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**IMPLEMENTATION OF INVESTMENT LAWS IN GAMBELLA
REGIONAL STATE: CHALLENGES AND PROSPECTS**

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ABSTRACT

This research study comprises four chapters. The first part of chapter one deals with the problem and the way it approached. It encloses a brief formulation of background of the study, statement of the problem, objectives both general and specific objectives of the study, basic research questions, significance of the study. The second part reviews some of the current literature pertaining to the area of implementation of investment law, different approaches to implementation of investment law and their connection with economic and sustainable development. The third part explains the details of research methodology, design, description of the study area, data sources, procedure of data collection, scope or delimitation of the study, definition of some key terms and organization of the study, ethical consideration. Chapter two of this study discussed the Ethiopia Federal investment laws and Gambella investment laws that govern investment activities in Gambell region. Third chapter is based on analysis and interpretation data that were gathered on implementation of investment laws in Gambella Region; the role of Regional Investment Agency; trends of Registration Investment Projects; incentives under Federal and Regional laws; investment grantee to domestic and foreign investors; the rights of investors and obligation; Remittance of Capital; lodging of complaints; employment of expatriates and obligation of investor. Moreover the study also analysis the Challenges for implementation of investment laws that faced on implementation process. Lastly, it is a conclusions and recommendations that presented in chapter four.

ACRONYMS

BOI	Board of Investment
BPR	Business process reengineering
EIA	Ethiopian Investment Agency(now called Commission)
EIC	Ethiopian Investment Commission
EPA	Environmental Protection Authority
FDI	foreign direct investment
FDRE	Federal Democratic Republic Of Ethiopia
FIAS	Foreign Investment Advisory Services
GTZ	German Development Agency
GTP	Growth and Transformation Plan
IPR	Investment Policy Review
MDGs	Millennium Development Goals
MoFED	Ministry of Finance and Economic Development
MIGA	Multilateral Investment Guarantee Agency
NGO	non-governmental organization
PASDEP	Plan for Accelerated and Sustained Development to End Poverty
RDA	Regional development agency
RIB	Regional investment bureaus
RIA	Regional Investment Agency
TNC	Transnational corporation
UNIDO	United Nations Industrial Development Organization

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Table1:Source Investors Data from Gambella Investment Agency from 1985 up to 2007 E,C-34

CHAPTER ONE

1. INTRODUCTION

1.1 Background of the Study

To gain the benefit of foreign direct investment , a proper regulation of the investment is needed. this calls both for the legal frameworks and the institutional setups. It is with this objective in mind that, the Ethiopian government has enacted the investment laws and the organs to administer. Ethiopia's investment (Proclamation No.769/2012) established the investment organs for implementation of investment law objectives as stated in the preamble, as to encourage and accelerate the economic development of the country and improve the living standards, to speed up the transfer of technology into the country, to enhance and promote the equitable distribution of investments among regions and benefit the society by ensuring competitiveness among investors. To put this system in place the investment organs are mandated to supervise , ensure and issue permits, license and promotes incentives to investors. The system of administration of investment needs to be transparent and efficient. According to Article 5 of Ethiopia investment proclamation envisages the enhancement the role of the private sector and foreign investment¹.

Furthermore, the regulation no(270/2012) specified the investment incentives that are available to both domestic and foreign investors. It includes customs duty exemption for capital goods and construction materials for all investments except those activities stated under Schedules 7, 11, 14 and 15 of the Regulations. Moreover, income tax exemption for the number of years stated in the Regulations is provided for various sectors. In addition the incentives include income tax exemption for expansion or upgrading, loss carry forward, remittance of fund, land allocation at modest leasehold payment rates, bank loan incentives and facilitating infrastructure and utilities².

¹ Investment proclamation No.769/2012

² Investment regulation no 270/2012

However, there are some challenges faced in the implementation of the investment laws. Lack of capacity among leaders and public servants which is identified by the government in the implementation of the Growth and Transformation Plan (GTP) in general is reflected in the administration of investment laws as well. This was also indicated by MoFED 2001/2-2009/10. The other challenge in the implementation of the investment law is low mobilization of domestic financial resources. The countries investment policy embedded into these plans, the first of these series of development plans is Sustainable Development and Poverty Reduction Program 92001/2-2004/5) the core objective of this programme is to reduce poverty in the country and second is about Plan for Accelerated and Sustainable Development to End Poverty (PASDEP 2005/06-2009/10), the government planned these programmes toward achieving the expectations enshrined in Ethiopia's laws that aspire to promote investment in which to bring about sustainable development in the country³. This research has focused on assessing the implementation of investment law in Gambella region and the challenges.

1.2 Statement of the Research Problem

The investment Laws regulates investment activities for business purposes; the rights and obligations of investors; the guarantee of lawful rights and interests of investors; encouragement of investment ; State administration of investment activities in federal as well as regional level. In order to regulate investment activities; the government has to ensure implementation of investment laws⁴. To accelerate the economic development of the country and improve the living standards of the peoples the system permits and grants incentive to investors.⁵ A study by United Nations Conference on Trade and Development- 2011 has identified different challenges faced by Ethiopia in implementation of the investment laws and policy by Ethiopian investment agency. among others, it identified lack of investment strategy by Ethiopian Investment Agency (the Commission) to increase FDI inflows(UNCTAD/DIAE/PCB/2010/7). Furthermore, a lack of a nationally integrated strategy has led to inefficient and sometimes ineffective promotion. The

³Ethiopia GTP 201/2-209/10

⁴ Investment proclamation No.769/2012

⁵ Ibid

structure of Regional Investment Bureau(RIBs) was found not to be best suited for investment promotion in the Investment Policy Review(IPR) assessment. These agencies tended to be under-resourced, particularly in relation to skilled human resources and essential investment promotion skills. Their work was dominated by bureaucratic matters and primarily dealt with domestic firms. Furthermore, Regional Investment Bureau(RIBs) in peripheral regions can be at a disadvantage as the majority of foreign investors prefer to locate in or near Addis Ababa⁶.

After looking at the different problems faced in the implementation of investment laws in Ethiopia as depicted from the researches conducted by the UNCTAD, the researcher is interested to conduct a research on implementation of investment policies and laws in Gambella Regional State and the challenges faced, if any.

1.3 Research Objectives

1.3.1 General Objective of the Study

This study aims to explore the implementation of investment laws and policies, to identify the challenges and put forward the prospects with regard to implementation of investment policies and laws in Gambella Regional State.

1.3.2 Specific Objectives of the Study

1. To identify the challenges in the implementation of investment laws in Gambella Region
2. To analyze whether the investment law is implemented or not as intended in Gambella Region;
3. To examine the past and present investment policies, laws of investment in Ethiopia and Gambella Region.

⁶ UNCTAD/DIAE/PCB/2010/7, 2011

1.4 Basic Research Questions

The research tries to answers the implementation of investment laws and the challenges faced in Gambella regional investment organs.

Specific Research Questions

The research tries to answers following research questions on the implementation of investment laws and the challenges faces in Gambella regional investment organs.

1. What roles does regional investment agency play in the regulation of investment activities? how does it grant permit; provide investment incentives and guarantee domestic and foreign investors?
2. What are the rights of investors; and what are the obligation of investors to carry out investment activities within scope of the Federal and Regional investment laws?
3. What are the challenges faced in implementation of investment Laws in Gambella region? What prospects for investment exist in the region?

1.5. Significance of the Study

The expected output of the research will have the following importance to the following users. Therefore, the research findings might provides:

- ❖ **investment organs**, in implement the laws and policies in the Region and it might aware the top official to know challenges that prevents implementation of investment activities , addition to that, the investment organ might need to understand their failure to perform their investment obligation on socio- economic development of the regional level.
- ❖ **private sectors**, to support from investment authority in creating good working environment, good working condition, educates them effectively for efficient achievement of investment laws objectives in Regional level.
- ❖ **Researcher**, to fill the gap in conducting further researches in the region as well as in the country.

1.6 Literature Review

Even though no much literatures have been written in connection with the implementation of investment law in Gambella Region, there are some Government reports that related to it. According to UNCTAD, (2011), the Government of Ethiopia requested to conduct a review to assess progress made in implementing the recommendations set out in the IPR. To this end, a mission was conducted in March 2010, the findings of which are detailed in this report are just follows:⁷

The UNCTAD, defining the role of the EIA(right now called Commission in federal level) and strengthening the agency was a central theme of the IPR. To this regard, some recommendations were made: (a) develop a long-term national investment strategy and assign the EIA overall responsibility for investment promotion; (b) strengthen the EIA as an institution; (c) become an effective one stop- shop for investors; (d) establish an international investment advisory council; and (e) restructure regional investment bureaus. When the Implementation Policy Review(IPR) was conducted, there were a number of Government agencies involved in FDI promotion in addition to the EIA, such as the Regional Investment Bureaus (RIBs), sector ministries (e.g. mining and tourism), the Ethiopian Privatization Agency, Ministry of Foreign Affairs, Development Bank of Ethiopia and Ministries dealing with taxation. The IPR recommended that the EIA develop a promotion strategy, based upon which the Board of Investment (BOI) convene a working group to integrate promotional efforts of the various bodies in a coherent and consistent national investment strategy. In particular, it recommended that the national strategy address how best to (a) incorporate Ethiopia's promotional strengths; (b) target sectors, products and technologies; and (c) provide incentive packages and investor support into an overall approach to investment promotion. The IPR considered the EIA and national strategies to be an urgent priority and encouraged action as soon as possible. In the last five years, the EIA's activities have been guided by a strategic plan developed in-house. The Government is, however, in the process of studying the possibility to develop a master plan, under the leadership

⁷ UNCTAD/DIAE/PCB/2010/7, 2011



of the EIA, which should help better allocating responsibilities and planning the related activities (UNCTAD, 2011).

Although the EIA is legally designated as the central agency and is mandated to act in this capacity, at present it is not performing as such in practice (UNCTAD, 2011). Most glaring is the continued lack of a strategy. The EIA has made efforts to develop strategies through partnerships with the World Bank Group's Foreign Investment Advisory Service (FIAS) and the National Investment Advisory Council, but no strategy was finalized⁸.

