



School of Law

Tax and Investment Laws Program

Opportunities, Challenges and Prospects of Tigray Investment and Export Commission in Promoting Investment in Tigray

By:

Fitsum Gebretsadik Gebrehiwet

Advisor:

Gebreamlak Yeaebeyo (LLB, LL.M; Assistant professor of law)

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By:

Fitsum Gebretsadik Gebrehiwet

Approved by:

Advisor's name

Gebreamlak Yaebeyo (Assistant Professor)

Signature



External Examiners' name

Signature

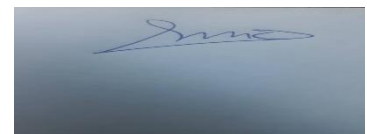


Awet Halefom (PhD)

Internal Examiner's name

Signature

Dawit Kiros (Assistant Professor)



DECLARATION

I, the undersigned, declare that this thesis is my original work, has not been presented for a degree in any other University, and that all sources of material used for this thesis have been duly acknowledged.

Declared by:

Fitsum Gebretsadik Gebrehiwet

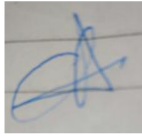
Date: **01/12/2025**

Signature _____

Confirmed by:

Gebreamlak Yeabeyo, (LLB, LL.M; Assistant professor of law)

Signature:



Date: **01/12/2025**

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Acronyms

EIC	Ethiopian Investment commission
FDI	Foreign Direct Investment
FDRE	Federal Democratic Republic of Ethiopia
GTP	Growth and Transformation Plan
GDP	Gross Demotic Product
P	page
TIEC	Tigray Investment and Export Commission
ICSID	International Centre for Settlement of Investment Disputes
OECD	Organization for Economic Cooperation and Development
USD	United States Dollar

Abstract

The attraction of investment generally and FDI particularly requires putting in place an independent and more effective institutional setup in the region. Having this need in mind, TIEC has been established to administer the entire investment activities of the region by proclamation no 319/2011 E.C. This research critically examines the opportunities, challenges, and prospects of TIEC in promoting investment in Tigray. It has employed predominantly empirical qualitative methodology in that legal instruments, key informants' interviews, questionnaires, focus group discussion and personal observations which are the major source of the data. Findings of this research show that finding land to be placed in investment land bank, allocation of budget for compensation, administration and monitoring FDI in the region and its institutional arrangement of the commission are the leading challenge of TIEC in promoting investment in Tigray. Finally, the researcher forwarded recommendations in that annual budget should be allocated to the TIEC to compensate the displaced persons and it is better for the TIEC to have full power in finding land for investment. It also forwarded that amendment of the current investment proclamation is needed to enable the TIEC to have the power of administrating FDI in the region by delegation and the structural arrangement of TIEC must include highly qualified experts of environmental impact assessment team that undertake the duty of assessing on matters relating to environmental impact assessment issues of the investment projects.

Key words: Investment, Commission, Tigray, Challenges, Prospects, Opportunities

Chapter One:

Introduction

1.1. Background of the Study

Most scholars seem to agree that investment is one of the key sectors that contribute a fair share for the economic and social development of a country. It is an undeniable fact that since 1992 Ethiopia has made a considerable progress in investment activities owing to the implementation of favorable policies and strategies that are instrumental in improving the national economy.¹

The government of Ethiopia, in recognition of the role of investment in the national economy, has enacted comprehensive investment laws. It also revised the investment laws over three times for the last twenty years [1992-2014] to make the investment climate more transparent, attractive and competitive.² Major positive changes regarding investment have been introduced through the investment proclamations and regulations.

The current investment regime, i.e. proclamation No. 1180/2020 has acknowledged that investment is to be administered by the federal and the regional states. It further states that the organ of investment administration shall comprise the investment board, the Ethiopian Investment commission and the regional investment organs to be defined by the law of the federal and the regional states.³ At the federal level, the Ethiopian Investment Commission was established by the Investment proclamation No. 849/2014 and reestablished by proclamation No. 1180/2020, and regulation No. 314/2014 with the objective of implementing and ensuring efficient investment administration system and thereby encourages and expands investment.⁴

Being one of the member states of the federation of Ethiopia, the regional state of Tigray has established its new investment commission at the regional level by virtue of proclamation no. 319/2019 to administer investment activities in the region. It is also believed that prior to the outbreak of the war; there had been considerable flow of investment in Tigray since the last couple

¹Ethiopian investment Guide 2012, p8

²Ibid. p9.

³Federal Negarit Gazeta of The Federal Democratic Republic Of Ethiopia Pro No .1180/2020, art 29, P 12409 and Pro No 849/2014,Art 7,P12 .

⁴ Federal Negarit Gazette of the Federal Democratic Republic of Ethiopian, Regulation No .313/2014, art 9, p6.

of years than what was before. This flow of investment in the region should be administered by well-organized and equipped investment institutions to sustain the investment in the region.

The main objective of the Tigray Investment and Export Commission (hereinafter, the TIEC or the commission) as provided for in the proclamation is implementing transparent and efficient investment administration system and thereby attract, encourage and expand investment in the region.⁵ It is also expected to encourage private investors to participate in the economic development of the region; to create a massive employment opportunity and transfer technology to the region.⁶

The Investment commission is accountable for the Head of State of the Region.⁷ It is composed of the Board, Commissioner, and Deputy Commissioner to be appointed by the Head of State of Tigray and, other necessary members of the commission.⁸ Thus, since the Investment Commission is a newly established institution in charge of administering investment activities in the region, this paper deals with the opportunities, prospects and challenges of the Commission in light of promoting investment in the region.

⁵ National Regional State of Tigray, Negarit Gazette proclamation No .319/2019, art 5.

⁶ Ibid.

⁷ Ibid art 6.

⁸ Ibid art 8.

1.2. Statement of the Problem

It has been submitted that the flow of investment opportunities into Tigray region should be administered by an autonomous governmental institution which is well equipped with the necessary infrastructures to sustain the investment activities. Before March 2019, investment matters used to be administered by the Bureau of Urban Development, Trade and Industry of Tigray Regional State. At that time, the Bureau of urban Development was not in the position of having with well equipped with the necessary infrastructures to accommodate the investment activities in the region and its investment performance was low. The performance and investment made during GTPI and the mid-term of GTPII have been far below expectations at region levels.⁹ Tigray has not yet been able to attract sufficient private sector investment.¹⁰ According to the Ethiopian Investment Commission (EIC) report, in the last 25 years Tigray received investments in 1531 projects that were worth of Birr 11.05 billion.¹¹ This accounts for only 6.7% of the nationally invested capital. The region's performance in terms of FDI is even much worse, attracting 35 projects that accounted for only 1.3% of the total number of FDI projects in the country.¹² Despite relatively faster urbanization when compared to the national average, the manufacturing activity in the region remains underdeveloped and largely small-scale.¹³ The region has no more than 25 large manufacturing enterprises employing more than 100 people, which together account for only 6% of the total number of large firms in the country.¹⁴ The reason for this has to do with the existence of some key binding constraints – notably the lack of a capacitated and lead investment agency that provides seamless investment services in a one stop service.¹⁵

However, since investment is a vehicle of economic development, it needs to be given with a fair amount of attention in its own sake. Subsuming investment and urban development matters under the same administrative entity would sideline if not, undermine investment activities. The former system of administration has been critiqued for not being able to have responded to the needs and wants of modern investment as the Bureau had assumed tripartite responsibility- urban

⁹Transforming the Industry and Investment in Tigray: Challenges, Prospects, Policy Options and Actions Final Report June 2018, p2.

¹⁰Ibid.

¹¹Ibid.

¹²Ibid.

¹³Ibid.

¹⁴Ibid.

¹⁵Ibid. p54.

development, industry and transport where investment was relegated to Investment Expansion Sub-business process with in the same Bureau. As such, the institutional framework did not accord to the required degree of attention to investment matters. This has in turn affected the simplified procedures of licensing of investments which further goes against the principle of one-shop stop service, a concept which has been adopted in most investment administration systems. Unless a specific attention is accorded to investment, it would be hard pressing to achieve the goals of engendering economic development and employment opportunity to the rising population of the region. The attraction of investment generally and Foreign Direct Investment (henceforth, FDI) particularly, requires putting in place an independent and more effective institutional setup in the region.

Given the region is hosting quite a good number of investment activities now days, it is equally important to have expeditious, efficient and predicable administration and enforcement of investment issues to boost investors' confidence. Since 2018, there are avalanche of investment permit requests coming from China, India, Bangladesh and Turkey which among others, imply that the Region should put in place robust regulatory mechanisms to protect, spur and promote investors from within and outside the region.

Be that as it may, the institutional effectiveness of this newly established Commission in promoting and running investment in the region could be challenging. As the Commission is at its infancy level, it would face staffing and institutionalization problems, at least in the short term. It may not be as easy as contemplated to operate its statutory powers effectively. The Commission might lack well trained, well-conversant and well-versed investment specialists to meet the demands of investors.

Although it is premature to gauge the effectiveness of the Commission at this time in point, it is equally important to be considerate of the opportunities, prospects and potential challenges surfacing during licensing, operation and follow up of investors in an institution which is established anew. Without losing sight of the political will of the state to come up with such noble institutional arrangement at regional level, the researcher is fearful of the Commission's effectiveness in terms of its requisite staffing, institutionalization and modus operandi to promote investment activities, still. So that, the researcher inspired to asses whether the newly investment commission is in the position to promote investment in Tigray.

1.3. Objectives of the Study

1.3.1. General Objective

The main objective of the study is to examine the opportunities, prospects and challenges of Tigray Investment and Export Commission in promoting investment in the region.

1.3.2. Specific Objectives

The study seeks to address the following specific objectives:

- i. To identify the current opportunities engendered by the Commission for promoting investment in the region;
To investigate the various challenges that may affect the performance of the Commission;
- ii. To analyze the challenges and prospects of the Commission in light of promoting investment in the region in the foreseeable future;

1.4. Research Questions

The study intends to address the following research questions:

- i. Are there opportunities brought about by the establishment of the Commission in promoting investment in the region? If so, what are they?
- ii. What are the probable challenges that may affect the performance of the Commission?
- iii. What are the prospects of the institutional arrangement of the Commission towards promoting and attracting future investment?

1.5. Significance of the Study

The present study can have the advantage of making conceptual clarity in the legal scholarship about the role played by the investment Commission. In addition to that it is expected to investors and the organs in charge of administering investment to know the investment administration in the region. It can also serve as a prelude for other subsequent legal researchers in the field.

1.6. Research Methodology

1.6.1. Research Design

Since the methodology of the study is essentially qualitative, it includes analysis of books, journal articles, legislations, questionnaires and interviews that have been made with key informants in the investment authorities. Investment reports investment laws and other related materials are

incorporated. Analysis has been made based on the data collected from investment reports, personal observations, and questioners with the investors and interviews made with investment authorities.

1.6.2. Data Collection Methods

To conduct this research, data has been collected by applying different methods. Interviews made with the key informants of the investment commission authorities, informant investors and experts and distribute questionnaires to the investors. In addition to this, investment reports, different commentaries, journals and relevant investment laws have been used.

1.6.3. Source of Data

The different methodologies of collecting data depend on the following sources of data. The sources of data are generally classified as primary, secondary, and tertiary ones.

The sources of primary data have been collected through questionnaires, interview with informant investors and officials belonging to the investment authority. Laws especially the FDRE constitution, the FDRE investment proclamations and regulations, the Tigray investment commission proclamation No.319/2011E.C and other subsidiary laws are also used as primary sources of data sources.

Secondary sources of data are also important sources in this research. Government reports, journal articles, and different legal publications are incorporated as secondary data.

Tertiary sources are also incorporated in this research. The researcher employs certain tertiary data like compilations, guide books, newspapers, and other tertiary sources which the researcher deems necessary

1.6.4. Sampling Method

Purposive sampling technique is used to select the investment commission authorities. From the investment commission authorities, key informants are selected based on their relevancy.

1.6.5. Data Analysis Method

The research has employed different methods of data analysis depending on qualitative method mainly legal analysis on investment, interpretation and description of laws, content analysis and interpretation of public documents, interpretation and analysis of questioners and interviews are

used. The opinion of investment experts and investment authority officials collected through interviews are also analyzed on a descriptive basis.

1.7. Limitation of the Study

Finding the accurate sampling data of the flow of investment in Tigray, access to some state documents and interviews with concerned officials' was not easy.

1.8. Organizations of the Paper

This paper is organized into five chapters. The first chapter is an introductory part. The second chapter is concerned with the theoretical analysis on the general over view of investment and investment regulation in Ethiopia.

The third chapter focuses on assessing on the performance, regulation and administration of investment in Tigray. The fourth chapter, the main discussion, deals with the assessment and analyzing of promoting regional investment through TIEC. The final chapter draws conclusion from the study and forward recommendations.

Chapter Two:

Overview of Investment and Investment Regulation in Ethiopia

Overview: - In this chapter, it is going to discuss about the general overviews of investment in Ethiopia. It also discuss about the legal regimes that regulate the Ethiopian investment.

Section One

2.1. Understanding Investment, Investor and its economic Analysis

2.1.1. Conceptualizing Investment and Investor

The definition of investor and investment is key to the scope of application of rights and obligations of investment agreements, to identify who is an investor and what constitute the activities of investment in a given legal system of given country, and to the establishment of the jurisdiction of investment treaty-based arbitral tribunals.¹⁶ This factual survey of State practice and jurisprudence aims at clarifying the requirements to be met by individuals and corporations in order to be entitled to the treatment and protection provided for under investment laws and treaties.¹⁷

As far as the definition of investment is concerned, most investment laws and agreements adopt an open ended approach which favors a broad definition of investment.¹⁸ Nevertheless recent developments in bilateral model treaties provide explanatory notes with further qualifications and clarifications of the term investment. The survey further reviews the definition of investment under ICSID as well as non-ICSID case-law for jurisdictional purposes.¹⁹

Thus, the term investment and investor may mean different things in different disciplines and contexts.

Fisher and Jordan define investment as commitment of funds made in the expectation of some positive rate of return.²⁰ According to them, the return will be commensurate with the risk the investor assumes if the investment is properly undertaken.²¹ We observe from this definition that

¹⁶International Investment Law: Understanding Concepts and Tracking Innovations OECD 2008, p 7.

¹⁷Ibid.

¹⁸Ibid, p.7.

¹⁹Ibid, p8.

²⁰Black's Law Dictionary,8th ed.2004.

²¹ Ibid.

investment is a commitment of funds. Thus, a person would commit fund on something.²² In addition, the commitment is made with the expectation of some positive rate of return. This positive rate of return is a profit gained from the commitment of the fund. However, it is important to bear in mind that investment carries with it a risk, i.e. the commitment of the fund might end up with no profit. Thus, the investor needs to properly manage the investment to make sure that it will be profitable.

