THE IMPACT OF FOREIGN DIRECT INVESTMENT ON THE MANUFACTURING SECTOR IN UGANDA

A THESIS PRESENTED TO THE SCHOOL OF
POSTGRADUATE STUDIES AND RESEARCH
KAMPALA INTERNATIONAL UNIVERSITY
KAMPALA, UGANDA

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF LAWS

BY:

WANDERA ISMAIL

REGISTRATION NO. LLM/36319/113/DU

OCTOBER, 2012

DECLARATION

"This dissertation is my original work and has not been presented for a Degree or any other academic award in any University or Institution of Learning".

Signature of Candidate ....

WANDERA ISMAIL

Date 30|10|2012..............................

DECLARATION B

"I confirm that the work reported in this dissertation was carried out by the candidate under my supervision".

Signed:

....

Mr. Muhamud Sewaya

Supervisor

Date: 31/10/12

....

APPROVAL SHEET

This dissertation entitled"____" prepared and submitted by ________________________________ in partial fulfillment of the requirements for the degree of ______________________ has been examined and approved by the panel on oral examination with a grade of PASSED.

____

Name and Signature of Chairman

Muhammad Sewaya
30/10/12

Name and Signature of Supervisor

Tajudeen Sani

Name and Signature of Panelist

____

Name and Signature of Panelist

____

Name and Signature of Panelist

Date of Comprehensive Examination: ____________________

Grade: ____________________

____

Name and Signature of Director, SPGSR

____

Name and Signature of DVC, SPGSR

DEDICATION

This dissertation is dedicated to Prof. Mukwanason A.M Hyuha and to Mr. Kiiza James (Esq) for the support and encouragement rendered to me during the program.

I also dedicate it to my Sister, Brothers and Friends for the inspiration and molding that has made me succeed in life.

LIST OF LEGAL INSTRUMENTS

Constitution of the republic of Uganda 1995

Employment Act No. 6 of 2006

Income tax Act Cap 340

Investment code Act Cap 92

Land Act Cap 227

National Environment Act Cap153

National Social Security Fund Act Cap 222

NSSF (registration of employers and employees) order statutory instrument 222-

Occupational safety and health Act No. 9 of 2006

OECD Draft Multilateral Agreement on Investment of April 24 1998.

Modal Code of East Africa Community of July 2006

World Bank Guide Lines on Treatment of Foreign Direct Investment.

LIST OF CASE LAW

AG Vs Joseph Bawegeza [1975] HCB 1

Bridge Borough council Vs Fisherman [1971] AC 240

Global plant Ltd Vs Secretary of state for health and social security [1972] 1 QB 139

Jabi Vs Mbale Municipal council [1975] HCB 451

John Okori Otto Vs UEB [1981] HCB 52

ABSTRACT

Foreign Direct Investment (FDI) as a means of economic growth has been welcomed by most East African nations in recent times including Uganda. Considerable liberalization of the prevalent investment regulations has been undertaken to facilitate the smooth flow of FDI that is, National, foreign investment laws, policies and the international investment legal framework have attracted FDI to a larger number of developing countries, Uganda inclusive.

This thesis examines the impact of the Foreign Direct Investment (FDI) on the manufacturing sector of Uganda with a specific bias on soft drinks. It begins by giving the background to Uganda's industrial investment drive outlining different periods during Uganda's sorry investment, impact of Structural Adjustment Policy (SAPs) and the legal regime at the time relating it with its manufacturing sector.

The thesis examines Uganda's resource potential, the political and socio-economic metamorphosis, investment opportunities in Uganda, factors for attracting investors and the authority responsible for investment in Uganda.

The research will further look at the international instruments on development, domestic legislation on investment and give the provisions responsible for attracting and retaining investments in Uganda and after give a critique.

Specifically factors which have attracted FDI to Uganda will be investigated, the impact of FDI on the manufacturing sector, both positive/strengths and negative/weakness. Then the bottle necks of investing in Uganda's manufacturing sector.

CHAPTER ONE

1.0.GENERAL INTRODUCTION

1.1 Introduction

This study focuses on the problems and possibilities of investment in Uganda. The industrial strategy had investment in mind. This was pursued by post-colonial regimes in Uganda up to 1990s with the onset of privatization, was conceived after the Second World War by the British colonial state. The first development plan by the colonial state, the Worthington Development Plan for Uganda (1946), did not spell out an industrial policy. An approximation to industrial policy can be seen in the establishment of Uganda Development Corporation [1](UDC)

UDC in 1952 aimed at spearheading the investment and industrialization process by the state in partnership with private companies and individuals. Prominent among the private companies and individuals were actors such as Madhvani Group and Mehta Group, who were also owners of the two sugar estates in existence then. Basically, UDC was a product of the colonial development project. It acted as the mediator of the colonial and post-independence investment and industrial policies.

---

[1] Uganda Protectorate Worthington Plan: *The Development Plan for Uganda, London* (1946),

The pursuit of a good investment climate was derailed by the "economic war" [2]declared by President Idi Amin in 1972. It expropriated Asian properties, resulted in the generalized economic disarray and political instability, given that the entrepreneurs who had been the major link in mainly import dependent economy in terms of machinery, who were mainly Asians were expelled. The industrial sector and the areas that complemented industry, particularly agriculture, mining, trade and commerce as well as education was disrupted by the unplanned take-over of Asian enterprises. Underlying this whole process was that there was no coherent and well articulated investment plan.

By 1980, the formal economy had all but collapsed. The first Structural Adjustment Programmes (SAPs), lasting from (1981-84) stressed a broad framework of macro-economic stability though was short lived. The Second SAPs under the National Resistance Movement (NRM), regime from 1987 to the present, has had far-reaching impact on the economy. This phase emphasized macro-economic stability, Foreign Direct Investment (FDI), privatization of government parastatals and the return of the expropriated Asian properties in the context of market reforms and full exposure to international "competition". Thus, SAPs were perceived as a remedial strategy which encouraged FDI in Uganda.

Whereas manufacturing remains negligible as compared to agriculture with over 80% contribution to Gross Domestic Product (GDP), manufacturing sector growth still

---

[2] " Economic War" referred to the declaration by Idi Amin to expel Asians from Ugandan economy based on the perception that they were involved in illegal repatriation of capital from the country.

struggles due to little technology because the conception of technological transfer remains old-fashioned, that is, through FDI. There is little conception of a broad technological capacity building effort within a dynamic national innovation system to enhance the country's industrial competitiveness. The Uganda National Council for Science and Technology (UNCST) which is responsible for technology policy formulation remains under-funded and under-staffed with little linkage to the manufacturing sector. Here in lies a problem which affects our manufacturing sector. However, steps taken by the NRM government have encouraged FDI. The element of privatization of parastatals was a sign of encouraging FDI. This was under a policy of liberalizing the economy. The political argument for liberalization of the economy has been the need to broaden the tax base. It is argued that there is a predominant peasant economy which is characterized by subsistence production and parastatals which were not profit oriented but service oriented and therefore were not being taxed.

The enactment of the 1995 Constitution of the Republic of Uganda was another move for encouraging FDI. Under its national objectives and directive principles of state policy obligate the state to play a role in the development of the country and directing investment drive.[3]

---

[3] Principle **XI.** Constitution of Uganda.

Though the *Investment Code Act*[4] was enacted four years earlier, it was intended to repeal the *Foreign Investment Protection Act Cap 160 of 1964* and *the Foreign Investment Decree of 1977* which was believed to have been taken by events and could not help revitalize the sick economy of Uganda.

The enactment of the *Investment Code Act* was a fulfillment of the liberalization under the SAPs. This study investigates the success and failure of the code with a look at the extra legal factors with available laws in connection with the *Investment Code Act* as far as the private investment is concerned in the manufacturing sector with a bias in soft drinks industry.

1.2Background of the Study

1.2.1 Political and Socio-Economic Metamorphosis.

Uganda has the typical characteristics of a "bottom billion" country. It is landlocked and, until recently, resourceful, and neighboring countries are poor and many are prone to conflict. Uganda is also ethnically diverse, which increases a country's risk of divisions and conflict.[5] Following independence in 1962, the country experienced

---

[4] *Investment Code Act* cap 92.

[5] The 1995 Constitution of Uganda recognizes 56 indigenous peoples. However, according to the 2008 "State of
Uganda's Population Report," about 70 percent of the country's 29.6 million people are from the eight largest tribes:
Baganda (south) with 17.3 percent; Banyankole (west) with 9.8 percent; Basoga (east) with 8.6 percent; Bakiga
(west) with 7.0 percent; Iteso (east) with 6.4 pecent; Langi (north) with 6.1 percent; Acholi (north) with 4.7 percent;
and Bagisu (east) with 4.6 percent.

relative political and economic stability until a 1971 military coup by Idi Amin Dada. Violence and mismanagement reduced the country to a failed state with a collapsed economy. Political and economic turmoil continued from 1979 to 1985, with successive coups and a disputed election in 1980 that led to armed rebellions across the country.

The National Resistance Movement (NRM), led by Yoweri Museveni, took power in 1986, beginning a sustained period of economic and political renewal. During its first decade in power, the NRM focused on reconstructing the economy and establishing legitimate government.

The government advanced pro-market reforms and political liberalization. Despite being landlocked and resource scarce, Uganda became one of the fastest growing countries in Africa. Donor assistance in support of reform grew to 52 percent of the annual budget in the early 1990s. Northern Uganda is now secure; but it missed out on two decades of growth and poverty reduction. The Lord's Resistance Army (LRA) waged a brutal war that displaced 1.86 million people and resulted in about 10,000 deaths. There have been no major security incidents since 2006; economic activity is now resuming and most internally displaced people (about 1.3 million) have returned to their villages. Pushed out of Uganda, the LRA now operates in the remote border area between Southern Sudan, northeastern Democratic Republic of Congo (DRC), and the Central African Republic. LRA leader Joseph Kony remains at large despite a 2005 International Criminal Court warrant for his arrest on 33 charges, including crimes against humanity.

There has been political stability and progress towards multi-party democracy. Uganda has not yet, however, experienced a change of power through elections. Following the promulgation of the 1995 constitution, non-party elections took place in 1996, providing President Museveni with his first elected term after ten years in office. He was reelected in 2001. Constitutional amendments approved by referendum in July 2005 introduced multi-partyism. At the same time the Uganda Parliament voted to lift presidential term limits. Multi-party elections were held in 2006; and President Museveni's NRM Party won the election with 59 percent of the vote. President Museveni sought a fourth term in March 2011.

There is a perception of increasing corruption at all levels. Despite the enactment of the *Anti Corruption Act of 2010.*

There has been four high-level corruption cases during the last two years, none of which has been fully resolved so far. Local public opinion polls indicate that petty corruption is widespread and increasing. In addition, Uganda suffers from pervasive "quiet corruption"—the failure of public servants to deliver goods or services paid for by governments—such as unchecked teacher and health worker absenteeism.[6] The

[6] World Bank report titled *"Silent and Lethal: How quiet corruption undermines Africa's development efforts"* contends that one of the main reasons behind Africa's lagging economic development is poor service delivery resulting from quiet corruption. Quiet corruption is less visible than big-time corruption

perception of deteriorating governance is tarnishing Uganda's image as a development model. Therefore foreign direct investors have fallen prey of this and as a result it has antagonized the investment initiative as corrupt officials often award investment opportunities on un found basis and terms, thus scaring potential investors.

1.2.2 Economic Development.

Over the past two decades, Uganda has established a strong record of prudent Macroeconomic management and structural reform. Uganda was one of the first Sub-Saharan Africa (SSA) countries to embark on liberalization and pro-market policies in the late 1980s. Uganda was also one of the first SSA countries to adopt a policy of decentralization. Through the 1990s, the government maintained a stable macroeconomic environment and continued to undertake private sector oriented reforms. By 2006, Uganda had graduated into a mature reformer.[7] Annual gross domestic product (GDP) growth rates averaged 7 percent in the 1990s and accelerated to more than 8 percent over the seven years to 2007/08. However, due to rapid population growth, real GDP growth per capita averaged only 3.4 percent in the 1990s and around 4 percent in the 2000s.

---

but occurs across a much wider set of transactions directly affecting a large number of beneficiaries and very often has deep long-term consequences on households, farms, and firms.

[7] In 2006, Uganda graduated to an International Monetary Fund non-lending Policy Support Instrument.

Macroeconomic stability and sound policies have helped sustain growth despite exogenous shocks. Conflicts in neighboring DRC and Southern Sudan constrained regional trade. Post-election unrest in Kenya in December 2007 resulted in temporary closure of the main trading route to Mombasa, underscoring Uganda's vulnerability as a landlocked country. Uganda has also endured droughts, a severe energy crisis, and surges in food and oil prices. Private investment and exports have been important drivers of growth; both almost trebled in real terms between financial year 2001 and 2008. Private investments were mainly driven by construction of commercial and residential property. The rise in exports was led by fish, tourism, and oil re-exports (and, to a lesser extent, flowers, tobacco, and maize), rather than the traditional exports of coffee, tea, and cotton. Primary agricultural commodities still account for more than 50 percent of exports, and exports of food staples to the DRC, Kenya, Rwanda, and Southern Sudan have increased in recent years.

The economy has undergone gradual structural transformation over the past two decades, but at an increasingly slower pace.[8] As share of total output, services increased from 32percent in 1990 to 48 percent in 2000 and to 52 percent in 2008. Industry as a share of total output increased from 11 percent in 1990 to 23 percent in 2000, but then remained almost unchanged at 26 percent in 2008. Over the same period, agriculture as a share of total output decreased sharply from 57 percent in

[8] Structural transformation typically involves: a falling share of agriculture in GDP and employment, a rising share of urban economic activity in industry and modern services, and migration of rural workers to urban settings.

1990 to 30 percent in 2000 and to 23 percent in 2008. Consistent with structural transformation, production is becoming spatially concentrated. The agricultural potential of northern Uganda has not been exploited due to twenty years of conflict. Higher value agricultural production is geographically concentrated in the southern, central, and western areas of the country. Modern sector economic activity is also geographically clustered around large towns and along transport corridors.

