Administrative Barriers to Investment in Africa

James J. Emery
Melvin T. Spence, Jr.

Acknowledgments

Financial support for the research and comparative data analysis in this report was provided by USAID through the Private Enterprise Development Support project.

Robert Rauth carried out the first of the FIAS country studies discussed in this report, a study of Ghana. He was also the primary author of the subsequent studies of Namibia, Tanzania, and Uganda. His extensive knowledge of business conditions in African countries and his passion for details and facts, together with his understanding of the role of government agencies in creating the "playing field" for free enterprise, led him naturally to focus on the types of administrative barriers to investment discussed in this paper. He developed the approach examined here and became a powerful advocate for the importance of paying attention to the realities faced by private businesses, large and small, foreign and local. He was able to use this type of detailed information to press effectively for reforms at all levels, from revising fundamental legislation to setting up a customer service window for investors at the municipal government offices in Windhoek, Namibia. And he was able to be sharply critical of bureaucratic procedures and red tape while still retaining the respect of officials responsible for administering the systems. His untimely death in 1997 has left all of those who worked with him and knew him with a sincere loss. His contributions to this work continue to guide those who have followed in his steps.

Acronyms

CMA	Common Monetary Area (southern Africa)
FDI	Foreign Direct Investment
FIAS	Foreign Investment Advisory Service
LIBOR	London Interbank Offered Rate
PEC	Public Employment Centers
SACU	South African Customs Union
UEB	Uganda Electricity Board
USAID	United States Agency for International Development

Executive Summary

With the hope of promoting private sector development, countries across sub-Saharan Africa have undertaken a sweeping change of policy in the past decade to liberalize and open their economies. To varying degrees, attention has been focused on areas such as

- Creating a stable macroeconomic environment;
- Liberalizing controls on foreign exchange transactions;
- Liberalizing price, licensing, and other controls on both domestic markets and international trade;
- Rationalizing tax and tariff structures, including reduction of average rates;
- Liberalizing investment laws and restrictions; and
- Actively promoting foreign investment and exports.

Despite these and other improvements, however, the formal investment response in most countries has been disappointing. At the same time, micro and informal enterprises are not only failing to "graduate" to the formal sector, but are playing an increasingly important commercial role. As a result, African governments are becoming increasingly skeptical regarding the effectiveness of economic liberalization—particularly because many senior-level officials believe that the reform process has been largely completed.

Even in countries that have addressed constraints to private investment and exports, significant deterrents remain. In particular, countries with a long history of government intervention and administrative direction over economic decisions typically have complex, overlapping controls beyond those easily identified as constraints on investment or addressed at a macro level by the types of policy reforms mentioned above. The persistence of these "second-tier" administrative barriers to investment, combined with a lack of institutional capacity in the government agencies responsible for them, often translates into a situation where these mere procedural tasks become major obstacles to investment. Such difficulties can often be overcome only after long delays or with extraordinary payments. This discourages investors, even many who may have made a preliminary decision to commit to a country. "One-stop shops," established by countries throughout Africa to streamline investment procedures, have also been a big disappointment: few have actually improved the situation and some have made it worse. The reality, then, is often far removed from the incantations of government officials that they are now "open and friendly" to private investors. All too many developing countries still need more comprehensive reform efforts, combined with radical overhauls of the way in which their government agencies operate.

At an implementation level, many officials remain distrustful of private businesspeople, or at least view them simply as a source of supplemental income generation. Both views can mean the persistence of otherwise lower-level irritants to business formation and operation, a persistence that often magnifies the irritants to the point of constraints in an overall investment climate that remains hostile. In many cases the "old" attitudes still prevail among bureaucrats, who assert their authority through less direct controls, such as their ability to interrupt business operations for otherwise routine clearances, inspections, or verifications. In this environment, existing private businesses commonly complain of administrative "harassment."

Methodology

This paper draws on studies of administrative barriers to investment in five African countries that FIAS and USAID have studied: Ghana, Mozambique, Namibia, Tanzania, and Uganda. Following a similar methodology, the studies identified all the steps required to undertake an investment, from registering a company to starting operations, in full compliance with existing laws and regulations.[1] This report presents an overview of the types of obstacles encountered and the resulting effects in terms of a negative impact on the investment climate. These obstacles are grouped into four categories:

1. General approvals and licenses required of all firms,
2. Specialized or sectoral approvals required of firms in particular sectors,
3. Requirements to gain access to land for business facilities, and
4. Licenses or other requirements once firms are operational.

General Approvals, Licenses, and Registrations

A number of steps are typically required of all firms trying to establish a new business. In some countries, such as Mozambique, simply registering a company can be a long and expensive process; in others, such as Uganda, it is theoretically easy, but outmoded legislation and a registrar general's office with no resources have made it unnecessarily cumbersome. The greatest obstacles and delays have occurred with countries that license investments and award fiscal incentives for qualifying firms (typically those in sectors viewed as development priorities). Here the need to prepare detailed feasibility studies and demonstrate project compliance with (often vague) eligibility criteria pose additional burdens on firms and frequently cause delays long exceeding legal time limits. Business licenses, often at a local level, are another source of delays and duplicative submission of company and project data. For foreign firms, special registration requirements for foreign investors are common, and significant delays are encountered in securing work permits for investors and expatriate managers. Duplicative tax registration procedures are common as well. As a result, these initial hurdles can often take many months, or even a year in some countries for complex projects.

Specialized Approvals

An additional layer of government scrutiny and evaluation of projects is applied for certain sectors, of which this report addresses industry, fisheries, forestry, and tourism.[2] Here, although concession procedures are particularly non-transparent, the awarding of concessions is the primary policy tool for resource management. As a result, effective resource management policies are often undermined and optimum levels of investment and exploitation are usually not reached. Governments also extend sectoral regulation into many areas. They might prescribe management structures and qualifications requirements for tourism companies, for example, or limit foreign investment, often in contradiction with stated policy in other laws.

Requirements to Gain Access to Land, Site Development, and Utility Connections

It is when buying or leasing land, constructing facilities, and securing utilities services that investors encounter the greatest delays. Undeveloped markets in private real estate mean that reliance on public sector land is virtually a necessity. Unfortunately, poor policy formulation, cumbersome and non-transparent procedures for making land available for commercial use, and tenure rights for informal occupants often make for a long and uncertain process for investors. Before investors can develop land and construct commercial or industrial facilities, they must obtain a series of approvals and licenses. Here again, significant delays can be encountered and the responsible authorities are often poorly equipped to evaluate proposed plans. Securing connections to utility services—power, water and sewer, and telephone—is also fraught with delays. New connections may be impossible in some areas, or the cost of extension must be borne entirely by the investor. Due to a lack of new capacity, finding a fully serviced site in a desirable location can be quite difficult; this was true across all the countries surveyed.

These are significant, systemic problems stemming from years of neglect and mismanagement, and cannot be overcome easily. Although some countries are proceeding with privatization of utilities or private participation in infrastructure sectors, progress has been slow and concrete results have yet to be realized.

Operational Requirements

Once operational, companies face a different series of interactions with government agencies. These are typically regulations and controls on foreign trade, foreign exchange, and labor and social security. These areas are often the source of license or permit requirements that remain cumbersome in spite of overall liberalization. There is still progress to be made in adapting former control-oriented institutions to a role of selective monitoring and enforcement.

Conclusion: The Red Tape Analysis

When added together, this whole maze of often duplicative, complex, and non-transparent procedures can mean delays of up to two years to get investments approved and operational. The red tape has its origins in outdated procedures, inappropriate policies, poor implementation, and a lack of institutional capacity in government agencies. It is often reflected in the inability of organizations to implement fully their mandates and is typically circumvented, often with payments, to ensure the compliance of government officials.

Because barriers to investment cover a broad range of policy, administrative, and institutional areas, reducing or removing them can be a daunting task. Measures that have had some effect in the countries analyzed here have included an open and frank discussion between public and private sectors, initiated by the presentation of the studies undertaken. Following this, support by donor agencies in the form of targeted technical assistance to agencies showing a particular interest in reforms has proven useful.

Ultimately, this external support may be combined with more substantial resources in a capacity-building effort. The latter can only be effective, however, once a change of attitude has occurred in the agency, a change that would include the introduction of a "customer service" ethic. Although tackling these barriers is difficult, it can be done. In the countries studied, as well as in others, substantial improvements have been made in a relatively short time.

1

Introduction

Economic reforms, which have been carried out for more than a decade, have been supplemented by political changes with the aim of promoting a social dialogue, to create a lawful state with a pluralist democracy . . . . [Our country] is now a safe haven for investors. . . . We have clearly opted for the promotion of a market economy based on a free-trade system, viewing the private sector as the driving force for economic growth. . . . In order to facilitate the creation of enterprises, the Government has set up a One-Stop-Shop system for the quick processing of dossiers to allow the creation of an enterprise in 72 hours.

—*Investment promotion literature for an African country*

Productive investment levels in most African countries have remained depressed, and even where economic policy reform has been implemented, the investor response—both domestic and foreign—has been poor.

—*World Bank policy research paper*

I've been here for a year now getting a simple business started. At every turn, there is a new twist, a new person with his hand out for a payment, and a new requirement nobody told me about. It took me most of that time to get a site and get utility connections; I'm still waiting for a phone. There is always a law or a regulation that says something I'm doing is illegal, but I never find out about it until they show up at my door with a notice.

—*A foreign investor*

These three quotations illustrate varying perspectives on the climate for investment in sub-Saharan Africa. They could have come from virtually any of the countries in the region. Although at first they may seem conflicting, the three statements are not mutually exclusive. Rather, they point out what will be presented as the central theme of this paper: that although substantial liberalization and reforms have occurred in investment policy as well as other areas and although most countries now unabashedly promote themselves as investment sites, the reality facing investors on the ground is far different. The third quotation above—actually a composite from many interviews with investors in the region—illustrates the frustration many firms and entrepreneurs have felt when, having made an initial decision to invest in a country, they are faced with the many hurdles, delays, inadequate public services, and procedural requirements standing in the way of starting a business. Although this perspective alone cannot explain the "lack of investor response" that has characterized Africa and preoccupied analysts from development institutions, it certainly accounts for a great deal of what is wrong with investment climates in Africa.

This paper examines administrative constraints to investment in a series of African countries, based on the experience of advisory projects undertaken in Ghana, Namibia, Uganda, Mozambique and Tanzania.[3]

Liberalization and Reform

Sub-Saharan Africa has experienced the beginnings of an economic turnaround in the second half of the 1990s. Reversing a trend since the late 1970s, the region has realized positive real growth in GDP per capita over a sustained period from 1995 to 1997; excluding oil producers and South Africa, this trend continued into 1998. Most countries on the continent have substantially liberalized their economies since the 1980s, the result being a greater reliance on (1) market mechanisms in lieu of direct state intervention and (2) the private sector as the engine for growth. This liberalization has in part been a response to pressure and assistance through adjustment lending from the World Bank and International Monetary Fund (IMF). But it has also been a pragmatic response to worsening economic conditions, the obvious failures of most features of the statist model, and the need for drastic new measures to achieve economic progress. Broadly speaking, the objective of these reforms has been to promote private sector development, attract new private investment, and restore economic growth.

To varying degrees, these policy reforms have been focused on areas such as

- *Creating a stable macroeconomic environment* by controlling public sector deficits, restraining money supply growth, and financing deficits from capital markets or aid flows, all of which contribute to low inflation, stable exchange rates, and positive real interest rates in financial markets;
- *Freeing domestic markets* by ending price controls, profit margin ceilings, subsidies, and other market interventions that had distorted incentives for and returns to private firms;
- *Liberalizing controls on foreign exchange transactions* by removing administrative controls on current transactions, using market mechanisms to determine exchange rates, allowing foreign exchange accounts, and fostering the role of commercial banks and foreign exchange bureaus as the main market participants;
- *Liberalizing trade*, including ending most import and export licensing, reducing and simplifying tariffs, refraining from the use of quotas and other non-tariff barriers, introducing export promotion schemes (e.g., duty remission, drawback, bonded warehouses, and export processing zones), and removing export taxes;
- *Rationalizing tax structures* by reducing the highest marginal rates and expanding direct tax bases, introducing value-added taxes, and improving enforcement and administration;
- *Liberalizing private investment* by reforming restrictive investment legislation, opening sectors reserved for the state or nationals, removing advance approval requirements, guaranteeing equal treat-

ment for foreign investors, providing fiscal incentives for new investment, signing bilateral investment treaties and multilateral conventions, establishing "one-stop approval centers," and establishing investment promotion organizations; and

- *Reforming the financial sector* by removing controls on interest rates, ending directed lending, promoting trading in government debt instruments in secondary markets, establishing equity markets, and encouraging foreign portfolio investment.

Because of these reforms, the climate for private investment and the general economic health of most African countries has greatly improved. However, reform implementation has been inconsistent and has not, in general, led to a resumption of the type of broad-based economic growth that both addresses poverty alleviation and provides an attraction for private investors. Certain reviews of the structural adjustment experience point out the need for deeper, broader reforms, stating in effect that the countries have not gone far enough.[4] Other analyses have pointed to the need for (1) carefully sequenced reforms introduced over a period of time and (2) a focus on institutional development to complement policy changes and ensure their effective implementation.[5] Harsher critics of these reforms have decried their consequences in terms of a reduction in public spending, introduction of competition, exposure to global trade and financial "shocks," and the unquestioning promotion of private investment and market-oriented economic policies.[6]

Even in their partial effectiveness, these reforms have nevertheless made a tremendous difference in restoring, or creating from ground zero, a business climate that is more attractive to private investors. Without the reforms there would have been a continuation of a small, closed private sector characterized by the type of protected, high-profit, short-term business ventures that depend on patronage and typify most unstable economies. In that environment, if successful, businesses typically generated only capital flight rather than increased investment.

Although the experience with implementation of these reforms has been uneven across Africa, in virtually every case—successful or not, they have been accompanied by earnest anticipation of dramatically increased private investment flows. In some cases, reform programs were accompanied by investment promotion efforts aimed at foreign investors, nationals, and expatriate nationals. In general, these flows have not materialized.

The Lack of Investor Response

This lack of response by private investors to the more open (and, presumably, more attractive) environment has occasioned much debate. In response to the more open environment, many private businessmen, foreign and domestic, began to make serious efforts at making their firms more competitive, after years of languishing (often profitably) in protected markets. At the same time as they began to make these efforts, they were also subjected to increased competition, primarily from imports and declining profitability. The risk environment changed and now called for a more challenging type of management and entrepreneurial skills that many firms did not possess. Businessmen successful in operating in protected environments and profiting from rent seeking proved to be less skilled, and less interested, in competing in a more open marketplace.

Nor have those flows come from new foreign investors. Sub-Saharan Africa remains marginal in terms of global investment flows, largely missing out on the tremendous expansion of foreign direct investment (FDI) in developing countries that has happened during the last decade. Although the absolute levels of foreign investment have increased modestly, Africa's share of developing-country FDI inflows decreased to 3.8 percent in 1996, its lowest levels since the early 1980s.[7] This meager performance is further tempered by the fact that FDI in Africa remains concentrated in resource extraction industries, which are driven more by resource endowments, extraction costs, and world market oil and mineral prices than the competitiveness of the local economy. Although some countries such as Ghana, Côte d'Ivoire, and Uganda have seen higher flows of FDI outside the extractive sectors, these flows are still quite small by most absolute and relative measures. They do not approach the magnitudes of fast-growing countries in other regions where growth has been paced by FDI.

The one area of the private sector that has undeniably flourished with liberalization is the informal sector. Here, fueled at least partially by trade liberalization and the easy availability of consumer goods at lower prices, small-scale traders and marginal service vendors have become one of the few dynamic forces adapting well to the new, more open market economies of Africa. Their formal-sector competitors denounce the swelling ranks of street vendors, market stalls, kiosks, and small shops for not paying taxes and avoiding business regulation. However, against expectations, informal sector firms that prosper not only fail to graduate to the formal sector but seem to encourage more entrants in their wake. And yet, the proliferation of the informal sector is undeniably a natural market-driven response to current conditions: the environment is still too risky for large investments; it is expensive to be licensed, pay taxes, and comply with rules; and there is the ever-present potential for downstream policy reversals to change the rules of the game.

The disappointing results have been noted by officials from those governments that introduced reforms. Very often they took substantial political risks to do so, relying on the promise of new investments and rapid growth to alleviate the short-term dislocations from such reforms. As a result, skepticism over the effectiveness of economic liberalization is becoming more widespread, particularly because many senior level officials believe that the reform process has been largely completed. To generate domestic political support these leaders sometimes decry the imposed mandates of the World Bank and IMF, further undermining the effectiveness of reform programs.

Among analysts, the relative paucity of new investment flows has firmly entered the lexicon as *the lack of a supply response*. Debates now center on the impact of these reform programs, their "depth" and speed, and how they can be managed differently in the future to ensure more positive results.[8] Yet irrespective of this debate, no one will deny that in most African countries problems remain in the investment climates that affect the "supply response" of investors. This paper is not concerned with determining whether this is a result of reforms not having gone far enough, institutional weakness, or inadequate pacing of reforms and support in implementation. Rather, we focus on the existing array of regulations and bureaucratic requirements that confront investors and how these administrative constraints continue to deter new investment.

Administrative Barriers to Investment

There are clearly a variety of factors behind Africa's continued failure to attract productive private investment. This paper makes the simple proposition that a large part of the problem, at least in terms of the paucity of new investment, can be found by looking at the actual experience that confronts investors when they set up a company. In particular, this experience too often consists of a morass of licenses, approvals, permits, and other requirements that result in undue delays and unforeseen costs, encourage bribery and corruption, and foster an environment of pervasive uncertainty for all investors. These administrative constraints to investment, which often have their origins in the earlier era of extensive state control over private investment, persist in spite of a substantial opening-up of the economy. Although the restrictive policies may have changed, the institutions that implemented them still exist and the procedures they spawned persist or even proliferate.

