EAST AFRICAN COMMUNITY
EAST AFRICAN LEGISLATIVE ASSEMBLY

REPORT OF THE COMMITTEE ON COMMUNICATION, TRADE AND INVESTMENTS ON THE WORKSHOP ON INVESTMENT POLICIES AND STRATEGIES IN EAC THE REGION

23rd – 24th April, 2015, Kigali - RWANDA

Clerk's Chambers
3rd Floor, EALA Wing
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1.0 INTRODUCTION

With a population of about 130 million, East Africa has enormous economic potential and provides a conducive and virgin area for trade and investment.

Trade and investment are significantly related in the development process of African Countries. African countries receive minimal flows of foreign direct investment. Over the years cross border investments have increased among the EAC Partner States. As official Overseas Development Assistance (ODA) flows have been declining for African countries, it becomes imperative that investment flows must be stepped up to improve the balance of payment position in the current account of the national economies.

Chapter 12 of the Treaty establishing the East African Community provides for the cooperation in investment and industrial development. It is against this basis that the EAC Heads of State, at its Sixth Extraordinary Meeting held in August 2008, gave further impetus and urgency to the development of industrial policy and strategy. The Summit called upon the Secretariat to urgently formulate an EAC Industrial and Investment Strategy supported by an effective institutional decision making framework with a view to promoting equitable industrial development in East Africa. Similarly at sub-regional level, an Industrial development Pillar of the EAC-COMESA-SADC Tripartite is currently under construction to provide a framework for cooperation.

Further, the Partner States undertook to improve the competitiveness of the industrial sector so as to enhance the expansion of trade in industrial goods within the region as well as export of manufactured products from the EAC; develop an EAC Industrialization Strategy that will promote linkages among industries through specialization and complementation, facilitate the development of Small and Medium Enterprises (SMEs) and ensure the establishment of capital & intermediate goods industries that take advantage of economies of scale arising from the integrated market. The development of these industries would ensure that there is overall improvement in the intra-EAC trade.

In this regard, a two-day investment workshop for the EALA Committee on Communications, Trade and Investment was convened from 23rd -24th, April 2015 in Kigali, Rwanda.

2.0 OBJECTIVES OF THE WORKSHOP

The objectives of this Workshop include: -

i) To understand the regional investment policies and strategies in EAC;
ii) To understand the individual EAC Partner State investment codes/strategies;
iii) Coming up with possible recommendations on the way forward for investment, private sector, and industrialization development.

3.0 METHODOLOGY

The Workshop was officially graced and opened by Hon. Franciós Kanimba, the Minister of Trade, Industries and Cooperatives of the Republic of Rwanda. The workshop was attended by the Committee members, public and private sector stakeholders including; Ministries of EAC Affairs, and Trade, Private Sector Federations, Investment Promotion Authorities, and EAC Secretariat. The proceedings of the workshop were conducted through paper presentations, plenary discussions and Question and Answer sessions where observations, clarifications and recommendations were made.

4.0 Paper Presentations on Investment Policies and Strategies

At this workshop, EAC Secretariat made a presentation on the policies and strategies on investments in the East African Community region, while EAC Partner States also presented their respective investment policies and strategies as follows.

4.1 East African Community (EAC) Secretariat.

The presenter from the EAC Secretariat made his presentation as follows below;-

4.1.1 Overview

One of the main reasons for regional integration initiatives is to improve economic conditions within member states in order to create greater investor confidence and attract more foreign investment.

From the negotiations leading to the signing of the Treaty establishing the EAC through the various development strategies, Summit and Council decisions and directives, the need to strengthen cooperation in investment promotion was emphasized.

Article 80 of the Treaty establishing the EAC prioritizes the harmonization and rationalization of investment initiatives and incentives aimed at promoting the Community as a single investment area.

4.1.2 Intra - EAC Investment Flows

It was presented that; -

i. Investment volumes still remain low,
ii. Kenya is the leading cross border investor in the EAC,
iii. Tanzania is the leading recipient of cross border investors,
iv. The leading investment segments include: -
    a. ICT,
    b. Energy (oil and gas),
    c. Agro processing,
    d. Building and construction,
    e. Services (wholesale, finance, insurance, health and education).

