United Nations Conference on Trade and Development
Japan Bank for International Cooperation

Blue Book on Best Practice in Investment Promotion and Facilitation

Uganda

UNCTAD

JBIC

PREFACE

The Blue Book for Uganda comprises ten measures, actionable over a period of twelve months, that are intended to move the country towards best practice in investment promotion and facilitation.

The project was carried out jointly by the United Nations Conference on Trade and Development (UNCTAD) and the Japan Bank for International Cooperation (JBIC). The contents of this Blue Book were initially developed through consultations with a number of existing foreign investors in Uganda, professional advisors to foreign investors in Uganda, industry associations whose members include foreign investors in Uganda, and relevant Government of Uganda bodies, including in particular the Uganda Investment Authority (UIA). An initial draft of the Blue Book was discussed by a group of foreign and domestic investors and government representatives at a stakeholder workshop on 6 May 2005 in Kampala, Uganda. The workshop was jointly hosted by UNCTAD, JBIC and the UIA.

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ABBREVIATIONS

BIT	Bilateral Investment Treaty
EAC	East African Community
EACDTT	East African Community Double Taxation Treaty
EPZA	Export Processing Zones Authority (Kenya)
BDS	Business Development Services
DTT	Double Taxation Treaty
FDI	foreign direct investment
IPA	Investment Promotion Agency
IPR	Investment Policy Review
JBIC	Japan Bank for International Cooperation
KIA	Kenya Investment Authority
MTCS	Medium-term Competitive Strategy for the Private Sector (2000-2005)
MoFPED	Ministry of Finance, Planning and Economic Development
MoWLE	Ministry of Water, Land and Environment
NDC	National Development Corporation, Tanzania
PSBS	Public Sector Benchmarking Service, United Kingdom
KRA	Kenya Revenue Authority
PEAP	Poverty Reduction Action Plan (Uganda)
PIRT	Presidential Investors' Round Table
SME	Small and Medium-sized Enterprises
TIC	Tanzania Investment Centre
TNC	Transnational Corporation
UIA	Uganda Investment Authority
ULRC	Uganda Law Reform Commission
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme

TEN-POINT ACTION PLAN

Measure 1. Introduce the Investment and Free Zones Bill.

Measure 2. Submit 14 key commercial bills to Parliament.

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INTRODUCTION

Objectives

The Blue Book for Uganda is intended to guide Uganda in the process of improving its investment climate. It is intended that these measures, if implemented, will contribute towards a business-public dialogue about investment impediments, the elimination of identified impediments to foreign direct investment and ultimately an increase in foreign-direct investment in Uganda.

Background

The East African Blue Books for Kenya, Tanzania and Uganda are a part of the efforts of the United Nations Conference on Trade and Development (UNCTAD) and the Japan Bank for International Cooperation (JBIC) to enhance the appeal of Africa as a location for investment. UNCTAD has carried out a number of activities in the region (e.g., investment policy reviews and investment guides), while the Government of Japan has recently announced its effort to promote Japanese investment in Africa (among other things through the facilities of JBIC). The first Blue Books, also a joint UNCTAD-JBIC initiative, were prepared for Cambodia and Lao PDR in 2004, to assist these new members of ASEAN to strengthen their investment climate.

Process

The Blue Book on Best Practice in Investment Promotion and Facilitation for Uganda contains concrete and measurable initiatives for government to achieve best practice. The following criteria were employed in determining the suitability of initiatives: (1) cause of significant concern to existing foreign investors and therefore, if ameliorated, potential for high impact; (2) ability to implement the measure within a 12-month timeframe; (3) practicality of implementation of the measure; and (4) limited cost of implementation.

The measures presented in the Blue Book reflect the views of a number of stakeholders including the Uganda Investment Authority, several existing foreign investors, several advisers to foreign investors in Uganda and industry associations whose members include local and foreign investors. The measures included in the Blue Book were initially developed through a series of in-depth consultations with representatives from all these groups. The measures were subsequently discussed at a stakeholder workshop attended by existing foreign and domestic investors and Government of Uganda representatives that was held in Kampala, Uganda on the 6th of May 2005.