Let us put aside for the moment the deterrents to investment arising from questions of comparative advantage, resource endowments, factor costs, transportation links, and most of the other fundamentals that determine investor flows. The bottom line is that in most African countries the procedures for setting up a company and entering into legitimate business are a nightmare. When someone has finally made the decision to invest he then is subjected to some of the worst treatment imaginable, sometimes from the various agencies of that government that so actively courted him in the first place. In a few cases this treatment consists of outright extortion: presenting the investor with insurmountable delays or repeated obstacles unless he makes a large payoff or gives a shareholding to a "friend" in the government or to his or her relative.

In most cases, however, the types of obstacles encountered are more mundane. Although these procedural requirements may invoke graft as a means of dealing with the situation, this is typically on a petty scale. These types of procedural hurdles include

- Registering a company
- Securing investment incentives
- Securing sectoral or other business licensing
- Getting a tax number
- Documenting the investment to be made (for foreign investors)
- Leasing, purchasing, or otherwise gaining access to land
- Getting utilities services connected
- Securing work permits for expatriate managers
- Obtaining building permits and municipal licenses
- Importing equipment and inputs
- Having health and safety inspections performed
- Complying with employment formalities.

The maintenance of overly complex registration procedures, combined with a lack of institutional capacity, often means that these mere procedural tasks become major obstacles to investment.

At lower levels of bureaucracy, officials are often still distrustful of private businessmen. Alternatively, businessmen are simply viewed as a source of supplemental income generation for underpaid and dispirited bureaucrats. Both motivations can mean the persistence of otherwise lower-level irritants to business formation and operation, often elevating them to the point of constraints in an overall investment climate that remains hostile. This has been true notwithstanding a commitment to reform and liberalization at decision-making levels of government. These factors can be particularly negative for foreign investors who may not be politically connected, operate under strict internal corporate guidelines, or do not have local partners to take care of the multitude of procedural obstacles and associated payments.

There are a number of symptoms associated with this degree of administrative complexity, in terms of how it affects both private investment and private sector development overall. Indications that second-tier administrative constraints are a problem include the following:

- *Rigid and pervasive barriers between formal and informal sectors.* Although not the only element encouraging the growth of the informal sector, administrative complexity is certainly a contributing factor. Regulatory compliance, as much as paying taxes, can increase the cost of becoming a formal sector enterprise.
- *Very little 100-percent–foreign investment.* Foreign investors often rely on local partners or intermediaries to negotiate the maze of requirements and payoffs required to establish a business. In practice, few foreign firms decide to go it alone, even though that might be their preference.
- *Low implementation rates for new investment projects.* Although there are many reasons why new projects are abandoned, very low rates of realization for new investment projects are an indicator of severe problems encountered by firms as they try to proceed. Some countries, such as Ghana, have had an implementation rate of less than 20 percent among firms registering new investments.[9]
- *Reliance on screening versus monitoring and enforcement.* In most African countries, governments have relied on up-front screening and controls over investment as a means of regulating economic activity, rather than monitoring and enforcement of actual actions by firms once they are operational. Even where general investment licensing may have been abandoned, other types of licenses and approvals are typically required. This reflects in part institutional weakness and an inability to enforce regulations on operating businesses.
- *Corruption.* Corruption, whether on a small or grand scale, is facilitated by the various types of administrative constraints and pro-

cedural requirements on investors. Where these choke points have proliferated, so have the opportunities for extracting payments from businesses. Where corruption is endemic, there is a further uncertainty associated with the discretionary authority of officials in applying the maze of regulations.

- *Poor relations between the public and private sectors.* Relations between government and the private sector are often strained and not productive in this type of environment. Government officials may consider businessmen simply as plotting to evade taxes and other responsibilities, opportunistically as sources of bribes, or cynically as benefitting from protection or other advantages accorded by them. Businessmen, on the other hand, may feel that governments have no respect for the risks they take, act capriciously with no regard for business interests, and simply look to them as sources of money, whether for taxes, political contributions, or bribes. Excessive regulation in fact fosters these kinds of behavior on both sides, producing the very actions it is supposedly meant to curb.

These symptoms are quite widespread in Africa, and reflect a number of other influences besides administrative complexity and overregulation. However, their presence is also a good indicator that there are regulatory issues and administrative constraints affecting the investment environment, compounding what may be an already weak picture in terms of economic fundamentals.

The Analytical Approach

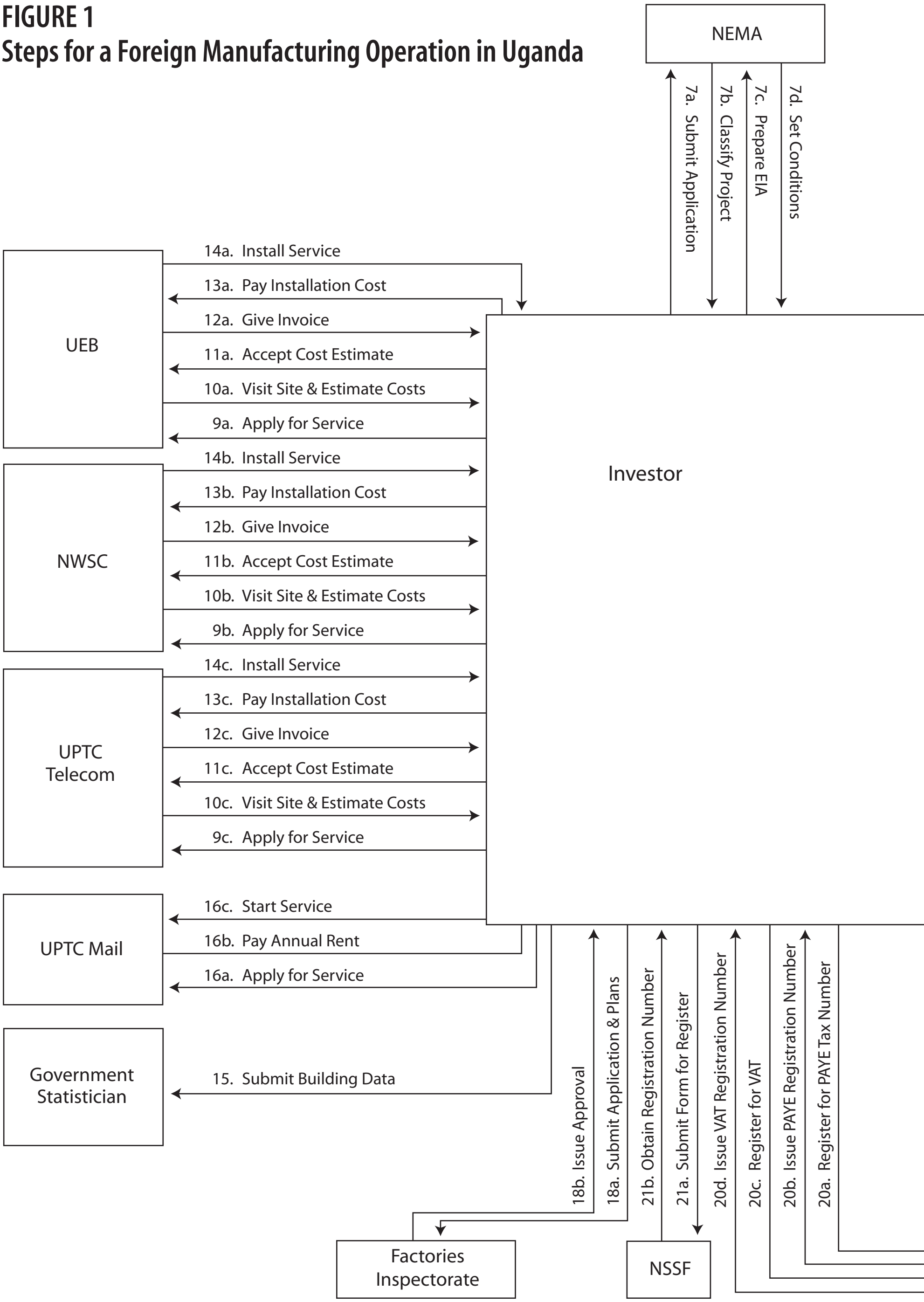
FIAS began confronting these issues at the outset of its efforts to advise African nations on improving the investment climate. Initially, most FIAS advisory projects focused on the major policy issues affecting the investment environment as well as the restrictiveness of specific investment regimes or codes. After more than a decade of experience with African liberalization and improvements in the general investment climate, however, secondary factors increasingly emerged as major constraints and typified the actual experience of firms attempting to invest, which complained of all the obstacles in their paths.

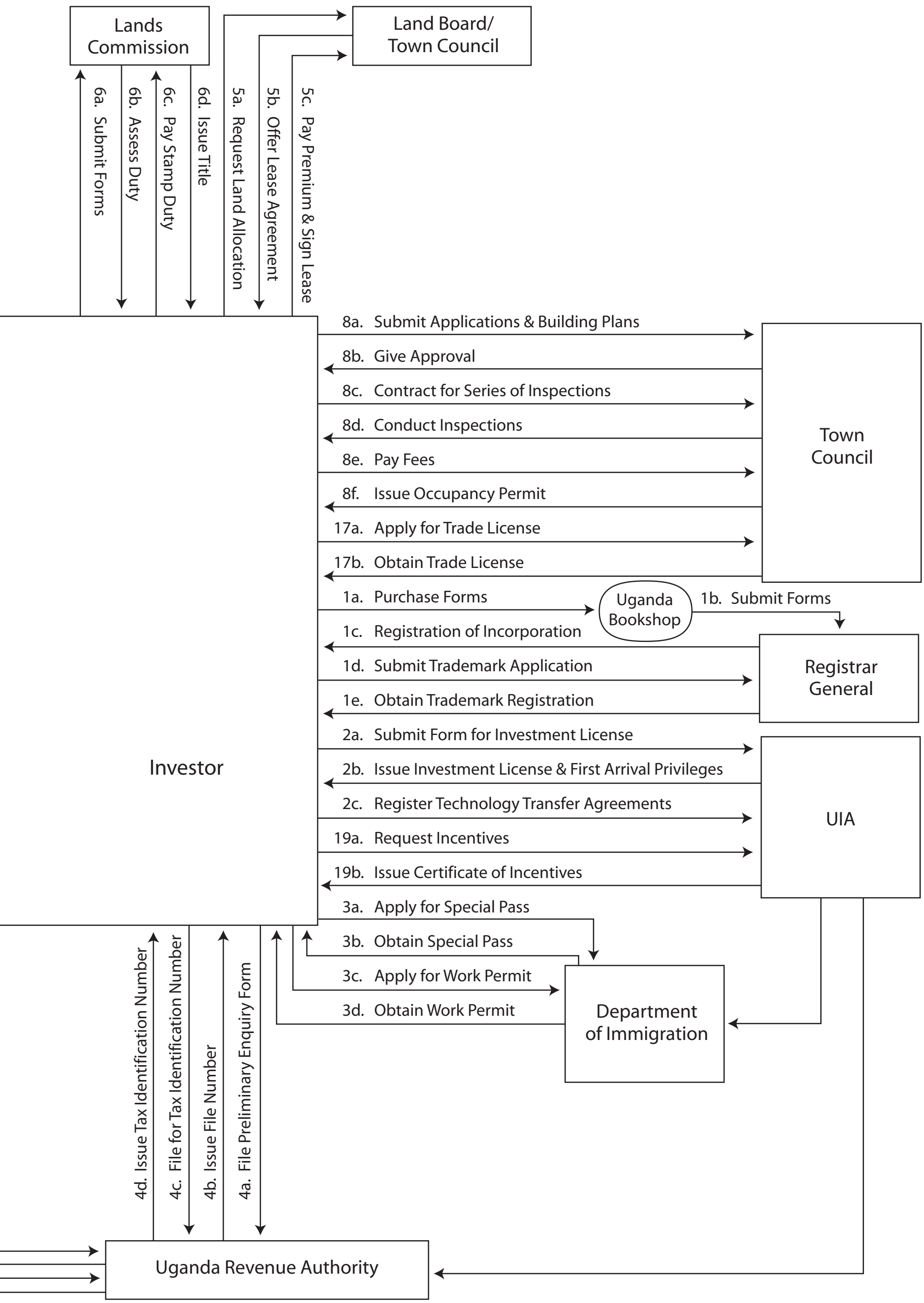
FIAS' attention to these matters was at first neither systematic nor well defined in terms of an analytical approach. As a result, early attempts to focus policy makers' attention on these issues were often rebuffed. For example, a 1991 study on Côte d'Ivoire documented the 61 discrete steps required to establish a business, in order to illustrate this type of problem.[10] In subsequent work in 1995 in Ghana a more coherent methodology was established and further refined in the following years in Namibia, Mozambique, Tanzania, and Uganda by FIAS and The Services Group.[11]

This methodology is quite simple. It consists of documenting in precise detail all the administrative requirements for establishing a business and making it operational. This includes all licenses, approvals, registrations, permits, or other formalities required to be in full compliance with existing laws and regulations. In addition, project teams also gathered data on the delays associated with each step, the costs, and the forms or information required. This research was typically done in full collaboration with government agencies whose active participation in the process was solicited from the beginning. As an example of this methodology, Figure 1 illustrates graphically the steps in the process for a foreign manufacturing firm in Uganda.

Once the administrative and logistical hurdles of making an investment are mapped out as in Figure 1, it is easy to identify areas of duplication, excessively complex and intrusive requirements, or ineffectual implementation. The recommendations made for each country typically focus on areas where administrative procedures can be simply eliminated, streamlined, or otherwise improved to ensure that they are not constraints. Where regulatory controls or informational requirements are maintained, recommendations often emphasize improving implementation. This often means changing the attitude of government agencies from one of control and distrust to one of service provision and facilitation, along with ensuring compliance.

FIGURE 1
Steps for a Foreign Manufacturing Operation in Uganda




Lands Commission
Land Board/ Town Council
6a. Submit Forms
6b. Assess Duty
6c. Pay Stamp Duty
6d. Issue Title
5a. Request Land Allocation
5b. Offer Lease Agreement
5c. Pay Premium & Sign Lease
8a. Submit Applications & Building Plans
8b. Give Approval
8c. Contract for Series of Inspections
8d. Conduct Inspections
8e. Pay Fees
8f. Issue Occupancy Permit
17a. Apply for Trade License
17b. Obtain Trade License
Town Council
1a. Purchase Forms
Uganda Bookshop
1b. Submit Forms
1c. Registration of Incorporation
1d. Submit Trademark Application
1e. Obtain Trademark Registration
Registrar General
Investor
2a. Submit Form for Investment License
2b. Issue Investment License & First Arrival Privileges
2c. Register Technology Transfer Agreements
19a. Request Incentives
19b. Issue Certificate of Incentives
UIA
3a. Apply for Special Pass
3b. Obtain Special Pass
3c. Apply for Work Permit
3d. Obtain Work Permit
Department of Immigration
4d. Issue Tax Identification Number
4c. File for Tax Identification Number
4b. Issue File Number
4a. File Preliminary Enquiry Form
Uganda Revenue Authority

Antecedents

In terms of documenting the types of procedures, this approach is itself not new; much related work has also focused on the impact on businesses of the legal, regulatory, and institutional environment. A major contribution was made by the work of Hernando de Soto who, in his 1987 work *The Other Path*, dramatized the Byzantine regulatory obstacles to small, informal sector firms in Peru by describing the distance one has to travel to attend to all the required formalities, and the attendant delays.[12] De Soto's focus, however, was on the informal sector and the need to increase access by small-scale businesses to formal sector benefits such as property rights and access to credit.

A number of studies have attempted, often via surveys, to identify constraints to investment or obstacles to business expansion. Some, including those that focus on Africa, have generally tended to downplay the role of regulatory constraints as constraints on investment. Surveys of African businesses undertaken by the World Bank's Regional Program for Enterprise Development have shown that regulatory issues rank relatively low in terms of constraints on growth at the firm level.[13] However, at a disaggregated level, these issues ranked relatively higher for larger firms and for those in certain sectors. Other enterprise surveys undertaken for the 1997 World Development Report showed quite a bit of difference by region. In Africa, regulatory constraints *per se* (including those related to starting a business) were low on the list, with corruption, taxes, and infrastructure the most important.[14] The same authors, in an empirical study of institutional factors affecting investment, found that indicators of corruption and lack of rule of law had the strongest effect on differential investment rates among developing countries.[15]

These surveys and empirical studies point to some of the same assertions that will be developed here. It is clear that there are obstacles to investment in Africa—such as political instability, weak infrastructure, and poor economic performance—that constitute more fundamental constraints on investment than administrative, institutional, or regulatory constraints. However, for those investors who still decide to pursue projects in African countries these other obstacles come into play and often frustrate the implementation of their projects.

Another approach attempts to quantify the impact of these kind of administrative and regulatory constraints in terms of the increase in transaction costs to firms. In this approach, detailed enterprise surveys of selected samples of firms are used to gather data concerning delays, managerial time, and other sources of increased costs associated with these types of constraints.[16] This work represents an evolving methodology that has the potential for providing some rigorous estimates of the added costs of these types of obstacles for investment and business expansion.

From a different perspective, the recent literature on "reinventing government" has also attempted to focus on the nature of business regulation and the impact of government bureaucracies on private sector growth. Here the focus is from the perspective of improving government performance and, in particular, shifting the focus of government programs to emphasize service delivery and the extension of private sector management principles to public services, often by innovative methods of private provision of services. Although there has been some attention at the national level in the U.S.,[17] the thrust of the movement has been at the state and municipal levels.[18] Yet this perspective, while relevant to the improvement of many public services in Africa and developing countries, does not focus squarely on the problems created in the investment climate. This experience, although concentrated in the developed countries, is nonetheless relevant to developing countries in terms of lessons to be learned from different approaches to improving government services.

