



BUSINESSBOTSWANA

Report

On

Investment Climate Forum

Held at

Gaborone International Convention Centre (GICC)

23 March 2023

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1. Introduction

On the 23rd March 2023, Business Botswana held a public – private sector investment forum at the Gaborone International Convention Centre (GICC). The forum had three key objectives:

- i. Identify policies, regulations and laws that impede both domestic investment and FDI in Botswana.
- ii. Stimulate discussion between the private sector and Government to make Botswana the top destination for investment.
- iii. To promote a good investment climate to facilitate economic growth and job creation.

2. Forum Proceedings

2.1 Welcome Remarks

Participants were officially welcome to the forum by the President of Business Botswana, Mr. Gobusamang Keebine. His key message was that:

- i. It is Business Botswana’s conviction that a good investment climate is a prerequisite for economic growth and job creation. Investors thrive in an environment that offers predictability and certainty.
- ii. Botswana’s investment procedures, policies, and regulations must be easy to navigate. Botswana has to work towards that goal.
- iii. There should be a frank exchange of views so that the private sector takes its rightful place as the engine of growth and job creation in Botswana.
- iv. Participants are welcome to the investment forum.

2.2 Official Opening

The official opening was performed by Honourable Mmusi Kgafela, Minister of Trade and Industry. His key message was:

- i. The forum follows a series of public-private dialogue interactions between the Government and the private sector and that he welcomes such engagements because they testify Botswana’s deeply held tradition of “Therisanyo” or consultations.
- ii. Government and the private sector are duty-bound to turn the economy into a place where all the big investment deals or transactions in Africa are made and housed.
- iii. The private sector should share their regulatory and policy challenges for Government to address them.
- iv. Government treats investment climate reforms with the seriousness that they deserve.
- v. Government has undertaken a lot of reforms including the establishment of the Botswana One Stop Service Centre (BOSSC); reviewing of business related laws; re-engineering, streamlining and digitalisation of some doing business related processes; development of online systems; development of incentive packages; establishment of specific institutions such as the Special Economic Zones Authority (SEZA) etc. That notwithstanding, Government has to keep on reviewing the investment climate to ensure that the country remain competitive.

- vi. Government is not prepared to abandon the use of the Regulatory Impact Assessment (RIA) to assist in promoting evidence based decision making and the implementation of the RIA in Botswana is being resuscitated.
- vii. The Public Procurement Act of 2021 should be read and implemented carefully. The fact that Section 76 provides for exceptions means that those implementing it should ensure that it does not exclude any deserving business, be it joint ventures, listed companies and even foreign businesses. For example, research has to be undertaken to ascertain whether or not there is citizen capability before opening up tenders to foreign owned businesses.
- viii. He looked forward for feedback from participants on additional work that Government is to undertake so as to offer a more dynamic investment climate.
- ix. Lastly he wished participants productive deliberations and declared the Investment Climate Forum officially opened.

2.3 Presentation and Panel Discussion on Findings on Investment Climate

The presentation on the findings on the investment climate and associated recommendations are summarized below. However, before the summary of the findings and recommendations, it is important to note that business community appreciates the key objectives of the various instruments (laws, regulations and policies in shaping the investment climate in Botswana). However, they are concerned with the challenges posed by the unintended outcomes of the instruments.

Table 1: Security Sector	
Challenges	Recommendations
(a) Public Procurement Act (2021). Section 76: “except ...all works, services and supplies procurement shall be reserved for a citizen or citizen contractor”. While the Act has good intentions, it disadvantages citizens with shareholding in listed companies and joint ventures as these are not 100% citizen owned.	Ensure that the Act does not disadvantage citizen shareholders that are in joint ventures with their foreign counterparts. This can be done though:
	a) Introducing an enterprise development model where an established listed company or joint venture is mandated to have 3 to 4 small to medium sized entities to shadow it and grow them by skills transfer over a set period of time (say 5 years).
	b) Introducing the provisions of the Act on a quota basis - for example 80% reservation for citizen owned businesses and the balance for foreign owned businesses. This will continue to encourage competitiveness and promote learnings for citizen owned businesses.
	c) Undertake regulatory impact assessment (RIA) of the Public Procurement Act (2021) to have a view on the possible outcomes of its implementation.