Monitoring and implementation

It was agreed that all the measures would become part of the matrix currently in place for monitoring actions recommended at the Presidential Investors' Round Table (PIRT). The implementation of the measures would be therefore be monitored by the UIA, which currently provides the secretariat support to the PIRT.

Measure 1. Introduce the Investment and Free Zones Bill.

(a) Rationale and country context

The Ministry of Finance, Planning and Economic Development (MoFPED) has overseen the development of an Investment and Free Zones Bill ('the Bill'). The Bill seeks to better facilitate investment in Uganda by providing a strengthened institutional framework that will be managed by the Uganda Investment Authority (UIA). The Bill sets out UIA's role as the co-ordinator and facilitator of all investment in Uganda. It also provides a framework for the development, management, supervision and control of free zones. The Bill also seeks to repeal the Investment Code (1991).

At its last meeting in March 2005, the Regulatory Environment Working Group of the Presidential Investors Round Table (PIRT) identified the Bill as one that is in most urgent need of consideration by Uganda's Parliament[1]. The Bill has not yet, however, been tabled in the Uganda Parliament.

(b) Examples of best practice

Generally speaking, an Investment Code provides a legal framework for investment promotion in most countries. Indeed, Uganda already has an Investment Code (1991) that has served well thus far in promoting both foreign and domestic investment in the country. However, the Code needs to be modernized to meet the current investment needs of the country.

Within the East African region, the Governments of both Kenya and Tanzania have enacted laws that define the legal framework for investment promotion and for free zones.

In Kenya, the Investment Promotion Act (2004) serves to provide a framework for investment in Kenya, setting out a role for the Kenya Investment Authority (KIA). The Export Processing Zones Act (1990) set out the framework for the establishment of Kenya's Export Processing Zones Authority (EZPA), the regulator of the free zones in the country.

The Government of Tanzania's Tanzania Investment Act (1997) sets out a framework for investment in Tanzania, including the mandate of the Tanzania Investment Centre (TIC). Tanzania's Export Processing Zone Act (2002) makes provisions for the establishment, development and management of export-processing zones in Tanzania. The Act gives the authority for the management of export-processing zones in Tanzania to the National Development Corporation (NDC) and establishes a Council of Export Processing Zones.

(c) Action plan

The process to get the Bill evaluated and enacted by the Ugandan Parliament is as follows:

- After having been drafted and reviewed by the Better Regulation Unit, the MoFED prepares and submits a Cabinet Memorandum to the Cabinet.
- The Cabinet reviews the Bill and, subject to agreement, recommends that it be tabled in Parliament.
- The Minister of Finance, Planning and Economic Development tables the Bill in Parliament.

[1] Presidential Investors Round Table (PIRT) Working Group Reports, 31 March 2005

- Subject to agreement, Parliament votes to enact the Bill into law.

(d) Key performance indicators

	Milestone/Activity	Expected completion date
1	The MoFED prepares and submits a Cabinet Memorandum to the Cabinet.	August 2005
2	The Cabinet reviews the Bill and, subject to agreement, recommends that it be tabled in Parliament.	November 2005
3	The Minister of Finance, Planning and Economic Development tables the Bill in Parliament.	November 2005
4	Subject to agreement, Parliament votes to enact the Bill into law.	March 2006

(e) Financial implications

No costs are anticipated for the Government of Uganda over and above the costs of the regular legislative process.

Measure 2. Submit 14 key commercial bills to Parliament.

(a) Rationale and country context

Uganda has begun the process of updating a large number of its commercial laws. The Uganda Law Reform Commission (ULRC) has drafted a number of commercial Bills. A significant number of these Bills were debated at stakeholder workshops and submitted to the First Parliamentary Council. However, the vast majority have not been submitted to Cabinet and have thus not yet been tabled in the Ugandan parliament. The long timeframes in submitting this important commercial legislation to Parliament is of significant concern to major investors, many of whom believe that many current commercial statutes are in various ways inadequate.