The term ‘investment’ shall mean “every kind of asset and in particular shall include though not exclusively: movable and immovable property and any other property rights such as mortgages, liens and pledges; shares, stocks and debentures of companies or interests in the property of such companies; claims to money or to any performance under contract having a financial value; intellectual property rights and goodwill; business concessions conferred by law or under contract, including concessions to search for, cultivate, extract or exploit natural resources.”²³

Concerning the Ethiopian investment law, the terms investment and investor have been defined. According to the enabling proclamation No 1180/2020, the term investment has been defined as ‘Investment’ as an expenditure of capital in cash or in kind or in both by an investor to establish a new enterprise, or to acquire, in whole or in part, or to expand or upgrade an existing enterprise’.²⁴ And domestic and foreign investors has been defined as “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”.²⁵ and “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 by foreign nationals jointly investing with a domestic investor, and includes an Ethiopian permanently residing abroad and preferring treatment as a foreign investor.”²⁶

From the above definition of investment, there are essential elements that will be discussed below.

²²Ibid.

²³ Asexan Agreement For The Promotion And Protection Of Investments, Article 1(3), From UNCTAD, 1996a, Volume II, P. 294.

²⁴ Federal Negarite Gazeta of The Federal Democratic Republic of Ethiopian Proclamation No.1180/2020 Art 2/1/.

²⁵ Ibid; Art 2/5/.

²⁶ Ibid; Art 2/6/.

Expenditure of capital

To be an investment there should be an expenditure of capital. ‘Capital’, according to Article 2(3) of Proclamation No 1180/2020 means “local or foreign currency, negotiable instrument, machinery or equipment, building, working capital, property right, intellectual property right, or other tangible or intangible business assets.”²⁷ Currency is money or any legal tender represented by notes, which are recognized in various countries. A currency can be local or foreign. Local currency is Ethiopian Birr and foreign currency means money other than Ethiopian currency such as US Dollars, etc. so that the expenditure of money is one element of investment activities provided in the above definition of investment. Negotiable instruments, such as, a bill of lading, a document of title to goods shipped, warehouse certificate, a cheque, a promissory note, machinery or equipment, buildings, initial working capital, property rights, patent rights, or other business assets also constitute capital of investment according to the definition of the Ethiopian investment proclamation. Thus term capital is much more inclusive and wider in our law. The final goal of having an investment, from the definition, is for purpose of making enterprise. Currently, the for the purpose of reinforcing investor confidence, the Ethiopian Investment Board has lowered the capital requirements for foreign investors seeking to inter in to what was restricted before such as sectors like export, import, wholesale, and retail trades by more than half by the amended directive of 12/2025 effective from June,2025.²⁸

Definition of an Investor

A person who invests in Ethiopia is an investor. The person may be local or foreign investor.²⁹The FDRE investment proclamation No 1180/2020 provided definition for local and foreign investors. According to the proclamation “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.”³⁰

An Ethiopian is a domestic investor when he or she invests in our country. The Ethiopian domestic investor pre supposes the national citizen of the country from the given definition; foreign national

²⁷ Ibid; Art 2/3/.

²⁸ THE Reporter, Nardos Yoseph, June 21,2025.

²⁹ Ibid; Art 2/4/.

³⁰ Ibid; Art 2/5/.

may also be regarded as domestic investor if he or she is treated to be as domestic investor by other relevant law of the country. Thus, domestic investor does not necessarily mean Ethiopian nationals.

There are advantages of being treated as a domestic investor to the investor. Some of the benefits to be considered as a domestic investor are related with the privileges granted under the investment laws. According to the FDRE Proclamation No 1180/2020, it has provided that the council of ministers shall specify the area of investment that is reserved only for domestic investors.³¹ Accordingly, there area of investment exclusively reserved for domestic inventors as are regulated under Regulation No 270/2012. Under this Regulation, The areas of investment that are exclusively reserved for domestic inventors are; banking, insurance and micro-credit and saving services; Packaging, forwarding and shipping agency services; Broadcasting service; Mass media services; Attorney and legal consultancy services; Preparation of indigenous traditional medicines; Advertisement, promotion and translation works.³²

Thus, because of political and policy reasons foreign investors are not allowed to make investment in these area of investment. However, if a foreigner who is not Ethiopian national considered being as a domestic investor by the relevant law of Ethiopia, he would be legible to exercise the privileges granted to domestic investors while they are not granted to foreigners.

In addition to domestic investor the FDRE investment Proclamation No 1180/2020 also defines what foreign investor means. According to this proclamation “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 by foreign nationals jointly investing with a domestic investor, and includes an Ethiopian permanently residing abroad and preferring treatment as a foreign investor.”³³ And “foreign capital” means capital obtained from foreign sources, and includes the reinvested profits and dividends of a foreign investor.”³⁴ When we compare the definition of foreign investment in Ethiopian law with the Encyclopedias of Public

³¹ Ibid; Art 6/2/.

³² Investment Incentives and Investment Areas Reserved for Domestic Investors Council of Ministers Regulation no. 270/2012 , Art 3/1, a-h/.

³³Federal Negarit Gazeta Of The Federal Democratic Republic Of Ethiopia Proclamation No. 1180/2020 ,Art 2/6/

³⁴ Ibid; Art 2/7].

International Law, where foreign investment is defined as ‘a transfer of funds or materials from one country called capital-exporting country to another country called host country in return for a direct or indirect participation in the earnings of that enterprise.’³⁵ It is almost the same with various wording in that the final aim of foreign investment is earning of profit to the investors who invested the capital.

Foreign investment basically involves the transfer of tangible or intangible assets from foreign country to Ethiopia for the purpose of their use in that country to generate wealth under the total or partial control of the owner of the assets. There can be no doubt that the transfer of physical property such as equipment, or physical property that is bought or constructed such as plantations or manufacturing plants, constitute foreign direct investment.³⁶ Such investment may be contrasted with portfolio investment. Portfolio investment is normally represented by a movement of money for the purpose of buying shares in a company formed or functioning in another country.³⁷ It could also include other security instruments through which capital is raised for ventures. The distinguishing element is that, in portfolio investment, there is a separation between, on the one hand, management and control of the company and, on the other, the share of ownership in it.³⁸ Thus, focus should be given to the definition.

According to the definition provided by the Ethiopian investment law and the above other cited definitions, a foreign investor could be an individual or an enterprise that has foreign nationality. An enterprise that is owned by foreigners is a foreign investor. This means the enterprise may be established in Ethiopia according to our law. An enterprise that is established here in Ethiopia is considered as Ethiopian. However, such enterprise is regarded as a foreign investor notwithstanding its establishment in Ethiopia. What is important, according to our law is that the enterprise should be owned by foreign nationals. Nationality of the investor is not as such necessary to treat a person as foreign investor, because an Ethiopian national who permanently resides abroad can be treated as foreign investor as per the definition of Ethiopian investment law.

³⁵ Encyclopedias of Public International Law vol. 8, p. 246.

³⁶ M.sornarajah ,The international law on foreign investment , third edition , p. 8.

³⁷ Ibid; p.8.

³⁸ Ibid; p.8.

There are two types of investors namely natural and legal persons. For natural persons, investment generally base nationality exclusively on the law of the state of claimed nationality.³⁹ Some investment laws also introduce alternative criteria, such as a requirement of residency or domicile.⁴⁰ The issues related to the nationality of legal persons are more complicated. Companies today operate in ways that can make it very difficult to determine nationality. Tribunals have usually adopted the test of incorporation or seat rather than control when determining the nationality of a juridical person, unless the test of control is provided for in the law or agreement.⁴¹ Accordingly, it is the general practice in investment agreements to specifically define the objective criteria which make a legal person a national or investor for purposes of the investment agreement.

The ICSID Convention, the main instrument for the settlement of investor-state disputes, limits the jurisdiction of its Centre to disputes between one Contracting State and a national of another Contracting State. It provides specific rules on the nationality of claims. For natural persons, it requires nationality to be established on two important dates: the date of consent to arbitration and the date of registration, and does not cover dual nationals when one of the nationalities is the one of the other Contracting State party to one dispute.⁴²

Definition of Enterprise

Another essential term in the definition of the term investment is enterprise. In Black's Law Dictionary the term "enterprise" is defined as "an organization or venture especially for business purpose."⁴³ For business purpose is to mean profit making purpose. In addition to that the Ethiopian investment law defined the term as "enterprise" means an undertaking established for profit making."⁴⁴ From these definitions we can understand that if an enterprise is established for the purpose of cultural, religious or political goals and organization established for charity, but not making economic benefits to those who establish them, such an organization or entity is not an enterprise and thus it is not investment activities included in the definition as stated above.

³⁹ International Investment Law: Understanding Concepts and Tracking Innovations OECD 2008 ,p 8.

⁴⁰ Ibid, p9.

⁴¹ Ibid, p 8.

⁴² Ibid , p 9.

⁴³ Black's Law Dictionary, 8th ed.2004, p 1613.

⁴⁴ Federal Negarit Gazette Of The Federal Democratic Republic Of Ethiopia Proclamation No. 1180/2020 ,Art 2/2/.

Expansion and upgrading

It is also treated as an investment activities as provided for in our law of investment. The Ethiopian investment law defined the terms as “Expansion” or “Upgrading” means increasing in volume, by at least 50 percent of the attainable production or service rendering capacity of an existing enterprise, or increasing in variety by at least 100 percent by introducing new production or service rendering line of an existing enterprise, or increment by both”.⁴⁵

There should be an expenditure of capital in the amount percentage specified in the definition on an already existing enterprise to expand it or upgrade the same to be regarded as an investment.

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. An enterprise whose purpose is profit is a trader according to Article 5 of the Commercial Code of Ethiopia.

2.1.2. The Economics of investment

The purposes of investment law can be generally categorized into three.⁴⁶ The first objective is promotion of investment including FDI in a host state.⁴⁷ Investment law commonly provides various incentives to foreign investors so as to attract investment.⁴⁸ The other objective of investment law is protecting investment.⁴⁹ The other purpose of investment law is to regulate investment; particularly through domestic investment law.⁵⁰ It has been well-recognized that investment requires some level of regulation in host states, such as on the entry and exit of investments.⁵¹

Since 1991, successive Ethiopian administrations have shown their commitment to transforming the country’s economy.⁵²

⁴⁵ Ibid; Art2/8/.

⁴⁶Bereket Alemayehu, Foreign Direct Investment vis-à-vis Labour Law in Ethiopia: Is Race to the Bottom an Existing, Impending or Illusory menace? Ethiopian Civil And Commercial Law Series (Volume - Ix) Addis Ababa University - School Of Law Labour Relations Law In Ethiopia, 2019, P.12

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Business Guide to Doing And Investing in Ethiopia, P12.

Investment is, without doubt, one of the primary engines of growth in all economies.⁵³ However, its effectiveness rests on strong complementarities with other elements in the growth process, most notably technological progress, skills acquisition and the development of innovative capability.⁵⁴ These elements make investment a natural point of departure for Governments seeking to formulate a robust development strategy.⁵⁵ The link between investment and these other determinants of growth, however, is not an automatic process.⁵⁶ The link between investment and these other determinants of growth, however, is not an automatic process. It requires among other things a favorable macro policy environment and specific policies and institutions aimed at encouraging savings and attracting and directing investment to key sectors in the economy thereby enhancing the contributions of investment to skills formation, technological change, competitiveness and economic growth.⁵⁷ A clear understanding of how such a synergy between investment policy on the one hand and technological progress on the other can be created is an essential prerequisite for designing an effective national investment policy and investment promotion strategy⁵⁸.

In the last decade, Ethiopia has worked tirelessly to transform its economy from a closed, highly regulated, centrally planned and dominated public sector to an open, deregulated and market based economy. To a certain extent, the reform programmed has seen successful economic growth rates, investment, and significantly higher volume of exports and export earnings.⁵⁹

Ethiopia is becoming one of the prime destinations for foreign investment. The country is attracting investors with tax incentives, low-cost labor, strategic location for trade, and improved transport infrastructure. In recent years, the Government of Ethiopia has made considerable effort to improve the country's business and investment climate through the issuance of targeted legislative measures.⁶⁰ The revised Investment regulations, as well as the Investment Proclamation, provide

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Investment and Innovation Policy Review; Ethiopia, United Nations New York and Geneva, 2002,p.4.

⁵⁶Ibid.

⁵⁷Ibid; p.5.

⁵⁸Ibid; p6.

⁵⁹Federal Democratic Republic of Ethiopia Growth and Transformation Plan II (GTP II) (2015/16-2019/20 Volume I: Main Text National Planning Commission May, 2016 Addis Ababa' p 12.

⁶⁰Ibid, p12.

incentives for development-related investments and have gradually removed most of the sartorial restrictions on investment. At this recent time, studies have showed that foreign direct investment (FDI) in to Ethiopia raised by 5.6% in the fiscal year ending July 2025, and new data from the Ethiopian Investment Commission (EIC) shows that FDI raised 4 billion USDS in the 2024/2025 fiscal year from 3.8 billion a year earlier.⁶¹

Every sovereign country has its own investment objectives based on the general economic policy and objectives of the economic realities of the country. Being investment is one of the economic sector, our country, Ethiopia, has its own investment objectives based on the economic policy of the country that should be achieved. The Ethiopian investment law provided the overall investment objectives of the country. under Ethiopian investment Proclamation No 1180/2020,it has provided that “ The investment objectives of the Federal Democratic Republic of Ethiopia are designed to improve the living standards of the peoples of Ethiopia through the realization of sustainable economic and social development, the particulars of which are the following; to accelerate the country’s economic development; to exploit and develop the immense natural resources of the country; to develop the domestic market through the growth of production, productivity and services; to increase foreign exchange earnings by encouraging expansion in volume, variety and quality of the country’s export products and services as well as to save foreign exchange through production of import substituting products locally; to encourage balanced development and integrated economic activity among the regions and to strengthen the inter-sect oral linkages of the economy; to enhance the role of the private sector in the acceleration of the country’s economic development; to enable foreign investment play its role in the country’s economic development; to create ample employment opportunities for Ethiopians and to advance the transfer of technology required for the development of the country.”⁶² But

From the cumulative readings of the sub- Articles of Art 5/ 1-8/ of the investment proclamation No 1180/2020, it can be have the idea that the Ethiopian investment objective is not only the economic prospects but also has been included the integration of the three pillars of sustainable development, i.e. economic, social and environmental aspects of development.

⁶¹ Amarachi Orjiude-Nudbe, Finance in Africa, August, 2025.

⁶²Federal Negarit Gazette Of The Federal Democratic Republic Of Ethiopia Proclamation No. 1180/2020,Art 5/1-8).

In the case of investment performance, some studies show that the Ethiopian Investment Commission is not in the good position after the Federal Auditor General's findings revealed in that over the past 26 years, the commission issued 18,559 licenses but only 4,490 of those projects began operations and another 9,061 licenses were revoked without clear explanations.⁶³ The audit also found a serious lapse in enforcing initial capital requirements.

