Ethiopian Investment Board

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

March 2024 Addis Ababa

Ethiopian Investment Board

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

Acknowledging that a policy of building sustainable national economy that is anchored on domestic capabilities has been pursued to date, and in this tune, the Investment Regulation No.474/2020 has shielded select trading sectors from foreign investment competition in order to facilitate a qualitative and quantitate growth of domestic investors, their integration into the global trade value chain, and eventually their transition to value-added investments;

Recognizing that in spite of the limited outcomes recorded to date, the policy objective has not been attained on the scale anticipated - that corresponds to the long duration that elapsed since policy implementation commenced, and the protected sectors have been subjected to complaints relating to service reach, quality and efficiency, and are furthermore exposed to an increasing bent of unlawful practices;

Realizing that additional gaps - challenging the policy's objective have been identified stemming from the absence of fair competition practice in the restricted sectors and deficiencies in regulatory oversight;

Understanding that a new approach must be pursued that reorders the existing national policy rational on reserving the export, import, wholesale and retail trade sectors to domestic investors, promotes the sectors' gradual opening to willing and capable foreign investors, and engages in further liberalization measures based on practical appraisal of the implementation process and valuation of the changes and benefits thus realized;

Now, therefore, pursuant to its powers vested under Article 6(4) and Article 31(1)(e) of the Investment Proclamation, the Ethiopian Investment Board has issued this Directive.

PART 1
General Provisions

1. Short Title

This Directive may be cited as "Ethiopian Investment Board Directive to Regulate Foreign Investors' Participation in Restricted Export, Import, Wholesale and Retail Trade Investments No.1001/2024".

2. Definitions

In this Directive,

1) "Proclamation" means the Investment Proclamation No. 1180/2020.

2/ "Regulation" means the Investment Regulation No. 474/2020.

3/ "Commission" means the Ethiopian Investment Commission re-established under Article 35 of the Proclamation.

4/ "Board" means the Ethiopian Investment Board re-established under Article 30 of the Proclamation.

5/ "Foreign investor'' shall have the meaning accorded to it under the Investment Proclamation.

6/ "Export trade'', "import trade'', "wholesale trade'' and "retail trade'' shall have the meaning accorded to them under the Commercial Registration and Licensing Proclamation No. 980/2008 (as amended).

7/ "Livestock'' means cattle and equines;

8/ "Appropriate body'' means a government entity entrusted, under the relevant law, with the responsibility of supervision, monitoring or facilitation of matters covered by this Directive.

9/ Other words and phrases referred to in this Directive shall have the meaning assigned to them under the Proclamation and the Regulation.

3. Objective

The objective of this Directive is to list out investment areas in the export, import, wholesale and retail trade sectors reserved for domestic investors in which foreign investors may participate, establish the conditions that apply, and indicate details of the facilitation and regulatory functions of the appropriate government bodies.

4. Scope of Application

This Directive shall be applicable on the participation of foreign investors in trade sectors reserved for domestic investors pursuant to the Board's decision, the application for permits and issuance thereof, and on any procedure and regulatory function implemented by the appropriate bodies.

PART 2

Conditions Under Which Foreign Investors Participate in Restricted Export, Import, Wholesale and Retail Trade Investments

5. Participation in Export Trade

1/ Any foreign investor can engage in export trade investment of raw coffee, khat, oilseeds, pulses, hides and skins, forest products, poultry and livestock bought on the market.

2/ A decision by the appropriate body to issue investment and business permits to foreign investors in accordance with sub-article (1) of this Article shall be guided in its actions by a principle which warrants that the applicant possesses the relevant experience, or capacity, or market linkage in the sector.

6. Export Trade Investment Permit Conditions

Without prejudice to the requirements imposed by other laws in relation to minimum capital, competence and other standards, an investor who applies pursuant to Article 5 must fulfil the following conditions and consent to enter into agreement before it receives an investment permit:

1/ In the case of a foreign investor requesting to engage in the export trade of raw coffee, it must have been procuring from Ethiopia an average of at least 10,000,000. (Ten Million) US Dollars worth of raw coffee annually for the last three consecutive years and contractually agree to attain the export of at least 10,000,000. (Ten Million) US Dollars worth of the commodity within the permit year;

2/ In the case of a foreign investor requesting to engage in the export trade of oilseeds, it must have been procuring from Ethiopia an average of at least 5,000,000. (Five Million) US Dollars worth of oilseeds annually for the last three consecutive years and contractually agree to attain the export of at least 5,000,000. (Five Million) US Dollars worth of the commodity within the permit year;