Following its latest meetings in 2005, the Regulatory Environment Working Group of the Presidential Investors' Round Table (PIRT) has identified fourteen of these Bills that are in most urgent need of consideration by Uganda's Parliament[2]. These are:

1. Draft Mortgage (Amendment Decree);
2. Draft Hire Purchase Bill;
3. Draft Trade Marks Bill;
4. Copyright Bill;
5. Draft Sale of Goods and Supply of Services Bill;
6. Draft Companies Bill;
7. Draft Insolvency Bill;
8. Draft Partnership Bill;
9. Draft Electronic Transactions Bill;
10. Draft Electronic Signatures Bill;
11. Draft Computer Misuse Bill;
12. Draft Accounts Act (Amendment) Bill;
13. Codification of the Contracts Law Bill; and
14. Draft Geographical Indications Bill.

(b) Action plan

It is imperative that, within the next twelve-month period, progress is made toward the enactment of each of these commercial bills.

[2] Presidential Investors Round Table (PIRT) Working Group Reports, 31 March 2005.

(c) Key performance indicators

	Milestone/Activity	Expected completion date
1	Draft Mortgage (Amendment Decree) - Ministry of Water, Land and Environment to start inter-sectoral discussions on the old law and report by December 2005.	15 December 2005
2	Draft Hire Purchase Bill - The Ministry of Justice will prepare a Cabinet memorandum.	31 July 2005
3	Draft Trade Marks Bill - The Ministry of Finance will prepare a Cabinet memorandum.	31 July 2005
4	Copyright Bill - Currently tabled in Parliament. Target: to be enacted.	15 December 2005
5	Draft Sale of Goods and Supply of Services Bill - Ministry of Tourism will prepare a Cabinet memorandum.	31 July 2005
6	Draft Companies Bill - The Ministry of Finance will prepare a Cabinet memorandum.	31 July 2005
7	Draft Insolvency Bill - The Ministry of Finance will prepare a Cabinet memorandum.	31 July 2005
8	Draft Partnership Bill - The Ministry of Justice will prepare a Cabinet memorandum.	31 July 2005
9	Draft Electronic Transactions Bill - The Ministry of Works will prepare a Cabinet memorandum.	31 July 2005
10	Draft Electronic Signatures Bill - The Ministry of Works will prepare a Cabinet memorandum.	31 July 2005
11	Draft Computer Misuse Bill - The Ministry of Works will prepare a Cabinet memorandum	31 July 2005
12	Draft Accounts Act (Amendment) Bill - The Ministry of Finance will provide	31 July 2005

	feedback.	
13	Codification of the Contracts Law Bill - The ULRC to submit the draft to the Ministry of Justice.	31 July 2005
14	Draft Geographical Indications Bill - The ULRC to submit the draft to the Ministry of Justice.	31 July 2005

(d) Financial implications

No costs are anticipated for the Government of Uganda over and above the costs of the regular legislative process.

Measure 3. Facilitate the process of accessing land for investors.

(a) Rationale and country context

The value of land and its economic potential is often jeopardized by the insecurity of property rights. This situation typically arises out of three reasons: (1) inappropriate or unclear legislation; (2) non-existent or ambiguous land records; and (3) the inability to enforce existing land rights. With the passage of the Land Act (1998) and the regulations to implement the Act contained in the Land Sector Strategic Plan (2002), the Government of Uganda has attempted to address the first of these issues and shown a willingness to address the other two.

However, the failings of the land registration system have been identified as a significant barrier to investment in Uganda. The current gaps in Uganda's land regularisation program can be summarised as follows[3]:

- Records in the existing registry are often in a fragile and illegible condition, out of date or ambiguous, accessible only at a very high cost and insufficiently protected against disaster. This generates generalised insecurity of property rights and makes it more difficult to use land as collateral for formal credit.
- The vast majority of land rights lack formal recognition.
- The costs of recording land rights (or transfers) and of resolving disputes are high due to institutional inefficiencies, difficulties in accessing relevant institutions and ignorance about the provisions of the 1998 Land Act among large parts of the population.

Access to serviced industrial land and reliable and efficient infrastructure are currently critical constraints to investment. It is estimated that only 15-20% of total land is registered. Because most unregistered land is customary land, the possibility of acquiring land with a clear title is low. Existing industrial areas are congested, prone to flooding and poorly located from an urban planning perspective. Limited access to land is a significant constraint when businesses attempt to expand because of limited space in the original locations. Further, the transaction costs of using land as collateral are high. Uganda's title registration system is inefficiently administered and maintained, and poor security of physical files has provided opportunities for fraudulent and corrupt activity, compromising the integrity of the title registry. The problems with the land registry make it costly to verify the status of the land, which in turn affects the ability to sell the land and associated real estate.