The labor market transition has lagged the structural change of the economy, as expected. Many economically active people are trapped in low productivity, low income activities due to both a poorly educated and rapidly growing (3 percent per annum) labor force. Agriculture and non-wage smaller enterprises employ the bulk of new entrants into the labor market. In recent years, the government has shifted public expenditures towards addressing Uganda's infrastructure constraints. The 2006 energy crisis, the deterioration of transport infrastructure, and analytical work highlighting binding constraints to growth led to a scaling up of infrastructure investments in the budget since FY 2008.

1.3 Definitions

Since investment plays an important role in the private sector and economic development of Uganda. It is important to define the concept of investment. Sid Mittra and Chris Gassen: in "Investment Analysis and Portfolio Management" define investment as the commitment of a given sum of money at the present time in the expectation of receiving a larger sum in the future.[9]

Investment is also defined in the *Investment Code Act* "investment" means the creation of new business assets and includes the expansion, restructuring or rehabilitation of an existing business enterprise;[10] according to the dictionary, it is the purchase of capital goods such as plants and equipment.[11]

Foreign Investor

The *Investment Code Act Cap 92,* provides in section 1 (f) that "foreign investor" shall be construed in accordance with section 9. It is provided in Section 9 (1) that 9 "foreign investor" means; a person who is not a citizen of Uganda; a company, other than a company in which more than 50 percent of the shares are held by a person who is not a citizen of Uganda; and or a partnership in which the majority of partners are not citizens of Uganda. The Uganda Investment Authority is mandated under Section 9 (3) to determine whether or not a person is a foreign investor.

---

[9] www.abebooks.com accessed at 4:30pm on 6th/18/2012.

[10] S.1 (g) of *the Investment Code Act Cap 92* of laws of Uganda.

[11] Blacks' Law Dictionary 5th Edition ,West Publishing Company, Minnesota, 1985.

1.4. Statement of the problem.

With the *Investment Code Act* now 20 years old, the political climate in Uganda has increasingly presented a good environment for private investment. This has been catalyzed by the establishment of the Uganda Investment Authority which over sees investment needs and activities in the country.

The country is faced with poverty; there has been some marked economic discontent among the citizens. The country has a high inflation which has triggered price instability though of late, it has reduced due to the strong macro- economic policy of the central bank. The president of Uganda has called upon investors to come to the country and this has paid off but a lot still needs to be done. Because there is no marked and visual economic rise as seen in the Asian Tigers for example Singapore, Thailand among others. So this brings to my attention what the problem is?

For example there has been praises of the government for increasing investment levels in the country with the manufacturing sector taking the lion's share. Then what would the factors have been. On the darker side of the events, there is a violent voice about quack investors, tax evaders, environmental pollution which one would view as a weakness of the provisions in the Code. The paper also assesses the above issues in a simple approach.

1.5 Objectives of the study

1.5.1 General objectives.

The central objective of this study is to undertake a systematic research into the impact of FDI on the manufacturing sector by looking into the *Investment Code Act* and other paradigm like other investment laws for example immigration Act Cap 63.

1.5.2 Specific objectives.

a) To find out which factors have influenced the attraction of investors to Uganda.

b) To analyze the relevance of FDI to manufacturing sector in the country.

c) To find out the challenges that have affected FDI in manufacturing sector.

d) To find other related laws which equally affect investment in the country and the manufacturing sector.

e) To propose necessary reforms which could be integrated into the Code to maintain a strong manufacturing sector.

1.6 Research questions.

The study questions are:

i). what factors have influenced investment in Uganda?

ii).What is the relevance of the FDI in ensuring a strong manufacturing sector is maintained?

iii).What laws does Uganda have in place which promote investment and their relationship with the manufacturing sector of Uganda?

iv). What are the hindrances to a robust development of the manufacturing sector in Uganda.

v). what are the new policies which Uganda should adopt in its bid to bring about a sustained investment in soft drink manufacturing sector.

1.7 Significance of the study.

The undertaking of this study will be justified on the following grounds:

The study of the investment process remains critical for development theorists and practitioners interested in the structural transformation of African economies in general and Uganda in particular. Investment is essential to long-term development. Every country that has achieved sustained growth has also seen a structural transformation of its economy away from primary production toward industry through investment attraction. Investment attraction is necessary for attraction of industrial development which raises incomes and employment, diversify exports and extends markets. In nearly all economies, particularly those of East Asia, for instance, manufacturing has been the critical medium of structural transformation from a low productivity, low-income economy into one that is dynamic and diversified. Industrial investment, therefore, stands out as the solution to poverty and unemployment in countries like Uganda in the long term.

The study will formulate a proper investment policy which would be adopted in Uganda.

The study is also particularly significant at this time because there is a strong push by the government through Private Sector Foundation Uganda to support locally owned investments. A key objective to support investors to establish a footprint in Uganda's economy. It should be noted that local private investors need access to financial services, good infrastructure and stable market. Hence this study will guide policy makers in particular and the government in general to spearhead the formation, restructuring, strengthening and development of investment policies from an informed view point.

It will provide formidable literature on FDI and Uganda's manufacturing sector.

It will also inspire other scholars to undertake a study on FDI and *Investment Code Act* and its impact on development of manufacturing sector in Uganda.

1.8 Scope of the study

1.8.1 Subject Scope

The study sought to establish how the Foreign Direct Investment has influenced the development of the manufacturing sector in Uganda.

1.8.2 Geographical Scope

The research was carried out on actualized licensed foreign investments in the districts of Kampala specifically Britannia Allied Industries located in Ntinda industrial Area.

Britania Products Ltd. wholly foreign-owned by the Dawda Group of India, was established in 1993. It is engaged in the manufacture and distribution of confectionery products. The company has increased its variety of biscuits from 2 in 1995 to 14 today. It has a total of 600 employees under direct employment and a well-established distribution network all over the country with 200 agents and over 600 retailers. The company also exports to Rwanda, Democratic Republic of Congo, southern Sudan, and to northern

Tanzania.

The Company created forward and backward linkages with the local economy: it supports the agriculture, manufacturing and trading sectors; it also procures a number of inputs and materials from local suppliers, including corrugated carton boxes, polythene bags and labels, and periodically purchases cooking oil and sugar from local suppliers when their prices are more competitive than imports[12].

1.9 Hypothesis.

Investment is the biggest cornerstone for economic development of any country. There has been a departure from the state controlled socialist- oriented economy to economic liberalisation. Therefore Uganda as a poor country has to strive to put modalities in place especially legally modalities to entice foreign investors in the pearl of Africa.

---

[12] UNCTAD's survey of foreign firms in Uganda, June 1998.

It is thus hypothesized that Foreign Direct Investment is independent of the manufacturing sector but there are other factors that make FDI to Uganda seem unavoidable. But the manufacturing sector is dependent on the foreign direct investment and there would a lot of benefits/ positive impact on the manufacturing sector.

1.10 Conceptual Framework.

The conceptual framework interlinks independent, dependent variables which have the impact on the manufacturing sector as depicted below.

Independent variables:

This demonstrates factors which affect FDI in Uganda but which are not attached to the manufacturing sector. For example the prevailing inter-industry outsourcing patterns, foreign ownership with the plants, acquisition by foreign owners, human capital such as their own expatriates, existence of other opportunities. They thus result into negative impact on the manufacturing sector.

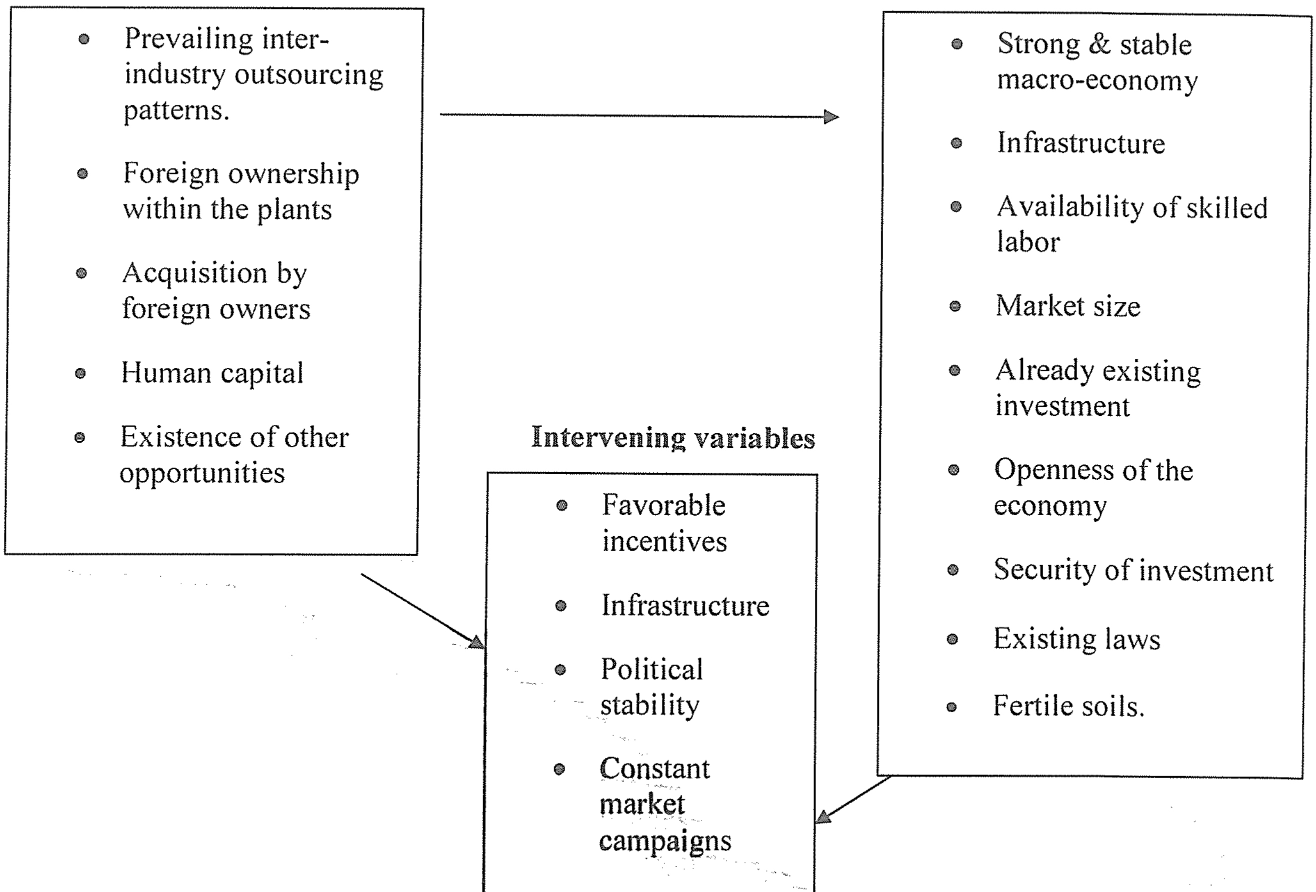
Dependent variables:

These attempts to depict that certain factors make manufacturing sector to be dependent on the FDI. Such as foreign exchange rates, infrastructure, availability of skilled manpower, market size, already existing investment. Laws such as *Investment Code Act Cap 92, the External Trade Act Cap 82, Companies Act cap110, Insolvency Act of 2011, Patents Act, Copyrights and Neighboring Rights Act of 2006, Trade*

Secrets Act of 2008, Income Tax Act cap 340, Policies of Government (government incentives).

Figure 1. Conceptual module

Independent variables **dependent variables**



MODULE OUTPUT

The independent variables

Clearly shown above show that FDI would come into the country because of the above reasons but their impact would not be felt in country actually it would be negative. Such as human capital of expatriates would mean Ugandans will not be employed, foreign ownership with the plants would result into inefficiency because of lack of knowledge of what Ugandans want to consume. That is why employment of Ugandans is emphasized, acquisition by foreign firms results into problems due to copying up with productivity needs thus negative impact on the manufacturing sector.

For the factor of uncertainty both economically and politically, it has is uncertain for the investor/FDI to know whether the economy and political setting will change. Thus making FDI independent.

The dependent variables

Their existence would result into robust growth of the manufacturing sector for example employment of Ugandans, technological transfer, increased production competitiveness, increased revenue.

Intervening variables are seen to exist on both sides as indicated in the figure 1.

1.11 RESEARCH METHODOLOGY.

1.11.1 Research Design.

Research design involves the process of planning and carrying out a research study. This will guide the researcher in expressing both the structure of the research problem and the plan of investigation used to obtain empirical evidence on the relation of the problem. The study involved the use of both quantitative and qualitative research approaches so as to gather better data.[13]

1.11.2 Quantitative approach

Quantitative research reduces the problems of reliability caused by extreme subjectivity in qualitative research. It will enable collection of numerical data in order to explain memorize, understand, predict or control the phenomena of interest.

Quantitative research measures the objectives facts, focuses on variables, separates theory from data, allows many cases and subjects of study and it is statistical analysis is detailed. It also enables quantification to attain results[14]. The researcher shall therefore obtain generalizable findings on FDI has impacted on the manufacturing sector.

A quantitative research method will allow the research topic to be explored in a comprehensive approach[15]. Selection of this method was appropriate for the study as it involved an empirical exploration of quantitative aspects of the effects of FDI on manufacturing sector in Uganda.

1.11.3 Qualitative approach.

Qualitative research enables the researcher to study people in their natural settings and enables stressing the interpretation and meaning. It will help the reader to

---

[13] Amin E., social science research: conception, methodology and analysis (2005).p.20

[14] Amin E. above n 2, 20.

[15] Yin, R. Case study research: Design and methods 2nd ed (1994).

understand in depth the study. It constructs socked reality, focuses on interactive processes, event, focuses on theory and data, allows few cases/subjects.

1.11.4 Survey and research design.

Survey in research is an attempt to collect data from members of the population in order to determine the current status of that population with respect to or more variables. It is therefore, a self-report study, which requires collection of quantitative information from the sample selected.