Table 2: Tourism Sector	
Challenges	Recommendations
(a) Ease of entry into Botswana (immigration rules)	a) Government has announced that Botswana and Namibian citizens will travel to the two countries using national identity cards (IDs). It is recommended that this gesture be extended to other African countries, albeit in a phased approach.
(b) Limitations to open skies	b) Government attract more airlines to operate in the Botswana skies.
(c) Lease Concessions	c) Ensure that lease concessions are signed immediately after expiry to avoid uncertainty for operators as to whether or not their leases will be renewed.
(d) Public Procurement Act (2021)	d) Undertake the Regulatory Impact Assessment (RIA) of the Act to have a view on the possible outcomes of its implementation.

Table 3: Restaurant and Education Sectors	
Challenges	Recommendations
(a) Work Permits (restaurants). Mainly experienced expatriates with relatively lower levels of education are affected, which leads to uncertainties when the business wishes to expand.	a) Give more consideration to the experience of the work permit applicant instead of focusing more on academic qualifications.
(b) Work Permits (education). For example a certain school had 24 teachers on a waiver at one point. They didn't know what the outcome will be. This did not only brought uncertainty to the school but to parents and students as they didn't know whether or not to pull out th learners or wait for the situation to be resolved. They challenge was, they didn't know when the situation would be resolved.	b) The work permit evaluators should have experience in working within the sector whose applications are being evaluated.
(c) Import restrictions (restaurant sector, e.g. vegetables and confectionaries and education sector, e.g. school uniform)	c) Consider a phased restriction strategy where, for example, Year 1 20% of the required imports are restricted, 40% the second year, 60 percent the third year, 80% the fourth year and 100% the fifth year. This will allow capacity development by local producers and caution inflationary spikes and smuggling resulting from excess demand. d) Undertake the RIA of the restrictions in order to have a view on the possible outcomes of its implementation.

Table 4: All Sectors (Pula Code of Conduct)

The business community fully supports the objective of improving the Corporate governance landscape and creating value in a sustainable manner. However, costs of compliance are a major concern. See below for some concerns.

Challenges	Recommendations
(a) Comes around as a one fits all approach (e.g. stipulates minimum of 4 Board meetings per annum.	a) The number of Board meetings should depend on the requirements of the business
(b) Public Interest Entity (PIE) revised (low) thresholds of Annual revenue: P200 million Number of employees: 150, Total assets: P150 million and Total liabilities: P50 million. At least 2 of the conditions must be met.	b) The general feeling is that thresholds are low thresholds and could constitute a disincentive for private sector growth and work against job creation. The thresholds should be increased.

Table 5: Alcohol/Beverages and Tobacco Sectors

Challenges	Recommendations
(a) High Tax levels (Levy, VAT and excise duty). For example, the alcohol levy is significantly higher than that of Eswatini where it stands at 2 % for local production and 7% for imports and Lesotho (15%)., although the Lesotho calculation is allegedly a bit convoluted because it is linked to VAT.	a) Reduce Tax
(b) Trading Hours (Minister may change anytime, especially when there are health emergencies such as Covid 19)	b) Ensure that the Minister consults with the industry if there is to be any changes in the trading hours.
(c) Tax Stamps: Marking, scanning and authenticating alcohol excisable goods imported into or produced in Botswana. Impact; <ul style="list-style-type: none"> • <i>Delays at the border:</i> Due to the need to open the packaging and marking process, when not marked or verification as to whether the product is marked. • <i>Increased costs of doing business:</i> The marking and verification costs will be borne by the operators. This will increase the costs of doing business. It is most likely that these costs will be transferred to the consumers, making it even more expensive for the consumer, affecting the industry profitability in the process. • <i>Need for re-packaging, and re-branding:</i> Following the stamp marking and verification process, there will be need to repackage and rebrand the products. This is unlikely to 	c) There is need for deep and wide consultations on the introduction of tax stamps. d) Undertake the RIA of the in order to have a clear view on the possible outcomes of the introduction of tax stamps.

