

Major Factors Affecting Investment Inflow to Hawassa City
Administration: The Law and Practice
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Abstract

The research was conducted on the implementation of investment laws by different investment organs of government by taking Hawassa city as a focus area. It studied what legal and institutional factors affect investment inflows in the city. At the same time it studied the different issues faced by investors and those who have relation to investments. The research applied a qualitative case study. The Ethiopian legal system has made changes to the investment laws in last ten years in order to attract investment. So it was wise to see the implementation of the laws at the city level. The practice of the laws has seen many issues echoed by different groups and research works. Investment is affected by many factors such as lack of strong, efficient and effective institutions; corruption and the gap that are created in the laws are some of them. The laws have to be implemented to their fullest in order to achieve their goals. The country has been attracting investment and has become a destination for foreign direct investment. Hawassa as well has become a center for investment in Ethiopia among major cities. For a better investment inflow to the city and the country one has to see the implementation of the different investment laws. The first chapter is about factors that affect investment and the core issues that needed to be addressed. Chapter two shows the policy framework of the investment laws with regard to incentives, sectors of investment, procedure of acquiring investment permits and powers of the investment board and agency. On this chapter I have shown the problems that are faced by investors and investment bureaus with the service provision, access to land and also incentives. The chapter also shows the loopholes in the law that need to be addressed.

Background of the Study

Investment is expenditure to acquire property or asset to produce revenue¹. . An Ethiopian economist, Ambachew Mekonnen, wrote that investment is an act of current spending for expected future return². Investment can be classified into domestic investment and FDI. Domestic investors according to the investment law Proclamation No 769/2012 means an Ethiopian national or a foreign national treated as a domestic investor as per the

relevant law, and includes the government, public enterprises as well as cooperative societies established as per the relevant law. And FDI refers to a foreigner or an enterprise wholly owned by foreign nationals, having invested foreign capital in Ethiopia or a foreigner or an Ethiopian incorporated enterprise owned by foreign nationals jointly investing with a domestic investor, and includes an Ethiopian permanently residing abroad and preferring treatment as a foreign investor as per article 2(5)(6).

Investment has become a major issue for different countries in order to achieve a robust economic growth³. Investment needs to have an environment that leads it to growth and many factors can be stated that leads to an investment. To start the discussion investment has several outcomes that will benefit the people as well as the states⁴. The experience from neo liberal countries show that investment can be utilized to trigger technology spillovers, assist human capital formation, contribute to international trade integration, help to create a more competitive environment and enhance enterprise development⁵. All these together will in turn contribute to higher economic growth, which is the most important tool for poverty alleviation⁶.

Many scholars who worked on issues of investment have stated there are many shortcomings and a lot needs to be done for an investment attraction as well as for it to materialize. Investment expands the productive capacity of a nation and plays a crucial role in the economic growth and development process. Investment has been regarded as one of the primary engines of growth and proposed solutions to economic and geographic disadvantages⁷. As a country looks for an investment as a path to growth then the country's law plays a crucial role in creating an attractive environment. To further explain, when we look at investment by its nature it needs economic incentives and also legal protection and guarantees for it to materialize.

The second issue is that the conclusion of bilateral treaties between countries in order to attract investment in a given country. Bilateral treaties are concluded so that potential investors also have protection for their investment⁸ on cases of nationalization, expropriations, and the allocation of profits and on getting preferential treatment. Bilateral treaties are also another factor attracting investment according to many scholars⁹.

Global studies done on determinants of FDI inflows show what factors affect investment. Among more recent and most significant studies UNCTAD

study revealed that more FDI flows to countries with political stability, physical and technological infrastructure, the cost and quality of resources and other inputs and business facilitation measures, such as FDI promotion, including incentives are important for increased flows of FDI¹⁰. The study also found that for investment to flourish the creation of stable and favorable legal system and policy liberalization with business friendly laws are prerequisite for investment to flourish¹¹.

When we look at a study done by Abenaa A. Oti-premeh on three countries Malaysia, Mexico and South Africa stated the fact that the investment laws of these countries has incorporated tax incentives like income tax exemptions, custom duties exemptions, tax allowance depending on sectors and double deduction for export expenses has made them be attractive for investment¹². But these are not the only factors that affect inflow of investment according to the study, meaning natural resources; regional markets size, legal system, infrastructure and macroeconomic management also play crucial point.

Other scholars like Asiedu Elizabeth, who researched on investment in Africa mainly sub-Saharan Africa concluded that macroeconomic stability, efficient institutions, political stability and a good regulatory framework have a positive effect on FDI on the continent. These factors shape how investors make decisions on where, how and when to invest in many parts of Africa. Scholars like Naudé, W.A and Krugell, W.F who made the same research concluded that good policies are only significant if they are made by strong, efficient and effective institutions. As an institutional measure, political stability proved to be a significant determinant of FDI. Another research done by Akinkugbe, O revealed that the drivers of the volume of investment flows in African countries are a combination of high per capita income, trade openness, level of infrastructural development and a high rate of return on investment, all of which are significant decision variables for potential investors.