1.11.5 Study population.

Population is defined as a complete set of individuals, cases or objects with some common observable characteristics. The study population will comprise of 5 respondents (employees) involved in investment. Reason being that they are assumed to be knowledgeable about the topic in question. The population will be gathered together and samples shall be taken from there and then. They shall be called upon to verify their awareness about the FDI and its impact on the manufacturing sector. Five entrepreneurs shall be contacted.

1.11.6 Sample size selection.

Sample size selection is defines as a collection of some (a subset) elements of a population. A sample is therefore a smaller group obtained from the accessible population. Each member of or case in the sample is referred to as subject. Sometimes, the term "respondents" or "Interviewees" are used. Sample size will be determined using the formula provided by Krejcie and Morgan[16]. This is because the sample taken will be more representative and will cover all the categories in the Organizations.

1.11.7 Data collection methods.

In order to get quality information, various data collection methods were used. These methods included the following:

1.11.8 Questionnaire method.

The researcher used open-ended questions to which respondents answered directly by filing in or ticking where appropriate. The questionnaires were both structured and unstructured. This method was used because; it gave freedom to the respondents to decide on the aspects like; form, detail and length of the answer. The questionnaires were personally administered to the respondents.

1.11.9 Questionnaire guide.

This entailed a series of direct closed and open ended questions designed purposely to get answers from the respondents. This instrument was intended to give the respondents an opportunity to choose the most appropriate answer. The respondents are mainly top managers of the various foreign direct enterprises, the questionnaire sought information on:

---

[16] Amin E., social science research: conception, methodology and analysis (2005).

Apart from questionnaires, the data will also be obtained through document reviews from the Uganda Revenue Authority administrators detailing the FDI inflows and outflows as well as the key foreign investors in the Ugandan market. Uganda Investment Authority's archives will also be a significant source of information regarding promotion of FDI in the economy. Newspaper articles will also be reviewed for information regarding FDI issues. These will provide important information regarding the events that have occurred for Uganda to reach its level of FDI. Reviewing the documents will be significant in backing up the evidence obtained from questionnaires. However, documents may provide biased and unreliable information and therefore the information obtained will be logically evaluated against other available information before making conclusions[17].

1.11.10 Personal interviewing

The main method of data collection was personal interviewing; the researcher located the respondents in their places of work, set appointments to meet them. The researcher visited UIA thus enabling him to have the opportunity to have a face to face conversation to probe, prompt and exchange opinions with the management. It also enabled the researcher to collect first-hand information. Answers to questions asked during the interview were recorded through writing. This method is considered

[17] Creswell, J. W. *Research design: Qualitative, Quantitative and mixed methods approaches.* 2nd ed. (2003).

appropriate for the study as it answers most questions that the researcher cannot easily find to when alternative methods are used.

1.12 Limitations of the study

Accessing potential information is hard due to the high level of bureaucracy, the cost of getting this study done cannot be ignored either, it cost me tooth and nail to get hands on data, there was a limitation of first getting informed consent from the people to be interviewed, The people interviewed had to first be guaranteed confidentiality which was not trusted at times, some respondents were not responsive and often received to answer questions, the work was mainly focused on examining the impact of FDI on the manufacturing sector, this leaves out the impact of FDI on other sectors of the economy.

1.13 Literature Review

Basing on the fact that foreign investment has lived for some time in Uganda a lot has been written about its policy and law governing it. But this does not mean that it has been understood comprehensively so there is still a lot to be discussed. However, some of what has been written about it is seen below.

According to **Seid SherifH,** in his book said[18],

> *Incentives in the broad context of foreign investment includes all governmental measures or actions from which direct investors benefit or could benefit. Defined narrowly, it refers to measures which are directly in relation*

[18] *Global regulation of foreign Direct Investment*, Ashgate, Aldershot, 2002 at page 47.

with the foreign investment and that impact directly on the facto cost of a project or on the returns from the sale of a project's product The narrow definition, contrary to the broader one, does not include measures to improve the host country's infrastructure, the relaxing of environmental or labor standards, or investment promotion activities, but rather measures such as subsidies, taxi holidays or incentives, exemption of import duties for equipment or raw material, and many others.

Therefore the research is to consider the legal frame work concerning investment and its impact of FDI on manufacturing sector and the measures putting place by the government to facilitate FDI including extra legal factors such as political stability among others.

Lowendferd[19] observes that it is not all clear whether fiscal incentives are the major foreign investment determinants. In Mexico, a study conducted on the role of fiscal incentives in attracting foreign direct investment revealed that only 4.2% of the total number of investors that were subjected to the investigation was influenced by fiscal incentives. Similarly, a study undertaken in Jamaica revealed that two out of a sample of fifty –five investors were attracted by fiscal incentives. On he other hand , a similar study under taken in Korea revealed that fiscal incentives were second to development of markets and management growth in attracting Japanese and

[19] www.murd.edu.au/elaw/issues.

American investors to Korea. In Singapore, the result from a similar exercise revealed that fiscal incentives were not important determinants of foreign direct investment.

According to Seid Sharif H. in his book[20] said,

Providing incentives is a frequently used strategy to attract foreign direct investors. Host countries are interested in FDI that is most productive for its national economy; incentives are often available to selected category foreign direct investors. Therefore the research is therefore to consider the contribution in Uganda in attracting foreign investors.

Ugandan policies, laws and regulations regularly are investor-friendly. [21]foreign investors are permitted to invest to invest in almost any field[22]and the government is willing to provide land and other incentives as away of attracting more investors. Foreign investors may form 100 percent foreign-owned companies and majority or minority joint ventures with local investors with no restrictions. The government of Uganda (GOU) permits in new ventures[23]. Ugandan courts generally uphold the sanctity of contracts, though the courts can be subject to political pressure. The courts are significantly backlogged and even when a judicial remedy is issued, businesses may encounter difficulty in having other GUO agencies enforce their

---

[20] *Global regulation of foreign Direct Investment*, Ashgate, Aldershot, 2002 at page 47

[21] www.stategov/e.eeb/ifd/2007.

[22] Investment Code Act Section.22and third schedule

[23] Through privatization the government has transformed some of its enterprises like Uganda dairy corporation and many others to private sector and are now owned by foreign investors.

judicial remedy. Uganda needs to coordinate better its investment strategy and apply it evenly and transparently. The Uganda investment Authority was created to help foreign ventures set up domestic operations. However, while the Government of Uganda remains committed to attracting foreign investment, it often relies upon specific incentives, instead of promoting comprehensive, sector –wide investment strategies. While beneficial to individual investors, other contemplating operations in the same sector may not receive equal incentive package. Well the research has tried to put up some of the challenges which the government is still facing.

According to Fischer Etal, 1998[24] the disappointing economic performance African countries beginning in the late 1970s up till the mid 1990s, coupled with the globalization of activities in the world economy, has led till a regime shift in favour of outward-looking development strategies. Since the mid 1990s, there has been a relative improvement in economic performance in a number of African countries as a result of the change in policy frame work. Available data for Sub-Saharan Africa indicate that the average annual growth rate of real GDP per capita which was 0-9% over the period 1975-84 rose to 0.7% in the period 1995-20002. But the progress made so far is not enough for sustained growth and development in the region. Over the past three decades, Africa's participation in the world economy has declined. The region's share of world exports fell from 5.9% in 1980 to 2.3% in 2003. It share of world imports declined from 4.6% to 2.2% over the same period.

---

[24] Chantal dupasquier and Patriick n.Osakwe, *foreign direct investment in Africa* 2005 page10.

According to Fisher he generalize Africa and He was not able handle country by country so his work can not bee relied on hence this work is aimed at looking at Uganda in particular.

1.14 Chapterisation

This study presents the findings and resulting recommendation from the researcher. The study consists of five chapters.

The first part of the papers examines general introduction, the background to the study, statement of the problem, objective of the study both general and specific, research questions ,methodology, scope of the study, hypothesis, conceptual framework, limitation of the study, literature review and chapterisation. The second part discusses FDI and manufacturing sector, investment opportunities in Uganda and a critical analysis of the different paradigms that attract investors to Uganda. Chapter three discusses a critical analysis of investment laws, the impact of FDI on the manufacturing sector. In the fourth chapter of the paper the author examines the challenges that have stifled investment. The fifth chapter examines policy implications, recommendations and the general conclusion.

1.15. Conclusion

Conclusion FDI are mainly attracted to the manufacturing sector as opposed to other sectors for example infrastructure development. Never the less FDI exerts a positive effect on growth thus Uganda should take positive steps to attract more FDI including further liberalization and measures to directly ameliorate binding constraints.

CHAPTER TWO

FOREIGN DIRECT INVESTMENT AND MANUFACTURING SECTOR

2.1 Introduction

The second part discusses FDI and manufacturing sector, investment opportunities in Uganda and a critical analysis of the different paradigms that attract investors to Uganda.

2.2 FDI and Manufacturing Sector

It should be noted that the effect of FDI on growth depends on the sectoral distribution of FDI. It is stronger in the services sector compared to the manufacturing sector. The effect also varies within the manufacturing sector between different industries, and finds that in industries that attract efficiency-seeking FDI, there is a positive effect for FDI on output growth, while in industries that mainly draw market-seeking FDI, there is no positive effect on growth. FDI exerts a positive effect on growth. Only in the manufacturing sector, while in the primary sector the effect on growth tends to be negative[25].

Uganda has a small manufacturing base accounting for only 10 per cent of GDP. Nevertheless, this sector has attracted the largest share of investment. Most of the investment has been in the rehabilitation of old industries and not in the creation of new productive capacity. Foreign direct investment is concentrated mainly in

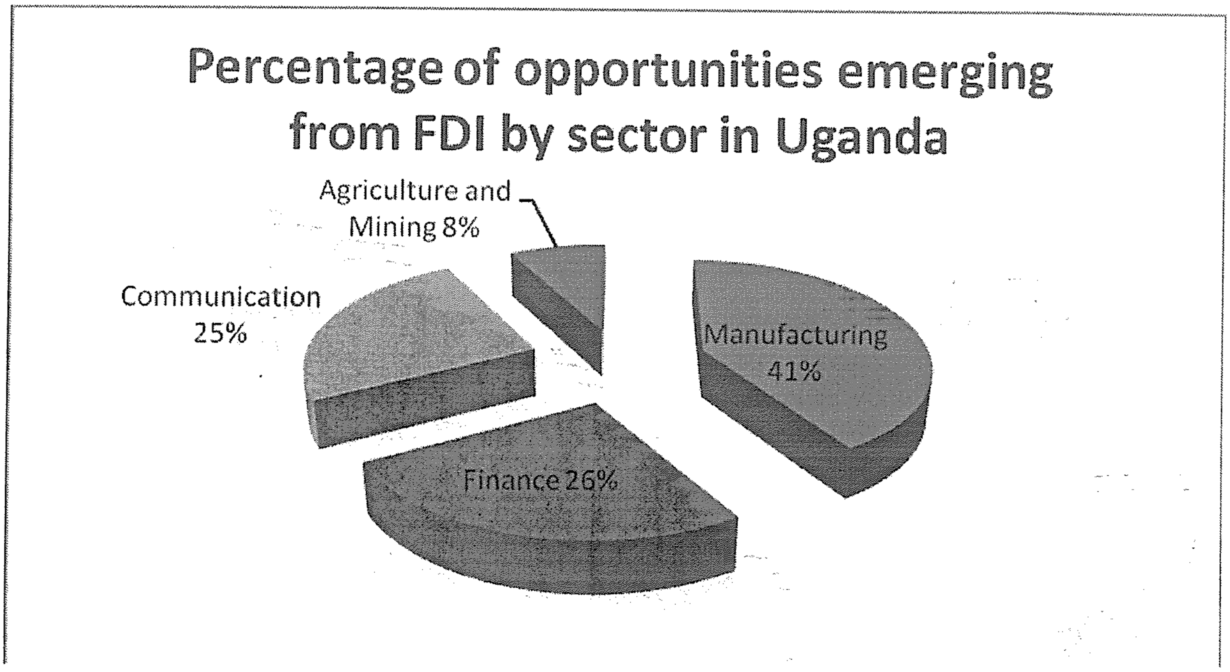
---

[25] Alfaro, L. *Foreign direct investment and growth*: 2003

beverages and breweries for the local market. Other industries such as sugar, textiles, cement, footwear, packaging, plastics and food-processing have also attracted FDI.

The manufacturing sector leads in FDI inflows to Uganda. 80% of more than 1.02 billion USD invested in the first three quarters of 2010 was in the manufacturing sector[26]. Nevertheless, most of the firms sampled in the study were not 'Greenfield' investments. The chart below shows that manufacturing sector received 41% of FDI compared to other sectors as shown below in the chart.

Figure 1. Sectoral distribution of FDI



Source: UIA Investment Report, 2010.

[26] Uganda investment report, 2010

Firms in the manufacturing sector mainly concentrate on beverages that have ready market locally. For example, Coca-Cola and Pepsi are major soft drink manufacturers that directly employ 664 and 850 employees respectively. There are more than 20, 000 Ugandans who are indirectly employed through dealing in the companies' products. The Madhvani Group of companies that manufacture safety matches and sugar among other products directly employ more than 10,000 workers and more than 70,000 people indirectly. They offer market for raw agricultural products such as sugarcane that are a source of livelihood for thousands of Ugandan farmers. Large Cement Company and its affiliate firms directly employ 1,700 permanent workers and 7,200 on contract terms. Uganda Bata Shoe Company from Switzerland directly employs 2,000 Ugandans and more than 150,000 indirectly. Other firms in the manufacturing sector include producers of packaging and synthetic materials as well as food processing. Generally, the manufacturing sector directly employs 41% of Uganda's working population[27]. With the coming of foreign companies in Uganda, there is increased productivity. The more modern sectors of manufacturing industries you have, the more foreign investors are attracted[28].

The increased openness of business services through exports and FDI has strong positive effects on exports, value added, and employment of manufacturing industries, positive and significant effects of liberalization of finance and

---

[27] (UIA Investment report, 2010).

