

**Regional
Integrating
through
Industrial
Linkages**



**THE COMESA COMMON INVESTMENT
AREA IN PERSPECTIVE**

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Nairobi, Kenya

27 -28 April 2005



Summary

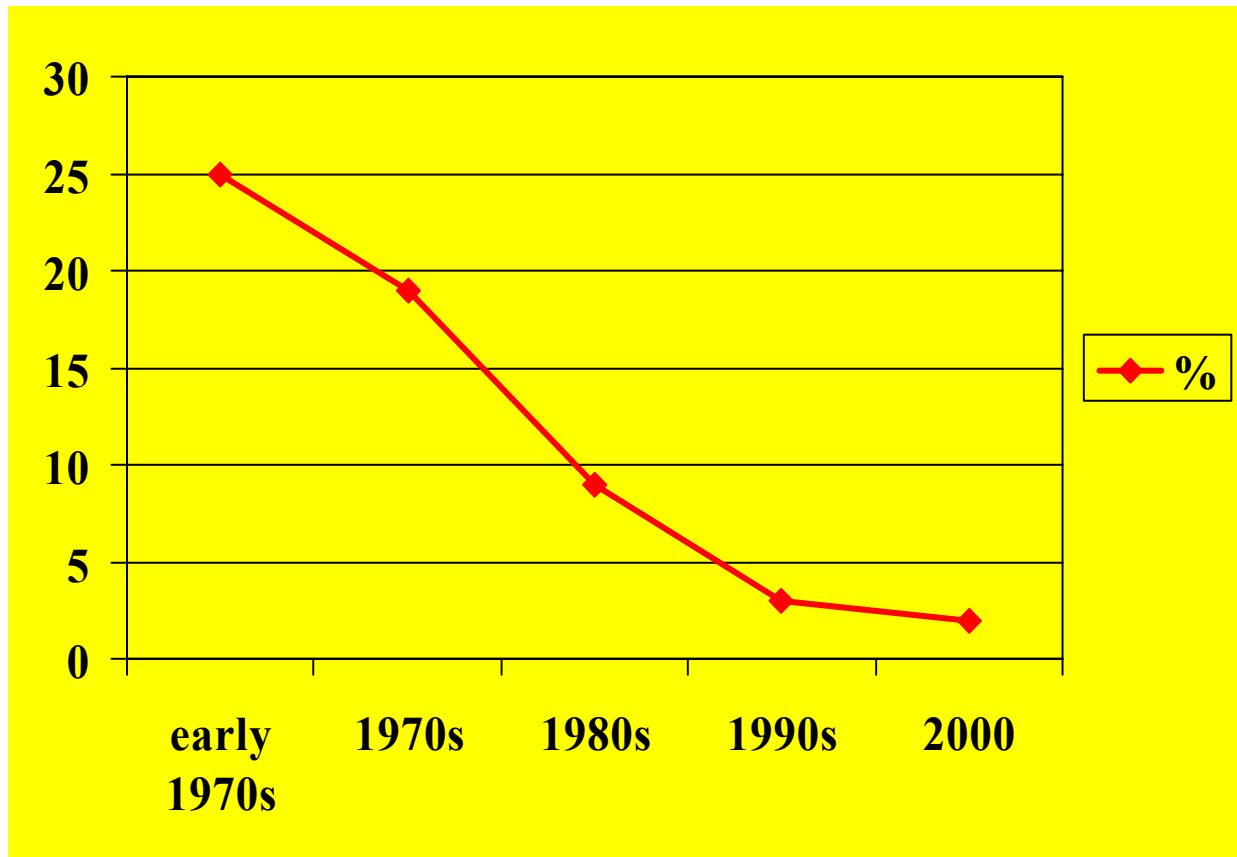
- FDI in Africa and COMESA
 - Performance
 - Key Issues
 - Emerging trends in FDI
 - How do we increase FDI inflows?
 - What should COMESA strategy be?
 - Policy Implications and Challenges
 - Using International Investment Agreement: The CCIA

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FDI in Africa

- FDI is now the main source of development capital and the most important source of external finance
- African countries have the highest rate of return on investment in the world – four times more than in the G7 countries, twice more than in Asia

Africa's share of FDI to developing countries



What are key issues?

- **How to increase FDI flows?**
 - in the context of FDI and IIAs, the primary issue is related to ability to attract FDI
- **How to enhance the capacity to fully reap the benefits of inward FDI?**
 - essential ingredients to maximize benefits
- **What is role of government to increase FDI, and to maximize those benefits?**
 - IIA involve binding commitments, and lead to convergence of national policies and limitation of policy autonomy
 - Crowding out/in domestic players

Emergence of new encouraging trends

- **New sources of FDI have emerged.**
- **FDI from Asian developing countries has also increased.**
- **Intra-African FDI rose during the last decade, notable by firms from S. Africa and Mauritius.**
- **Market seeking FDI rose recently**