Section Two

2.2. The Normative and Institutional frameworks of Investment in Ethiopia

2.2.1. Normative Frameworks

Internationally, Ethiopia is a signatory of Multilateral Investment Guarantee Agency and has concluded Bilateral Investment Promotion and Protection with 30 countries,⁶⁴ such as with China, United Kingdom of Great Britain and Northern Ireland, and the government of the republic of the Sudan, Italy, and Germany on the reciprocal encouragement, promotion and protection of investment of the contracting parties to the agreements.⁶⁵

The term regulation can be defined as a normative standard that should be obeyed, and a violator must be forced and may follow sanctions to comply where there is non-compliance. Investment regulation may be mentioned as control of the government on investment based on its economic, social and political policies.⁶⁶

Governments and regulators need to ensure stable and competitive markets for services and goods, and conducive atmosphere for companies to be successful and reputable in the business. Failure of companies, particularly, as a result of fraud or mismanagement would damage the trust of the market as a whole and has a negative impact upon the confidence of people in general, and the growth and economic stability of establish formal standards and rules for traders to abide by and

⁶³ AKSAH ITALO, Oversight Failures, ADISS FORTUNE, February 9, 2025.

⁶⁴ Gebreamlak Yaebeyo, Introducing Statutory Minimum Wage into Ethiopian Private Sector: A Contradiction between Labour Rights and Promoting Investment? Ethiopian Civil And Commercial Law Series (Volume - Ix) Addis Ababa University - School Of Law Labour Relations Law In Ethiopia, 2019, P.71

⁶⁵ Agreement Between The Government of The United Kingdom of Great Britain And Northern Ireland , Adis Ababa, 19 November ,2009, Germany, Adis Ababa, 19, January 2004, Italy, Adis Ababa 23 December 1994, Sudan ,Khartoum 7 March 2000, China, 1998 and The Federal Democratic Republic of Ethiopia For The Promotion And Protection of Investments.

⁶⁶ George A. Steiner and John F. Steiner, Business, Government, and Society: A Managerial Perspective, Text and Cases, 2006, p. 287.

thus to protect consumers.⁶⁷ Thus investment, as one of the economic sector, is not free from the regulation of the host state.

The quality of government policies and institutions is a determining factor in ensuring sustainable development gains from investment. Policy making may be aimed at short term gains rather than long term development objectives in developing countries.⁶⁸ The distribution and use of host countries share on revenue maybe determined with little attention to development considerations. In general, these factors underscore the importance of developing a legal system based on the rule of law as well as an intuitional environment in which enterprises have incentives to invest in productive activities that promote development to the host country from the investment activities.⁶⁹

In regard to the need of regulating investment, foreign investment often becomes to be regarded as a threat of infringement on host states sovereignty. There are special concerns that the foreign firm will operate without adequate consultation or to the detriment of local interests in such areas as labor policy or willingness to create export revenues for the host nation.

In addition to that, foreign investment is often treated as a way of bringing technology and employment opportunity to the host state. Thus nations have a variety of laws dealing with foreign investment. Some seek to attract foreign investment through tax holidays and special privileges. Some others seek to regulate it. They may control the areas of investment, for example, in order to keep foreign investment out of sensitive areas like telecommunications or the media; they may control the terms of investment, by restricting rates at which profit may be expropriated; or they may protect specific local concerns for instance those the deal with labor and other investment environmental and social concerns of the host state to use effectively from the fruit of the foreign investment.

Host States need to maintain effective control over their economic environment based on their general investment policies.⁷⁰ Investment is an economic activity and, therefore, the government should regulate it. Thus, the right of a state to control entry of foreign investment flows is the

⁶⁷Ibid.

⁶⁸Robert Pretchard (Editor), *Economic Development, Foreign Investment and the Law: Issues of Private Sector Involvement, Foreign Investment and the Rule of Law in New Era*, 1996, p. 277.

⁶⁹ Ibid.

⁷⁰John Barton and Bart H. Fisher, *International Trade and Investment, Regulating International Business*, 1986, p 858-861

sovereignty right of the host State. Hence, entry of any foreign investment can be excluded by a state. However, once an alien enters a state, his or her property is subject to the law of the host state. This stems from the fact that the foreign investor had voluntarily subjected him/herself to the regime of the host State by making entry into the host State to be administered and regulated by the laws and regulation of the country.⁷¹ However, the host State has no absolute sovereign power to violate and exclude the international laws on foreign investment and these bilateral or multilateral investment agreements in which the host State is a party.⁷²

Thus, conditions and limitations could be attached to the entry of a foreign investor into a host state. Conditions could also be attached to the manner in which how the foreign investor operates and administers his business the host state. The proposition applies equally to a foreign corporation which makes the investment.⁷³

In a nutshell, States have the power to control foreign investment in their jurisdictions. This is a universally recognized rule under international customary law. The contradiction between the liberal ideas of free flow of investment with the notion of sovereign rights to control the entry of investment is evident. However Capital exporter or powerful states which see benefits in maintaining the stance of economic liberalism have not been able to adhere to such liberal ideas in their own policies. Economic liberalism has remained an ideal whereas the prerogative power of the sovereign State to exclude aliens or to impose condition on their entry is an accepted principle of the law.⁷⁴

Therefore, the main purpose of regulating investment is to ensure transparency and efficiency in the investment administration. In general, the need for governments to control, regulate or participate in investment springs in part from political philosophy, and in part from economic necessity. We may also find a mixture of both types of reasons for regulating investment.⁷⁵

Investment regulation in Ethiopia is subjected to several laws that are mainly enacted to facilitate, promote and enhance investment in general and foreign investment in particular in Ethiopia. The

⁷¹M. Sornarajah; *The International Law on Foreign Investment*, 1996, p.83.

⁷²*Ibid.*

⁷³*Ibid*, p. 84.

⁷⁴*Ibid*, pp. 85-86.

⁷⁵ K. G. Friedmann, *Legal Aspects of Foreign Investment*, 1959,p. 750.

investment legislation has been amended now and then to incorporate changes at the international arena and to make the laws in line with the concept of global economy.⁷⁶ So far to the regulation and administration of investment in Ethiopia are the relevant provisions of FDRE Constitution regarding the land and natural resource and the general economic policy of foreign trade and intra state trade activities, Investment Proclamation No 769/2012, Investment Amendment Proclamation No. 849/2014, and the current Investment Proclamation No 1180/2020, Council of Ministers Regulation No. 270/2012, Investment Incentives and Investment areas Reserved for Domestic Investors Regulation No. 312/2014 , the Ethiopian commercial code of 1960, Council of Ministers Regulation No. 313/2014 to establish the Ethiopian Investment Commission and Ethiopian Board, Industrial Parks Proclamation No 886/2015 and Council of Ministers Regulation No. 417/2017 on Industrial Parks. Those are some legal frame works or categories of laws that are needed to regulate the investment atmosphere of the country from the past few years up to now.

From the general outline of the Ethiopian investment law, specially the current investment proclamation No 1180/2020, there are three categories of investment areas investment open for the domestic, foreign investors and the government. These areas of investment reserved for joint investment with the Government; areas of investment reserved for domestic investors, and for joint investment with domestic investors that shall be specified by Regulation of the council of ministers of the federal government of Ethiopia.⁷⁷ It has been also included in this proclamation that except those reserved of the investment activities as stated above, all areas of investment shall be open to foreign investors.⁷⁸ Currently, the Ethiopian Investment Board issued Directive 1001/2024 in March. The directive allows foreign investors to participate in restricted export, import, wholesale and retail trade sectors – i.e., sectors designated for domestic investors as identified under Investment Regulation 474/2020.⁷⁹ It also regulates the application process, permit issuance, and other procedural and regulatory aspects.⁸⁰

The opening up of these sectors is significant in light of Art. 3 of Ethiopian Investment Proclamation no 1180/2020 together with its related regulations and directives which stipulates

⁷⁶Ibid.

⁷⁷Federal Negarit Gazette of The Federal Democratic Republic of Ethiopia Proclamation No. 1180/2020 ,Art 6/2/

⁷⁸Ibid; Art 6/3/.

⁷⁹ Ethiopia Team New directive to regulate foreign investors' participation in restricted export, import, wholesale and retail trade investments, 16 April 2024, page 5.

⁸⁰ Ibid.

that Ethiopian Investment Law shall apply to all investment activities carried out in Ethiopia except to investments in the prospecting, exploration and development of minerals and petroleum.⁸¹

The new directive lifts restrictions in the export, import, wholesale and retail trade sectors. However, it specifies additional conditions to those listed under Ethiopian Investment Law.

Foreign investors may participate in the export of such goods like raw coffee, oilseeds, chat and pulses forest products, hides and skins and poultry and livestock bought from the local market.⁸²

The directive introduces further conditions that investors need to fulfill to be granted a permit to operate in the above export sectors, e.g. the investor's previous engagement in the Ethiopian market, statements from the previous 3 years, and the investor's future commitment.⁸³

All import investments designated for domestic investors under Ethiopian Investment Law are open to foreign investors, except for the import of fertilizers and petroleum. All wholesale trade investments designated for domestic investors under Ethiopian Investment Law are open to foreign investors, except for fertilizer imports and all retail trade investments designated for domestic investors under Ethiopian Investment Law are open to foreign investors under some conditions of like the investor must contractually commit to building modern marketing infrastructure and providing streamlined logistics services that facilitate its wholesale operations in accordance with the guidelines to be provided by the Ministry of Trade and Regional Integration. And the conditions for retail trade investments for foreign investors must commit to building stores with the surface area specified in the directive.⁸⁴

⁸¹Federal Negarit Gazette of The Federal Democratic Republic of Ethiopia Proclamation No. 1180/2020 ,Art 3.
⁸²

Ethiopian Investment Board Directive to Regulate Foreign Investors' Participation in Restricted Export, Import, Wholesale and Retail Trade Investments No.1001/2024, Art5.

⁸³ Ibid
⁸⁴

Ethiopian Investment Board Directive to Regulate Foreign Investors' Participation in Restricted Export, Import, Wholesale and Retail Trade Investments No.1001/2024, Art5.

2.2.2. The Institutional Frameworks

In Ethiopia, the institutional frameworks that are responsible for the administration of investment are the Ethiopian investment board, and the Ethiopian investment commission at the federal level.⁸⁵

The Ethiopian federation states also have been given the power of administration of investment in their respective regions to be defined by their laws.⁸⁶

At the federal level the Ethiopian investment board and Ethiopian investment commission have been re-established by the current investment proclamation 1180/2020 by repealing the Council of Ministers Regulation No 313/2014 that established the same institutions before.⁸⁷

Ethiopian Investment Board is Chaired by the Prime Minister and its members are composed of relevant government official designated by the Prime Minister, vice Chairperson, eight government officials having core or related administration mandate over trade, industry, services, finance, revenues, agriculture, energy, two representatives designated by the private sector and the Commission's Commissioner and other relevant sectors treated as members of the board.⁸⁸ According to the investment proclamation the board has the power and duties to exercise powers and duties specified under this Proclamation, Regulations issued hereunder, and other laws enacted to regulate the designation, operation and supervision of industrial parks; supervise the implementation of this Proclamation and follow up activities of the Commission; Initiate Policies on matters pertaining to investments; recommend, as necessary, amendments to this Proclamation and Regulations issued hereunder.⁸⁹

In addition, the board has also the power and duty to issue Directives necessary for implementation of this Proclamation and Regulations issued; follow up and oversee the implementation of the Directives; decide on complaints lodged by investors against final administrative decisions of the Commission or other Federal Government Executive Bodies submitted in accordance with the

⁸⁵Federal Negarit Gazette of The Federal Democratic Republic of Ethiopia Proclamation No. 1180/2020, Art 29/1,2/.

⁸⁶ Ibid; Art 29/4/.

⁸⁷ Ibid; Art 30, 35.

⁸⁸ Ibid; Art 32/1, a-e/.

⁸⁹ Ibid; Art 31/1,a-d/.

grievance procedures specified in the Proclamation; put forward to the pertinent government organ an assessment-based recommendation regarding the type and extent of investment incentives to be granted to investments and the criteria for identifying investments eligible for incentives; decide, in consultation with relevant public and private sector stakeholders, to open to foreign investors those investment areas reserved for joint investment with the government, or to domestic investors, or for joint investment between domestic and foreign investors, as well as restrict foreign investment in areas open to foreign investors where such decision is justified by public interest considerations.⁹⁰

With regards to the Ethiopian Investment Commission it is responsible for the Prime Minister has the power and duties to exercise powers and duties specified under the Proclamation, Regulations and Directives issued, as well as other laws enacted to administer and regulate industrial parks; serve as nucleus for matters of investment and lead, promote, coordinate and enhance activities thereon; initiate policy and implementation measures required to create a conducive and competitive investment climate, and follow up execution of same upon approval; lead investment promotion activities, compile a list of potential investors, and implement targeted investor recruitment work; rebrand and build the country's image as a preferred investment location; identify and compile investment opportunities in each sector indicating investment value propositions and business success, and prepare profile and promotional documents on each sector and disseminate same; organize workshops and seminars locally or abroad; and, participate in similar events and conduct trainings.⁹¹

In addition to that the Ethiopian investment commission has also the power and duty to promote existing investment opportunities by preparing materials on same, and provide, upon request, link-up services for participants of joint investment; make industrial parks promotion one of its core undertakings within the national investment promotion work; establish as a core agency a cost-effective system for and to provide a coordinated, accessible and accurate information to investors and other concerned bodies with the purpose of promoting investment opportunities in government-owned industrial parks and attracting and recruiting investors; negotiate and sign bilateral investment promotion and protection treaties with countries that can be sources of

⁹⁰Ibid; Art 31/1,e-h/.

⁹¹Ibid; Art 38/1-5/.

outward foreign investment in accordance with the procedure under the applicable law on international treaty making and ratification; cause the establishment of an information exchange system that enables current and accurate information flow between the Commission, investors and other government agencies; facilitate liaison and effect coordination between investors, government agencies, regions and other organs concerned with investment with a view to enhancing investment.⁹²

Chapter Three:

Performance, Regulation and Administration of Investment in Tigray

Overview: - This chapter examines and discusses about the performance and regulation of investment in Tigray. It also discusses about the investment administration of Tigray.

3.1. Performance

According to the population and housing census of Ethiopia, the number of population of Tigray region was 4,314,456⁹³. According to the GTP-II of Tigray region, the population growth rate of the region is 2.4%.⁹⁴ As result, the total population of Tigray region is 5,247,005 in 2017.⁹⁵ As part of the country's remarkable economic progress, the region has achieved remarkable economic

⁹²Ibid; Art38/6-11/.

⁹³Tigray Regional Business Agenda, 2018, (CSA, 2007) Psd Hub Publication No 25, p2

⁹⁴Supra note p3.