[28] Blomstorom, Foreign investment and productive efficiency, (1986).

infrastructure on labour productivity of downstream manufacturing industries,[29] significant positive effects of banking, telecommunications, and transport reforms on manufacturing firms, technological transfer and a positive effect of FDI in retail sector on the production of manufacturing.

This when translated to Uganda's economy shows that many people are employed in the manufacturing sector especially, agricultural related products both directly and indirectly. For example the splash juice made by Britannia Allied Industries employs Ugandans directly under their factory and many indirectly downstream for example many are suppliers under wholesale and retail, growers of fruits such as passion fruits, mangoes, oranges.

2.3 Investment opportunities in Uganda

Uganda is a state overflowing with potential for foreign investments in particular, the *investment Code Act* outlines[30] a number of areas for investment which are considered to be priority areas these are; Crop processing, Processing of forest product, Fish processing, Steel industry, Chemical industries, Textile and leather industry, Oil milling industry, Paper production, Mining industry, Glass and plastic products industry, Ceramics industry, Manufacturing of tools, implements, equipment

[29] Arnold, J., Jovorcik. Services Reform and manufacturing performance. (2010).

[30] S.13 of the *Investment Code Act* provides that;
(1) Subject to section 10(2), an investor may engage in any type of business enterprise.
(2) The categories of business activities specified in the Second Schedule are priority areas of investment, and an applicant for a licence to engage in any of those activities shall be accorded additional benefits under this Code.

and machinery, Manufacture of industrial spare parts, Construction and building industry, Meat processing, Tourism industry, Real estate development industry, Manufacture of building materials industry, Packaging industry, Transport industry, Energy conservation industry, Pharmaceutical industry, Banking, High-technology industry, Telecommunication services.[31]

2.3.1 Agribusiness.

Uganda is among leading producers of coffee and bananas. It is also a major producer of tea, cotton (including organic cotton), tobacco, cereals, oilseeds (simsim, soya, sunflower, etc), fresh and preserved fruit, vegetables and nuts, essential oils, orchids, flowers and sericulture (silk). Opportunities include commercial farming and value addition, as well as the manufacture of inputs.

2.3.2 Fisheries.

Fish and fish products are the leading foreign exchange earner for Uganda in the non-traditional exports category. Large fresh water expanses are home to a wide variety of fish products. Opportunities are available for fish farming and establishment of more fish processing factories on other lakes other than Lake Victoria. Uganda's fish is a delicacy in Europe and has recently penetrated the US

[31] Second Schedule to the *Investment Code Act.*

market[32]

2.3.3 Forestry.

With over 4.9 million hectares of rich forest vegetation, Uganda possesses abundant potential in areas like timber processing for export, manufacture of high quality furniture/wood products and various packaging materials. There are also opportunities in afforestation and reforestation especially of medicinal trees and plants, soft wood plantations for timber, pulp & poles.

2.3.4 Manufacturing.

Uganda's manufacturing sector has grown steadily over the last five years at an estimated average of 7.7% annually. Opportunities exist in virtually all areas ranging from beverages, leather, tobacco based processing, paper, textiles and garments, pharmaceuticals, fabrication, ceramics, glass, fertilizers, plastic / PVC, assembly of electronic goods, hi-tech and medical products.

2.3.5 Mining.

Uganda has large under-exploited mineral deposits of gold, oil, high grade tin, tungsten/wolfram, salt, beryllium, cobalt, kaolin, iron-ore, glass sand, vermiculite and phosphates (fertilizer). A discovery of petroleum wells in the Lake Albert region has enhanced the sector's joie de vivre. There are also significant quantities of clay and

[32] Uganda export promotion report of 2012.

gypsum. Uganda provides incentives to the mining sector with some capital expenditures being written off in full[33].

2.3.6 Infrastructure.

Although significant efforts have been made to develop and rehabilitate the existing physical and non-physical infrastructure, potential investment opportunities still abound. In particular, transport & logistics and energy sectors still require further investment. With less than 10% of the mainstream capacity of 2,700 megawatts of power exploited, Uganda has the potential to be a major supplier of hydro electric power to the entire East African region.

2.3.7 Financial Services.

Opportunities for investment exist for international multinational banking groups particularly promoting new or innovative financial products (i.e. Mortgage finance, venture capital, merchant banking and leasing finance) and also micro finance saving institutions, which propose to operate in rural areas. Insurance, in particular, is still a relatively young sector and offers several opportunities for investment for example Stanbic bank Uganda limited, Crane bank among others.

2.3.8 Tourism.

The distinctive attraction of Uganda as a tourist destination arises from the variety of its game stock and its unspoiled scenic beauty. Within a relatively limited space of just over 240,000 square kilometers, Uganda offers an interesting contrast ranging

[33] UIA investor survey report, July 2010.

from the wide East African plains and expansive savanna grasslands to the impenetrable, mountain rain forests and now peaked mountains in the south western parts of the country.

Uganda offers a wide range of bird species for viewing in addition to numerous sporting opportunities such as mountain climbing and water sports including white water rafting. The opportunities in tourism range from constructing high quality accommodation facilities, operating tours and travel circuits to the development of specialized eco-tourism.

2.3.9 Printing and Publishing.

In the printing and publishing sub-sector, opportunities exist for the printing of textbooks for schools. Currently, imports supply over 90% of Uganda's textbook requirement (estimated at over U$7 million a year)[34]. Investment opportunities therefore exist in the various type of printing including flexography, screen printing, off-set printing and digital printing. Other opportunities include electronic printing magnetography, thermographic printing, deposition printing and direct charge deposition printing.

2.3.10 Education

Uganda runs high quality courses at a relatively cheaper cost than other education destinations and is dedicated to making investment in the country's knowledge hub a

[34] UIA *investor survey report* July 2010.

unique experience and a win-win situation for both investors and students. Investment opportunities therefore exist in Uganda for setting up of independent private universities such as University of East Africa, Cavendish University among others, branch universities and offshore campuses. Other areas of investment include technical & vocational training, technology-based education & distance education.

2.3.11 Information Communication Technology

Uganda's Information and Communication Technology (ICT) sector is one of the most vibrant within the region. This vibrancy hinges largely on the good legal and regulatory frameworks. The supportive investment climate therein has exposed numerous opportunities in ICT innovation services leading to maximum utilization of the existing youthful human resource base quite suitable for the ICT work

Opportunities in the ICT include establishment of information and communication infrastructure and broadband services, business process outsourcing services, computer and related equipment hardware assembly, high level ICT training facilities on international standards, ICT business services incubation, hardware repair training facilities, software development niches, setting up information technology virtual zones (ITVZ), and setting up Internet service provider facilities in other parts of Uganda.

2.4 Factors that attract FDI in the manufacturing sector.

2.4.1 Constant market campaigns: Respondents attributed Uganda's FDI drive in the manufacturing sector to the strong advertisement made by the Uganda Investment Authority through numerous conferences attended and the constant marketing of Uganda by the president.

In brief this was through the inward missions organized by UIA and the foreign ones that UIA officials attend to show case what Uganda has to offer. These are also complemented by the various conferences held by other agencies abroad where UIA briefs other stake holders and prospective investors about the any progress made in making Uganda the preferred investment destination.

2.4.2 Favorable Incentive Regime:

The respondents were able to identify the various incentive regimes which were cited as crucial for their attraction in the manufacturing sector these included: - Uniform corporation tax of 30%, which is the lowest in the region, Import duty exemptions for plant and machinery, duty draw-back facility for exporters, a fully liberalized foreign exchange regime with no restrictions on the movement of capital in and out of the country, a freely convertible and stable currency, special initial allowance (accelerated depreciation) of 50 - 75 per cent on plant and machinery[35],100% initial allowance for training, scientific research and mineral exploration expenditures, value

[35] In the 1997/1998 Budget speech, the Hon. Minister for Finance, under section 14 of the Finance Statute 1997, repealed sections 25 of the Investment Code 1991 which provided for 3 to 6 years tax holiday(see S.167 of Income Tax Act). The Minister proposed a new incentive regime of investment capital allowances to replace the tax holiday with a new incentive regime specified in the Income Tax Act in sections 26-38 and categorized so in the sixth schedule.

Added Tax (VAT) deferral facilities for plant and machinery, first Arrival Privileges in the form of duty exemptions for motor vehicle and personal effects to all investors and expatriates coming to Uganda. Foreign investors were permitted to borrow money from domestic sources, protection against compulsory acquisition is provided by the constitution, agreements on double taxation and investor protection have been reached between Uganda and a number of its trade partners such as UK, South Africa, Netherlands, Kenya and Tanzania. This to a greater extent have attracted FDI in Uganda.

2.4.3 Political stability in East Africa

The respondents found that a stable political climate was the most important precondition to do business in the region. The author argues that political stability including the predictability and reliability of the regulatory frame work affecting business are the most basic factor for companies considering investment in Africa.

Respondents at Britannia Allied Industries were pleased with noting that in Uganda; most of the parts of the country especially north have been politically stable after Joseph Kony fled to jungles of Central African Republic though the investors/respondents expressed confidence manifested by the continued investment inflow in the country.

The respondents concluded by saying that countries that experienced civil unrest and political upheaval were unlikely to be considered as viable investment destinations. They went on to say that the war in Democratic Republic of Congo was affecting their exports to Kinsasha, Kisangani, Goma and other small towns.

2.4.4 Existence of strong and stable macro-economy.

The respondents indicated that the supportive institutional environment, such as the existence of an effective and equitable legal system, and the presence of an efficient and well functioning banking and financial system were important for investment attraction. They cited an example of Uganda having undertaken reforms in the last decades which included fiscal and monetary policies, exchange rate liberalization, trade liberalization, public sector management reforms, financial sector, external debt policy, privatization, poverty eradication strategy, harnessing regionalism through EAC, COMESA trade blocks.

2.4.5 Openness of Uganda's economy was also found to be important in attracting investment. This is evidenced by the level of reforms taken in the last two decades. Respondents cited elimination of non-tariff barriers and followed by reduction of tariffs at a low level with in eastern and southern regions which gives them a good business flow when exporting their beverages by road to countries such as Rwanda, Kenya, and South Sudan.

2.4.6 Big market size of Uganda.

The respondents noted that market size of Uganda played an important role in attracting investment, since Uganda's market allowed the exploitation of economies of scale for import substituting investment; they felt that they could even expand production to other areas of the country since Uganda's market was growing at a rate good for business.

2.4.7 Low cost of labor.

The respondents who invested in Uganda singled it out as a significant factor in location consideration, most especially when the investment is export oriented. The investors/respondents stated that they liked to operate in Uganda where the government maintained liberal policies for the employment of expatriate staff.

2.4.8 The first improving infrastructure of Uganda

The investors noted the good infrastructure which was improving as being among their reasons for investing in Uganda's manufacturing sector. The roads were constructed, others upgraded, improved. The railway line was cited as undergoing rehabilitation. Though were noted pleased with gridlock traffic jam common in Kampala.

2.4.9Existing volume of investment:

The respondents/investors pointed out that they gave priority to Uganda considering the geographic vicinity and already existing investment in Uganda. For example the Asians of Ugandan origin. The respondents also stated that they showed a preference for Uganda because of their cultural or linguistic linkages to their home country Indian. The respondents from India stated that they were related to Asians of Ugandan origin which cements the findings.

2.4.10 Favorable fertile soils:

The respondents cited that given the fact that they required out growers in the favorable country, Uganda offered one because of the extensive fertile soils. Britannia Allied Industries Uganda Ltd, the makers of splash juice, biscuits and sweets among other products are urged Ugandans to grow more fruits like mangoes, pineapples and paw paws so as to satisfy the industry. The Chairperson of Britannia, Hasmukh Dawda said the company needed over 500,000 tones of fruits every year but Ugandans could afford to supply only around 10,700 tones. This has led to importation of raw materials from Kenya to boost production. This has led to importation of raw materials from Kenya to boost production.

2.4.11 Regional integration

The respondents from Allied Britannia industries and UIA responded by noting that Uganda being a major player in the EAC, COMESA. It had attracted them to come and invest in the manufacturing sector. The integration came with expanded market, low tariffs trade.

Uganda is a member of COMESA, bringing together 19 countries in the region with a market of approximately 300 million people. Uganda products enjoy preferencial (quota free) access when exported by European Union under the Rome convention and to the USA under Generalized System of Preferences (GSP).

2.4.12 Conclusion

The effect of FDI on growth depends on the sectoral distribution of FDI. It is stronger in the services sector compared to the manufacturing sector. The effect also varies within the manufacturing sector between different industries, and finds that in industries that attract efficiency-seeking FDI, there is a positive effect for FDI on output growth, while in industries that mainly draw market-seeking FDI, there is no positive effect on growth. FDI exerts a positive effect on growth. Only in the manufacturing sector, while in the primary sector the effect on growth tends to be negative. Thus the government should also encourage FDI in other sectors because they equally contribute to Uganda's GDP and also improve its investment policy to attract more investors.

CHAPTER THREE

MAJOR LAWS GOVERNING INVESTMENT IN UGANDA

3.1 Introduction

Chapter three discusses a critical analysis of investment laws including the *Investment Code Act*, the impact of FDI on the manufacturing sector benefits of the code and its weakness.

As noted earlier on, the *Investment Code Act* was passed against a background of a sick economy of Uganda. In an attempt to discover the impact of FDI on the manufacturing sector, the author takes a look into the earlier legislature which governed the local and foreign investors. This would help in getting the failures which resulted into enacting the new law (code) and look into the benefits of the code and its weaknesses.

3.2 Over view of earlier investment legislations.

The two earlier laws, *Foreign Investment (Protection) Act*[36] and the *Foreign Investment Decree*[37] had many lacunas that they discouraged many investors from Uganda. These had been influenced by the 1960-1970s era of nationalization where newly independent nations were trying to completely do way with remnants of colonialism. Through this many home grown investments were encouraged. Stringent and restrictive measures were adopted against foreign potential investors.

---

[36] (1964).

[37] (1977).

The 1964 Act was passed against a background of government policy of Africanisation of key sectors of the economy. The second year development plan was aimed at cutting down Asian dominance in the manufacturing sector and increasing their vote in the Gross Domestic Product and their share in the total monetary Gross Domestic Product.