4.1.3 Rationale for Policy and Strategy Framework for Investment

The presenter alluded that in article 127 of the Treaty establishing East African Community, the Partner States undertake to provide an enabling business environment through the promulgation and implementation of appropriate investment policies and codes alongside protecting property rights, removal of barriers to investment and development of the private sector.

The EAC Customs Union Protocol builds from the Treaty provisions and further augments the EAC Partner States' commitment towards accelerating the promotion and facilitation of export oriented investments and attracting foreign investments among other policies. He stressed that all these policy initiatives have been reinforced by the coming into force of the Common Market cascading from the Customs Union.

4.1.4 The Existing EAC Policy Framework on Investment

It was presented that the EAC's current policy and strategy on investment is contained in the EAC Treaty article 79, the Common Market Protocol and the EAC Model Investment Code. The EAC Treaty obliges the Partner States to cooperate on investment cooperation.

The more substantive instrument on investment, the EAC Investment Code was formulated in 2006 as one of the tools for investment and private sector promotion as envisaged in the EAC Development Strategy 2011/12-2015/16. The Code is designed to be a non-binding guide to the Partner States for use in attracting investments into the region.

The objective of the EAC Model Investment Code is to enhance qualitative and quantitative local, regional and foreign investment into the region. The Model Investment Code intends to facilitate adoption of transparent, predictable regulations and laws to the potential investors, especially in matters relating to compensation for loss of investment and dispute settlement mechanisms. The Model Code thus introduces the need to nurse private investments well beyond the initial period of attracting and facilitating the new investors.

On the other hand, Article 29 of the Common Market Protocol requires Partner States to protect cross border investments and returns of investors of other Partner States within their territories. However, the existing investment provisions portray a number of deficiencies, which calls for the development of appropriate legal and institutional framework for investment in the EAC region.

Policy coherence is also at stake with regard to various bilateral investment agreements, which Partner States have signed with other countries and other regional economic blocs. Inter-treaty incoherencies are bound to make it difficult to use such agreements as a tool for achieving certain development goals. For instance, a policy of selected intervention vis-à-vis foreign investors might be undermined by the combined effect of granting establishment rights in individual agreements and the application of the MFN clause, which could have the effect of opening up the sector concerned to any foreign investor.

It is therefore, imperative for the EAC region to formulate investment policy and strategy that will enable the Community to meet its investment targets, particularly in light of the current difficult global economic realities. The Model Investment Code was intended to facilitate adoption of transparent, predictable regulations and laws to the potential investors, especially in matters relating to compensation for loss of investment and dispute settlement mechanisms. The Model Code thus introduces the need to nurse private investments well beyond the initial period of attracting and facilitating the new investors.

The Model Investment Code therefore provides the foundation for Partner States to negotiate and agree on a common EAC Investment Code that captures and harmonizes all the investment policies, laws and regulations from the region. This will lead the region to the advent of single investment promotion platform.

4.1.5 Investment Provisions under the East African Common Market Protocol

On cooperation in investment promotion, the presenter made reference to Article 29 of the EA Common Market Protocol, which requires Partner States to protect cross border investments and returns to investors of other Partner States within their territories. Specifically, the Partner States are required to ensure: -

(i) Protection and security of cross border investments of investors of other Partner States,
(ii) Non-discrimination of the investors of the other Partner States, by according, to these investors treatment no less favourable than that accorded in like circumstances to the nationals of that Partner State or to third parties,
(iii) That in case of expropriation, any measures taken are for a public purpose, non-discriminatory, and in accordance with due process of law, accompanied by prompt payment of reasonable and effective compensation.

4.1.6 The Proposed EAC Investment Policy and Strategy Framework

Based on the review of the EAC and the Partner States regime for investment facilitation and promotion, the comparative analyses and consultations with the relevant stakeholders, the Secretariat has undertaken a study that makes modest proposals for the EAC Investment Policy and Legal Framework for Investment.

The proposed policy prioritizes three broad pillars as follows:-

1. Co-operations and Facilitation of Investment.

It is proposed that the EAC executes the necessary legal instrument establishing the EAC as a Common Investment Area. Under the regime established, Partner States would then cooperate in investment facilitation through ensuring the following: -

i. Transparency in the Legal and Institutional Regime for Investment in the EAC,
ii. Property Ownership and Protection,

iii. Protection of Intellectual Property Rights,
iv. Contract Enforcement and Dispute Settlement,
v. Regulations on Nationalization and Expropriation,
vi. Non-Discrimination,
vii. Regional and International Cooperation on Investment Promotion and Protection.