⁹⁵ Ibid.

growth due to the realization of significant growth in agricultural production and productivity; industry such as the expansion of mining, trade, construction, Transport, financial institutions and the expansion of other infrastructures.⁹⁶As a result, the real percapita income of the region increased from 1378 birr 168 USD in 2005/06 to 1900 birr 232 USD in 2009/10.⁹⁷

The participation of private investment is also growing from time to time in the region. Some of the licensed investment projects have started production and playing their role in reducing unemployment by creating employment opportunities.⁹⁸ The regional state has implemented the regional first five year growth and transformation plan which covers the Period 2010/11-2014/15⁹⁹. In addition, it has planned and implementing the second five year growth transformation plan which covers the period 2015/16-2019/20.¹⁰⁰

Over the GTP I period about 3279 investments were licensed and out of these, about 1074 projects were operational.¹⁰¹ While 644 of the operational projects were manufacturing, 430 were machine rental and construction enterprises.¹⁰² This shows that over the GTP period, number of licensed projects that have transitioned to operation, was about 32.8 percent.¹⁰³ If we take manufacturing alone, it was 19.6 percent.¹⁰⁴ This is relatively low. The reason for this has to do with the existence of some key binding constraints in the areas of land, finance, energy and the capacity of investment directorate to provide high quality investment services.

In terms of job creation, it was planned to create 75,670 permanent jobs over the GTP I period.¹⁰⁵ But, the jobs created are 60,788 (80.3%) permanent jobs were created.¹⁰⁶ In terms of capital, the plan was 51.3 billion Birr and actual implementation was 47.3 billion Birr 88.9%.¹⁰⁷

⁹⁶ Supra note, p5

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Supra note, p6

¹⁰⁰ Ibid.

¹⁰¹Transforming the Industry and Investment in Tigray: Challenges, Prospects, Policy Options and Actions
Final Report June 2018, p54

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Supra note. P56.

¹⁰⁵Supra note. p57.

¹⁰⁶ Ibid.

¹⁰⁷ Supra note. P58.

When we look at the investment performance in the first half of GTP-II a total of 4053 projects were licensed.¹⁰⁸ Out of these, 1447 projects were operational 35.7 percent¹⁰⁹. Of the 1447 operational projects, about 412 were in the manufacturing sector and the rest 1035 were in the machine rental businesses.¹¹⁰

One important point that can be said from the above data is that the investments performance is relatively low both in GTP-I & II. The reasons for this can be related with the existence of some key binding constraints notably the lack of a capacitated and lead investment agency that provides seamless investment services in a one stop service.¹¹¹ Before the establishment of the Tigray Investment & Export Commission (TIEC) in 2011 E.C, investment activities were undertaken by a small unit called “Investment Directorate” under the Bureau of Industry. The absence of a capacitated and lead investment agency has also led to the lack of reliable, consistent and disaggregated data investment data. The existing investment database at the Investment Directorate neither provides rich nor reliable information.¹¹²

Investment plays a very important role in the regions’ overall economic growth by increasing the productive capacity of the economy, creating employment opportunity and promoting technical progress through the introduction of new production techniques.¹¹³ It also plays an important role in enhancing the long-run productive capacity of the economy through accumulating new capital goods in Tigray.¹¹⁴

Viable investment project aims at achieving a profitable return the investors who invest in such kind of investment want to ensure timely payment of interest and principal, attractive return on the invested capital and positive and consistent cash flow. Investment flow and promotion in Tigray region is at a low level despite the availability of raw materials and market of industrial products.¹¹⁵ However, it should be noted that there are still abundant opportunities for investors to consider the

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Supra note.p59

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³<http://www.journalcra.com> International Journal of Current Research Vol. 7, Issue, 01, pp.12210-12217, January, 2015,P45

¹¹⁴ Ibid.

¹¹⁵ Ibid.

investment opportunities with the endowment of wide range agro ecological zone and diversified resources.¹¹⁶

The participation of private investment is also growing from time to time in the region. Some of the licensed investment projects have started production and playing their role in reducing unemployment by creating employment opportunities. The regional state has implemented the regional first five year growth and transformation plan which covers the period 2010/11-2014/15.¹¹⁷ In addition, it has planned and implementing the second five year growth and transformation plan which covers the period 2015/16-2019/20.¹¹⁸ The region has undertaken different activities using different strategies to achieve rapid economic growth and reduce poverty. As of this effort, it implemented the first five year GTP. As a result, the region achieved an average annual economic growth of 10.9 at the end of GTP-I.¹¹⁹ During this period, the regional government and other relevant institutions responsible for promotion of investment recognized the private sector's contributions to the growth of regional economy and undertaken necessary efforts. Thus, 3,279 new projects have been registered with the total capital of 47.3 billion birr during GTP-I in the region.¹²⁰ Out of this investment, 45% was invested in the manufacturing sector.¹²¹

In line with the strategies at the national development plan – GTP II - the Regional Government of Tigray has planned for the implementation of GTP II focusing primarily on the development of light manufacturing industries.¹²² Given the low-level of economic development of Tigray and its history as a relatively marginalized region within Ethiopia, the regional Government expects the performance of the region to exceed the national growth, export and production targets set in GTP II.¹²³ For example, the regional GDP, Industry and the Manufacturing sectors are expected to grow on average by 11%, 16.2%, and 22.1% respectively over the GTP II plan period.¹²⁴ Exports are

¹¹⁶ Tigray Investment Office, 2011/12 Annual performance Report, p4-5

¹¹⁷ Tigray Regional Business Agenda, 2018, Psd Hub Publication No 25, p 3

¹¹⁸ Ibid, P 4

¹¹⁹ Ibid, P 5

¹²⁰ Ibid, p3

¹²¹ Ibid, p6

¹²² Transforming the Industry and Investment in Tigray: Challenges, Prospects, Policy Options and Actions Final Report June 2018, p12

¹²³ Ibid.

¹²⁴ Ibid, p13

also anticipated to grow on average by 20% annually while, at the same time, diversifying the composition of the exports from primary products towards manufacturing.¹²⁵

Tigray has not yet been able to attract sufficient private sector investment. According to the Ethiopian Investment Commission (EIC) report, in the last 25 years Tigray received investments in 1531 projects that were worth of Birr 11.05 billion.¹²⁶ This accounts for only 6.7% of the nationally invested capital¹²⁷. Moreover in the last 25 years, Tigray received about 15% of projects (in terms of numbers) and 6.7% of capital invested, suggesting most of the projects are smaller in size than the national average.¹²⁸ The region performed so poorly in terms of attracting FDI as there are only 35 FDI operational projects in the region. The region's performance in terms of FDI is even much worse, attracting 35 projects that accounted for only 1.3% of the total number of FDI projects in the country.¹²⁹ Despite relatively faster urbanization when compared to the national average, the manufacturing activity in the region remains underdeveloped and largely small-scale. The region has no more than 25 large manufacturing enterprises (employing more than 100 people), which together account for only 6% of the total number of large firms in the country.¹³⁰

The geological study conducted in Tigray so far shows huge potential of precious metals, gemstone, and construction and industrial minerals.¹³¹ However, because of the low attention given to the sector, the mining sector is poorly developed and unregulated which has led to extensive informal mining, illegal marketing as well as extensive environmental degradation.¹³²

Although there are activities and endorsement of investment proclamation increase private sector participation in the economy in the regional level, members of the private sector raises many problems that must be solved by the government and indicate as the investment climates

¹²⁵ Ibid, p14

¹²⁶ Ibid, p12

¹²⁷ Ibid. p12

¹²⁸ Transforming the Industry and Investment in Tigray: Challenges, Prospects, Policy Options and Actions Final Report, June, 2018. p57.

¹²⁹ Ibid, p15

¹³⁰ Ibid, p12

¹³¹ Ibid, p16

¹³² Tigray Investment Office, 2011/12 Annual performance Report,p13-15.

not as such conducive in the region¹³³. Private sector faces policy, legal, administrative and infrastructural problems that hinder their growth and competitiveness.¹³⁴

Thus performance of the industry sector and investment in the region has been disappointing both from the regional plan perspective as well as when compared to the national average performance. It is evident, therefore, that following business as usual approach will not result in the realization of the goals set out in GTP II.¹³⁵ Indeed, if additional measures are not taken to accelerate the development of the manufacturing sector in Tigray, the likelihood of widening income and development gap between the Tigray region and other regions in Ethiopia, especially those that are attracting greater amount foreign investment, is high.¹³⁶

The regional government says as it created conducive environment for private sector development through administrative and regulatory reforms.¹³⁷ However, the private sector participants still raise many issues (problems) which did not get solution by the government. This shows as the private sector participants are not satisfied by the existing investment climate.¹³⁸

In the investment of Tigray region, possible sectors were selected based on their feasibility and potential impact.¹³⁹ The feasibility was assessed by measuring how easily the investment can be implemented given Tigray's resource, demand and competition from other suppliers.¹⁴⁰ Economic and social impact of investment was considered in light of potential contribution to Tigray's long term development.¹⁴¹

The major binding problem for investment in the regional state of Tigray has been a lack of strategy and a weak institutional arrangement or institutional frame works that create conducive environment for investment.¹⁴² So far most regional governments in Ethiopia including the

¹³³ Ibid, p12

¹³⁴ Tigray Regional Business Agenda 2018, Psd Hub Publication No 25, p 3
Transforming the Industry and Investment in Tigray: Challenges, Prospects, Policy Options and Actions
Final Report June 2018, p14

¹³⁶ Ibid.

¹³⁷Taddese Getacher Engida s Assessment Of Private Investment In Tigray, Northern Ethiopia: Challenges And Opportunities In The Case Of Manufacturing Sector , Mekelle University,2018, Ethiopia,P47.

¹³⁸ Ibid, p46

¹³⁹ Tigray Investment Office, 2011/12 Annual Performance Report, 2012, P6

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴²Transforming the Industry and Investment in Tigray: Challenges, Prospects, Policy Options and Actions

regional state of Tigray have been passive in attracting and administrating investments especially foreign investments.¹⁴³ Investment promotion was conducted without a clearly defined strategy on investment in general, and FDI in particular and in the absence of a roadmap on how to promote and facilitate investment, what types of investment to attract and into which sectors, and how to evaluate the impact of the investment, what amount of employment opportunities could be created by the investment activities, what kinds of technology transfers could be gained from the investment activities and what kind of economic advantage in general could be achieved from the general economic activities of the investment.¹⁴⁴

Investment attraction and promotion has been largely left to the Federal government.¹⁴⁵ In Tigray, investment activities are conducted by the Investment Directorate under the Bureau of Industry. The Investment Directorate does not target investors but it rather waits until investors knock at its door enquiring about investment prospects and express an interest in exploring investment opportunities.¹⁴⁶ The Directorate then reacts to the request and efforts are made to accommodate the potential investors. Often very little support is provided beyond facilitating entry and establishment by issuing an investment license and advising on the procedures for obtaining various permits.¹⁴⁷

Investment is, indeed, one of the primary source of growth and industrialization of a given country. However, its effectiveness regardless of ownership structure that is public or private or whether domestic or foreign rests up on its good and predictable investment policies and strategies, institutional arrangements and complementarities with other key elements of the growth and industrialization process.¹⁴⁸ Moreover, investment strategy is not about choosing between foreign and domestic investment. It is about both forms of investment and the linkages between them. In fact, the development of a dynamic and competitive domestic private sector in itself becomes a powerful investment promotion tool and attractive to foreign investors seeking partners in a

Executive Summary, June 2018, P6.

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Supra note.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Supra note.

growing market environment.¹⁴⁹ Thus, investment attraction and investment facilitation should be treated as an integral part of investment and development promotion strategy a given country.

In addition to that investment is not only about attracting capital but also it is about attracting different talent or useful skills, better technologies, modern management and leadership.¹⁵⁰ The regional government can utilize investment as a venue to also attract skills, technologies and modern management to Tigray with the ultimate objective of making Tigray the best destination for both talent and investment.

3.2. Overview of the Regulatory Frameworks

The current federal investment proclamation No 1180/2020 provides that the entire investment activities of the country has to be regulated both by the federal and regional governments.¹⁵¹ Accordingly, the regional state of Tigray has proclaimed its regional investment proclamation No. 319/2019 and investment land directive No.1/2020 to regulate its regional investment activities. The main objective of the Tigray Investment and Export Commission as provided for in the proclamation is implementing transparent and efficient investment administration system and thereby attract, encourage and expand investment in the region.¹⁵² It is also expected to encourage private investors to participate in the economic development of the region; to create a massive employment opportunity and transfer technology to the region.¹⁵³

The council of state executive of the government of the national state of Tigray has issued the administration and demarcation Tigray investment land regulation No.1/2020 which regulates the power and duties of the commission and investment land throughout the region. The main objectives of the investment land directive are creating investment flow that contribute its fair share for the economic development of the state of Tigray by creating sustainable investment land bank of Tigray; creating a clear, transparent and legal procedures of on how the urban and rural lands needed for investment is to be deposited in the investment land bank of Tigray; ensuring that

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Federal Negarit Gazeta of The Federal Democratic Republic Of Ethiopia Pro No .1180/2020, art 29, P 12409

¹⁵² National Regional State of Tigray, Negarit Gazette proclamation No .319/2019, art 5.

¹⁵³ Ibid.

the rural and urban land that is given to investment activities are used as the intended purpose by creating conducive environment, accountability and a system of mentorship.¹⁵⁴

3.3. Organs of Administration

With regard to the administration of Tigray Investment, the Tigray investment & export commission proclamation no 319/2019 has provided that the commission shall have the board, commissioner and one or two vice commissioner to be appointed by the president of the state of Tigray, necessary employees to be hired and administered by regulation to be enacted and other necessary staffs.¹⁵⁵

i. The Board: Members, Powers and Duties

According to the TIEC proclamation No 319/2019, the board to be accountable to the president of state of Tigray, has the members of vice President of the state of Tigray(head), the commissioner, Bureau of Industry and Urban Development of Tigray Region , Bureau of Agriculture and Rural development of Tigray Region, Bureau of planning & finance of the region, the revenue development authority of the region, agency of small & medium manufacturing industry of the region, agency of mining and energy of the region, Bureau of health of the Region, Bureau of science & technology of the Region and Bureau of employment and social affairs of the Region.¹⁵⁶

Powers and duties of the Board

Having defined the members of the board, the Tigray Investment & Export Commission proclamation no 319/2019 has provided the powers and duties of the board in such a way that it shall implementing powers and duties vested in it by the virtue of this proclamation and anther relevant laws, establishes investment adviser committee and decide the powers and duties, appoint members and head of the committee when necessary, prepare strategic plans and road maps of investment and export activities of the region and implements or make to be implemented, supervise and fallow up the implementation of these strategic plans and road maps.¹⁵⁷ Farther more, the board shall also have the power and duty of supervise and follow up the activities of the

¹⁵⁴ Preamble of the council executives state of Tigray regulation no 1/2012, p1.

¹⁵⁵ Ibid, art 8, p4.

¹⁵⁶ Ibid, art 13(2/a-m/), p9.