When we look at our country Ethiopia it is becoming one of the prime destinations of foreign investment and growing domestic investment. The country is attracting investors with tax incentives, competitive labor, and strategic location for trade and improving infrastructure.

When we look at the laws of Ethiopia first the Commercial Code of 1960 provides the legal framework for undertaking business activities in Ethiopia. The constitution, in accordance with Article 40, ensures the right of every citizen to the ownership of private property, including the right to acquire, use and dispose of such property. The Investment Proclamation no 769/2012 gives also a foreign investor the right to own a dwelling house and other immovable property necessary for his investment. The Proclamation also guarantees investors against measures of expropriation or nationalization, and specifies advance payment of compensation “corresponding to the prevailing market value” of a private property earmarked for expropriation or nationalization for public interest. Ethiopia is a member of WIPO and MIGA. Furthermore, it has concluded BITs and DTTs with a number of countries.

When we see the potential challenges there are problems of low level of infrastructure development, excessive bureaucracy, inefficient and ineffective legal system, and unstable political environment, lack of skilled force, lack of liberalization and slow process of the privatization program. When we see the different investment related services like land allocation and investment permits issuance it faces a lot of bureaucracy and also when we see the country in terms of transparent public services and corruption the country is placed at 107 out of 180 countries with the score of 35 out of 100, according to the world’s transparency report of 2017. This shows how rampant corruption and mal-administration are in the country.

When we try to see studies made on Ethiopia it identified some of the national determinants of FDI inflows. The country has large domestic markets, a less-corrupt business and social environment relative to other nations in the region and is home to many international and regional organizations. These factors are not the only factors affecting investment. When we see other researches other macro-economic, legal and institutional factors play also a role. Lastly a study done by Solomon Mamo Wolde Meskel concludes that Ethiopia’s investment inflows is affected by low level of effective demand due to the limited purchasing power of the people, absence of some important natural resources like petroleum, low level of infrastructure development, excessive bureaucracy, inefficient and ineffective legal system, unstable political environment, lack of skilled force, lack of liberalization and slow process of the privatization programs.

Most of the existing researches dwell on how investment is affected by different factors in national, regional and international levels. However this research will deal with legal and institutional factors that are affecting investors and investment bureau officers in creating investment projects and promoting investment inflows to Hawassa. The fact that the study emphasizes on specific context of Hawassa city is believed to make it modest contribution to the existing literature. So it is very much up to date to study investment inflows in one of Ethiopia's major city that is becoming a destination for investment and also to show its potential constraints and opportunities in implementations of the laws. The study will reflect on both institutional and legal matters that affect investment.

Hawassa is among the major cities in Ethiopia and it has become a major industrial city with the development of industrial park. It has also many investments in the tourism sectors and agro businesses. It is also socially diverse and home to many nationalities. The city has also been one of the best cities in Ethiopia in attracting investment and infrastructure development in broad areas of the economy. Which has a made it attractive to investment both domestic and foreign. So it is appropriate to take Hawassa as a case study in order to study the legal and institutional factors that shape how investment inflows to the city.

II. Statement of the problem

Investment is a major global issue at this time and it is understand the many factors that play into investment inflow has a tremendous effect in the economy as well as on the justice system as the implementation of the law becomes a major factor for investment. Investment inflow can be affected by the status of infrastructure development, bureaucracy, natural resources and also corruption, poor Governance and inhospitable regulatory environment. Ethiopia is developing country it needs to do a lot in the field of infrastructure development and through the one-stop-shop services to give better services in government bureaus. As studies on other countries show infrastructure and one-stop-services have a tremendous effect on investment inflow. When it comes to corruption there are cases relating to land allocation to investment, in getting bank loans and getting foreign currency. Lastly inhospitable regulatory framework relating to foreign ownership

ceiling in sectors open to investment, policy on repatriation of capital, remittance of profits, regulations and restrictions on equity holdings by foreigners have a profound effect on investment flows.

When we look at the investment laws of Ethiopia it has provided many incentives for investor to be attracted to invest in different sectors of the economy. As the country tries to attract foreign direct investment and also domestic investment many factors play into this scenario. The research will identify the different factors that are faced by investors in the city of Hawassa. Meaning the research mainly focuses on the practical issues that investors face in the provision of the services. The investment laws provide incentives like tax exemptions, custom duties exemptions, export incentives and remittance of capital. The practice of the law in relation to the services provided to potential investors is the main focus area of the research. It will address potential factors that affect investment inflow because many investment projects face many socio-economic, cultural issues and also issues related to the implementation of laws in the country. There are also issues related to the one stop shop services that are given by investment bureaus.