3/ In the case of a foreign investor requesting to engage in the export trade of khat and pulses, it must have been procuring from Ethiopia an average of at least 1,000,000. (One Million) US Dollars worth of khat and pulses annually for the last three consecutive years, and contractually agree to attain the export of at least 1,000,000. (One Million) US Dollars worth of each commodity within the permit year;

4/ In the case of a foreign investor requesting to engage in the export trade of hides and skins, forest products, and poultry, its annual performance for the last three consecutive years must be at least 500,000. (Five Hundred Thousand) US Dollars, and shall contractually agree to attain the export of at least 500,000. (Five Hundred Thousand) US Dollars worth of each commodity within the permit year;

5/ In the case of a foreign investor requesting to engage in the export trade of livestock, no conditions related to prior experience and permit-linked contractual commitment shall apply;

6/ In the case of a foreign investor holding no prior history of procuring from Ethiopia, it must demonstrate an established market and submit a purchase order contract of at least 12,500,000 (Twelve Million Five Hundred Thousand) US Dollars for raw coffee, at least 7,500,000 (Seven Million Five Hundred Thousand) US Dollars for oilseeds, at least 1,500,000 (One Million Five Hundred Thousand) US Dollars for khat and pulses, and at least 750,000 (Seven Hundred Fifty Thousand) US Dollars for hides and skins, forest products and poultry;

7/ In the case of a foreign investor holding no prior history of procuring from Ethiopia, it must demonstrate an established market and submit a purchase order contract of at least 500,000 (Five Hundred Thousand) US Dollars for other export trade products covered by this Directive;

8/ In the case of a foreign manufacturing enterprise that produces finished products by using raw materials imported from Ethiopia, or a foreign manufacturing enterprise that uses raw materials procured from Ethiopia and can avail the product in the market by declaring such facts and can also adduce a sufficient proof of the process;

7. Export Trade Investment Permit Renewal and Revocation

1/ A foreign investor participating in export trade pursuant to this Directive must comply with all investment permit conditions stipulated under the agreement.

2/ An investment permit or business license shall be renewed only when the appropriate bodies verify the investor's compliance with the conditions stipulated under the agreement.

3/ The non-renewal, or suspension, or revocation of an investment permit or business license shall result in the suspension or cancellation of rights and benefits stemming from the permits.

8. Participation in Import Trade

1/ Except for fertilizer and petroleum import trade, any foreign investor can engage in all import trade investments reserved for domestic investors under the Regulation.

2/ The decision by the appropriate body to issue investment permits to foreign investors shall be guided by a principle which warrants that the applicant possesses the relevant experience, or capacity, or market linkage in the sector.

9. Import Trade Investment Permit Conditions

Without prejudice to the requirements imposed by other laws in relation to minimum capital, competence, or other standards, as well as provisions that already permit foreign investors' participation in import trade, an investor who applies pursuant to Article 8 must, as appropriate, fulfil the following conditions or have such standing before it receives an investment permit:

1/ Where the applicant is a manufacturer of the imported product, adducing an evidence thereof; or

2/ Where the applicant is an agent of a manufacturer, adducing an evidence thereof; or

3/ Where the applicant is an existing manufacturer in Ethiopia exporting 50% or above of its produces to overseas market;

4/ Where the applicant is neither a manufacturer nor an agent, but commits to submit a detailed plan and enter into agreement with the appropriate body to annually import commodities worth of at least 10,000,000 (Ten Million) US Dollars.

10. Export Trade Investment Permit Renewal or Revocation

1/ A foreign investor participating in import trade pursuant to sub-article (4) of Article 9 must comply with all investment permit conditions stipulated under the agreement.

2/ An investment permit or business license issued to engage in import trade shall be renewed only after the appropriate bodies verify the investor's compliance with the conditions stipulated under the agreement.

3/ The non-renewal, or suspension, or revocation of an investment permit or business license shall result in the suspension or cancellation of rights and benefits stemming from the permits.

11. Participation in Wholesale Trade and Investment Permit Conditions

1/ Except for the import of fertilizers, any foreign investor can engage in the wholesale trade investment of all sectors reserved for domestic investors under the Regulation.

2/ An investor issued with investment permit pursuant to sub-article (1) of this Article may engage in the wholesale trade of products it imported from abroad using import trade permit, or products which it purchases from domestic manufacturers.

