts, smaller firms were found more responsive to the CP-agglomeration settings regardless of FDI by industry type and by source. The CP-system facilitates FDI in the region (Chyau Tuan and Linda F.Y Ng, 2003).

A comparative study of two groups of 68 British and 97 US firms investing in developing countries for over twenty years from 1980-2001 identifies the effects of specific regional investment-related provisions on FDI. Results indicate that membership of a regional body leads to further extra regional FDI inflows, but the type of regional provisions matters as well as the position of individual countries within a region (Dirk Willem te Velde and Dirk Bezemer, 2004).

However, the emerging literature on FDI now stipulates that FDI's positive impact on growth depends on absorptive capacities. Prime among these capacities is financial development. A study provides support to this thesis in the context of the Arab countries whose financial system is predominantly bank-based. It finds that Arab FDI will have a favorable effect on growth if interacted with financial variables at a given threshold level of development. It also finds that in reform countries FDI granger could cause financial development. The conclusions that emerge from the paper are that domestic financial reforms should precede policies promoting FDI; investment measures should enhance the environment for all investors, foreign and domestic alike; and liberal commercial policies should be designed as initial measures to attract FDI (Mohammed Omran & Ali Bolbol, 2010).

PRESENTATION, ANALYSIS AND INTERPRETATION

Purposes of Investment Facilitation

A sound investment facilitation strategy should ensures at least five things: consideration of all investment applications in a fast, fairly and equitable manner; enhanced ease of doing business; protection of property rights or foreign investments; speedy resolution of investment disputes; and guaranteed repatriation of investment and compensation proceeds.

Processing of Investment Applications

As already stated, investors are concerned with the ease with which investment applications are processed and approved, as well as that of registration or incorporation of their businesses.

In Uganda, there are three types of registration an investor must go through. First, is at the Uganda Registration Service Bureau (URSB) for incorporation or registration of the business. Second, is at the Uganda Investment Authority (UIA) for an investment license. UIA operates what it calls a one-stop centre where representatives of Uganda Revenue Authority (URA) and Immigration are housed with the UIA (UIA, 2010 a). Third, certain sectors require other secondary licenses such as for mining activities, air transportation, banking, and forestry (UIA, 2010 b).

The Rwanda's model for trade and investment facilitation is worthy of elaboration, as the East African Community (EAC) wants to adopt that strategy to fast track business growth in the region. There are multitudes of attributes to Rwanda's success in trade and investment, with the outstanding one being the well-structure Rwanda Development Board (RDB), which serves as a real one-stop centre handling investment issues. According to Tony Nsanganira, a senior officer in charge of trade policies and strategies at the Rwanda Development Board, adopting a one stop centre concept helps investors to shorten the time spent in establishing businesses. The Rwanda Development Board brings together all government agencies responsible for the investor-related work under one premises. The agencies include those responsible for business registration, investment promotion, environmental clearances, privatization, and taxation. Others are specialist agencies, which support Information Communication Technology (ICT), tourism, as well as Small and Medium Enterprises (SMEs) and human capacity development in the private sector.

Rwanda scores highly on the global rankings in investor confidence because of the way it facilitates investors. Whereas it may take investors weeks or months to obtain investment licences, in other EAC countries, it takes only 72 hours (3 days) in Rwanda. The Doing Business World report, released in 2011, rates Rwanda as Africa's best performer with regards to the overall ease of doing business; taking the 67th position in the world. Entrepreneurs go through only 2 procedures in 3 days to start businesses in Rwanda, while in Uganda an investor goes through 18 procedures in 25 days. Uganda was ranked 112th out of 183 world economies surveyed (The New Vision, Monday, 7 March 2011).

The poor performance of Uganda could be explained by the large number of bodies dealing with investor registration; with over ten bodies responsible for registration of investors. These include Ministry of Justice and Constitutional Affairs responsible for business registration, Uganda Investment Authority for investment promotion, National Environmental Management Authority (NEMA) for environmental clearances, Ministry of Finance, Planning and Economic Development (MOFPED) for privatization and Uganda Revenue Authority (URA) for taxation. Others are the Ministry of Information and Communication Technology (MICT) which supports information communication technology (ICT), Uganda Tourist Board (UTB) for tourism, Uganda Small Scale Enterprise Authority (USSEA) for small and medium enterprises (SMEs) and ministry of education and sports for human capacity development in the private sector.