In the interim, the EIA has identified priority sectors (textile and garment, leather, agro-processing, construction and tourism) and high-priority countries (China, India and Turkey) (UNCTAD, 2011). For example, during official Government missions the head of the EIA will accompany high-level Government officials and meet with potential investors in these countries. Another factor strongly limiting the EIA's ability to act as the central agency for FDI is the inadequate volume of promotional activities in which the EIA engages (UNCTAD, 2011). The EIA's promotional activities have been limited to producing some promotional material and attending trade fairs, which has left the door open for other organizations to conduct parallel, sometimes overlapping, activities. Until recently, the EIA lacked a functional website to provide investors with information for several years; however, this gap has been addressed with the launch of a new website that is now fully operational. This constitutes an important step towards enhanced investment promotion⁹.

The EIA should become an effective one-stop-shop. In today's terminology, a one-stop-shop for investors typically refers to facilitation of investment start-up once the investment announcement has been made. The EIA has made some progress in this area. Since 2002, in addition to delivering investment permits,¹⁰ the EIA is authorized to issue work permits, operating licenses and to provide trade registration services. However, investors still must visit

⁸ Ibid

⁹ Ibid

¹⁰ Issuance of investment permits is done in accordance with the mandates given to the EIA and RIBs by the investment law since 1992

some other Government offices to complete business start-up procedures. The EIA, therefore, is not a fully functional one-stop-shop but is slowly making progress towards becoming one.

Furthermore the EIA admits it is not prepared to fulfill many of its mandates citing budget and staffing limitations. Under the BPR, the EIA is undergoing organizational restructuring. The central idea of the restructuring is to better divide functions of the EIA to reduce coordination problems and highlight investment priorities. In addition, the EIA expects to begin recruiting after May elections, growing to 200 staff members. The IPR indicated that increasing staff was not necessarily the answer but that a more efficient use of a well-trained staff and a budget increase or readjustment towards more activities and less operating costs – would perhaps better serve the agency.¹¹

Training is another important aspect of institutional strengthening and was highlighted in the IPR. In this respect the EIA has been more successful. An in-house training programme has been implemented in customer handling, project planning, computer skills, leadership skills, and finance and accounting. There have also been some external training programmes, including training from UNCTAD focusing on aftercare and policy advocacy, the German Development Agency (GTZ) addressing investment promotion techniques and from United Nations Industrial Development Organization (UNIDO) which also focused on aftercare. These interventions assisted the EIA in developing an effective client relationship management capacity and using testimonials from satisfied investors.

The IPR identified a lack of hands-on business development experience as a serious impediment to the EIA's ability to promote FDI opportunities. Therefore, it recommended that a public-private investment advisory council be formed as a way of allowing the private sector to air its opinions on the investment climate and thereby bring its expertise to bear on the country's investment promotion efforts. With representation from foreign companies, domestic companies, and senior Government officials, the subsequently formed National Investment Advisory Council (NIAC) was a promising start to the implementation of this recommendation. However, the focus of the NIAC was not receiving, processing, and transmitting private-sector expertise throughout a national investment promotion network as envisioned by the IPR. Rather, it became

¹¹ Ibid

purely an investment promotion vehicle for the participating RIBs and ministries, including Trade and Industry, Agriculture and Rural Development, and Foreign Affairs. Overlap between the NIAC and the Board of Investment combined with a lack of progress on issues led to its eventual disbandment. More recently, a National Coordinating Committee, chaired by the Deputy Prime Minister, has been created. Together with its sub-committees, it will assist the EIA and RIBs with their investment promotion efforts and to analyze FDI inflows to the country¹².

The structure of Regional Investment Bureaus was found not to be best suited for investment promotion in the IPR assessment. These agencies tended to be under-resourced, particularly in relation to skilled human resources and essential investment promotion skills. Their work was dominated by bureaucratic matters and primarily dealt with domestic firms. Addition to RIBs in peripheral regions can be at a disadvantage as the majority of foreign investors prefer to locate in or near Addis Ababa. The investment law gives the EIA and the RIBs clear respective mandates. While the mandate of the latter is to promote and facilitate domestic investments in their respective regions, the EIA's mandate is to promote and facilitate foreign investments, joint ventures and investments whose business licenses are issued by the Federal Government. Consequently, the RIBs issue investment permits for domestic investors while the EIA does so for foreign investors. While occasionally some RIBs had circumvented the EIA and directly undertook FDI attraction activities, this practice no longer happens.¹³ Taking into account this background research, in chapter III I will consider the case of Gambella Regional State specifically on the implementation of investment laws and the challenges.

¹² UNCTAD/DIAE/PCB/2010/7, 2011

¹³ Ibid

1.7 Research Methodology

1.7.1 Introduction

This part discusses how the necessary data needed for this research was gathered. The section Provides information on the research methodology used to conduct the study. It described the study area of the research. It also discusses the research design and the method of data collection which mainly involved in-depth review and data analysis are also included in this study. The primary source makes use interview, records written by people who bear witness to an event and also direct observation, participant. The researcher used the following to collect primary data. Personal interviews, secondary data was mainly from already existing Federal , Regional investment laws and made use of publications such as books, journals, news paper articles Government reports.

1.7.2 Description of the Study Area

Gambella Peoples Regional State is located in the western part of Ethiopia at 766 kilometers from Addis Ababa. It is bordered by Beneshangul and Oromia in the north, SNNPRS and the Republic of Sudan in the south, SNNPRS and Oromia in the east, and the Republic of Sudan in the west. The region covers an area of 34,063 square kilometers and is divided into 3 tribal basis zones namely: Nuer, Agnuak, and Mezengir and 12 woredas (districts),1 special woreda called Itang and 1 town administrative. According to the(2007)data that was released by the Central Statistics Authority¹⁴, the region has a population of 306,096 with Nuer, Agnuak, Mezengir, Komo and Opo ethnic groups. It is a linguistically, ethnically and culturally distinct region with abundant water reserves, biodiversity, and fertile farmlands. When the financial crisis and foods price was a critical issue of 2007/08, national investors, multinational corporations and wealthy nations have been acquiring hundreds of thousands of hectares of lands in Gambella region for investment.

¹⁴ Ethiopia central statistics Authority,2007

1.7.3 Research Design

This study employed the approach of qualitative data collection. Data collection was based on both primary and secondary information (research and data collection) in the form of implementation for investment laws data and information from journal articles, from Regional, Federal laws, and government reports and other information were obtained through physical observation that have informed this research.

1.7.4 Sources of Data

The information for this study were gathered from both primary and secondary sources of data. The primary sources of data for this study gathered from regional Investment organs, woreda administrative councils, private investors and observation were involved. The secondary sources of data gathered from different laws, books, journals article, government report, publications and recent literature were also used to support the research findings.

1.7.5 Instruments and Procedures of Data Collection and the justifications

To gathers appropriate data for the research study, open-ended questions was used. And for instruments of data collection, interviews, observation/field notes and documents analysis have been used. In other hand, reports and supervision manuals would consult to support the findings of the study.

. i) Interviews

The interview permits greater depth of response which is not possible through any other means. Thus, the purpose of the interview to collect more supplementary opinion, so as to stabilize the questionnaire response, with this in mind, interview has been conducted from Investment organs by providing them for interview guide in order to dig out the concrete information based on the implementation of investment law. Semi-structured interview was prepared for the above respondents. The reason behind the semi-structured interview have the advantages of flexibility in which new questions could be forwarded during the interview based on the responses of the interviewee.

ii) Observation

After in-depth interview, Observation has been used as data collection tool, because it is useful for revealing the beliefs, attitudes, experiences and feelings of participants through interaction in a way which would not be feasible using other methods, like group meaning and collective behavior of participants and the analysis of environmental conditions.

1.8 Delimitation/Scope of the Study

This study was focused in the regional investment organs that would be purposely selected and some Government officials and private investors have been selected through simple random sampling technique for the purpose of the representativeness for the population of those bureaus within the region. This limitation of the scope might be due to lack of resources in term of time, transportation and material resources to conduct the study in wider geographical coverage. Due to this, the research was delimited to Lare and Makuey Woredas in Nuer Zone and some selected regional bureaus and agencies of the Gambella Regional State. Based on the content-wise, though there are many problems in implementation of investment law to make this research more manageable, this study would only focus on implementation of investment law what is motivating them to participate, the barriers they are facing and the coping strategies used for persistent participation in implementation of investment laws. Since Gambella region has three Zones with twelve Woredas, one town administration and one special woreda, it would be unrealistic and impractical to attempt to study implementation of investment law within a given time limit.

1.9 Organization of Chapters

This research study comprises four chapters. The first part of chapter one deals with the problem and the way it approached. It encloses a brief formulation of background of the study, statement of the problem, objectives both general and specific objectives of the study, basic research questions, significance of the study. The second part reviews some of the current literature pertaining to the area of implementation of investment law, different approaches to implementation of investment law and their connection with economic and sustainable development. The third part explains the details of research methodology, design, description of the study area, data sources, procedure of data collection, scope or delimitation of the study, definition of some key terms and organization of the study, ethical consideration. Chapter two of this study discussed the Ethiopia Federal investment laws and Gambella investment laws that govern investment activities in Gambell region. Third chapter is based on analysis and interpretation data that were gathered on implementation of investment laws in Gambella Region; the role of Regional Investment Agency; trends of Registration Investment Projects; incentives under Federal and Regional laws; investment grantee to domestic and foreign investors; the rights of investors and obligation; Remittance of Capital; lodging of complaints; employment of expatriates and obligation of investor. Moreover the study also analysis the Challenges for implementation of investment laws that faced on implementation process. Lastly, it is a conclusions and recommendations that presented in chapter four.

1.10 Definition of Key Terms¹⁵

Domestic investor:- 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.

Foreign investor:- means 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

¹⁵ proclamation no 679/2012 articles 2

by foreign nationals jointly investing with a domestic investor, and includes an Ethiopian permanently residing abroad and preferring treatment as a foreign investor.

