



8TH ANNUAL TAX CONVENTION 2021

THEME :

TAXATION IN THE CURRENT UNCERTAIN ENVIRONMENT

SESSION :

Taxation and Foreign Direct Investment in Africa - Kenya in Particular

FCPA ERASTUS KWAKA OMOLO

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SAROVA WHITESANDS HOTEL, MOMBASA**

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Foreign Direct Investment



- **Foreign Investors** don't come to a country to become poorer or walk the streets giving out food to the poor and dishing out bribery shares in their company to government officials!!

They come to make money – big and as quick as possible AND as long as they are here or there!!

BITTER TRUTH, MAY BE??

Foreign Direct Investment Uniqueness of Africa and the Middle East



Africa is the world's largest continent and together with the Middle East Region, is / are developing fast.

There are many opportunities as commerce and trade gravitates to Middle East and Africa (MEA) due to vast natural resources and burgeoning business development and an ever-increasing talent pool.

Foreign Direct Investment Uniqueness of Africa and the Middle East

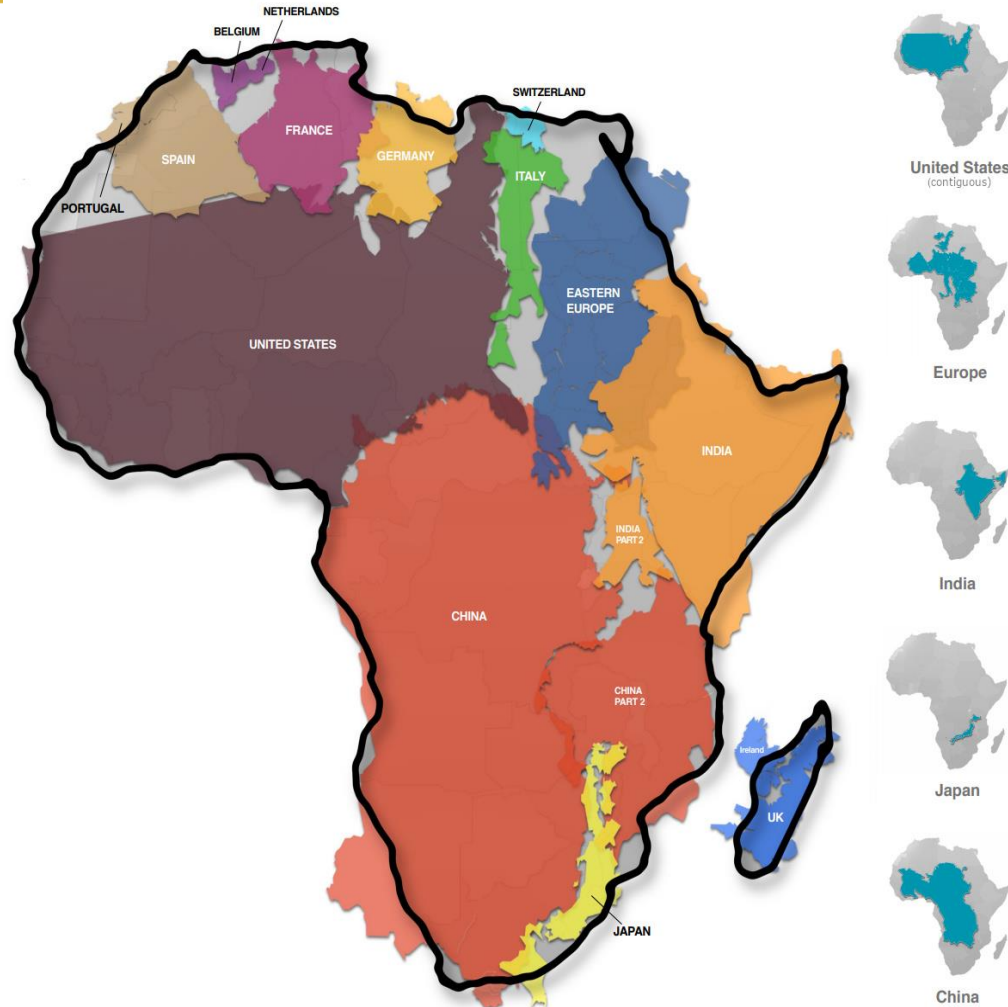


World Bank data shows that historically, Europe has been the dominant source of Africa's Foreign Direct Investment (FDIs), making up 75% of its FDI stock until 2005.