Ease of Doing Business

The ease of doing business in any economy affects the costs of operations in that country. Thus, the state of infrastructure and the availability of support services are key in attracting foreign investment into any economy. These include the availability of quality physical infrastructure, high-standard business services, and talented and flexible labour forces. However, most of these are still lacking in Uganda.

Uganda produces over 15,000 university graduates annually. Quality of labour is, therefore, one of Uganda's biggest attractions. The country's top performance is exhibited in employing mostly local workers in the economy. However, there is the need to skew the labour force to areas of greater need in the country, such as engineering, medicine, information technology and allied sciences, as well as improve on its training.

Though Ugandan mobile telephone services have improved greatly due to strong private investment, electricity and road networks urgently need renovation and expansion. With an installed total capacity of just 300 megawatts (MW), Uganda's electricity network reaches only 10% of the population, and load shedding all over the country is common. The dilapidated road infrastructure, meanwhile, increases transportation costs and leaves the entire landlocked country vulnerable to bottlenecks and disruptions. A major business challenge stems from the fact that a two-lane highway from Kenya remains the primary route for 80% of Uganda's trade. Uganda's dependence on this route was ably demonstrated in late 2007 and early 2008 when election-related violence in Kenya virtually halted trade into Uganda for more than two months, causing a spike in prices of all commodities (BEUBA, 2011).

The EAC is considering four infrastructure projects valued at US$74 billion to plug its transport and energy bottlenecks, so as to woo more investment to the region and reduce the cost of doing business (Walter Wafula & Dorothy Nakaweesi, 2010). They have also agreed to lobby governments in the region to improve transport networks within their respective countries.

Protection of Property Rights or Foreign Investments

The foreign investors are usually worried about the safety of their investments throughout the investment lifetimes and the guarantees they have against compulsory acquisition or nationalization of their investment interests without adequate and prompt compensations.

Part V of the Investment Code Act, 1991, deals with the protection of foreign investments in Uganda. Section 27 (1) of the Act protects foreign investments in case of compulsory acquisition. It provides that a business enterprise of an investor which is licensed under the Act, or an interest or right over any property or undertaking forming part of that enterprise shall not be compulsorily taken possession of or acquired except in accordance with the Constitution of the Republic of Uganda.

Further, Section 27 (2) of the Act provides that where a licensed business enterprise of an investor or an interest or right over property forming part of that enterprise is compulsorily taken possession of or acquired, compensation in respect of the fair market value of the enterprise specified or an interest or right over property forming that enterprise shall be paid within a period not exceeding twelve months from the date of taking possession or acquisition.

Also, Section 27 (3) of the Act provides that the compensation paid out to the investor under subsection (2) shall be freely transferable out of Uganda and shall not be subject to exchange control restrictions under the Exchange Control Act or any regulation made under that Act.

In addition to the provisions of the Act, foreign investments in Uganda are further safeguarded as the country is a signatory to several international and regional investment treaties and institutions that protect FDI such as Multilateral Investment Guarantee Agency (MIGA), Overseas Private Investment Corporation (OPIC), Convention on the Recognition and Enforcement of Foreign Arbitral Award (CREFAA), the International Centre for the Settlement of Investment Disputes (ICSID), Trade Related Investment Measures (TRIMS), General Agreement on Trade and Services (GATS) and Trade Related Aspects of Property Rights (TRIPS) (UIA, 2010 b).

It is on record that since 1992, no expropriations have occurred in Uganda. This is the manifestation of government pledges in that regard. It is hoped that this has laid to rest the ghost of expropriation that has hung around the country's neck since the compulsory expulsion of Asians from Uganda by the Idi Amin regime in the 1970s.

Dispute Resolutions

The mechanisms for the resolution of investment disputes between the foreign investors and the host governments and government organs, as well as the judicial and other processes for the settlement of commercial disputes are of immense interest to the foreign investors.

In Uganda, Section 28 of the Investment Code Act, 1991, provides for settlement of investment disputes. Section 28 (1) of the Act stipulates that where a dispute arises between a foreign investor and the authority or the Government in respect of a licensed business enterprise, all efforts shall be made to settle the dispute through negotiations for an amicable settlement.