Government:- means the federal government or a regional government;

Region : - means any state specified under Article 47(1) of the Constitution of the Federal Democratic Republic of Ethiopia and includes the Addis Ababa and Dire Dawa city administration,

Agency:- means the Ethiopian Investment Agency to be established by regulation of the Council of Ministers

Investment Board: - means the highest governing body of the Agency “

appropriate investment organ” means the Agency or the executive organ of a region empowered to issue investment permits

Appropriate Investment organ :- mean the Agency or the executive organ of a region empowered to issue investment permit.

Commission :- means the Ethiopian investment commission to be established by regulation of the council of ministry.

1.11 Ethical Consideration

In order to make the data collection process more effective and to have maximum rate of return, the supporting letters has been provided by the College of Law and Governance from Jimma University. After getting the supporting letter from the College, the researcher moves to the study area and contact Regional investment organs and District administrative councils to show the locations and how to begin the study. Convenient time to conduct interviews have been agreed with them. The respondents were informed the purpose and importance of the research by the researcher.

CHAPTER TWO

2 LAWS GOVERNING INVESTMENT IN ETHIOPIA

2.1 Investment Laws

2.1 .1 Definitions of investment

The term of investment may mean different things in different disciplines and contexts. The investment it can be defined as an expenditure to acquire property or other assets in order to produce revenue.¹⁶ Another writer defines investment as the placing of capital or laying out of money in away intended to secure income or profit from its employment, it is a process of economic activities in which involves capital, technology and technological know- how for purpose of enhancing future wealth or profits¹⁷. The term investment is also provided under Ethiopian investment law proclamation No. 769/2012 , defined as the expenditure of capital by an investor to establish a new enterprise or to expand or upgrade the already existing enterprise being an undertaking established for purpose of gaining profits¹⁸

2.1.2 The Essential Elements in the Definition Of Investment

There are essential elements in defining the term investment under proclamation no 769/2012,it is here considers as:

A. Expenditure of capital- To have an investment there must be an expenditure of capital. Capital, according to Article 2(3) of Proclamation No 769/2012 ,its means local or foreign currency, negotiable instruments, machinery or equipment, buildings, initial working capital, property rights, patent rights, or other business assets ¹⁹. Here what important is that the things contributed or otherwise invested should have economic value and help in the attainment of the purpose of the enterprise, i.e. making profits.

¹⁶ 1 Bryan A. Garner,(Editor-in-Chief), *Black's Law Dictionary*,(Eight Edition), Thomson, West, United States of America, 2004, p.844

¹⁷ Fisher and Jordan

¹⁸ Ethiopia investment law proclamation no 769/2012

¹⁹ Id,

B. An Investor according to proclamation No 769 state under art 2(4) means a domestic or a foreign investor having invested in Ethiopia , a person may be local or foreign investor²⁰.

I) **Domestic investor** , defined as 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. An Ethiopian investor is a domestic investor so long as she/he invests with in the country. A foreign national may also be regarded as domestic investor if she/he is Ethiopian by birth and willing to be considered as a domestic investor. Persons who are Ethiopian by birth may acquire foreign nationality. Such persons may invest in Ethiopia. If they need to be treated as domestic investor, the Ethiopian Government will consider them as domestic investors.

II) **Foreign investor**, it is also defined under same article of proclamation, as 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 . According to this definition, a foreign investor could words, an enterprise is an undertaking whose purpose is profit making. This means the enterprise should accrue an economic benefit for those who invest upon the sector.

C. Expansion and upgrading- is also regarded as an investment under investment law proclamation No 679/2012²¹. There could be an expenditure of capital on that already existing enterprise to expand it or upgrade the same. “Expansion /upgrading” means increasing in value

²⁰ Ibid

²¹ Ibid

2.2 Federal Investment Laws(Post 1991)

The Transitional Government, which was established in 1991 adopted an economic and investment policy directly opposite to that of the Derg regime. The policy emphasized the role of private investment in the development of the Ethiopian economy.

2.2. 1 Proclamation No,15/ 1992,No,37/1996,No,116/ 1998.

In 1992, Ethiopia embarked up on the liberal economic policy which is deemed to be a favorable condition for investment. To implement that policy, the Transitional Government enacted Investment Proclamation No 15/1992, so as to open the door to private investment. The proclamation provided for incentives to attract and promote private investment. It also guaranteed against nationalization and expropriation²². Thus mean that no assets of a domestic or foreign investor may be expropriated or nationalized wholly or partially except in accordance with the due process of law. After the transitional period, proclamation No 1/1995 pronounced the coming into effect of the Constitution of the FDR of Ethiopia. The Federal government enacted proclamation No 37/1996, created changes which was not in previous law²³. The changes were ,the areas eligible for incentives clearly specified, education, health, tourism, engineering and technical consultancy as well as construction contracting below grade 1, were included in the incentive scheme. Further many small-scale agricultural and manufacturing activities each with an investment capital of less than Birr 250,000 hitherto excluded from incentives were exempted from the payment of import customs duty on capital goods; some areas of investment that were reserved for government were allowed for the participation of private investors (e.g. large-scale hydropower generation above 25 MW for all private investors).

The minimum capital required of a foreign investor investing jointly with domestic investor(s) was reduced from US\$500,000 to US\$300,000, and the minimum investment capital required of a foreign investor investing in engineering or other technical consultancy services was lowered to US\$100,000; the requirement for foreign investors to deposit in a blocked account US\$ 125,000 was removed.

²² Ethiopia investment law proclamation no 15/1992

²³ Investment proclamation no 37/1996.

Proclamation No. 116/1998; was also enacted to redefine domestic investor, as well includes a foreign nationals who acquired the Ethiopians citizenship by birth; allow private investors to invest jointly with the Government in defense industries and telecommunication services as well as incentives upon the approval of the council of Ministers²⁴.

2.2.2 Proclamation No, 280/2002

Furthermore the proclamation No. 280/2002, enacted for the purpose to widen the scope of participation of foreign investors and introduce the reduction of minimum capital for foreign investors to 100,000 USD for sole investment projects; 60,000 USD for a foreign investor investing jointly with domestic investors . In addition to this the area of engineering, architectural, accounting and audit services, project studies or business and management consultancy services or publishing shall be: 50,000 US dollars if the investment is made wholly on his/her own; 25, 000 US dollars if the investment is made jointly with domestic investors²⁵. The subsequent investment laws have progressively widen the opportunity for the private sector involvement, including strengthening the incentive packages that stated under Regulation No 146/2008.

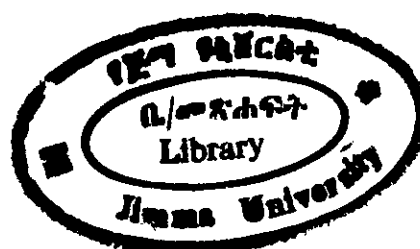
2.2.3 Proclamation No 769/2012 and Regulation of No 270/20012

The current investment laws was issued in 2012 *as the Proclamation on Investment* (the Proclamation No 769/2012) , followed in the same year by the implementing regulations. The ultimate goal of investment, as can be gathered from the preamble of the Proclamation, is accelerating the economic development of the country and improving the living standards of its people. Within the ambit of this over arching goal, the preamble also makes reference to specific goals, such as encouraging and expanding investment, strengthening domestic production capacity, increasing inflow of capital, and speeding up of transfer of technology²⁶.

²⁴ Investment proclamation no 116/1998

²⁵ Proclamation no 208/2002 & Regulation no146/2008

²⁶ Proclamation no 769/2012



The Proclamation outlines the general as well as the specific objectives of investment in the context of Ethiopia. The general objective, as stated under Article 5 of the Proclamation is to improve the living standard of the peoples of Ethiopia through the realization of sustainable economic and social development,' while the specific objectives include accelerating economic development, exploiting and developing the natural resources of the country, developing the domestic market, increasing foreign exchange earnings, encouraging balanced development, enhancing the role of the private sector in economic development, and creating sufficient employment opportunities in the country²⁷.

The Investment Proclamation of 2012 and the Regulations on Investment Incentives and Investment Areas Reserved for Domestic Investors of 2012 are the main legal framework for both foreign and domestic investment in Ethiopia. The Ethiopian Investment Commission (EIC) is an autonomous government institution accountable to the Investment Board. The Prime Minister chairs the Board . A Commissioner who is also member of the Board heads the EIC. The EIC has restructured itself recently with a view to promoting more FDI and improving the services it renders to investors²⁸.

Furthermore, the major activities of the EIC include the followings:²⁹

- Promoting the country's investment opportunities and conditions to foreign and domestic investors;
- Issuing investment permits, business licenses and construction permits;
- Notarizing memorandum and articles of association and amendment;
- issuing commercial registration certificates and effecting renewal, amendment, replacement or cancellation;

²⁷ Ibid

²⁸ Ethiopia investment Guide of 2013

²⁹ Ibid

- Effecting registration of trade or firm name and amendment, replacement, suspension or cancellation;
- Grading first grade construction contractors;
- Registering technology transfer agreements and export-oriented non-equity-based foreign enterprise collaborations with domestic investors;
- Negotiating and, upon government approval, signing bilateral investment promotion and protection treaties with other countries; and
- Advising the Government on policy measures needed to create an attractive investment climate for investors.
- The EIC also provides additional services on behalf of investors' request to facilitate the acquisition of land and utilities (water, electrical power and telecom services), to process loan and residence permit applications, to get approval of environmental impact assessment (EIA) studies for their investment projects as well as for the issuance of tax identification number³⁰.

The Government of Ethiopia in recognition of the role of the private sector in the economy has revised four times the Investment code over that period, in order to make changes and achieve more transparent, attractive and competitive in investment field. Major positive changes regarding foreign investments have been introduced through Investment Proclamation No.769/2012. The proclamation introduces minimum capital requirement for a foreign investor a bit revision made for the minimum capital required of a foreign investor that is The minimum capital required of a foreign investor is US\$ 200 thousand per project. However, if a foreign investor invests in partnership with domestic investor(s), the minimum capital required of him is US\$ 150 thousand per project, the minimum entry capital required of a foreign investor investing in areas of architectural, engineering works or related technical consultancy services, technical testing and analysis and publishing work is US\$ 100 thousand where the ownership fully foreign owned, and US\$ 50 thousand where the investment is made jointly with domestic

³⁰ Ibid

partner(s)³¹. A foreign investor reinvesting his profits or dividends generated from existing enterprise is not required to allocate a minimum capital³².