2. Investment Promotion.

Under this Pillar the EAC and the Partner States will prioritize the following imperatives: -

i. Develop strategies for developing a sound and broad-based business environment,
ii. Establishment of effective investment promotion agencies (IPAs),
iii. Coordinated investment promotion and facilitation programmes,
iv. Streamlining of the administrative procedures related to investments,
v. Promotion and maintenance of dialogue mechanisms with investors,
vi. Evaluation of the costs and benefits of investment promotion initiatives and incentives,
vii. Utilization of international and regional initiatives aimed at building investment promotion expertise.

3. Liberalization of Investment Measures.

Under this Pillar the EAC and the Partner States would be required to take measures to gradually remove all the restrictions to investment in the EAC. The Partner States may undertake measures to liberalize: -

(i) Rules, regulations and policies on investments,
(ii) Rules on licensing and registration,
(iii) Rules to facilitate payments, receipts and repatriation of profits,
(iv) All industry sectors to investment based on an agreed timeline,
(v) Extend national treatment to all EAC investors and all investors based on agreed timelines, and
(vi) Promote free flow of capital, skilled labour, professionals and technology in accordance with the provisions of the Common Market Protocol.

The presenter noted that in order for EAC to implement the above-mentioned pillars, there is need to ensure that the measures to improve the investment and business climate bear a regional character. It is not enough for one or two Partner States to introduce far-reaching measures for improving the business climate at national level. If the EAC is to be promoted as one investment region, then it is important that all the Partner States take measures to improve the climate across the region. This is important, because investors "think regionally" rather than in terms of individual countries. Partner States need to be like-minded when it comes to introducing measures to improve the investment climate and attracting investment.

However, a market economy requires appropriate institutions to function efficiently in the desired direction. Therefore, the need to improve the institutional framework is necessary. The main measures for this will include:-

(i) Strengthening of investment promotion agencies,
(ii) Establishment of a Regional Investment Promotion Authority,
(iii) Reform of the national business registration and licensing regimes.

4.2 RWANDA

Rwanda adapted the following policies and strategies to improve Business Climate; -

1. Economic Development Poverty Reduction Strategy (EDPRS).

This strategy aims at economic development and poverty reduction to better the lives for all Rwandans. Apparently EDPRS has led to Economic Transformation of 11.5% GDP Growth per year, Rural Development that has reduced poverty level below 30%, Productivity and Youth Employment which has created 200,000 off-farm jobs per year and Accountable Governance that registered 80% Service delivery satisfaction.

2. Private Sector Development Strategy. This strategy is a catalyst to economic growth with interventions in accelerating export growth, enhancing investor targeting, entrepreneurship development, infrastructure growth and institutional capacity for delivery.

3. National Export Strategy. This strategy focuses on: -
(i) Export Promotion and Growth,
(ii) Complementing existing Private Sector Growth strategies with activities most relevant to delivering export growth,
(iii) Consider the limited resources available for achieving export growth through prioritizing activities with greatest impact, which are fundable, implementable and can be monitored.

4. Building a conducive business environment. The government of Rwanda has undertaken a number of reforms, which have been achieved in doing business. These reforms include among others; -

a. 6 hour business registration,
b. Online transactions such as: -

    i. E-registration of companies;
    ii. E-filing of judiciary cases;
    iii. Electronic single window for customs declarations;
    iv. Online application for visa and work permits;
    v. Land registration digitized countrywide;
    vi. E- filing and e-payment of taxes.

c. Over 21 business laws passed from 2008-2011,
d. And over 36 reforms in administrative sector of business related services and soon, offering paperless services of all government services.
e. Attractive incentives for Investors which involve but not limited to;-

(i) 100% write off on Research & Development costs,
(ii) Duty free importation of machinery and equipment, raw materials, EAC products due to the common external tariff, and one personal vehicle,
(iii) After care services,
(iv) Rwanda Development Board facilitates investment projects even after registration,
(v) Investment allowance which include accelerated depreciation (40% in Kigali and 50% outside of Kigali),
(vi) Additional fiscal incentives in strategic sectors of energy and ICT,
(vii) Access to a market,
(viii) No restriction on repatriation of capital and profits,
(ix) Free automatic work permits for 3 expatriates.