Investment has become a major source of economic growth and if the investment environment is not up to standard it leads to slow progress in investment inflows. And the implementation of the law has to be effective in order to increase investment in Ethiopia as a whole and in Hawassa specifically.

The study is mainly focused on the different factors that play into the materialization of investment in the country specifically in Hawassa. The research will show the practice of the different investment laws so that one could understand into the environment of investment in Hawassa.

III Research Questions

•What are the legal and institutional factors affecting investments inflow in Hawassa city?

- 1 What are the issues raised against the laws with that of attracting investment?
- 2 How do the different investment bureaus at the city level implement the laws?

- 3 What are the challenges faced by investors both foreign and domestic in the practice of the existing laws?
- 4 What factors lead to investment inflows into Hawassa city?
- 5 What are the major solutions to gaps between the practice and the law?

IV Research Objective

I. General Objective

The research has the objective of understanding the investment laws which are Proclamation No 769/2012 and 849/2014 as well as Investment Regulation No 270/2012 and 312/2014 on the issues of attracting investment and the practice that currently faced by potential investors at the city administration of Hawassa. The research has the objective of understanding the many factors affecting and that lead to investment at the city.

II. Specific Objective

- To analyze which laws affect investment inflows on issues like provision of incentives, access to investment permits and access to investment sectors.
- To understand the law in the rights and duties given to investors with that of its effect with investment attraction.
- To understand the practice at city level investment bureaus on the services given to investors, the different attractive incentives provision and the gap with the existing laws.

V. Methodology

Study Design

This research has been done using qualitative research methodology. It has mainly used as a primary source of data interviews and focus group discussions. And for secondary source I have used literature review of major legal works and analysis of the existing laws as method to acquire data. The research had a small sample size of 10 interviewees to understand the practical situation and the law has also been analyzed as well. The sampling technique was purposive as to get the data that represented the situation of the people who are connected with investment.

Data Collection Tools

The primary data collection tool was interview discussed with the sample group. Also the review of literature that focused on legal materials relating to inflow of foreign direct investment, domestic investors and impediments

to investment inflow done by researchers. As well as legislative analysis and analysis of other relevant cases of investment.

Data analysis

The research used qualitative research methodology to reflect the reality faced on the ground and due to the fact that it enables close interaction with the informants. And this method makes the research able to reflect on the problems and factors that affect inflow of investment in Hawassa City. The research data has been gathered through interview, focus group discussions, and literature review and document analysis. It was studied carefully so that the research would be a proper representation of the reality of today's Ethiopia and the focus area Hawassa. The results of the study had been presented by way of narration and descriptive way to correctly express the outcome of the data.

Major Factors Affecting Investment Inflows to Hawassa: Legal and Practical Issues

Ethiopian Investment Laws

Ethiopia's investment policy is regulated by the constitution and other laws. The investment policy of Ethiopia is to achieve sustainable socio-economic development and improving the living standard of the society. The objective of the investment law is to increase the economic growth of the country and to develop the natural resource and domestic markets. The country also expects increase in foreign earnings and advance technological transfer.

Investments are created in the following forms like sole proprietorship, business organization, public enterprise and cooperative society formed in accordance with the relevant law. There is also a requirement for investment permits for both domestic and foreign investors. The following shall be required to have investment permits 1,foreign investors 2,domestic and foreign investors investing in partnership 3, foreign nationals, not Ethiopian by origin, treated as a domestic investors 4, domestic investors investing in areas eligible for incentives and who are seeking to be beneficiaries of such incentives.

The investment proclamation also states that domestic investors, excluding foreign nationals who are not of Ethiopian origin, shall have the right to invest, without having an investment permit, in conformity with the relevant laws of the country: a) in areas not eligible for incentives; or b) waiving their

right of entitlement in those areas eligible for incentives. The other issue is that when it comes to a foreign investor intending to buy an existing enterprise in order to operate it as it stands or to buy shares of an existing enterprise shall obtain prior approval from the Ministry of Trade. These has also stated as a factor for investment inflows that require establishing in an existing enterprises. Because approval is required it is seen as a control mechanism for uncontrollable foreign control of domestic firms.

When we see the law in light of issuance of investment permits it states that Issuance of Investment Permit upon receipt of an application made in accordance with Article 13, Article 14 or Article 15 of the investment Proclamation, the appropriate investment organ shall, after examining the intended investment activity in light of the Proclamation, and regulations and directives; it issue investment permit upon receipt of the appropriate fee, where the application is found acceptable and notify the investor of its decision and the reason thereof in writing, where the application is found unacceptable.