An individual investor may also invest as a sole proprietor, with full equity ownership. Areas open for joint-venture investment with the Government are the manufacture of weapons and ammunition and telecommunication services. Otherwise, the law encourages joint ventures with Ethiopian individuals and companies (proclamation No 679/2012 articles 6)³³. Investment can also be effected through business organization incorporated in Ethiopia or locally registered branch companies, public enterprises and cooperatives established in accordance with the relevant laws ³⁴.

2.2.3.1 Requirements for Foreign Investors

There are a number of requirements for foreign investors that intend to invest in Ethiopia under proclamation No 679/2012. One of these is the requirement of registration. A foreign investor should obtain investment permit first by submitting a properly filled application form with the required documents. The registration can be fix where the application is to establish as a new local viable venture in Ethiopia. The foreign investor applicant is required to submit an application form signed by an agent of the company; name clearance from the EIC in the case of creating a new company; a photocopy of agent's power of attorney; a copy memorandum and articles of associations; copy of each shareholders valid passport or identity card or photocopy of a certificate evidencing a domestic investor status; Tax identification number(TIN) ; an authenticated office lease agreement or title deed.³⁵

In case of non share company, a bank statement showing that the company's capital to be contributed in cash is deposited in a bank account and proper documents related to contribution

³¹ Investment proclamation no 679/2012

³² Ibid

³³ Ibid

³⁴ Ibid

³⁵ Ethiopia investment Guide of 2013

in kind; the same to share Company, a bank statement showing that at least one fourth of per value of the subscribed shares of the company is deposited in a bank account³⁶. Furthermore, where the application is to establish as a branch company in Ethiopia, the applicant is required to submit the Legal certificate of incorporation in the country of origin; notarized document of the memorandum and article of association; decision stating the organizations' intent to invest in Ethiopia, together with the amount of capital allocated for the purpose; and power of attorney to the appointed agent in Ethiopia and his two passport size photographs; Tax identification number(TIN) ; and an authenticated office lease agreement or title deed³⁷. Upon receiving in full the authenticated documents listed above together with property filled investment application form, the investment permit and company registration certificate will be issued within 3 hours³⁸. Where as in case if a business organization in the company, a photocopy of its memo random and articles of associations or similar documents of the parent company, legal certificate of incorporation in the country and an authenticated minute stating the organization's intent to invest in Ethiopia³⁹. Addition to this, where an applicant to expand or upgrade an existing enterprise, a foreign investor is required to submit an application form signed by an agent; photocopy the agent's power of attorney; or the applicant is sole proprietor, a photocopy of his valid passport or identity card or a certificate evidencing a domestic investor status and his two recent passport size photographs.⁴⁰

Where the applicant is a business company, a photocopy of its memorandum and articles of associations and his two recent passport size photographs of the general manager; a photocopy of each shareholders valid passport or identify card or a photocopy of the certificate evidencing a domestic investor status. In case there is a business organization in the company, a photocopy of its memorandum and articles of associations or similar documents of the parent company, a legal

³⁶ Ibid

³⁷ Ibid

³⁸ Ibid

³⁹ Ethiopia Investment guide of 2013

⁴⁰ Ibid

certificate of incorporation in the country and an authenticated minute stating the organization's intent to invest in Ethiopia; a photocopy of a valid business license of the existing enterprise; and a photocopy of project feasibility study⁴¹. The Main Department for Immigration and Nationality Affairs issues a residence permit to a foreign investor, upon the submission of his/her investment permit. A foreign investor, who is a shareholder of a company or a branch company and an expatriate staff who has a work permit, are also entitled to have a residence permit. Hence all documents whose sources are outside of Ethiopia should be authenticated by foreign public notary, the Ethiopian Embassy, the Ministry of Foreign Affairs of Ethiopia and domestic public notary.⁴²

2.2.3.2 Investment Incentives

The Council of Ministers Regulations No.270/2012 specifies the areas of investment eligible for investment incentives. To encourage private investment and promote the inflow of foreign capital and technology into Ethiopia, the following customs duty exemptions are provided for investors (both domestic and foreign) engaged in eligible new enterprises or expansion projects such as manufacturing, agriculture, agro-industries, generation, transmission and supply of electrical energy, Information and Communication Technology Development, hotel and tourism, construction contracting, education and training, hotel services, architectural and engineering works, technical testing and analysis, capital goods leasing and importation of LPG and bitumen⁴³. 100% exemption from the payment of customs duties and other taxes levied on imports is granted to all capital goods, such as plant, machinery and equipment and construction materials,

Spare parts worth up to 15% of the total value of the imported investment capital goods, provided that the goods are also exempt from the payment of customs duties; moreover an investor granted with a customs duty exemption will be allowed to import spare parts duty free within five years from the date of commissioning of a project, Further, it also an investor entitled

⁴¹ Ibid

⁴² Ibid

⁴³ Investment Regulation no 270/2012

to a duty-free privilege buys capital goods or construction materials from local manufacturing industries shall be refunded customs duty paid for raw materials or components used as inputs for the production of goods; and Investment capital goods imported without the payment of custom duties and other taxes levied on imports may be transferred to another investor enjoying similar privileges⁴⁴.

If an investor engaged in new manufacturing, agro-processing, the production of agricultural products, generation, transmission and supply of electrical energy, Information and Communication Technology Development, an investor to establish a new enterprise shall be entitled to income tax exemption as specified in the schedule⁴⁵.

Any investor to establish a new enterprise in:

- Gambella;
- Benshangul/ Gumuz;
- Afar (except in areas within 15 kilo meters right and left of the Awash River);
- Somali;
- Guji and Borena Zones (in Oromia); or
- South Omo Zone, Segen (Derashe, Amaro, Konso and Burji) Area Peoples Zone, Bench-Maji Zone, Sheka Zone, Dawro Zone, Keffa Zone, Konta and Basketo Special Woredas (in Southern Nations, Nationalities and Peoples Region) Shall be entitled to an income tax deduction of 30% for three consecutive years after the expiry of the income tax exemption period specified in the schedule there attached to⁴⁶.

Furthermore when an investor to expand or upgrading his existing enterprise increasing in volume at least by 50 percent of attainable production or service rendering capacity or introducing a new production or service rendering line at least by 100 percent of an existing enterprise is entitled to the income tax exemption period specified in the schedule and an

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ Investment Regulation no 270/2012

investor who exports 60 percent his products or services, or supplies to an exporter shall be exempted for additional 2 years⁴⁷.

In accordance with the Revised Export Trade Duty Incentive Scheme Establishing Proclamation No. 543/2007, mentioned three fiscal export incentive schemes are available for exporters. They are Duty Draw-Back Scheme, Voucher Scheme and Bonded Manufacturing Warehouse Scheme⁴⁸.

There is also a non- fiscal incentives given to all exporters are the following:

- Exporters are allowed to retain and deposit in a bank account up to 20 percent of their foreign exchange export earnings for future use in the operation of their enterprises and no export price control is imposed by the National Bank of Ethiopia;
- Franco Valuta import of raw materials are allowed for enterprises engaged in export processing; and
- Exporters can benefit from the export credit guarantee scheme which is presently in place in order to ensure an exporter receives payment for goods shipped overseas in the event the customer defaults, reducing the risk of exporters' business and allowing it to keep its price competitive⁴⁹.

A business enterprises that suffer losses during the income tax exemption period can carry forward such losses, following the expiry of the exemption period, for half of the tax exemption period. For the purpose of calculating a period of loss carry forward, a half year period shall be considered as a full income tax period. Any loss during income tax exemption period is not allowed to carry forward such loss for more than five income tax period.⁵⁰

A foreign investor has the right to remittances out of Ethiopia in convertible foreign currency:-

- ❖ Profits and dividends;
- ❖ Principals and interest payments on external loans;

⁴⁷ Ibid

⁴⁸ Export Trade Duty Incentive Scheme proclamation no 543/2007

⁴⁹ Ethiopia investment Guide of 2013

⁵⁰ Ibid

- ❖ Payments related to technology transfer agreements;
- ❖ Payments related to collaboration agreements;
- ❖ Proceeds from the sale or liquidation of an enterprise; compensation paid to an investor; and proceeds from the sale or transfer of shares or partial ownership of an enterprise to a domestic investor⁵¹.

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/her investment, its 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 interest⁵².

Ethiopia has also signed bilateral investment promotion and protection agreements with several countries and is a member of the Multilateral Investment Guarantee Agency (MIGA), which provides guarantee for non-commercial risks such as expropriation⁵³.

⁵¹ Ibid

⁵² Investment proclamation of 769/2012

⁵³ Ethiopia investment Guide of 2013

2.3 Other relevant laws to investment

2.3.1 Mining proclamation No 678/2010

This Proclamation No.678/2010 (the Mining Proclamation) enacted to regulates investment activities in mining sectors. The purpose of this Mining Proclamation No 678/2010, was enacted to Promote Sustainable Development of Mineral Resources in the country and to governs operations of all minerals with the exception of natural gas and petroleum resources.⁵⁴

According to proclamation *No.678/2010* (articles 7) ,sets the Requirement of License, states here under⁵⁵:-

- No person may undertake mining operations without having obtained the relevant license under this proclamation.
- No person may hold, transport or sell any minerals in their natural state without having a valid license.
- A legitimate occupant of land may produce and use for non commercial purpose, free of charge and without permission of the Licensing Authority, construction minerals from the area he occupies, provided that the area is not excluded or reserved pursuant to the provisions of this Proclamation and provided further that he does not disturb or damage the adjacent occupant's land or property.
- Any person may produce and use for non commercial purpose, without charge and with the permission of the Licensing Authority, construction minerals for the construction and maintenance of roads, dams, airports, schools, hospitals and other public works.
- Any Ethiopian may conduct reconnaissance without having license provided that he does not interfere with the rights of a licensee or any other person.