4.3 BURUNDI

Burundi Investment Promotion Authority (API) was established by Presidential Decree N° 100/177 of 19th October 2009 based on the Burundi investment Law /Code voted by the Parliament in 2008. API is under the umbrella of the Ministry of Finance and Economic Development Planning.

The following factors below mostly influence the investment opportunities in Burundi.

1. Strategic location in the Region, that is Burundi is; -

(i) Member of EAC Market,
(ii) Member of COMESA,
(iii) Member of CEPGL (ECGLC),
(iv) Bridge between EAC & ECCAS (Economic Community of Central African States),
(v) onnection to the SADC market through Lake Tanganyika,
(vi) Bujumbura, the Capital City of Burundi is the main City of the whole Tanganyika Lake cost and stands as the business hub for the entire Region.

2. Big Market Size

i. Burundi has a population of 10 millions consumers,
ii. Western TANZANIA has 9 millions consumers,

iii. Rwanda has 11 millions,
iv. Eastern DRC has 16 millions consumers,
v. COMESA including EAC has 433.9 million consumers,
vi. Duty-free access to the United States market through the African Growth and Opportunity Act (AGOA) initiative,
vii. Preferential access to the European Union market through the European Union's Everything But Arms Initiative.

3. Continually Improving Business Climate

a. Attractive Investment Code which is implemented by the Burundi Investment Promotion Authority as well as the Burundi Revenue Authority, Ensures Investment & Investors' Protection and Provides unmatched investment & export incentives,
b. Peace & security and Zero tolerance against corruption,
c. November 2010: DB Steering Committee involving the 2nd Vice Presidency of the Republic, 8 Ministers, API and Chamber of Commerce,
d. One-stop-shop for registering a business which has been in operational since March 2012; It actually takes two hours for an equivalent cost of 25 US $ only. Burundi ranked 1st in Sub-saharan countries to ease registering a business (DB Report 2015),
e. Easing Doing Business ranking 152th out of 189 (Doing Business Report 2015),
f. Burundi adhered to the New York Convention signed of 10th June, 1958 on the Recognition and Enforcement of Foreign Arbitration,
g. Burundi adhered to the Apostille Convention, simplifying the authentication of official documents abroad to facilitate free movement of persons, goods and services,
h. Fiscal & Customs benefits which include the following; -
    i. Exemption of charges on property transfer (mutation fee),
    ii. No duty on Raw material, Capital goods & Specialized vehicles,
    iii. No customs duty is charged if investment goods are made within the EAC or COMESA,
    iv. Corporate tax rate of 30%. It is reduced by 2% if 50-200 Burundians are employed while it is reduced by 5% if more than 200 Burundians are employed,
    v. Free repatriation of profit after payment of tax.

i. Unique attractiveness
    a. Lake TANGANYIKA beaches, breath-taking landscape, Kibira rainforest, leisure activities
    b. Unique Cultural heritage such as Burundi drummers

j. Untapped investment opportunities in various sectors

i. Energy & Mining,
ii. Agriculture, Livestock and Fishing,

iii. Infrastructures: Road, Maritime & Air Transport,
iv. Telecommunications (ICTs),
v. Real Estate,
vi. Health and Education,
vii. Financial Services (long term loan),
viii. Hotel and Tourism (4 & 5 star hotels; international conference centers)
ix. Manufacturing (food processing, textile, construction material, pharmaceuticals.

k. State owned companies under privatization process. State owned companies that under privatization scrutiny include:

i. Buterere Coffee washing & hulling stations
ii. National Telecommunications Company,
iii. Source of Nile Hotel,
iv. Heavy Construction Machinery Rental,
v. Glass Bottles Plant,
vi. National Air Carrier,
vii. Imbo Region Development Society,
viii. National Lab for Buildings and Public Works,
ix. Public Printing and Publishing Plant,
x. Silos and Dryers of Buterere (grain storage).

l. Promising future perspectives
i. Special Economic Zone to facilitate projects implementation,
ii. Full computerization of One -Stop -Shop for company creation (Online business registration expected Oct 2015),
iii. Improved services at One -Stop -Shop for property transfer and construction permit,
iv. Government is determined to ensure sufficient power supply by 2019

4.4 TANZANIA

The National Investment Promotion Policy of 1996 opened almost all sectors to foreign and private participation in the mid 1990s, which led to the steady GDP growth since 2000s. Since then the government has been taking a number of broad reforms to improve the business environment and investment climate.
Despite all these reforms there are still some challenges we are facing. It is in this context that the government in collaboration with Organisation for Economic Community Development (OECD) is self-assessing the prevailing investment policy against the global best practice (Policy Review).

