

**ADDENDUM TO THE REPORT OF THE COMMITTEE ON FINANCE,
PLANNING AND ECONOMIC DEVELOPMENT ON THE INVESTMENT CODE
BILL, 2017**

1.0 Background

The motion for the second reading of The Investment Code Bill, 2017 was moved in the House on 25th April 2018. During the debate, members raised concerns about the failure of the committee to incorporate all the investment incentives in the Bill and it was resolved by the House that the Minister meets with Committee to decide on whether the investment incentives should be housed in the Investment Code Bill or both in the Investment Code Bill and the Tax laws.

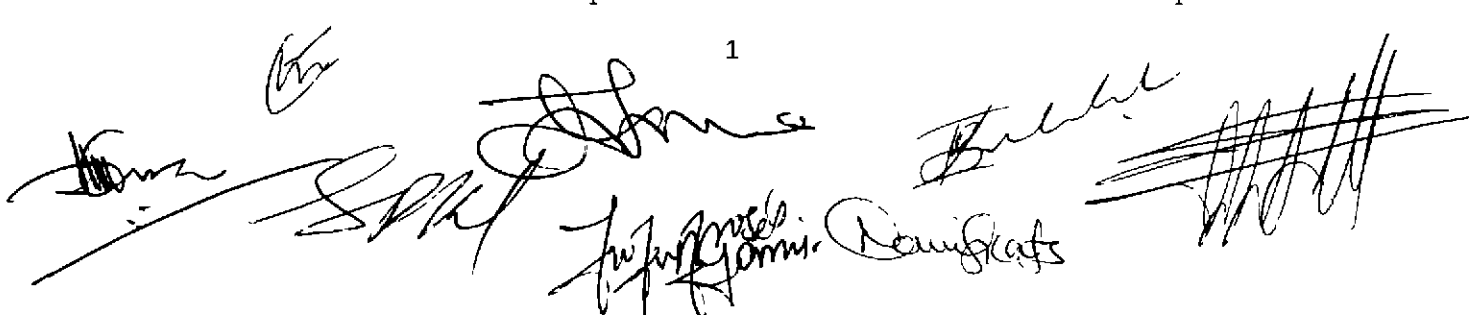
2.0 Methodology

The Committee held a meeting with the Ministry of Finance, Planning and Economic Development and Uganda Investment Authority.

3.0 Observations by the Committee

The Committee observed that:

1. The incentives regime keeps changing. What may be relevant this year may not be relevant the following year. Most of the investment incentives cut across and should be housed in the relevant tax law of that sector. These investment incentives in most cases take the form of tax reliefs or exemptions and these are best provided for under the relevant tax laws. Non-financial incentives can be provided for in the Investment Code.
- ii. Investment registration requirements are not provided for in the Bill. This will make it difficult for investors to know what is required during registration. There is need to provide for the investment registration requirements in the code. At the time of applying for registration, an investor should be in position to submit their business plan which

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should contain information like the date of commencement of the business, the type of business, information on financing of the business, local content etc.

- iii. Government has been experiencing a challenge with foreign investors investing in all categories of business and driving local investors out of business. This has caused friction between local and foreign investors as some have invested in businesses like retail trade. There is need to categorically provide for areas where the foreign investors are eligible to invest in separate from the Ugandan investors. This will help to improve the investment climate as well as make it possible to identify genuine investors from those who are not while making it easy for Uganda Investment Authority to monitor the growth and compliance of licensed investments in the country.

- iv. The current legal regime on investment provides for obligations of investors in the country but they are not exhaustive. The need to clearly spell out the obligations of the investors. The investors will at all times be expected to observe and conform to these obligations.

4.0 Recommendation

The Committee recommends that some of the investment incentives which can be provided for under the Investment Code be incorporated which those which are crosscutting remain under the relevant tax laws.

