

INVESTMENT OPPORTUNITIES IN THE COMMON MARKET OF EAST AND SOUTHERN AFRICA (COMESA)

Source of Information: Ministry of Trade and Industry, COMESA Desk, Kenya.

The Common Market for Eastern and Southern Africa (COMESA) is a Regional Integration grouping of African States (Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe), which have agreed to promote regional integration through trade development and to develop their natural and human resources for the benefit of their people.

COMESA was initially established in 1981 as the Preferential Trade Area for Eastern and Southern Africa (PTA), within the framework of the Organization of African Unity's (OAU) Lagos Plan of Action and the Final Act of Lagos. The PTA was transformed into COMESA in 1994.

The COMESA Roadmap envisions progress through the stages of a Preferential Trade AREA, Free Trade Area, Customs Union, Common Market - Free movement of persons, Monetary Union and eventually an Economic Community. COMESA aims to create and maintain: -

- (i) A full free trade area guaranteeing the free movement of goods and services produced within COMESA and the removal of all tariffs and non-tariff barriers;
- (ii) A Customs Union under which goods imported from non-COMESA countries will attract an agreed single tariff in all COMESA States.
- (iii) Free movement of capital and investments and creation of common Investment Area
- (iv) A gradual establishment of a payment Union with common currency
- (v) The adoption of common visa arrangements, right of establishment and free movement of persons

The COMESA decision making structure include: Authority of Heads of State and Government; Council of Ministers; Sectoral Ministerial Meetings; Committee of Governors of Central Banks; Intergovernmental Committee; Technical Committees; the Secretariat based in Lusaka. In addition a Consultative Committee of the Business Community and other interests Groups has been established.

Opportunities, programmes and activities under COMESA integration agenda

COMESA Free Trade Area: under the Free Trade Area no tariffs are levied on goods from member states whilst each Member State applies its own regime of tariffs to goods imported outside the region. The COMESA Free Trade Area was established in October 2000 and currently has 13 countries participating, namely; Burundi, Comoros, Djibouti, Egypt, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Sudan, Zambia, and Zimbabwe have joined the FTA. The other six members that include Uganda, Ethiopia, Democratic Republic of

Congo, Seychelles, Eritrea and Swaziland (under derogation) have effected tariff reductions of between 60% and 90%.

Free Trade Area provides opportunities to increased trade between members countries with the 13 FTA members accounting for 87% of COMESA aggregate GDP. There is a lot of potential to increase intra-COMESA trade under the FTA as analysis shows that there are still large volumes of exports outside COMESA that are also imported from outside the region.

Exporters are free to base their claims on COMESA duty free or preferential tariff treatment based on the COMESA Rules of Origin which have five independent criteria and goods qualify as originating if they meet any one of the five.

COMESA Customs Union: COMESA Member States during the last Summit held in Nairobi in May this year edged closer towards a Customs Union in 2008 by adopting a Common External Tariff structure of a four-band category of raw material, 0%; capital goods, 0%; intermediate goods, 10% and final goods 25%, with the provision for flexibility on policy space. This is more or less consistent with the East African Community three-band CET structure of 0% for capital goods and raw material, 10% for intermediate goods and 25% for finished goods.

The establishment of a COMESA Customs Union is expected to enhance intra and extra COMESA trade. It will also create a wider customs territory that is likely to attract investors in the region and see an increase in cross border investments. This move will consolidate the gains so far made under the FTA where analysis shows that the standard of living of citizens living in the FTA countries is higher than the average standard of living for the whole of COMESA as the GDP per capita for the FTA is 150 per cent higher. The 0% tariff rates on capital goods and raw material will encourage industrial expansion both in Kenya and the region as a whole. This therefore means that countries can take advantage of this tariff structure to improve on their industrial base.

In the event that all the COMESA Member States join the Customs Union, a market with a population of close to 400 million people will be created. This will create more demand for industrial/manufactured and semi-processed goods. In order for Kenya to reap the maximum benefits from this market/Customs Union, it is imperative that we improve the competitiveness of our productive capacities - industries. This calls for manufacturers adopting better and modern technology in their production, be more innovative to compete with other products, adopt better marketing strategies including branding, improve the quality of goods produced as well as their packaging. It is also critical that Kenyan industries diversify their product base to other areas so as to cut a market niche in the region. Attempts by the Sugar industry to diversify to co-generation and ethanol production will for example contribute to the competitiveness of the industry. This will of course depend on Governments policy on co-generation and blending of fuel, which is still at an infancy stage. All this will enable the country to benefit from the COMESA market and will enable the country's goods to compete more effectively with goods from other countries such as Egypt, South Africa, Zambia, and the rest of the countries.