The initiatives summarized here all in various ways support and complement the focus of the approach developed in this paper. The main difference is that this approach has focused on analyzing the nature and extent of these bureaucratic procedures themselves. In this respect, the work conducted to date has gone much farther than general surveys inquiring about regulatory obstacles and as a result can offer much more specific policy recommendations for addressing the issues. It is complementary to empirical and quantitative studies that have attempted to assess the magnitude of these constraints, either through the cost to individual firms or in the resulting investment flows. The approach developed here can have a much greater impact in dealing with some of the inertia and reluctance to change that often characterizes bureaucratic behavior, by relying on detailed assessment of procedures and administrative requirements.

Administrative Constraints in Sub-Saharan Africa

These second-tier policy and administrative constraints are not unique to Africa. Other regions, including Latin America and the Middle East, suffer from many related problems in the investment climate. However, the problem is perhaps most consistently displayed among sub-Saharan African countries and the route by which they got there is, for the most part, different. In Africa, the degree of administrative complexity is quite directly related to the post-colonial interventionist policies pursued by those countries and, in some cases, to carry-overs from the colonial era itself. Colonial regimes often imposed complex regulations to protect the position of firms from the home country and limit the areas where local businesses could operate. On top of this legal basis were grafted a host of administrative controls to ensure governmental primacy over private businesses for the newly independent nations which were, overwhelmingly, run by ex-colonials. This economic nationalism extended to a socialist orientation in most countries, meaning direct government ownership of most formal-sector economic organizations and strict controls over private economic activity. With liberalization, much of this structure has been done away with; however, many of the institutions survive, along with their procedures and requirements, even though today they may serve little purpose.

The following chapters investigate the nature of these administrative constraints to investment for a group of countries in which these types of studies have been completed and data is available. The chapters are divided into four areas, roughly corresponding to the chronological process of making an investment:

- General licenses, approvals, and other requirements for all firms, including general investment approval, approvals for incentives, tax registration, company formation, expatriate work permits, and business licenses;
- Specialized approvals required for certain sectors or activities such as are typically required for sectors involving resource utilization, tourism, financial services, and transportation;
- Site development constraints, encompassing securing land, improving it, getting utilities services, and constructing buildings; and
- Operational requirements—the result of regulations governing such areas as labor, foreign exchange, international trade, and standards—that firms must meet once they begin operations.

2

General Approvals, Licenses, and Registrations

All governments in sub-Saharan Africa require investors to carry out a certain number of administrative steps. These typically include registering a company or business name, securing work permits and residence visas for foreign investors and expatriate employees, registering with the tax authorities and other agencies, getting general business licenses, and getting access to investment incentives or other benefits that may be available under the investment law or other legislation.

In some cases the requirements involve applications that are evaluated; in others they are simple registrations. In most cases there is little regulatory control to be exercised and it is at this stage where countries focus much of their efforts on expediting procedures for investors and where investment promotion agencies have a strong role. Some have established one-stop shops for investment approval, others guarantee maximum times for approvals, and still others have eliminated most prior approvals and require only a "simple registration."

Despite these efforts, however, major sources of delay and frustration for investors remain in all the countries analyzed. Although the red tape varies significantly in nature and origin from country to country, its existence points to the need for continued reform as well as promotional and facilitation measures.

Company Registration

The first step in pursuing any investment is often to register a company. Other steps, such as prior approvals required under existing investment legislation, may be initiated first or may require having a company established in order to apply. This process is straightforward in most countries of the world and simply involves documenting the capital structure of the company, its form under the alternatives available in the "companies law," and recording of other pertinent details. Supporting documentation may be required (e.g., a resolution from the parent company) but little scrutiny is given except to satisfy informational and compliance needs and to ensure that the company or business name is not already in use.

Nevertheless, in Africa registering a company can be time-consuming. Complications were found in all the countries examined, as follows:

- In Uganda no forms were available from the registrar general's office—the office had no money for printing—although they were available from a local bookstore. The office was not computerized and records were haphazard. Seven different forms were required, some of which were duplicative; and they had to be filed in several distinct steps.
- In Ghana, as well, the registrar's office had no forms although a few individuals would loan their personal copy for a fee to be copied by investors.
- In Namibia the number of forms required (an average of 10) and restrictiveness of the Companies Act leads most new investors to use the Close Corporation Act, which was designed to facilitate small and micro-enterprise formalization. That act, however, is still too demanding for those groups (even if it is attractive to larger

formal-sector firms). Women are required to have their husband's written consent to form a company.

■ In all countries except Mozambique (that is, the former British colonies with registrars general or the equivalent) there was no facility for registration outside the capital. Businessmen located in the provinces were required to travel there with all the required documentation and then wait up to a week or more to receive the registration confirmation. As a result, only major businesses from outside the capital bothered to register.

It is in Mozambique, however, that the process of company formation was the most expensive, complicated, and prolonged. As is common in civil code countries, it is mandatory to have company statutes prepared by an accredited *notaire*, whose fees range up to 2.5 percent of capital. One-half of the capital for closely held companies must be placed in a bank account prior to registration (10 percent for limited liability companies). With the addition of registration fees, notary fees, and other required payments, the total cost of registering a company typically approaches 10 percent of capital.

Furthermore, a large amount of corroborating material is required, especially for foreign shareholders, so that assembling the registration package can take time and the process can be put on hold by rejection for lack of supporting documentation. Company statutes must be published in the *Official Gazette* as part of the process. In all, it can easily take up to six months just to register a company. This compares poorly to the two-to-five day performance of the other countries in the region.[19]

Foreign Investment Registration

In addition to the requirements for registering a company, countries typically require a separate registration for foreign investments. Ghana, Mozambique, Namibia, Tanzania, and Uganda all require this step; it is reportedly for informational purposes and is accomplished via an investment promotion agency. However, this was not a major problem in any of the countries studied: it was just another required step, albeit one that was probably unnecessary. The same information could be captured in the process of company registration, with information provided to the relevant agency by the registrar of companies or by the tribunal.

In Mozambique and Uganda, additional information is required of foreign shareholders in the registration process, which can be time-consuming. This includes police records, employment visas or work permits, and translations of parent company statutes or articles as well as resolutions authorizing the subsidiary in question. These steps often increased the time and effort associated with company registration.[20] In Ghana and Uganda, minimum capital requirements for foreign investment require further documentation and verification, which is either done as part of the registration process or in terms of certifying the award of incentives.

It is noteworthy that, with the exception of small negative lists in the investment laws of each country and minimum capital requirements (often higher for trading or commercial activity), the countries in this group are quite open to foreign investment. Although there are often secondary obstacles such as those in sectoral legislation or associated with access to land and finance (see Chapter 4), the overall policy stance of these countries is relatively open. This reflects the general trend worldwide toward fewer restrictions on foreign direct investment.[21]

Few countries maintain differential incentives for foreign investors. One is Uganda, which accords them and expatriate employees "first arrival privileges," in which a vehicle for personal use and other personal effects may be brought in with no duty payments. Although these privileges are attractive to foreign investors (especially given the high duty rates on vehicles) they require the cumbersome approval of both the Investment Authority and Customs.

Otherwise, all the investment laws of the countries concerned contain both "equal treatment" clauses that (1) guarantee foreign firms equal treatment with nationals and (2) guarantee foreign investors the rights of profit remittance and capital repatriation.

Access to Investment Incentives

Of the five countries, Mozambique, Namibia, and Uganda have systems of investment incentives available only to qualifying firms, as defined under special legislation. Intended to be an attraction for investors, in their application these programs have proved problematical. In contrast, Ghana and Tanzania have each, in relatively recent reforms, done away with approval-based incentives requiring screening and evaluation of investment projects. In so doing they have simplified tremendously the process of investment.[22]

The problems can be summarized by examining the incentives Uganda provides under its Investment Code:[23]

- Applicants must first establish a company and prepare a business plan or feasibility study. That study must demonstrate compliance with the law in terms of minimum value-added requirements, minimum capital requirements, employment of nationals, and so on.
- This plan or study is reviewed at three separate levels within the Uganda Investment Authority—staff, management, and board. This normally takes up to six weeks, depending on the scheduling of management and board meetings.
- There are varying levels of incentive (for example, length of tax holiday) that are based on satisfaction of differing requirements. These must be determined from the application. Additional documentation is required for non-standard duty exemptions.
- Once approved, incentives are not automatically enacted; the investor must demonstrate achievement of the minimum investment levels, based on an audit of qualifying assets. Only then is a Certificate of Incentives authorizing the tax exemptions prepared for transmission to the tax authorities.
- Once the certificate is in place there are still questions about booking depreciation, the carry-forward of losses during the tax holiday period, and other important points that are only beginning to be sorted out.

The award of incentives in Uganda was seen as something extraordinary that had to be carefully evaluated and documented. Although this may in some sense have been necessary to prevent fraud, it also increased the burden on investors in terms of the preparation of feasibility studies, delays in processing applications, and uncertainty over final valuations. The administrative headaches of this relatively simple system of tax holidays was one of the main reasons the country has moved to eliminate them in favor of more automatic tax allowances for new investment, administered by the tax authorities through the tax code.

In Mozambique a similar problem exists in terms of (1) requirements for feasibility studies and supporting documentation from investors and (2) the screening process of the Center for Investment Promotion. Delays were common and requests for additional information frequent. Officials often asked questions regarding the financial projections, despite the policy statement that financial performance was the concern of the investor rather than the government.

It is ironic, but increasingly realized by governments and their promotion agencies, that these systems of administered tax holidays are in fact *dis*incentives. Established as an important benefit to bestow upon qualifying investors, in their application most have constituted another administrative hurdle fraught with uncertainty and delay. In most cases as well there has been substantial corruption associated with the award of tax holidays. This was reportedly one of the main problems with the prior investment code in Tanzania, and a major reason that donors supporting the structural adjustment programs of Tanzania insisted on the removal of discretionary tax holidays in that country.

Business Licenses

In addition to qualifying for incentives and registering a company, there is often a separate business license requirement. In Ghana and Uganda, this is granted by the municipal authorities, and involves payment of a business-licensing fee, which can be an important source of revenues for the local governments. For this reason, they have been relatively efficient at registering businesses.

However, rather than just registering businesses and collecting annual taxes, governments have instated other requirements that make the process more difficult than it need be. In Kampala, for example, the signature of the local government councilman was required on every application. This supposedly was a means of ensuring that there was no conflict with the business opening in the neighborhood, but in practice was a means of eliciting extra payments for the signature. In Tanzania, the required forms were difficult to find and complicated; they are also in Swahili, making it difficult for foreign investors.

Expatriate Work and Residence Permits

For foreign investors, securing a residence or work permit is a mandatory step. This applies also to expatriate employees who may be brought in. Given the stated goal of all the countries in the group to promote employment of nationals, they all exercise controls over the granting of work permits or visas to expatriates. Unfortunately, the way the controls are implemented often interferes unnecessarily and unproductively with FDI. The presumption of most immigration authorities is that such permits are the exception, not a standard aspect of doing business in the country. In some countries, long-standing ethnic tensions in the business community further aggravate the situation. Essentially, immigration departments require (1) that investors demonstrate that they are "serious"—that is, that they are not attempting to use making an investment as a means of securing work papers—and (2) that firms demonstrate that the employees recruited from abroad are essential and have required qualifications that cannot be met locally. In the implementation of these types of controls, however, a number of frustrations for investors inevitably result:

- *Extensive documentation requirements.* For employees, this typically includes copies of birth certificates, diplomas, testimonies of experience, resumes, employment contract or offer, police records, marriage certificates, medical examination reports, and verification of attempts to recruit locally. For investors, additional information usually includes copies of company statutes or articles, registration verification, promotion center certificates, and sectoral approvals from ministries. Assembling this documentation can take time and be problematic in many cases.

- *Long delays.* Although delays of a month are standard, the process can take up to six months in Tanzania and up to 10 months in Mozambique.
- *Corruption.* Bribes for residence or work permits are reportedly common and often are the principal means of expediting the process for foreigners.
- *Uncertainty.* In Ghana an investor must realize his investment prior to securing a residence permit; until that time he operates on an extension of the initial visa. In others, the standard duration is only two or three years, after which investors and employees face the same process once again. Renewal of employee work permits may be difficult because immigration officers in Uganda, for example, expect that Ugandans should have been trained for these positions during the initial period. Some authorities, such as those in Uganda (the Investment Authority as well as the Immigration Department), rely excessively on academic diplomas as demonstration of qualifications. All of these actions induce an element of uncertainty into the process that can be unsettling for foreign investors in particular.

Two countries, Ghana and Uganda, have begun to recognize that issuance of residence and work permits to foreign investors should be an unobtrusive, easy step in the process of a foreign businessman making an investment. Both countries issue automatic residence and work permits to investors, based on the amount of the investment, with additional work permits available upon the standard application process. However, because this step then requires investors to document the realization of the investment prior to issuing the permits, its value is somewhat diluted.

Securing residence and work permits should be a routine step for foreign investors—making it so is an integral part of promoting foreign investment. However, it can be a particularly difficult hurdle. Few immigration authorities have confidence in the financial realities of hiring expatriates—i.e., that it's much more expensive than hiring nationals—and therefore treat each application assuming the investor is trying to cheat a national out of a job. In addition, because the investors' legal status in the country is at stake, the authorities have enormous leverage over them, and there is usually no way around them—except, of course, to pay bribes. This is one reason why bribery appears to be so commonplace during these transactions.

Tax Registration and Administration

The process of tax registration should be straightforward. Because tax authorities need to know which firms exist in order to collect taxes from their operations, it is to the authorities' advantage to make registration easy. Yet this is not always the case for the following reasons:

- In Uganda, the Revenue Authority uses separate procedures and identification numbers for registration for corporate taxes and for VAT. Both processes are subject to several sequential steps requiring different forms.
- Mozambique levies several small taxes, including stamp taxes that apply to all kinds of documents, which can only be secured from the main tax offices. (This applies to materials such as posters for public display, which require individual stamps and seals.)
- In Namibia, three separate tax identification processes are required. For exempt goods, the Minister of Finance's signature is required, resulting in frequent delays when clearing imports of machinery, for example.

- Similarly, in Tanzania separate registration processes are required for sales tax, excise tax, and stamp duties, in addition to the registration process required elsewhere in the Revenue Authority for the income tax. Each application requires a physical inspection by a revenue officer.
- In Ghana, the registration process is, in effect, repeated annually with declarations of projected withholding obligations.
- In many countries, tax clearance certificates are required for importing or other transactions with the government, as in Ghana and Uganda. This adds another step to already cumbersome procedures, a step that is of dubious value in enforcing tax collections.

Problems in tax registration are a function of the overly complex nature of the tax system in these countries, together with a limited capacity for effective administration. Therefore, in an attempt to impose tight controls, governments have developed arduous and often duplicative registration and reporting requirements. As part of tax reform programs in some African countries, such as Uganda, improvements are being made. However, in these as in other countries, the various reform and collections initiatives may actually render the tax system even more complex, resulting in the major reason small firms avoid registration or any other formalization that would bring them to the attention of the revenue authorities.

Other Licenses and Registrations

Governments may require that most companies apply for a number of other registrations at an initial stage. These include patent, trademark, and copyright registration; documentation of investment inflows with the central bank; and an environmental impact assessment. These requirements tend in nature to be secondary or peripheral to the process of making an investment and vary widely among the countries concerned. They are, however, not without problems, albeit minor ones.

Intellectual property registration varied widely in the countries studied. In some, it was routine and inconsequential, as in Uganda. In Namibia, there was a two-year backlog of patent and trademark applications pending approval or registration. The primary reason was a lack of qualified employees (i.e., typists) to issue the certificates. Trademark registration forms were unavailable in Tanzania, although local bookshops would make unofficial copies. These types of delays and difficulties are perhaps not critical, as many companies do not bother to register trademarks and the like. However, for some businesses, such as manufacturers of branded consumer goods, it may be crucially important. In addition, the lack of effective protection from imitators due to poorly developed registration and enforcement can be a disincentive for such firms to enter markets.

The degree of documentation or registration of actual investment flows is typically a function of the level of exchange controls. In countries with liberal systems, such as Uganda and Ghana, this is accomplished by the commercial banks without the requirement of registration or verification by the central bank; commercial bank documentation of financial transfers is sufficient.[24] In Mozambique, however, the Central Bank must verify inflows of foreign capital in order to facilitate repatriation later. If this is not accomplished, there will be problems upon repatriation of profits/dividends or the original capital.

Environmental assessment of new investment projects is a fast-changing area of screening and regulation. In the days when most countries reviewed and approved all major investments, some form of rudimentary environmental impact was included in the feasibility study. Now, this is often a separate step accomplished by a specialized agency for that purpose. In Uganda, Tanzania and Ghana, environmental management or protection agencies were being established when this research was undertaken. Each was to have the ability to screen all new industrial or commercial projects for environmental impact. However, their procedures were not yet well defined. The general trend was to make an early classification of proposed projects, with the level of review linked to the potential ecological hazards proposed. Thus, a light manufacturing operation with no hazardous materials would not be required to do the full environmental impact assessment that might be required of a factory producing wastes or using hazardous materials. In each country, some form of environmental review was required. For those with discretionary incentives, an environmental review continued to be one of the requirements in the feasibility study.

Conclusion

Cutting through the red tape of registering a company, registering for taxes, getting required approvals, securing work permits for expatriates, and so on should be a series of simple procedures. In most industrial countries, they are simply procedures and formalities that can be completed with a minimum of effort. In the African countries studied, they can be quagmires causing delays and unforeseen costs and always inviting payments to circumvent the law or otherwise solve the problem. Taken together, the entire process can be daunting for new investors, particularly for foreign investors and for smaller domestic businessmen who may have expanded and formalized their operations.