The appropriate investment organ shall be duty bound, after issuing the investment permit, to notify the concerned institutions as to enable the latter to conduct the necessary follow up. The law also states that a holder of an investment permit may not be required to obtain a business license until the commencement of production or rendering of service upon completion of his project and that an investment permit may not be transferred to another person without prior written approval of the appropriate investment organ. If an investment permit is transferred to another person or where any change is made in its content, it shall be submitted to the appropriate investment organ for approval. No investor may, at any time, be allowed to invest by holding both a domestic and a foreign investment permit.

The law has also the procedures for suspension and revocation of permits when an investor violates the relevant investment laws. These are the investor obtained the permit fraudulently, misuse and illegal transfer incentives, failure to renew permit without good cause, felling to submitted progress report and failure to make investment operational in due time. But there are practical issues when it comes to taking land from investors that had not implemented the investment to other investors that need the land.

2.2 Investment Sectors Open for Investors

When we see the investment regulation it states sectors allowed for investment and areas reserved to Government like:-Electrical energy - transmission and supply with grid system, Postal services with the exception of courier services and Air transport - using air craft with a seating capacity of more than fifty passengers. And the other is areas reserved to Joint investment between the Investors and Government are manufacturing of weapons and ammunition and telecom services. The other is when it comes to sectors reserved to Ethiopian nationals are sector like Banking, Insurance, micro-credit and saving service, broadcasting and mass media services, packaging, forwarding and etc.. There are also areas reserved for domestic investors like wholesale trade and distribution (except fuel and the domestic sale for locally produced goods from FDI) importing (except inputs for export production), exporting raw agricultural product and Construction companies (except Grade 1) are the few stated in the law.

The fact that some sectors are reserved for government has also a negative effect on the flow of FDI. When one sees these sectors they are cash cows for the economy and private sector competition has to be allowed. At the same time competition helps the country's economy grow and services to be competitive. And when we see sectors that are allowed for domestic investors these sectors also have to be allowed for FDI its restriction has had an effect on the flow of investment. The restriction on sectors makes the investment attraction to only focus on few sectors and that gives the foreign investor less room to play in my understanding; even though the policy of the government is to develop the domestic investors. The law also requires a minimum requirement of capital for foreign investors and domestic investors to invest in the country. Some investors are faced with the challenge of meeting the required capital so it has effect on the flow of investment. The other issue is the ownership restriction on FDI inflow into existing enterprises. The law requires the ministry of trade and investment to approve investment in existing firms. This is not a restriction but it has the effect of making FDI approval process a bit long. The other requirements are technological transfer, engaging import substitution, to also focus on export to earn foreign currency.

2.3 Investment Incentives

When we see the law in light of investment incentives; it gives areas of investment specified under investment regulation in accordance with the objective of article 5 of investment Proclamation shall be eligible for investment incentives. One of the investment incentives is that notwithstanding the provisions from Article 390 to Article 393 of the Civil Code a foreign investor or a foreign national treated as domestic investor shall have the right to own a dwelling house and other immovable property necessary for his investment.

Investment law states that no investment may be expropriated or nationalized except for public interest and then, only in conformity with the requirements of the law. And that adequate compensation, corresponding to the prevailing market value, shall be paid in advance in case of expropriation or nationalization of an investment for public interest.

The other issue is that of remittance of funds any foreign investor shall have the right, with respect to his approved investment, to make the following remittances out of Ethiopia in convertible foreign currency at the prevailing rate of exchange on the date of remittance. These are profits and dividends ,principal and interest payments ,payments related to a technology transfer agreement, payments related to a collaboration agreement, proceeds from the transfer of shares or of partial ownership of the enterprise to a domestic investor, proceeds from the sale of the enterprise; and compensation paid to an investor in case of expropriation. On the other hand, a local partner in a joint investment may not be allowed to remit funds out of Ethiopia. Expatriates employed in an enterprise may remit, in convertible foreign currency, salaries and other payments gained from their employment in accordance with the foreign exchange laws of the country. This is one of the major determinant of investment inflow specially FDI. One can state that the ability to remit capital is seen as the most important incentive for foreign firms to invest in Ethiopia and other countries as well. The other is on expropriation; the existence of the laws makes it easily understandable to potential investors. The fact that the law has incorporated it in the investment law is good thing in light of predictability.

As per the investment regulations it provides investors with income tax exemptions for new entry and expansion or upgrading of enterprises. The law also provides additional income tax exemptions for firms investing in export. The income exemption shall be calculated from the start of production or services by the investor. At the same time there is the system of loss carry forward in times of loss by the investor to be deducted for half of the income tax exemption period. The investor is also allowed to import duty-free capital goods and construction materials for the investment. And also an investor with duty- free privileges who bought the property from local market will be refunded the custom duty paid. These are also an attractive incentive for the investor as it allows a room to grow and for the investment to materialize.