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PROPOSED AMENDMENTS TO THE INVESTMENT CODE BILL, 2017

1. Clause 3

Clause 3 is amended in sub clause (2) (a) by-

- (i) deleting the word “and” in the first line; and
- (ii) inserting the words “ and evaluate” immediately after the word “monitor”

Justification

To provide for evaluation as one of the objects of the Authority

2. Clause 8

Clause 8 is amended

- (i) in sub clause (1) (a) by-
 - (a) deleting the word “and” appearing in the first line; and
 - (b) inserting the words “ and evaluate” immediately after the word “monitor”
- (ii) by inserting new paragraph (i) and (j) immediately after paragraph (h) to read as follows and the paragraphs be renumbered:

“(i) to undertake annual evaluations of the progress and state of investment in the country;
(j) to maintain a register of all investment licences issued under the Act;
(k) to establish and maintain investments incentives inventory which shall be accessible to the public upon payment of a fee prescribed by the Minister by Statutory Instrument; and”

Justification

To give the Authority the mandate to undertake annual evaluations of the investment in the country and to maintain an inventory of all the licences issued under the Act.

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3. Clause 10

**Clause 10 should be deleted and substituted with the following:
"10. Qualification for incentives**

An investor who, in addition to the qualifications for incentives set out in any other law, meets the following qualifications for incentives and commences operations after the commencement of this Act, qualifies for incentives:-

- (a) meets the minimum investment capital for the investment as required in the relevant Acts of Parliament;
- (b) engages in any of the priority areas specified in Schedule 3 to this Act;
- (c) exports a minimum of 70% of the goods produced;
- (d) provides for substitution of thirty percent of the value of imported products;
- (e) seventy percent of the raw materials used are sourced locally, subject to their availability;
- (f) directly employs a minimum of 60 percent of citizens; or
- (g) introduces advanced technology or upgrading of indigenous technology.

4. Insertion of a new clause 11 immediately after clause 10

Immediately after clause 10, insert the following new clause

11. Certificate for incentives

- (1) An investor who has been given an incentive shall receive a certificate of incentives issued by the Authority.
- (2) The certificate shall-
 - (a) state under what law the investor has been given the incentive; and
 - (b) give detailed particulars of the incentives being given"

Justification

- 1. to provide for the parameters that qualify an investor to obtain incentives;
- 2. to mandate the Authority to issue a certificate of incentives; and

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3. to require the public sector agency to notify the Authority of the incentives that have been given so that the Authority establishes and maintains an inventory of the incentives given.

5. Insertion of new clause immediately after clause 13

Immediately after clause 13, insert the following new clause

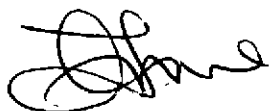
“Investment registration requirements

An application for investment registration shall be accompanied by the following:

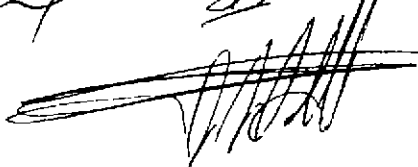
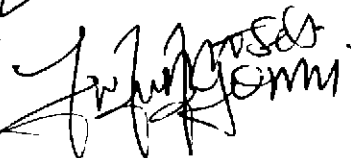
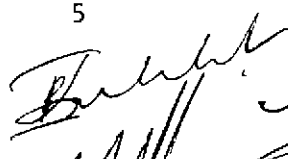
- (1) certificate of registration of the business company;
- (2) business plan which shall include-
 - (a) name of the investment and detailed information on the type of investment;
 - (b) action plan;
 - (c) the date of commencement of operations;
 - (d) detailed information on raw materials sourced in the country or in the locality where the investment is to operate;
 - (e) detailed information on any financing and assets to be sourced from outside Uganda, including the timeframe in which these finance and assets shall be invested;
 - (f) land requirement for the investment;
 - (g) location of the investment;
 - (h) utilities required for the investment;
 - (i) a market survey;
 - (j) details of the projected technology; and
 - (k) knowledge transfer.
- (3) The environmental impact assessment certificate issued in accordance with the relevant laws;
- (4) projected number of employees; and
- (5) license granted by the business sector in which he/she intends to operate”.