The types of obstacles encountered at this initial stage include the following:

- Unhelpful, even predatory, bureaucrats unable to provide forms or otherwise facilitate in meeting requirements they are responsible for administering;
- Delays beyond the time necessary to secure approvals or signatures;
- Complexities stemming from the need to administer poorly designed incentives schemes;
- Lack of computerization and lack of capacity in registration or regulatory bodies;

- Multiple, sequential steps required from agencies to process applications;
- Duplication of effort among agencies, which often request the same information;
- Outmoded information requirements that no longer serve any real purpose but that cause needless work for investors;
- Excessive costs stemming from complex requirements in company formation and up-front capital taxes.

As a result, it is common for businesses to need about six months (less in Namibia) to perform the formalities of getting an investment approved, and registering or completing all the other tasks required prior to actually doing anything. These hurdles, however, represent just the beginning. For many businesses, additional specialized approvals are also required. These are examined in the following chapter.

3

Specialized Approvals

Many types of private businesses require special authorization or licensing from various government bodies. In general, this is accomplished on a sectoral or sub-sectoral level, with line ministries[25] or parastatal agencies responsible for initial licensing and regulation. In most countries in Africa, engaging in trade or many services requires no such special license; the types of approvals outlined in the previous chapter comprise the range of initial approvals and registrations required. In some countries this layer of sectoral approval has been eliminated for manufacturing; in others some form of licensing or differential access to incentives has been maintained for industry.

The sectors where entry is restricted, screened, licensed, or otherwise controlled include those that utilize scarce natural resources, depend on use of public property or assets in some fashion, or are simply in sectors that are highly regulated for a variety of reasons related to consumer protection and maintenance of desired market stability. These include fishing, forestry, mining, tourism, financial services, transportation, utilities, broadcasting and media, health services, pharmaceuticals, and so on. Restriction of entry is a key aspect of sectoral regulation in all these fields, as is enforcement of regulations on firms' operations. In many sectors there are secondary restrictions on foreign participation, often in conflict with the language in investment laws requiring equal treatment.

Where there is restriction on entry, there are procedures for getting licensed. In most of the countries studied, the process of obtaining operational licenses tends to be more complex than necessary to meet the goals of sectoral management. There are hundreds of specialized licenses throughout the countries studied. In this chapter, four sectors will be examined as representative examples: industry, fisheries, forestry, and tourism. The administrative procedures and licensing requirements in these sectors represent the broad range of bureaucratic constraints faced by potential investors.

Industry

Investment in manufacturing has been the principal objective of most African countries' investment laws. In fact, whether a firm engages in manufacturing, as opposed to mere trading, is often the definition of "investor" in terms of the law, and in terms of the attitude of governments toward the investor.

Although many countries in Africa and elsewhere have removed industrial licensing requirements as part of their attempts to facilitate investment, many still maintain some form of industrial licensing. In our sample, Ghana and Uganda are the only countries to have opened the field entirely. Table 1 describes industrial licensing requirements in the remaining countries.

The industrial license in Mozambique and Tanzania is a classic example of unnecessary bureaucratic red tape that persists in an otherwise open economy. The role of a special license for industrial projects is a carryover from the preceding policy orientation of promoting industry at any cost with high degrees of protection, incentives, and subsidies. In that policy framework, licensing of new firms was the key step in allocating access to these preferences. In the current liberalized economies that characterize much of Africa today, there is really no role for controlling investment in industry *per se*. The related policy objectives of protecting the en-

Table 1. Licensing of Industrial Investment in Surveyed Countries

Country	*Requirements*
Mozambique	In Mozambique the traditional licensing requirement for industrial firms involves myriad prerequisites and preparation of 12 separate documents, and can take up to one year to complete. It has been one of the major complaints of the business community, particularly in an era when other countries have abandoned such requirements. To a great degree, it simply adds another layer on other types of approvals, such as those for building design and approval, company registration, incentives approval, etc. with no real rationale for the added scrutiny.
Namibia	A separate fiscal incentive regime exists for manufacturing in Namibia. To qualify, firms must apply for "manufacturing company status." Though technically required only for incentives, the qualification is narrowly limited to industry, so that it constitutes a sectoral rather than general incentive program. It is attractive enough to make it mandatory, for competitive reasons, to pass through the process. Yet there is no clear definition of what constitutes manufacturing, and there is an overlap with other incentives programs, which complicates the qualification of certain firms (i.e., exporters). This additional step typically adds a month to the process of getting initial approvals—up to three months for projects outside Windhoek.
Tanzania	In Tanzania, the Industrial Licensing Board is a mandatory stop for all manufacturing projects with investments over TSh 10 million.[a] The board examines availability of raw materials, economic feasibility, etc., as well as areas assessed by other agencies (environmental impact, utilities demands, etc.). Although this takes three months to complete, projects reportedly are rarely rejected.

a. TSh = Tanzanian shillings.

vironmental, allocating fiscal incentives and so on, are dealt with more effectively by direct policy instruments such as limits on pollution and incentives inherent in the tax code, and do not require a separate screening.

Fortunately, this type of industrial licensing requirement is increasingly the exception, in Africa as elsewhere. The targeting of fiscal incentives to industry is still common, as is practiced in Uganda and Namibia. However, this also is changing as countries increasingly reform investment incentive schemes to eliminate the need for prior screening and approvals.

Fisheries

As a renewable but often over-exploited resource, fisheries worldwide have been subject to controlled access, limits on catches, and regulation of fishing methods in virtually all countries. Although African nations are no exception, ineffective regulation and enforcement have compromised their otherwise sincere attempts to manage this resource. All the countries examined here attempt to license fishing vessels in the waters they control, within up to 200 miles of an exclusive economic zone.[26]

Where the fishing effort is in danger of depleting stocks to the point of extinction, fishing licenses or permits are restricted below demand. In these cases, licenses are typically restricted to favor nationals and those already engaged in fishing, so that new licenses are particularly difficult to secure. In general, the main regulatory tool is licensing of a vessel to fish in territorial waters; there may or may not be a catch limitation on particular species. By controlling the number of vessels, authorities regulate roughly the annual catch.

As a livelihood, fishing has always been important in coastal communities. Many coastal regions host large populations of artisanal fishermen who operate outside of normal licensing procedures, but whose limited technologies act to restrict the impact of their activities on resource levels (except in Uganda, where even artisanal fishing is regulated.) Licensing of commercial vessels, foreign or national, has the additional objective of protecting the interests of these artisanal fisherman, through limiting commercial fishing in their grounds or otherwise ensuring that their livelihoods are not disrupted by commercial-scale fishing.

For these reasons, then, investment in fishing is closely controlled. The legislative regimes that oversee the fisheries sector in many countries are often vague; the lack of transparency in the licensing process contributes to a high degree of corruption. Combined with inadequate resources for effective enforcement throughout territorial waters, the inevitable result is that management of the resource is often ineffective, there is illegal fishing, and governments lose revenues from a potentially lucrative activity. Table 2 describes fisheries licensing requirements in the countries surveyed.

As Table 2 shows, in the countries involved, fisheries licensing is the main tool for resource management. However, because of the lack of enforcement (which requires vessels patrolling territorial waters, except in Uganda), the multitude of restrictions on foreign vessels or firms may be simply ignored. As stocks become depleted, more draconian measures may be called upon. Without effective control of illegal or unlicensed fishing, the range of restrictions on both nationals and foreigners only serves as a further incentive for illegal operations. In the process, a greater degree of control over the resource is lost, including the ability to establish a shore-based processing and export industry, which would benefit from foreign involvement.

Forestry

Forestry as well is a renewable but scarce resource for which effective management is critical to maintaining a productive resource base. For most hardwood forests, once they are cut for timber they are not replanted and do not regenerate quickly to be truly renewable resources. In Africa, forests are on public lands, which are managed by the government. Natural resource ministries or forestry authorities typically use licenses for cutting timber as the main resource management tool. Securing these licenses, however, seldom appears to follow a course suggesting that they be used principally for this purpose. There is a lack of transparency that leads inevitably to long delays, and corruption in the process. Because the regulations governing the forestry sector are often unclear and not well enforced, there is a significant degree of illegal cutting. Not only does such illegal cutting undermine effective resource management and imperil the forests, potential revenues, which could be used for effective management and replanting, are lost. Table 3 summarizes forestry licensing requirements in the countries surveyed.

Table 2. Licensing of Fishing Investment in Surveyed Countries

Country	*Requirements*
Ghana	In Ghana, fishing licenses are required for commercial fishing, based on a vague application process to the Ministry of Food and Agriculture. Foreign firms or vessels are not allowed, with the exception of offshore tuna fishing, where they must be in joint ventures with nationals. The problem remains that, as in Tanzania, foreign vessels routinely fish in Ghanaian waters unlicensed, landing their catch elsewhere.
Mozambique	Commercial fishing licenses in Mozambique are allocated based on specific type of fishing activity, fishing zone, type of vessel, and fishing technique. Licensing for foreign fishing vessels restricts fishing to open waters beyond 12-mile territorial water limit, and only for tuna. Multiple agencies are involved in issuing licenses for industrial fishing. A new regulatory decree is currently being drafted to monitor fishing; this mandates that every vessel must be inspected before it is issued a license. Because most fisheries activities occur far from Maputo, enforcement is difficult and the fisheries sector in Mozambique is *de facto* largely unregulated.
Namibia	As in Uganda, there is no new issuance of fishing licenses in Namibia. Existing companies that have fishing rights cannot transfer them; as a result, potential new foreign investors must purchase existing companies with fishing rights, undertake joint ventures, or charter the vessels. In spite of the generally solid regulatory framework governing the fishing sector, a few problems remain. There is a lack of transparency in the complex distribution system of quotas. Because fishing rights are non-transferable, banks will not accept them as collateral for loans; moreover, financing in the fishing industry has been characterized by bartering, which is illegal in Namibia.

Unlike the fishing sector, where countries do not have the resources or capacity to patrol territorial waters, illegal timber cutting on public lands is readily enforceable. The persistence of illegal logging requires active complicity on the part of national and local authorities, suggesting that the process is largely circumvented by bribery and corruption. As worldwide stocks of tropical hardwoods have dwindled due to over-cutting, those remaining have become even more valuable. Yet, in the countries noted above, as in others in Africa, (appropriately) restrictive licensing in the name of resource management is not taken seriously, by both the firms involved in

Table 2 ***(continued)***

Country	*Requirements*
Tanzania	Tanzania licenses commercial fishing in coastal and EEZ waters, including foreign vessels. Licenses are issued annually in March, following a stock assessment. Fishing vessels must also be inspected and licensed. Tanzania uses discriminatory fees to limit foreign fishing and encourage local processing. The license fee for a national prawn trawler up to 160 tons would be US$65–84; for an equivalent foreign vessel it would be US$20,000, or US$40,000 if there is no shore-based processing facility in Tanzania. Applications for fishing licenses must be approved by a village authority (if applicable), the district fisheries officer, the regional fisheries officer, and the director of fisheries. Although a 30-day period is stated in the law, delays of up to three months are common—longer if there is uncertainty about the size of the catch to be allowed. In addition, controls on exports of fish from processing plants require health or quality control inspections and licenses for each shipment.
Uganda	In landlocked Uganda there is essentially no commercial-scale fishing and no new licensing of fishing on controlled-access waters such as Lake Victoria. Foreign investors are not permitted to operate on controlled or open access lakes; fishing operations on these waters are restricted to artisanal fishermen. On controlled access lakes, the number of fishing vessels is restricted; existing licenses are essentially handed down. Fish processing in Uganda is also closely controlled and licensed. A Technical Committee of the Fisheries Department is responsible for allocating export quotas to industrial fish processors. These processors have complained that the current quota of 60,000 tons per year is too small and given the apparent excess capacity no new licenses are being issued.

the logging, and those agents charged with enforcing it. A more reasonable approach would be to allow some limited timber cutting, from which substantial revenues could be generated, and use the proceeds for enforcement. Periodic auctions of timber rights are not used in any of the countries studied; rather, there are fixed stumpage or lumber fees, or annual lease/concession payments tied to the area of land. In some countries, such as Tanzania, the system appears to have been designed to maximize opportunities for corruption. This, combined with the financial value of the resources at stake, has engendered a high degree of illegal logging.

Table 3. Licensing of Forestry Investment in Surveyed Countries

Country	*Requirements*
Ghana	The current policy for granting timber concessions in Ghana is being reviewed. Investors express concern about the lack of transparency; moreover, delays of two to three months are typical. Lumber milling firms are subjected to a government quality control inspection.
Mozambique	Provincial governments grant licenses for commercial logging in areas measuring less than 1,000 hectares. For areas exceeding this limit, licensing must be obtained from the Ministry of Agriculture. Investors have identified a number of problems. Several months are needed to negotiate a concession agreement, partly because of lack of information provided by the government. Investors sign a contract with the licensing authority that must ultimately be published in the *Official Gazette* in order to be valid, causing further delays.
Tanzania	All land, including forestry resources, is the property of the government. Licenses to fell trees in Tanzania are issued for one to three months, whereas in most countries they are issued for two to three years. Tanzanian law does permit lengthier concessions; however, they are generally not issued. The complex royalty and licensing fee structure, coupled with the lack of transparency in the licensing process, creates numerous opportunities for corruption. The extensive illegal cutting that occurs—directly attributable to the cumbersome licensing process—has resulted in extensive losses of potential state revenue; moreover, it has contributed to a high level of environmental degradation. Restrictions on licensing, graduated fees, and a virtual ban on exports of raw logs (except for two species) have done little to rationalize the sector in Tanzania.
Uganda	Cutting timber is open to foreign firms. However, investors have reported delays of two years in obtaining a "License to Fell Trees." The government has admitted that 50 percent of trees in Uganda are being cut illegally. Other administrative aspects of the program also languish: the required deposit for a license—equivalent to 10-15 percent of the value of wood—is supposed to be returned, without interest, after a company completes its activities. However, the Commissioner of Forestry Resources has reported that investors rarely get the deposit refunded. High levels of illegal logging have led finally to a policy of banning all exports of unfinished lumber. However, questionable enforcement of this policy may also simply lead to its circumvention.

Tourism

Tourism is a high-priority development sector for all of the countries studied, one in which both foreign and domestic investment is actively promoted. It earns foreign exchange, is relatively labor intensive, and by definition exploits unique national characteristics. It is also a sector where some form of sectoral regulation is present, including entry screening and operational controls. The reasons for this degree of regulation stem from several issues specific to the sector:

- Consumer protection, in terms of the maintenance of health and safety standards, etc., for patrons of hotels and restaurants;
- The conscious efforts of many governments to develop a defined tourism "product," for which standards must be set and maintained in order to preserve the touristic appeal and image of a country as a destination;
- The frequent desire to limit foreign participation in the sector, as it is seen as one where nationals should be able to have a dominant role; and
- The question of limiting, or optimally pursuing, tourism development and its impact on natural, cultural, and other attractions.

The result is an often-confusing array of incentives and controls that in many cases acts to constrain investment without meeting the policy or strategic objectives that spawned them. Table 4 summarizes procedures for licensing tourism operations in the countries surveyed.

The tourism sector in these countries is underdeveloped both in terms of its potential and in terms of what the countries themselves are trying to promote from a strategic point of view. The policy goal of maintaining standards has prompted all the countries in the sample to micro-regulate many aspects of the business of operating a hotel, restaurant, travel agency, or tour company. There is no doubt that these regulations deter investment that may be at the lower end of the tourist scale, in facilities or operations that do not ostensibly match the standards, and that this is in part their desired effect. However, by limiting entry they also limit competition and ultimately the growth of the sector.

Rather than trying to specify the details of tourism industry firm operations with administrative measures, it may be more productive

Table 4. Licensing of Tourism Investment in Surveyed Countries

Country	*Requirements*
Ghana	Businesses involved in lodging, food provision, and tour operations must receive permits from the Tourism Board. The board still requires screening and annual licensing of investments in this sector. However, its screening of hotel investments is duplicative of controls administered at other levels by authorities responsible for supervising construction, health, and safety standards.
Mozambique	Tourism is one of many activities licensed by the Ministry of Industry, Trade, and Tourism. The documentary requirements for hotel and tourism licensing are extensive, and include a sealed, verified original copy of all documents in the dossier. A back-and-forth process between the Investment Promotion Center and the Tourism Directorate in the ministry inevitably results in delays and numerous requests for clarification. There is a series of sequential licensing steps once a project is completed that includes multiple inspections, all essentially at the same stage. Prices charged must also be submitted for approval. Result: a long and unpredictable road, each step of which is paved with multiple official copies of notarized, stamped documents and supporting attestations, verifications, and registrations.
Namibia	Tourism sector policies in Namibia are currently being changed. The government is planning to ease tourism development policies and to create a new National Tourism Board that would be financed by a bed-levy tax. Proposed policies would permit local and international companies to develop facilities in national parks (previously limited to nationals.) Until now, however, tourism investment in Namibia has been constrained by excessive and arbitrary regulations. For example, certain entities such as guest farms are required to have at least five bedrooms if located outside municipal areas and at least 10 bedrooms if located inside municipal boundaries. Details are specified down to the size of the mandatory guest mirrors. Hotel projects must be registered (approved) prior to construction, and then are subject to inspections prior to opening, and mandatory grading within six weeks of opening. Hotel

to allow some product differentiation, with easier entry, and a reliance on competitive forces among private firms to act to regulate the market. More foreign participation, particularly among tour operators, would facilitate the maintenance of quality standards, as they would typically be booking tours through affiliates in the tourist-generating countries and would have a more direct interest in having a satisfied clientele. The licensing of hotel managers, requir-

Table 4 ***(continued)***

Country	*Requirements*
Namibia *(continued)*	managers must be licensed as well, and qualifications are reviewed by the Ministry of Environment and Tourism, including a duplication of those reviewed for a general work permit (health and police record).
Tanzania	The tourism sector, historically overshadowed by that of Kenya, has languished due to a number of factors other than obstacles to new investments. However, there are some significant obstacles here: of the 80 to 100 projects approved each year, only 10 proceed to the operational stage. The tax regime for hotels is very high (20 percent of receipts) and contributes to high room rates, which makes Tanzania less price competitive in comparison to Kenya. Travel agents and tour operators are subject to myriad regulations and requirements, including the number of graduates of IATA-approved programs required on the staff, requirements for new vehicles, hotel manager screening and licensing, etc. These types of restrictions simply tend to favor those already in the industry, as they are enforced most closely on entry, when a license is requested.
Uganda	Tour operators, travel agents, and hotel managers are all licensed by the Ministry of Tourism. The guidelines for tour operators and travel agents are overly restrictive, with a number of mandatory requirements at a detailed level. In addition to the licensing of hotels, these types of requirements have acted to curb investment in the sector. However, perhaps the most difficult problem has arisen from the concessions practices in wildlife areas and national parks, the principal tourist destinations. Here the process was discretionary and politicized, with no clear procedures defined. Result: many concessions in potentially valuable national parks sites were granted to groups that simply held them, hoping to sell them at a much higher cost to those with sincere development plans. The lack of development and the demands for more opportunities for legitimate business have led to a reformulation of procedures as well as a focus in the Wildlife Authority on commercial practices and development as an integral part of their natural resources management.

ing demonstration of academic training and suitable experience, is another area where tourist boards appear to feel their own evaluation is required in addition to the investor whose money is at risk and who has recruited the individual in question.