On the other hand, the Government, whose role is to create a conducive environment for the private sector to operate will need to ensure that the environment is attractive to investors and the cost of doing business, is low. In this respect, all the issues as identified in Kenya's Private Sector Development Strategy including; poor infrastructure, corruption, crime and insecurity, cost of electricity and communication, access to finance, taxes and tax administration, the regulatory environment, labour and capital productivity and so on will have to be addressed. This will ensure that Kenya is able to compete as an investment destination in the region and the goods produced are also competitive in the larger COMESA market.

Trade Remedies: Free trade is key for the promotion of intra-COMESA Trade. However, the COMESA Treaty recognizes that member countries can suffer adverse effects and allows exceptions, in some instances, namely: emergency measures to limit imports temporarily, to safeguard domestic industries, actions taken against dumping (selling at an unfairly low price) and subsidies and countervailing duties to offset export subsidies. Kenya has since the year 2000 been enjoying a safeguard on sugar aimed at creating a conducive environment for the Sugar industry to be competitive. In addition to the safeguard, the COMESA Customs Union provides Member States with Policy space that allows them to put in place measures that will protect their countries from any adverse effects that may be associated with the Customs Union. This therefore implies that Kenya for example can protect high fragile industries such as the Sugar industry by invoking such measures as high tariffs or quotas on importation of such products.

Member countries have also submitted to COMESA a list of sensitive products that each country believes require special treatment under the Customs Union arrangement. Kenya on her side submitted the list that is currently being used under the East African Community.

Trade facilitation: under trade facilitation, COMESA is implementing programmes to improve the transport and communications systems of the region as well as improving information available to businessmen wishing to trade both within the region and over seas. Such initiatives include:

- The harmonized Road Transit Charges which specifies the road charges for heavy trucks;
- The COMESA Carriers License allows commercial goods vehicles to be licensed with one license, which is valid throughout the region;
- COMESA Yellow Card Scheme which is vehicle insurance scheme that covers third-party liability and medical expenses for road accident victims caused by foreign motorists from the COMESA region;
- Other initiatives include COMESA Customs Bond Guarantee Scheme, Advance Cargo Information System, Telecommunications Interconnectivity, and liberalization of the skies

Regional Competition Policy: COMESA is in the process of finalizing a regional competition law and policy. This is intended to harmonise existing national competition policies to avoid contradictions and provide a consistent regional economic environment. The development of the law has been necessitated by the increased competition in the region as a result of the increased trade attributed to the reduction in tariff and non-tariff

barriers in the region. Such a policy will ensure the efficiency of the regional market and as such attract more investors.

COMESA Fund: Under financial and monetary matters, the COMESA Fund is now fully operational. The Fund will play a major role as one of the regional financial vehicles to receive all development funding for COMESA from Aid for Trade, Economic Partnership Agreement and other financial assistance scheme.

The Fund has two windows namely; adjustment Facility and the Infrastructure Facility. The infrastructure facility will serve four main purposes: it will be a source of revenue to be used to finance the Priority Investment Projects; it will promote regional integration through ESA countries having an equity stake in infrastructure in the region; it will allow public-private partnerships in ownership and management of capital assets of the region and it will be a vehicle through which donors and Development Finance Institutions can contribute to the development of priority infrastructure projects in the region. This fund promises the region one of the surest ways of consolidating resources to address one of the major hindrances to the competitiveness of the private sector in our countries, that is, poor infrastructure.

Under the current EPA-EU negotiations, its also emerging that the EU is keen in channeling EDF resources through a regional fund and they have identified the COMESA Fund as such one Fund. This implies that member states will have an easier access to EDF resources unlike in the current circumstances where its almost impossible for countries to access the EDF due to the complicated procedure. The fund will also be used by other development partners to channel resources to the region. Already the EU has allocated 78 million Euros to the Fund.

COMESA common Investment Area: During the last Summit COMESA adopted the Investment Agreement for the COMESA Common Investment Area and opened the Agreement for signature by Member States that are ready to sign the agreement. The establishment of a Common Investment Area is particularly useful, as national markets in most COMESA countries are too small to attract investments on their own. Regional markets attract more investments as they have more consumers than national markets and hence more purchasing power. In addition, multinationals, fund managers and other investors now give preference to regional, rather than national markets in making decisions on where to invest.

The region continues to attract substantial amounts of Foreign Direct Investments. The sectors that have been benefiting most from FDI are petroleum, tourism with very little going into manufacturing. Most of the investments come from large transnational companies but there are other categories that are not recorded such as the small transnational corporations, stand-alone foreign entrepreneurs and Diaspora investments.

Kenya has experienced low rates of FDI inflows since the early 80 s. This was as a result of intense competition from other countries and the economic stagnation experienced then. According to the Investment Economic Policy report on Kenya by UNCTAD, Kenya s other factors such as corruption, increasing insecurity, poor infrastructure and rising cost of major services are major factors that have hampered FDI. The slow pace of privatization that could attract large-scale foreign investments and the country s limited mineral resources have not helped the situation. Kenya however remains a regional business hub and retains

regional advantages in FDI location, particularly as a result of the quality of its workforce and a central logistics position.