The 1964 Act impeded investment by restricting the amount of money that could be transferred out of Uganda. In fact any transfer had to be approved by the Bank of Uganda at the prevailing official exchange rate and had to abide by the tax payment system.[38] The taxation policy was a disincentive as it reduced the net profits while official exchange rate was always below the market value thus making investors feel cheated.

On the other hand, the *Foreign Investment Decree* was meant to legalize the Asian Expulsion[39] and Ugandanise the economy.

The 1977 decree limited foreign exchange control of enterprises as foreign ownership could not exceed 49%.[40]Yet few Ugandans had the financial and entrepreneurial muscle to set up and sustain the large industries. The acquisition of local funds by

[38] *Section.3 of Foreign Investment (Protection) Act (1964) Cap 160.*
[39] Uganda Argus published on 12th of August 1972.
[40] Section 5 of Foreign Investment Decree No. 18 of 1977.

the investor was prohibited.[41] However, the Decree provided for only import tax draw back and sale tax exemptions[42] as only incentives.

Therefore, both laws worked to the disadvantage of the country and investors because though the 1964 Act operationalised constitutional guarantees against expropriation and in the event of it fair, prompt and adequate compensation[43] be meted out, the years to follow saw the Law washed away by a Decree of 1972. It also left the powers with the minister to make a final decision on investment license.[44]It was not until 1991, that the new law which repealed the two earlier laws on investment was enacted.

3.3 The Investment Code Act, its Genesis.

The code was enacted with major purpose of attracting investors in Uganda by providing for favorable conditions, to establish the Uganda Investment Authority, to repeal the two laws.[45]

Among the favorable conditions was the altering the procedure for getting an investment license which is solely under the Uganda Investment Authority unlike previous Laws where the prospective investor had to go to local government first for trading license, registrar of companies for certifying or registering a company,

---

[41] Section 3. Ibid.
[42] Section 4. Ibid.
[43] Section 2 of Foreign Investment (Protection) Act (1964) Cap 160.

[44] S.1(1) of Foreign Investment (Protection) Act (1964) Cap 160, applications were to be made to the minister who would by S. 1(2) approve it if satisfied that the enterprise shall further the economic development of Uganda.
[45] Bill No. 18 No.12 *Bill supplements to Uganda Gazette.* No.29 Vol. LXXXIII dated 13th, July, 1990

department of immigration for visa clearance, to bank of Uganda for approval of externalization of funds.

The Code's provisions are somewhat similar to those in Cameroon, Kenya, Tanzania, Ghana, and Rwanda.[46] Thus the code is not itself a new one as similar one exists In Cameroon for example; the incentive measures were a main stay of Cameroon's investment policy. The national investment corporation is responsible for foreign investors which has made Cameroon a haven for large industries. In fact by 1987, foreign investment totaling to US$ 1.1 billion was recorded in Cameroon which was ahead of Uganda.[47]

3.4 A critical analysis of the main provisions of the Investment Code Act and other laws affecting FDI.

3.4.1 Entry of FDI in Uganda

The national provisions governing the entry and establishment of foreign direct investments are essential characteristics of a host country's investment system. As noted earlier on, the application of the doctrine of state sovereignty to the issue of FDI means that a State can decide at its discretion to exclude or restrict foreign investment and consequently also to admit conditionally.

At the occasion of the entry of FDI, the foreign investor has to opt for a particular business structure. This paper will analyze the various kinds of entry procedures, the issue of the existence in Uganda's legal system of a certain number of sectors which

[46] *The Courier No. 217 May-June 1991 pg 74.*

[47] Simon Ngann and Julien Gonta: *'Investing in Cameroon.' The Courier* No.102 March-Aril 1987 Pg 95

are excluded for FDI and the underlying rationales; rules restricting foreign ownership; rules conditioning the entry and maintenance of FDI to compliance with specific conditions.

3.4.2 Entry Procedure

The FDI entry procedures can be broadly divided in two categories; notification and approval procedures. The concept of an FDI notification system is used as meaning that the foreign direct investor has the obligation to declare the investment transaction to the administrative authority designated by the national law for those purposes. In Uganda it's the Uganda Investment Authority (UIA)[48]. The evidence of compliance with the different entry and foreign investment requirement is the license.[49]

3.4.3 Exclusions of Some Sectors from FDI in Uganda

The *Investment code Act* also provides for areas or sectors in which the investor may/may not engage in. these are found in second and third schedules. The **second schedule**[50] outlines twenty four areas for investment and which entail the investor to tax exemptions for extra year over and above the exemptions accruing to him by virtue of holding the certificate of incentives. These are Hi-tech industry, crop processing, chemical industry among others. This schedule only looks at areas which will lead to increased economic growth for example manufacture of industrial parts

[48] Section 2 of the *Investment Code Act* Cap 92.

[49] 46 License is issued by the Uganda Investment Authority under section 15 of the *Investment Code Act Cap 92.*

[50] S.13 of *Investment Code Act.*

would help save foreign exchange while tourism and crop processing would generate more foreign exchange.

3.4.4 Foreign Ownership Restrictions

A distinction can be made between three broad kinds of foreign ownership restrictions: asset ownership restrictions in general, real estate acquisitions. The latter category could be conceptualized as including both restrictions on the ownership of equity as well as restrictions on the foreign decision-making power in a foreign direct investment entity. The issue of national provisions favoring entities which meet certain requirements of minimum local ownership or control over entities that do not do so, is narrowly related with the issue of national treatment versus the favouring of local over foreign investors.

3.4.5 Entry Conditions

Generally countries that provide for performance requirements in their FDI laws and regulations mainly pursue this to maximize the benefits that can result from FDI for the host economy. Performance and commitment requirements relate to the post-entry operation of the investment entity but they are sometimes technically spoken entry conditions, and therefore they can at times be included in the category of rules that condition the entry of FDI.

In the case of Uganda, a foreign investor is required to deposit the total sum of One Hundred thousand United States dollars or its equivalent in Uganda shillings at the

Bank of Uganda, which shall be specifically used for importation or direct purchase of goods for the business[51], after which the Bank of Uganda will issue the foreign investor with the Certificate of Remittance[52]. It's after compliance with these requirements and other legal provisions of Uganda Immigration laws that the intending foreign investor is issued entry permit[53].

The Investment Code Act of Uganda in this regard provides that the authority shall, in Considering an application for an investment license under the Code, carry out an appraisal of the capacity of the proposed business enterprise to contribute to among other objectives; the creation of employment opportunities in Uganda.[54]

3.4.6 Performance Requirements

Performance requirements can be defined as "operating expectations demanded of foreign owned enterprises."[55]

In this connection, the Uganda and Rwanda foreign investment laws provide the perfect example of investment regimes conscious of this performance requirements. In considering of the application for investment license, the Uganda Investment Authority shall carry out an appraisal of the capacity of the proposed business enterprise to contribute to among other objectives; the generation of new earnings or savings of foreign exchange through exports, resource-based import substitution

[51] Section 10 (5) of the *Investment Code Act Cap 92.*
[52] Section 10 (6) of the *Investment Code Act Cap 92.*
[53] Section 10 (8). Ibid.
[54] Section 12 (c) of the *Investment Code Act Cap 92.*

[55] SEID, Sherif, H., *Global Regulation of Foreign Direct Investment,* Ashgate, Aldershot, 2002 at page 37.

or service activities; the utilization of local materials, supplies and services; the introduction of advanced technology or upgrading of indigenous technology and the contribution to locally or regionally balanced socio-economic development[56].In addition to the factors taken into account by the Uganda Investment Authority[57]

3.4.7 Treatment of Foreign Direct Investors and their Investments

In the discussion of the legal treatment of foreign investors and their investments in a host economy, the legal protection and guarantees on which they prevail (which includes the issue of expropriation of foreign direct investment) and finally, the potential incentives of which they can benefit and the applicable tax regime shall be discussed in detail.

3.4.8 Treatment of Foreign Investors

In the *OECD Draft Multilateral Agreement on Investment* of April 24 1998,[58] the principle of national treatment in the context of international investment is defined as the obligation of the host country to accord to foreign investors and to their investments "treatment no less favorable than the treatment it accords in like circumstances to its own investors with respect to the establishment, acquisition,

---

[56] Section 12 of the *Investment Code Act Cap 92.*

[57] Article 35 of Law No 14/98 of 18/12/1998 *Establishing The Rwanda Investment Promotion Agency.*

[58] This is the draft used in the context of the last round of negotiations in the light of the adoption of a highly investment protection and investment-liberalization oriented Multilateral Agreement on Investment, open to both OECD and non-OECD countries. The negotiations failed so no such Agreement was adopted and no further attempts have been made within the OECD structure (the latest version of the text which was negotiated can be found on:
http://www.oecd.org/dataoecd/46/40/1895712.pdf.
The attempts to create a multilateral agreement liberalizing and protecting foreign investment is now focused on by several
developed countries in the framework of the WTO.

expansion, operation, management, maintenance, use, enjoyment and sale or other disposition of investments"; the principle of most favoured nations treatment as the obligation for the host country to accord to foreign investors and to their investments " treatment no less favourable to than the treatment it accords in like circumstances to investors of any other [country], with respect to the establishment, acquisition, expansion, operation, management, maintenance, use, enjoyment, and sale or other disposition of investments."[59]

The protection against expropriation is guaranteed by the Constitutional provision Article 26 which limits expropriation to public interest and fair market value. It should be noted that though the constitution was enacted in 1995, the provisions of the *Investment Code Act* must be construed subject to Article 274(1) of the *Constitution* which provides that the operation of existing law shall not be affected by the constitution but the existing law should be construed with such modifications, adoptions, qualifications and exceptions as may be necessary to bring it into conformity with the Constitution.[60]it's against this back ground that government enacted the Expropriated Properties Act Cap 87 to remedy the Injustices occasioned on the Asian Community.

[59] Article 3 of the draft of 28 April 1998, of negotiations text of the *OECD Multilateral Investment Agreement.*

[60] This is because article 2 of 1995 Constitution of Uganda makes the constitution the supreme law.

The Investment Act provides that the interest of a licensed investor may not be expropriated, except in accordance with the Constitution of Uganda, and that compensation at fair market value should be paid within twelve month of any expropriation[61]. The Constitution of 1995 provides for payment up front. In the Case of **Vickers Sons and Marxim Ltd Vs Evans**[62] was approved by the Supreme Court[63] The provisions of statute 9 of 1982 nullified any dealings whatsoever kind in expropriated properties and vested them back into government under the management of the ministry of finance. Properties which were held under lease or tenancy of whatever description where such lease or tenancy had expired or terminated, the same were to be deemed to have continued in force until such property was dealt with under this Act.

The former owner of property or business vested in the government under the Act may with in ninety days of the commencement of the Act apply for repossession of the property or business[64]. The minister is also given power by the Act to transfer back the property to the former owner and it says that the minister shall have the power to transfer to the former owner of any property or business so vested in the government under the Act[65]. The Act still says that the government shall pay compensation to any former owner ,not being a citizen who fails to apply for

[61] sec 27(2) of the Expropriated Properties Act Cap 187
[62] [1916] AC 444.
[63] Civil Appeal No.21/93 Registered Trustees of Kampala Vs. Departed Asians Property Custodian Board.
[64] Section 4.
[65] Section 3.

repossession. Most FDI have therefore come from expatriate Asians investing in repatriated property.

However, the code does not specify, the mutually agreeable procedure of setting the fair price for compensation. The rate should be determined by an independent consultant since what may be fair to government may be not fair to the investor.

On externalization of funds has become easier. Once the investor has got a certificate of incentives, approval to externalize is made automatically.[66] This removed the burdensome period of applying to the bank of Uganda for approval. However, the provision remains uncertain due to constraints faced by bank of Uganda in its delaying procedures.

Fiscal incentives include exemption from import duties and sales tax, corporate tax and tax dividends. Foreign investors are given first arrival privileges on motor vehicle and household effects for foreign investors and expatriate staff. However, this provision makes it hard for Ugandans who want to bring in expatriate due to high cost of labour resulting from foreigners working as part of technical or management service agreement.

Investors are also allowed access to domestic savings at a rate determined by central bank.[67]

---

[66] S.32 of *Investment Code Act.*
[67] S.28 of *Investment Code Act*

3.4.9 Legal Protection of Foreign Investments

Foreign Investment legislations often include a provision guaranteeing compensation in case of expropriation of the investment property. Sornarajah observed that such provisions have a 'signaling function' and are especially important in countries with a substantial expropriations history[68]. It is recommended by the World Bank Guidelines on the Treatment of Foreign Direct Investment that States only expropriate in pursuance of a public purpose and without discrimination between nationals and foreign investors. The World Bank guidelines also stress the importance of an adequate, effective and appropriate compensation in case of expropriation.[69]

The Model Investment Code of East Africa Community[70] and the partner states of Uganda and Tanzania are good examples of the foreign investment regime that guarantees protection and compensation in the event of acquisition of foreign investment property. Section 27 (1) of the *Investment Code Act* of Uganda provides that the business enterprise of an investor which is licensed under the Code, 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 Consititution.

The *Constitution* of the Republic of Uganda 1995 provides for the right to property and adequate compensation where an individual has been denied of his property

---

[68] Sornarajah, M., Op cit at page 95.
[69] Article 4 of the World bank Guide Lines on the Treatment of Foreign Direct Investment.
[70] Section 14 of the Model *Investment Code* July 2006.

rights.[71] The section stresses compensation at fair market value with respect to the enterprise acquired and that the compensation paid shall not be subject to exchange control restrictions under the Exchange Control Act.[72]

Since in Kenya, the law is silent on acquisition and compensation of foreign investment property, it leaves the investors with a lot of uncertainties which makes its foreign investment climate unattractive and below the generally accepted standards. This explains the rapid development of FDI in Uganda.