The proclamation No(678/2010 articles 9) also mentioned six different types of licences these are: Reconnaissance license; an exploration license; a retention license; artisanal mining license; small scale mining license; and large scale mining license. License may be granted to any person who satisfies the requirements set out in the Proclamation, regulations and directives

⁵⁴ Ethiopia Mining Proclamation no 678/2010

⁵⁵ Ibid

provided that the applicant is qualified to carry on trade under the provisions of the relevant law and possess or has a confirmed access to financial resources and technical competence⁵⁶. Further the Ministry of Mines is responsible for the processing of license application, regulation of the mineral operations and the promotion of investment opportunities in the mining sector. The Mineral Operations Department is the focal point in the Ministry for the receipt of mining license application of a foreign investor. The regional governments are authorized to issue mining license for local investors⁵⁷.

2.3.2 Commercial Registration and Business Licensing Proclamation No. 686/2010

This Proclamation repeals Proclamation No. 67/1997. Commercial registration and business license Proclamation governs the registration and licensing procedures of commercial activities. In principle, to do business in Ethiopia, business registration and licensing is required. The Federal government, with the objective of improving the existing commercial registration, implementation and business licensing rules, introduced the Federal Commercial Registration and Business Licensing Proclamation No. 686/2010⁵⁸. The Ministry of Trade and respective trade bureaus in different regional administration of the country are responsible bodies for business registration and license⁵⁹. According to the proclamation a business company should be registered once and it could have different licenses based on its engagement in different commercial activities.⁶⁰ The proclamation lists the business registration requirement based on the type of business organizations⁶⁰.

2.3.3 Rural Land Administration and Use Proclamation No. 456/2005

With respect to Rural land administration and utilization, the Government has enacted the Land Proclamation at the federal level (Proclamation No. 456/2005). This proclamation sets out the basic principles and gives the regional states the power to enact their own land administration and utilization laws. In this regard the Federal land administration and use proclamation is

⁵⁶ Ibid

⁵⁷ Ibid

⁵⁸ Ibid

⁵⁹ Federal Commercial Registration and Business Licensing Proclamation No. 686/2010

⁶⁰ Ibid

clearly grants the regional Government the right to administer the lands within their own territorial jurisdictions. In addition, the Proclamation provides rules relative to acquisition and use of rural land by peasant farmers or pastoralists, transfer of rural land use rights, distribution of rural land, resolution of disputes, restrictions on the use of rural land; and defines responsibilities of the Federal Ministry of Agriculture and Rural Development and Regions⁶¹.

2.3.4 Taxation Law

The Ethiopian tax law outlines regulations for the imposition of direct and indirect taxes. The direct taxes are divided into five categories: personal income tax, rental tax, withholding tax, business profit tax and other taxes. The main types of indirect taxes applicable are VAT, custom duty, excise and turn over taxes⁶².

2.4 Gambella Regional Investment Laws

There are investment laws enacted by the Regional Government to regulate investment activities at Regional level. These laws are, the Regional investment administration establishment (Amharic version) proclamation No 12/ 1999, aimed at guiding investment activities in Gambella Region, except for the small scale mining exploration projects, Land Lease Proclamation No.2/1999 and Rural Land Administration and Use Proclamation No.52/1999, which provides for the management and administration of land in the Region as well as in woreda level. All these laws mentioned above were enacted for the purpose to implement the investment activities in the regional government, but others laws are not found due to bureaucracy problems exist in some Regional investment organs bureaus and authorities. Note: -the laws mentioned are written in Amharic, but the researcher has been tried to translate it by his own.

⁶¹ Ethiopia, Rural Land Administration and Use Proclamation No. 456/2005

⁶² Ethiopia investment Guide of 2013

2.4.1 Regional investment Administration Establishment Proclamation No 12/1999

The Gambella Regional Government enacted investment administration establishment Proclamation No 12/1999, in which the version was written in Amharic. The proclamation states the objectives of investment laws in preamble, where as to accelerate economic development of the Regional Government and improve the living standards of its peoples. The Proclamation was also established the regional investment board that chaired by Regional president. The board comprises of Regional administration council, Regional Economic department, plane and economic bureau, Agriculture and Development bureau, mining and energy and Town construction bureau, Trade industry and Transport bureau, Investment Agency and additional to the offices which concerned about the investment promotion in the region⁶³. However, this structure of Regional investment board in currently some bureau are not the members of the board (For example like Plane and economic bureau, and Town construction development bureau). Further, the boards have it owns a new structure including other offices which was not mentioned in the regional investment proclamation.

The Regional investment proclamation No12/1999, also established the woreda investment committee in which it has different structures from federal investment laws. It provides the role of Regional investment board as well as woreda investment committee in their respective jurisdiction⁶⁴. However, The Regional investment proclamation No 12/1999, has not includes more detail about investment objectives, areas of investment reserved for domestic and foreign investors, investment incentives, form of investment, capital requirement for investors, requirement of permit as well as investment guarantees and protection.

2.4.2 Regional Rural Lands Lease Proclamation No.2/1999.

(Amharic version)

The Regional government enacted the Rural land lease proclamation No 2/1999, the proclamation divided into four parts, the first part provides some key words definition and its meaning. Second to that, is concerning about the rural land lease committee structures and their respective activities at woreda level. Further more in third part it is base on the land lease

⁶³ Gambella Regional investment administration establishment proclamation no12/1999

⁶⁴ Ibid

procedure to obtain license and land transfers to investor, land lease term of contract and lease as well as rental prices. The last once dealing with the right of fledge to transfer the land to third party⁶⁵.

2.4.3 Regional Rural Land Administration and Use Proclamation No.52/1999

The Regional Rural Land Administration and Land Use Proclamation No. 52/1999 , empower Environmental Protection and Land Administration Authority to study the regional's land and determine land use and conduct simple cadastral surveys and issue maps and certificates to each land-holder, specifying the location and size of the plot, and its borders; execute directives or regulations issues for transferring the right to use land possessed by individuals or organizations by means of leasing, and other land administration directives or regulations⁶⁶.

According to the Rural Land Administration and Land Use Proclamation No. 52/1999, private investors that engage in agricultural development activities are entitled to have the right to use rural land in accordance with the investment policies and laws at regional levels⁶⁷. The duration of rural land use right of other holders is determined by the rural land administration laws of the regions⁶⁸.

⁶⁵ Regional Rural land lease proclamation no 2/1999

⁶⁶ Ibid

⁶⁷ Regional Rural land administration and use proclamation no 52/1999

⁶⁸ Ibid

CHAPTER THREE

3. IMPLEMENTATION AND CHALLENGES OF INVESTMENT LAWS IN GAMBELLA REGION

3.1 Implementation of Investment Laws

3.1.1 Introduction

The primary data were collected from Regional investment organs(Such as:- Regional Investment Agency, Trade and Industry Bureau, Land use Management and Environmental Authority, Agriculture and Development Bureau, Small Enterprise Agency, Lare and Jikow wareda Administration council and private investors. In addition to this, secondary data were collected through the relevant documents analysis. Thus, secondary data were collected from Regional investment organs found in the study area. Based on this fact the targeted number of respondents was 20 (2 from private investors and 18 from investment organs officials). Fortunately, the respondents were willingly and properly responded the interview questions. Hence the data gathered were organized and analyzed in the manner that enables to answers the basic research questions and meet the research stated objectives for this study. There for in order to ensure the real effectiveness implementation of investment law in Gambella Regional government, several points haven be taken into consideration among which-the aspect of investment laws, their implementation and challenges provided under this chapter.

In this chapter the researcher explained the implementation of investment law in Gambella region based on the qualitatively collected data and then analyzed. The data were analyzed with respect to each of the units that were selected for the implementation of the investment laws in the regional government and the challenges faced during performing investment activities. The interview was conducted on only 2 of the investors and 18 of the Regional investment organs officials, base on their position, experience ,qualification ,ages ,sex and personal status. But the names of the people were mentioned in appendix I at the back of this paper.

3.1.2 The Role of Regional Investment Agency

In order to ensure implementation of investment laws, there is a need to establish investment administrative organs to regulate investment activities respectively. According to Federal Government and Regional level, there are investment organs institutions established to administer investment activities, those institutions have important role and responsibilities in their respective territory jurisdiction.

Regional investment Agency (RIAs) have also been established to promote and handle investments activities in region. There is a strong linkage between Ethiopia Investment Commission(EIC) and Regional Investment Agency(RIAs) with respect to technical assistance, the exchange of information and provision of investment facilities (RIA. Ato Samson Dak, core process owner) response in the first interview⁶⁹. He added, Gambella Regional Investment Agency is established by proclamation No 12/1999. It is one of the investment organs having crucial role to implement investment activities in the region. The Agency was established with one General director, potential, investment core process owner and the required units staffs. It is accountable to the Regional investment board. The Regional Investment Agency has the following power and functions to (Regional investment establishment proclamation No 12/1999):

- ❖ Issue investment license where conditions are fulfilled as provided under the Federal Government investment Proclamation ,
- ❖ Revoke investment license when the investor not comply to the law or the activities are harmful to affect the environment,
- ❖ Initiate investment policies and laws that are consistent with the investment policies and laws of the Regional Government ,
- ❖ Ensure the implementation of Investment policies and laws;
- ❖ Collect information on investment opportunities and disseminate it to investors and it is empowered to introduce objective projects to them,

⁶⁹ Gambella Regional investment Agency , core process owner(Ato Samson Dak.)

- ❖ Render necessary advice and technical support to investors and guarantee tax exemptions.⁷⁰.

The Regional Investment Agency was Registered some Investment Projects in different sectors. Hence in the case of investment projects, the documentary data gathered from regional investment agency indicates that, in agricultural investment 1,415 projects, industry 26, and service sectors 173 projects were registered. The projects allocated 1,670,844,566.03 capital between 1985 and 2007 E.C. and created job opportunities to the people in the region⁷¹. Based on this official statistical data; the mining sectors was excluded, the numbers of foreign and domestic investors was not separately registered and the amount of hectares of the land acquired for their projects were not explicitly identified. To relate this in the assessment conducted by UNCTAD in 2011, the investment law gives the RIBs (commission) clear respective mandates. While the mandate of the Gambella Regional investment Agency is to promote and facilitate foreign investments, as well as domestic investments whose business licenses are issued by the Federal Government and by their respected jurisdiction. However RIAs had partially registered only some sectors and left out mining sector in the report. This shown that the implementation of investment laws mandate to Regional investment Agency is still less practicing .