If the expressed purpose of the government is maintenance of a more upscale tourist sector, then there may be other mechanisms, such as higher licensing fees or the auctioning of a fixed number of licenses that would effectively force the industry up-market without the need for complex specifications for each activity in the tourism business. Utilization of grading systems for hotels, tours, and other facilities or products can also be used to promote quality, as many countries have done. Here, detailed guidelines are set for companies to earn quality ratings, not as a legally required pre-condition for entry into the business. In short, there appear to be a number of approaches that would work to achieve these ends more effectively than the sectoral regulation that has persisted in one way or another in all the countries studied. Although some are moving away from this approach, such as Namibia, others appear wedded to the need for a high degree of administrative intervention in the industry.

Conclusion

The main rationale for sectoral licensing is the need to control investment because of some higher concern, such as natural resource management. However, as we have seen, the construction of those licensing systems often acts to make it so difficult that being legal is virtually impossible. Yet the resources are valuable enough, and the will or ability of countries to enforce restrictions so limited, that widespread illegal activity persists in spite of the restrictions. As a result, the sector is thrown into crisis with no resources for the government to deal with the situation, and the institutions responsible are often crippled by corruption and complicity in the illegal activity. In these cases some degree of appropriately limited activity by responsible firms with a stake in the industry could make a real contribution. Yet it is precisely this type of firm that is effectively excluded by the lack of transparency, or opts to invest elsewhere. Finally, in virtually no cases were overtly transparent methods of allocating scarce licenses used, such as tendering by pre-qualified firms, or auctioning of quotas for defined rights in resource exploitation.

In sectors where there is more room for greater economic activity, the penchant of government agencies to overregulate, as in tourism, has also acted to limit needed investment flows. This is not an uncommon pattern in other industries as well. Entry restrictions themselves may be warranted, and certainly are an effective policy tool, but what has not been developed in the same degree are procedures and clear criteria for approval that match the policy objectives driving the regulation. In each country the qualifying requirements are vague and the evaluation criteria undefined, and the result is a predictable mess of corruption and unmet developmental objectives.

It is also at this sectoral level where some remaining overt barriers to foreign investment are to be found. As most countries have liberalized general investment laws to be open to foreign investment, such restrictions have remained or even proliferated when it comes to allocation of scarce resources, maintaining preferences for nationals, and so on, on a sectoral basis. In many cases, this is deleterious to the industry, as in tourism, where foreign contacts and experience are crucial. They also generally contradict the language in investment laws requiring equal treatment, unless cited there as a restricted sector for foreign participation. It is not clear that these restrictions have been maintained for a serious enough purpose to override the assertions of general investment laws that proclaim openness and equal treatment.

In all of these areas there is a rationale for government regulation and control. However, the means of going about this, which rely on extensive administrative requirements for new investors, often fall far short of achieving the original policy objectives for sectoral regulation. This failure makes it difficult to contemplate relaxing any of the existing measures, as the problem is widely perceived as one of insufficient controls and regulation. In each case, however, there are often means by which the original policy goals can be more effectively met, the administrative requirements simplified, and enforcement improved. These often may involve more transparent methods of allocating resource or development rights, such as auctions or tenders, many of which can raise money that can be used to improve agency monitoring and build effective enforcement capacity.

4

Requirements to Gain Access to Land, Site Development, and Utility Connections

Every business must have facilities from which to operate. For many new ventures in Africa, acquiring those facilities—which includes finding and securing land, constructing buildings, and securing utilities services—can be a long and arduous process. Indeed, this set of steps is often responsible for the greatest delays for investors in realizing their projects. Delays may come from inefficiencies in land allocation, uncertain procedures regarding construction of facilities, or lack of capacity in extending basic utilities such as electricity, telephones, and water. Although some businesses, chiefly in the service or retail sectors, may be able to locate existing facilities for lease, most commercial, agricultural, industrial, or similar investments are forced to secure land and develop facilities on their own. The nature of the obstacles posed in these areas for investors varies greatly, from legislative and societal issues in land, to regulatory and institutional issues in construction, to capacity and state ownership/management issues in utilities. In virtually all of these areas there could be dramatic improvements from changes in government policy and administrative practice.

Access to Land

Land tenure in most African countries, including those examined here, is a complex mosaic of historical, cultural, political, and pragmatic influences that make the allocation of land as an economic factor of production anything but straightforward. In most countries, private freehold title to land is quite limited, often prevailing only in those areas that were taken as land for settlers by colonial regimes. Many governments proclaimed all land to be the property of the state soon after independence, yet administration of government land remains bogged down by other factors. Communal systems of land tenure still dominate in many rural areas, where local political leaders exercise important rights of determining use and granting access. These patterns are either tacitly or indirectly endorsed by national or regional political authorities. The traditional rights of "customary tenants" or long-term squatters are often very strong and may defeat formal property rights, or at least complicate their exercise through constraints on the sale or exclusive use of a property. In virtually all countries, freehold ownership by nonnationals is prohibited, or at least requires explicit approval.[27] For all these reasons, there is a very limited "market" in both developed and undeveloped land in most African countries.

One of the most fundamental issues with regard to obtaining access to land in all the countries studied is the tension between traditional, communal uses of land, the authority of local village elders, and the requirements of investors seeking access to land, usually through the national government. National governments may usurp local authority, but the inevitable result is heightened political and social tension. Restrictions on outright foreign ownership are common, particularly for agricultural land. Land access is generally the most politically sensitive issue investors confront in the countries studied. Table 5 summarizes land access requirements in the countries surveyed.

Figure 2 uses the example of Mozambique to show the complexity of property rights and the multiplicity of government agencies involved in obtaining land.

Construction Permits

Once investors have secured land, the next regulatory hurdle is normally getting approvals from various authorities for construction of facilities. The administration of these permits may be at a national or municipal level. Frequently, however, lack of capacity is a serious problem in the institutions responsible for approving plans and inspecting buildings as they are built and completed. The absence of guidelines on building construction standards is a common problem among the countries studied. Modifications to building plans to meet objections raised once construction is underway are common as a result, and can be financially burdensome to investors. In addition, the lack of coordination among agencies involved in issuing building permits contributes to lengthy delays. Table 6 describes the problems investors experience in the construction field overall.

Utilities

The timely provision of reliable utilities services—electricity, telecommunications, water and sewer—is another source of delays, additional costs, and frustrations for investors. Although a few of the utilities in the countries examined are in the process of privatization or otherwise allowing private participation, most now exhibit the following classic symptoms of underperforming parastatal utilities:

- Large backlogs and delays for extension of new service;
- Inability to extend networks, both in population centers where existing capacity is strained and in rural areas where networks do not exist;

Table 5. Land Access in Surveyed Countries

Country	*Requirements*
Ghana	There are three categories of land in Ghana: state land; traditional land ("stool" or "skin" land); and private and family land. The government's Lands Commission oversees land issues. Nationals may lease land for a period of 99 years; foreigners may lease land for a period of 50 years. For industrial and commercial land, leases for Ghanaians and foreigners are 50 years. The commercial real estate market is largely underdeveloped. Because private ownership of land is limited, most investors obtain land from the government. Delays in obtaining land range from three to six months, if there are no special requirements and appropriately zoned land is available. Otherwise, delays of up to two years are common. Inefficient record-keeping, conflicting land claims, and a lack of computerization are the most common sources of these delays. In the Accra region, there is an acute shortage of land available for commercial or industrial use. Although there are plans to develop an export-processing zone near the port of Tema, this will serve only a limited portion of the potential market for industrial/commercial land and facilities.
Mozambique	The Government of Mozambique is revising the legislative framework governing land issues. Under the status quo, land is government property. Under the current law, concessions are granted to foreigners for a period not exceeding 50 years. For small landholders, the new law will facilitate the integration of traditional land holdings. With respect to land classification, the new law delineates the precise use for different types of land: agriculture and forestry; urban development, mining and tourism; and areas designated for special environmental protection. With regard to obtaining land in rural areas, the provincial units of the Directorate of Geography and Cadastre lack the technical and staff resources to manage licensing efficiently. A typical result is that more than one title is issued for the same plot of land; moreover, a delay of one to two years in obtaining a title is not unusual. Outdated fee structures complicate the calculation of the cost of rural land. The annual tax payments for land are also difficult to calculate. Obtaining land for commercial purposes in Maputo can cost up to US$50,000. Multiple agencies must approve land concessions; delays can last several years. Costs, as stated above, are far in excess of posted price ranges, and confusing information further hampers transparency. Difficulties in obtaining land are compounded by the complexity of property rights and the number of government agencies involved (see Figure 2). One of the few benefits: construction permits are integral to the process and do not require a separate application and approval.
Namibia	In Namibia, the legislative complexities are most clearly reflected in the land classification system. There are five categories of land in Namibia: private urban land; private agricultural land; proclaimed public land available for private purchase; urban land in former

Table 5 ***(continued)***

Country	*Requirements*
Namibia *(continued)*	communal areas; and rural land in former communal areas. Most foreign investors in Namibia obtain private land rather than attempting to secure access to public lands. Communal land policy is currently being revised. The existing policy does not permit freehold ownership; landowners operate with "permission to occupy" (PTO) agreements valid for 20 years with five-year renewal options. The laws regulating private agricultural land give the government substantial authority. For example, under the Agricultural (Commercial) Land Reform Bill of 1994, the government (1) is authorized to purchase any agricultural land determined to be "under-utilized" and (2) has the right of first refusal on any land transaction. When the Ministry of Lands purchases a piece of property and the proposed price is unacceptable to the property owner, the Ministry can appeal the case to the Land Tribunal, which can set the purchase price. Foreign investors in Namibia require special permission from the Minister of Lands to obtain agricultural land. An indefinite moratorium on agricultural land purchases by foreigners is currently in effect. Obtaining access to land is one of the most problematic issues for investors. The Namibian Government's broad powers with regard to agricultural land access and a scarcity of freehold land discourage local investors from setting up operations. PTO agreements are not recognized as collateral for loans by commercial banks; moreover, there is the following statement on the PTO application: "in the event of compulsory removal of the site as a result of future planning activities, the applicant is responsible for his own removal expenses without any claim against the state." The lack of security posed by the PTO makes commercial banks and investors unwilling to assume financial risks. The commercial real estate market for private land in Namibia is fairly well developed in major cities and towns. There is limited availability of industrial zoned land, however, in the Windhoek and Walvis Bay areas. With regard to the land transfer process, there are reported delays of three months.
Tanzania	The legislative framework governing land issues in Tanzania is currently being restructured. Under the existing land policy, created via the Land Ordinance of 1923, all land is the property of the government and can be held only under the following mechanisms: government leases; customary tenure; sub-leases from the private sector. The value of land is determined by the value of the structures on the land, not the land itself. Under the proposed new land law, four fundamental provisions will remain unchanged. Land will remain publicly owned and vested to the President on behalf of Tanzanians. Land speculation will be carefully discouraged. Statutory or customary occupancy rights will

(Table continues on the following page.)

Table 5 ***(continued)***

Country	*Requirements*
Tanzania *(continued)*	remain the only recognized forms of land tenure. Obtaining title to land will be determined primarily by occupation and use. Delays in obtaining land from the government range from three months to three years and are largely attributable to the unclear definition of the value of land. This, combined with the lack of transparency in the overall process, creates multiple opportunities for corruption. Those with personal connections or a willingness to pay bribes are often best positioned to obtain prime areas. There is limited availability of serviced industrial land in the Dar es Salaam area. Most available land in the area is "customary" land, i.e., land that has not been planned. Obtaining access requires complex negotiations with landholders and village chairmen that can last from one to six months. In addition, approval is required from the ruling party, the Chama Cha Mapinduzi, and two courts. Delays of six years in obtaining land titles have been noted; a requirement that each Certificate of Occupancy be signed by the Lands Commissioner is a significant factor.
Uganda	The legislative framework governing land tenure in Uganda is currently being restructured. The role of the national government as primary custodian of land is being transferred to nascent district land boards. The Land Reform Decree of 1975—which effectively abolished private ownership of land and created a leasehold system—has been supplanted by the government's decision to restore land to owners who can document ownership through possession of a title. Various laws impose multiple restrictions on foreign ownership. For example, under the Land Transfer Act, the Minister of Lands must approve any land transfer between a non-African and an African who is the registered proprietor of the land in question.[a] Under the Public Lands Act, a government agency cannot lease public land outside an urban area to a non-African. Many outdated land laws remain on the books. The Properties and Business Acquisition Decree essentially allows the government to nationalize any property or business at any time. The Rent Restriction

■ Lack of capital to finance expansions;

■ A legacy of years of underinvestment and poor maintenance, hampering the ability of existing networks to service even their limited subscriber base, let alone expand to accommodate new investment;

Table 5 ***(continued)***

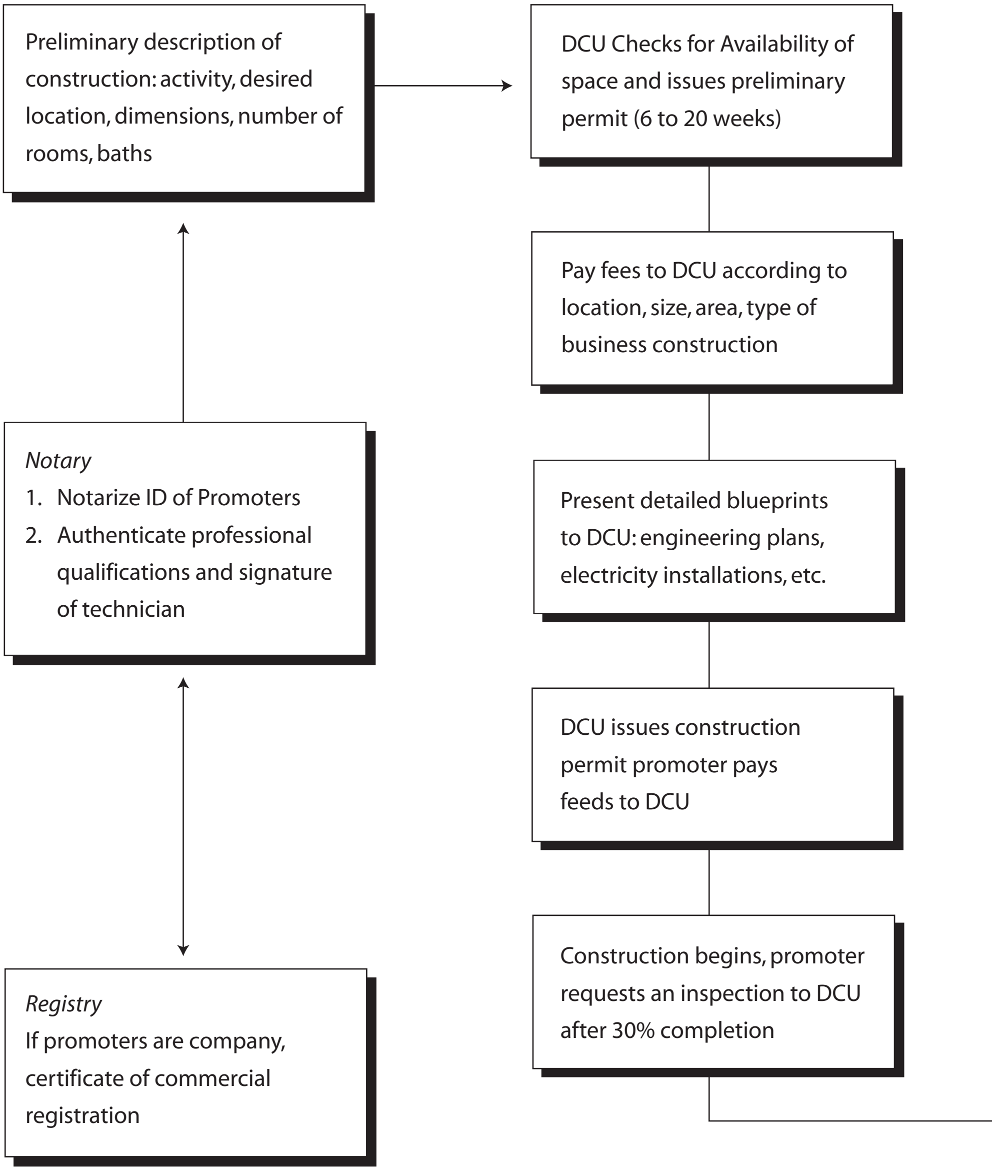
Country	*Requirements*
Uganda *(continued)*	Act authorizes rent boards in municipalities throughout the country to set fixed rental rates.[b] In current laws, however, there are also restrictions. The Investment Law of 1991 bars foreign ownership of land for agricultural purposes; this is preserved in the new Investment Act currently under legislative development.
	In Uganda there are different classes of land, with freehold ("Mailo") land available only in the urban areas of the capital region. Large tracts of land in the areas around Kampala have been returned to traditional political leaders, the main one being the Buganda Kingdom. Buganda now acts much like a public sector land authority, with its own land board, which provides long term leases to investors.
	The lack of industrial zoned and serviced land—particularly in the Kampala area, where 65 percent of new investment occurs—remains one of the biggest obstacles to new investment. Complicating this is the fact that complex compensation guidelines for squatters, whose rights are enshrined in the Constitution, have increased delays and costs for investors. Another problem foreign investors encounter is the delay associated with land registration. Although the Ministry of Lands states that a title transfer can occur in two weeks if all relevant paperwork is in order, delays normally range from one to six months.
	The government itself has had difficulties in securing and developing land for an industrial estate. Although the Uganda Investment Authority has been granted three successive plots, there have been problems with each one—including title disputes with former owners, a rush of squatters moving in and constructing houses in anticipation of compensation, and location outside of existing trunk lines for power, water, and sewer services. Result: government efforts have been ongoing for more than three years, with results only now beginning to materialize.

a. This language was aimed at Asians, who may have rights as citizens, but who were explicitly targeted under much legislation governing land, property, and business regulation introduced during the Amin regime.