Justification

To provide for particulars that should accompany the application.



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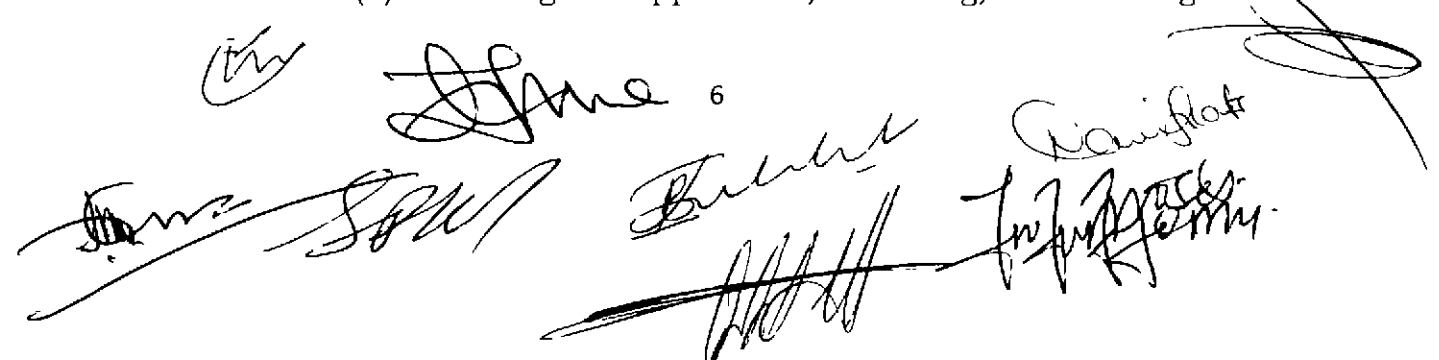
6. Clause 14

Clause 14 should be deleted and substituted with the following:

“14. Regulation of foreign investment.

- (1) A foreign investor shall not operate a business enterprise in Uganda otherwise than in accordance with an investment licence issued under this Code.
- (2) A foreign investor shall not carry on the business of crop production, animal production or acquire or be granted or lease land for the purpose of crop production or animal production; but a foreign investor may—
 - (a) provide material or other assistance to Ugandan farmers in crop production and animal production; or
 - (b) lease land for purposes of manufacturing or carrying out the activities set out in the Third Schedules to this Act.
- (3) This section shall not be construed so as to deprive a foreign investor of any land acquired by or granted to him or her or of any interest in land accrued to him or her before the commencement of this Act.
- (4) The Minister may, on the advice of the Authority and with the approval of Cabinet, by statutory instrument, exempt any business enterprise or class of business activities from the provisions of this section where, in the opinion of the Minister, it is necessary that for the purpose of ensuring a regular supply of raw materials the enterprise should lease land.
- (5) A foreign investor who is intending to engage in trade only shall not be required to comply with subsection (1) but shall—
 - (a) incorporate a company with the Registrar General as is required by law;
 - (b) deposit a sum of money as may be prescribed by the Minister by regulations in Bank of Uganda, which shall be specifically used for importation or direct purchase of goods for the business.
- (6) Upon compliance with subsection (5), the Bank of Uganda shall issue a certificate of remittance to the foreign investor.
- (7) A foreign investor who obtains a certificate of remittance under subsection (6) shall lodge an application, in writing, to the immigration





department which shall contain the certificate of remittance and other information that may be required by the department.

- (8) Subject to compliance with the provisions of this section and the immigration laws, the immigration department may issue an entry permit to the foreign investor.
- (9) A foreign investor who obtains an entry permit under subsection (8) shall lodge an application, in writing, to the local authority where the business will principally be carried out for a trade licence.