The Policy review will provides policy options to address all the challenges, in view of enabling Tanzania to attract higher investments.

4.4.1 Legislations governing Investments in Tanzania

Tanzania has got some of the legislations governing investments in various sectors, and these include; -

1. Tanzania Investment Act, 1997

This act provides for promotion of investment opportunities. The following are incentives under the Tanzania Investment Act: -

a) Exemptions on Projects capital goods;

i) Import duty – 0%
ii) Value added tax – 0%

b) Capital allowance

i) Agriculture – 100%
ii) Mining - 100%
iii) Manufacturing – 50%
iv) Fish farming - 50%
v) Tourist services – 50%
vi) Hotels - 50%

c) Depreciation Allowance ranging from 37.5% to 50% depending on the class of the depreciable asset.
d) Refund of duty charged on imported inputs used for producing goods for export and sold to foreign institutions like UN and its agencies operating in Tanzania.

2. Export Processing Zones Act, 2002 (as amended, 2012)- This Act to makes provisions for establishment; development of export-oriented investments within the designated zones in view of creating international competitiveness for export led economic growth.

i. Manufacturing for export
ii. Export at least 80% of the products
iii. Can be single factory unit (Stand-alone)

3. Special Economic Zones Act, 2006 (as amended, 2012)-
The Government of Tanzania established Special Economic Zones (SEZs) in 2006 the objective being to promote quick and significant progress in economic growth, export earnings and employment creation as well as attracting private investment in both forms, foreign Direct Investments (FDI) and Domestic Investment which Involves investments in all other sectors than
Manufacturing and for both export and local market.

4. Mining Act of 2010 which Provides for mineral mining, trading and any other related matters.

5. Petroleum Exploration and Production Act, 1980-This legislation govern investment in the petroleum exploration and production sector

6. Public Private Partnership Act, 2010-This legislation covers all areas of investment although the emphasis is on infrastructure development. However some other key/important sectors are; Road, Rail, Port, Airport, Power and Agriculture.

7. Other sector specific legislations such as Broadcasting, Electricity among others.

4.5 UGANDA

Uganda Investment Authority was created by Uganda Investment Code Act 1991 with the general objectives in the law, which includes among other things the following:-

i. To promote, facilitate and supervise investments in Uganda,
ii. To receive, process and approve application for and issue investment licenses,
iii. To issue certificates of incentives under the Investment Code Act,
iv. Recommending to Government national policies and programmes to promote investment,
v. Assist potential investors in identifying and establishing investment projects in Uganda,
vi. To deal with complaints received,
vii. The governance organ is the Board of Directors (BoD) comprising of thirteen individuals appointed by the Minister in charge of finance in Uganda, but by-law coming from among individuals in the private sector. The law provides that an Executive Director (ED) appointed by the BoD shall oversee the day-to-day operations of UIA.

4.5.1 Investment Policies

1. Predictable Environment:

i. Uganda has been able to achieve macro-economic stability when clouds of uncertainty rocked many regions of the world,
ii. Stable economic growth averaging 5.1% in 2012/13,
iii. Maintained a competitive real exchange rate that supports export growth.

2. Fully Liberalized Economy:

i. All sectors liberalized for investment,
ii. Free inflow and outflow of capital,
iii. 100% foreign ownership of investment permitted,
iv. Ranked the 8th freest economy out of the 46 Sub-Saharan Africa countries by the 2013 Index of Economic Freedom.

3. Market Access:

(i) Uganda is a member of the Common Market for Eastern and Southern

African states (COMESA), a region with a market of about 400 million people in 19 countries.

(ii) Uganda is a member of the East African Community (EAC) with a population of over 140 million people.