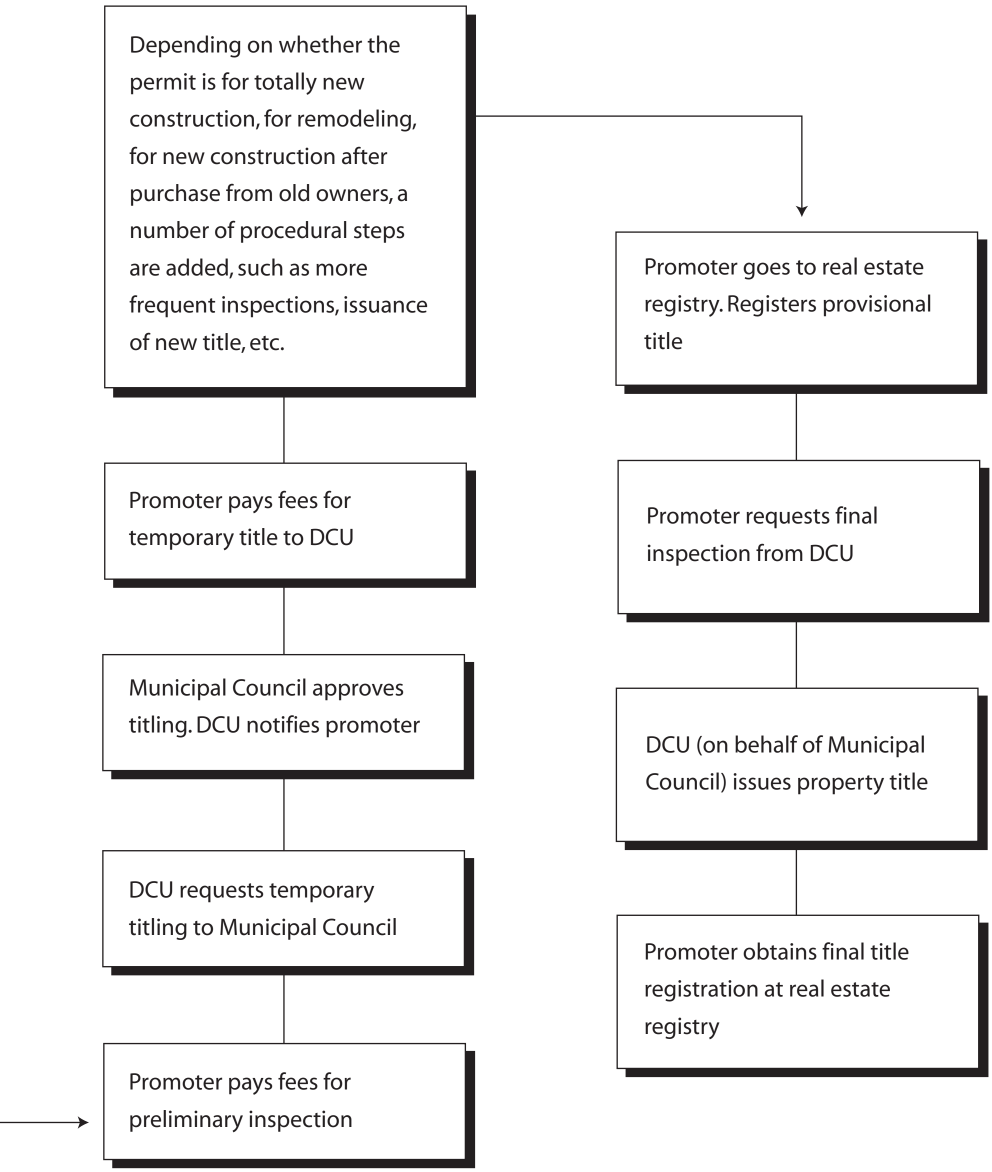
b. These types of provisions, common in Ugandan laws of the Amin period, are being addressed in a Law Reform program that will update commercial laws.

- Insufficient rate structures combined with technical and administrative losses that undermine financial performance;
- Priorities to government over commercial clients, even though the latter pay more reliably than the former;
- Rate structures that penalize large commercial users;

FIGURE 2
Mozambique: Requirements for Obtaining a Construction Permit and Property Title



Note: This process takes between six months and two years, and costs US$50,000 for a commercial buildin


Depending on whether the permit is for totally new construction, for remodeling, for new construction after purchase from old owners, a number of procedural steps are added, such as more frequent inspections, issuance of new title, etc.
Promoter pays fees for temporary title to DCU
Municipal Council approves titling. DCU notifies promoter
DCU requests temporary titling to Municipal Council
Promoter pays fees for preliminary inspection
Promoter goes to real estate registry. Registers provisional title
Promoter requests final inspection from DCU
DCU (on behalf of Municipal Council) issues property title
Promoter obtains final title registration at real estate registry

g.

Table 6. Construction Permits in Surveyed Countries

Country	*Requirements*
Ghana	In Ghana, three agencies are involved in the development/building permit process: the Town and Country Planning Department, the Lands Commission, and the Engineering and Health Departments of the Accra (or other) Metropolitan Assembly. The overall delay of three to six months in the process is largely the result of poor coordination among these agencies. Because of this lack of communication between agencies, investors are compelled to serve as a "go-between" among them, performing the role of messenger with the plans and application forms. The Town and Country Planning Department consults with the Lands Commission to confirm that a construction site is legally held by an applicant. Although officials from both agencies oversee the process, they recommend that investors personally present the application in order to guarantee its quick review and approval. In a similar fashion, plans and proposals must be circulated by investors to the Engineering and Health Departments. In Accra, and to a greater degree in smaller municipalities, a lack of capacity to review construction proposals hampers the process and further undermines the credibility of the oversight they are providing.
Mozambique	Municipalities in Mozambique manage urban land and grant concessions for building permits. Although buildings on leased land can be transferred, a new title must be issued for the right to use the land. The overall lack of clarity in the law with regard to the issuance of building permits has regularly frustrated investors. Normally permits are issued at the same time as land is titled, but the entire process typically takes from six months to two years.
Namibia	In Namibia, obtaining a building permit is fairly straightforward. Plans are submitted to the chief building inspector for the municipality, who circulates them for review among technical departments as necessary. Permits are typically issued in less than one month in Windhoek, with shorter

■ Cross-subsidization by these large commercial consumers to maintain high-cost service to remote areas;

■ Direct charges to new investors for all of the costs of extension of networks, even if it benefits subsequent users and/or the existing grid network.

Throughout the countries, the electricity installation procedure is generally slow and costly. Routine blackouts, brownouts, and volt-

Table 6 ***(continued)***

Country	*Requirements*
Namibia *(continued)*	times common in Walvis Bay. These are the shortest delays in the countries studied and compare favorably with best practice in general. The most commonly identified problem is the duplicative nature of approvals required from the Namibia Planning Advisory Board (NAMPAB) and the Townships Boards for rezoning, township developments, and other special projects.
Tanzania	In Tanzania, once land has been acquired, investors must obtain a "hoarding" permit that allows fencing to be installed on a construction site. Of the five countries studied, Tanzania is the only one that requires such a permit. A separate permit is issued for the actual construction. This is followed by an inspection program of nine separate points during construction, more than in the other countries studied. These are sequential and frequently incur delays during the middle of construction. As in Uganda, the lack of published guidelines in the form of building codes means that there are a large number of corrections during the course of construction. In Dar es Salaam, the process of approving plans takes about three months; in Mwanza it can take up to a year. These compare unfavorably with delays of less than one month in other countries.
Uganda	In Uganda, construction of buildings and land preparation is overseen by municipal authorities. Town councils must approve all applications for building permits, regardless of the size of the project. The key constraints encountered during this phase are the multiplicity of documentary requirements and the duplicative approval requirements. Indeed, the Town Councils, Factories Inspectorate, and the National Environment Management Authority (NEMA) all essentially review similar, related aspects of each construction project. However, they do so at different points in the process. The absence of effective guidelines on building construction has resulted in a high percentage of corrections required.

age fluctuations damage sensitive machinery. The need to purchase diesel generators to protect against these losses imposes additional costs on firms, especially smaller firms. Generators purchased as backup power sources end up being run for significant periods of time at greater expense. Although businesses are often the best-paying customers for public utility companies, they do not receive priority for installation. Pent-up demand is perhaps greatest in fixed-line telephone service where delays of years are common. Here the

Table 7. Obtaining Utilities in Surveyed Countries

Country	*Requirements*
Ghana	As is the case in Uganda and Tanzania, slow and costly installation procedures for utilities are the key issues confronted by investors in Ghana. Installation delays range from three to four months for electricity; full installation costs must be paid in advance and businesses do not receive priority for installation. Delays of two months are common for securing water service. A central sewerage system operates in Accra only; septic tanks are used elsewhere. Telephone installation delays of one year are common. Most residential areas in Accra do not have telephone lines.
Mozambique	Power, water, and telecommunications services in Mozambique are also relatively straightforward. Access to new service is not overly problematic. As in other countries, investors must pay the full cost of extension of service. If a company sets up in a location where there are existing networks, installation delays are relatively short. For companies that establish operations in an area without power lines, delays can be longer, a function of the negotiation of the costs to be charged. Due to the ad hoc nature of these assessments, informal payments may be necessary to ensure reasonable services and charges.
Namibia	Namibia stands in contrast to the other countries surveyed here in the provision of utilities. Power, telephone, and water connections can be effected in a matter of days or weeks. Consumers hire private electricians when they want to make new connections. Call completion rates in Namibia are good by international standards: for international direct dialing, the completion rate is 100 percent; for domestic calls, the rate is 98 percent. There are no restrictions on private sector involvement in telecommunications; moreover, international callback services are available. Some of the constraints identified by investors were the limited availability of lines in some areas and the lack of itemized billing statements prepared by Telecom Namibia. Because of the chronic water shortages in an arid country such as Namibia, large businesses that require significant amounts of water as a production input will be at a disadvantage. Indeed, national and local authorities are unlikely to approve water-intensive industries, particularly in the Windhoek area.
Tanzania	Electricity installation procedures in Tanzania are slow and costly. Approximately nine steps are involved in obtaining a power connection, and the overall delay is about four months. As in Uganda, the requirement that companies pay 100 percent of installation costs up-front means that the clients are directly financing the incremental expansion of the power grid. Although the state-run Tanzania Telecommunications Company Limited (TTCL) has long had a legal monopoly over telephone services in the country, private cellular companies have made significant inroads in recent years. Indeed, private companies such as TriTel and Mobitel offer an alternative with substantially improved service reliability levels. Although TTCL gives priority to installing

Table 7 ***(continued)***

Country	*Requirements*
Tanzania *(continued)*	business phones, a backlog of 50,000 applications exists. Some applicants have been on the waiting list for as long as three years, with 18 to 24 months being typical. Moreover, delay length is inversely proportional to the applicant's willingness to pay bribes; for example, some investors noted that a US$100 payment reduced telephone installation delays to one month.
	Less than 50 percent of Dar es Salaam–based businesses have sewerage connections; most have their own septic tanks. The current bifurcated structure between water and sewerage management has resulted in problems with billing and collection of fees. The proposed reorganization of the Department of Sewerage and Sanitation, which will result in joint billing with the National Urban Water Authority, is intended to correct many of these problems.
Uganda	In Uganda, installation delays for power of up to four months are common. Full payment of installation costs is required up-front, and the equipment reverts immediately to the utility company. The practice of "load shedding," or selective blackouts, has been a fact of life in Kampala for several years due to insufficient generating capacity.
	Businesses do not receive priority for telephone installation, despite the fact that the Uganda Posts and Telecommunications Corporation (UPTC) considers them to be the most reliable customers. The primary problems with regard to telephone installation are the following: low quality of service; lack of a sufficient number of lines; and an archaic billing system. The completion rate of domestic calls in Kampala is only 40 percent during the daytime; in Jinja, only 20 percent of calls are successful on the first try. There is a backlog of approximately 3,000 applications for telephone service in Uganda. Of the 200 to 250 applications received each month, only 100 are serviced. Consequently, delays of one to two years in telephone installation are not uncommon.
	The most problematic water issues are the inconsistent water supply and high water tariffs. In some parts of Kampala, water is supplied only 12 hours per day. Water leakage is estimated at 40 percent of total supply. Billing efficiency (the ratio of water billed to water produced) is generally very low. For instance, the billing efficiency ratio in Kampala is 23 to 40 percent. This figure is partially attributable to the high leakage rate and poor administration of the billing system. The high water tariff is intended to alleviate the impact of these inefficiencies.
	The government initiatives to address these problems include the reform of billing procedures by the Electricity Board to credit firms for purchasing equipment for extension of service; approval of two independent power production projects; commercialization of the telephone company, awarding a second fixed line carrier license; and improvements in the billing, technical and administrative systems of the water company. While there have been some improvements resulting from these measures, little new capacity has come on stream.

excess demand is often absorbed (at greater cost) by cellular service, which in most countries is private. Water and sewer services are chiefly limited to major urban areas and also suffer from delays and backlogs for new service.

Postal Services

Postal services in all the countries studied, as well as throughout Africa, are limited. Because delivery is largely confined to boxes in the local post office, securing a P.O. box is a critical part of establishing a firm, as it defines the official contact point and address. Yet in virtually all the countries studied, there was a lack of available boxes. Firms are required to wait until boxes become available, often for period of months or even years, as is typically the case in Ghana. Some, such as Ghana, have provisions for private mail bags at a higher cost.

Clearly, if delivery to boxes is the only possible option, postal services must install sufficient boxes to meet demand. Although this installation would certainly involve a capital expense, it could easily be recovered through the box rental fees. Although companies have shown their willingness to pay higher fees for this type of critical service, the option is rarely available because private firms are barred from this form of service.

Conclusion

The barriers to investor access to land, site development, and utilities described in this chapter stem from issues that extend beyond red tape and unresponsive bureaucracies. Although there are some administrative and procedural problems in each of these areas, the real source of delays, poor service, and obstructions lies in systemic problems in each of these areas. They are of a fundamental nature, and require long-term efforts to address them.

With respect to access to land, there are important political and social issues involved with leasing or selling public lands to private investors, particularly foreign investors, even though there may be substantial economic benefits for the immediate region as a result. The process will always involve securing formal or informal approvals from a number of different constituencies. Similarly, where approval and monitoring of development plans are concerned, the government plays an important role that should not be minimized. Although it could certainly be better implemented in most of the countries examined, there will be a continued need for screening of plans as well as of inspections and monitoring of actual construction.

For utilities, as noted above, the lack of responsiveness to new service or connection requests from investors is a result of years of poor management and underinvestment by parastatals. Even with privatization or commercialization of operations, there will still be a lag in extending new capacity. And in many countries that have moved to privatize, such as Uganda, the political demands of utility privatization have meant that it often is a long, slow process. Those that have privatized, such as Côte d'Ivoire, are experiencing much greater responsiveness to investors, with delays in connection times measured in days instead of months.

It is surprising that these countries have not yet begun, or are only just beginning, to address these issues by facilitating private development of industrial estates. Doing so would immediately ease the difficulty of acquiring land, which could simply be subleased or sold by the zone developer. The government could act as ultimate landlord, retaining title and offering long-term leases to developers and/or subleases to the final tenants. The developer could also build standard factory shells (for finishing and customization by tenants), or offer build-to-suit services for non-standard requirements. Trunk lines for power, water, sewer, and telecommunications could be brought to the site, with individual connections from there assured by the estate developer, a private contractor, or the utility. These types of fully serviced industrial estates dramatically reduce the time required to establish a new factory building or warehouse for industrial or commercial use. Other types of clustered facilities have catered to service sectors such as informatics, research and development, and small business. They typically are able to offer facilities to customers within 90 days.

These types of facilities in other countries—whether called industrial estates, industrial zones, parks, or export processing zones with a focus on export manufacturing—have overcome just the types of physical and logistical problems encountered by firms in the five countries studied. The barriers described here would be obstacles for the development of the estates but, once addressed on that level, will not confront individual businesses that locate there. In some countries, notably Uganda, Ghana, and Namibia, industrial/commercial estates are being developed, chiefly under the guise of export processing zones. Once completed, these zones should go a long way in overcoming red tape, at least for those firms that qualify. For all the other types of investment, however, there will still be a need to improve the general regimes governing land tenure and use, site development, and provision of utilities.