Justification

To restrict foreign investors from carrying on the business of crop production and animal production

7. Insertion of new A clause 15 to the Bill

Immediately after clause 14, insert new clauses 15 to the bill and the bill be renumbered:

15. Obligations of a registered investor

A registered investor shall-

- (a) observe and adhere to the laws of Uganda;
- (b) implement his/her proposal in accordance with his/her business plan submitted in the application for an investment license;
- (c) properly keep financial and accounting records of the investment and submit a copy of a certified financial report to the Board within three (3) months following the preceding financial year;
- (d) keep data relating to operations of the investment enterprise for a period of seven years;
- (e) respond in a period prescribed by written notice to any query from the Board in connection with operations of the investment enterprise;
- (f) periodically avail his or her books of accounts to the body responsible for taxation;
- (g) register with the tax administration and file timely tax returns even in case of entitlement to tax exemption;
- (h) to permit the authority or its employees or agents reasonable access to monitor the operations of the business enterprise

Justification

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To provide for the priority areas for investment and the obligations of a registered investor

8. Insertion of new Schedule 3 immediately after Schedule 2 to the Bill

Immediately after Schedule 2 insert the following Schedule-

Schedule 3

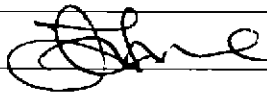
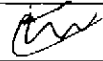
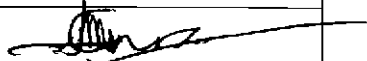
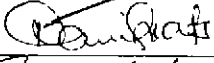
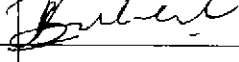
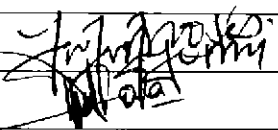

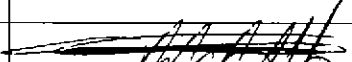


Section 11

Priority areas

1. agro processing;
2. food processing;
3. medical appliances;
4. building materials;
5. light industry;
6. automobile manufacturing and assembly;
7. household appliances;
8. furniture;
9. logistics and ware-housing;
10. information technology; or
11. commercial farming.

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**ADDENDUM TO THE REPORT OF THE COMMITTEE ON FINANCE,
PLANNING AND ECONOMIC DEVELOPMENT ON THE INVESTMENT CODE
BILL, 2017**

No	NAME	CONSTITUENCY	SIGNATURE
1	Hon. Musasizi Henry, CP	Rubanda East	
2	Hon. Avur Jane Pacuto	DWR Pakwach	
3	Hon. Lugoloobi Amos	Ntenjeru North	
4	Hon. Asiku Elly Elias	Koboko North	
5	Hon. Bategeka Lawrence N	Hoima Municipality	
6	Hon. Kamateeka Jovah	DWR Mitooma	
7	Hon. Katoto Hatwib	Katerera County	
8	Hon. Opolot Isiagi Patrick	Kachumbala County	
9	Hon. Tumuramy Genensio	Kashongi County	
10	Hon. Naigaga Mariam	DWR Namutumba	
11	Hon. Ilukor Charles	Kumi county	
12	Hon. Okello Anthony	Kioga County	
13	Hon. Walyomu Muwanika Moses	Kagoma County	
14	Hon. Mulindwa Isaac Ssozi	Lugazi Municipality	
15	Hon. Odur Jack Lutanywa	Kibanda South	
16	Hon. Achia Remigio	Pian County	
17	Hon. Mukula Francis	Agule Pallisa	
18	Hon. Kakooza James	Kabula County	
19	Hon. Bagoole John Ngobi	Luuka County	
20	Hon. Nathan Nandala-Mafabi	Budadiri West	
21	Hon. Akol Anthony	Kilak North	
22	Hon. Mukoda Julie Zabwe	DWR Mayuge	
23	Hon. Luttamaguzi Semakula	Nakaseke South	
24	Hon. Akello Judith Franca	Agago District	