This notwithstanding the Government has put in place measures aimed at attracting more FDI. In particular, the Investment Promotion Act (2004) has led to the creation of the Kenya Investment Authority with a wider mandate of promoting and facilitating private investments in the country. At the same time various Government Ministries and Departments are implementing measures aimed at moving the country towards best practice in investment facilitation and promotion. These include: Introduction of flexible provisions for FDI entry; Review approvals and rejections in awarding work permits; Streamlining VAT returns by the Kenya Revenue Authority; Streamlining foreign investments transactions in agricultural land; Developing an investor after care capacity at the Kenya Investment Authority; Establishing and developing business linkage program comprising at least ten major Trans-National Corporation (TNCs); Setting up a performance benchmarking project for domestic manufacturing; Enforce the EAC double taxation treaty and Jointly issue EAC member state business visa.

Some of the investment opportunities in Kenya are in areas such as:

- a. **Agriculture and related activities:** opportunities for large-scale commercial farming exist in the region for both food and cash crops, including floriculture and horticulture.
- b. **Infrastructure:** Opportunities exist in road transport, railways, water transport, air transport, port facilities, information and communication technologies, energy and water and sanitation services as the East African Countries implement restructuring programmes aimed at reducing government involvement in commercial activities.
- c. **Minerals:** With both domestic and international demand for minerals expanding, mining offers a wide range of opportunities for interested investors;
- d. **Oil and Gas:** There are high prospects for oil and gas in the region and the three EAC countries have agreed to develop their petroleum potential by harmonizing their policies and their legal; and fiscal regimes applying to petroleum exploration;
- e. **Manufacturing :** Opportunities exist in the areas of textiles and apparels; iron, steel and other metals; vehicle parts and assembly; electronics and electrical equipment; plastics; chemicals; pharmaceuticals and beverages. There is also a lot of potential in agro-processing and agri-business to harness the potential of the COMESA market.
- f. **Services other than tourism:** Opportunities exist in building, construction and housing; training; health care; financial services, ICT and other back office operations;
- g. **Kenya as a Regional Hub;** Kenya is a natural hub for the regional services and regional headquarters because of its high quality manpower and its amenities. There are more opportunities to foreign investors in this area and this will enable them to sell services in the region.

Other countries in the COMESA region also offer Kenyans an opportunity to invest. There are for example immense investments opportunities in Sudan, especially Southern Sudan where reconstruction of the country has just begun, Rwanda with its improved investment climate, Zambia etc.

On the other hand, the informal sector traders and the MSMEs are increasingly becoming important agents of intra-COMESA trade. In terms of the goods manufactured by the MSME, more efforts are needed to benchmark them to international standards and improve their quality so as to be attractive to consumers in the region. There is also need to share more information on the existing opportunities in the region to assist the MSME to market their products. It is also important that we encourage more trade by small-scale cross-border traders by making our regional integration friendlier. This includes fast-tracking the implementation of the protocol on free movement of persons, establishment of trading houses and implementation of the decision to allow goods up to US\$500 to be traded without the need for certificate of origin.

COMESA Institutions; in addition to creating the policy environment for freeing trade, COMESA has created specialized institutions to provide the required financial infrastructure and service support. The Trade and Development Bank of Eastern and Southern Africa (PTA Bank) provide trade and development Finance. In Kenya the Bank has provided financial support to companies such as Mumias Sugar and Uchumi Supermarket, both of which provide tangible benefits to Kenyans. The COMESA Re-Insurance Company (ZEP-RE) allows smaller insurance companies to spread risk in a wider COMESA insurance pool. The African Trade Insurance Agency (ATI) provides political risk cover from commercial sources or export credit agencies, which was not available at all for some COMESA countries. These three institutions are located headquartered in Kenya although the PTA Bank will be relocating to Bujumbura.

Economic Partnership Agreement (EPAs). The EU market remains very important for the country, given that it accounts for about 26% of Kenya's total exports. It is the main market for our horticulture industry which is an important source of livelihood for millions of Kenyans. Given that the preferential market access that Kenya has been enjoying over the years is threatened by the expiry of the Cotonou Agreement in December this year, the country is negotiating under the ESA configuration for an alternative partnership agreement with the EU. The Eastern and Southern Africa (ESA) Region configuration comprising of 16 countries has been negotiating collectively with the EU as ESA. ESA has so far developed a regional consensus and presented its position to the EU in draft EPA text covering all issues and designed to meet member states' concerns and interests. The region has successfully pushed for the inclusion of development under EPA where the EC's original position was that EPA was a trade issue. ESA has succeeded to get EC concession on the comprehensive treatment of development in EPA and to provide additional resources for EPA adjustment costs. COMESA is instrumental in these negotiations.

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