3/ Without prejudice to the requirements imposed by other laws in relation to minimum capital, competence or other standards, as well as provisions that already permit foreign investors' participation in wholesale trade, an investor applying for permit in accordance with this Directive, shall, before receiving an investment permit:

a) priorly express consent, in writing, to enter into agreement with the appropriate body; and

b) contractually commit to build modern marketing infrastructure and provide streamlined logistics service facilitating its wholesale operations.

4/ The Ministry of Trade and Regional Integration shall issue a manual determining the minimum level of marketing infrastructure that must be met in accordance with sub-article (3)(b) of this Article.

12. Participation in Retail Trade

Pursuant to this Directive, any foreign investor can engage in retail trade investments reserved for domestic investors under the Regulation.

13. Import Trade Investment Permit Conditions

1/ Without prejudice to the requirements imposed by other laws in relation to minimum capital, competence or other standards, as well as provisions that already allow foreign investors' participation in retail trade, an investor applying for permit pursuant to this article shall receive investment permit only when it fulfils the following conditions:

a) undertakes to carry out the retail trade on land/building having a floor area of at least 2000 sq.mt. managed under one unified ownership structure, commits to establish five such supermarkets within a total of three years, completes the opening of at least two supermarkets in order to receive a business permit, and consents to enter into agreement before taking out an investment permit; or

b) undertakes to carry out the retail trade on land/building having a floor area of at least 5000 sq.mt. managed under one unified ownership structure, commits to establish two such hypermarkets within a total of three years, completes the opening of at least one hypermarket in order to receive a business permit, and consents to enter into agreement before taking out an investment permit; or

c) undertakes to carry out the retail trade on land/building having a floor area of at least 10,000 sq.mt. managed under one unified ownership structure, and commits to complete the construction and enter into agreement in order to receive a business license;

2/ The Ministry of Trade and Regional Integration shall align the definitions given to supermarket, hypermarket and mall under the Business Licensing Classification Directive No. 17/2011 with the designations of retail trade infrastructure referred to in this Article.

3/ The Board shall make decision, on case by case basis, in respect of foreign investors' participation in reputable single brand retail trades operating on a smaller capital and floor space.

PART 3

Institutional Regulation and Monitoring

14. Responsibilities of Appropriate Bodies

1/ All appropriate bodies shall establish a comprehensive institutional framework to facilitate the implementation of this Directive.

2/ All appropriate bodies regulating export trade pursuant to this Directive shall organize a national marketing system that

is transparent, convenient, modern, and avails level playing field for all in the export of commodities, as well as establish export destination market prices periodic review and information system, and shall as necessary implement a minimum selling price scheme based on such system, and institute and strengthen mechanisms for pre and post-export price control measures.

3/ The appropriate body mandated to levy and collect duties and taxes on imports shall strengthen its system and provide streamlined services in respect of import trades opened pursuant to this Directive.

4/ The Ministry of Trade and Regional Integration shall establish a strong organizational structure and procedure to control anti-competition practices that may sway the market system and to protect consumer rights in respect of wholesale and retail trade activities carried out pursuant to this Directive.

5/ The Commission shall receive applications submitted by foreign investors; inspect compliance with required conditions; effect commercial registration following the appropriate procedures; issue commercial registration certificate and investment permit; prepare a contract and conclude agreement with investors; and follows through the implementation of the agreement jointly with the Ministry of Trade and Regional Integration.

6/ The Ministry of Trade and Regional Integration shall issue business license to foreign investors who obtained investment permit; regulates all trade practices.

7/ The Ethiopian Investment Commission, the Ministry of Trade and Regional Integration, the Ministry of Industry, the Ministry of Revenue, the Ministry of Agriculture, Customs Commission, the National Bank of Ethiopia and other bodies designated by the Board shall establish a permanent joint committee to assess whether the activities implemented under this Directive are achieving the desired objectives, to adopt timely actions as necessary, and monitor the overall implementation. The Chair of the Joint Committee shall be designated by the Board.

PART 4

Miscellaneous Provisions

15. Duty to Implement

1/ Any federal government body having mandate in respect of matters covered in this Directive shall have a duty to respect and execute the Directive.

2/ Any person or entity has the obligation to cooperate in the implementation of this Directive.

16. Effective Date

This Directive shall come into force as of the date when it is posted on the web pages of the Ministry of Justice and the Commission.

Abiy Ahmed Ali (Dr.)

Chair: Ethiopian Investment Board