¹⁵⁷ Ibid, art 14/1-3/,p10.

investment & export commission, make directions and follow up policies of investment and export, law of investment and the relevant laws that are drafted by the state executive Councils and approved by the state council of the region, hears and decides grievances appeals that submitted to against the decision of the commission and issue directives that necessary how to make, decide grievances and appeals, and where necessary, in consultation with the relevant regional bodies, grant new or additional investment incentives, allowed to the regional government, other than what is provided for under the law of the federal government.¹⁵⁸

ii. The Commission: Powers and duties

As provided for in under the Ethiopian investment proclamation, investment activities of the country have to be administered by the federal and regional investment organs as to be defined by the laws of the respective regions.¹⁵⁹

The Commissioner and vice commissioners are organs of investment administration of the Tigray investment and Export Commission that have their respective powers and duties provided for in the proclamation no of 319/2019 of the Tigray investment and export commission as one of the regional organs to administer the regional investment activities.

The Tigray Investment & Export Commission proclamation no 319/2019 has provided the powers and duties of the commissioner and vice commissioners in such a way that the commissioner shall have the powers and duties of implementing the powers and duties has been given to it by relevant laws and by the board, enforcing the directives issued by and decisions given by the board, work and coordinate matters related to the investment and expert activities of the region, initiate policies and implementation measures needed to create and competitive investment climate and follow up the implementation of the same up on the approval by the board, study the investment opportunities of the region and collect, compile, analyze and disseminate investment and export related information.¹⁶⁰

¹⁵⁸Ibid, art14(6-7)p11

¹⁵⁹The federal Democratic republic of Ethiopia, Proclamation No.1180/2020, art29/4/, P 12409

¹⁶⁰National Regional State of Tigray, Negarit Gazette proclamation no 319/2019,art 9/1-12/, p4-6.

In addition, it has also powers and duties to issue, renew and cancel investment permits within its jurisdiction given by relevant laws, enforce one stop shop services given by the commission of the region, monitor the implementations of the investment projects for which it has issued permits, ensure that the terms of the investment or export permit are complied with and incentives granted to investors are used for the intended purpose and made to be taken legal measures or give warning in accordance to the relevant laws of the region and as per of the contract concluded.¹⁶¹

If investment or permit are not complied with and incentives granted to investors are not used for the intended purpose, cancel the permit if not act accordingly.¹⁶² In addition to that the commission also have the powers and duties in that in consultation with the concerned bodies of the region, give and administer rural and urban land for the type of investments that are given priority by the region, work in coordination with the concerned bodies to make technology transfer related to investments activities and enforce any relevant activities that help to achieve the objectives of the commission.¹⁶³

3.4. Institutional Structure

Before the establishment of the Tigray investment and export commission in March 19 of 2019, the investment activity of Tigray used to be conducted by the Investment Directorate under the Bureau of Tigray Region Industry and Urban Development. Having the need to administer and to accommodate the new flow of investment in Tigray, the regional state of Tigray has established its new investment commission at the regional level by the virtue of proclamation no. 319/2019 to administer investment activities in the region. It is believed that there is considerable flow of investment in Tigray in the recent two years on wards than what was before. This flow of investment in the region should be administered by well-organized and equipped investment institutions to sustain the investment in the region.

The main objective of the investment commission [TIEC] as provided for in the proclamation is implementing transparent and efficient investment administration system and thereby attract, encourage and expand investment in the region. It is also expected to encourage private investors

¹⁶¹Ibid.

¹⁶²Ibid.

¹⁶³ Ibid, art 9/13-17/,p7.

to participate in the economic development of the region; to create a massive employment opportunity and transfer technology to the region.¹⁶⁴

Chapter Four:

Promoting Regional Investment through the TIEC

Introduction

This chapter analyzes the opportunities, prospects and challenges of the TIEC in light of promoting investment in the region. It examines the power of the Tigray investment and export commission to administer foreign investments and land use for investment. It also assesses the structural arrangement of the investment and export commission in line with investment promotion will also be discussed in this chapter. To this effect, the research has employed key informants interviews,

¹⁶⁴ National Regional State of Tigray, Negarit Gazette proclamation no 319/2019, art 5, p3.

questionnaires to the investors, focus group discussion, investment reports and personal observations.

4.1. Brief Profile of TIEC

The regional State of Tigray has established its new investment Commission called Tigray investment and export commission in the regional level by the virtue of proclamation no 319/2019 to administer investment activities in the region. The commission is found in Mekelle, by establishing its head quarter therein, has board, commissioner and vice commissioner, to lead the commission, about 43 employees, and another relevant staffs. It has entered in to operation in March of 19/ 2011 E.C. It has six investment clusters in Humera, Shire, Aksum, Adigrat, Mekelle and Maychew in Tigray.

4.2. Respondent characteristics

Data was collected from three major categories of respondents who are, investors conducting investment in Mekelle, public officials on the Tigray Investment and Export Commission and some key informant employees of the investment commission. The investors who gave the interviewees are those who have been given the investment permit after the establishment of the (TIEC) and these who had been given their investment permit before the establishment of TIEC by the organ which was given the responsibilities to do so. In addition to that a total 15 questioners were distributed to the 15 investors who investees in different projects in which 15% of the investors are these who took investment permit before the establishment of TIEC and 85% of the investors are those who have taken their investment permit after the establishment of TIEC and are on operations. These investors who responded the questioners are investing in manufacturing, breeding cattle, hotel and construction in Mekelle. In addition to that investment reports of the TIEC, different commentaries on the investment of Tigray, journals and relevant investment laws have been used.

4.3. Opportunities of TIEC in Promoting Investment

In what follows, we are going to look in to how the TIEC administers land for investment use, the activities of the Commission about the investment promotion and performance in Tigray; how one shop stop service investment activities are carried out by the TIEC and how the TIEC is monitoring the implementation of the projects so as to promote investment.

4.3.1. The administration of land for investment use

The major binding constraint for investment in the region has been a lack of strategic and institutional administration of land for investment use.¹⁶⁵ To solve this constraint, the government of the national state of Tigray has proclaimed that the land for investment use has to be administered by the TIEC. According to Art 9/13/ of the investment and export proclamation no 319/2011, the commission has the power and duties of, in consultation with the concerned bodies of the region, give and administer rural and urban land for the type of investments that are given priority by the region and states that the detail powers and duties of the commission in administrating of the land for investment use is to be regulated by regulation issued by the Council of State executives.¹⁶⁶

Accordingly, the Council of state executive of the government of the national state of Tigray has issued the administration and demarcation Tigray investment land regulation no 1/2012 which regulates the power and duties of the commission and investment land throughout the region. The main objectives of the investment land directive are creating investment flow that contribute its fair share for the economic development of the state of Tigray by creating sustainable investment land bank of Tigray; creating a clear, transparent and legal procedures of on how the urban and rural lands needed for investment is to be deposited in the investment land bank of Tigray; ensuring that the rural and urban land that is given to investment activities are used as the intended purpose by creating conducive environment, accountability and a system of mentorship.¹⁶⁷

The Tigray investment and export proclamation no 319/2012 provided for in the administration of the investment land use in that the commission shall have the powers and duties, in consultation with the concerned bodies of the region, deposited land in investment land bank of Tigray, entering into contract with the investors, administer rural and urban land deposited in the investment land bank for the type of investments that are given priority by the region.¹⁶⁸ It also provided that the commission shall have the power to administer urban and rural land which is to be used for investment activities that is not yet deposited in investment land bank of Tigray and provided that

¹⁶⁵ Transforming the Industry and Investment in Tigray: Challenges, Prospects, Policy Options and Actions Executive Summary, June 2018, P5.

¹⁶⁶ National Regional State of Tigray, Negarit Gazette proclamation no 319/2011,art 9/13,14/, p7.

¹⁶⁷ Preamble of the council executives state of Tigray regulation no 1/2012, p1.

¹⁶⁸ National Regional State of Tigray, Negarit Gazette proclamation no 319/2011, art 10/13, /p7

once deposited such kinds of land in the investment land bank, no organs of the government which have the power to administer urban and rural land takes over or decide such kind of land to be used for another purposes if and only if the investment commission authorizes to do so.¹⁶⁹

In addition to that the investment land regulation no 1/2012 of Tigray has provided that the commission shall receive a kind of land which is free from any legal or any claims which has infrastructures and has no debt to be deposited in the investment land bank from the Bureau of land use and administration of the region, rural or urban land administration organs which have the power to administer land in Tigray.¹⁷⁰

From these legal provisions, it can be stated that the urban or rural land needed for investment activities has to be deposited in investment land bank of Tigray by the commission and if once deposited in the investment land bank, it is the power of the commission and no one else to administer it fully.

Engineer Abebe Girmay, the commissioner of the TIEC, has stated that “before the establishment of the TIEC, there was no investment land bank to be used in investment activities in Tigray and the power to administer land for investment was distributed here and there from the Bureau of Urban Development and Industry up to the level of city or Wereda administration.¹⁷¹ Hence, it was difficult to identify, know and administer in that which land to be used for which kind of investment and where it is found in the region and hence it was not easy for investors to get land for their investment activities from the Bureau of Urban Development and Industry up to the level of City or Wereda administration and this long process paved away for corruptions and another mal administration of the land for investment in the region’’.¹⁷²

Furthermore, he also stated that “but now the investment commission has established its own investment land bank in which urban and rural land of the region needed for investment activities is to be deposited in it by having full information in such way that describes the detail information of the land deposited allocating like where the land is found, direction of the land, area of the land, which kind of land is to be used for what kinds of investment activities, the lease or rent price of

¹⁶⁹ Ibid, art 10/14/, p7.

¹⁷⁰ The council executives state of Tigray directive no 1/2012, art 5, p6.

¹⁷¹ Interview with engineer Abebe Girmay, the Commissioner of TIEC; 13/11/2012 E.C

¹⁷² Ibid.

the land and practically the commission has deposited in the investment land bank of the commission hectares of land for investment activities”.¹⁷³

Finally, he said that “once the investment and export commission deposited the land to be used for different investment activities in the investment land bank, no governmental organ or any other governmental officials tried to take over the deposited land to be used other purposes so far and hence it is up on the power of the investment commission and no else to administer the land we deposited in the investment land bank”.¹⁷⁴

In addition to that Mr. Daniel Mekonen, the vice Commissioner of TIEC, said that “access to land is the main determinant for entry and establishment of an investment and hence it had been a long period of time that access to and administer of the land needed for the investment in Tigray has been the leading challenge in doing business in general and investment in particular in the state of Tigray”.¹⁷⁵ Furthermore he also stated that “because of the there was no specialized and equipped institution that has the power to administer investment land in the one center investors may reluctant to invest in Tigray for the fear that the land they take for their investment activities is to be taken by any organs of the government for any reasons they may claim and this may rise the question of tenure security that hinders the flow of investment in the region”.¹⁷⁶

Finally, he stated that “but now after the establishment of Tigray investment and export commission in the region, which practically entered in to operation in 19/5/2012 E.C, the rural and urban land needed for investment activities is being placed in the investment land bank by the investment and export commission and this land placed in the investment land bank is being administered by the commission.¹⁷⁷ If an investor who wants to invest is indeed of land for his investment activities and upon the presentment of his investment proposal and other needed criterion, land being is given by the commission from the investment land bank who wants to invest in every corner of the region. So far, we have deposited hectares of urban and rural land needed for investment and the commission transferred hectares of land for investors for their

¹⁷³ Ibid.

¹⁷⁴ Ibid.

¹⁷⁵ Interview with Daniel Mekonen, the vice commissioner of TIEC, 13/11/2012 E.C.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

investment activities who fulfilled the required conditions and this may create for investors to have tenure security for their investment”.¹⁷⁸

Mr. Getachew Gebreslasie, head of Mekelle city of small and medium manufacturing industry, has stated that, “until the establishment of TIEC, land was delivered by our office in collaboration with concerned bodies by the previous system to the investors who wanted to invest in the small and medium manufacturing industry. But after the establishment of TIEC, we have been noticed that we do have no power to deliver land for investment activities in the small and medium manufacturing industry in Mekelle city. The land needed for the investment activities in small and medium manufacturing industry in Mekelle city is being provided by the TIEC and we do have no mandate to deliver land for such kinds of investment in the region”.¹⁷⁹

Interview made with Daniel Gebreslasie, who invests in manufacturing in Mekelle, stated that “I started investment in 2009 E.C. in manufacturing industry in Mekelle. At that time, it was very difficult to know from where the land for investment was gained and which of the governmental organ was responsible for the administration of the investment land in the region. The power to administer the investment land was given to different governmental institutions starting from the Bureau of urban development and industry up to the Kebelle city administration. So in order to get land for investment, you have to follow the long process from the Bureau up to the Kebelle level and at that time I received land in 2009 E.C for my investment I carry out now”.¹⁸⁰

He also stated that “ but now it is easy to know that which governmental organ or institution is responsible to administer the investment land of the region, the TIEC, I received land from the TIEC On March 2012 E.C for the expansion of my investment that I started before. So it is good that land for investment is to be administered by one institution, the TIEC, in the investment land bank of urban and rural land needed for investment activities in the region”.¹⁸¹

An interview made with Mr. Haftom Baraki, an investor, stated that “I started investment in 2010 E.C in manufacturing industry in Mekelle. At that time I got land for my investment activities by

¹⁷⁸ Ibid.

¹⁷⁹ Interview with Mr. Getachew Gebreslasie, head of Mekelle city of small and medium manufacturing industry, 8/9/2012 E.C

¹⁸⁰ Interview with Mr. Danie Gebreslasie, an investor, 9/9/2012 E.C

¹⁸¹ Ibid.

approaching different governmental institutions starting from the Bureau of Urban Development and Industry up to the level of my Kebele Hawelti administration and at that time the land needed to investment activities was administered by different institutions of the government that got me problem to find land for the investment.”¹⁸²

Besides the interviews that has been conducted as stated above, the researcher has accessed the TIEC report relating to the administration and delivery of land that has been carry out by the investment commission for the investment activities of the regional state of Tigray.

According to the report of TIEC, it was planned to have 300 hectare in investment land bank to the year of 2012 from the urban and three Werads of rural land that are free from any legal or any claims and the performance is that 600.15 hectares was gained and kept these 600.15 hectares in the investment land bank in six month of its operation of the commission.¹⁸³ It has been also included in the investment report that out of 600.15 hectares, 218.3 hectares have been transferred to the demotic and foreign investors, and 158 investors have been provided 73.16 hectares of land by the commission which was began before by the city administrations and witch was in process before the establishment of the commission.¹⁸⁴

Furthermore, it has been provided in the investment commissions’ annual report that 382 hectares of land is ready for transfer for the 102 investors who have submitted their proposal to the commission and met the minimum requirement needed by the laws and other directives of the region.¹⁸⁵ In addition to that it has also been provided that, since transferring land for investment is the duty and power of the commission, 682 different projects that were in small and medium manufacturing industry in Mekelle that need land for their investment were sent back to the commission that gets land from the commission by up on fulfillment of the required conditions by the commission.¹⁸⁶

From the interviews and the annual report of the commission, it is possible to have the idea that there has been submitted that the flow of investment opportunities into Tigray region should be

¹⁸² Interview with Mr.Haftom Beraki, an investor, 10/9/2012 E.C

¹⁸³Annual report of TIEC, June, 2012 E.C, Mekelle, P12

¹⁸⁴Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

administered by an autonomous governmental institution which is well equipped with the necessary infrastructures to sustain the investment activities. Administering land for investment is one of the main determinant factors for investment activities to sustain in the region.