The World Bank has developed a *Second Private Sector Competitiveness Project* to address the current situation. The Project focuses on: (1) rehabilitation of existing land records and upgrading of un-surveyed mailo titles; (2) establishing a Land Information System (LIS); and (3) strengthening the capacity of public institutions.

[3] Second Private Sector Competitiveness Project, Project Appraisal Document, The World Bank, 2004.

(b) An example of best practice

In Tanzania, occupation of land by non-citizens is restricted to land for investment purposes under the Tanzania Investment Act (1997). Under the Land Act (1999) a foreign investor may acquire land through:

- Derivative rights under section 20 (2) of the Land Act;
- Application to the Commissioner for Lands for the granting of a Right of Occupancy under the Land Act;
- Sub-leases from the private sector;
- Licenses from the Government; and
- Purchases from other holders of Right of Occupancy.

Land designated for investment purposes is identified, gazetted and allocated to the TIC, which then creates derivative rights for investors. For foreign investors, the Right of Occupancy is provided for in the Land Act.

(c) Action plan

During the implementation of the Project, however, it is important that potential investors are still assured of access to land. In this respect, the following activities need to be undertaken:

- The UIA and the Land Registry of the Ministry of Water, Lands and the Environment (MWLE) should identity and document targeted pieces of land that can be used for various categories of investment.
- A special liaison officer from the Land Registry should be made available at the UIA, to help potential investors secure information on suitable land that meets their needs.

(d) Key performance indicators

	Milestone/Activity	**Expected completion date**
1	The UIA/Land Registry of the Ministry of Water, Lands and the Environment (MWLE) to identify pieces of land available for investment.	31 January 2006
2	Develop a land database at UIA of the pieces of land identified.	31 March 2006
3	Provide a key liaison for potential investors from the Land Registry at the UIA offices to provide information about suitable land that meets their needs.	31 July 2005

(e) Financial implications

No extraordinary costs are anticipated for the Government of Uganda.

Measure 4. Zero-rate VAT on all generators.

(a) Rationale and country context

Uganda is currently experiencing significant power shortages, leading to electricity rationing and a rise in electricity costs. At the end of March 2005, Uganda's Electricity Regulatory Authority (ERA) reported that the country's power shortage has escalated as a result of a long spell of drought, which reduced normal operational capacity from 265MW to 220MW, leaving a shortfall of 110MW[4]. As a result, the ERA announced that, from 1st April to 31st December 2005, electricity rates will increase by 24% for domestic end users and 19% for industrial end users.

Whilst government has taken steps towards increasing the supply of power through various measures (e.g. introducing independent power producers), in the short term, there is likely to be a chronic shortage resulting in a highly erratic supply of power. The increase in electricity rates, in addition to the reduction in power supply, represents a significant constraint to business in Uganda as operational costs are likely to increase. While import duties on generators are currently waived, Value Added Tax is applicable but deferred.

(b) An example of best practice

When subject to a significant reduction in hydro-electric power production as a result of lower than expected rainfall levels in 2000, Kenya responded to the precarious situation by:

- Waiving import duties on imported generators and
- Expediting the refund of Value Added Tax to a timeframe of 30 days.

Three years later when the electricity production had returned to previous levels, these incentives were withdrawn.

(c) Action plan

As a means of addressing the current situation, the following activities should be undertaken:

- In the June 2005 fiscal budget, zero-rate Value Added Tax (VAT) on imported generators.
- Consider adding another 50MW centrally run generator.

The situation should be reviewed annually with a view to removing these incentives once alternative electricity-generating facilities become operational.

[4] Uganda's installed capacity is 300MW but operational capacity is 265MW.

(d) Key performance indicators

	Milestone/Activity	Expected completion date
1	Zero-rate VAT on imported generators in forthcoming budget.	30 June 2005
2	Annual review.	31 May 2006

(e) Financial implications

No extraordinary costs are anticipated for the Government of Uganda.

Measure 5. Establish a unified strategy for growing Uganda's most competitive industries.