2.4 Laws Applicable to Industrial Parks

First and for most Industrial Park is an area with its own defined boundary designated by the appropriate organ to develop comprehensive, integrated, multiple or selected functions of industries, based on a planned infrastructure development and various services. And it has special investment incentive schemes. The other is Industrial park enterprises which can be a public, private or public-private enterprise owned by Ethiopians, foreigners or jointly. Industrial park enterprise acquires a developed land in the industrial park through sub-lease or by renting or building a factory to engage in manufacturing activity or in service provision for making profit.

The Incentives given to industrial park enterprise are income tax exemption, customs duties & other taxes exemption on imports of capital goods, construction materials, spare parts with a value of 15% of capital goods after business license, raw materials for the production of export commodities & vehicles, and at the same time get one-stop- shop government services within the parks premises. The other is Loss carry forward scheme for half of income tax exemption of period granted and acquire land under sub- lease for factories & residential quarters as per lease proclamation no 721/2004 article 17 for 60 to 80 years. The law also has a speedy procedure of securing entry, work permit and certificate of residency for expatriate personnel and their dependents. For investment permit for industry park enterprise shall require a detailed project proposal, export or import substitution plan depending on the type of the project, declaration of financial standing and a

ten-year forecast, environmental impact assessment report and Other requirements for the issuance of investment permit provided for under the investment law. There is also Customs facilitation services for transport of imported raw materials straight from customs post to factory through bonded export factory scheme and there is No tax on exports. The incentives stated above have made it very attractive for investment and it is one of the reasons why many companies have invested in the Hawassa industrial park. The fact is industrial parks have become one of the country's foreign currency generation schemes. The parks have made it possible for investors to invest at easy in one place where infrastructure has been developed and also has made waste management to be effective. The government has been able to provide services in one place rather than in different locations. That has a positive effect on foreign investment inflows to the city and the country at large. At the same time created much needed jobs for the community.

Industrial Park Developers are also entailed to incentives and industrial park developers are any profit making public, public-private or private developer including the Corporations engaged in designing, constructing or developing industrial parks in accordance with Investment Proclamation and Investment Regulations which acquired industrial park developer permit and industrial park developer agreement. For an industrial park developer to acquire permits I addition to other requirements of investment proclamation has to provide detailed declaration demonstrating availability of professionals and possession of experience in similar service, as well as administrative and financial plan demonstrating availability of funds and capacity to deploy sufficient experienced professionals. When we see incentives given; they are given 10 to 15 years of income tax exemptions as well as exempted from duties & other taxes on imports of capital goods, construction materials, spare parts, 15% of capital goods after business license, raw materials & vehicles and Provision of essential infrastructure, including dedicated power substations as well as One-stop government services within the parks premises. And also land is also given by sub-lease. The fact that government has allowed private sector involvement in development of industrial parks has shown the countries desire for private sector led economy and also has enabled the private sector to be one of the prime engines of growth as an infrastructure development and foreign earnings.

There are also incentives provided to Industrial Park Residents. Industrial park residents means a natural person granted a certificate of industrial park residence by the Commission in order to reside within the residential area of the industrial park. They are given residency permits with the assurances given by the Ethiopian investment commission and need to have relation to the investment. These are they are issued with certificate of residency they can import personal effects free of customs duty and can transfer personal items to other industrial park residents. The country needs not only investment in financial capital but also human capital to help train employees on how to use new technologies and help in technological transfers. So the incentives are attract and helpful for companies to bring man power with special skills for the investments.

2.5 Legal and Institutional Factors That Affect Investment in Hawassa

When we see much of the investment in the city can be divided into three. They are export –oriented, market-seeking and government initiated investment. The investments made in the industrial park are all interested in the export of their product to the United States, Europe and Asian markets. The investment has taken place due to infrastructure development and low cost of labor. There is also huge potential to produce inputs & end products. The second is market-seeking, this can be seen both in light of domestic and foreign investors. The domestic investors are engaged in investments to supply the domestic market both regional and country wide. On the other hand foreign investors are mainly focused on foreign markets that have given the country free trade schemes like Europe and United States. The third is government initiated investment, this is mainly on investments made in the industrial park due to government efforts and substantial incentives that are given to investor as stated in pervious sections.

On the other hand the approaches used in the investments are: -portfolio investment approach, product life cycle, internalization and eclectic theory. The fact that capital moves in light of risk even if the capital return is high as seen in the country in recent political risks, lack of resources and like as seen in portfolio investment approach. The other is product life cycle it is seen when it comes to domestic investors they are investing to supply domestic markets and grow their ability to produce quality products. So that they could become exporters in the long run and have huge market share. When it

comes to internalization approach it can be seen in light of beverages companies. As the know-how is kept secret they have opened subsidiary in the city rather than licensing or selling the technology. When we come to eclectic theory, it is seen on foreign investors who have invested due to the advantages in ownership, technology, access to finance from home country as well as local advantages in resource, infrastructure, political and macro-economic stability.