Before the establishment of TIEC, the urban and rural land of Tigray needed for investment activities was not administered one autonomous governmental institution and created for investors of difficulty from where the land for investment is to be gained for their investment activities which leads this to the negative impact for investment promotion and expansion in the region. Now the Tigray Investment and export commission, which entered practically in to operation in 19/5/2012 E.C, is practically in the position to administer and transfer urban and rural areas needed for investment activities in the region. So in short period of time (about six month from its establishment), keeping on 600.15 hectares of land for investment in investment land bank with required information and began to transfer hectares of land for investors is the best signals of administrating land for investment activities by one organized commission, TIEC, which leads to promote investment in Tigray.

4.3.2. Investment Promotion and Performance

It is believed that major binding problems for investment in the region have been a lack of strategy and a weak institutional arrangement that carries out on investment promotion in Tigray. Believing To solve this problem, the Tigray Investment and Export Commission proclamation has provided that TIEC has to undertake investment and export promotion and facilitation in the region. In the proclamation no 319/2011 of TIEC, it has been provided that the commission shall have the power and duties of promoting and facilitating investment and export in Tigray.¹⁸⁷

An interview that conducted with engineer Abebe Girmay, the commissioner of the TIEC, about the practices and feasibility of investment and export promotion and facilitation in Tigray investment stated that “before the establishment of the TIEC, most regional governments of FDRE including Tigray region have been passive in attracting investments of both the domestic and FDI. In Tigray, Investment promotion and facilitation was conducted in different governmental institutions of the region including Investment Directorate under the Bureau of Industry and city and Wereda administration of the region without a clearly defined strategy both on domestic and

¹⁸⁷National Regional State of Tigray, Negarit Gazette proclamation no 319/2011, art 9/5/, p5

FDI investment opportunities of the region, and in the absence of a roadmap on how to promote and facilitate investment, what types of investment opportunities to attract and into which sectors of the investment activities, and how to evaluate the impact of the investment in terms of economic and employment opportunities in regional state of Tigray.”¹⁸⁸

He also stated that “after the establishment of TIEC, the commission is undertaking on the views that investment attraction and investment facilitation should be seen as an integral part of investment and development promotion strategy the regional state of Tigray and hence the commission has established the investment and export promotion and facilitation team that primarily carry out on the promotion and facilitation on the investment opportunities of the region both for the domestic and FDI and entered in to practice in exploring investment opportunities and the potential investors both domestic and FDI who wants to invest in Tigray.”¹⁸⁹

Mrs. Lemlem Kinfu, Coordinator of study and promotion of TIEC, stated that “before, it has been the practices that there has been the tendency of prioritizing or focusing on the investment quantity than investment quality and that prioritizing or focusing on investment attraction in the views of boosting or give priority to the investment quantity while failing to give due attention to the investment facilitation and promotion to the quality of investment and its sectorial distribution in Tigray has been one of the leading constrains in the in the investment activities of the regional state of Tigray. Now the commission has been working in the view that investment quantity and investment quality are the two important issues of the commission and are not intersect each other and both are equally important and determinant to the investment promotion of Tigray because investment is not only about attracting number of investors and capitals in number but also it is about the quality on the attraction of skills, employment opportunity, transfer of good technology and having good experience of management specially for the FDI.”¹⁹⁰

She also said that “based on this views the commission has been working by establishing investment promotion and facilitating team which consists of 5 members and the team conducting investment promotion and facilitation by using the media of the commission’s website WWW.tiec.got.et, Tigray television, Mekelle F.M.104.4 and the website of EIC with the objective

¹⁸⁸Interview with engineer Abebe Girmay, the Commissioner of TIEC, 14/11/2012 E.C.

¹⁸⁹Ibid.

¹⁹⁰Interview with Mrs. Lemlem Kinfu, the Coordinator of study and promotion of TIEC, 16/11/2012 E.C

of making Tigray the best destination for investment and talent, manufacturing hub by increasing investment significantly”¹⁹¹

In addition to the interview conducted as stated above, the research has assessed the TIEC annual report of 2012 on relating to the activities that the commission did on the investment and export promotion and performance in the region.

According to the annual report of TIEC, the commission planned to give new investment permit for the number of 1571 investors which will register the capital of 26 billion birr in the year of 2012 of E.C. and the performance is that 1340 investors has been given the investment permit in the year of 2012 E.C which have registered the capital of about 38.1 billion birr.¹⁹²

Here is the table that shows annual performance of TIEC in giving investment permit in deferent sectors of investment and the capital of investment and employment opportunities that created in the region.

Table 4.1

no	Type of investment	Number of projects	Registered capitals	Created employment opportunities		
				Permanent	Temporary	Sum total
1	Manufacturing	448	19941556534	32950	22899	55588
2	Agriculture	354.00	2177757384.99	4463	9994	14457
3	Construction	289	1159759172	1454	3515	4967
4	Hotel & tourism	189	13033625131	11148	13720	24868
5	Mining	14	360323012	350	521	873
6	Social service	46	1410602779	1408	631	2039
	Sum total	1340	38083624013	51773	51280	102792

Source: -the annual report of the TIEC, 17 of June 2012 E.C, Mekelle.

As it can be perceived from the table, the annual plan of the commission to give permission for new investment of 1571 projects with the capital of 26 billion birr and the actual performance of

¹⁹¹Ibid.

¹⁹²Annual report of TIEC, June, 2012 E.C, Mekelle, P15

the commission is 1340 projects which is 85.3% of the total plan have been performed which indicates that commission is in good way to promote investment in Tigray region. In addition to that the employment opportunities that has been created, both permanent and temporary, during one year of its apportion is about 102792 which signifies good performance relatively in relating to the actual condition of the region of un employment conditions of the region in that if this amount if employment opportunity is created in this one year, it is evident to have good much more numbers of employment opportunities will be created in few years by the commission solve the determinant problems of un employment rate of the region which helps to sustain and promote investment in the regional state of Tigray.

Furthermore, when we compare the total investment performance of the commission in one year specially in terms of investment capital registered and number of new projects given investment permit with the past few years investment performance of the region, the investment performance of the commission in one year is much bigger than the investment performance that achieved in the GTP I of the region as it has been stated in chapter two of this research. As it has been stated in chapter two of this research, 3,279 new projects have been registered with the total capital of 47.3 billion birr during GTP-I in the region. As it can be shown, only 3,279 new projects have been registered with the total capital of 47.3 billion birr during the five years which is almost commensurate with the total 1340 new projects that have been registered with the total capital of 38,083,624,013 birr during the one year. This is good performance in that when we compare the investment promotion and expansion in the region by the commission in one year with that of five years (GTP I) of the region which leads to investment promotion of the region.

4.3.3. Investment One Shop Stop Service and Monitoring

The implementation of Investment one stop service and monitoring in Tigray is one of the powers and duties of the commission of TIEC. According to Art 9/4/ of the investment and export proclamation no 319/2011, the commission has the duties to implement one stop service of the actives and services that are provided by the commission of TIEC.¹⁹³

Interviews have been made with the informant officials of TIEC on how Investment one stop service and monitoring is being implemented in Tigray. The interview with Mr.Hailesiasie Tadele,

¹⁹³National Regional State of Tigray Negarit Gazette proclamation no 319/2011, art 9/8/, p6

the Directorate Incentives & One Stop Service of the TIEC, stated that “ implementing investment one stop service of the activities and services that are provide in the TIEC is the primary duty of the commission. We believe that implementing investment one stop service is leading determinant of investment promotion and sustain in Tigray. Hence almost all activities and service of the investment commission to the investors are being given in one stop service to the investors especially for demotic investors. For foreign investors, the service given by the commission is providing land for their investment activities. Starting from the entrance of investment project proposal, the first step, up to the conclusion of investment contract is given in one center in the commission of TIEC. It is only two services like environmental impact assessment of the investment proposal and payment fees relating to land compensation that are being given out the commission of TIEC.”¹⁹⁴

In addition to the interviews, 86% of the respondents to the questioner responded about one stop service in that they had been given the investment permit by the TIEC and they had been rendered on one stop service all the services needed that are to be rendered by the investment from the investment and export commission office, and 14% of the respondents to the questioners responded that even if most services they had been rendered was rendered to them by the investment commission in TIEC, there were some services like investment related fees and investment land that were given by the other financial and land administration institutions which is out of the place of investment commission

The researcher also assessed the daily services of the investment commission that are being given on one stop service in the investment commission to the investors. Here is the table summarizes and shows the daily activities and services of the investment commission given to the investors.

Table 4.2

no	Services to be rendered	Place of rendering service	Standards of rendering services	
			time	Expenses
1	Entrance project proposal	Directorate of evaluation and monitoring	30 days	For free

¹⁹⁴Interview with Mr.Hailesiasie Tadele, the directorate of one stop service & incentives of TIEC,8/11/2012 E.C.

2	Giving of feed back to the proposal	Directorate of evaluation and monitoring	15 days	For free
3	Changing investment proposal	Directorate of evaluation and monitoring	7 days	For free
4	Investment expansion	Directorate of evaluation and monitoring	2 days	For free
5	Providing cement	Directorate of evaluation and monitoring	20 minutes	For free
6	Supporting to get services of electric city, telecom, bank	Directorate of evaluation and monitoring	15 minutes	For free
7	Evaluating of plan	Directorate of evaluation and monitoring	5-7 days	For free
8	Rendering service of information	Front desk	10 minutes	For free
9	Providing investment permit	Directorate of one stop service	20 minutes	600 Birr
10	Renewal of investment permit	Directorate of one stop service	10 minutes	200 Birr
11	Rendering investment permit that lost	Directorate of one stop service	10 minutes	100 Birr
12	Investment expansion	Directorate of one stop service	15 minutes	300 Birr
13	Cancelation of investment permit	Directorate of one stop service	10 minutes	For free
14	Permitting investment incentives	Directorate of one stop service	1 day	For free
15	Conclusion of investment contract	Directorate of administration investment land	1 day	For free
16	Questions of land expansion for investment	Directorate of administration investment land	15 days	For free

17	Plan	Directorate of administration investment land	2 days	For free
18	Monitoring investment	Directorate of administration investment land	7 days	For free

Source: - Researcher’s own Survey.

From the interview, the questioners and the table depicted above, it is possible to have the idea that the investment and export commission is in the position of rendering in one stop services almost all investment services that is to be rendered by the investment commission in the place it situated relatively within short period of time which plays its role to the promotion of investment in Tigray. As can be shown from above table, the longest time to take for providing the investment service is 30 days which is short relatively compared to existing bureaucracy and performance of rendering service of the governmental institutions of the region

Moreover, the interview conducted with Mr.Desta Gebregiorgis, directorate monitoring and evaluation of TIEC, about monitoring investment projects stated that “monitoring the implementation of the investment projects as per the investment contract is the duty of the investment commission in that it assures the performance of the investment project that has contribution for the sustainability of the investment in Tigray. The commission has been undertaking continuous undertaking and facilitation activities both for the investment projects given after and before the establishment of TIEC in associate with the concerned bodies of essential services given by the government to the investors like the provision of electric city, water, land, financial constraints by creating enabling environment for financial loans. In this year, the investment commission has taken over the land provided for 99 investment projects for their investment activities for the reason that they did not perform as per the investment contract the land they had been provided. They did not entre in to operation and use the land for the intended objectives as pre the investment contract.”¹⁹⁵

In addition to that, 78% of the respondent to the questioners responded that the commission is monitoring the investment activities whether they undertaking as to the investment contract they

¹⁹⁵ Interview with Mr.Desta Gebregiorgis, the directorate of investment monitoring & evaluation of TIEC, 12/12/2012 E.C

concluded with the investment commission or not while 22% of the respondents to the questioner responded that the investment commission is not in the position to undertake the monitoring of the investment projects whether it is in operation or not, it did not monitor their investment projects as it supposed to do so.

The researcher also assessed the annual report of the investment commission about the measures that has been taken as a result of monitoring investment projects by the investment commission. Here is the table that shows the measures that has been taken by the investment commission for these investment projects that did not undertake the operations phase of the project as per the intended purpose of the investment contract.

Table 4.3

Investment cluster	Investment land taken off by the commission	No of investment projects Decided to take of investment land	No of investment project that have been given waning	No of investment projects that have been given last warning	No of hectares hat has been taken off by the commission
Mekelle	99				44.61
Humera		7	15		
Shire		12	24	8	21.60
Adigrat					
Aksum					
Maychew					
Sum total	99	19	39	8	66.21

Source: - Annual Report of TIEC, June, 2012 E.C, Mekelle

From the interview, the questioners and the table depicted above, 99 investment projects has been deprived of the investment land only from Mekelle about 44.61 of hectares of land and a total of 66.21 hectares of land has been taken off by the investment commission. In addition to that, majority of the respondents to the questioners have responded that the commission is undertaking

the monitoring of the investment projects that ensures accountability of investors to the investment contracts they conclude with the investment commission. From this it can be explained that the investment commission is in the position of commencing monitoring the investment projects whether the projects are performed or entered into operations in adhering to the terms of the contract which can play its role in removing encumbering of investment of lands land taken for years in the region that hinders investment promotion in the state of Tigray.

4.4. Challenges of TIEC in Promoting Investment

In the forthcoming paragraphs, we shall discuss and assess the power of investment commission in finding investment land that is to be placed on in the investment land bank and its practical challenges on the ground. It also analyzes the challenge of administrating and monitoring of FDI by the investment and export commission of Tigray. Finally, the institutional structure of the TIEC will be assessed as to whether it organizes to render one stop service so as to promote investment in Tigray.

4.4.1. The Power of TIEC in Finding Land to Be Placed on Investment Land Bank

Access to investment land is the main determinant of investment promotion and sustainability. The investment and export commission proclamation provides on how the investment land to be placed in investment land bank is found. . According to Art 9/13/ of the investment and export proclamation no 319/2011, the commission has the power and duties of, in consultation with the concerned bodies of the region, give and administer rural and urban land for the type of investments that are given priority by the region and states that the detail powers and duties of the commission in administrating of the land for investment use is to be regulated by directive issued by the council of state executive.¹⁹⁶

Accordingly, the investment land regulation no 1/2012 of Tigray has provided that the commission shall receive a kind of land which is free from any legal or any claims which has infrastructures and has no debt to be deposited in the investment land bank from the Bureau of land use and administration of the region, rural or urban land administration organs which have the power to administer land in Tigray.¹⁹⁷

¹⁹⁶National Regional State of Tigray, Negarit Gazette proclamation no 319/2011, art 9/13, 14/, p7

¹⁹⁷ The council executives state of Tigray directive no 1/2012, art 5, p6.

From these two legal provisions, it can be explained that the investment commission receives the rural and urban land to be placed in investment land bank from the city and rural land administrations. It is the rural and urban land administration organs that clear which land is free any claims and to be for investment activities to be placed in investment land bank of the region.