3.1.3 Trends of Registration Investment Projects in Gambella

The investment projects that were registered from 1985 up to 2007 E.C by the Regional investment Agency were resulted into an increased the number of foreign and domestic investors in the region. Therefore, such increasing of the investors has been evidenced by an increased number of registered projects and its value of investment capital allocated⁷² . Hence Such positive results brought by investors have also contributed to GDP growth and social and economic development in Regional government as indicates here blows in the tables1.

⁷⁰ Ibid

⁷¹ Gambella Investment Agency Report ,from 1985 up to 2007 in E. calendar.

⁷² Ibid



Table: 1. Source Investors Data from Gambella Investment Agency from 1985 up to 2007 E,C

Years(in Ethiopian Calendar)	NO of investo rs	Item of permit			Capital	Job opportunity	
		Agriculture	Industr y	Service		Permanent employe nt	Tempor ary employ ment
From1985- 1999,E,C	34	24	6	4	25923427	1506	2902
2000	53	44	0	9	569297750	2782	15488
2001	196	169	3	24	956990000	9107	71728
2002	210	199	1	10	155693525 0	11322	24632
2003	271	242	5	24	164362076 2	8065	47764
2004	53	32	4	17	373301820	963	2640
2005	14	5	3	6	804149807	2267	5056
2006	175	162	4	9	145809589 3	3664	16545
1/11/2006- 30/2007	614	538	6	70	932014189 4	19300	132383
Total	1620	1415	26	173	167084456 603	58976	319138

3.1.4 Incentives under Federal and Regional laws

The researcher post a question to Regional investment Agency core process owner again, in order to know if the regional investment Agency afford investors for incentives during the process. He replied that, the another role of Regional investment Agency is to grant investment incentives to foreign and domestic investors, with the intention to attract them. Incentives may include measures either to increase the rate of return of a particular FDI undertaking, or to reduce its costs or risks⁷³. As to analyzes this, to federal investment laws further show that , investment incentives are grant to investors, in the meant to achieve the very objectives of the country's investment policies and laws. The predominant types of incentives in Ethiopia are fiscal in nature-other incentives are access to land may be found in different laws. Thus incentives they are tax exemptions and custom duty import conditions and level of incentive may be based on economic sector, place of investment, and product destination.

Addition to that the intentions of granting investment incentives under Minister Regulation No. 270/2012 for domestic and foreign investors is to increase and speed up the flow of capital, technology transfer, employment creation and over all development of the country⁷⁴. Hence Regional investment Agency core process owner argued that the Regional government has power to grant an investment incentives to investors even though no clear guide line and regulation in regional government, but there are different types of incentives related to land granted to investors. The incentives include percentage discount on initial lease prices, provision of grace period of payment, provision of land for free, (for example) the Investment Projects for which land is provided freely are: Higher Education. Kindergarten. Health, Real Estate, Star

⁷³ RIA core process owner(Ato Samson Dak)

⁷⁴ Investment Regulation no270/2012

Hotels(interview RIA core process owner Ato Samson Dak)⁷⁵ .The interviewee also added the regional investment Agency give support to investor after all investment permit requirement fulfilled , according to the form of enterprises , the agency can write support letter for each investment projects to have loan from Ethiopia development Bank .

3.1.5 Investment Grantee to Domestic and Foreign Investors

Guarantee to investors are crucial points that are related to incentives .With respect of guarantee to investors, it is essential to grant it for both domestic and foreign investors. In other words, a host country is required to make sure that the law on investment should offer guarantees to both domestic and foreign investors without discrimination in order to encourage investment. Commercial Code of 1960 provides the legal framework for undertaking business activities in Ethiopia⁷⁶ and the FDRE constitution indicates the rights under Article 40, is to ensures the right of every citizen , the ownership of private property, including the right to acquire, use and dispose of such property⁷⁷ .

The Investment Proclamation (769/2012) provides guarantee and protection to foreign investors. Accordingly, no private investment may be nationalized or expropriated except when required by public interest and only in compliance with the requirements of the law. In case of expropriation or nationalization of an investment for public interest, adequate compensation is paid in advance.⁷⁸ moreover capital repatriation and remittance of dividends and interest is guaranteed to foreign investors⁷⁹. Here mentioned above the law sets requirements , one of the requirements of the law is that compensation should be paid. With regard to the value, the law provides that it should correspond to the prevailing market value. In principle, the investor should be indemnified

⁷⁵ Ibid

⁷⁶ Ethiopian commercial code of 1960

⁷⁷ FDRE art 40

⁷⁸ Investment Proclamation no769/2012

⁷⁹ Ibid

the cost of his/her investment. Moreover, it is the market that offers the actual value of a property. The other requirement of the law is that compensation should be paid in advance, where the investment is expropriated or nationalized. This is a requirement of promptness of compensation. In general, the compensation, under our law, should be adequate and prompt. Further, the guarantee is granted to both foreign and national investors without discrimination. Where a foreigner receives compensation, she/he is allowed to remit the same to his/her country. Thus, a foreign investor can remit the compensation paid to him/her out of Ethiopia in convertible foreign currency.

Ethiopia has signed bilateral investment promotion and protection agreements with several countries and is a member of the Multilateral Investment Guarantee Agency (MIGA), which provides guarantee for non-commercial risks such as expropriation⁸⁰. With a line to the bilateral agreements in which Ethiopia is a party, expropriation or nationalization and any other similar measures against the investments are not allowed in principle. Exceptionally, however, expropriation may be made for the public interests; under domestic legal procedure; without discrimination; against compensation. In other words, expropriation is prohibited unless these requirements are met. The compensation should be equivalent to the value of the expropriated investment at the time of expropriation. In addition, it must be convertible and freely transferable. Therefore the researcher tried to look that, if the regional investment law incorporate the grantee in law provision or not, but at the Regional Level As per Art. 8 sub 1(b) of Proc. No 12/1999 of the investment states that, the investment Agency is empowered to implement the investment policy and laws. This it seem that the guarantees that are given under the federal Government Investment law, are given to investors in the Region, but the provision is not incorporated under regional investment laws.

3.1.6 The Rights and Obligation of Investors

3.1.6.1 Remittance of Capital

Remittance of capital is rights of investors under the Ethiopian investment law. Moreover, it is possible to explain it as the right to transfer capital and profits from the investment to the

⁸⁰ Ethiopia investment Guide of 2013

nation of the investor. There for a foreign investor has the right to make the following remittances out of Ethiopia in convertible foreign currency:⁸¹-

- ❖ Profits and dividends gained from investment;
- ❖ Principal and interest payments on external loans. To felicitate the loan shall be registered with the National Bank of Ethiopia;
- ❖ The investor may have right of payment on technology transfer; s/he is allowed to transfer such payment to his/her country;
- ❖ The investor is also allowed to transfer to his/her country proceeds from the sale or liquidation of an enterprise;
- ❖ Proceeds from the transfer of shares or of partial ownership of an enterprise to domestic investor . Further, any foreign investor is allowed to remit compensation paid to him/her where the investment is expropriated.

Hence N/A private farm agriculture manager who invest in lare woreda administration council ,respond that such a right was not in practicing in Gambella Regional government ,but may be protected to foreign investor by federal government⁸².

To analyze this, most of the Regional investment Agency experts are not aware to apply this investment right in to practices.

3.1.6.2 Lodging of Complaints

According to Federal investment proclamation no 679/2012 ,provides right to any investor, under article 32 states that any investor shall have the right to lodge complaints related to his investment with the appropriate investment organ and any investor who has a grievance against the decision of the appropriate investment organ may, within 30 days from receipt of the decision, appeal to the Investment Board or to the concerned regional organ, as may be appropriate⁸³ . The provision was also incorporated in Gambella regional investment

⁸¹ Ethiopian investment proclamation no679/2012

⁸² A/N private farm agriculture manager

⁸³ Investment proclamation no 679/2012

administration establishment proclamation no 12/1999 ,but the study does not find any Lodging of Complaints to investment Agency office.

3.1.6.3 Employment of Expatriates

Investment proclamation of 2012 provides right also for employment, under Articles 37(3),states that a foreign investor shall, without any restriction, have the right to employ expatriate employees on top management positions for his enterprise⁸⁴. This show that in the table once an investors employed worker from 1985 up to 2007 E, C for permanent employee is 5,8976 and temporary employee is about 31,9138, all of them are benefits from investment project carried by investor in the regional Government⁸⁵.

3.1.6.4 Obligation of Investor

An important additional to the new Proclamation with regard to the obligation of investors, is provided under Article 38 of the proclamation No 679/2012 and it states as follows:⁸⁶Any investor shall have the obligation to observe the laws of the country in carrying out his/her investment activities. In particular, he/she shall give due attention to environmental protection. Furthermore, Article 20 of the same proclamation states that, any investor with investment permit shall: submit progress reports on the implementation of his/her project to the appropriate investment organ at the end of every three months, and provide information concerning his/her investment activities whenever required by the appropriate investment organ⁸⁷.

According to what I observed during field work in the study areas, some of investors are not punctual to invest or cultivated anything in the land allocated to them rather only clearing a huge forests, that resulted to displaced wildlife that were living in the areas.(For example: like

⁸⁴ Ibid

⁸⁵ Gambella Regional investment Agency report from 1985 to 2007 E,C

⁸⁶ Investment proclamation no 679/2012

⁸⁷ Ibid

applying the role that were expected from them to implement investment laws. For instance, in case when the investor not comply to the law or the activities are harmful to affect the environment, the Regional investment Agency should revoke the license of concerning actors, but not in practices.