When looking at the determinants of investment in the city in light of global determinants. The countries policy of liberalization of the economy has an effect on the flow of investment in the city; as the different laws have enabled investment to different sectors. The second is inflation even if it is in a manageable state the price of inputs like chemical and other construction materials that are imported have price hikes due to exchange rate changes and lack of hard currency in the country. The domestic market is also an attractive factor for investors in manufacturing, agro processing and tourism sectors. The natural resource at the same time is also important. When it comes to political factors the recent unrest had an effect on the investment inflow as per the Ethiopian investment commission. When we see infrastructure development that is taking place has major effect in the inflow of investment in the city. The industrial park can be stated as an example the fact that all the infrastructures could be found in one location has made it attractive for FDI to flow to the city in past two years. The presence of huge man power that could easily be Trained Has Also An Effect.

2.5.1 Access to Investment Permits

When we look at the procedure for acquiring investment permits; foreign investors are required to start the process at federal level in the investment commission the investor is required to show bank note showing the required capital has been deposited and other documents: if the application is made by the investor then has to show valid passport but if it is made by the agent one has to show document showing power of attorney. Other hand if it is made by an Ethiopian residing abroad has to show document he /she resides abroad. For business that is to be incorporated in Ethiopia the law requires memorandum and article of association or for newly to be created business valid passport of shareholders. If on the other hand there is a foreign national treated as domestic investor in the business has to show evidence showing therefore. Second if there is a juridical person or branch of foreign

juridical person in the business it has to show memorandum of association and article of association. Third for business incorporated abroad operated by Ethiopian branch of such business has to provide memorandum of association, documents showing appointment of the branch manager and also document evidencing the authority to establish the branch in Ethiopia. Fourth for joint investment by domestic and foreign investor in addition to requirement for business incorporated in Ethiopia has to provide identity card showing domestic investor status. The foreign investor has to show also financial instrument from national bank showing his/her financial position for the investment as required in the law and identity or profile of the investor.

For domestic investor one has to present the business plan with the following documents: identity card for personal application made by the investor and power of attorney for agent acting on behalf of investor and has to deposit 30 percent of the required capital for the investment projects. For businesses memorandum of association and article of association but in case it is yet to be established identity card or certificate of shareholders. Second for public enterprises they have to provide establishment regulation or memorandum of association. At the same time article of association for cooperative society.

An investment officer with ten years of work experience stated on an interview conducted on February 21 that there is great potential for the city to grow but another issue raised was that the problem of need for similar kind of investment permits that is demanded by investors. This is resulted because of lack of investors' ability to engage new sector is seen as being low. The second issue raised on an interview on February 20 by another investment officer with 5 year of work experience is that when it comes to investment permits is that the investors do not come with the proper required information as per the law like capital requirements. Some investors also expect to be given incentives in sectors which do not have incentives and also some investors acquire permits and land but some do not invest in the given land in an adequate time. This issue happens because investment permit would be issued after one has acquired land in the first place. The next issue echoed by an investment coordinating and follow up officer on an interview on February 21 is that investors will be required to go great length order to get investment permits because of the requirement of the law as for investment proposal evaluations relating to Agricultural investments. The

process is long first the proposal has to be evaluated by the zone, special Woreda or Hawassa city administration investment committee. After fulfilling the first requirement then it is sent to the regional administration president's to be evaluated by a committee. Then when the committee finishes its evaluations it provided it with recommendations to the president office for final decision. The other issue when it comes to investment permits is that the procedure to get permits and land allocation is complex and the city administration does not have a speedy mechanism to evaluate and give decisions on investment projects. The other issue is that some investors come with the desire to have investment permit but the land they wanted to invest on is for housing that makes it difficult to change its site plan.

2.5.2 Access to Investment Land

As I have shown the different laws on investment in the previous section. It is now right to shed light on the different problems that are faced by investors in the city of Hawassa. I conducted interview with investors in hotel and tourism, manufacturing and milling sectors on February 20 and also from my interviews on February 26 with different investment officers at the city and regional levels with varying work experience like investment experts, special officer, investment projects follow up and coordinating officers have expressed what they think are the bottleneck when it comes to investment in the city. The problems that they have expressed are the first is that the problem of access to land. Different investors who want to do business in the city are facing shortage of land lack of land due to illegal sell of land around the city by farmers around the city over night as per the land law of the region it states farmers have use right to the land and any transfer shall not displace them from their land. This has had a tremendous effect on the investors because it has affected the city administrations ability to give adequate answers to the investors and has made some to grab land. The second issue on the land problem is the related to investors getting land by auction as per proclamation no 721/2004. The fact land has to be acquired through auction has led the price to be high and some who want to invest cannot match the price required. The other issue is whose who have huge capital are able to acquire lands which could have been given to other investors. This has resulted in land grab because the market price of land is huge.