<p>be as good as factory packaging and branding, which will affect product saleability.</p> <ul style="list-style-type: none"> • <i>Location of the warehouse:</i> The marking and verification centre is likely to be in Gaborone. This means that all products will have to be brought to Gaborone for marking and verification and even if they were imported from the North or west and destined for the northern and western markets. This means that they will then be transported back to the west and north, leading to increased costs of doing business and delays in reaching the final consumer. • <i>Smuggling and health risks:</i> Increased prices faced by consumers, alongside delayed delivery to the consumer would inevitably lead to smuggling of the products and consumption of illicit substances. The latter has huge implications on consumers' health. 	
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2.4 Presentation and Panel Disunion on the Public Procurement Act (2021)

This part of the forum focused on the Public Procurement (PP) Act (2021), This Act establishes the Public Procurement Regulatory Authority, provides for its functions and for the management of the procurement of works, services and supplies and for matters incidental thereto and connected therewith. The Act resulted in the repealing of the Public Procurement and Asset Disposal (PPAD) Act (2001). The repeal was meant to address the challenges with implementation of the PPAD Act, which among others, included excessive red tape, making procurement costly, suboptimal project implementation, suboptimal contract management, insufficient attention given to citizen economic empowerment and insufficient accountability measures.

In an attempt to address these challenges, the Act gives Government the wherewithal to preserve certain procurement in pursuit of socio-economic objectives as well as providing for equitable distribution of procurement on competitive basis.

Of particular interest is Section 76 which reads “except as otherwise provided under this Act, all works, services and supplies procurement shall be reserved for a citizen or citizen contractor”. These are 100% citizen owned SMMEs, 100% manufacturing citizen owned companies, services produced by 100% citizen companies, citizen companies in

There was a general concern that if not carefully implemented, the Act discriminates against joint ventures and listed firms despite these having citizen participation. It may also stifle job creation by the excluded categories and capacity building of SMMEs by joint ventures and foreign owned enterprises.

This concern was however allayed by the Hon Mmusi Kgafela, Minister of Trade and Industry. His view is that since the Act provides for exceptions, it empowers accounting officers to make a determination as to whether or not to award a tender to joint ventures and even foreign owned companies. This is applicable when there are no citizen owned companies qualified to provide the required works or services.

There are other concerns with this Act. These include the fact that the CEO has an added function of approving transactions yet they are not procurement experts. This may result in

misguided approvals. In addition, there is inefficiency resulting from the deployment of the procurement specialist. The key question is, if they are employed full time, what do they do when they are not buying?

On a positive note, the Act has procurement efficiency gains as red tape has been cut by eliminating the board tender committees. It provides for structures that can adjudicate and award within an organisation without going external which means it has full control on the procurement process.

What emerges from the analysis of this Act is that, although it has good intentions, there are areas that need a thorough reassessment. This calls for continued dialogue between Government and the private sector as the Act is implemented. It also calls for the RIA to have a full picture of the possible outcomes of implementing the Act.

3. Conclusions

The recurring view is to continue the consultation process and dialogue between the private sector and the Government on ways in which the investment climate can be improved. This view is shared both by the private sector as shown in the recommendations of the various stakeholders consulted in preparation for this investment forum as well the Government as represented by the Hon Minister in his speech when he said *“today’s gathering follows a series of public-private dialogue interactions between the Government and the private sector. I warmly welcome these engagements because they testify our nation’s deeply held tradition of “Theisanyo”*”

Another recurring view is the need to subject Government policies, laws and regulations to RIA. Again, the view is shared by the private sector and the Government. In fact, the Hon Minister assured the private sector that Government is not prepared to abandon the use of the RIA as RIA promotes evidence based decision making.

4. Way Forward

Business Botswana will take up the recommendations from this forum with Government with a view to addressing the identified challenges to the investment climate in Botswana.