3.2 Challenges for Implementation of Investment Law in Gambella Region.

In order to consider the challenges faced on the implementation of investment laws in the study area, 18 experts from Regional investment organs bureau and woreda administration councils and two respondents from private investors were selected randomly for interview. The data obtained from these experts and private investors revealed that, there were some sources of challenges faced on implementation of the investment laws in the Region, and those challenges were attributed by regional investment organs and investors. These include, lack of monitoring and evaluation, shortage of budget or lack of material resources, vehicles and problem in the coordination among investment organs. In addition to these, there are lack of knowledge and experience to regulate and to permit incentives, lack of awareness of laws to revise, formulate and implement strategies of regulations for implementation of investment laws. The finding of this study also emphasized that, there were problems relates to bureaucracy, corruption and poor data record. Another challenges were the failures of investment organs to check-up the appropriateness of particular information given by investors in the due process of licensing and failure to respect the laws⁸⁸.

⁸⁸ 18 experts from Regional investment organs bureau and woreda administration councils and two respondents from private investors.

3.2.1 Challenges Attributed by Regional investment Organs

3.2.1.1 Sources of challenges

The data obtained from Regional investment organs experts and private investor revealed that there were some sources of challenges faced on implementation of investment laws in regional government during the process. Thus challenges were selected and arranged according to sub topics among these includes:

- ❖ Lack of Coordination ,
- ❖ Lack of Monitoring and evaluation. ,
- ❖ Lack of Awareness of the laws,
- ❖ Corruption,
- ❖ Bureaucratic problems
- ❖ File recording problem,
- ❖ Failure to Respect the Law,
- ❖ Failure to Report.

The researcher organized the sources of challenges and explained according to data obtain from respondents in study area are just follows:

3.2.1.2 Lack of Coordination

There were a problems in the coordination among investment organs. The organs are not properly coordinated investment activities in the regional government and no smooth coordination with stakeholders in the region as well as sectors' bureau and agencies' experts, rather the regional investment board only run every work without involvement of sectors' bureau and investment agency experts(RIA expert, Ato Nhial Dak).⁸⁸ Besides, the interviewee from National Park and wildlife authority replied that, from the principle point of view, regional investment board comprise with Investment Agency, Trade and industry Bureau, Agriculture Bureau, Cultural and truism Bureau, Land use management and environmental protection Authority, National Park and wildlife authority, Mine and energy authority and worda

⁸⁸ Regional investment Agency expert

administration council, is the higher a body that coordinate the investment activities and to decided the investment projects at the regional level. However, such a structure was not working in integrated manner to organized the proper work of investment activities in the region(Gambella national park expert Ato Buhemness)⁸⁹. The regional national park expert also concluded, that failures to coordinate the various investment activities and programme that base for investment projects may not bring the effectiveness of the implementation of investment laws' objectives in the region Government.

Coordination problems was also occurred between the regional land utilization management and environmental protection authority and woreda administration councils in the case of land transfers to investors and lack of environmental impacts assessment. The expert interview from regional land management and utilization authority indicates that, the environmental impact of land assessment take place after the land was already given to the investor by wareda administrative council, this lack of coordination made problem between wareda administrative councils and regional land utilization management and environmental protection authority(Ato Beil Kiet)⁹⁰. This implies that, in reality it could be necessary for the regional land use management and environmental protection authority to asset environmental impact before land transfers to investors, but failed to implemented. Furthermore, the Regional Rural Land Administration and Land Use Proclamation No. 52/1999, empowering Environmental Protection and Land Administration Authority to study the regional's land and determine land use and, conduct simple cadastral surveys and issuance maps and certificates to each land-holder, specifying the location and size of the plot, and its borders. Hence to avoid such coordination problems and to achieve investment objectives in regional government, the investment board need clear strategic plan and transparency and integrate to all regional investment organs.

3.2.1.3 Lack of Monitoring and evaluation

In Regional investment Agency, the interview was conducted from two experts(Ato Tefere & Ato Lual) responded that there were no monitoring and evaluation in the offices to follow up

⁸⁹ Gambella national park expert

⁹⁰ Regional land management and environmental protection core process owner(Biel Kiet)

investment activities at projects' side located to investors⁹¹. Besides, two other interviewee responded that, in order to achieve an effective implementation of investment activities or projects requires monitoring and evaluation in terms of making appropriate adjustments through the implementation process (interview from one expert, Ato Lual and core process owner of Regional investment Agency, Ato Samson Dak)⁹². They also added that in order to make monitoring and evaluation clear or neat, it should be guided by clearly defined strategies, objectives, and procedurally. This implies that, the regional investment board failed to integrated monitoring and evaluation in appropriate ways of success. Hence, in order to achieves MDGs programs for implementation of investment laws, policies and to play major role for a sustainable development in the region, have better to locate sufficient budget for supervision materials, to buy cars, to give services and empowering experts regarding to the knowledge and experience. Thus, investment organs need to train their personnel to upgrade their knowledge and skill to regulate investment projects for achievement of investment's objectives in the region.

3.2 .1.4 Lack of Awareness of the Laws

The Regional Government was enacted investment laws for a long period of time, but the Regional investment organs were not willing to aware the stakeholders about the purpose and objectives of investment laws in the region(Interview RIA core process owner Ato Samson).⁹³ Moreover, the reasons for such unawareness of the laws, resulted in the regional government not to give due attention to implement objectives of the investment law and not punctual to revise the exiting investment laws and not enact investment regulations for implementation of investment incentives(Interview RIA core process owner Ato Samson). He also added that, the Regional investment administration establishment laws was enacted without clear area of investment reserves for foreign, domestic and government. This dedicated that, the investment laws were enacted for long period of time without revision and therefore this makes confusion in a newly

⁹¹ Regional investment Agency experts

⁹² Ibid

⁹³ Ibid

investment laws enacted in federal level in the way of implementation of investment activities in the region. Further the regional investment and land laws were not distributed to regional investment stakeholders, that is why to create doubtfulness to implement the laws by the actors.

In order to know the laws, all investment stakeholders, need contribution and full participation in law's enactment process. The interviewee also responds that the regional investment agency was not sufficient to give real information about the laws and policy in which concerning the implementation of investment activities and the regional investment agency has not opened website in order to Collect information an investment opportunities and disseminate laws and policies to investors and not empowered to introduce objectives of investment laws to stakeholder⁹⁴. In such a case the study realized that the regional investment agency was not an effective for the role of one-stop-shop given under the investment laws.

3.2.1.5 Bureaucratic problems

The researcher posted the interview questions whether the regional investment organs implementing or furnish the investment activities on time or not.? According to A/N farm Agricultural manager invested in Lare woreda responded that, there was chain bureaucratic problem from Regional investment organs to woreda administration councils, there is endless payment of land use taxation, when one investor transfer land to him, immediately the wareda custom and taxation offices ask the land lease price while no clear provision to pay tax show to us⁹⁵. He added that in Regional investment organs there were some bureaus having a bureaucratic problem, as particularly lack of efficiency and transparency in the regulating of investment activities in the Region. Further, some bureau give long term appointment not to implement work on time, the concept of one-stop-shop service is not implemented.

In additional to what I observed from field study, the Gambella Regional investment organs has some weakness to give decision and service on time; the office of that organs has excessive bureaucratic not to grant license on time as well as permitting incentive to investors. As I analyzed the primary data mentioned above, there is maladministration among leaders and public servants, in such case cannot a achieve transparency, attractive and competitive in

⁹⁴ RIAs experts, Ato Somson Dak

⁹⁵ A/N farm Agricultural manager

investment field. In order to implement the main investment laws objectives in the regional government, among leader need honesty and transparency to gives services to the public.

3.2.1.6 Corruption

In order to understand corruption in simple way, is one's of the manifestations of the breaking of the law. It is advancement of one's own benefit at the expense of others and it is also an unlawful way of maximizing one individual interest⁹⁷. The data obtain from regional investment Agency expert reveal that, there were some challenges in the offices during the process of issuing license to investors. One of the expert made mistaken and he granted perjury licenses to some investors and received money from them, so now he accused for the wrongful act committed in the offices⁹⁸. Furthermore, other three experts from Regional land management and environmental protection, expressed the same idea to interviewer, an eagerness of investors to get land before without fulfilling the requirement documents. This implies that, misunderstanding of the laws by the investors are in the first place to jeopardize the agency staffs sidelined of the investment laws and policies⁹⁹. This mean that the investors want to get land by short curt without follows the lawful requirements. In line with this, there was one expert from deportment of (GIS) was arrested due to corrupted by given land to inventors overlapped one anther intentionally without respect the rule of law. Additionally, A/N farm agricultural enterprise manager also said that, previously he was motivated to invest in Gambella Region due to soil fertility, topography and he was respectively entertained to invest in worda and Gambella surrounding area, but now things are quite opposite and he expected again to pay money by worda administrative council to get land and investment license certificate . Hence if it is the case the implementation of the investment law is becomes low and mobilization of domestic financial resources cannot be achieved.

3.2 .1.7 File Recording Problem

⁹⁷ college:civic and ethical education,2oo7

⁹⁸ RIA expert(Ato Nhial Dak)

⁹⁹ RLM&IPA experts(Ochan,Bol, Biel Kiet)

Problem relates to documentary data gathered from regional investment agency that shown in table one of this chapter, indicated that, the regional investment agency was failed to record mining sectors and to differentiate the numbers FDI and domestic investor invested in the region⁹⁸. This indicates that, there is lack of capacity of leaders and public servants in which they have expertise and skills problems on gathering data and make it available for the required purposes and goals. In this respect the Regional investment Agency in order to overcome such a challenges, need a training programmes for data base skills and leadership skills.