In this case the deep interview has been conducted with the officials of the investment commission to assess the challenges being faced on the ground on finding rural and urban land to be placed in investment land bank.

In interview conducted with Mr. Daniel Mekonen, the vice Commissioner of TIEC, stated that “finding rural and urban land to be placed in investment land bank is challenging. The rural land administration organs are very reluctant to clear land needed to be placed in investment land bank in saying that the land is not clear and has legal or another claim but which is actually not, or saying that this land is to provide for youth for settlement or are not willing to clear and compensate the land needed for investment by stating that they have not enough compensation for it. In urban land administration there is a tendency to transfer the land needed to investment by lease to other beneficiaries or saying that land has legal or other claims and can be placed in investment land bank but actually has no claim. They have the tendency of administering the investment land by the old system and they don’t want to get rid of from the old system and are not as such cooperatives in finding land to be placed in the investment land bank which is very challenging to the investment commission to find land to be placed in investment land bank”.¹⁹⁸

In addition to that Mr. Goitom Gebrehiwet, the Directorate investment land administration of TIEC, said that “it is the power and duties of the rural and urban land administration organ to clear, compensate and prepare land needed for investment to be placed in the investment land bank. Due to this, most rural and urban land administration organs are not willing to clear and compensate land for investment in that they want such kind of land to be administered by themselves. These land administration organs are not willing to get rid of from the old land administration system that hinders the investment promotion in Tigray. This kind of challenges should be solved as soon as possible.”¹⁹⁹

¹⁹⁸Interview with Mr. Daniel Mekonen, the vice commissioner of TIEC, 13/11/2012 E.C

¹⁹⁹Interview with Mr. Goitom Gebrehiwet, directorate of investment land administration of TIEC, 14/11/2012 E.C

Mr. Tsehaye Mulugeta, senior expert investment land administration of TIEC, explained that “the challenge in finding rural and urban land to be placed in investment land bank is the farmers in rural area and dwellers in urban area are unwilling to transfer their land for the fear that they would not get compensation for their land or would not be rehabilitated by the concerned organs of the government. Another is the city and Wereda land administration organs try to use unnecessary bureaucracy of clearing and prepare land for investment to be placed in the investment land bank of the investment commission. No rural and urban land administration organs are held to be liable for such kinds of uncooperative and make unnecessary bureaucracy they made so fare.”²⁰⁰

From this in depth interviews, it can be explained that it is up on the willing of the urban and rural land administration organs to find land for investment to be placed in investment land bank. This hinders accesses of land for the investment commission to be placed in investment land bank. Accessing urban and rural land should not be upon and by the permission of the land administrative organs but rather it should be power and duties of the investment commission of finding lands to be placed in the investment commission and be under full control of it to provide services of investment on time and without unnecessary bureaucracy of different governmental organs which can contribute Tigray investment promotion.

4.4.2. Challenges Associated With Monitoring of FDI

In Ethiopia, the administration of FDI is the power and function of the federal government. The FDRE constitution has provided that it is the power and function of the federal government to formulate and function of foreign investment policies and strategies.²⁰¹ In addition to that, the Ethiopian investment proclamation has provided that the administration of wholly foreign owned investment shall be under the jurisdiction of the federal investment Commission.²⁰²

This research has assessed on how the administration and monitoring of foreign investment projects that invested in Tigray has been carried out. The interview with Mr. Daniel Mekonen stated that “the administration and facilitation of foreign investment projects are being carried out by the EIC of the federal government. The Tigray investment commission provides only land to the investment activities of the foreign investor given investment permit by the federal government.

²⁰⁰Interview with Mr. Tsehaye Mulugeta, senior expert of investment land administration of TIEC, 15/11/2012 E.C

²⁰¹Proclamation No. 1/1995 of the Constitution of the Federal Democratic Republic of Ethiopia, art 51/4/,p19

²⁰²Proclamation No. 1180/ 2020 of the Federal Democratic Republic of Ethiopia, art 4/1/a/, p1289

In Tigray there are 15 investment projects owned by foreign investors. Practically, it is very difficult for the federal investment commission to administer and monitor each and every investment activities of the individual foreign investors invested in the regional governments. There were 4 foreign investors who received investment permit to invest on solar energy in Mekelle but the Tigray investment commissions had no information but were founded to produce blanket and related activities by receiving land by rent from individuals and continued this for four months of producing the same contrary to their investment permit. We requested to the EIC of the federal government and informed what the foreign investors did out of their investment permit but there was no any response given by the EIC and told to the investor to stop producing of the product by the investment commission of Tigray. This created difficulty for the commission to make accountable to the investors. Practically, the EIC is not in the position to monitor and facilitate the foreign investments in the region which undermine mainly to the flow and sustainability of FDI in the region after giving the investment permit.”²⁰³

In addition to that, engineer Abebe Girmay, explained that “administrating and monitoring of FDI in Tigray has been the big challenge to Tigray investment commission. The EIC is not undertaking its duty of monitoring and facilitating of foreign investors who invest in Tigray rather it hinders to come and invest in Tigray. The EIC is not working promotion and facilitation of FDI in Tigray. There were 50 foreign investors who wanted to construct industrial park in Tigray by their own expenses and make investment in it. But the federal government denied to the investors to give investment for unknown reason and we requested to the EIC the reason why to the denial of the investment permit but was no response by the federal government. During the drafting of the current Ethiopian investment Proclamation No. 1180/2020, we proposed that it should be included in the proclamation that authorizes, by delegations, the regional governments the power and duties to administer, facilitate and monitor of FDI in their respective regions what is being done by the EIC. The response was to the opposite in that it is only the federal government to administer and monitor the FDI throughout the country.”²⁰⁴

He further stated that “ there are foreign investors come to our office who have grievances on related to one stop services on renewal of investment permit, investment upgrading and other

²⁰³Interview with Mr. Daniel Mekonen, the vice commissioner of TIEC, 13/11/2012 E.C.

²⁰⁴Interview with engineer Abebe Girmay, the Commissioner of TIEC, 14/11/2012 E.C.

related investment services that should be given to them for their investment activities. But the TIEC gives response to none of their request of investment service. This has been a big challenge to promote and administer FDI in the region.”²⁰⁵

Furthermore the interview with Mr. Wang Shun, a China’s investor, stated that “I had been given investment permit by the EIC to invest solar energy in Mekelle called Wereda Semyen. The TIEC denied me to provide land to the investment by saying that there is no administrative unit called” Werda Semyen” in Mekelle and recommended me that it should be amended as Sub city Semyen, then I went to Addis Abeba to amend the name as recommended by the TIEC and stayed there for almost 30 days and it was very bureaucratic to do such simple thing by the EIC.”²⁰⁶

From this in depth interviews as stated above, the federal government is reluctant in charging of its duty to administer, facilitate and monitor the foreign investors who invests in Tigray and the Tigray investment commission has no any mandate to do so. No service is being provided to the foreign investors by the TIEC except providing of investment land to their investment activities. These can cause demotion of the flow and sustainability of FDI in the state of Tigray.

4.4.3. Challenges Associated with the Structural Arrangement of TIEC

With regard to the structural arrangement of the Tigray Investment &Export Commission, the Tigray investment & export commission proclamation no 319/2019 has provided that the investment commission shall have the board, commissioner and one or two vice commissioner to be appointed by the president of the state of Tigray, necessary employees to be hired and administered by directive to be issued by the council of state executive of Tigray and other necessary sectorial staffs.²⁰⁷

Interviews have been conducted with the officials of the investment commission as to whether the present structural arrangement of the commission is in such a way that to provide all one stop services so as to promote investment in Tigray or not. Interview with engineer Abebe Girmay stated that “we cannot say that the present structural arrangement of the investment commission is in the way that to provide all stop services that should be provided by the commission. The

²⁰⁵Ibid.

²⁰⁶ Interview with Mr. Wang Shun, a China’s investor,30/11/2012 E.C.

²⁰⁷National Regional State of Tigray Negarit Gazette proclamation no 319/2019,art 8/, p4.

environmental impact assessment of the investment proposal is being conducted out of the commission by other governmental institutions, the authority of environmental impact assessment and administration rural lands. Many Investors come to our office and say that assessing of environmental impact of our investment proposal by institution created unnecessary delay and were subjected to long bureaucracy. Another challenge in regard to the structural arrangement of the investment commission is that the compensation to be paid for the land to be placed in investment land bank is carry out by the urban and rural land administrations. This practically created the challenge in that these land administration organ are reluctant to pay the needed compensation in saying that there is no money for compensation or the value of compensation is exaggerated or the real beneficiary is not identified well or other conditions. But practically these conditions are not true and crates unnecessary delay to get land investment to be placed in investment land bank.²⁰⁸

In addition to that Mr. Dainiel Mekonen explained that “at present, there are no services of providing of environmental impact assessment of investment projects in the investment commission. This practically created inventor is subjected to different unnecessary delay and bureaucracy of offices. It would have been good to the investors to provide services without delay if the investment commission had specialized body which assess the environmental impact of the investment projects and assesses the value of compensation to be paid by the commission to the beneficiaries of the compensation. In addition to that he said that the structure of the number of employees needed to the commission is 61 employees and the actual hired employees are 51 and out of these 8 of them have resigned for reason they say salary and allowance paid is too low. It is now with 43 of employees that run the whole activities of the commission which is very challenge for the investment commission”.²⁰⁹

Furthermore 87% of the respondent to the questioners responded that the environmental impact assessment of their investment projects have been carried out by other institutions out of the investment commission and that created for them to pass through long and unnecessary delay and bureaucracy of different governmental institutions and 13% of the respondent to the questioners responded that the environmental impact assessment of their investment projects have been carried

²⁰⁸Interview with engineer Abebe Girmay, the Commissioner of TIEC, 14/11/2012 E.C.

²⁰⁹Interview with Mr. Daniel Mekonen, the vice commissioner of TIEC, 13/11/2012 E.C

out by other institutions out of the investment commission and were provided the service without unnecessary delay and bureaucracy.

6 employees of the Tigray investment commission, in focus group discussion, discussed that the investment commission has no the recommended employees as supposed to be and they are not satisfied with payment made to them. The reasons the employees who resigned from the commission is more associated with payment paid by the commission to them. The commission has no transport to the employees and hinders for us to provide service on time.²¹⁰

From the interviews and respondents to the questioner, majority of the respondent to the questioner responded and the informant interviewees affirmed that the environmental impact assessment of the investment projects that undertake by the governmental institutions out of investment commission is creating unnecessary bureaucracy and spent of unnecessary time for the investors which hinder the investment promotion in Tigray.

4.4.4. Post War Challenges of the Commission

The conflict in Tigray has led to significant investment destruction and economic damages. The war and subsequent blockade have severally impacted the regions' investments activities and the conflict has negatively impacted the regions' reputation as an investment destination that had been before the war.

In regard with post war challenges of the commission, the researcher tried to assess the commission on the impact of the war in the investment activities of the region. In this regard, interview was held with Mr. Desta Gebregiorgis, who is the evaluation and monitoring investment director of the commission, and said that "the conflict in Tigray has led to significant investment distraction both to demotic and foreign investment activities such as the widespread looting and intentional destruction of equipment of the investment sites. And this severally impacted the investment activities that had been established before the war in the flow of new investment opportunities in general and the flow of foreign directed investment in particular. He in addition noted that so far there is a total of 8000 investors licensed and out of those 4000 investors have not yet reported about their investment status. So far, it has been assessed that 80% the investment in Tigray has been destructed because of the war and out of this 70% of this investment distraction is a total

²¹⁰Focus group discussions with 6 employees of TIIC,13/11/2012E.C. Mekelle.

destruction and as a result the foreign investors frequently request to the commission to get enough compensation to their destructed investment and get guarantee to invest again their investment in the region. This resulted negative impact on the confidence of the foreign investors to invest again and to invest new investment in Tigray.²¹¹

Furthermore, he said that “at this time it is difficult to compensate all the destructed investment as the amount requested and there is no new registered foreign investment license after the war and this adversely affect the flow of foreign directed investment in Tigray”.²⁰⁵

From this interview it can be noted that the investment opportunities and reputation that had been before the war in the region is at risk.

4.5. The Prospects of TIEC in Promoting Investment in Tigray

It is believed that major binding problems for investment in the region have been a lack of strategy and a weak institutional arrangement that carries out on investment promotion in Tigray. Hence, it has been submitted that the flow of investment opportunities into Tigray region should be administered by an autonomous governmental institution which is well equipped with the necessary infrastructures to sustain the investment activities. Believing To solve this problem, the Tigray Investment and Export Commission proclamation has provided that TIEC has to undertake investment and export promotion and facilitation in the region.²¹²

Interviews have been conducted with informant officials of TIEC in related to the prospective of the TIEC in promoting investment in Tigray. Engineer Abebe Girmay stated that “it is believed that lack of strong institutional arrangement for investment promotion and facilitation has been the main challenge of investment promotion in the state of Tigray. Now the TIEC has been established with the vision to make Tigray the best destination for investment and this has been included in its long strategic plan of TIEC. In the long strategic plan of TIEC, it has also been included making Tigray a manufacturing hub by increasing investment flows both domestic and foreign to Tigray significantly, identify priority sectors based on the region’s comparative and competitive advantages for investment promotion, creating a dynamic and development-focused investment

²¹¹ Interview with Mr. Desta Gebregiorgis, evaluation and monitoring investment director of the Tigray investment commission, June 18-2017 E.C.

²¹²National Regional State of Tigray Negarit Gazette proclamation no 319/2019,art 10/, p8.

promotion and facilitation by making the investment commission staffed with highly qualified experts and to be equipped by the necessary infrastructures.”²¹³

He also said that “the ultimate perspective of TIEC in promoting investment in Tigray would be to monitor progress in investment performance and ensure that private investment both domestic and foreign contributes their fair share to the region’s social and economic development objectives by making the TIEC as the best lead investment and export institution within Tigray region and by making the Commission well-mandated and well-resourced to lead and manage export activities than what is now. In the long strategic plan of the investment commission, boosting both the quantity and quality of investment and export thereby will enhance investment constraints of the region to contribute its role to the economic development of the region is its main objective for the future.”²¹⁴

The interview with Mr. Daniel Mekonen also stated that “the investment commission has its long strategic plan objectives that to strengthen the region’s investment environment and improve its investment promotion capability and make it proactive and efficient for the future. Tigray has been endowed with the variety of investment potentials that need to be enforced and exploited in reality. The investment commission, thus, has the plan that requires focus on investors that have been identified through detailed research and on the basis of criteria that includes their potential contributions to the development of the region’s economic development by identifying and defining strategic or priority sectors that have the potential investment opportunities at the regional level based on comparative and competitive advantages, focusing on export-oriented efficiency that helps to flow FDI in the region in the future. To do this it will have highly qualified expertise that carries out the activity of identifying and defining the potential investment opportunity of the region based on the comparative and competitive advantages of the region.”²¹⁵

He also stated that “the investment commission is undertaking at this time and for the future with the view that investment promotion and investment facilitation in the region should be seen as two important things in the region. Once the investment has been attracted, expand and deepen its engagement and sustainability in the region’s economy is working with investment facilitation. In

²¹³ Interview with Engineer Abebe Girmay, the Commissioner of TIEC, 14/11/2012 E.C.