This has made it difficult for investors to access land in the city. And also even if one wins the land by auction there is a problem in transferring the land in due time. The third issue is the problem of land grabbing of areas that were planned for investment illegally. The other issue is that lack of compensation for land that is expropriated for investment purpose specially rural and urban lands and the expropriated land is not cleared in time. The investors also get land and they transfer it illegally to third parties by breaking the agreement they first concluded. Even if the government has conducted measures to take back land from investors who have not invested but problem has not fully been resolved. Even though the government has created industrial parks there is the problem of access to land on investors investing on sectors other than those which the industrial parks are for. Some investors on the other hand take land but they do not invest on it that has made land inaccessible to other investors. When we look at the points raised by investors is that the land that are prepared for investment are not fully developed with infrastructure like electricity, water, telephone and roads. This has made corruption and tremendous bureaucracy to flourish in order to get the services there is the problem of taking bribery. The investment expansion bureau does not provide one-stop shop service when it comes to land and other infrastructure so investors have to go to different institutions to get the services. And there is lack of inter institutional cooperation in this regard.

2.5.3 The Provisions of Incentives

First of all an investor who wants to import duty-free capital goods there are requirements like first, valid investment permits, second commercial invoice from the company that one wants to buy the property from, third has to show payroll for three months of wages paid to employees and forth has to show the registration number of the property. On an interview conducted on February 21 with regional investment commission investment officer and process coordinator stated issues related to the provision of incentives, like the investment organs lack adequate response to the needs of the investors. To provide them with necessary permits and to transfer their information to the other bodies like the revenues authority. The second issue is that the investors ask for incentives which are not allowed by the investment laws. The try to use different illegal mechanisms to get what they want like bribery and also the regional government in some cases does not accept the

incentives recommended by the city investment bureau. There is also the problem of not giving hotels below star incentives which can be seen in the city. The other issue is that when an investor defaults on the bank loans the banks sell the property of the investor to third party. At this time the banks do not give proper information to the investment bureau about the sale of duty free capital goods even if there is registration upon transfer as per the civil code article 1723 to immovable and other laws for special movables. The last is the investors are using goods that came for investment purpose illegally for other purposes and also the illegal transfer of capital goods to third parties without going through the legal process in order not to pay tax. Investors also rise that there is corruption in different sectors of government due to lack of one-stop services in getting duty free services from the institutions.

2.5.4 Regional Investment Organs and Institutional Issues on Investment

The SNNPR state has established in 2008 E.C a regional investment board that is headed by the states president and has other members like the investment commission commissioner and other members appointed by the president as required. The board has powers to enact laws, evaluate complaints made by investors, at the same time to provide additional incentives and coordinate infrastructure developments. The board concludes meetings every three months and can also conclude special meetings if necessary. The other body is the regional investment commission which is established in 2008e.c that is answerable to the state president and which has the objective of expanding and enhancing investment developments. The powers of the commission are generally to give, renew, revoke and change permits at the same time coordinating with other government bodies in provision of services and engage in promotional works. The commission is composed of investment officers in different sectors like land development officer, provision of incentives officer, promotional officer, and investment permits officer and follow up officer. The state has also enacted regulation no 25/1996 to allow investment on lands used for government inherited houses.

The other is the investment executive committee that is created at Zonal, special Woreda & Woreda levels as well as at Hawassa administration levels.

The zonal, special Woreda and Hawassa city administration are answerable to the investment commission and board while the Woreda & city administration is to the zonal committee. The Hawassa city administration investment executive committee is headed by the mayor of the city, head of investment bureau & other members appointed by the city mayor. The committee conducts meetings every month and conducts special committee meetings if necessary. The committee is tasked with implementing, evaluating and coordinating investments as well as coordinating infrastructure developments in the city. The Hawassa investment expansion office has two main processes the land, promotion, investment permit and information main process and the coordination and follow up main process. The duty of the bureau is to give permits to engage in promotional work and to follow up on investment projects.

The fact that investment projects are not managed by capable people in light of skill, education & technological know-how makes it difficult to make them understand the laws and for the project to materialize. The other issue is the institutions are faced with shortage of logistics like human resource and budget to properly observe investments and to see their progress this is one of the duties of investment bureaus. There is the issue of good governance and there is the desire to get what they want through other means like bribery on the side of investors. Some investors get land through collaborations with government officials to get land and at the same time transfer the property without developing it to third parties. Other thing is that the investment officers lack skills, education and work experience in light of project managements. The investment institutions also need to give one stop shop services as stated in the law for investors. The lack of which has resulted in corruption and bureaucracy leading to loss of time and capital in the side of investors. The investors who want to invest in agriculture state that to get land for agriculture the process starts for the investment bureau and goes up to the states presidents' office. The investors express that the institutions that give services to them lack the willingness to give full services to their investment projects in light of follow up and coordination of services in infrastructure and in getting loans from banks. There is a problem of corruption in getting loans from banks in some cases the investors are asked for a percentage of the loan as well as the bank loan policy requires investors to deposit 30 percent of the required capital with business plan and

feasibility study conducted by licensed consultant. Some investors who have assets cannot provide it as collateral for investment project finance. The other issue is the problem of equality of opportunity for every investor treating foreign investors differently than domestic investors. Some investors' state that foreign investors are provided with loans and land that is provided through the investment commission at federal level while domestic investors get these services from different institutions.