(a) Rationale and country context

Uganda's Poverty Eradication Action Plan (PEAP) sets out the government's economic development framework. It has served to guide government policy since the first PEAP was created in 1997. A second PEAP was developed in 2000. This PEAP is built around the following four pillars: (1) Fast and sustainable economic growth and structural transformation; (2) Good governance and security; (3) Increased ability of the poor to raise their incomes; and (4) increased quality of the life of the poor. The PEAP describes as a primary objective the creation of an enabling environment for rapid and sustainable economic growth and structural transformation. It recognises that low inflation and high growth are essential, but that the country currently has low ratios of both private investment and public revenue to GDP. Raising private investment is thus recognised as critical to sustaining high growth.

In recognition of this challenge, the Government has embarked on the third phase of its economic reform programme with a focus on improving public service delivery and the removal of impediments to private sector growth - the Medium-Term Competitive Strategy for the Private Sector (2000-2005) (MTCS). The MTSC addresses: (1) reforming infrastructure provision; (2) strengthening the financial sector; (3) commercial justice reforms; (4) institutional reforms; (5) removing export sector-specific impediments; (6) improving the business environment for SMEs; (7) private sector growth in the context of globalisation; and (8) cross-cutting issues.

Neither the PEAP nor the MTCS, however, includes measures to grow Uganda's most competitive industries by means of identifying those sectors in which Uganda has a competitive advantage and inducing investment in them.

(b) An example of best practice

Malaysia's radical investment promotion drive began in the 1960s when the Government decided to promote industrial development as a means to accelerate growth and development, diversify the economy, generate additional employment and create new business opportunities. Since the 1990s, the Malaysia Industrial Development Agency (MIDA) has been tasked with inducing FDI in manufacturing. MIDA is widely seen as the benchmark in investment promotion in manufacturing. Its mandate has now been extended to the service sectors.

(c) Action plan

The following major activities need to be carried out:

1. Undertaking an assessment of sectors in which the country has a competitive advantage and is in need of investment. This would involve undertaking a sectoral SWOT analysis and benchmarking potential target sectors.

2. Developing a strategy that unifies all activities towards the development of the identified target sectors through public-private partnership.

(d) Key performance indicators

	Milestone/Activity	Expected completion date
1	Undertake a sector benchmarking analysis and identify competitive sectors.	30 November 2005
2	Set up sectoral working groups composed of public and private sector representatives.	31 January 2006
3	Draft strategy for target sectors.	30 June 2006

(e) Financial implications

The following costs, which are over and above regular government costs, are anticipated.

	Milestone/Activity	Estimated cost (US$)
1	Undertake a sector benchmarking analysis	150,000 for technical assistance
2	Draft strategy for target sectors	150,000 for technical assistance

Measure 6. Establish a business linkages project comprising at least 10 leading companies.

(a) Rationale and country context

Many large local and foreign businesses in Uganda are forced to import many of their inputs as these are often not available domestically at an adequate level of quality. In this respect, Uganda suffers from a relatively common problem in developing countries: that of a 'missing middle'. This situation is characterised by the existence of a few large (often foreign) corporations on the one hand and a very large informal sector with limited capacities on the other.

A business linkages project in which large companies, both foreign and local, would commit themselves to establishing supplier relationships with local businesses, especially SMEs, can help alleviate the problem. Participating firms could combine their efforts to support the creation and expansion of SMEs through various linkage options, such as seeding, outsourcing and sub-contracting. These activities could take place throughout their value chains in either forward (i.e., distribution) or backward (i.e., sourcing) linkages.

The benefits of such a project include: (1) a more dynamic and competitive local private sector (especially SMEs); (2) improved micro-economic environment conducive to the establishment of further linkages; (3) more and better linkages between transnational corporations (TNCs) and SMEs; (4) more quality jobs created and preserved; (5) deeper rooting of TNCs in the local economy; (6) increased capacity to attract foreign direct investment; and (7) a broader and more diversified tax base for the Government. TNC-SME business linkages can be one of the fastest and most effective ways of upgrading domestic enterprises, facilitating the transfer of technology, knowledge and skills, improving business and management practices and facilitating access to finance and markets.