(iii) Duty and quota free access into China (quota free access for over 650 products), the USA (AGOA), Generalized System of Preferences (GSP) scheme and EU (EBA) markets.

4. Government Commitment to Private Sector

(i) Government and private sector dialogue in policy formulation through business and investment associations such as Private Sector Foundation Uganda, Uganda Manufacturers Association, Uganda National Chamber of Commerce and Industry, among others;

(ii) Continuous improvement in provision of infrastructure and other social services;

(iii) Presidential Investor Round Table.

5. Security of Investment

(i) Guaranteed under the Constitution and the Investment Code 1991;

(ii) Uganda is a signatory to major international investment related institutions such as:

- (a) Multi-lateral Investment Guarantee Agency (MIGA);
- (b) Overseas Private Investment Corporation (OPIC) of USA;
- (c) Convention on the Recognition and Enforcement of Foreign Arbitral Award (CREFAA);
- (d) Islamic Corporation for the Insurance of Investment and Export Credit (ICIEC);
- (e) International Centre for settlement of Investment Disputes (ICSID);
- (f) Agreement on Trade Related Investment Measures (TRIMS);
- (g) General Agreement of Trade in Services (GATS);
- (h) Agreement on Trade related Aspects of Intellectual Property Rights (TRIPS).

6. Uganda Free Zones Authority (UFZA)

This is an Authority, which was established by an Act of Parliament in April 2014 for the establishment, development, management, marketing, maintenance, supervision and control of free zones and other related matters. The Authority intends to achieve its main objective of modernization of the investment structure by overseeing and managing the free zones. By doing this, it will ensure that it provides all the necessary support in the promotion and facilitation of export oriented investments.

7. The threshold of investment.

The local investors are eligible for investment licenses if the total investment meets a threshold of US$50,000 and US$ 100,000 for local and foreigners respectively.

8. Ownership. The ownership of an investment in Uganda can be a local, foreign or joint venture owned.

4.5.2 Investment Strategies

1. **Target and expend investment** promotion effort on pre-identified potential investors in the strategic investment sectors of; Tourism, Agri-business (value-adding), ICT and Mineral Value addition. The pre-identification is achieved through Internet search and subscription to re-known investor tracking data banks and websites.
2. **UIA's physical One-Stop-Centre** and its electronic based activities, serve investors with minimum inconvenience to the investors; either through remote internet interfaces or by quick and less cumbersome interactions in the effective and efficient One-Stop-Centre staff at UIA headquarters. The Centre has Uganda Investment Authority, Uganda Revenue Authority, National Environment Management Authority, Lands and Immigration.
3. Through intense customer care for new comers and focused aftercare for those already in operation.
4. The nurturing and development of the Small and Medium Enterprises (SME).
5. The acquisition of suitable industrial park land and its preparation by constructing paved roads, water and electricity supply systems and putting in place modern telecommunication backbone ready for investors to build their factories and other projects.
6. Organized workforce. Operations streamlining through organizational restructuring to bring about efficiency, hence reporting structures have been re-aligned to give top managers room for strategic thinking and more effective guidance and control.

4.6 KENYA

Kenya's Vision 2030 stipulates that economic growth, employment creation and poverty reduction largely depend on investments. Kenya Investment Authority plays a pivotal role in growth of investments in terms of promotion and facilitation, and advocating for conducive investment climate.

4.6.1 Key Reforms

Kenya has undertaken a number of key business and regulatory reforms to provide conducive environment for investments. These include among others the following;-

1. Constitution of Kenya 2010, which is progressive and pro-business, support investment growth and productivity. It also provides for independent judiciary, legislature and National Land Commission,

