

New directive to regulate foreign investors' participation in restricted export, import, wholesale and retail trade investments

1. Introduction

Ethiopia Team



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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. It also regulates the application process, permit issuance, and other procedural and regulatory aspects.

The opening up of these sectors is significant in light of Art. 3 of Ethiopian Investment Proclamation 1180/2020 (together with its related regulations, directives and circulars, “**Ethiopian Investment Law**”¹), which stipulates 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.” Ethiopian Investment Law mainly aims at encouraging and promoting economic growth and employment opportunities and increasing foreign exchange earnings. However, to protect certain sectors and the domestic market, it places restrictions on foreign investors’ participation in certain sectors – restrictions which the new directive eases, as examined below.

By way of background, Ethiopian Investment Law defines a ‘foreign investor’ as: (a) a foreign national; (b) an enterprise in which a foreign national has an ownership stake; (c) an enterprise incorporated outside of Ethiopia by any investor; (d) an enterprise established jointly by any of the investors specified under points (a)–(c); or (e) an Ethiopian permanently residing abroad who chooses to be treated as a foreign investor.

Ethiopian Investment Law restricts investments in the following areas.

- **Investment areas reserved for joint investment with the Ethiopian Government:** Manufacture of weapons, ammunition and explosives used as weapons or to make weapons; import and export of electrical energy; international air transport services; bus rapid transit; and postal services, excluding courier services.

¹ Ethiopian Investment Law comprises Investment Proclamation 1180/2020, Investment Regulation 474/2020, and the directives and circulars implemented by the Ethiopian Investment Commission for the regulation of the investment sector in Ethiopia.
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- **Investment areas reserved for domestic investors:** Banking, insurance and microfinance businesses, excluding capital goods finance businesses; transmission and distribution of electrical energy through the integrated national grid; primary and mid-level healthcare services; wholesale trade, excluding wholesale of petroleum and petroleum products, wholesale of own products produced in Ethiopia and wholesale through electronic commerce; retail trade, excluding retail trade of own products produced in Ethiopia and electronic commerce as envisaged under the applicable law; import trade, excluding liquefied petroleum gas and bitumen; export of raw coffee, khat, oilseeds, pulses, minerals, hides and skins, forest products, poultry, and livestock, including livestock bought on the local market; construction and drilling services below grade I; hotel, lodge, resort, motel, guesthouse and pension services, excluding those that are star-rated; restaurants, tearooms, coffee shops, bars, nightclubs and catering services, excluding star-rated national cuisine restaurant services; travel agencies, travel ticket sales and trade auxiliary services; tour operation; operating lease of equipment, machines and vehicles, excluding industry-specific heavy equipment, machinery and specialised vehicles; transport services, excluding railway transport, cable car transport, cold-chain transport, freight transport of more than 5 tonnes, and transport services reserved for joint investment with the Ethiopian Government or domestic investors; manufacture of indigenous traditional medicines; manufacture of bakery products and pastries for the domestic market; grinding mills; barbershops and beauty salons; smithery and tailoring, except if done by garment factories; maintenance and repair services, including aircraft maintenance repair and overhaul (MRO) but excluding repair and maintenance of heavy industry machinery and medical equipment; aircraft ground handling and other related services; saw milling, timber manufacture and assembly of semi-finished wood products; media services; customs clearance services; brick and block manufacture; quarrying; lotteries and sports betting; laundry services, excluding those provided on an industrial scale; translation and secretarial services; security services; brokerage services; attorney and legal consultancy services; and private employment agency services, excluding services for the employment of seafarers and other similar professionals that must have high expertise, international experience and a network.
- **Investment areas reserved for joint investment with domestic and foreign investors:** Freight forwarding and shipping agency services; domestic air transport services; cross-country public transport services using buses with a seating capacity of more than 45 passengers; urban mass transport services with large carrying capacity; advertisement and promotion services; audio-visual services, motion pictures and video recording, production and distribution; and accounting and auditing services.
- **Investment areas open to foreign investors:** Areas not listed above.

2. Investments allowed under the directive and conditions to be fulfilled

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.

2.1. Export trade

Foreign investors may participate in the export of the following goods:

- **raw coffee** (on condition that an average of at least USD 10 million in raw coffee was procured from Ethiopia annually in the previous 3 years and an agreement is in place to export at least USD 10 million in raw coffee in the permit year);
- **oilseeds** (on condition that an average of at least USD 5 million in oilseeds was procured from Ethiopia annually in the previous 3 years and an agreement is in place to export at least USD 5 million in oilseeds in the permit year);
- **khat and pulses** (on condition that an average of at least USD 1 million in khat and pulses was procured from Ethiopia annually in the previous 3 years and an agreement is in place to export at least USD 1 million in each commodity in the permit year);
- **forest products, hides and skins** (on condition that an average of at least USD 500 thousand in hides and skins, forest products and poultry was procured from Ethiopia in the previous 3 years and an agreement is in place to export at least USD 500 thousand in each commodity in the permit year); and
- **poultry and livestock bought from the local market**, in accordance with a decision made by the competent body to issue an investment permit.

As stated above, the directive introduces further conditions that investors need to fulfil 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.

2.2. Import trade

All import investments designated for domestic investors under Ethiopian Investment Law are open to foreign investors, except for the import of fertilisers and petroleum. Applicants must provide proof of their expertise, ability or market connections, which will direct the competent body's decision to grant a permit. In addition to the conditions outlined for manufacturers and agents, the competent body may grant an import permit if

the applicant is neither a manufacturer nor an agent but commits to submitting a detailed plan and entering into an agreement with the competent body to annually import at least USD 10 million in commodities.

2.3. Wholesale trade

All wholesale trade investments designated for domestic investors under Ethiopian Investment Law are open to foreign investors, except for fertiliser imports. Moreover, an investor holding a wholesale trade permit in accordance with Ethiopian Investment Law may deal in the wholesale of goods acquired from domestic producers or goods imported from overseas using an import permit. However, 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.

2.4. Retail trade

All retail trade investments designated for domestic investors under Ethiopian Investment Law are open to foreign investors. Furthermore, the new directive establishes a distinction between supermarkets and hypermarkets. Foreign investors must commit to building stores with the surface area specified in the directive. For instance, an investor that plans to undertake retail trade must carry on its business on premises with a surface area of at least 2,000 m², and the retail trade must be managed under a unified ownership structure as per the requirements outlined under the directive. Foreign investors must also:

- commit to building five supermarkets within 3 years;
- open at least two supermarkets to receive a business licence; and
- enter into an agreement with the authorised body before applying for an investment permit.

3. Conclusion

Overall, the new directive aims at bridging the gap in Ethiopia's economic development and creating a competitive market by lifting restrictions on foreign investors' involvement in the export, import, wholesale and retail trade sectors. These sectors have been restricted for decades – in opening them up, the aim is to create competition and improve the country's supply and demand. Indeed, it has been difficult to accommodate the demand of a country whose population exceeds 120 million. Since it came to power in 2018, the Ethiopian Government has enacted landmark legislation geared towards the country's economic development. Additional reforms are expected to open up other sectors, including the financial sector.

In the case of Directive 1001/2024, the Ministry of Trade and Regional Integration is expected to provide further instructions for the different application processes.



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The team is a constellation of skills in different practice areas, with a focus on Ethiopian matters.

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