(b) An example of best practice

A relatively recent initiative that brings large (mainly foreign-owned) companies together with local SMEs offers a good example. The Private Sector Initiative Tanzania, known as Psi Tanzania, began when BP Tanzania approached SBP, a research and private-sector development organization based in South Africa, to help create an enterprise development programme. Psi Tanzania was formally launched in mid-2002. This is a business-linkages programme that helps both large companies – who can carry less stock, reduce import hassles and minimize transaction costs – and local SMEs – who develop their capacities and find new business.

Psi has a database of local SMEs which its members use for import substitution. The concerted efforts in local SME development are tracked quarterly. There is no formal secretariat. Psi members select one of the corporate members to chair the Initiative for a year and this company in effect acts as a secretariat. Psi has been a significant success, with $51 million being spent by its members on local sourcing from SMEs in the first two years of its operations. The initiative was launched by eight charter members: BP Tanzania, Kahama Mining, Kilombero Sugar, National Microfinance Bank, Sumaria Group, Tanga Cement, Tanzania Breweries and Tanzania Cigarette Company. By 2005, the membership had grown to 17 with the following additional members: Celtel, Coca-Cola Kwanza, CRDB Bank, Geita Gold, Mac Group, Mobitel, Placer Dome, Resolute Tanzania and Standard Chartered Bank.

(c) Action plan

A business linkages project with at least 10 major companies, prepared to commit to the use of SMEs in their value chain, should be formally established. This would, among other things, enable domestic SMEs to learn about the demands of large foreign and local firms. Any of the following bodies could serve as a formal or informal secretariat for the project: (1) the UIA; (2) a private-sector body; (3) a participating large company. Initially, the primary task of the Secretariat would be to develop and maintain a database of potential supplier SMEs and to organise networking events at which relationships could be formed.

Establishing a business linkages project would involve the following general steps:

- Designing and structuring the project, including developing a budget;
- Identifying a suitable secretariat for the project;
- Obtaining the commitment of at least ten major businesses to participate in the programme.

(Enterprise Uganda, an institution designed to support the Government of Uganda in realising its objective of promoting the development of SMEs, has been developing a linkages project with technical assistance from UNCTAD. It would be desirable to coordinate action on the measure proposed here with Enterprise Uganda, as appropriate.)

(d) Key performance indicators

	Milestone/Activity	**Expected completion date**
1	Design project.	30 September 2005
2	Secure project funding.	30 November 2005
3	Market initiative and obtain commitment to participate from at least 10 large corporates.	31 March 2006

(e) Financial implications

The following costs, which are over and above regular government costs, are anticipated.

	Milestone/Activity	**Estimated cost (US$)**
1	Design project.	25,000 for technical assistance
2	Secure project funding.	None
3	Market initiative and obtain commitment to participate from at least 10 large corporates.	10,000

Measure7. Implement the 'Team Uganda' concept for agencies dealing with foreign investors.

(a) Rationale and country context

A client charter is a tool that is used by institutions, including IPAs, to set service standards and to improve on these standards in order to satisfy customers. A good set of standards enables the organization to compare its performance in terms of service delivery with IPAs in other countries. In general, government officials with specific understanding of investment issues will provide better customer services to investors. They will be able to comprehend the needs of investors in different situations.

UNCTAD's Investment Policy Review (IPR) of Uganda, carried out in 1999, proposed an initiative that sought to introduce client charters in public institutions handling foreign investors. The first stage of this process entailed training in customer care for heads of government agencies and the front desk officials. Subsequent stages involved each government agency preparing its own client charter during a workshop. The client charter included the vision and mission statement to ensure that all officers from the top of the organization to the entry-level staff understood and were unified in the agency's purpose. The client charter also specified the types of services offered by the agency, set standards for service delivery time, and clearly delineated the charges for each type of service. Upon completion of the draft client charter, private sector representatives were invited to workshops to discuss the agencies' proposals; the deliberations were then incorporated into the final charters. Each organization is then expected to display the client charter near the reception desk and also to promote the charter in the media and in their interactions with other government agencies.

However, whilst the UIA has, to a large extent, embraced the concept of the client charter and has developed one, the extent to which other public institutions handling foreign investors have done so is variable. Given the high level of interdependence between these public institutions in the value chain of service delivery to investors, it is imperative that client charters are embraced by all relevant bodies. It is estimated that of the 50 government agencies and departments that investors interact with, only about 25 have completed client charters.