2. The Private Public Partnership (PPP) Act 2013, which provides a legal framework for private sector investments in government projects.
3. Anti-Counterfeit Act which provides for a dedicated Anti-Counterfeit Agency and created a strong legal framework to combat the widespread trade in counterfeit goods.
4. Special Economic Zones (SEZ) were established to promote exports in the Kenya.
5. Licensing Act of 2007 which provides for;-
    - (i) Eliminated or simplified 694 licenses, and a 2008 reduction in the number of licenses required to set up a business from 300 to 16,
    - (ii) Establishment of a Business Regulatory Reform Unit within the Ministry of Finance to continue the deregulation process,
    - (iii) A national e-Registry to ease business license processing and help improve transparency.
6. Business Regulation Bill which regulates business undertakings
7. Kenya signed a bilateral investment agreements between the following countries Burundi, China, Finland, France, Germany, Iran, Italy, Libya, Netherlands, Switzerland, and the United Kingdom, Mauritius, among others
8. Signed Avoidance of double taxation treaties (DTA) between Canada, China, Germany, France, Japan, Netherlands, and India, EAC among others
9. Enacted Competition Act which provides for Competitions Authority, an Authority that Manages mergers & acquisitions, Prohibits restrictive and predatory practices
10. The Kenyan Government established Public-private sector dialogue initiatives to promote investment programs.
11. Enacted Micro and Small Enterprise (MSE) Act. This Act provides for Institutional framework to support Small and Medium Enterprises, MSE Authority, Registrar of MSEs, MSE Development Fund and MSE Tribunal
12. Incentives. The Government of Kenya provides the following incentives to investors:-
    - (i) Investment allowance which is 100% investment deduction within Nairobi, Mombasa and Kisumu and 150% outside towns,
    - (ii) Import duty and VAT waiver on capital goods,
    - (iii) Tax Remission for Export Office (TREO); Manufacture under Bond (MUB); Investment Certificate; EPZ scheme;
    - (iv) Small and Medium Enterprise Parks in Kisumu, Eldoret, Nairobi Industrial & Tech park and in all 47 Counties Country wide.
13. The Government of Kenya has also made a commitment and Support to regional integration among others is under EAC Common Market and SADC-EAC-COMESA FTA Tripartite Negotiation.

4.6.2 Proposed National Investment Policy

At the request of the Government of Kenya, United Nations Community for Trade And Development carried out an Investment Policy Review (IPR) in 2005 aimed at improving investment policies and providing impetus to attract FDI and achieve higher development gains from FDI. In 2011, the Government once again requested UNCTAD to assess progress made in implementing the recommendations and presented review in 2012.

Currently the overall policy framework in Kenya on investments is embedded in various laws and regulations. This is because the Country does not have a central, comprehensive and harmonized piece of policy to guide attraction, facilitation, retention, monitoring and evaluation of private investment.

The Investment policies are covered in various documents such as Acts of Parliament, Legal Notices, Sessional Papers, Strategies, the national blueprint Vision 2030, and Development Plans.

4.6.3 Key areas of focus in proposed National Investment Policy

1. Local Content

a) Affirmative action;
b) Role of social enterprises;
c) Empowerment of local/rural populace;
d) Empowerment of women, youth and Persons with Special Needs;
e) Reserved list of activities or sectors for local investors;
f) How public investment can nudge private investment towards the desired sectors and areas of the country.

2. Minimum capital requirements

a) Investment regulation in relation to company registration, licensing and operations;
b) Foreign investment definition, registration and approvals, including minimum capital required:-

3. Role of ICT and other appropriate technologies

4. Investment Incentives

a) Rationale;
b) Pros and cons of conditional incentives;
c) Support for MSMEs and the requisite incentives;
d) Access to land;
e) Industrial infrastructure;
f) Employment of citizens and expatriates;
g) Residency;
h) Investment incentives (national/regional/sectoral);
i) Investment regimes such as EPZ'S, SEZ'S among others.

5. Institutional Infrastructure

a) Institutional harmony, coordination and effectiveness including relative roles of national and county governments;
b) Investment promotion and facilitation;
c) Financial independence of Kenya Investment Authority and other stakeholders in execution of mandate;
d) Adequate capacity for investment promotion and facilitation;
e) Coordination with other stakeholders in achievement of mandate.

6. Other Yardsticks

a) Monetary issues involving local borrowing, funds repatriation, Foreign Exchange and interest rates;
b) Environment protection and corporate social responsibility;
c) Any Emerging issues.

7. Other areas of support

a) Security;
b) Benchmarking among Investment Promotion Agencies;
c) Resources for Investment Promotion;
d) Registration of investments (Mandatory as Rwanda case);
e) Capacity to influence facilitation and incentives;
f) Automatic issuance of work permits;
g) EAC Investment Forum;
h) Brand EAC;
i) FDI Intelligence;
j) Dispute resolution Mechanism;
k) Reserved list for locals;
l) National Investment Policy.