3.3 Challenges Attributed by Privates Investors

3.3.1 Failure to Respect the Law

The Federal investment proclamation No 769/2012 articles 38 states that, any investor shall have the obligation to observe the laws of the country in carrying out his/her investment activities. In particular, he/she shall give due regard to environmental protection⁹⁹. Further the researcher conducted interview on two experts in investment agency and Gambella national Park authority and they responded that, some investors are not carried out their obligations according to the investment laws provided by the Federal and Regional investment laws¹⁰⁰. This implies that, the less control of monitoring and evaluation services in the bureaus and agencies by the their leaders and they neglect their responsibilities as they not to protect natural resources and failed to benefits the local communities. In addition to this, experts from Makey and Lare wareda administration councils, they also added the similar ideas, as to the areas where the Karaturi agro investment company located to invest in delimited geographical areas of those waredas, however, the company has been violated the laws and extended the hectares beyond the demarcation that was included under article of the agreement, as a result, the company occupied a large area and displaced local communities in the areas¹⁰¹.

⁹⁸ GRIA report

⁹⁹ Federal Investment proclamation no 679/2012

¹⁰⁰

¹⁰¹ Makey & Lare Wareda experts(Dey& Nipnip)

Hence to highlight this, those investors who operated within a Regional territory should oblige to carry out their activities in conformity with the development policies, objectives and priorities set out by the Regional government to manage them and operate or work carefully make a positive contributions to the achievement of sustainable development goals at the regional level, otherwise the Regional government should take reasonable measures to ensure operations of investment not to have a negative impacts on human rights as well as on natural resources in the Region.

3.3.2 Failure to Report

The Federal proclamation of investment law No 679/2012 under article 38 stated that, any investor shall have the obligation to observe the laws of the country in carrying out his/her investment activities. The researcher posted the interview questions to respondents to check whether the investors complied to law or not, and the respondents from Lare and Makey woredas responded that, investors are not observing the laws in the region. For instance, the investors who are carried out their investment activities in their waredas were not respected the rules and laws,¹⁰² because they failed to report every six month activities of their investment progress. The respondents also added that, some investors leaves their areas where they invested in before without the permission of the wareda administration councils.¹⁰³

¹⁰² Ibid

¹⁰³ Ibid

CHAPTER FOUR

4. CONCLUSION AND RECOMMENDATION

4.1 Conclusions

Ethiopian government has made important role towards the implementation of investment laws to attract FDI investing into different sectors; further, Federal Government has a long way to go, by revising its existing investment laws. Despite, federal's investment laws reforms and attractive incentives, so many investors have invested in Agriculture; Manufacturing; Tourism; Mining and Social Services sectors. This is evidenced by the GTP 2010/11 – 2014/15, that contains key policies and strategies to sustain a broad-based, rapid and equitable economic growth. This shows that the government has to work further to attract into other sectors of the economy.

Further, Gambella regional state is one state among others in Ethiopia, empowered by FDRE to enacts the investment laws in their respective jurisdiction in order to achieve the investment objectives in the region. However, the regional investment organs through implementation of investment laws was partially ineffective and caused some challenges which could negatively affect regional development and investment in the different sectors. Some of these challenges are lack of coordination, lack of monitoring and evaluation, lack of awareness of the laws, corruption, bureaucratic problems, file recording problem, failure to respect the law, failure to report. Hence in order to implement investment laws and overcome those challenges, the Regional Government need to reform the investment laws that exist to make clear investment strategies and policies to follow up investment activities in the region and to allocate sufficient budget for supervision. Further the regional government have to work harder to avoid bureaucratic problems and have strong interrelationship among investment organs to improve the efficiency and effectiveness of implementation of investment laws in the regional government.

4.2 Recommendations

The challenges for implementation of investment laws in the region are attributed both to the investment organs and investors. Less coordination may hinder achievement to socio-economic and sustainable development in the region, thus indicates that the less of effectiveness of implementation of investment laws by Regional investment organs. Based on the finding of the research, the researcher forwards the following recommendation.

- Lack of awareness of laws must be avoided by giving participation of stakeholder during law enactment process, giving training, work shop to both government official and private investors. When all government official and investors are aware of the laws and policy, the implementation of investment laws become effective.
- Furthermore, the researcher recommends that: It is highly needed to have revision on Gambella investment administration establishment proclamation No.12 of 1999, to fill the gaps in the regional investment laws, to address issues related to Investment objectives, incentives, clear procedures for Registration and guarantee. In addition to this, the regional government need to enact regulation and to have guide line for implementation of investment laws in the region.
- Regional investment bureaus have to work in coordination with other government offices connected with investment like land management offices.
- Regional investment board need full commitment to make effective coordination, quarterly to make monitory and evaluation and usual communication among the regional sectors, wareda offices and private sectors not to create misunderstanding in the implementation of investment activities.
- Further Regional investment organs needs to build human resources for the implementation of the investment laws properly.
- Lastly but not the list there should be transparent procedures in the administration of investment at different levels so that the corruption problems will be reduced.

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- Respondents Interview conducted in Gambella regional investment organs bureau and private sectors , on 10-19 may2015, Annex I:

Interview Respondents: Annexes:I

Respondent	Position/organization	Place	Date of conducted Interview
Gambella Regional Investment Agency	Samson Dak, Core process owner of Investment Agency. Tefere experts, Nhial Dak expert, Lual expert of Investment Agency	Gambella Regional Bureau/Agency/Authority	10 may 2015
Gambella Regional Land management &protection Authority	Biel Keat Core process owner of land management Authority Bol , experts Ochan , expert of land management Authority	>>	11may2015
Gambella National Park	Behumness acting warden of Gambella national park	>>	12may2015
Gambell Culture &Turism bureau	Derbushu expert of Culture &Turism		12may 2015

Gambella Regional Agriculture Bureau	Kang Mojok Expert	>>	13may2015
Gambella Regional Micro Small enterprise Agency	Peter Ochan , experts Tanyal ., expert Doboul , expert	>>	13may2015
Gambella Regional Trade & Industry bureau	Dech Bon, vice of industry, G/bel Mon, vice of trade. Omod Okuer, core process owner of trade & industry bureau.	>>	14may2015
Lare Wareda a administration Council	Nipnip Yiek, expert of wareda Custom offices	Lare wareda	17may2015
Makey Wareda administration council	Dey Bol, expert of wareda Agricuture offices	Makey wareda	19may2015
Private Investors	A/N,farm Agriculture manager, Adunya G/heir	Lare wareda	17may2015

APPENDIX-II
JIMMA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE
DEPARTMENT OF COMMERCIAL AND INVESTMENT LAW
INTERVIEW GUIDE FOR BUREAU/AGENCY/ATHOURITY AND WAREDA
OFFICES

Thank you very much for having accepted to participate in this exercise. I'm LLM Degree student at Jimma University and I'm studying the problems that hinder the Implementation of Investment Law regarding challenges and prospects in Gambella Regional States and the strategies being used to implementation them effectively. Therefore, I'm going to ask you a few questions in our conversation and I would like to assure you that all the information you share with me will be treated with confidentiality and only used for educational purpose. Feel free to ask me questions where you do not understand. I hope you do not mind if I use a tape recorder since I need to go back and listen to our conversation.

Part I: Background Information of the Respondent

Name of the Bureau/Agency/Authority_____

1. Sex: Female Male

2. Age: 20years 21-30years 31-40years 41-50years above 50years

3. Marital status: Married Single Divorced

4. Educational level: Certificate Diploma BA/BSC MA/MSC PhD

5. Current position:_____

6. Years of experience: 0-10yrs 11-15yrs above 16yrs

Part II: Conversation Course of Action Questions

1. The implementation of the investment law in Gambella Regional State

1.1 Is there any past and present policies and guideline regarding implementation of investment objectives in regional investment organs? If your answer is yes, please tell me their list.

2.What laws are governing investment in Gambella Regional state?

A. Is there a regional investment laws? _____

B. What are the proclamation that regulate investment activities? _____

C. What are the regulation? _____

1.3 Do they have different from federal investment laws? _____

1.4 What minimum-capital is required in order to obtain a license or authorization by an investor? _____

1.5 How long time it takes to obtain an investment-License?

2. Is there any challenges facing on implementation of investment law in Gambella region? if yes what are they? list them

2.1 What do you think the sources of the challenges? Is that the policies, law, the investors and/or offices implementing investment policies and laws?

2.2 What solution do you comment for the challenges?

2.6 What is the role of regional investment organs; to regulate investment activities and how to grant permit; investment incentives and grantee to domestic and foreign investors?

2.7 Is that the rights and obligation of investors are carrying out in concern of investment activities within scope of the federal and regional law?

APPENDIX-III
JIMMA UNIVERSITY
COLLEGE OF LAW AND GOVERNANCE
DEPARTMENT OF COMMERCIAL AND INVESTMENT LAW
QUESTIONNAIRE TO BE FILLED BY BUREAU//PRIVATE/PLC

The purpose of this interview questionnaire is to collect relevant data to the study entitled "The Implementation of Investment Law regarding challenges and prospects in Gambella Regional States ". Your responses are vital for the success of the study. So you are kindly requested to read all questions and response to the interviewee with genuine response. The purpose of this interview questionnaire is only for academic purpose.

Part One: Background of the Respondent

Name of Bureau/ Private/PLC: _____

1. Sex: Female Male
2. Age: 20years 21-30years 31-40years 41-50years above 50years
3. Marital status: Married Single Divorced
4. Educational level: Certificate Diploma BA/BSC MA/MSC PhD
5. Current position: _____
6. Years of experience: 0-10yrs 11-15yrs above 16yrs

Part Two:

2.1. What motivate you to invest in gambella region? _____

2.2. Have you seen any difference on the investment situation before you invest and after the investment began? what difference you saw?

2.3 Have you ever faced any problem with implementation of investment law? if yes what are they? or if no state the reason _____

2.4 Have you faced problem on implementation of customs duty exemptions provided for investors engaged in eligible new enterprises or expansion projects?

2.5 A foreign investor has the right to make the remittances out of Ethiopia in convertible foreign currency?(in profits and dividends; principals and interest payments on external loans; payment to technology transfer agreements; payments related to collaboration agreements; proceeds from the sale or liquidation of an enterprise). have you faced problem in this regard? _____

2.6 Any investor to establish a new enterprise in Gambella regional state, shall be entitled to an income tax deduction of 30% for three consecutive years after the expiry of the income tax exemption period specified in the regulations? have you faced problem in this regard? _____

2.7. Have you faced any problem in borrowing money from micro-finance and bank?