(b) An example of best practice

The United Kingdom's Public Sector Benchmarking Service (PSBS), launched in 2000 has been developed with the key aim of promoting effective benchmarking and sharing good practices across the public sector. The PSBS recognises that benchmarking is a fundamental part of developing modern public services and that it enables organisations to share knowledge and learn from the best. The aims of the PSBS are: (1) to promote effective benchmarking and the sharing of good practices across the public-sector; (2) to support public sector organisations undertaking benchmarking projects; (3) to encourage learning through sharing knowledge and good practices in support of government reform; (4) to provide practical information on benchmarking; and (5) to signpost sources of good practices identified by other quality and improvement initiatives. The PSBS serves all public agencies, including those involved with investors.

(c) Action plan

The following activities should therefore be undertaken to alleviate the current situation:

- Facilitate the completion of all agency client charters.
- Facilitate the completion of a joint team client charter to be called 'Team Uganda' Client charter.
- Develop a performance monitoring system to evaluate performance levels of agencies individually and as a team against performance targets.

(d) Key performance indicators

	Milestone/Activity	**Expected completion date**
1	Complete all agency client charters.	30 November 2005
2	Complete a joint team client charter to be called 'Team Uganda' Client Charter.	31 December 2005
3	Develop a performance monitoring system.	31 January 2006

(e) Financial implications

The following costs, which are over and above regular government costs, are anticipated.

	Milestone/Activity	**Estimated cost (US$)**
1	Complete all agency client charters.	20,000 for technical assistance
2	Complete a joint team client charter to be called 'Team Uganda'.	5,000 for technical assistance
3	Develop a performance monitoring system.	20,000 for technical assistance (one-off cost)

Measure 8. Conclude Bilateral Investment Treaties and Double Taxation Treaties with major investing countries

(a) Rationale and country context

The table below indicates Uganda's primary FDI source countries[5] as whether the government of Uganda has signed a bilateral investment treaty (BIT) and a double taxation treaty (DTT) with the state[6].

Country (ranked by FDI stock in Uganda)	Bilateral investment treaty	Double taxation agreement
Canada	-	-
China	-	-
Egypt	1995	-
India	-	-
Kenya	-	1999
Mauritius	-	2005
Norway	-	1999
South Africa	2000	1997
United Kingdom	1998	1959
United States	-	-

Since the late 1980s, BITs have come to be universally accepted as instruments for the promotion and legal protection of foreign investment. Modern BITs have retained broad uniformity in their provisions. In addition to determining the scope of application of the treaty, i.e., the investments and investors covered by it, virtually all bilateral investment treaties cover four substantive areas: admission, treatment, expropriation and the settlement of disputes. Almost all modern BITs include provisions dealing with disputes between one of the parties and investors having the nationality of the other party. In this respect most provide for arbitration under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention) which entered into force in 1966.

DTTs are viewed as beneficial by most states because they allow business to transact with a degree of certainty both on the part of the individuals, partnerships or corporate entities and the government of that state in which that business entity operates.

[5] Uganda Investment Authority, 2005.
[6] An Investment Guide to Uganda, UNCTAD, March 2004.

The perceived benefits of double tax treaties can be identified as:

(i) Clarification of taxing rights of each State

Double tax treaties allow elucidation of taxation rights between states. The taxing rights under the treaty only apply to residents of a particular country (and some partnerships may not be covered), and only in respect of taxes stated within the treaty. There may also be some items of income or capital which are not covered by the treaty in which case, without a general article, one falls back again to local law. Once the taxpayer is satisfied that the treaty covers them and the taxes for which clarification is sought, then the particular article is referred to in order to ascertain tax exemption or applicable reductions or exemptions.

(ii) Avoidance of double international juridical taxation

International juridical double taxation is where the same profits are taxed in two or more States on the same person (corporate or individual); this compares with economic double taxation where the same State may tax the same profits to two or more persons (e.g. dividends representing taxed corporate profits are taxed again in the individual's hands, i.e. the classical system of taxation as compared to the imputation system).