However, by Section 28 (2), where a dispute between a foreign investor and the authority or the Government in respect of a licensed business enterprise is not settled through negotiations, it may be submitted to arbitration in accordance with the following methods as may be mutually agreed by the parties: in accordance with the rules of procedure for arbitration of the International Centre for the Settlement of Investment Disputes (ICSID), Section 28 (2) (a); within the framework of any bilateral or multilateral agreement on investment protection which the Government and the country of which the investor is a national are parties, Section 28 (2)(b); or in accordance with any other international machinery for the settlement of investment disputes, Section 28 (2)(c).

Further, Section 28 (3) of the Act provides that the licence in respect of an enterprise may specify the particular mode of arbitration to be resorted to in the case of a dispute relating to that enterprise, and that specification shall constitute the consent of the Government, the authority or their respective agents and the investor to submit to that mode and forum for arbitration.

However, Section 28 (4) provides that where the parties to a dispute do not agree on the mode or forum for arbitration, the party aggrieved by compulsory acquisition or possession or the amount of compensation payable, or in respect of any other matter relating to the business enterprise may apply to the High Court for the determination of any of the following: his or her interest or right, Section 28 (4)(a); the legality of the taking of the possession or acquisition of the property, interest or right, Section28 (4)(b) ; the amount of compensation to which he or she is entitled and the prompt payment of that compensation, 28 (4)(c); any other matter in dispute relating to the business enterprise, Section 28 (4)(d). Worthy of note is the fact that since 1992, no expropriations have occurred in Uganda to warrant the resort to the application of the dispute resolution mechanism contained in the Investment Code Act, 1991.

Repatriation of Investment Proceeds

Foreign investors would also wish to be guaranteed of the ease of repatriation of the proceeds of their investment as well as the compensation paid to them in the event of nationalization of their businesses.

Over the past two decades, Uganda has remained consistent with its economic liberalization policies which have stabilized its economy. It has instituted, and is operating, open current and capital accounts positions. These have facilitated the holding of foreign denominated assets and currencies, and have enabled the free and unrestricted repatriation of investment proceeds, inclusive of returns and capitals. Further, the Uganda's Investment Code Act, 1991, provides in Section 27(3) that compensation paid out to the investor under subsection (2) shall be freely transferable out of Uganda and

shall not be subject to exchange control restrictions under the Exchange Control Act or any regulation made under that Act.

There are no reported cases of violation of these rights of foreign investors in Uganda since the enactment of the Act in 1991.

CONCLUSIONS

The study investigated the effect of investment facilitation on investments in Uganda since enactment of the Investment Code Act, 1991, as there are no recent serious academic inquiry into the effectiveness of measures that are necessary to retain investments that have been attracted into the country. The Research Design of the Study was ex post facto, while the Analysis was qualitative.

The results of investment facilitation in Uganda have been mixed as shown in Table 1.0 below. The country has done well with the protection of property rights, resolution of disputes between the investors and the host government and government organs, and repatriation of investment proceeds. However, there are problems associated with the very slow licensing of investors, the poor physical infrastructure available in the country, as well as the slow and unpredictable judicial process for the resolution of business and commercial disputes. Investment facilitation has remained problematic due to huge transport infrastructure gaps that remain among the leading stumbling blocks to the integration of EAC into the global economy and constrain the inflow of FDI into the region. These constraints need to be tackled for investment facilitation to impact on FDI inflow to Uganda and the EAC; and this calls for some adjustments in policies and law.

Table 1: Evaluation of Investment Facilitation in Uganda

	Very Poor	Poor	Fair	Good	Very Good	Excellent
Processing of Investment Applications		X				
Ease of Doing Business		X				
Protection of Property Rughts					X	
Investment Dispute Resolution					X	
Commercial Dispute Resolution		X				
Repatriation of Investment Proceeds					X	

Thus, with the exception of investment protection, including the swift and equitable resolution of investment disputes, and unrestricted repatriation of investment proceeds, Uganda fared badly in other aspects of investment facilitation. As such, facilitation impacted on FDI inflow into Uganda in a mixed manner.