5

Operational Requirements

Operational red tape comprises the primary regulatory compliance requirements that come into play once a firm has begun, or is about to begin, operations in a country. These are generally a mix of approvals or licenses, registrations related to beginning operations, and regulatory requirements based on sectoral issues. We do not focus here on general issues of business regulation, but rather on those administrative controls likely to be encountered by new investments, and which often serve as barriers or obstacles. The main types of operational requirements can be summarized as follows:

- *Import/Export Procedures.* Typically, the import/export clearance procedures in all the countries studied are complex and difficult. However, most countries have attempted to streamline customs procedures in recent years. Import and export licenses have been abolished for most goods. In addition, customs tariffs have been revised and the number of discretionary customs exemptions has been reduced. Yet, in spite of these reforms, customs procedures in most countries remain highly non-transparent, with excessive and duplicative documentary requirements.
- *Foreign Exchange Controls.* Foreign exchange regulations have been liberalized in most countries. In certain cases, however, central

banks continue to be involved in capital transactions; and in some countries the vestiges of exchange controls can be found in outmoded procedural requirements.

■ *Labor and Social Security.* In most countries, procedures for disciplining and firing employees are highly bureaucratic. Mechanisms for resolving labor disputes are generally weak, and most labor laws favor workers. In some cases, registering and complying with social insurance, provident/retirement fund, and other requirements are also unnecessarily complicated.

Some countries have other operating requirements for some firms, such as quality-control product inspections. However, barriers in the aforementioned areas constitute most of the impositions on firms once operations have begun. These are, of course, in addition to tax reporting and payment obligations, which constitute the major source of annoyance to most firms.

Import/Export Procedures

For decades, trade was one of the most closely regulated private business activities in many African countries. This was a result of years of import substitution policies in industry, the maintenance of overvalued exchange rates, extensive exchange control systems, and high taxes on imports and exports, all of which necessitated a bevy of administrative controls on trade. Most of these policies have been abandoned in Africa, including in the countries studied. In some countries, however, remnants of the old institutional and administrative machinery remain.

Trade procedures are also complicated by the fact that African countries derive a disproportionate share of tax revenues from tariffs and other indirect taxes levied on imports. Therefore, tremendous pressure is brought to bear on customs services by both the government, to collect revenues, and from businessmen, to take bribes and allow goods in without paying full duty and tax. This is one reason for the proliferation of duplicative procedures aimed at improving collections by instituting multiple checks and verifications. Yet, as can be seen in Tanzania, for example, this does not mean that corruption and revenue evasion are addressed. Rather, it may simply mean that those who abide by the rules are penalized further by excessive documentation requirements—whereas those who pay bribes are simply obliged to pay in a few more places. Table 8 describes the import/export barriers confronting investors.

Foreign Exchange

As with trade, most countries have liberalized access to foreign exchange, from previous systems of administrative allocation. Now they rely on market-based mechanisms such as auction sales by the central bank or an inter-bank market, with little or no prior authorizations required on current account transactions. In most countries, however, controls exist on capital transactions, and the mechanisms for accessing foreign exchange can be cumbersome. Table 9 outlines the barriers that exist in the countries examined.

The liberalization of foreign exchange controls evidenced in all these countries has significantly improved the operating environment for private firms. With the reliance on market mechanisms, the need for an elaborate array of administrative controls is largely gone. In the countries studied, there are some residual capital controls; however, these mostly require registration of inward investment and some form of documentation or prior approval for repatriation.

Labor and Social Security

Labor regulation is another area where many countries have substantially liberalized during the past few years. Whereas a number of countries formerly required the use of government labor offices to fill positions and exercised veto rights over layoff or firing decisions, most now attempt to enforce basic worker rights rather than dictate contractual matters. Table 10 summarizes the barriers that continue to exist in the labor and social security regimes of the countries examined.

Table 8. Import/Export Procedures in Surveyed Countries

Country	*Requirements*
Ghana	Ghana has adopted many practices that have improved the performance of its ports and customs services. Examples include the use of three competing pre-shipment inspection companies; provisions for importation "on collection" or before payment of duties for established importers; elimination of the multiple opening and inspection of containers; and operation of Customs and Port services on a 24-hour basis. These changes have resulted in a reduction of the average reported clearance delay from two weeks to three days.[1] Nevertheless, some problems continue to cause delays. The documentary requirements for import clearance—eight separate documents—is excessive. Obtaining necessary forms can be difficult and the Import Declaration form is duplicative of other required forms. Customs is continually under pressure to further reduce the normal clearance time to one day or less, but this is proving difficult to achieve. Reportedly, it has made the improvements so far without any loss of effective performance in revenue collection.
Mozambique	In Mozambique, long-standing problems in customs administration have led to a number of recent reforms. In 1996, the average nominal customs tariff rate was reduced from 18 to 11 percent and the number of discretionary Customs exemptions was sharply curtailed. In an effort to streamline procedures, a British company, Crown Agents, began to manage Mozambican customs operations and recommend revisions in customs legislation; however, a short-term effect of the reform program was a slowdown in clearance procedures as guidelines were strictly followed for the first time. Although these reforms are promising, other procedural requirements still affect trade. Import licenses are still required, and unless the importer is using his own foreign exchange, there are extensive procedural requirements connected with accessing foreign exchange for imports.
Namibia	Namibia is a member of the South African Customs Union (SACU), and therefore does not have the same degree of control over most areas of trade policy as the other countries. Constraints from trade procedures were not encountered to the same degree as in the other countries, although some of the characteristics of SACU, such as relatively high protection via tariff rates and import licenses, may be obstacles for investors.
Tanzania	Even though Tanzania has recently abolished requirements for import and export licenses, customs procedures themselves are among the most complicated in Africa. There are 20 steps and 8 organizations involved in clearing imports, and import clearance delays can exceed 80 days. Importers report having to make an average of 5–10 payoffs per shipment to customs officials in order to accelerate the clearance process.[2] In addition to the delays and payoffs, the following procedures also hamper quick release of imported goods:

Table 8 ***(continued)***

Country	*Requirements*
Tanzania *(continued)*	• Although pre-shipment inspection companies inspect goods prior to their shipment to Tanzania, Customs essentially ignores their valuations by re-inspecting goods once they have arrived in Tanzania. • Customs refuses to allow pre-shipment inspection companies to issue electronically transmitted Clean Reports of Findings. • Customs refuses to accept faxed documents. • Customs refuses to accept company checks—all payments are in cash. • There are three separate inspections of goods at the port. • Importers pay duties before a shipping manifest is lodged. Importers pay duties through commercial banks without knowing whether the ship's manifest has been received by Customs. Customs does not process any paperwork without the manifest. • Without a packing list, an entire shipment is manually inspected. A Customs modernization program in Tanzania is leading to some improvement. For example, the Customs Department has introduced a Single Bill of Entry, which is intended to reduce minimum delays from seven days to two. However, successfully implementing reforms will require much more than changing forms and procedures; an institutional sea change is called for in this case.
Uganda	Uganda depends crucially on the port services of its neighbors, usually the Kenyan port of Mombasa. Even so, Ugandan Customs repeats many of the obstacles imposed by the transit ports once the goods reach the country for clearance. Delays and circumvention by bribery are common, although not to the degree experienced in Tanzania. The following were some of the constraints identified: • Clearance for transit in Mombasa requires SGS (the pre-shipment inspection company) inspection data. Frequently, however, goods arrive in Mombasa prior to the forwarding of the SGS inspection. • Goods are subject to arbitrary inspection, delays, and fee charges by Port Authorities and Customs in Kenya. Payment of bribes is commonplace to avoid disruption and delay. • There are delays in canceling bonds taken out in Mombasa after goods are cleared in Kampala. • A separate bond is required for transit in Uganda. While in theory one bond should suffice under new East African Community agreements, this has not yet been operationalized. • Procedures for clearance at the Customs office in Kampala (the "Long Room") are cumbersome, and still require too much time. There is no reason that all the clearance and payment cannot be done in one day, as is often done at the airport in Entebbe. • There is only partial computerization of certain steps in the Long Room. No system is yet operational for computerization of the entire process at all clearance points.

(Table continues on the following page.)

Table 8 *(continued)*

Country	*Requirements*
Uganda *(continued)*	• There is no effective pre-clearance. In theory, this could be done pending final verification with shipping documents and would eliminate any delay for Long Room procedures. In practice, it reduces the time required to two or three days. • The inland terminal facilities at Nakawa operated by TransOcean are poorly designed and ill equipped for the high volume of cargo handled. • The practice of processing of documents in Kampala while holding goods at Nakawa causes additional delays. There are plans to move the Long Room or set up an additional clearance center at Nakawa however these are not yet operational. • There is a high incidence of rejected forms at Nakawa, which Customs and Trans Ocean, the parastatal operator, blames on poorly trained freight forwarders and clearing agents. Yet this is also an indication of either the need for simplified procedures or the degree of (attempted) circumvention that has become the norm. • Payment of duties by bank draft requires an additional three or four days to clear unless the importer's account is with the Uganda Commercial Bank (the bank used by Customs and the Revenue Authority). • Customs performs its own valuations in addition to the SGS verification and may use its own valuation if higher. • Government drawback payments to firms, which are due refunds of duties, have been chronically in arrears and in some cases up to two years. While this has been rectified for the moment, it has been a recurring problem. No other mechanisms exist to relieve duty on exporters' inputs. • Surface delivery takes a long time. The total time requirement for surface delivery of goods from Europe, for example, is 8–10 weeks, of which 4–6 weeks is after arrival in Mombasa, and 10 days to 3 weeks after arrival in Uganda. As in Tanzania, the number of complaints about customs, combined with the need to improve revenue collection, has led to various reform programs. Some, such as the licensing of competing inland container depots, have made a significant difference. Uganda is also one of the few countries to retain trade licensing. An import license, required for all importers, is valid for six months. It is issued by the Ministry of Trade and Industry, presumably for effective monitoring. However, the Ministry does not really control licensing, generates only a small fee income from it, and does not generate any useful data. This is purely a leftover from the days when the Ministry actively controlled trade with import licenses, and is planned to be eliminated.

1. The impetus for these reforms was the original FIAS *Investor Roadmap to Ghana* (1995) analysis, which highlighted the unproductive practices and long delays.

2. This was consistently reported by all the firms involved in trade transactions as principals, customs brokers, agents, or transporters interviewed for the *Investor Roadmap* study. Rather than being the exception, this degree of corruption and delay was the norm.

All the countries studied also have mandatory social security or social insurance programs, with contributions by firms and employees based on salary levels. These were found to require separate registration, reporting of current workers on the payroll, and quarterly or monthly filings. Few problems appeared to arise for firms, however, despite the often inefficient operations of these institutions. Some government bodies required separate payment, rather than pooling of payroll taxes and payment once to the tax authorities. None allowed "opting out" for firms with their own pension plans, or exemptions for expatriate employees. However, this type of flexibility was also not expected by the private sector. If anything, resistance to these obligations appeared to arise from employees, who often reported difficulties in getting payments when eligible. In Uganda, the rate of return used in calculating benefits was routinely less than inflation, so that a worker's accrued pension benefits were often meaningless. Firms generally discounted the public pension programs, considering them just another payroll tax. Larger firms typically have private pension plans for long-standing employees, in recognition of the inadequate public sector benefits. A frequent complaint of workers in smaller firms was that the companies failed to register all employees, and therefore the workers had no benefits.

In sum, although improved labor regulation has given companies some flexibility in making employment decisions, a number of rigidities remain. Only in Ghana were there severe problems that resulted in serious evasion of formal hiring. With social security programs, the types of reforms now being implemented in Latin America to allow for privately run pension programs have yet to take root: poor performance of the public institutions and programs continues to be tolerated.

Conclusion

Regulation affecting business operations has dramatically improved in most African countries over the past decade. Many reforms have been encompassed in structural adjustment or other comprehensive

Table 9. Foreign Exchange Controls in Surveyed Countries

Country	*Requirements*
Ghana	Ghana has a liberal foreign exchange regime. Although exporting firms are allowed to maintain foreign exchange accounts, they must be approved by the Central Bank, which requires demonstrating a need, projections of export proceeds, and other data. The Bank also reviews requests for foreign loans; however, this is not a consistently applied requirement. Otherwise, most transactions can be effected directly with commercial banks and foreign exchange bureaus, and require neither direct interface with the Central Bank nor prior authorization.
Mozambique	Mozambican laws guarantee foreigners the right to remit loan dividends, profits, loan repayments and invested capital abroad. For amounts in excess of US$5,000, investment registration and repatriation procedures with the Investment Promotion Center and the Central Bank must be followed. Recent regulatory reforms allow 100-percent profit repatriation and full retention of foreign exchange earned in local accounts.
Namibia	In Namibia monetary policy is determined by the country's membership in the Common Monetary Area (CMA), a currency union based on the South African Rand. Under the terms of its CMA membership, four authorized banks administer exchange controls. All exchange control issues in Namibia are referred to these four banks, which in turn direct these issues to the South African Reserve Bank. Obtaining an overseas loan requires approval from the Bank of Namibia. Applications are processed through one of the authorized commercial banks. Interest-rate ceilings of two percent over LIBOR have effectively shut out much foreign borrowing, however, given the risk premium required for lending to Namibia. Permission from the Bank of Namibia is also required for residents who wish to open an

programs—in particular, reforms of foreign exchange controls, trade restrictions, and cumbersome labor codes. These reforms have removed many of the rigidities in African business regulation and have aided the closed, highly protected, and static formal business sectors that previously could not attract investment and generate growth.

At the procedural level, however, remnants of the past systems of control often remain as vestigial nuisances for firms. Although the need to fill out comprehensive forms on employment, etc., and submit them to multiple agencies for information only is not by itself a major restriction, it is probably unnecessary and could be elimi-

Table 9 ***(continued)***

Country	*Requirements*
Namibia *(continued)*	overseas bank account. Foreign investors are allowed to apply for Status Investment Certificates, which entitle investors to preferential access to foreign exchange for debt repayment, royalty payment, branch profit and dividend remittances, and repatriation of proceeds from the sale of a business to a Namibian resident.
Tanzania	As in Ghana, foreign exchange controls in Tanzania have been significantly liberalized in recent years. Investors are no longer required to register their investments with the Bank of Tanzania, and the requirement for a Certificate of Registration of Exporters has been abolished. The introduction of foreign exchange bureaus has resulted in the facilitation of conversion and of profit and dividend transfer. Profit repatriation now takes a few weeks; previously, it took several years. The Bank of Tanzania still reviews the terms of overseas loan applications, although the need for this prior authorization is unclear given that its main justification is for statistical purposes, and the Bank rarely rejects any cases. The Bank also does not allow offshore foreign exchange accounts.
Uganda	As in Ghana, in Uganda commercial banks and forex bureaus handle all foreign exchange transactions. The Central Bank issues guidelines and suggested documentary substantiation for transactions, which are administered by the banks and bureaus. A vestige of the former period exists in the Certificate for Externalisation of Funds issued by the Uganda Investment Authority. These certificates were necessary for dividend and profit remittance, as well as some royalty payments, but are technically no longer required. In a somewhat confusing situation, the Authority still issued them when requested, and some banks had asked for them, even though the Bank of Uganda insisted at the time that they were not required.

Note: LIBOR = London interbank offered rate; forex = foreign exchange.

nated with little detrimental effect. Similarly, countries may have liberalized trade, but they still require some form of import licensing—which, though supposedly not restrictive, is again required for informational reasons. The same information can be generated from customs data, but involves a sharing of information and reliance on other's data that is unfortunately still rare in most African countries and not yet evident in the countries surveyed.

It is with customs services, however, that the complex procedures, delays, and corruption are the most pervasive and difficult to address. Here there has been a vicious circle wherein the need to col-

Table 10. Labor and Social Security Procedures in Surveyed Countries

Country	*Requirements*
Ghana	Unlike in other countries, employers in Ghana are still required to register employment vacancies at one of 56 Public Employment Centers (PEC) throughout the country: the Ghanaian Labor Decree prohibits the employment of individuals who do not have a Registration Certificate Book issued by one of the PECs. Inspectors from the Labor Inspectorate determine whether employees are hired through PECs as opposed to being hired directly by companies. These inspections occur every three to six months. PEC operations are generally described as non-transparent. They have helped little to facilitate the placement of workers. Indeed, many investors consider the PECs more of a hindrance than an asset when hiring workers. Result: many businesses hire workers directly, in effect breaking the law to circumvent a highly bureaucratic process. Firms operating in Ghana are required to submit quarterly employment forms to the PECs. This is duplicative, given the fact that employers submit employment data to the Social Security and National Insurance Trust. The government also requires that all private employment contracts be registered, and that all layoffs be approved by the Ministry of Labor. Both these requirements are unnecessary, and both increase procedural bureaucracy.
Mozambique	In Mozambique, employers are required to submit monthly descriptions of all wages and salaries paid during the previous month. In addition, employers must submit annual holiday charts for their workers along with a copy of the workers' chart during the second quarter of the year. In order to dismiss workers, companies must provide 90 days advance notice; moreover, workers cannot be dismissed without "just cause." Under Mozambican law, *just cause*

lect revenues leads to more checks and controls, which lead to more delays and bribery, and ultimately to questionable increases in revenues. Without wholesale institutional reform, improvements can be difficult to achieve. Mozambique took the drastic step of essentially contracting out its customs service to a foreign company. Other

Table 10 ***(continued)***

Country	*Requirements*
Mozambique *(continued)*	means nothing less than an offense against the law or a breach of the worker's employment contract, so that it is difficult to lay off employees for economic reasons.
Namibia	In Namibia, only the overly complex procedures required to lay off workers appeared to pose problems for investors. This, combined with high severance pay requirements, constitute a severe rigidity in the labor regime.
Tanzania	Labor–management relations in Tanzania are generally poor. There is only one legal labor union plus twelve industrial unions with no legal status. Investors encounter a weak dispute resolution mechanism. Labor laws and the Conciliation Board severely restrict an employer' s ability to dismiss workers. Indeed, the law compels employers to hire workers on a temporary basis. Tanzania's Industrial Court has also been identified as a barrier to investors: final decisions in Industrial Court cases can take up to five years, and many decisions have resulted in company bankruptcies. Although the Tanzanian wage structure is low, workers enjoy generous statutory fringe benefits. Tanzania's fringe benefit ratio of 45 percent compares unfavorably with the 25–35 percent average in many developing nations.
Uganda	In contrast to Ghana, there are no labor-oriented licensing requirements with the Ministry of Labor and Social Affairs in Uganda. In general, foreign investors have not encountered problems with Ugandan labor laws and regulations. Factory inspections, which are supposed to be conducted annually, are rarely accomplished because of a lack of resources at the Factories Inspectorate.

countries have preferred more-incremental approaches that so far have yielded quite minimal results, with the possible exception of Ghana. Until customs administration can be improved, the cycle of complex procedures, evasion and bribery will continue to undermine trade in the region.