(iii) Countries which are parties to double tax treaties

High tax countries have no reason to enter into double tax treaties with tax havens such as Bermuda, British Virgin Islands, Anguilla etc., which do not levy tax on profits. Indeed certain countries such as Hong Kong, with a source system of taxation may equally have no reason to worry about international juridical double taxation since non-local source profits are exempt from tax in any event. However, where their residents are actively engaged in business abroad, e.g. South Africa, it would wish to conclude treaties to clarify taxing rights and prevent fiscal evasion.

(b) Action plan

In line with global best practice, it is desirable that the Government concludes BITs and DTTs with all its major investing countries. Conclusion of BITs and DTTs would offer significant inducement to additional investment from these countries. In the longer term, it would be in the interest of the government to conclude BITs and DTTs with other potential investing countries.

(c) Key performance indicators

	Milestone/Activity	Expected completion date
1	Commencement of negotiations with those among the top 10 FDI source countries with which no BIT and or DTT has been concluded.	31 August 2005
2	Conclusion of at least 2 BITs and 2 DTTs with top 10 FDI source countries.	30 June 2006

(d) Financial implications

No extraordinary costs are anticipated for the Government of Uganda.

Measure 9. Bring into force the East African Community double taxation treaty.

(a) Rationale and country context

A trilateral tax treaty with Kenya and Tanzania to avoid double taxation was signed on 28 April 1997, but has not yet entered into force, as only Kenya and Tanzania have ratified it. The absence of an effective East African Community (EAC) trilateral DTT (EACDTT or 'the Treaty') is a major impediment to cross-border businesses in the region. For example, investors based in Kenya and with subsidiaries or sources of income in either Uganda or Tanzania face double taxation, which can raise the effective tax rate up to over 50% (30% in either Uganda or Tanzania and 30% in Kenya).

(b) Action plan

Domestic ratification of the EACDTT in Uganda is required in order to resolve the concern of double taxation in the EAC. Ratification of the Treaty by Uganda would make the EACDTT immediately effective once all three relevant Ministries of Finance have operationalised it with necessary changes in the tax legislation.

(c) Key performance indicators

	Milestone/Activity	Expected completion date
1	EACDTT ratified by Uganda.	31 August 2005
2	EACDTT regulations and procedures drafted by the EAC Secretariat.	31 December 2005
3	Agreement by the three countries on effective date for the EACDTT.	31 January 2006
4	Ministry of Finance in Uganda to operationalise the EACDTT through legal notice.	31 March 2006

(d) Financial implications

No extraordinary costs are anticipated for the Government of Uganda.

Measure 10. Jointly issue East African Community member state business visas.

(a) Rationale and country context

Each country in the EAC currently operates its own visa regime. Further, the cost of obtaining business visas in each EAC member state is high. The cost for foreign staff of FDI businesses travelling within the region for business purposes is therefore extremely high.
The following current single entry business visa costs apply:

- Uganda – US$30 for a single entry business visa valid for 3 months.
- Kenya – US$50 for a single entry business visa valid for 3 months.
- Tanzania – US$50 for a single entry business visa valid for 3 months.

The Committee on Fast Tracking the East African Federation (‘the Committee’) has recommended the development of appropriate legislation that would allow for the issuing of a joint East African visa, propose modalities for sharing of visa fees, compile list of countries whose citizens are subject to visa referral arrangements, computerise visa issuance mechanisms, establish a common reciprocal East Africa Visa against the rest of the world and agree joint fee charges.

(b) Action plan

It is proposed that the Committee’s proposals on the joint issuance of EAC visas, particularly those related to business visas, are given due priority in implementation.

(c) Key performance indicators

	Milestone/Activity	Expected completion date
1	Agreement by three governments on fast tracking the issuance of joint business visas for single entry in each country.	31 October 2005
2	Design of the EAC joint business visa completed.	31 January 2006
3	Roll out of EAC joint issuance of business visas completed. (This includes agreeing on modalities to share fees and training the relevant Government employees.)	31 May 2006

(d) Financial implications

The following costs, which are over and above regular government costs, are anticipated.

	Milestone/Activity	**Estimated cost (US$)**
1	Agreement by three governments on fast tracking the issuance of joint business visas for single entry in each country.	Nil
2	Design of the EAC joint business visa completed.	10,000 for technical assistance
3	Roll out of EAC joint issuance of business visas completed. (This includes agreeing on modalities to share fees and training the relevant Government employees.)	40,000 for technical assistance