²¹⁴ Ibid.

²¹⁵ Interview with Mr. Daniel Mekonen, the vice commissioner of TIEC, 13/11/2012 E.C.

so doing, the investment commission will be able to transform itself what is now into an investment development commission that has the most highly qualified experts working with image building what the region offers and the business environment will be essential as potential foreign investors that may not know about Tigray or has bad image on Tigray to administer and monitor the overall investment issue of Tigray.”²¹⁶

From this interview, it can be explained that the investment commission has a long strategic plan that makes Tigray hub of investment center in the horn of Africa. In the future the investment commission will be able to administer and facilitate the investment flow by becoming the best investment lead institution having with highly expertise and well staffed with necessary infrastructure so as to be well equipped institution that will administer to the overall investment activities of the region that signify a good prospect for investment administration in Tigray.

Chapter Five:

Conclusion and Recommendations

5.1. Conclusion

Investment administration and facilitation is one of the pillars strategies of investment promotion and investment sustainability in a country. So far most regional governments in Ethiopia including the regional state of Tigray have been passive in attracting and administrating investments especially foreign investments. Investment promotion was conducted without a clearly defined strategy on investment in general, and FDI in particular and in the absence of a roadmap on how to promote and facilitate investment, what types of investment to attract and into which sectors, and how to evaluate the impact of the investment, what amount of employment opportunities could be created by the investment activities, what kinds of technology transfers could be gained from

²¹⁶ Ibid.

the investment activities and what kind of economic advantage in general could be achieved from the general economic activities of the investment.

Investment attraction and promotion has been largely left to the Federal government. In Tigray, investment activities are conducted by the Investment Directorate under the Bureau of Industry. The Investment Directorate does not promote investors but it rather waits to serve investors who come by themselves to the region that requiring about investment opportunities and inquiring an interest in exploring investment opportunities. The investment Directorate reacts to the request and efforts are made to facilitate the investors. Very little up to none support was being provided without facilitating entry and establishment by issuing an investment permit and giving advises on the procedures on how investment permit is to be obtained to different investment activities.

Thus, the major problem for investment in the regional state of Tigray has been a lack of strategy and a weak institutional arrangement or institutional frame works that create conducive environment for investment promotion and facilitation. After the establishment of the Tigray investment and export commission in March 19 of 2011 of E.C, the overall investment activity of the region has been undertaking by the TIEC. Most interviewees carried out and most the respondents to the questioner affirm that the Investment Directorate was not responding to the investment needed services called one stop services and the activities of investment were being delivered thorough different governmental institutions specially services relating to accessing land use for investment which is contrary to investment principle of one stop investment services. Having the need to administer and to accommodate the new flow of investment in Tigray, the regional state of Tigray has established its new investment commission called Tigray Investment and Export Commission at the regional level by the virtue of proclamation number 319/2019 to administer investment activities in the region. It is believed that there is considerable flow of investment in Tigray in the recent two years on wards than what was before. This flow of investment in the region should be administered by well organized and equipped investment institutions to sustain the investment in the region.

One of the main constraints of investment in the region is relating to administration and access of investment land. But now the administration of investment land has been given to the investment commission by creating called investment land bank by the proclamation no 319/2011 of TIEC and directive no 1/2011 of Tigray council state executive. According to the interviews of key

informant officials of the investment commission, once the land to investment has been placed in the investment land bank, it is the power and duty of the investment commission to administer the land. No any governmental institution has the power to administer such kind of land to any purpose without the authorization of the commission. In addition to that, the interviews that has been conducted, the response of most respondents to the questioners and the annual reports of the investment commission affirm that most of the needed investment services are being provided in ones stop investment services by the investment commission. The investment commission is also in the position to monitor and started to make being liable for some investors by taking off their investment land that were not inter in to operations as per the investment contract. It is also undertaking the investment promotion and facilitation through different Medias. These are good investment opportunities that crated by the investment commission that contribute its fair share to the investment promotion and investment sustainability in the regional state of Tigray.

However according to the interviews and most respondents to the questioners, the investment commission is facing the challenge finding land to be placed to be placed in investment bank because of compensation to be paid to displaced beneficiaries and unnecessary bureaucracy of land administration organs. Administration and monitoring of FDI is also among the challenge of the investment commission in that administrating all activities of FDI is given to the federal government but failed to discharge its duty in the region. The absence of institutional expertise body to conduct environmental impact assessment of investment projects and power to compensate investment land for the displaced persons that hinder for providing investment service in one stop service, the challenges of reinvestment that has been destructed as the result of the war and getting back of the confidence of investors that was before the war and getting new register investment license are the leading challenge of TIEC that hinder investment promotion in the region.

5.2. Recommendations

Taking the above conclusions as a back drop, the researcher forwards the following specific and general recommendations with regard to the problems which have been identified.

- I. Article 9/13/ of the TIEC Proclamation No.319/2011 and art 6/1/ of investment land administration and demarcation Directive No.1/2012 of Tigray need better to be amended in such way that gives full power and duty for the TIEC to utilize and administer land of rural and urban areas for investment to be placed in investment land bank once demarcated to

investment without any consultation or authorizations from land administration organs for any types of investment activities.

- II. A provision needs to be included in the Tigray investment and export commission proclamation No. 319/2011 that provides for the government of Tigray to allocate annual budget according to the plan of the commission to compensate the land to be taken by the investment commission to the displaced beneficiaries.
- III. The structural arrangement of TIEC have to include highly qualified experts of environmental impact assessment team that undertake the duty of assessing on matters relating to environmental impact assessment issues of investment projects of the investors and shall be equipped with the necessary employees by making attractive payment and other incentives to the employees of the commission.
- IV. It is better to amend Art 4/1/ of the current Ethiopian investment Proclamation No. 1180/2020 to enable the regional governments to administer, facilitate and monitor the foreign owned investment projects that invest on their own respective regions by delegation based on the general foreign investment policies and bilateral or multilateral investment treaties of the country.
- V. Bilateral negotiation is much more needed between the federal government and the regional state of Tigray to make compensation by the federal government to the destructed investment because of the war so as to begin the investment again in Tigray and much more investment promotion is needed to back again the investment reputation of Tigray and investors' confidence to make the region as hub of investment.

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Interview with Mrs. Lemlem Kinfe, coordinator of study and promotion of TIEC, Mekelle, 16/11/2012 E.C

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Annexes

Interviews Guide for the Investment Authorities and Investors

1. How land for investment was found and distributed for investors before the establishment of TIEC?
2. What are the investment opportunities gained by the establishment of investment land bank for the promotion of investment in Tigray after the establishment of TEEC?
3. Once the land for the investment was demarked/ deposited/ in investment land bank, does the TEEC have the full power to administer it?
4. How many hectares of land needed for investment is deposited in investment land bank so far?
5. What were the challenges to find land for investment before and after the establishment of TIEC?
6. What are the opportunities created in delivering investment service due to the establishment of TIEC?
7. How was investment promotion in Tigray carried out before the establishment of TIEC? And how is now investment promotion is being carried out after the establishment of TIEC?

8. How one step stop investment service is delivered and monitored after the establishment of TIEC?

9. How investment monitor is carried out and what measures have been taken for these investors who did not operate their investment as per their investment agreement?

10. What are the investment challenges that are facing now to make Tigray as investment hub after the establishment of TIEC?

11. Does TIEC administer with full budgetary independence what is allocated to it by the virtue of Proclamation no. 319/2012 EC.?

12. Does TIEC the power to administer and monitor to foreign investors after the got investment permit and what investment cooperation does have the Ethiopian investment commission?

13. What type of investment service are not being delivered by TIEC at one step stop investment service and what is its effect to promote investment in Tigray?

14. What investment damages and destruction have been identified caused by the war in Tigray? Did the commission conduct a research on it?

15. What future investment prospects can be gained for Tigray by the newly established investment commission?

ንሰባ-ስልጣን እቲ እንሸስትመንት ኮምሽንን ንእንሸስተራትን ዝተዳለወ ቃለ-መሕትት

1. ቅድሚያ ምጥያሽ እዚ ሓዱሽ እንሸስትመንት ኮምሽን ንእንሸስትመንት ዝዕደል መሬት ብኸመይ ይርከብን ይዕደልን ነይሩ?

2. እዚ ሓዱሽ እንሸስትመንት ኮምሽን ተጣይሹ ባንኪ መሬት እንሸስትመንት ምስተፈጠረ ካብቲ ዝነበረ እንታይ ዑዳል እንሸስትመንት ፈጠሩ?

3. ንእንሸስትመንት ዝተዳለወ መረት ናብ ባንኪ መሬት እንሸስትመንት ምስኣተወ እዚ ኮምሽን እቲ መሬት ናይ ምምሕዳር ሙሉእ ስልጣን ኣለዎ ዶ?

4. ክሳብ ሐዚ ክንዳይ ዝኣክል ንእንሸስትመንት ዝድለ መሬት ኣብ እንሸስተመንት ባንኪ መሬት ተዳልዩ ይርከብ?

5. ቅድሚያ ምጥያሽን ድሕሪ ምጥያሽን እንሸስተመንት ኮምሽን ንእንሸስትመንት ዝኸውን መሬት ኣብ ምርካብ ዝነበሩ ፀገማት ብኸመይ ይግለፁ?

6. እዚ ሓዱሽ እንሸስትመንት ኮምሽን ምጥያሹ ኣብ ኣዋህባ ግልጋሎት እንታይ ኣወንታዊ ለውጢ ተረኺቡ?

7. ቅድሚያ ምጥያሽ እዚ ሓዱሽ እንሸስትመንት ኮምሽን ትግራይ ዘለዎ ናይ እንሸስትመንት ዕድላት/ፀጋታት/ ብኸመይ ይፋለጡ ነይሮም? ድሕሪ ምጥያሽ እዚ ኮምሽን ትግራይ ዘለዎ ናይ እንሸስትመንት ፀጋታት ብኸመይ ይፋለጡ ኣለዉ?
8. እዚ ሓዱሽ እንሸስትመንት ኮሚሽን ምስተጣየሽ ሓደ ማእኸል ግልጋሎት እንሸስትመንት ብኸመይ ይዋብ ኣሎ ነዚ ብኸመይ ክትትል ይግበር?
9. በቲ ወዕሎም መሰረት ኣብ ተግባር ዘይኣተዉ እንሸስተራት በኸመይ ቁፁፅር ይግበረሎም? ክሳብ ሓዚ ኸ ታይ ስጉምቲ ተወሱዱ?
10. ድሕሪ እዚ ሓዱሽ እንሸስትመንት ኮሚሽን ምጥያሹ ትግራይ ማእኸል ስሕበት እንሸስመትንት ኣብ ምግባር ዘጋጡሙ ዘለዉ ዕንቅፋታት እንታይ እዮም?
11. በቲ ናይ ትግራይ እንሸስትመንት ኣዋጅ ቁፅሪ 319/2012 መሰረት ነቲ ኮምሽን ዓመታዊ በጀት ተመድብሉ ብናፅነት በጀቱ የማኣድር ዶ?
12. ናይ ወፃኢ እንሸስተራት ፍቃድ እንሸስትመንት ድሕሪ ምርካቦም በቲ ወዕሎም መሰረት ኣብ ስራሕ ምህላዎም እዚ ኮምሽን ናይ ምክትታል ስልጣን ኣለዎ ዶ? ምስ ናይ ኢትዮፕያ እንሸስትመንት ኮምሽን ብኸመይ ኣብዚ ጉዳይ ተሓባብርኩም ትሰርሑ?
13. ክሳብ ሓዚ በዚ ኮሚሽን ኣብ ሓደ ማእኸል ግልጋሎት ዘይዋሃበሎም ዓይነታት ግልጋሎት እንሸስትመንት ኣለዉ ዶ? ኣለዉ እዮም እንተተባሂሎም ኣብ ምስሓብ ዕድላት እንሸስትመንት ትግራይ ታይ ፅዕንቶ ይፈጥር?
14. በቲ ኣብ ትግራይ ዝተወለዐ ኩናት ኣብ እንሸስተመንት ትግራይ እንታይ ክሳራ ኣስዲቡ? ዝበፀሐ ፅንወታት እንሸስትመንት ተፀኒዑ ዶ?
15. በዚ ዝተጣየሽ ኮምሽን እንሸስትመንት ንትግራይ ንቐፃሊ እንታይ ናይ እንሸስትመንት ዕድላት ክፍጥረላ ይኸእል?

Questioner for Investors

1. At which types of investments do you invest?
A/ Agriculture B/ Mining C/ Hotel and tourism C/ Construction E/ Others
2. Is there any differences in getting one step stop investment services before and after the establishment of TIEC?
A/ Yes there is B/ No there is not C/ Have no idea
3. Do you get investment one step stop investment service after the establishment of TIEC?
A/ Yes B/ No C/ Have no idea.

4 Did the newly established investment commission make any investment monitor on your investment activities to know whether you are at operation or not as per your investment agreement?

A/ Yes B/ No

5 what types of investment services are not being delivered in one step stop investment services at the investment commission?

ዕሐፋዊ መሕትት ንእንሸስተራት

1/ ኣብየናይ ናይ እንሸስተመንት ስራሕቲ ተዋፍርኩም ትርከቡ

ሀ/ ሕርሻ ለ/ ማዓድን ሐ/ ሆቴልን ትሩዝምን መ/ ኮንስትራክሽን ረ/ ካሊኦ

2/ ኣብ ሓደ ማእኸል ግልጋሎት እንሸስተመንት ቅድምን ድሕርን ምጥያሽ እንሸስተመንት ኮምሽን ኣፈላለይ ኣለዎ ዶ የብሉን

ሀ/ ኣለዎ ለ/ የብሉን ሐ/ ኣፍልጦ የብለይን

3/ ድሕሪ ምጥያሽ ኮምሽን እንሸስተመንት እቲ ዝድለ ናይ እንሸስተመንት ግልጋሎት ኣብ ሓደ ማእኸል ግልጋሎት እንሸስተመንት ትረኸቡ ዶ

ሀ/ እወ ለ/ ኣይንረክብን ሐ/ ሓሳብ የብለይን

4/ እቲ ዝተጣየሽ ኮምሽን እንሸስተመንት ኣብ ስራሕ ቦታኹም መፅዩ በቲ ናይ እንሸስተመንት ውዕሉኹም ኣብ ስራሕ ምህላይኩም ንምርግጋፅ ቁፅፅር ገይሩ ይፈልጥ ዶ

ሀ/ ይገብር እዩ ለ/ ኣይገብርን

5/ ክሳብ ሐዚ ኣብቲ ኮምሽን እንሸስተመንት ኣብ ሓደ ማእኸል ግልጋሎት ዘይተረኸብሎም ዓይነት ግልጋሎታት እንታይ እንታይ እዮም