While Europe's FDIs absolute value grew, its share had fallen since 2005 to below 50% by 2018.

In place of Europe, FDIs from Asia have increased, whose share grew from 5% in 2002 to 23% in 2018.

Foreign Direct Investment Uniqueness of Africa – most nations fit in us



Vision: A world class Professional Accountancy Institute.



Foreign Direct Investment (FDI)

Is the category of international investment that reflects the objective of a resident entity in one economy to obtain a lasting interest in an enterprise resident in another economy (*Source: OECD 1996*)



Factors considered by investors as they decide on investment location are:

- ❑ A predictable and non-discriminatory regulatory environment and an absence of undue administrative impediments to business more generally.**
- ❑ A stable macroeconomic environment, including access to engaging in international trade. Documentary proof of the investment**
- ❑ Sufficient and accessible resources, including the presence of relevant infrastructure and human capital.**

Foreign Direct Investment in Africa – Investors Attraction Policies for Host Country



- ❑ **Ensuring that rules and their implementation rest on the principle of non-discrimination between foreign and domestic enterprises and are in accordance with international law.**
- ❑ **Providing the right of free transfers related to an investment and protecting against arbitrary expropriation.**
- ❑ **Redress tax system inequalities and barriers to effective Foreign Direct investment**
- ❑ **Adequate framework for healthy competitive environment in the business sector**

Some Acts of Parliament that Cover Foreign Direct Investment in Kenya



- 1. Investment Promotion Act, 2004.**
- 2. Foreign Investment Protection Act (FIPA).**
- 3. The Companies Act, 2015.**
- 4. Competition Act, 2012.**
- 5. Constitution of Kenya, 2010**
- 6. Capital Markets Act, Cap 485A**
- 7. Proceeds of Crime and Anti - Money Laundering Act, Cap 59B**

Drivers for attracting Investors



- ✓ **Strong historical relationship;**
- ✓ **Environmentally Sustainable Investment – ‘green leader’;**
- ✓ **Improved global / digital technology;**
- ✓ **Tax stability = economic stability;**
- ✓ **Political stability and reliable infrastructure;**
- ✓ **Tax investment incentives as a bonus;**
- ✓ **A well educated / trained manpower.**

Statistics on Foreign Direct Investment – Kenya Case



- ❑ Kenya Foreign Direct Investment (FDI) increased by 1.3 billion USD in Dec 2019, compared with an increase of 1.6 billion USD in the previous year.**
- ❑ Kenya Foreign Direct Investment (FDI) a record low of 0.4 million USD in Dec 1988.**
- ❑ Current Account recorded a deficit of 415.0 million USD in Sep 2020.**

Largest investors by number of projects in Africa



❑ **United States;**

❑ **France;**

❑ **United Kingdom;**

❑ **China;**

❑ **India**

Constraints to Foreign Direct Investment inflows to Kenya



- Institutional framework – Ease of doing business (has improved in the recent past)**
- Infrastructure and cost of doing business**
- Corruption and governance**
- Security and political environment**
- Unstable Policy and regulatory framework**

Investor Incentives in Kenya



❑ **Capital Allowances:-**

- **Wear and tear allowances;**
- **Industrial building deduction;**
- **Investment deductions.**

❑ **Farm works deductions**

❑ **Special Economic Zones and Export Processing Zones incentives**



Incentives for newly listed companies

Incentives through Double Taxation Agreements

VAT Exemptions (some)

Other Tax incentives

- ❑ **Africa growth and Opportunity Act (AGOA)**
- ❑ **Common Market for Eastern and Southern Africa (COMESA)**
- ❑ **East African Community Custom Union Act (EAC)**
- ❑ **International Centre for Settlement of Investment Disputes (ICSID)**

Tax Rates as a Criterion – FDIs?