3.4.10 Fiscal Incentives and Attraction of Foreign Investments

Incentives in the broad context of foreign investment includes all governmental measures or actions from which direct investors benefit or could benefit. Defined narrowly, it refers to measures which are directly in relation with the foreign investment and that impact directly on the facto cost of a project or on the returns from the sale of a project's product.[73] The narrow definition, contrary to the broader one, does not include measures to improve the host country's infrastructure, the relaxing of environmental or labor standards, or investment promotion activities, but rather measures such as subsidies, taxi holidays or incentives, exemption of import duties for equipment or raw material, and many others.[74]

[71] Article 26 of *The Constitution* of the Republic of Uganda as Amended in 2001.
[72] Section 27 (2) and (3) of *The Investment Code Act Cap 92.*
[73] SEID, Sherif H., *Global Regulation of Foreign Direct Investment*, Ashgate, Alderhot 2002 at page 40.
[74] SEID, Sherif H., *above.*

Providing incentives is a frequently used strategy to attract foreign direct investors. Host countries are interested in FDI that is most productive for its national economy; incentives are often available to selected category foreign direct investors.

International law recognizes the sovereign right of each state to tax aliens resident or owning property within its territory.[75] However, the establishment of unfair tax discrimination against foreign nationals and their property is regarded in international practice as an unfriendly act which may give rise to protest or retaliation by restoration.[76]

What has not been subjected to legal test, however, is the issue of tax discrimination which favors aliens and operates against indigenous persons.

Part IV of the *Investment Code Act* of Uganda provides for facilities and incentives. A foreign investor who is entitled to incentives is issued with certificate of incentives. A holder of a certificate of incentives is entitled to among others; a drawback of duties and sales tax payable on imported inputs used in producing goods for export.[77]

However an investor who engages in activities in the third schedule of the Act is not entitled to enjoy incentives on payment of dividends of shareholders who are not

[75] G. Schwarzenberger, *Foreign Investment and International Law*, (London: Stevens & Sons, 1969), pp. 3-11

[76] E.I. Nwogugu, op. cit., p.10.

[77] Section 25 of the Act.

citizens of Uganda or to citizens of Uganda resident abroad and on externalization of profits or proceeds on disposal of assets.[78]

In comparison, the *Investment Promotions Act No. 56 of 2004* of Kenya does not provide for direct fiscal incentives as a way of attracting investments. Part 111 of the Act provides for investment certificate benefits which only relate to work permits after payment of requisite fees. The Act however provides in section 15 (2) (a) (iii) that the Investment Authority shall in promoting and facilitating investment assist foreign and local investors in obtaining incentives or exemptions under the *Income Tax Act,* the *Customs and Excise Act,* the Value Added Tax Act or other legislation. The Act does not clearly spell out the incentives that a foreign investor is entitled to. This explains the influx of Foreign Direct Investors in Uganda.

It seems that the contents of a particular incentive does not per se determine the decision making process of the foreign direct investors. The specific incentive has to be placed in the context of the country's general investment climate. It is in that context that UNCTAD stresses, "incentives are secondary to more fundamental determinants, such as market size, access to raw materials and availability of skilled labour. Investors generally tend to adopt a two-stage process when evaluating countries as investment locations. In the first stage, they screen countries based on

[78] Activities in the third schedule to the Act include; Whole sale and retail commerce, Personal services sector, Public relations
business, Car hire services and operations of taxis, Bakeries, confectioneries and food processing for the Ugandan market only,

their fundamental determinants. Only those countries that pass these criteria go on to the next stage of evaluation where tax rates, grants and other incentives may become important. Thus it is generally recognized that investment incentives have only moderate importance in attracting FDI."[79]

The author argues that too much incentives accorded to the foreign investors at the expense of local investors can be a ground for discouragement of local initiatives as they may not be able to compete with their foreign counter parts that are relieved of much of the tax burden.

3.4.11 Transfer of Foreign Invested Funds

A foreign investor desirous to invest in a particular host economy will be concerned with the law applicable to transfer of funds. It would generally make little economic sense to invest abroad if the profits cannot be repatriated. The issue of the repatriation of the invested capital is inherently similar to the repatriation of profits. More in general, the free transfer of all funds related to foreign investments, including the payment of royalties, interests, license fees, management fees, the repayment of the principal of loans, and other payments related to the investment, is an essential issue. The restrictions to free transfer of funds can be of various kinds and of different degrees of burdensomeness.

[79], UNCTAD Tax Incentives and Foreign Direct Investment, A Global survey, Geneva, ASIT Advisory studies nr. 16. UNCTAD/ITE/IPC/Misc.3.

In Uganda externalisation[80] of funds has become easier. Once the investor has got a certificate of incentives, approval, externalize is made automatically, this removes the burdensome period of applying to Bank of Uganda for approval. However, the provisions remain uncertain due to constraints faced by Bank of Uganda which delays procedures.

3.4.12 Dispute Resolution

The law applicable to the settlement of disputes between direct foreign investors and the host State is an important factor. The availability of international dispute settlement procedures for such issues can constitute an important advantage for the former and a determinative factor in the decision making process. The Word Bank Guidelines on settlement of disputes provides that disputes between private investors and the host State will normally be settled through negotiations between them and failing this, through national courts or through other agreed mechanisms including conciliation and binding independent arbitration.

The Investment Code Act[81],a dispute between a foreign investor and the UIA or the government in respect of a licensed business enterprise may be submitted to arbitration in accordance with the rules of procedure of the International Centre for the Settlement of Investment Disputes (ICSID), or with in the frame work of any bilateral or multilateral agreement on investment protection to which the government of Uganda and the country of which the investor is a national a parties, or in

---

[80] Section 32 of the *Investment Code Act Cap 92.*

[81] Section 28.

accordance with any other international machinery for the settlement of investment disputes. In a contract where there is reference to
arbitration it shall constitute an arbitration agreement.[82] In the case of **Farmland Industries Ltd Vs. Globe Exports Limited**[83]**Kileju Ag** held that in matter of arbitration, the court must give support to the intention of the parties as expressed in the contract. In this case therefore the judge is at discretion to grant stay of proceedings for arbitration. The party to the dispute can make an application to set a side the proceedings.

3.5 Employment

Employment is defined in section 2 of the *Employment Act* to mean any contract whether oral or in writing, express or implied where a person agrees to work in return for remuneration. This definition is echoed in ***Global plant limited Ltd Vs Secretary of state for health and social security***[84] where Lord Denning further defines a contract of employment to mean one where a master can order what is to be done or how it is to be done.

The employment act has contributed to Foreign Direct Investment in a number of ways; for example, an investor (employer) can dismiss without notice, negotiate with employees over working hours, among others.

[82] Section 3 (4).
[83] [1992-93] ALLER 74.

[84] [1972] 1 QB 139.

Section 40 (1) (a) of the *Employment Act*, every employer shall provide his/her employee with work in accordance with the contract of service. However, most Foreign Direct Investors do not sign contracts with employees which makes them vulnerable as they do not know the nature of work and their responsibilities.

The author argues that this manipulation by foreign direct investors has left many indigenous employees in a destitute position as they are accorded every other undertaking. Indeed most of the indigenous workers in Britannia Allied Industries Ltd confessed that did not have employment contract.

In addition, Foreign Direct Investors have abused the law as explained here under;

Section 6 (3) provides that discrimination in employment is unlawful and for purposes of this Act, discrimination includes, any distinction, exclusion or preference made on the basis of race, education, sex, religion, political opinion, national extracts or social origin.

Section 96 (1) of the Employment Act provides that a person who contravenes a provision of this act for which no penalty is expressly provided, is liable on conviction to a fine not exceeding 24 currency points and on a second conviction of the same offence is liable to a fine not exceeding 48 currency points or imprisonment not exceeding two years or both.

Further, section 59 of the Employment Act , a person who is not a citizen of Uganda shall not unless that person is in possession of a valid entry permit, certificate of permanent residence or specified pass issued under this act be employed in a private body, parastatal, public service as a private person or engaged in private business in Uganda. This is re instated under section 37 (2) of the employment act that the person shall not employ a person whom he or she knows to be unlawfully present in Uganda.

On the contrary foreign direct investors do not care about labour laws in Uganda and implementation of the Employment Act given that discrimination is prevalent in most FDI's, an example is the prevalence of many Indians in most FDI's which is contrary to the law, this has left the indigenous people to work for the low paying jobs in those investments which has left them in a destitute position as the salaries and wages they are paid cannot cope with the current standard of living.

Most FDI's do not sign employment contract with local employees, do not accord them leave which is set out under section 54 (1a) of the Employment Act. In *John* ***Okori Otto Vs UEB***[85] court held that leave is an entitlement but not a privilege. Further section 54 (3) of the Employment Act provides that no agreement shall be valid if intended to relinquish the right to minimum annual leave, holiday or forego such holiday for compensation. The author interviewed some staff at Britannia Allied industries and confessed that such rights are new to them.

[85] [1981] , HCB 52.

3.5.1 Dismissal without any pay

Section 65 of the Employment Act provides that the employee is entitled to notice of termination in accordance with section 58 (3) in the language he or she understands.

The *Employment Act* impacts FDI in a number of ways for example under section 69, an employer can summarily dismiss the employ in case of verifiable misconduct. This position is affirmed in ***Jabi Vs Mbale Municipal Council***[86] however on the contrary employees in **Britannia Allied** industries complained of unlawful dismissal and non payment which is a clear abuse of the entitlement guaranteed under the law. Thus, the author argues that some foreign direct investors have undermined the law.

3.6. Workers' entitlement to safety conditions at place of work

Article 40 (1)(a) of the *constitution*, parliament shall enact laws to provide for the right of persons to work under satisfactory safe and health condition, its upon that background that the *occupational safety and health Act No. 9 of 2006* was enacted to guarantee safety standards at the place of work. In ***AG Vs Joseph Bawegeza***[87], court observed that an employer at common law owed a duty of care to his employees and if he fails, he is liable for that negligence. Further, the *workers' compensation Act Cap 225* under section 3 (1) provides for compensation of workers for injury. Section 24 of the same Act makes the employer liable to defray the reasonable medical treatment that workers may incur as a result of the accident.

[86] [1975] HCB 191.
[87] [1975] HCB 1.

The author argues that these safety conditions are not available to most employees in Britannia Allied industries which is a clear abuse of the law by the Foreign direct investors. It is worthy noting that although the *Labour Unions Act No. 7 of 2006* provides for the right of employees to organize themselves into a labour union. These unions have not advocated for the rights of their workers. Its upon that background that some foreign direct investors have manipulated such weakness to do the contrary even when the law under section 4 of the *Labour Unions Act* [88]prohibits employers from interfering with the right of association and provides for the necessary punishment under section 5 which include being liable to a fine not exceeding 96 currency points or imprisonment for a term not exceeding 4 years or both.

3.7 NSSF contribution

Social security protection to workers is governed by the *NSSF Act Capt 222* and the *NSSF (registration of Employers and Employees) order statutory instrument 222-1,* which provides that if an employer has five or more employees must be registered with NSSF.

Section 11 of the *NSSF Act cap 222,* provides for contributions which must be 15% of the employees salary.

Section 14 prescribes a penalty for delay of payment of contribution if by the end of the month following the month from which the relevant wages are paid, a penalty to such contribution of a sum equal to 10% of the amount of contribution.

---

[88] *Act No. 7 of 2006.*

A closer examination of the respondents in Britannia Allied industries revealed that most casual employees do not even know about NSSF yet the directors a very alive to this obligation, thus a clear abuse of the law by some Foreign Direct Investors, thus making the local man power lose out on future savings which are given by NSSF when an employee applies for the same.

3.8. Taxation

In recent years Uganda has modernized the principal taxes which affect business. In *1995,* a value-added tax'[89] (VAT) system replaced the sales tax. And in 1997, a new Income Tax Act was introduced[90]. Care has been taken to reduce the burden of taxation during investment and start-up.

3.8.1Taxation of foreign investors

There have been significant changes in tax legislation during the 1990s (IMF 1999) and these have affected Uganda Revenue Authority (URA) autonomy in different ways.

On the one hand, legislative reforms have lead to simplification of tax administration. The Income Tax Act of 1997 focused on abolishing the discretionary powers of the ministry of finance (MOF) to grant exemptions. Termination of various tax holidays for foreign investment, reductions in non-taxable allowances, and introduction of

[89] Value Added Tax Act Cap 349.

[90] Cap 340.

presumptive taxes for small businesses.

Moreover, a single rate Value Added Tax (VAT) was introduced in July 1996. It replaced the previous sales tax and commercial transaction levy. The main objective of VAT was to widen the domestic tax base. The Income Tax Act defines a non resident [91]to mean an individual who is a non resident person for a year of income if the person is not a resident for that year. In case of ***Debeers Consolidated Mines Ltd Vs Howe***, Lord Loreburn'[92] stated:

> "...*now,* it *is easy to ascertain where an individual resides. But then the natural sense does not reside any where, some artificial test must be applied.., a company can not eat or sleep, but it can keep a house and do business."*

The Act[93] provides for the general provisions relating to taxes imposed on a non resident Individual. It says that the tax imposed on a no resident individual is under sections 83-86 is a final tax on the income on *which* the tax *has been imposed. Accordingly, such income* is *not in*cluded in the gross income of a non resident person who has derived the income[94] Also no deduction is allowed for any expenditure or losses incurred by the non resident person in driving income.

---

[91] Section 14(1).
[92] [1906] AC 455.
[93] Section 87.
[94] Section 87 (a).

3.8.2Income tax

The 1997 Income Tax Act sets a tax rate for companies of 30 percent.[95] Except for mining companies, which have a band of between 25 per cent and 45 per cent depending on the ratio chargeab1e income to turnover, *(30* per cent is also the top marginal rate for individuals.) Branches are taxed at the company rate plus 15 per cent) Standard tax deductions are available.

Two elements are designed to favour new investment in a more direct way than the previous tax holiday approach which was originally adopted in the Investment Code Act. First, losses may be carried forward indefinitely.

scond1y, depreciation allowances are generally favorable,[96] especially the generous first year allowances.[97] However, the allowance on industrial buildings of only *5* per cent per annum[98]seems unduly low compared with the rates charged on associated capital assets. Whilst this approach to encouraging new investment is preferable to tax holidays the introduction of differential depreciation allowance rates by region and sub sector should always be carefully evaluated to avoid fragmentation and selective benefits to aid special interest groups.