5.0 OBSERVATIOINS

Members of the Committee made the following observations arising from the paper presentations by the EAC Secretariat and Partner States.

1. There is need to develop one comprehensive regional investment policy document which will guide and articulate the regional objectives for attracting investment to specific sub-regions or sectors;
2. It was observed that, to implement the proposed the EAC investment policy and strategy, a time-bound roadmap is to be agreed upon by stakeholders;
3. The EAC and Partner States would be required to take drastic short-term measures to ensure that the EAC has an effective investment promotion and facilitation regime;

4. In the long-term, maintenance of a stable, transparent and open investment will be a sine qua non if the gains made in reforms to attract investments in the region are to bear incremental fruits;
5. The EAC region does not have a common investment policy, which would guide investment on a regional basis;
6. Various policies relating to investment are scattered in the various regional key documents such as the Treaty, the development strategies, private sector development strategy and other policy documents;
7. It was further that there is no established mechanism for investment Partnerships between foreign and local investors in the EAC region;
8. There is need for the EAC to establish a banking mechanism to provide affordable loans to small and medium investors;
9. It was observed that capital account liberalisation in the EAC region is still weak and therefore movement of capital is slow;
10. It was noted that EAC is developing a governance code of conduct bill and that; this bill is majorly driven by the private sector;
11. The Committee further noted with concern that there no transparency in EAC Partner States while attracting investments, unlike it is a case in COMESA where there is a regional investment agency which transmits information regarding all foreign investors to all investment promotion agencies in member states;
12. EAC Partner States established Export Processing Zones (EPZs), Special Economic Zones (SEZs), and Industrial Parks to promote exports in the region, however it was noted that their policies need to be re-visited to achieve the objectives for which they were created;
13. The Committee observed that partner states are hesitant to cede powers to the East African Community centre due to fear of loss of sovereignty which has delayed the conclusion and implementation of a number of protocols and decisions;
14. The Committee further noted with concern that the cost of production in EAC is still very high majorly due to high-energy costs.

6.0 RECOMMENDATIONS:

1. Develop a mechanism for advocacy in the EAC Investment Policy and Strategy among all stakeholders.
2. EAC Partner States should formulate and harmonize investment codes and regimes that promote industrialization and investments leading to economic development.
3. A regional law to regulate investments in the region should be enacted.
4. EAC Partner States should increase the budgetary allocations for investment incentives so as to attract more investors in the region and also support SMEs to promote industrial development in the region.
5. The Committee recommends that a financing window/portfolio should be established in the East African Development Bank to support Small and Medium Enterprises in the region.

6. The Council of Ministers should fast track the Energy Master Plan and allocate of resources for its implementation.
7. The EAC investment strategy should provide for domestic investment policies and measures to facilitate small and medium cross border investors in East Africa.
8. EAC should develop a mechanism on sharing information on investors that come to invest in the region.
9. EAC should encourage specialization in investments rather than competing for similar ones among the Partner States.
10. Members of EALA should play a big role in championing the industrial development and investment promotion matters through advocacy and sensitization in the region.
11. Sanctions should be put in place for non-operationalization and implementation of treaties, policies and strategies concluded by the EAC.
12. Mechanisms should be put in place to compel investors to re-invest a certain percentage of profits in the country rather repatriating all the money (Capital Flight).

Members of the Committee on Communication, Trade and Investment

Report of Workshop on Investment Policies and Strategies in the EAC Region: 23rd to 24th April 2015, Kigali - Rwanda

NAME:			**SIGNATURE**
1)	Hon. Fred Mbidde Mukasa	-	....
2)	Hon. Abdullah Mwinyi	-	....
3)	Hon. Angela Charles Kizigha	-	....
4)	Hon. Bernard Mulengani	-	....
5)	Hon. Dr. James Ndahiro	-	....
6)	Hon. Dr. Nderakindo P. Kessy	-	....
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9)	Hon. Joseph Ombasa Kiangoi	-	....
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11)	Hon. Nusura Tiperu	-	....
12)	Hon. Patricia Hajabakiga	-	....
13)	Hon. Sara T. Bonaya	-	....
14)	Hon. Straton Ndikuryayo	-	....
15)	Hon. Yves Nsabimana	-	....