New Encouraging Trends

- **S. Africa leads intra-African Flows**
 - Breweries are operates in 11 African countries
 - In banking (Nedbank), has subsidiaries or associated companies in Lesotho, Malawi, Mauritius, Mozambique, Namibia, Swaziland and Zimbabwe
 - ABSA and STANBIC have also moved into region
 - Multichoice (DSTV) etc
- **Mauritius and Kenya emerging as an important investors**
 - in Côte d'Ivoire, Madagascar, Mozambique, Seychelles, South Africa and Uganda, Tz, Zambia
- **Egypt lots of potential but still a sleeping giant**
- **Service sector has seen Zimbabwe, Malawi companies move across borders (financial services and insurance)**

New Trend: Textile and Garments

- **Mostly AGOA related**
- **Asia and East Asia Investors**
- **But..... Signs of dis-investment**



Key in attracting FDI

- Fundamental economic determinants such as
 - human resources,
 - cost structure, and correct for deficiencies in infrastructure,
 - location (especially market size)
 - regulatory and legal impediments
 - macroeconomic instability and
 - economic barriers that distort resource allocation and limit economic growth and market size

Key in attracting FDI

- Strengthen fundamentals
- Improve some the obstacles highlighted above
- **Have/make large markets**
 - Expedite the process of **regional and sub-regional integration**
- Continue for successful reforms
- Positive image of Africa
- Efficient use of incentive packages

Maximize positive impacts of FDI

Asia is emerging as an important partner of Africa's quest for **product diversification**: For example:

- **Bring Africa to the global supply-chain mechanism** in manufacturing products. Asian countries are important suppliers of necessary inputs for Africa's manufacturing sectors, particularly the **textile and apparel sectors**.

Policy implications

- Improve access to markets as well as supplies
- Incentives to encourage TNCs to invest in strategic activities,
- **Involve TNCs in the upgrading of human resources**
- Infrastructure development (e.g. EPZs, industrial and science parks)
- Financial support to strategic investments involving domestic and foreign companies;
- **Support the development of domestic suppliers and clusters.**
- **Integrate FDI promotion in overall development strategy (*targeting, investment facilitation, after-care and policy advocacy*)**

Policy challenge:

to take advantage of TNC activities

- Opening up to FDI is not enough
- Competition for export-oriented FDI is fierce
 - Not all developing countries can attract export-oriented FDI in dynamic industries
 - Even traditionally successful recipients have to upgrade into higher value-added activities to sustain their competitiveness
- High exports do not mean high value added
- **Linkages with domestic firms are important to:**
 - **raise local value added**
 - **make FDI less footloose**
 - **facilitate knowledge and technology transfers**

WAY FORWARD

- **Despite declines in the volumes of FDI, the international production networks of TNCs continue to expand**
- A more competitive environment offers both opportunities and challenges for attracting FDI to developing countries
- TNCs can contribute to the competitiveness of a country, but benefits are not automatic – policies are key to move from *static* to *dynamic* gains
- **Starting point: a vision of *how* and *what* FDI can contribute in the overall development strategy**
- **Aim**: to match TNC assets with a location's capabilities with a view to strengthening the competitiveness of the domestic enterprise sector.
- Policy-makers should consider how efforts at the national as well as international levels can promote their development objectives.
- **ONE SUCH EFFORT IS THE COMESA COMMON INVESTMENT AREA**

What is the CCIA?

The aim of the CCIA is to attract intra and extra COMESA investment, into the region by:

- liberalising, promoting and protecting foreign investment;
- creating a transparent and predictable investment environment;
- removal of any discrimination between foreign and domestic investors and their investments; and
- ensure access to effective dispute settlement

Benefits of CCIA

- A politically stable region and transparent regulatory environment;
- Investor confidence and assurance of governments' commitment at regional level to the role of the private sector as well as protection against expropriation;
- Increased regional co-operation and a stronger focus on improving the general business environment lowering of production costs and improved skill levels;
- Removal of discretionary measures and negative discrimination, resulting in removal of corruption tendencies;

Benefits of the CCIA?

- An opportunity for the region to implement joint programmes such as those on shared production, joint investment promotion, strengthening of intellectual property rights;

Investment Framework Agreement on CCIA

- **ARTICLE 1: Definitions**
- **ARTICLE 2: Coverage**
- **ARTICLE 3: Objectives**
- **ARTICLE 4: Features**
- **ARTICLE 5: General Obligations**
- **ARTICLE 6: Programmes & Action Plans**
- **ARTICLE 7: National Treatment**
- **ARTICLE 8: Most Favoured Natn**
- **ARTICLE 9: Modification**
- **ARTICLE 10: Transparency**
- **ARTICLE 11: Other Agreements**
- **ARTICLE 12: General Exceptions**
- **ARTICLE 13: Emergency Safeguard Measures**
- **ARTICLE 14: Measures to Safeguard Balance of Payments**
- **ARTICLE 15: Institutional Arrangements**
- **ARTICLE 16: Guarantee Against Expropriation**
- **ARTICLE 17: Settlement of Disputes between Member States**
- **ARTICLE 18: Settlement of Disputes between a COMESA or a Non-COMESA Investor and a Member State**
- **ARTICLE 19: Amendments**
- **ARTICLE 20: Supplementary Arrangements or Agreements**
- **ARTICLE 21: Accession of New Members**
- **ARTICLE 22: Final Provisions**