The withholding tax rate on the gross amount of foreign payments for dividends, interest, royalty, management charges and service contracts is 15%.[99] By present

---

[95] Section 7 and part II of the third schedule.
[96] Section 38
[97] 50-75% on plant and machinery.
[98] Farming attracts the same depreciation allowances as other industries except horticulture, for which buildings and works attract 20% depreciation with no initial allowance.
[99] Income Tax Act Part IV third schedule.

international standards, some of these rates are high. Perhaps especially the imposition on interest paid abroad. Uganda appears to be reluctant to give relief through double tax treaties with major home countries. Among these, only the treaty with South Africa provides for reduced rates on rest and dividends (10% in each case).

3.9 Value –added Tax (VAT)

VAT can place a special burden on a new investor who is not able to offset input VAT against out VAT and is unable to obtain prompt refunds of excess VAT. Uganda has addressed this by exempting from input VAT all imports that are exempt from customs duty. In addition, a category of investment trader has been created which enables a new investor (without VAT able output) to defer the payment of input VAT until sales commence.

Relief from the burden of paying VAT up front on investment cost is a crucial factor for investors and it is vital that the refund system work reliably. The Government believes that it is now working well after some teething problems in the first year or two of the introduction of VAT. However, investors are not yet convinced that it can be completely relied upon.

3.10. Import Duties

A wide range of capital items are exempt from import duties, including machinery. Certain Ugandan manufacturers have import tariff protection, which can include special import levies in certain cases[100]. According to the Customs Management Act [101]it provides for a tax exemption from import duty of goods entered for exportation, [102]exemption from import duty or transfer tax of certain re- imports, exemption from import duty of temporary imports.[103] A foreign investor who holds an investment license and his expatriate staff are entitled to import a personal vehicle and personal effects, free of import duty and VAT, under First Arrival privileges[104].

3.11 Land and investment

Land is one of the major factors in investment. Where an investor fails to get land where to operate from then there is no effective investment that can be carried out and such investor can not be given a license for investment.

Under the Constitution non-citizens cannot obtain freehold title to land. In 1998, a new Land Act was introduced to address customary and historic rights and to provide

[100] Section 21.
[101] Cap 77 of 1970.
[102] Section 101.
[103] Section 103.
[104] The deputy commissioner VAT Department, URA.

a basis for the creation of bankable title to more land. Non-citizens may now obtain leasehold title of up to **99** years[105].

In the case of ***Prudential Assurance Co Ltd Vs London Residuary***[106] **Lord Temple m**an affirmed the classical common law rule that duration of a lease must be certain or ascertainable at the time the purported lease is supposed to take effect.

Land ownership and usage is an exceptionally complex and emotive topic and it remains to be whether the reforms will in fact lead to greater availability of land for use on a commercial scale. Certainly the Government is giving it high priority. This has greatly attracted FDI in Uganda.

3.12 Environment

Section 1 of *Nation Environment Act* defines the "environment" to mean the physical factors of the surroundings of human beings, including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factors of aesthetics and includes both the natural and the built environment. Foreign Direct Investors are required to carry out Environmental Impact Assessment (EIA) which is a systematic examination conducted to determine whether or not the proposed project will have adverse impact on the environment. EIAs are an essential management tool in ensuring environmentally sound development planning in any society. It is a process for examining, analyzing and assessing proposed activities in

[105] Section 40(7).
[106] [1992] ALLER 305.

order to maximize the potential for environmentally sound and sustainable development.

FDIs do not comply with the above law and in most cases, they have presented untrue reports on EIA and as such standards as set by the national environment management authority like air quality standards, water quality standards among others have not been implemented. A good example is Mukwano industries that was recently closed down for noxious emissions. In the case of National Associational of Professional ***Environmentalists Vs. AES Nile Power Limited*** (HC Misc Cause No.268/1999) J. Okumu Wengi held that environmental impact assessment is the study that is required to be conducted as the guiding environmental regulation model for implementation of certain projects.

3.13 Conclusion

Uganda should revise its commercial laws and it is hoped that the laws will be more liberal and friendly towards foreign direct investments. It can however be generally observed that the foreign investment laws of Uganda are hospitable.

CHAPTER FOUR

4. 0 IMPACT OF FDI ON THE MANUFACTURING SECTOR AND THE CHALLENGES THAT HAVE STIFLED INVESTMENT

4.1 Introduction

The chapter is divided into two parts namely: general information on the impact of FDI on the manufacturing sector and the challenges that have stifled investment. A total of 35 questionnaires were administered to the Allied Britannia Industries Limited, Uganda Investment Authority, five (5) farmers, wholesalers, retailers. 25(71.4%) questionnaires were returned while 10 (28.2%) were not responsive.

4.2 General information

In this chapter, findings on the impact of FDI on the manufacturing sector were analyzed as follows.

4.3 Impact of FDI on the Manufacturing Sector

FDI has contributed to several achievements in the manufacturing sector; these were stated by the respondents as follows:

4.3.1 Increased revenue in the country

The respondent noted that since most FDI over the years was increasingly in the manufacturing sector, there was an increase in the amount of revenue earned by the Uganda sector. The sector grossed 41% of total FDI. Whereas there was increased investment in manufacturing sector, the juice industry only experienced static growth because it is only one main player in the market using and inflow FDI in the manufacturing sector. Others such as Davita juice, Safi juice and the one in the informal sector were regarded as not having any strong impact on the manufacturing sector. The manufacturing sector contributed 25.4% of total GDP in 2010/2011 financial year while services sector and agriculture contributed 46.25% and 22.5% respectively.

4.3.2 Technological transfer

The respondents noted that there was technological transfer to Uganda since they have superior technology relative to firms in developing countries. FDI gave Uganda cheap access to new technologies and skills thereby enhancing local technological capabilities and their ability to compete on world markets. This is manifested by having small scale manufacturers on the market.

4.3.3 Productivity increased.

Along with financial resources access to a wide range of technological, organizational and skill assets in addition to markets of the parent company. Best practice was transmitted by FDI in two ways. The first was through internal transfer of technology and skills to the foreign affiliates in the Uganda and the second was through technological diffusion to a wide constellation of companies and institutions within the host country.

4.3.4 Increased employment opportunities.

The respondents noted that Ugandans were employed directly at the factory totaled1000. Those employed indirectly were about 75,000 Ugandans. The employed were involved in growing of fruits which are indicated in table 1.

The manufacturers are also major consumers of products manufactured locally. They use most of the products generated locally as raw materials such as agricultural products, which benefits the local producers since they have a ready market for their commodities as shown below. FDI to the manufacturing sector is characterized by being labor-intensive, and thus FDI to the manufacturing sector enhances growth via increasing the demand for labor, which results in increases in both wages and employment. To sum up, FDI to the manufacturing sector has stimulated growth via physical capital and creating more jobs.

Table 1

FRUIT PRODUCTION FROM DIFFERENT PARTS OF THE COUNTRY.

Fruit produced	DISTRICTS WITH MASSIVE PRODUCTION	APROXIMATED yield (TONES)
MANGO local & improved	Kumi, Soroti, Budaka, Pallisa, Bukedea, Rakai, Luweero, West Nile and northern .	**1,200,000 Tons**
PASSION FRUIT local purple	Kasese ,Mbale ,Kabale	**40,000 Tons**
PINEAPPLE Smooth cayenne	Iganga, Luweero, Kayunga, Masaka, Mbarara.	**540,000 Tons**
TOMATOES	Mukono, Mpigi, Masaka, Mubende.	**200,000 Tons**
ORANGE	Soroti, Serere, Kumi	**750,000 Tons**

Source: www.**uganda**clusters.com/pacf2011/docs/Empowering.ppt *accessed at 4.03pm on 17/7/2012*

4.3.5 There was increased capital formation.

The risk-adjusted cost of capital was stated to be usually lower for them than the domestic firms in Uganda contributed. It is this advantage that allows the respondents to be more responsive than other firms to investment opportunities and incentives. As a result of this foreign firms can invest in projects that domestic firms consider to be too risky or one in which they do not have the capacities. With the lapse of time however, conditions are created that are conducive to domestic investors beyond their current reach. In such situations, FDI serves to stimulate domestic investment and the total investment in the country is enhanced.

4.3.6 Improved status of Uganda.

The respondent noted that Allied Britannia Industries engagement in fruit juice processing has improved the status of Uganda in the international market. It has become known since the juice produced is not readily available in the regional market.

FDI generated increased exports of splash to other regional market.

With the regional demand for processed juice on demand, the respondents noted that they took advantage to export to South Sudan, DRC, Rwanda, Burundi, Tanzania and Kenya, the splash juice.

4.3.7 Raised skills of local manpower

Through training of workers and learning by doing , the Allied Britannia industries raised the skills of local manpower in the juice processing/ manufacturing sector thereby increasing technological level .The idea enhances productivity of the labor force is since workers in foreign owned enterprises are more productive than those in domestic owned enterprises.

Infrastructure is developed where the foreign industries are established, which is beneficial to the economy. For example, roads are developed for transportation of raw materials, airports are developed for landing and exportation of finished products and many other developments in infrastructure. In general, the local economy benefits to a large extent from foreign investment.

Local resources are utilized maximally thereby eliminating a situation whereby a country may possess raw materials, but lacks the capacity to convert them in to finished products. This utility is achieved through the initiative of foreign companies extracting them and producing goods that are useful to the natives at minimal costs since the cost of transportation of the raw materials as well as the finished goods is low.

4.4 Challenges facing foreign investors

4.4.1 *Political instability*

Uganda is politically unstable because of the high incidences of wars in the north, frequent military interventions in politics, and religious and ethnic conflicts. There is some evidence that the probability of war a measure of instability is very high in the region. Sacks and Sievers have also argued that political stability is one of the most important determinants of FDI in Africa. Political instability may be a deterrent factor in that the investors are skeptical of investing in an area where there are high chances of making losses due to war

4.4.2 GDP growth and market size

Relative to several regions of the world, growth rates of real per capita output in Uganda is low and domestic markets are quite small. This makes it difficult for foreign firms to exploit economies of scale and so discourages entry. Elbadawi and Mwega shows that economic growth is an important determinant of FDI flows to Africa as a whole. This has affected investment because investors can not invest where there is no market for their products.

4.4.3. Poor infrastructure

The absence of adequate supporting *infrastructure: telecommunication* transport; power supply: skilled Labour, discourage foreign investment because it increases transaction costs. Furthermore poor infrastructure reduces the productivity of investments thereby discouraging inflows. Asieduand Morrisset provide evidence that good infrastructure has a positive impact on FDI flows to Africa. Considering it to Uganda you find that most of the investors are around Kampala due to the improved infrastructures than in other parts of the country. However the government in the struggle to improve different roads. With regard to improving road infrastructure, the construction, upgrading and rehabilitation of roads is underway in different parts of the country.

4.4.4 Increased competition

Globalization has led to an increase in competition for FDI among developing countries thereby making it even more difficult for African countries to attract new investment flows. Relative to other regions of the world. Africa is regarded as a high-risk area. Consequently foreign investors are reluctant to make new investments in or move existing investments to the region. The intensification of competition due to globalization has made an already bad situation worse. It must be pointed out that the intense competition resulting from financial liberalization puts African countries at a disadvantage because they have failed to take advantage of the globalization process for example, through deepening economic reforms needed to increase their competitiveness and create a supportive environment for foreign investment. The implication of this increase in competition for FDI is that African countries need to have comprehensive, as opposed to selective, policy reforms if they are to attract significant FDI to the region. In this regard, successful promotion of FDI to the region quires actions at the national, regional and international level.

4.4.5 Corruption and weak governance:

Weak law enforcement stemming from corruption and the lack of a credible mechanism for the protection of property rights are possible deterrents to *FDI* in *Uganda*. Foreign investors prefer to make investments in countries with very good legal and judicial systems to guarantee the security of their investments.

4.4.6. Inconsistent tax regulations.

Various sources emphasise the regulatory burden for the private sector in Uganda, and foreign manufacturing companies perceive inconsistent tax regulations as one of the biggest constraints in regards to conducting business in Uganda. Tax in

Uganda is of different types-but is not stable. In other words it keeps changing from time. The World Bank IFC 2008 Doing Business data suggests that it takes an average of 28 days, 18 procedures and no minimum capital necessary to start a business in Uganda, and the manager of a business should expect to spend 143 days dealing with licenses over an amount of 16 procedures a year, which indicates a fairly dense regulatory burden for businesses. This therefore means if there no such deterrents such as unstable taxes, investing in Uganda would be easier than in any other country.

4.4.7 Inhospitable regulatory environment.

The US State Department - notes that regulations such as the investment Code place foreigners at a disadvantage compared to Ugandan citizens, and that foreign companies have complained that some judges delay ruling on disputes involving politically well-connected parties. The Land Registry especially has been singled out as being characterized by a complex set of laws and for being non-transparent. Moreover, several sources note that the decentralisation and the vast amount of approval stages in the bureaucracy provide a fertile ground for extracting bribes at every level. Estimates from the 2006 Enterprise Survey by the World Bank indicates that *50.5%* of businesses expected to give gifts in order to 'get things done- The 2004 investment Climate Assessment states that 40% of businesses consider the interpretation of regulations to be inconsistent and unpredictable. Furthermore. According to a study commissioned by the Dutch Embassy in Kampala in *2003,* 70% of businesses in Uganda perceive the commercial justice system to be expensive, slow and corrupt. The court procedures are complex and administrative corruption is high, but despite a further lack of capacity. The commercial courts normally dispose of disputes within seven months. However, it is estimated by the US Department of State that 80% of commercial disputes are resolved through alternative dispute resolution. The Centre of Arbitration for Dispute Resolution can assist in commercial disputes. In addition foreign companies share the same rights to own property as nationals of Uganda, but there are some restrictions as to land ownership

4.4.8 Uganda continues to face instability of international commodity prices and tariff escalations.

Non-tariff barriers that include standards requirements, sanitary and phytosanitary measures that saw our fish exports banned on the EU markets worsen the situation. In the area of trade, GOU recognizes that existing export promotion agencies arc inefficient and are sometimes muddled with duplication. This inefficiency is partly due to budgetary constraints and partly due to lack of a clear export strategy and limited export marketing tools.