Tax Summaries Overview



Country	Personal tax	WHT	VAT	Capital Gains
Nigeria	24%	10%	7.5%	10%
Kenya	30%	R-5, NR-15%	16%	5%
South Africa	45%	20%	15%	22.4%
Egypt	20%	R5 NR20%	14%	10/22.5
Ghana	R 30 NR 25%	8%	3%	-

Other Opportunities - Foreign Direct Investment in Africa



- Joint venture**
- Licensing Agreement**
- Exporting Directly**
- Online sales**
- Purchasing foreign assets**

Key Institutions in Foreign Direct Investment platform



- ❑ **Government – International Affairs and Legislature**
- ❑ **Immigration;**
- ❑ **Revenue Authority;**
- ❑ **Banking Sector;**
- ❑ **Company Registry;**
- ❑ **Anti-crime and police department**

Foreign Direct Investment – Corruption Perception Index



Corruption Perception Index ranks countries and territories by their perceived levels of public sector corruption using a scale of zero (most corrupt) to 100 (clean).

Country	Score year 2020	Rank year 2020
Kenya	31	124
Nigeria	25	149
South Africa	49	66
Egypt	33	117
Zimbabwe	24	157

Which of these institutions is an FD Investor likely to deal with ?

Bribery Prone



Rank	Services	2019 Index	2017
1	Judiciary	69.0	44.0
2	Police	64.0	83.3
3	Land Services	34.2	41.7
4	Civil Registration	27.7	24.9
5	Motor Vehicle Licensing Services	21.3	-
6	Business Licensing	20.5	20.5
7	Medical and Health services	17.9	16.0
8	Educational Institutions	13.7	24.5
9	Tax Services	12.4	12.9
10	Huduma Centre Services	12.3	10.7

Which of these institutions is an FD Investor likely to deal with ?

Likely to Encounter Corruption



Ran k	Services	2019 (%)	2017(%)
1	Police	75.2	68.8
2	Civil Registration	42.4	45.7
3	Business Licensing	22.2	34.6
4	Land Services	21.8	55.1
5	Judiciary	18.9	48.0
6	Medical and Health Services	18.6	25.4
7	Tax Services	10.6	18.4

Policy Reforms Foreign Direct Investment – Attraction



- ✓ **Public participation in Reforms and capacity building.**
- ✓ **Transparency and Accountability.**
- ✓ **Eliminating policy reversal risks (lessen uncertainty)**
- ✓ **Do ensure staff are updated on systems and standard procedures**
- ✓ **Policy and regulation framework reviews**
- ✓ **Enhanced technology (local / international)**

Policy Reforms Foreign Direct Investment – Attraction



- ✓ **A believable anti-corruption & ethics program**
- ✓ **Stigmatize corruption in decisive ways.**
- ✓ **Why not publish in newspapers, say every QUARTER, a status report listing all corruption cases? Like the mark of God upon Cain for killing his brother Abel (Genesis 4:15), let all corrupt persons carry a mark !**
- ✓ **A total systems approach in every African country and Kenya in particular will bring us more FDIs.**

- ❑ <https://www.ceicdata.com/en/indicator/kenya/foreign-direct-investment>
- ❑ **OECD (Organization for Economic Cooperation and Development) 1996, Benchmark Definition of Foreign Direct Investment, 3rd Edition, Paris stats.oecd.org;**
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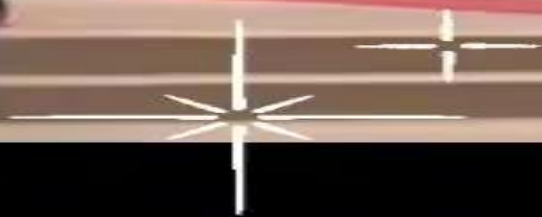


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- ❑ **OECD (Organization for Economic Cooperation and Development) 1998, Benchmark Definition of Foreign Direct Investment, 2nd Edition, Paris stats.oecd.org;**
- ❑ <http://www.transparency.org/research/cpi/overview>
- ❑ <https://www.state.gov/reports/2020-investment-climate-statements/kenya/>

**Don't Tell Me
People Don't
know: They can
learn, be on time,
be discipline... It's
what you Value**




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Thank You

End - Q & As
OPEN SESSION TO ALL

E-mail: croweerastus@crowe.co.ke