RECOMMENDATIONS

Copying Rwanda's One-Stop Centre

To ensure that all investment applications are dealt with fast, fairly and equitably, Uganda, and indeed the entire East African Community (EAC) should adopt Rwanda's trade and investment facilitation strategy to fast track business growth in the country, and the region as a whole. There are multitudes of attributes to Rwanda's success in trade and investment, with the outstanding one being the well-structure Rwanda Development Board (RDB), which serves as a real one-stop centre handling investment issues. Rwanda is Africa's best performer, taking the 67th position in the world in the 2011 rating. An entrepreneur goes through only 2 procedures in 3 days to start a business in Rwanda, while in Uganda an investor goes through 18 procedures in 25 days. Uganda was ranked 112th out of 183 world economies surveyed (The New Vision, Monday, 7 March 2011). The poor performance of Uganda could be explained by the large number of bodies dealing with investor registration; sometimes in an uncoordinated manner.

While UIA boasts of having a one-stop centre by housing immigration and tax body in the UIA offices, several other offices relevant to processing of investment applications were excluded. Indeed, in Uganda, over ten bodies are responsible for registration of investors and there is the need for government to bring them under one roof.

Improvement of Infrastructure, Especially Power and Transportion Networks

The government should improve on infrastructure as a way of reducing the cost of doing business in Uganda. Particularly, it should improve on power generation and transmission as that is key to industrialization. Also, the government should improve on the road network in order to facilitate trade, not only within Uganda, but especially between the country and its neighbors, especially the EAC members. Serious consideration should be given to the revitalization of the railway system given the land-locked nature of Uganda, as this will aid the flow of goods into the country. Uganda should also lobby other EAC governments to do the same, as poor infrastructure constrains the inflow of foreign investment (FDI) into the region.

Embarking on Further Judicial Reform

There is the need for the government to address the slow and unpredictable judicial process for the resolution of business and commercial disputes in Uganda. The creation of the Commercial Division of the High Court was a step in the right direction. However, the procedures therein seem to still constrain the quick resolution of commercial disputes. This is manifested in the long delay experienced by litigants at those courts. A further review to eliminate the procedures causing these delays is urgently needed. This is even more critical as the country commences the exploitation of its crude oil reserves; as commercial disputes are common in the oil industry and their slow resolution are costly to all parties.

Granting of Waivers and Extended Tax Holidays to Tncs

At least until the state of infrastructure is substantially improved in the country, the Ugandan Government should consider granting waivers and extended tax holidays to TNCs in the critical sectors of the economy as a means of reducing their costs of operations. This will involve expanding the scope of facilities and incentives contained in Part V of the Investment Code Act, 1991. This will enable the TNCs which were oblivious of Uganda’s high cost of business operations prior to their entry to retain their businesses in the country. The TNCs are constantly weighing the costs of operations against the costs of relocation to more favourable business locations; and Uganda should emplace policies that would ensure that it does not lose out in that process.

Emplacement of Deterrents to Corrupt Practices and Political Meddlesomeness

With increasing emphasis being placed on transparency and ethics in business transactions world-wide, the activities of TNCs have been brought under closer scrutiny, not only in their home countries, but also in other countries where they have business operations or dealings. Also most countries, especially the developed ones, have signed the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The implication of these is that most TNCs are now striving to be above board in their business dealings in their host countries. There is, therefore, the need for the Ugandan Government to complement these developments by emplacing effective deterrents to corrupt practices and political meddlesomeness in the business operations of TNCs in the country. If this is not done, there is the likelihood that some of these TNCs would be frustrated out of the country. The measures to be considered should include the enhancement of the penalties for corruption and the swift trial of those involved in such acts.

Uganda has the potential for larger amounts of FDI than it presently witnesses. However, the facilitation of investments is crucial to the attraction and retention of foreign direct investment (FDI) in the economy. Challenges relating to the processing of investment applications, including political interference and high levels of corruption, the country's weak infrastructure, and the delay in the resolution of commercial disputes need addressing by government, if the country is to achieve a reasonable level of retention of foreign investments.

This, therefore, calls for adjustments in some of the legal provisions and policies aimed at facilitating FDI in Uganda.

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