2.5.5 The Gap in the Existing Laws

The interviews conducted with different investment officers in the Hawassa city investment expansion bureau and regional investment commission on February 28 stated that there is a gap in the laws when it comes to duty free incentives directives that are being implemented in light of transfer to third parties. The fact that land for investment purpose has been made to be acquired through auction has made it difficult to get land. Even if auction has made the process public and efficient but the fact that the price of land has risen and that has made it possible for the few would make investment grow in the hands of few rather than making others able to invest in the country and in the city specially. The other thing is that the facts that land auctioning procedures are complex.

The most important issue is the fact that one-stop shop services are not applicable in the lower government branches except in the federal and regional levels. Most of the interviewees stated that there is a problem of implementation of the law in light of land provision and in giving incentives. The investor state that land and incentives are being given to investors that do not invest. The investors are also faced with the problem of awareness of the investment laws in light of what sectors are given what incentives and the requirements of the law to get duty- free capital goods to the country. And also there are procedures for improving the loopholes in the laws and directives that are faced from time to time like the board and executive committee established at state and city levels but the problems have not been fully resolved. There are investors who take loans from banks and they disappear and also there are investors who take loans from banks then they engage in money laundering activities. The responsibility lies on the banks they have to make procedures to control where the money is being spent and over all the government both federal and state has to take measures on those

who are engaged in this kind of activities. There is also the problem related to environmental assessment reports as they are prepared by licensed consultants the price is very high it has made it difficult in conducting the assessment. The other issue is related to getting loans from the bank; investors are required to deposit 30 percent of the required capital in cash to get loans. That is to mean banks will not take immovable as collateral for investment to take place so that has made it impossible for some to get the required capital in cash and Hawassa city administration investment expansion office investment project expansion officer has stated that 70 percent of the investors are not getting loans from the bank. These needs to be changed in order to let investor get loans from banks; they have to change loan policy of banks to take immovable as collateral for investment projects.

Conclusion and Recommendation

Investment is prime engine for economic growth as understood by many scholars. Investment creates jobs, technological transfer, economic advantages like growth of the overall economy and creating hard currency. As stated in the research investment has many factors that lead one to invest in a given place. Like the regulatory framework, low cost labor, political factors, institutional factors and poor governance...etc. As I have tried to show the different investment laws of the country it has incorporated tremendous incentives and sectors to invest on. But through the course of the research I have pointed out the problems that investors face in Hawassa. On issues related to access to land, provision of incentives and issues of procedure for acquiring investment permits. The issue of one stop shop services not being practiced in the lower levels of government. That has also created problem of efficient provision of services.

The research has found that accessing investment permits has issues related to meeting the capital requirements and also investors are not implementing investment projects in due time after acquiring permits. The other issue is the requirement of proposal approval when it comes to agricultural projects is a bit long. The third is related to land. The investment is being affected by shortage of land and issues related to expropriated land not being paid in due time. The other issue is that the lands are not fully developed with infrastructure. The fourth the investment bureaus lack resources to conduct on site observation and follow up. The investment bureau officers lack skills

in project managements. There is also inter-institutional exchange of information with regard to sale of property which is in default of loans by banks. The investment bureaus also do not give one stop shop services to investor with regard to loans and land. So the investors rise that accessing loans from banks has been hard. The requirement of banks on cash money deposits has made it hard for investors to get loans. With regard to rent – seeking practice it needs to be further investigated to reach at strong evidence.

My recommendation is that there needs to be awareness on the side of the investor in the laws of investment in light of incentives given to sectors, accessing loans and procedures that are required for investment permits. This has created complaints and frustrations when faced with the requirements of the law. That in turn affects investment decisions and inflow to the city. There should also be a proper implementation and observance of the laws by the respective investment bureaus. There should be changes to the investment law in letting one stop shop services be applicable in the lower levels of investment bureaus. There should also be changes in the cumbersome procedures of acquiring investment permits in sectors like Agriculture as stated before and there should be strict and efficient screening procedure. When it comes to Land acquired through tender or auction it has to have a reasonable price that makes investment to be one of the sectors that allows many to invest and to create jobs. There should also be skill development for the investment officers and at the same time the investor should develop their knowledge about the investment laws in issues like provision of incentives and procedure to acquire them.

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