4.4.9 Education and expertise are low in Uganda,

Though Uganda's universal primary education program is improving basic skills. Most urban Ugandans speak English. Labour unrest is sporadic in Uganda, and labour unions are not strong. Employers must contribute an amount equal to 10 percent of the employee’s gross salary to the National Social Security Fund.Labour laws also specify procedures for termination of employment and termination payments. Foreign nationals must have a permit to work in Uganda.

4.5Conclusion

In recent years Uganda has made great strides in improving economic conditions and the investment climate. The reward has been a revival of inward FDI flows, led by restitution and privatization *programmes,* which have been among the highest in Africa. With the improvement made in foreign investment. It has made Uganda to become the core industrial potential to transform itself from one of the world's poorest economies into a renowned world class producer of high-quality traditional and new agricultural products with widespread impact on general living standards. However challenges still remain to be faced by investors like corruption political instability in some parts of the country and others as discussed above.

CHAPTER FIVE

POLICY IMPLICATIONS, RECOMMENDATIONS AND CONCLUSION

5.1 Introduction

From these findings we can conclude that:

FDI in Uganda's manufacturing sector induces the nation's economic growth. Although the overall effect of FDI on the whole economy may not be significant, the components of FDI positively affect the manufacturing sector and economic growth and therefore FDI needs to be emphasized and encouraged.

Since service related FDI has the highest potential for contributing growth to Uganda's economy, it needs to be properly channeled and integrated into the mainstream of the economy. The service sector when linked with the manufacturing sector can contribute heavily to the development of Uganda because any innovation in the service sector benefits the manufacturing sector. For example sale of soft drinks/ beverage products online can help improve sales thus transforming our economy by contributing to increased revenue and incomes/employment.

5.2 Policy implications

With the need for an investment policy, Uganda's **investment policy** should be implemented while observing the following:

a. the pace of privatization in the region should be increased;
b. private-public partnerships should be encouraged and left to be transparent to curb corruption;
c. foreign and domestic investors should be granted equal access in relevant areas;
d. simple, transparent and non-discriminatory procedures for the approval, entry, and operation of investments should be established; and
e. UIA should shift attention from incentive measures towards policy and administrative reform in order to attract investment (FISCU, 1999).

5.2.1 Streamlining and Simplifying Bureaucratic Processes

A core function of an UIA is to make investing in a Uganda as simple as possible. To this effect, UIA has had to become a "one-stop-shop", ideally helping an investor with all bureaucratic paperwork needed to start operation in the Uganda. In practice, however, this agency due to a lack of resources can only assist in certain areas. Therefore, it is important that UIA also intensifies its collaboration with other government agencies for example Ministry of Finance in order to reduce the number of requirements imposed on prospective investors and put the institution in a better position to fulfill its role as a "one-stop-shop". In this respect, it has proven useful in some countries such as with the FIAS-led "red tape analysis" in Mozambique to conduct a thorough review of bureaucratic regulations, not only to identify problem areas, but also to sensitize the administration at large to the difficulties investors might face.

5.2.2 Improving the Overall Promotion Strategy

Policymakers have to focus in particular on:

a) developing an appropriate targeting strategy that, on the basis of a thorough analysis of the country's competitive advantages, concentrates scarce resources on a small number of industrial sectors;

b) Shifting resources from the regulatory to the service function. UIA promotes licensing function as well as promotion activities. The opportunity costs of employing more staff for licensing than for promotion purposes are often significant.

c) Ensuring that UIA motivates other institutions to co-operate, rather than being the only actor actively involved in investment promotion. The training of diplomats by the Uganda Investment Authority is a good example in this respect; other countries work closely with local private sector associations or banks to make them ambassadors for their country, as they often share an interest in increased inflow of FDI. Teaming up with other promotion agencies to pursue joint interests can also be an interesting option31.

5.2.3 The Design and Implementation of Specific Promotion Measures

The effective design and implementation of specialized policy instruments can be complex even for sophisticated agencies, as the example of Mauritius, Uganda has demonstrated. The administration of incentives has to take into account the following, more general points:

a) Any incentive packages should be based on a clearly defined targeting strategy. Investment incentives should not be general in nature, but tailor-made to the needs of specific industries. In the absence of such a strategy, it is unlikely that incentives will be successful. To this effect, it is also essential to define clear eligibility criteria, so that only companies that fit into the overall targeting strategy are supported.

b) Also, in this context, co-ordination between local agencies that administer different incentive packages is crucial. The example of Uganda shows that in many incentive programmes exist side-by-side without pursuing joint objectives. Yet in some countries, it has proved useful to give the UIA a lead role in co-coordinating all incentive programmes.

c) Given scarce resources, introducing an effective and regular evaluation and monitoring process for all incentive programmes is essential. Although evaluating the success of individual instruments can often be difficult, it is nonetheless important in order to identify and devise necessary changes in strategy or policies early on.

5.3 RECOMMENDATIONS

In general it should be noted that factors that attract FDI and their own benefits do not function in a vacuum: in other words, it is unlikely that any will yield sustainable results if no attempts are made to align the overall investment conditions in the country with the special conditions offered to investors in Uganda. Otherwise, chances are high that Uganda will be left with "footloose" enterprises that have little contact with the rest of the economy and which will leave Uganda again as soon as other countries elsewhere offer better conditions. Therefore, such Programmes should only be implemented in pair with specific incentives that make it attractive for companies to establish lasting linkages with the domestic economy.

5.3.1 Incentives

Such incentives could become part of an "aftercare" programme that ensures a continuing contact between the UIA and an investor. This aspect of investment promotion has often neglected UIA as it mainly focus on the attraction of new investment. The experience of successful promotion agencies shows that aftercare policies can sometimes be more effective in terms of triggering additional investment than efforts to attract new investors. In Africa, a continent that suffers from a general image problem, the cost of recovering credibility for those few countries that have managed to appear on the radar screen of international investors may be particularly high.

Finally, it is up to policymakers to ensure that the results of such a dialogue are promptly translated into action to alleviate what problems are detected. In the end, policy success is determined by what has actually been done. However, while most of the responsibility to improve investment conditions lies on the shoulders of the UIA and government, outside assistance in this process is also needed. This refers to technical assistance in improving investment conditions, notably in the areas of infrastructure development, education and training facilities, as well as institution building in areas where the government's supervisory role is key to the functioning of markets; for example, in the case of competition policy. However, there is also a role for outside assistance in the area of investment promotion.

As indicated before, many African countries like Uganda have to overcome an overly negative image. Donor countries, and in particular those that are also major FDI sources, can contribute to overcoming this problem by providing more accurate and balanced information about investment conditions and opportunities to potential investors for Uganda. Outward investment promotion agencies as well as chambers of commerce and other industrial associations can be instrumental in this approach. In this context, a good example is a joint UNCTAD/International Chamber of Commerce (ICC) project that foresees the production of impartial investment guides for a number of LDCs, most of which are located in Africa.

5.3.2 Regional integration and FDI

A final word on regional integration and FDI: Uganda has been a transitional country, either in search for hitherto inaccessible resources and markets in EAC and COMESA or seeking for efficiency. The region is awash with instability like the 2007 post election violence in Kenya. But this can be overcome by having the investors hear in Uganda demonstrate evidence of the positive effects of such flows on the development of more peripheral economies in a regional integration. What is more, as regional investors are less likely to be deterred by wrong information about the investment conditions in the region, they can have an important "pioneering" function: non-African investors might be more easily attracted to a country when they find that other foreign companies have already invested there.

5.3.3 Environment

One way to improve the business environment is by conscious provision of necessary infrastructure, which will lower the costs of doing business in Uganda. The privatization of the Uganda's UEB now known as UMEME may be a step in the right direction if there is an improvement in the service provision. This will enable the manufacturing FDI to benefit to economic growth.

5.3.4 Institutional development

There is a need to establish strong institutions to curb corruption in Uganda. Whereas the Inspector General of Government and the Anti-Corruption Court are in place, their enhancement and funding leaves a lot to be desired. The government should show a political will to curb corruption; independence of the institutions should be implemented. Recently the government has taken a strong stand against corruption, for example Chandi Jamwa of NSSF was prosecuted and found guilty of corruption. This signal leaves a positive mark on Foreign direct investors as they feel comfortable to operate in a corrupt free country, thus attracting FDI.

5.3.5 Training and integration of the human resources

There is need for guided training and integration of the human resources of the country to enable them to contribute positively to economic growth wherever they find themselves employed either with foreign or with indigenous firms and whichever sector they are in. The need for training high quality personnel in the country cannot be overemphasized.

5.3.6 Land policy

Land Policy Formulation should be taken seriously.UIA should advise government on the need of formulating an effective land policy that will make it easier for investors to acquire land for their ventures hence increase on investors' confidence given the magnitude of the problem of acquiring land for investment in Africa. For example in Turkey a foreign investor can acquire freehold land as opposed to Uganda where they only acquire leasehold.

5.4 Implementation of laws

The new laws related to investment such as the *Insolvency Act of 2010* should be implemented. They have acted as a step towards shift from old colonial laws to modern era laws aimed at retaining investors in one sense. In particular the mortgage act No.8 of 2011 puts in place provisions that facilitate mortgages in a sense that an investor for example can borrow money from any commercial bank. This in one way attracts FDI in that such provision would permit investment drive.

The EAC Parliament should come out with an investment policy so as to do away with differences in the policies. This would help bring about co-ordinated investment in Uganda and other East African countries.

Security remains at the helm of attracting FDI. Uganda should make sure that insurgents like Lord Resistance Army (LRA) are put to a halt. This will guarantee a good investment climate for Foreign direct investors.

5.6. CONCLUSION

The impact of FDI on Uganda's manufacturing sector is all full of praises. But it is ironic to observe that while the UIA and government are responsible for investment in Uganda, the two need to come up with better a policy aimed at attracting investment. The other institutions of government should offer a supplementary role. The fruits of such investment cannot be left to waste we should consolidate them for more good things to come.

FDI in Uganda is a success despite a few short comings for example corruption among others as discussed prior. This research has brought to light uganda's resource potential, investment opportunities, factors attracting investors, the impact of FDI on the manufacturing sector and the bottlenecks thereof. The author argues that if the recommendations are implemented, FDI will be a success in Uganda and the East African region at large.

BIBLIOGRAPHY

Books

Alfaro, L.. *Foreign Direct Investment and Growth: Does the Sector Matter?* (2003).

Amin, E. *Social Science Research*: c*onception, methodology & analysis.* Kampala, Uganda: Makerere University. (2005).

Yin, R. (1994) Case study research: Design and methods (2nd ed.). Beverly Hills, CA: Sage Publications. (2009).

Journals

Arnold, J., Javorcik, B., Lipscomb, M., Mattoo A., *Services Reform and Manufacturing Performance: Evidence from India,* CEPR Discussion Paper 8011. (2010).

Blomstrom. Magnus"*Foreign Investment and Productive Efficiency: the Case of Mexico,"* Journal of Industrial Economics, 35(1): 97-110. (1986).

Websites

www.ugandaclusters.com/pacf2011/docs/Empowering.ppt

Kampala International University

College of Higher Degrees and Research

Masters programme.

Dear Sir/Madam,

I am a post graduate candidate for the award of Masters in Commercial Law at Kampala International University and currently pursuing a research study entitled; **the impact of Foreign Direct Investment on the manufacturing sector** with a specific bias on soft drinks manufacturing sector. In view of this empirical investigation, may I request you to be part of this study by answering my questionnaires? Rest assured that the information you provide shall be kept with utmost confidentiality and will be used for academic purposes only. Please respond to all of the items in the questionnaire and do not leave any item unanswered.

Further, I or my research assistants request to retrieve the questionnaires with in 5 days from the date of distribution.

Thank you very much in advance.

Wandera Ismail

____

Date ....

QUESTIONNAIRE.

Dear Respondent, This questionnaire has been designed with aim of collecting information that is relevant for the analysis of the impact of Foreign Direct Investment on the manufacturing sector in Uganda. It's purely for academic purpose and your response will be treated confidentially. I therefore request you to spare a few minutes of you valuable time the answer the following as candidly as possible.

A. GENERAL INFORMATON.

Position held...

Business Sector..

Country of origin of business...

Scale of production...

B. COMMENCEMENT OF INVESTMENT IN UGANDA.

1. Do you know of the existence of Uganda Investment Authority?

Yes ☐ No ☐

2. Did you approach UIA so as to invest in Uganda?

Yes ☐ No ☐

1. If yes what opportunity was presented to you? If no, how did your company come across the available investment opportunities?...

....

....

....

4.what attracted you to invest in Uganda's manufacturing sector(soft drinks industry)

....

....

....

....

....

5. Do you think UIA has been effective in marketing Uganda as a desirable destination for Foreign Direct Investment?

Yes ☐ No ☐

a) What reasons do you have for your answer?

....

....

....

....

C. IMPACT OF FDI TO MANUFACTURING SECTOR.

6. In your own view has the manufacturing sector of Uganda benefitted from FDI's?

Yes ☐ No ☐

a) Give reasons for your answer?

....

....

....

....

7. Please give the other side of FDI on the manufacturing sector after answering the above question?

....

....

....

....

8. What challenges do you face when investing in Uganda's manufacturing sector?

....

....

....

....

....

....

9. What recommendations would you suggest for the government to adopt so as to improve FDI in the manufacturing sector?

....

....

....

....

"By signing this form you acknowledge that you understand the nature of the study, the potential risks to you as a participant, and the means by which your identity will be kept confidential. Your signature on this form also indicates that you are 18 years old or older and that you give your permission to voluntarily serve as a participant in the study described."

Signature of the interviewee ______________________________

Date ______________

Signature of the researcher ______________________________

Date ______________

Thank you for participating in this research survey. It is requested that you do not put your name or any contact information on the survey to ensure confidentiality of your responses.

Thank you very much for your cooperation