Article	Key Issues	Negotiation Status
Article 1: Definition	Definitions of Investment (does it cover everything or not?), COMESA Investor (How is a third country investor affected?) Critical issue: Is FDI still critical?	<i>Negotiated and almost all definitions agreed to.</i>
Article 2: Coverage	Agreement not be applicable to claims arising out of disputes which occurred prior to entry into force.	<i>Negotiated and Agreed</i>
Article 4: Features	<p>The key issue is the dates as to when countries will give National Treatment to COMESA and non-COMESA Investors.</p> <p>Initial proposal is 2010 to COMESA Investors and 2020 to Non-COMESA Investors</p> <p>After Negotiations: 2010 to COMESA investors and 2015 to non-COMESA investors.</p>	<i>Dates still subject to negotiations</i>

Article	Key Issues	Negotiation Status
Article 5: Country Obligations	These are obligations of the Member States by virtue of signing and ratifying the CCIA Agreement. as provided for under Article 159(5) of the COMESA Treaty	<i>Negotiated and Agreed</i>
Article 6: Programs	<ul style="list-style-type: none"> •A co-operation and facilitation programme •A promotion and awareness creation programme •An investment liberalisation programme 	<i>To be discussed during next round of negotiations</i>
Article 7: Opening up of Industries and National Treatment	<p>Commitments for Member States to open up its industries for investment initially to COMESA investors and eventually to non-COMESA investors.</p> <p>The foreign investor will be subject to the same admission and establishment laws as the domestic investor and once he is admitted into the host country, he will be treated the same as the domestic investor.</p>	<i>To be discussed during next round of negotiations</i>

Article	Key Issues	Negotiation Status
Article 7: Opening up of Industries and National Treatment	<p>National treatment is the essence of the CCIA. Member States need to take note of the following:</p> <ul style="list-style-type: none"> •Tighter rules for identifying types of sectors and industries eligible for exclusion? •Criteria for determining sectors to include in the lists; •Need for specific time period for Exclusion? 	<p><i>To be discussed during next round of negotiations</i></p>
ARTICLE 8 Most Favored Nation Treatment	<p>Member States will be obliged to give rights to investors that may not be contained in the CCIA, but are contained in bilateral Investment Agreements that the M/S has with a third State and do not fall under the exceptions to MFN.</p>	<p><i>To be discussed during next round of negotiations</i></p>
Article 10 Transparency	<p>Each Member State would be required to make available to Secretariat all relevant measures, laws, regulations and administrative guidelines which pertain to the operation of the Agreement.</p>	<p><i>To be discussed during next round of negotiations</i></p>

Article	Key Issues	Negotiation Status
Article 13: Emergency Safeguard Measures: Coverage	Member State threatened with serious economic distress, may take emergency safeguard measures to prevent or to remedy such economic distress.	<i>Negotiated and not concluded</i> <i>(New area: most used to trade)</i>
Article 14: Measures to Safeguard Balance of Payments	In the event of serious BOP difficulties or threats a Member State would be able to adopt or maintain restrictions on investments on which it has undertaken specific commitments, including on payments or transfers for transactions in foreign exchange related to such commitments	<i>Negotiated and not concluded</i>
Article 15 Institutional Arrangements	The Agreement provides for the establishment of (i) a CCIA Ministerial Committee, and (ii) a Coordinating Committee of Experts on Investment (CCI).	<i>Negotiated and not concluded</i>

Article	Key Issues	Negotiation Status
ARTICLE 17 Settlement of Disputes between Member States	Three options have been provided for for the settlement of State to State disputes in relation to the interpretation of the Agreement. First through negotiations, followed by taking up the matter with the COMESA Court of Justice. The third option is to establish a separate dispute settlement mechanism	<i>To be discussed during next round of negotiations</i>
ARTICLE 18 Settlement of Disputes between a COMESA or a Non-COMESA Investor and a Member State	<p>This gives several options to an investor and state as to how disputes could be settled. It includes through</p> <ul style="list-style-type: none"> • Amicable settlement by the two parties • In local courts; • regional or international Arbitration (e.g. ICSID) 	<i>To be discussed during next round of negotiations</i>

Summary and Conclusions

- The Investment Framework Agreement on the CCIA is critical if the region is to realise maximum benefits from the Free Trade Area.
- The ability of investors to freely move, their capital and labour across borders brings significant advantages to investors that are targeting the regional market.
- This is also true for those wishing to utilise the various factors of production, have strategic co-operation and participate in the regional and global supply chain and shared production in the different countries of the region

Summary and Conclusions

- Regional Policy and strategy on Textile and clothing is important;
- This can only operate:
 - within a coherent trade and investment environment;
 - Where investors are accorded protection across borders
 - Where factors of production can move freely
- We should use the CCIA Legal framework to develop these common policies & strategies;
- The common policies and strategies would be used as a basis for negotiations with regional blocks, China, USA etc [***Lack of common policy nearer derailed the Third country fabric provision extension***]

Thank you for your attention

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