6

Conclusions

As a result of the administrative red tape described briefly in this paper, establishing a new firm in Africa can take a long time, requires persistence, and often means additional expenses whose nature and size are difficult to predict. In Ghana and Uganda it can take one or two years to establish a business and become operational; in Tanzania and Mozambique, 18 months to three years; and in Namibia, six months to a year. By contrast, doing so in Malaysia might take six months.[28]

Origins of Excessive Red Tape

The types of problems encountered can be grouped according to origins and characteristics, as follows:

- Poor policy formulation, wherein the laws cannot achieve their ostensible goals because excessively complicated and difficult administrative procedures are needed in order to implement them properly (e.g., investment screening for tax holidays in Mozambique and Uganda, industrial licensing in Tanzania and Mozambique, and outmoded labor laws in Ghana);
- Reasonable policies, but problems persisting with institutions and procedures that have not been reformed (e.g., trade licenses in

Uganda and Mozambique and multiple registration and reporting requirements for tax authorities in all countries);

- Complex procedures for reasons of control, revenue collection, and the like (e.g., customs procedures in Uganda and Tanzania, company registration in Mozambique, and expatriate work permits in Tanzania); and
- Lack of capacity to implement regulations (e.g., registrars general in Ghana, Tanzania, and Uganda; trademark registration in Namibia; and sectoral licensing in natural resource exploitation, such as fisheries and timber, in all the countries surveyed).

Recommendations

Reducing or eliminating the red tape in a comprehensive manner can be quite difficult. The nature and origins of the problems are often different, and vary among countries. The sheer multitude of small constraints, and hence of remedial measures, makes it difficult to tie them together in some form of package. After all, the constraints are related only in the minds of potential or actual investors who must plow through them. Moreover, they are typically too detailed for the attention of major reform programs, such as are undertaken as part of structural adjustment or other policy reform operations supported by donors. Indeed, all of these constraints have survived such reform programs. Institutionally speaking, a range of cross-cutting issues invades the turf of a host of governmental agencies, each of which has its own mandate. Nevertheless, some approaches have so far proven useful in implementing the reforms identified in these types of analyses.

Presenting the Big Picture

Giving all the organizations involved the "big picture" of what it takes to start a business—from the investor's perspective—has increased awareness of the reality facing private investors, as well as the level of duplication required by various agencies. On completion of each of the studies on which this paper is based, a workshop lasting two days was convened to bring the various agencies together and provide a forum for their reaction to the criticisms of their practices, and for direct dialogue with the private sector. Dissemination of the analytical results generated interest among the business community, providing some rigorous support for what have often been perceived by them as unsubstantiated complaints. Many participants on the government side confessed they had no appreciation for how difficult the entire process was; they only knew their small piece of it. These workshops led to a number of immediate actions taken, often at the procedural level, based on the discussions in the workshop. These typically involved streamlining procedures or eliminating steps that are duplicated among agencies.

High-level Political Support

Finding one or more key persons or organizations in both the government and the private sector to press for implementation of reform is essential. In Ghana, this was done through the Gateway Secretariat, a public-private sector group formed to identify and press for measures to make concrete improvements in the investment climate. In Namibia and Uganda, the investment promotion agencies themselves were the primary champions and provided the continuity required to keep these otherwise secondary reform measures in focus. In Tanzania, strong press interest and coverage, and key individual backers in the government and private sector have kept up pressure for reforms and implementation. In Mozambique, a key minister has devoted substantial effort to pressing his colleagues for action on the many areas of improvement needed.

Pilot Implementation Efforts

Where procedural changes and capacity building are the primary response to the problems identified, pilot projects can be effective. These efforts can work with a limited number of agencies that are willing to experiment with reform and engage in fundamental change, and which participate in pilot projects on a self-selecting basis. Supporting this interest—with additional inputs of technical expertise; assistance in redefining procedures, information requirements, and approval processes; and, in some cases, financial and technical resources—has also been productive, and gives the participating agencies some reason to undergo reform. Although proceeding with reforms may reduce their bureaucratic power from a control perspective, their prestige may increase within a reform-minded government.

These agencies can then serve as models for some of the more recalcitrant ones. In Namibia, for example, the municipal government in Windhoek engaged in a "reinvention" exercise that resulted in (1) setting up a customer service window for businesses and (2) focusing staff training on how to deal with investors and private companies with licensing or registration obligations. In Uganda, a USAID private sector project has worked with the Registrar General's office to computerize operations and support a change in procedures that will make the office financially self-sufficient. In Tanzania, the Immigration Department, following an in-depth review assisted by outside experts, is reducing the average time of issuing work permits from six months to two weeks. In Ghana, the Customs and Port authorities worked together to reduce the typical clearance time for imports from two weeks to three days; they are continuing efforts to reduce it further.

Attitudinal Change

These are isolated successes in a complex field where other problems persist. Nevertheless, they have proved to be important examples for other agencies where there is resistance to reform. All efforts were developed with the active participation and involvement of technically competent line managers and operational staff in each organization. Although they may have been inspired by higher level political support and pressure, ultimately the reforms' success depended on those staff and managers being fully on-board throughout the process, rather than receiving dictation from an outside body.

In order truly to change the climate for investment, those in government must believe that at least part of their job consists of service provision to the private sector, and they must take that role seriously. This often requires a major change in perspective, and takes considerable effort to inculcate among the various bureaucracies. Instilling this kind of "customer-service mentality" into organizations previously oriented toward exercising control and enforcement over private firms is a difficult task. It has been one of the fundamental tenets of the "reinventing government" movement in the United States and other industrial countries, where it has achieved some success, often on a local level. In developing countries it is gradually entering the lexicon of good governance, as countries focus more on the delivery of public services by their government agencies. Those countries that do make some significant strides towards changing the attitudes and perspectives of officials dealing with private businesses will be the ones that, in the end, can overcome the stigma associated with doing business in Africa—i.e., that bad governance in one form or another will always be present—and attract investor interest.

Deeper Policy Reforms

On the policy front, government officials must believe that these types of reforms—to extend liberalization and facilitate private investment—are in the best interests of the country. In a number of cases the policies and their administrative requirements are simply no longer appropriate and should be eliminated. Yet there may be substantial bureaucratic self-interest in perpetuating them, or there may be strong interest groups benefiting from them in the private sector. Placing these difficult reforms in the context of explicit documentation of the complexity of the investment environment has helped broaden support for change. In Uganda, presenting the study results helped galvanize a consensus to simplify the investment code and eliminate tax holidays.

Emphasis on Stakeholder Input

These reforms will ultimately fail if they are viewed simply as requirements from the World Bank and IMF and are not supported both by the government and by those elements of civil society affected negatively in the short run. When this has happened, the implementation has always fallen short, with second-tier obstacles remaining in place or measures being enacted that are counter to the spirit, if not the letter, of the reforms. The Bank is consciously engaging in efforts to broaden the stakeholder base consulted, both when developing country assistance strategies and when building public consensus on policy reform initiatives it may be supporting.

Conclusion

Each of the countries discussed in this report has made significant progress since the original analyses brought these issues to light. In that sense, the situation is already better than that portrayed in this summary presentation. However, certain difficult, even intractable obstacles, such as those preventing access to land, persist to this day. Some agencies are simply unwilling to give up the degree of control and discretion they currently exercise, and the political will to override them does not exist.

In other African countries, and in other regions as well, there are a host of problems similar to those encountered in Ghana, Namibia, Mozambique, Uganda, and Tanzania. Those countries too can benefit from a detailed assessment, from an investor's perspective, of what is needed to set up a company; obtain all the necessary approvals, licenses, and registrations; find a site and open a facility; and begin operations. Addressing these administrative barriers to investment is entirely within the powers of African governments, and can make a real contribution to improving the investment climate, attracting more domestic and foreign private investment, and ultimately creating sustained economic growth.

Notes

1. Foreign Investment Advisory Service, *The Investor Roadmap to Ghana* (1995), *Administrative Constraints to Investment in Namibia* (1996), *Mozambique: Administrative Constraints to Investment* (1996), and *Uganda: Administrative Constraints to Investment* (1997); and The Services Group, *The Investors' Roadmap to Tanzania* (unpublished report for USAID, 1997).

2. Mining is perhaps the most important of resource-based sectors in Africa. Due to its particular characteristics, the sector was not addressed directly in this research.

3. Foreign Investment Advisory Service, *The Investor Roadmap to Ghana* (1995), *Administrative Constraints to Investment in Namibia* (1996), *Mozambique: Administrative Constraints to Investment* (1996), and *Uganda: Administrative Constraints to Investment* (1997); and The Services Group, *The Investors' Roadmap to Tanzania* (unpublished report for USAID, 1997). These papers and consultants reports done for client governments are not usually available to the public.

4. See, for example, Lawrence Bouton, Christine Jones, and Miguel Kiguel, *Macroeconomic Reform and Growth in Africa: Adjustment in Africa Revisited* (Washington, D.C.: World Bank Policy Research Working Paper, 1994).

5. See, for example, Zéphirin Dabré, "The Challenge of Implementing Reform in Sub-Saharan Africa," in World Economic Forum and Harvard

Institute for International Development, *The Africa Competitiveness Report: 1998 (*Geneva: World Economic Forum, 1998).

6. This perspective forms an integral part of the World Bank's Structural Adjustment Policy Review Initiative, a dialogue with NGOs and other critics of Bank adjustment programs, represented by the Development Group for Alternative Policies. For a summary, see "BankCheck: SAPRI" in *BankCheck Quarterly*, April 1997.

7. UNCTAD, *World Investment Report 1997*, p. 56.

8. *Adjustment Lending in Sub-Saharan Africa: an Update*, World Bank Operations Evaluation Study, 1997.

9. This measurement is not strictly comparable across countries. However, in general, in other developing countries investment agencies report implementation rates of 30–50 percent, or even higher. Most countries that attract large amounts of FDI, with the notable exception of China, do not have licensing requirements except in certain sectors, so the question of an implementation rate does not arise.

10. *Aide-Memoire sur le soutien à court terme de l'investissement en Côte d'Ivoire*. FIAS report, January 1993.

11. Subsequent work has been undertaken by FIAS in Mali, Swaziland, Lesotho, Madagascar, Mauritania, Jordan, Bolivia, Latvia, and Senegal; and by The Services Group in South Africa, Malawi, Zambia, Kenya, Morocco, and the Dominican Republic. The Services Group has been primary consultant to FIAS in these administrative barriers studies and is undertaking a benchmark analysis of Chile, Hungary, Mauritius, Malaysia, and Dubai. Most of the projects were co-financed by USAID, which has been an early and consistent supporter of this effort. Other financial support has come from UNDP and IFC trust funds.

12. Hernando de Soto, *The Other Path: the Invisible Revolution in the Third World* (New York: Harper & Row, 1989).

13. Tyler Biggs and Pradep Srivastava, *Structural Aspects of Manufacturing in Sub-Saharan Africa: Findings from a Seven Country Enterprise Survey* (Washington: World Bank Discussion Paper No. 346, 1996).

14. A. Brunetti, G. Kisumko, and B. Weder, *Institutional Obstacles to Doing Business* (World Bank Policy Research Paper, 1997) and *How Businesses See Government* (IFC Discussion Paper No. 33, 1997).

15. Brunetti and Weder, *Investment and Institutional Uncertainty: A Comparative Study of Different Uncertainty Measures*, International Finance Corporation Technical Paper No. 4, 1997.

16. D. Stryker, N. Beltchika and M. Thiam, "Les coûts de transactions au Cameroon," Draft Report prepared by Associated for International Resources and Development for the World Bank, 1997.

17. Albert Gore, *From Red Tape To Results: Creating A Government That Works Better & Costs Less: Report Of The National Performance Review* (Washington, D.C.: U.S. G.P.O., 1993). See also Donald F.Kettl, *Reinventing Government?: Appraising the National Performance Review* (Washington, D.C.: Brookings Institution, 1994).

18. David Osborne and Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (Reading, Massachusetts: Plume Books, 1992).

19. This is *not* a function of the difference in legal systems between common and civil law countries and their company laws or commercial codes. In Mali, for example, registration of a company is normally done in two days, even though it, too, involves multiple steps.

20. In Uganda, a circular tangle of red tape requires that a foreigner register his company prior to getting a residence permit, whereas the Companies Act requires resident foreign shareholders to demonstrate they have a residence permit as part of the application for registering a company. The registrar and the Immigration Department, to their credit, are pragmatic about processing these applications.

21. Ibrahim Shihata, "Recent Trends Relating to Entry of Foreign Direct Investment," *ICSID Review: Foreign Investment Law Journal*, Vol. IX, No. 1 (Spring 1994).

22. However, in a provision little noticed at the time of the reform, the Tanzania Investment Centre maintained its ability to approve firms for duty exemptions, even though they are otherwise now handled "automatically" by Customs. This is another example of a reform undermined by procedures and bureaucratic self-interest.

23. The Investment Code, 1991. Uganda, following the lead of many other countries, is revising its Investment Code and incentive system to eliminate tax holidays and approval-based incentives.

24. There is a separate step required to document minimum investment levels; this is accomplished with the investment promotion agencies, as noted earlier in this chapter.

25. Ministries dedicated to specific subsectors.

26. Lake Victoria and other inland bodies are the only waters controlled by Uganda.

27. This prohibition is not typically found in francophone Africa, where foreign individuals or companies may secure a *titre foncier* that is the equivalent of freehold title.

28. These estimates do not include the time required for construction of facilities.

References

Biggs, Tyler, and Pradep Srivastava. *Structural Aspects of Manufacturing in Sub-Saharan Africa: Findings from a Seven-Country Enterprise Survey.* World Bank Discussion Paper No. 346. Washington: World Bank, 1996.

Bouton, Lawrence, Christine Jones, and Miguel Kiguel. *Macroeconomic Reform and Growth in Africa: Adjustment in Africa Revisited.* Policy Research Working Paper. Washington: World Bank, 1994.

Brunetti, A., G. Kisumko, and B. Weder. *Institutional Obstacles to Doing Business.* Washington: World Bank Policy Research Paper, 1997.

———. *How Businesses See Government.* International Finance Corporation Discussion Paper No. 33. Washington: IFC, 1997.

Brunetti, A., and B. Weder. *Investment and Institutional Uncertainty: A Comparative Study of Different Uncertainty Measures.* IFC Technical Paper No. 4. Washington: IFC, 1997.

Dabré, Zéphirin. "The Challenge of Implementing Reform in Sub-Saharan Africa." In World Economic Forum and Harvard Institute for International Development, *The Africa Competitiveness Report: 1998.* Geneva: World Economic Forum, 1998.

Development Group for Alternative Policies. "BankCheck: SAPRI." *BankCheck Quarterly*, April 1997.

Foreign Investment Advisory Service. *The Investor Roadmap to Ghana.* Washington: FIAS, 1995.

———. *Administrative Constraints to Investment in Namibia*. Washington: FIAS, 1996.

———. *Mozambique: Administrative Constraints to Investment*. Washington: FIAS, 1996.

———. *Uganda: Administrative Constraints to Investment*. Washington: FIAS, 1997.

———. *Aide-Memoire sur le soutien à court terme de l'investissement en Côte d'Ivoire*. Washington: FIAS, January 1993.

Gore, Albert. *From Red Tape To Results: Creating a Government That Works Better and Costs Less: Report of the National Performance Review*. Washington: U.S. G.P.O., 1993.

Kettl, Donald F. *Reinventing Government? Appraising the National Performance Review*. Washington: Brookings Institution, 1994.

Osborne, David, and Ted Gaebler. *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector*. Reading, Massachusetts: Plume Books, 1992.

The Services Group. *The Investors' Roadmap to Tanzania*. Unpublished report to USAID, 1997.

Shihata, Ibrahim. "Recent Trends Relating to Entry of Foreign Direct Investment." *ICSID Review: Foreign Investment Law Journal*, Vol. IX, No. 1 (spring 1994).

de Soto, Hernando. *The Other Path: the Invisible Revolution in the Third World*. New York : Harper & Row, 1989.

Stryker, D., N. Beltchika, and M. Thiam. "Les coûts de transactions au Cameroon." Draft report prepared by Associates for International Resources and Development for the World Bank, 1997.

UNCTAD. *World Investment Report 1997*. Geneva: United Nations, 1997.

World Economic Forum and Harvard Institute for International Development. *The Africa Competitiveness Report, 1998*. Geneva: World Economic Forum, 1998.

World Bank. *Adjustment Lending in Sub-Saharan Africa: an Update*. Washington: World Bank Operations Evaluation Study, 1997.